

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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October 24, 2016

**VIA HAND DELIVERY & EMAIL:**

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
1150 Powder Springs Road, Suite 400  
Marietta, GA 30064



Re: Application of CalAtlantic Group, Inc. to Rezone a 13.60 Acre Tract from LRO, NRC & R-20 to RA-5 (Z-68)

Dear John:

You will recall that this firm represents CalAtlantic Group, Inc. (“CalAtlantic”) concerning the above-captioned Application for Rezoning. The Application was previously continued by the staff and is now scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on November 15, 2016.

With respect to the foregoing, enclosed please find the requisite number of copies of a revised site plan. The revised site plan represents a significant reduction in the number of residential homes (from 106 homes to 31 homes); an elimination of any request for rezoning of the subject property’s frontage on Shallowford Road (except for those portions of the lake’s streambank buffers which are part of the RA-5 plan); and, a deletion to a straight RA-5 request for rezoning with no variances to that classification.

While this Application has been pending, CalAtlantic has continued its dialogue with the County’s professional staff, representatives of ECCA and numerous subdivision HOAs. In accordance with those discussions, primarily focusing upon direction from the County’s professional staff, CalAtlantic is amenable to the following revised stipulations becoming 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, to wit:

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 concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.

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2. The subject property shall be developed in accordance with and in substantial conformity to that certain revised site plan prepared by Ridge Planning & Engineering which is being submitted concurrently herewith.
3. The rezoning of the subject property shall be from LRO, NRC and R-20 to RA-5 to accommodate the construction of a maximum number of 31 single-family detached homes at a maximum density of 2.28 units per acre.<sup>1</sup>
4. The minimum house size for the Single-Family detached homes shall be 2,800 sq. ft. and will range up to 4,000 sq. ft. and above. Each of the homes shall have, at a minimum, an attached two-car garage which shall be utilized for the parking and storage of vehicles with driveways sufficient to park two (2) additional vehicles.<sup>2</sup>
5. The architectural style and composition of the homes shall consist of a mixture of brick, stacked stone, Hardiplank shake and other masonry components to varying degrees on all four (4) sides of each home as depicted in the single family detached architectural renderings/elevations which were submitted under separate cover on July 6, 2016. There shall be no vinyl components used on the exterior of any of the proposed residences.
6. All homes within the proposed Residential community shall be for sale units. There shall be no more than a maximum of ten percent (10%) of the homes of the proposed subdivision being leased at any one time.
7. The creation of a mandatory Homeowners Association (“HOA”) and the submission of Declaration of Covenants, Conditions and Restrictions which shall include, among other components, strict architectural controls in substantial conformity to the architectural style and composition discussed above.

In conjunction with the foregoing, CalAtlantic agrees that the mandatory HOA shall be responsible for the upkeep and maintenance of the entrance areas, signage, all common areas, open space, recreation areas, landscaped areas, mail kiosk areas, fencing and the like contained within the proposed residential community.

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<sup>1</sup> The subject property is situated within an area on Cobb County’s Future Land Use Map (“FLUM”) which is denominated as a Neighborhood Activity Center (“NAC”) which is a designation which contemplates the type of uses proposed.

<sup>2</sup> Price points will be commensurate with newly built single family detached homes in the area which can be easily discerned based upon projected square footage and the positioning of homes within this particular sub-area of Cobb County.

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8. Street lighting within the proposed community shall be environmentally sensitive, decorative and themed to the architectural style and composition of the proposed residences.
9. The installation of ground-based, monument-style subdivision entrance signage at the entry to the proposed Single-Family Detached Residential Subdivision consistent with provisions of the Cobb County Sign Ordinance. Additionally, said entrance signage shall be incorporated into the landscape plan for the Subdivision and will be fully landscaped and irrigated.
10. The submission of a landscape plan during the Plan Review process which shall be subject to review and approval by a Landscape Oversight Committee consisting of a representative from the ECCA, a representative from CalAtlantic, a representative from the Community Development Agency and the District Commissioner who shall be the final arbiter with respect to any decisions which can not otherwise be satisfactorily resolved.

Each Single-Family detached home shall have, at a minimum, two (2) 4" caliper hardwood trees planted in the front yard. The specifics of those plantings will be contained within the landscape plan and discussed among the Landscape Oversight Committee Members.

All yard areas of the proposed Residential community shall be sodded and irrigated with all such landscaping being accomplished by certified landscape professionals. All utilities servicing the residences within the proposed Residential community shall be located underground.

11. All lots within the proposed residential community which abut more restrictive, residentially zoned properties shall have, at a minimum, a ten foot (10') landscaped screening buffer. Except with respect to the installation of utilities or infrastructure required by the County, said buffers shall be planted and maintained and then undisturbed landscape buffers which shall be subject to review and approval by the Landscape Oversight Committee. Said buffers shall include:
  - a. A mix of evergreen trees and shrubs.
  - b. Species which shall be ecologically compatible to the subject property and appropriate for design situations.

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- c. Buffers which shall maximize visual barriers to a height of six feet (6') within two (2) years of planting.
  - d. The minimum height of plant materials at installation shall be five feet (5') for trees and two feet (2') for shrubs.
  - e. Trees included in the buffer plantings may be counted toward site tree-density calculations.
  - f. Buffers shall be maintained by the Mandatory HOA.
  - g. Additionally, Lots 1, 2, 3, 31 and 30 shall include a twenty foot (20') landscaped screening buffer as described above in order to more fully buffer those adjoining residential lots which are contiguous to but outside the subject property sought to be rezoned.
12. CalAtlantic agrees to allow the Georgia Native Plant Society ("GNPS") to conduct a "plant rescue" prior to the commencement of construction on the subject property on those portions of the subject property which shall be disturbed so long as GNPS is properly insured and releases and indemnifies CalAtlantic for any injury or damages sustained as a result of said "plant rescue".
  13. Subject to recommendations from the Cobb County Stormwater Management Division with respect to detention, stormwater management, hydrology and downstream considerations, including the following:
    - a. The ultimate location and configuration of on-site detention, stormwater management and water quality components.
    - b. Compliance with the streambank buffers as shown on the revised site plan with an agreement that said buffers shall be placed within a Conservation Easement in favor of Cobb County, ensuring that said buffers shall remain inviolate in perpetuity.
    - c. The original spillway has been modified to draw the lake down to its present level due to existing issues with the dam. In that regard, the dam will be brought up to current Cobb County standards for permanent pool impoundments.

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14. Compliance with recommendations contained within from that certain Dam and Lake Study Report concerning Maddox Lake Dam and Shallowford & Johnson Ferry Road Subdivision (Project No. 2016.5438.03), prepared by United Consulting and dated June 23, 2016 which was submitted to Stormwater Management Division under separate cover on July 6, 2016.
15. Subject to the following recommendations from the Cobb County Department of Transportation:
  - a. All of the streets within the proposed subdivision shall be built to the County's Design & Detail Specifications.
  - b. Interior streets within the proposed subdivision will have curb and gutter installed on both sides. Also, said streets will have sidewalks on at least one side of each street.
  - c. In accordance with U.S. Postal Service requirements, mail kiosks shall be located in convenient areas as determined during the Plan Review process.
16. Adherence to the following construction hours:
  - a. 7:00 a.m. until 7:00 p.m., Monday through Friday, from October 1<sup>st</sup> to March 31<sup>st</sup>.
  - b. 7:00 a.m. until 8:00 p.m., Monday through Friday from April 1<sup>st</sup> to September 30<sup>th</sup>.
  - c. 9:00 a.m. until 6:00 p.m. on Saturdays.
  - d. No outside work on Sundays or nationally recognized holidays.
17. All construction and employee vehicles and equipment will be parked and otherwise located on the subject property during the development of infrastructure and the construction of residences and shall not be parked on or along Shallowford Road, Johnson Ferry Road or Waterfront Circle.
18. Compliance with the recommendations from the Cobb County Water System with respect to the availability and accessibility of water and sewer for the site.
19. Subject to recommendations from the Cobb County Fire Department with respect to life safety and fire prevention issues, including the following:

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- a. Fire apparatus access roads shall extend to within one-hundred fifty feet (150') of all portions of the exterior wall of the first floor of the homes located within the proposed subdivision.
  - b. All access roads shall meet the American Association of State and Highway Transportation Officials ("AASHTO") Design Manual Live Load Standards with an unobstructed width of not less than twenty feet (20'), twenty-five foot (25') inside radius, fifty foot (50') outside turning radius and unobstructed vertical clearance of not less than thirteen feet, six inches (13' 6").
  - c. If it is determined during the Plan Review process that guest parking is necessary, then such guest parking shall be placed as a part of that process at a ratio of ½ space for each residential dwelling unit.
20. If a land disturbance permit is not issued within twenty-four (24) months of the Board of Commissioners' decision to rezone the subject property as requested, said property shall revert to its present zoning classifications without any further action on the part of the County or the property owners.
21. The District Commissioner shall have the authority to approve minor modifications to these stipulations, 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 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 adjacent property which is zoned the same or in a more restrictive zoning 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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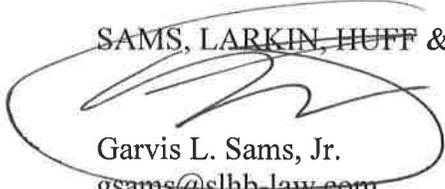
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This revised proposal by CalAtlantic is consistent with the professional staff's recommendation for approval and a proposal which is in compliance with the County's Futrue Land Use Map and Comprehensive Land Use Plan. Additionally, CalAtlantic's revised proposal will include high-end homes which are in keeping with the residential trends within this section of the County thus making the residential proposal appropriate from a Land Use Planning perspective.

Please do not hesitate to contact me should you or the staff require any further information or documentation prior to the Application for Rezoning being heard and considered by the Board of Commissioners next month on November 15, 2016. 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/dsj

Enclosures/Attachment

cc: Members, Cobb County Board of Commissioners (via email w/attachment)  
Board of Commissioners Assistants (via email w/attachment)  
Mr. Dana Johnson, AICP Director (via email w/attachment)  
Mr. Lee McLead, Deputy Director (via email w/attachment)  
Mr. Jason S. Gaines, AICP Planning Manager (via email w/attachment)  
Mr. Jason Campbell, Planner III (via email w/attachment)  
Mr. Terry Martin, Planner II (via email w/attachment)  
Ms. Kim Wakefield, Zoning Analyst (via email w/attachment)  
Mr. Donald Wells, Zoning Analyst (via email w/attachment)  
Ms. Pam Mabry, County Clerk (via email w/attachment)  
Ms. Lori Barton, Deputy County Clerk (via email w/attachment)  
Ms. Robin Presley, Deputy County Clerk (via email w/attachment)  
Mr. David Breaden, P.E. (via email w/attachment)  
Ms. Ashley White, P.E. (via email w/attachment)  
Mr. Tim Davidson (via email w/attachment)  
Mr. Doug Davis, ECCA (via email w/attachment)  
Ms. Trish Steiner, ECCA (via email w/attachment)  
Mr. Jeff Smith, P.E., Ridge Planning & Engineering (via email w/attachment)  
Mr. Vince Parkhouse, Mar Lanta HOA (via email w/attachment)

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Ms. Thea Powell, Chimney Lakes (via email w/attachment)  
Ms. Pam Egan, Brekenridge (via email w/attachment)  
Ms. Lane Bickerstaff (via email w/attachment)  
Ms. Helga Hong (via email w/attachment)  
Mr. Bob Hoyer (via email w/attachment)  
Mr. S. Skillings (via email w/attachment)  
Ms. Sheri George, GA Native Plan Rescue (via email w/attachment)  
Mr. Ed Woodland, CalAtlantic Homes (via email w/attachment)  
Mr. Bill Schmidt, V.P. Land at CalAtlantic (via email w/attachment)  
Fred Hanna, Esq. (via email w/attachment)  
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