

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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ADAM J. ROZEN

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August 24, 2018

## **(REVISED STIPULATION LETTER)**

### **VIA 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 The Silver Manor, LLC to Rezone a 0.594 acre tract from NRC to Conditional CRC (No. Z-51)

Dear John:

As you know, this firm represents The Silver Manor, LLC and its Principals, Marissa Simms and Arnold Woods (“Silver Manor”) concerning the above captioned Application for Rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on September 4, 2018 and, thereafter, the Application is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on September 18, 2018.

The property at issue consists of an approximate 0.594 acre tract of land which is zoned Neighborhood Retail Commercial (“NRC”) and which is located within the confines of a Neighborhood Activity Center (“NAC”) under Cobb County’s Future Land Use Map (“FLUM”). Silver Manor seeks a rezoning from NRC to Community Retail Commercial (“CRC”) for the purposes of an Event Facility/Assembly Hall which is a permitted use under CRC but which is not included as a permitted use under the existing NRC zoning district.

From an historical perspective, the subject property was a part of a larger tract of land which was originally rezoned to NRC in 2004 (No. Z-126). However, that proposed mixed-use retail development never came to fruition. Later, the property surrounding the subject property was rezoned to Conditional NRC specifically for the purposes of a landscape supply company (No. Z-80 [2014]). The subject property is located in a diverse transitional area which includes the landscape company; a Shell Service Station; an auto care center and car wash; a building which formerly housed a bicycle sales and repair shop; and, the trailhead and parking lot regarding the Silver Comet Trail.

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On August 20, 2018, we submitted a revised site plan and a revised legal description reflecting a slight increase in the acreage of the property from 0.465 acres to 0.594. You will recall that, because of the zoning the stipulations-restrictions of the Nature Supply Landscape Company property which surrounds the subject property, there is use-specific language relative to the landscape company. After conferring with District Planning Commissioner Galt Porter and, after speaking directly with you, a solution was reached wherein the site plan was revised to incorporate portions of Silver Manor's parking and to accommodate other utilities previously shown in whole or in part as being located on the landscape company property.

While this Application has been pending, we have engaged very positive discussions with representatives of the Mableton Improvement Coalition ("MIC"), area business owners, property owners, and the County's professional staff. In that regard, we've been authorized by Silver Manor and the property owner, Silver Comet Enterprises, LLC, to submit this letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved as submitted and revised herein, shall become a part of the grant of the requested rezoning and shall be binding upon the Subject Property thereafter. The 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.
2. Rezoning of the subject property shall be from the existing zoning category of Conditional NRC to the proposed zoning category of Conditional CRC in substantial conformity to that certain Revised Site Plan prepared by The Crusselle Company which was submitted under separate cover on August 20, 2018.
3. The Applicant proposes the construction of an Event Facility on approximately 0.594 acres, utilizing the existing renovated and rehabbed structure which Silver Manor, as a tenant of that building, has undertaken at its considerable expense. The Event Facility shall be used for weddings, receptions, family gatherings, meetings and the like, together with professional offices as such term is defined within the CRC Classification. The only retail component of the Event Facility shall be temporary "Pop-Up" retail boutiques specifically related to the uses proposed therein and the guests attending specific events.

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4. The Applicant agrees that the rezoning sought hereunder shall be limited to the uses specifically set forth above.
5. The proposed Event Facility consists of a renovated and rehabbed two-story structure which contains approximately 4,200 square feet. However, 1,100 square feet of that total square footage is located on the second floor and shall be utilized for storage purposes only. The first floor of the building shall consist of the primary Event Facility with a maximum of five (5) Office Suites, a Conference Room and a “Brides Suite” within the 3,100 square foot footprint of the building.
6. Utilization of the Event Facility shall be limited to a maximum of one-hundred, forty (140) guests at any one time.
7. All events shall end no later than midnight on Friday, Saturday, and Sunday nights. During the week, consisting of Monday through Thursday, the hours of operation shall be from 9:00 a.m. until 9:00 p.m. All of the events shall be held inside the building and the doors of the building shall be closed during all events subject, of course, to the Fire Marshall’s rules and regulations.
8. The exterior of the existing structure shall be as-built/as-renovated consisting of its existing architectural composition and features. The architectural style and composition of the building shall appear as depicted on the photograph attached hereto which was taken for purposes of documenting/confirming that the official zoning notifications signs were current. In the future, any change in colors or hues to the building shall continue to be neutral colors such as the building’s current color and the colors of beige, brown, cream, and/or taupe.
9. HVAC equipment shall be screened from view by means of bollards incorporated into landscaping components to protect and screen the HVAC and mechanical equipment.
10. The dumpster utilized by Silver Manor for its Event Facility shall be situated as shown on the revised site plan; landscaped in order to shield the dumpster from public vantage points, including streets and sidewalks; enclosed with masonry building materials which are the same, or similar to, the primary structure and which will have gates made of metal; and, which will include a drain to a leech field, if so dictated the by Environmental Health Department for standards regarding dumpster enclosures.

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11. Silver Manor's branding signage for the Event Facility shall be ground based, monument style signage. The finish, materials, and colors for such signage shall be of the same composition as the Event Facility. Said signage shall contain no digital or flashing sign components; no roof signs; and no exterior temporary signage. In addition to the foregoing, there shall be interior directional signage, as needed, regarding interior maneuverability and directions regarding ingress to/egress from the subject property.
12. Any additional lighting fixtures for the parking areas shall be environmentally sensitive and shall be fitted with non-glare lenses and cut-off shields to prevent light from extending beyond the perimeter of the subject property.
13. Security lighting shall be wall-packs, hooded, environmentally sensitive and also fitted with non-glare lenses and cut-off shields.
14. There shall be no parking allowed on or along Floyd Road or adjacent properties unless written permission is secured prior thereto.
15. The Applicant agrees to comply with all Cobb County Stormwater Management recommendations regarding detention, water quality and downstream considerations applicable to the Subject Property.
16. All setbacks, landscaping, and buffer areas may be penetrated for purposes of access, utilities and stormwater management, including, but not limited to, detention or water quality and any and all slopes or other required engineering features. As shown on the revised site plan, in accordance with the recommendations from the Stormwater Management Division, there is five foot (5') water quality easement/infiltration component located on the Subject Property.
17. There shall be an Architectural/Landscape Review Committee which shall be charged with the review of any proposed landscaping, signage, fencing or further architectural enhancements. The committee shall consist of a representative of MIC, a representative of the Applicant, and a representative from the Cobb County Community Development Agency. This review shall take place either prior to or during the Plan Review process.
18. The Applicant agrees to comply with the recommendations from the Cobb County Department of Transportation ("DOT") with respect to traffic and transportation issues.

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19. The Applicant agrees to comply with all recommendations from the Cobb County Fire Marshall.<sup>1</sup>
20. The District Commissioner shall have the authority to approve certain minor modifications as the development proposal proceeds through the Plan Review process and thereafter, except for those that:
  - a. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district.
  - b. Relocate a structure closer to the property line of an adjacent property which is zoned the same or in a more restrictive zoning district.
  - c. Increase the height of a building which is adjacent to property which is zoned in the same or more restrictive zoning district.
  - d. Violate the Cobb County Zoning Ordinance.
  - e. Change access location(s) to different roadways.
  - f. Would be in direct conflict with or in direct contradiction to Cobb County regulations.

The requested rezoning, as further revised and submitted herewith, is appropriate from a land use planning perspective particularly considering the context of development within which the Event Facility will be operated; it meets a need within this sub-area of the County regarding the multi-faceted components of the proposed Event Facility; and, will constitute a quality development which will provide a use that is complementary to surrounding developments and uses.

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<sup>1</sup> A preliminary footprint/floorplan was approved by the Fire Marshall in 2017. Silver Manor understands that it will be responsible for engaging an Architect to submit final architectural renderings/elevations, concerning both the interior and exterior of the building, concurrently with the Plan Review process.

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Please do not hesitate to contact me should you or the staff require any further information or documentation prior to this Application being heard and considered by the Planning Commission and the Board of Commissioners in September. 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./lkj  
Enclosure/Attachment

cc: Members, Cobb County Board of Commissioners (via email w/attachment)  
Mr. Robert L. Hosack, AICP, County Manager (via email w/attachment)  
Members, Cobb County Planning Commission (via email w/attachment)  
BOC Commission Assistants (via email w/attachment)  
Mr. Dana Johnson, AICP, Director (via email w/attachment)  
Mr. Lee McClead, Deputy Director (via email w/attachment)  
Mr. Jason S. Gaines, AICP, Planning Division Manager (via email w/attachment)  
Mr. Jason Campbell, Planner III (via email w/attachment)  
Mr. Terry Martin, Planner III (via email w/attachment)  
Mr. Phillip Westbrook, Planner III (via email w/attachment)  
Mr. Donald Wells, Planner I (via email w/attachment)  
Ms. Tannessa Bates, Planner I (via email w/attachment)  
Ms. Hayley Todd, Planner I (via email w/ attachment)  
Ms. Pamela Mabry, County Clerk (via email w/attachment)  
Ms. Robin Pressley, Deputy County Clerk (via email w/attachment)  
Ms. Leila Washington, Deputy County Clerk (via email w/attachment)  
Captain Robert "Rock" Toler, Fire Department (via email w/attachment)  
Mr. David Breaden, P.E. (via email w/attachment)  
Ms. Amy Diaz, P.E. (via email w/attachment)  
Ms. Ashley White, P.E. (via email w/attachment)  
Mr. Tim Davidson (via email w/attachment)  
Ms. Robin Meyer, MIC (via email w/attachment)  
Mr. Parks Kennerly, Silver Comet Enterprises, LLC (via email w/ attachment)  
Mr. Ben Crusselle, RLS (via email w/attachment)