

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.

JOEL L. LARKIN

PARKS F. HUFF

JAMES A. BALLI

SUITE 100

376 POWDER SPRINGS STREET

MARIETTA, GEORGIA 30064-3448

770•422•7016

TELEPHONE

770•426•6583

FACSIMILE

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ADAM J. ROZEN

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SLHB-LAW.COM

August 12, 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 30.96 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") regarding the above-captioned Application for Rezoning. The Application was continued from this month's zoning cycle until September. In that regard, the Application is scheduled to be heard and considered by the Planning Commission on September 8, 2016 and, thereafter, scheduled to be heard and considered for final action by the Board of Commissioners on September 20, 2016.

The subject property consists of approximately 30.96 acres and constitutes an assemblage which is located on the south side of Shallowford Road, the west side of Johnson Ferry Road and the east side of Waterfront Circle. It has taken the Owners and their corporate entities, "True Vine Experience Foundation, Inc." and "Hanna Land Company, Inc.", respectively, a number of years to select the most appropriate builder/developer for the subject property. Ultimately, the project will constitute a Sixty Million Dollar (\$60M) development. Moreover, with respect to those properties titled in the non-profit corporation, all of those properties will return to the Cobb County Tax Rolls upon a successful rezoning.

During the pendency of this Application, CalAtlantic has established a meaningful dialogue with the County's professional staff and has responded to the staff's recommendation that the subject property be rezoned to the RA-5 zoning classification. Additionally, CalAtlantic has met with representatives of the East Cobb Civic Association ("ECCA") and representatives from at least six (6) separate subdivision HOAs. In that regard and in accordance with those discussions, enclosed please find the requisite number of copies of a revised site plan.

With respect to the foregoing, CalAtlantic is amenable to the following 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:

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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.
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 NRC, LRO and R-20 to RA-5 to accommodate the construction of a maximum number of 83 homes (a reduction from 106 homes) consisting of 52 Single-Family detached homes and 31 Single-Family attached townhomes at a maximum gross density of 2.689 units per acre or net density of 4.207 units per acre (a reduction from the original density of 5.50 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. The townhomes shall range from a minimum of 2,600 sq. ft. to 3,800 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 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 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 units within the proposed Residential community shall be for sale units, including the Single-Family detached homes and the Single-Family attached homes. There shall be no more than a maximum of ten percent (10%) of the units in either component of the proposed subdivision being leased at any one time.

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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 classification which contemplates the type of use proposed.

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

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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, stormwater management, landscaped areas, mail kiosk areas, private streets, fencing and the like contained within the proposed community.

8. Guest parking will be provided as required by Cobb County Developmental Regulations as shown on the revised site plan being submitted concurrently herewith. Parking for the amenity area may be utilized as additional parking for guests of residents.
9. Amenities for the proposed Residential community shall include, but not necessarily be limited to, a pool and clubhouse area.
10. Street lighting within the proposed community shall be environmentally sensitive, decorative and themed to the architectural style and composition of the proposed residences.
11. There will be erected a brick/stone wall at the entrance of the proposed development on both sides of the main entrance drive, with landscaping installed to the front of the wall. The balance of the road frontage along Shallowford Road shall have wrought iron type fencing with brick/stone columns and with landscaping installed along the front of said fencing.
12. Subdivision entrance signage shall be ground-based, monument-style and 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.
13. 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.

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Each Single-Family detached home shall have, at a minimum, two (2) 4" caliper hardwood trees planted in the front yard. The Single-Family attached townhomes will receive similar treatment in the form of the planting of hardwood trees; however, 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.

14. 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 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. Said species shall be ecologically compatible to the subject property and appropriate for design situations.
  - c. The buffers shall maximize visual barriers to a height of six feet (6') within two (2) years of planting.
  - d. The minimum height of plant materials and 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 density calculations.
  - f. Buffers shall be maintained by the Mandatory HOA.
15. 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".

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16. 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.
  - d. All stormwater infrastructure within the Townhome component of the proposed development will be privately maintained by the Mandatory HOA.
17. 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.
18. Subject to the following recommendations from the Cobb County Department of Transportation:
  - a. All of the streets within the proposed subdivision, whether private or public, 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.

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- c. In accordance with U.S. Postal Service requirements, mail kiosks shall be located in areas convenient to both the Single-Family detached and Single-Family attached components as determined during the Plan Review process.
  - d. The voluntary donation and conveyance of right-of-way on Shallowford Road so that the County can achieve fifty feet (50') from the centerline of said right-of-way. The construction of a deceleration lanes for any points of ingress/egress on Shallowford Road.
  - e. Compliance with recommendations from that certain Traffic Impact Study prepared by Calyx Engineers + Consultants which was filed concurrently with the Application for Rezoning on June 2, 2016.
  - f. The inclusion of a "no-access easement" along any lots which border Shallowford Road.
19. Adherence to the following construction hours:
- a. 7:00 a.m. until 7:00 p.m., Monday through Friday, from October 1st 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.
20. 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.
21. Compliance with the recommendations from the Cobb County Water System with respect to the availability and accessibility of water and sewer for the site. Rather than master metering, the Water System recommends individual metering for individually owned Townhomes and Single-Family detached homes
22. 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. Dead-end access roads in excess of one-hundred fifty feet (150') shall be provided with a turn-around.
  - d. In view of the fact that some of the homes contemplated will be less twenty feet (20') in separation between adjacent homes, guest parking shall be provided at a ratio of one-half space for each dwelling unit (1 space/2 units).
23. 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.
24. Subject to approval of the following concurrent variances:
  - a. A reduction in the front setback on some of the lots to twenty feet (20').
  - b. A reduction in the minimum building separation on some of the lots from twenty feet (20') to ten feet (10').
  - c. A reduction in the minimum lot width/frontage on perimeter lots to fifty feet (50').
  - d. A reduction in the rear setback on perimeter lots to twenty feet (20').
  - e. To allow the amenity center to be within one-hundred feet (100') of an exterior property line.

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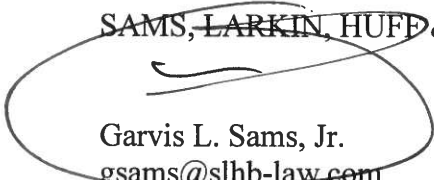
25. The District Commissioner shall have the authority to approve minor modifications to these stipulations, the architectural renderings/elevations, the site plan and the overall proposal as it proceeds through the Plan Review process and thereafter, except for those that:
- a. Increase the density 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.

This revised proposal by CalAtlantic constitutes a downzoning which is consistent with staff's recommendations, the County's FLUM and consistent with or less than densities for existing subdivisions recently developed or under development.<sup>3</sup> Additionally, CalAtlantic's proposal will include high-end homes which are in keeping with the residential trends within this section of the County 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 Planning Commission and Board of Commissioners next month. 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)

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<sup>3</sup> An Application to Rezone an appropriate 13.736 acre tract on Shallowford Road behind the "Kroger Shopping Center" for 82 residences (townhomes) was approved by the Board of Commissioners on October 21, 2014 at a density of 5.98 units per acre (No. Z-56 [2014]).



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GLS/dsj

Enclosures/Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachment)  
Member, Cobb County Planning Commissioners (via email w/attachment)  
Board of Commissioners Assistants (via email w/attachment)  
Mr. Dana Johnson, AICP Director (via email w/attachment)  
Mr. Lee McLeod, 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. John Karnowski, P.E., PTOE, AICP (via email w/attachment)  
Mr. Jeff Smith, P.E., Ridge Planning & Engineering (via email w/attachment)  
Mr. Rafael I. Ospina, P.E., Sr. Geotechnical Engineer – United Consulting  
(via email w/attachment)  
Mr. Robert Clark, Rolling Acres (via email w/attachment)  
Mr. Jeff Smith, Ridge Planning & Engineering (via email w/attachment)  
Mr. Vince Parkhouse, Mar Lanta HOA (via email w/attachment)  
Ms. Thea Powell, Chimney Lakes (via email w/attachment)  
Ms. Pam Egan, Brekenridge (via email w/attachment)  
Ms. Stephanie Teach, Breckenridge (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. Lynn Allen (via first class mail w/enclosure)  
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)  
Lynn Hanna, Esq. (via email w/attachment)

