

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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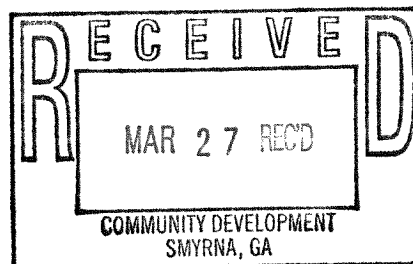
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March 27, 2019

## (REVISED SITE PLAN & STIPULATION LETTER)

### VIA HAND DELIVERY:

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



Re: Application for Rezoning of Lennar Homes to Rezone a 12.495 ± Acre Tract from GC to RM-12 (Z19-003)

Dear Ken:

As you know, I represent Lennar Homes concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the City of Smyrna Planning Commission on April 8, 2019. Thereafter, the Application will be heard and considered for final action by the Mayor and City Council on May 20, 2019.

Lennar Homes and I appreciate the time which you, your Staff and other City Staff Members have provided during the time frame within which this Application has been tabled. In that regard, my client and its consultants have met and/or spoken with the City Engineer, Fire Marshal, Public Works Director and others. As a result, we have placed in a position to complete our dialogue with staff in terms of the crafting of this letter of agreeable stipulations/conditions.

The property at issue ("Subject Property") is located within an area under the City's Livable Centers Initiative ("LCI") Study, adopted by the City in April, 2017, and consists of a 12.495± acre tract of land which is the present location of Cumberland Christian Academy ("CCA"). Lennar Homes has submitted an LCI-driven proposal for rezoning consisting of a total number of 108 high-end, luxury townhomes at a density of 8.64 units per acre which meets the purpose, spirit and intent of the LCI and which is consistent with the Subject Property's positioning within the Regional Activity Center ("RAC") as shown on the City's Future Land Use Map ("FLUM").

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This letter will serve as Lennar Homes' expression of agreement with the following stipulations which, upon the Rezoning being approved, as amended and modified hereby, shall become conditions and a part of the grant of the requested Rezoning and 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 concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The Rezoning of the Subject Property shall be from General Commercial "GC" to RM-12 in substantial conformity to the revised site plan prepared by Planners and Engineers Collaborative which is being submitted concurrently herewith.
3. The Subject Property shall be developed for Attached Single-Family Townhome Residences upon a total of 12.495 acres in order to accommodate 108 Townhomes at a density of 8.64 units per acre.<sup>1</sup>
4. The size of the Attached Single-Family Townhomes shall range from a minimum of 2,000 sq. ft. up to 2,400 sq. ft. and greater.<sup>2</sup>
5. The architectural style and composition of the Townhomes shall be in substantial conformity to the architectural renderings/elevations which were submitted concurrently with the Application for Rezoning and which are being resubmitted concurrently herewith. The composition of said Townhomes shall consist of a mixture of brick, stone, shake, board and batten and cementitious lap siding in accordance with the City of Smyrna Zoning Ordinance provisions.

The no-lap siding shall be allowed as the dominant building material on the facades of any Townhomes having frontage on a public rights-of-way. No patios, decks or privacy fencing shall be allowed on or oriented to any public right-of-way. Covered porches or

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<sup>1</sup> By way of precedent concerning recent rezonings within the City of Smyrna within the past two years, the City has approved Townhome Developments at 13 units per acre (No. Z16-012); 12.52 units per acre (No. Z17-016); 11.39 units per acre (No. Z18-006); and, 9.38 units per acre (No. Z18-010).

<sup>2</sup> Price points are anticipated ranging from \$355,000.00 to \$435,000.00.

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stoops shall be permitted as long as such are appropriate to the architectural style and composition of the Townhomes.

6. As shown on the revised site plan, there will be a mixture of both front-loaded and rear-loaded Townhomes. Each Townhome will be able to accommodate at all times the parking of two (2) vehicles within the garages. Driveways will be minimum of twenty-two feet (22') in length and of sufficient depth to accommodate the parking of at minimum of two (2) additional vehicles with supplemental guest parking being strategically situated throughout the proposed Townhome Community.

The calculation of driveway lengths shall be measured from a position flush with the garage doors to the five foot (5') sidewalk in order to achieve driveways which meet the foregoing dimensions and specifications.

7. All of the Townhomes shall be "For Sale" only. The Subdivision Covenants shall, however, contain a recital that the leasing of the Townhomes shall be allowed but limited to no more than ten percent (10%) of the total number of Townhomes and for no lease term of less than one (1) year in duration.
8. The creation of a Master Mandatory Homeowner Association ("HOA") and the submission of a Declaration of Covenants, Conditions and Restrictions ("CCRs") which shall include, upon multiple other components, strict architectural controls and substantial conformity to the previously-submitted architectural style and composition.

The HOA shall be responsible for the upkeep and maintenance of all common areas; tree preservation areas; community Open Space; amenities; mail kiosks as required by the USPS; and, landscape buffers.

9. A Third-Party Management Company shall be hired to manage the day-to-day operations of the HOA. That same company shall also be responsible for the management of all Association monies as well as ensuring that the HOA is properly insured until such time as the HOA makes a determination that it can undertake and assume such responsibilities.

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10. Compliance with recommendations from the City of Smyrna Engineer concerning hydrology, stormwater management, detention, water quality and downstream considerations, including recommendations regarding the ultimate positioning and configuration of on-site detention and water quality. Also, compliance with the following engineering considerations:
  - a. Providing the City Engineer with a Conceptual Hydrology Plan for the Subject Property.
  - b. Verifying point(s) of discharge with respect to detention/water quality.
  - c. Providing the City Engineer and Public Works Director during the Plan Review Process with certification reflecting the manner in which sewer on the Subject Property will be handled; that is, making sewer public as opposed to its present private configuration, during the Plan Review Process.
  - d. Stormwater detention and water quality components shall be landscaped and fenced appropriately in order to be attractive to homes both inside and outside of the proposed Townhome Community.
  
11. Compliance with the city of Smyrna Fire Department recommendations with respect to Life-Safety and Fire-Prevention issues, including the following:
  - a. Providing a turning model for the site in order to depict that fire vehicles and apparatus and public safety vehicles will be able to access the Subject Property.
  - b. Compliance with the City Fire Marshal's Turning Performance Analysis.
  - c. Insuring that there is sufficient interior maneuverability for emergency and fire apparatus vehicles and to ensure that there are no design components which hinder interior accessibility.
  - d. During the Plan Review Process, additional fire hydrant locations within strategically-determined positions will be decided upon and implemented.

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12. Compliance with recommendations from the City Engineer and Public Works Director regarding traffic and transportation related issues. In that regard, Lennar Homes will follow the LCI's Road Network Concepts and reserve a fifty foot (50') right-of-way traversing the Subject Property in order to tie into the proposed network as described and defined in the LCI, all as shown on the revised site plan submitted concurrently herewith.
13. Lennar Homes is requesting that the City of Smyrna abandon a portion of its right-of-way to accommodate street configuration and in order to propose to the City a *quid pro quo* swap with the City of the abandoned right-of-way in return for right-of-way which the City wants to be reserved/preserved.
14. Presently, A&R Engineering is preparing an updated Trip Generational Memorandum ("Traffic Memo") and/or additional traffic/transportation information and documentation which the City Engineer and the Public Works Director have requested. In that regard and in order for the LCI-driven road network to act as a reliever system for Spring Road, Lennar Homes' Traffic Engineer will be making determinations regarding proposed or potential operational improvements.<sup>3</sup>
15. The submission of a landscape plan during the Plan Review Process which shall be subject to Staff review and approval and which shall include, but not necessarily be limited to, the following:
  - a. The landscape plan, which shall be prepared, stamped and signed by a Georgia Registered Landscape Architect or a Degreed Horticulturist shall identify the following: Open Space areas; landscaped common areas; and, other components of the proposed Townhome Community which will be identified during the Plan Review Process.
  - b. All HVAC mechanical systems and home utilities within the community shall be screened by way of fencing, landscaping and/or positioning.

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<sup>3</sup> The overall plans for the City of Smyrna as depicted within the LCI include reaching an ultimate transportation scenario wherein the City has connections to Cumberland Parkway and other arterials (See Page 85 of the LIC ["Major infrastructure moves: Baseball Boulevard"]) which outlines the anticipated road network of the Subject Property within the LCI Study Area.)

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- c. Entry signage for the proposed Townhome Community shall be appropriately lighted, landscaped and irrigated and shall consist of a request for a concurrent variance in order for Lennar Homes to utilize the existing structure of CCA's current signage with said proposed signage "blending into" its current as-built signage positioning (which is within an island within the right-of-way of Sports Avenue). The architectural style and composition of the sign shall be consistent with the architectural style and composition of the Townhomes and consistent with the City's Sign Ordinance except with respect to the foregoing which requests a waiver to utilize CCA's existing sign position.
    - d. The installation of sodded and irrigated front, side and rear yards.
- 16. Compliance with recommendations from the Public Works Director with respect to interior aspects of the subject property, as follows:
  - a. The streets to be constructed within the Townhome Community shall be built to the City's Design and Detail Specifications.
  - b. Each Townhome Unit shall be individually metered with respect to water utilization.
  - c. The public streets shall be designed to provide adequate access and maneuverability for public safety services, public safety vehicles, fire apparatus and sanitation vehicles.
  - d. Lennar Homes agrees that this development shall not be a "gated community" and that the reserved/preserved fifty foot (50') right-of-way as mentioned above and as described and defined within the LCI shall not be circuitous but shall "run" as straight as possible through the property for connectivity purposes and in order to facilitate the LCI's anticipated overall road network.
- 17. Compliance with recommendations from the City Engineer with respect to streambank buffers and ensuring that said buffers are placed within a Conservation Easement in favor of the City in order to ensure that said streambank buffer areas are protected and remain inviolate in perpetuity.

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18. Common Open Space areas, recreational areas, mail kiosks, etc. shall be in substantial compliance with ADA Regulations with respect to accessibility.
19. The granting of concurrent variances as follows:
  - a. Variance required to reduce side to side from 30' to 20.
  - b. Variance required to reduce maximum impervious area to 48%.
  - c. Variance if required to reduce the front setback on future dedicated right-of-way to be 0 feet.
20. The Community Development Director shall have the authority to approve minor modifications to these stipulations/conditions, the architectural renderings/elevations, the site plan and the overall proposal as it proceeds through the Plan Review Process and thereafter, except for those that:
  - a. Increase the density of the Townhome Community.
  - 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 a property which is zoned in the same or a more restrictive zoning district.
  - d. Changes access location to a different right-of-way.
  - e. Constitutes a request for an additional variance or a waiver of Smyrna Zoning Ordinance Requirements.

The Subject Property is located in an area under the City's FLUM which is denominated as lying and being within a RAC which contemplates the use and the density which Lennar Homes has requested. Additionally, the proposed development of the Subject Property is in keeping with the City's LCI and is located within an area of "Development Opportunity".

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Lennar Homes' Townhome Proposal is entirely appropriate from a land use planning perspective and the proposal is in keeping with the densities, products and price points of other Townhome Communities which have been approved and planned and which have similar adjacency to commercial developments and commercially-oriented uses along the Spring Road Corridor.

Please do not hesitate to contact me should you or your Staff require additional information or documentation prior to the formulation of Staff's Analysis and Recommendations or prior to the Application being heard and considered by the Planning Commission and 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

- cc: Mr. Timothy Grubaugh, Fire Marshall (via email w/attachments)  
Mr. Russell Martin, AICP, Senior City Planner (via email w/attachments)  
Mr. Jim Bowersox, Lennar Homes (via email w/attachments)  
Mr. Kenneth Wood, P.E., Planners & Engineers Collaborative (via email w/attachments)

