

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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May 23, 2019

(REVISED STIPULATION LETTER & REVISED SITE PLAN)

VIA EMAIL & HAND DELIVERY:

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 Cornerpoint Partners, LLC to Rezone an 11.156 Acre Tract from
NRC & R-20 to NRC (No. Z-29)

Application of Cornerpoint Partners, LLC for a Special Land Use Permit
(No. SLUP-6)

Dear John:

As you know, this firm represents Cornerpoint Partners, LLC (“Cornerpoint”) regarding the above-captioned Applications for Rezoning and a Special Land Use Permit (“SLUP”). The Applications are scheduled to be heard and considered by the Cobb County Planning Commission on June 4, 2019. Afterwards, the Applications will be heard and considered for final action by the Cobb County Board of Commissioners on June 18, 2019.

The property at issue which constitutes the subject matter of these Applications (“Subject Property”) consists of an overall 11.56 acre tract of land which is located on the west side of Floyd Road at its signalized intersection with Nickajack Road. The property is currently “split-zoned” in the Neighborhood Retail Commercial (“NRC”) and the R-20 Zoning Districts, respectively.

The Subject Property is located within an area under Cobb County’s Future Land Use Map (“FLUM”) which is shown as Public/Institutional as a result of the previous and longstanding utilization of the Subject Property by Westside Baptist Church. The balance of the Floyd Road Corridor, as well the property adjacent and contiguous to the east and the west of the Subject Property is predominantly denominated as a Neighborhood Activity Center (“NAC”) on the FLUM which contemplates the type of development proposed by Cornerpoint.

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Cornerpoint has requested a Rezoning to the NRC district for the purposes of end users which include a bank, retail, restaurants and flex retail/office components. Additionally, the SLUP component of the requested entitlements is for the purposes of the construction and development of a complementary Climate Controlled Self Service Storage Facility ("CCSSSF").

During the pendency of these Applications, Cornerpoint established an early dialogue with the County's Professional Staff which has recommended that the Applications be approved. Running parallel to those discussions have been discussions, meetings and correspondence with representatives of the Mableton Improvement Coalition ("MIC"). Cornerpoint and its representatives have also spoken with area business owners, area property owners (both commercial and residential) and other stakeholders within this sub-area of south Cobb County.

As a result of those continuing discussions and during the most recent timeframe wherein Cornerpoint has commissioned and is concurrently submitting a Traffic Impact Study ("TIS") under separate cover to Cobb DOT. Cornerpoint agrees to the following Revised stipulations becoming conditions and a part of the grant of the requested Applications 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 regarding the Subject Property.
2. Except for the 3.49 acre tract which will ultimately be rezoned for residential purposes, the balance of the 11.156 acre tract of land shall be developed for Neighborhood Retail Uses, including a bank, retail/commercial, restaurants, CCSSSF, flex retail/office and for all other permitted uses under and pursuant to the NRC zoning district except for those which are hereinafter conditionally eliminated/prohibited.

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3. The Subject Property shall be developed in substantial conformity to the Revised Site Plan, prepared by Paulson Mitchell, Inc., which is being submitted concurrently herewith subject to the issuance of a "Nationwide" Permit to allow the piping of the stream. A portion of the Subject Property, consisting of an approximate 3.49 acre tract shall remain zoned in its current R-20 zoning classification subject to future in order to accommodate some type of residential development at a future date. ¹

In the event a Nationwide Permit is not obtained, then Shops #2 and Shops #3 parcels will be developed such that the improvements do not encroach within streambank buffers as set forth herein.

4. The architectural style and composition of the buildings to be constructed within and upon the Subject Property shall be in substantial conformity to the architectural renderings/elevations which are being resubmitted concurrently herewith.

Cornerpoint is in discussions with several nationally branded companies and anticipates that the architectural style and composition of certain buildings will be constructed which will take into consideration those nationally branded entities' industry-wide prototypical design protocols.

Cornerpoint agrees that with respect to Nationally Branded Tenants with multiple façade options, it will use reasonable efforts to utilize those prototypes which contain more brick and neutral colors (when such options are reasonably available) and agrees that elevations visible from Floyd Road and/or adjacent commercial properties will be at least fifty percent (50%) brick.

5. Prior to the construction and development of the Subject Property, Cornerpoint will form an Architectural & Landscape Oversight Committee ("ALOC") consisting of a representative of Cornerpoint; a representative of MIC; and, a representative from the Community Development Agency. The District Commissioner shall be the final arbiter with respect to the resolution of any issues which can not otherwise be resolved by the ALOC.

¹ As shown on the Revised Site Plan, detention/water quality features will be at least partially located on said 3.49 tract and has been calculated, in terms of its size and configuration, to serve as Master Detention for all of the components shown on the site plan, including the residentially zoned component which is planned for some type of residential future development.

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This review by ALOC shall not cause any unreasonable or unnecessary delays. After this process has concluded, the final architecture and landscaping shall be subject to final review and approval by the District Commissioner.

6. The submission of a Landscape Plan during the Plan Review Process which shall be subject to review by ALOC as mentioned above with final review and approval by the District Commissioner and which shall include, but not necessarily be limited to, the following:
 - a. The installation and planting of a twenty-five foot (25') landscape buffer parallel and contiguous to any residentially zoned properties, excluding the 3.49 acre tract mentioned above in Paragraph No. 3.
 - b. Those areas between sections of the Subject Property reserved for required parking as well as public rights-of-way shall be included in the final landscape plan.
 - c. All landscaping shall be professionally designed, maintained and irrigated. Additionally, said landscaped areas shall be maintained so that any dead or irrevocably diseased landscaping shall be replaced within ninety (90) days.
 - d. All landscaped areas, setbacks and buffers may be penetrated for purposes of Cobb County required access, utilities and stormwater management, including, but not limited to, detention, drainage and water quality features and any slopes or other required engineering features and/or Life Safety or Fire Prevention requirements.
 - e. All HVAC, mechanical systems and dumpsters shall be screened from view from Floyd Road.
 - f. Fencing, if any, shall also be reviewed by the ALOC in the same fashion as described above.
 - g. Clearly marked pedestrian walkways will be provided which link the public sidewalk on Floyd Road with the planned construction, using striping; different paved materials and/or raised areas with definitive points of demarcation.

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- h. There shall be no outside storage as that term is defined and utilized under and pursuant to the Cobb County Zoning Ordinance.
 - i. Grass currently on the Subject Property shall be cut regularly to a height of eight inches (8") or less and existing landscaping shall be maintained until such time as the Subject property is developed and/or the buildings currently located thereon are demolished.
7. Signage for the proposed development shall be ground-based, monument-style with finished materials and colors being in substantial conformity to the approved architectural style and composition mentioned above.
 8. Dumpsters servicing the Subject Property, as shown on the Revised Site Plan, shall be enclosed with a minimum of a six foot (6') high enclosure with a steel door, consistent with the architectural style and composition as mentioned above and in accordance with specific Cobb County Zoning Ordinance provisions regarding dumpsters and/or at-grade trash compaction facilities. All dumpsters shall have rubber lids to minimize noise and pickup times shall be limited between the hours of 7:00 a.m. until 7:00 p.m.
 9. The following otherwise permitted uses under the NRC classification shall be prohibited:²
 - a. Video arcades as a primary business.
 - b. Tattoo parlors and body piercing shops.
 - c. Billiard parlors.
 - d. Pawn shops, check cashing establishments and title pawn businesses.
 - e. Shooting ranges or the sale of guns and knives as a primary business.
 - f. Thrift stores.

² These uses constitute conditionally prohibited uses which leaves Cornerpoint and/or its successor(s) in title in a position to petition the Board of Commissioners to allow such use(s) in the future by way of the submission of an Other Business Application.

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- g. Automotive related retail sales and services.
 - h. Houses of worship.
 - i. Wholesale establishments which sell only to businesses and not retail customers.
 - j. Any business which principally features sexually explicit products or drug related paraphernalia.
 - k. Flea markets.
 - l. Firewood sales.
 - m. The overnight parking of cars, except for one (1) from each business, in order to disallow the storage of cars on the Subject Property.
 - n. Exceeding ten percent (10%) coverage of store front glass with signage or other opaque coverings.
 - o. Vape and/or smoke shops or hookah-type restaurants.
 - p. Loud speakers on the southern side (“End Cap”) of Shops #1.
10. Low intensity, environmentally-oriented lighting will be installed for the Subject Property (pole, wall-packs & building lighting) and will be reviewed and approved by the Community Development Agency. A lighting/photometric plan shall be submitted during the Plan Review Process reflecting all lighting and including lumens, wattage and directional aspects of the lighting.
11. Compliance with recommendations from the Cobb County Department of Transportation (“DOT”) specific to the following:
- a. Ensuring that the completed development leaves a minimum of ten feet (10’) of right-of-way from the back of curb so that the County can further widen Floyd Road in the future.

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- b. The installation of a deceleration lane and a taper as shown on the Revised Site Plan submitted concurrently herewith.
 - c. Subject to recommendations from the Traffic Impact Study (“TIS”) prepared by A&R Engineering, which is being submitted concurrently herewith under separate cover to Cobb DOT.
12. Compliance with the recommendations from the Stormwater Management Division regarding detention, water quality and downstream considerations, including the following:
 - a. The detention/water quality area shall be configured and designed in order to anticipate and include the residential development of the 3.49 acre tract.
 - b. Ensuring that encroachments, except for parking, which can be balanced by “buffer averaging” during the Plan Review Process, are not allowed within streambank buffers. However, it is anticipated that this issue will be altogether obviated with the issuance of a Nationwide Permit.
 - c. Analyzing stormwater routing protocols under the proposed private road in order to ensure that an increase in the capacity of the existing culvert is not compromised.
 - d. The construction and development of “Shops #2” as set forth on the revised site plan shall be conditioned upon the approval and the issuance of a “Nationwide Permit” by the US Army Corps of Engineers.³ However, referencing Paragraph 3 above, Cornerpoint shall maintain the latitude to build Shops#2 even without the issuance of the Nationwide Permit.
13. Compliance with recommendations from the Cobb County Water System with respect to the availability, accessibility and capacity concerning water and sewer service to the Subject Property.

³ If, for whatever reason, the Nationwide Permit is not approved, representatives of MIC will be notified and provided with an opportunity to comment should the building, presently labeled as “Shops #1” and/or the CCSSSF move closer to adjacent residential property.

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14. Compliance with the recommendations from the Cobb County Fire Marshal's Office regarding Life-Safety and Fire Prevention issues, including the following:
 - a. Compliance with International Fire Code ("IFC") Regulation 510.
 - b. The inclusion of a sprinkler/fire suppression system and stand-pipes regarding the CCSSSF.
15. The CCSSSF building shall be a maximum of three (3) stories with one of those being partially subterranean and with the building ultimately "presenting" as two (2) stories in height from Floyd Road. The building will contain approximately 700 climate controlled units, averaging approximately 100–105 square feet in size per unit.⁴
16. Ultimately, as a part of the Plan Review Process or thereafter, the individual non-residential components of the proposed development will be "subdivided" in order to place said tracts in separate ownership. As long as the subdivision of the Subject Property does not substantially deviate from its the existing configuration as shown on the Revised Site Plan, separation between buildings, setbacks and other Ordinance requirements shall be deemed consistent with the "Site Plan Specific" nature of the entitlement with no requirements for the request or granting of Variances or waivers.
17. The submission of Reciprocal Easement Agreements ("REAs") and Master Covenants, Conditions and Restrictions ("CCRs") to Staff for review and approval prior to the issuance of Developmental Permits. The REAs & CCRs will cover the entirety of the proposed development's interior infrastructure and ensure that interior maneuverability and accessibility for all components, including the anticipated future residential tract as mentioned hereinabove.
18. The District Commissioner shall have the authority to make minor modifications to the site plan, the architecture and these stipulations/conditions either before, during or after the Plan Review Process except for those that:

⁴ Staff has recommended approval and recommended that the CCSSSF be a maximum of two-stories in height. However, enlarging the footprint of the CCSSSF places that building closer to existing residentially zoned and utilized properties and places it closer to the tract being reserved for residential development in the future. Moreover, the height of the three (3) story building from Floyd Road's grad will be the same as a two (2) story building.

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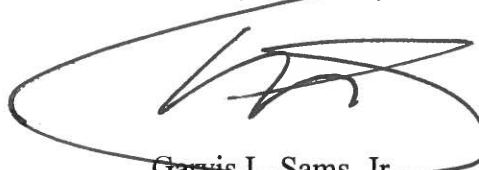
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- a. Reduce the size of an approved buffer adjacent to property which is zoned in a more restrictive zoning district.
- b. Relocate a structure closer to the property line of an adjacent property which is zoned in a more restrictive zoning district.
- c. Increase the height of a building which is adjacent to property which is zoned in a more restrictive zoning district.
- d. Violate the Cobb County Zoning Ordinance.
- e. Change access locations to different roadways.
- f. Will be in direct conflict with, or in direct contradiction to, Cobb County Zoning regulations.

Please do not hesitate to contact me should you or Staff require any additional information or documentation prior to these Applications being heard and considered by 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

GLS, Jr./dls
Enclosures/Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachments)
Mr. Robert L. Hosack, Jr., AICP, County Manager (via email w/attachments)
Members, Cobb County Planning Commission (via email w/attachments)
BOC Commission Assistants (via email w/attachments)
Ms. Jessica Guinn, AICP, Director (via email w/attachments)
Mr. Michael Hughes, AICP, Economic Development (via email w/attachments)

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Mr. Lee McClead, Deputy Director (via email w/attachments)
Mr. Jason S. Gaines, AICP, Planning Manager (via email w/attachments)
Mr. Jason Campbell, Planner III (via email w/attachments)
Mr. Terry Martin, Planner III (via email w/attachments)
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Ms. Pamela Mabry, County Clerk (via email w/attachments)
Ms. Robin Stone, Deputy County Clerk (via email w/attachments)
Ms. Leila Washington, Deputy County Clerk (via email w/attachments)
Captain Bob Bennett (via email w/attachments)
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