

# 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

---

ADAM J. ROZEN

---

WWW.SLHB-LAW.COM

February 13, 2019

## 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 DDR Southeast Sandy Plains, L.L.C. to Rezone an approximate  
15.95 Acre Tract from NRC to Conditional/Limited CRC (No. Z-14)

Dear John:

You will recall that this firm represents DDR Southeast Sandy Plains, L.L.C. (“DDR”), which is the Applicant and Property Owner concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on March 5, 2019. Thereafter, the Application is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on March 19, 2019.

The property at issue (“Subject Property”) consists of an approximate 15.95 acre tract of land which is located at the southwesterly intersection of Sandy Plains Road and Woodstock Road, west of Mabry Road. The entirety of the Subject Property (known as Sandy Plains Village) is zoned Neighborhood Retail Commercial (“NRC”) and is situated within a Neighborhood Activity Center (“NAC”) under Cobb County’s Future Land Use Map (“FLUM”). DDR’s proposal for rezoning consists of a request which, if granted, would allow the utilization of a portion of Sandy Plains Village (approximately 67,000 sq. feet of vacant space within the Shopping Center) for the purposes of an Indoor Recreational Facility and the continuation of existing Retail uses within the balance of the Center.

DDR’s plan is to lease the existing vacant retail space to an Indoor Recreation Facility known as “Ignite Adventure Park” within the area which was formerly leased as a Kroger Grocery Store and, more recently, leased as a Walmart Neighborhood Grocery Store. The proposed Indoor Recreational Facility will include family-oriented attractions including wall/rock climbing; trampoline adventures; mini-golf; bumper cars and like-kind indoor recreational activities. For DDR, the proposed Indoor Recreation Facility will be a welcome addition to Sandy Plains Village with Ignite Adventure Park’s plans to host birthday parties; school events; church group functions; fundraisers; and, other family-oriented activities as described in the Statement of Intent which was filed concurrently with the Application for

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL:

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
February 13, 2019  
Page 2

---

Rezoning and which is attached hereto, made a part hereof by reference and marked as Exhibit "A".

Indoor Recreational Facilities are not listed as a permitted use within the NRC District; therefore, DDR's proposal is to rezone the Subject Property to a Conditional/Limited Community Retail Commercial ("CRC") zoning district. However, that Conditional/Limited CRC Rezoning would be granted only as to the Indoor Recreational Facility with all other uses within and a part of the Subject Property remaining limited to permitted uses allowed under the NRC zoning district except as hereinafter provided by way of a list of otherwise permitted NRC uses which will be expressly prohibited (see Paragraph 4(a-h)).

While this Application has been pending, we have established dialogues with the County's Planning & Zoning Staff; Cobb County DOT Engineers; Stormwater Management Engineers; the Fire Marshal; and, other County Departmental/Division Representatives. In addition to the foregoing, we have established contact with representatives of the Chatsworth Subdivision Homeowners Association ("HOA") which is located southwest of and in direct contiguity to Sandy Plains Village. In furtherance of the above-described discussions and overall dialogue, this letter will serve as DDR's expression of agreement with the following stipulations which shall become conditions and a part of the grant of the requested rezoning to Limited/Conditional to CRC and which shall be binding upon the Subject Property thereafter, 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 NRC to Conditional/Limited CRC consistent with the as-built site plan which was submitted concurrently with the Application for Rezoning.<sup>1</sup>
3. The architectural style, composition and design of the vacant space which is proposed to be transformed into an Indoor Recreational Facility shall be consistent with the as-built architectural style and composition of Sandy Plains Village with no increases to the Shopping Center's square footage and with no additional height being added thereto.

---

<sup>1</sup> The Subject Property shall be used solely as a first class Indoor and Family-Oriented Recreational Facility including the following: an indoor trampoline component; foam pit jumping and inflatables; laser tag; ropes course/Ninja Warrior course; arcade games; miniature golf/putt-putt golf/blacklight golf; go-karts; bowling; bumper cars; slides; soft play/ballistic soft play; a climbing wall; and, a café/restaurant facility.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL:

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
February 13, 2019  
Page 3

---

4. The following otherwise permitted uses under the NRC classification shall be prohibited:
  - a. Pawn or title establishments.
  - b. Tattoo parlors.
  - c. Vape and/or smoke shops or hookah-based restaurants.
  - d. Adult novelty or book stores.
  - e. Flea markets.
  - f. Massage establishments.
  - g. Gun, knife or weapon sales.
  - h. Check-cashing establishments.
5. The submission of a landscape plan during the Plan Review Process subject to final review and approval by the District Commissioner.
6. Compliance with recommendations from the Stormwater Management Division concerning detention, hydrology and downstream considerations including the present positioning, location and configuration of on-site detention and water quality.
7. While DDR is not requesting any newly created Variances as a part of this proposal for Rezoning, DDR is requesting the granting of the following as-built concurrent variance requests:
  - a. A waiver of the maximum impervious from seventy percent (70%) to the existing eighty-five percent (85%).
  - b. A waiver of minimum parking space dimensions regarding ten (10) or less parking spaces which appear to be dimensionally non-compliant.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL:

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
February 13, 2019  
Page 4

---

- c. A waiver of one (1) section of the thirty-five foot (35') buffer which has an as-built paved drive located thereon from a minimum of thirty-five feet (35') to three point four feet (3.4') of existing separation.
8. Compliance with Cobb County Water System Comment and Recommendations including access to and utilization of water and sewer for the Subject Property, including sewer plant capacity.<sup>2</sup>
9. Compliance with recommendations of the Cobb County Fire Marshal's Department regarding life-safety and fire prevention issues, including the following:
  - a. Compliance with International Fire Code ("IFC") Regulation No. 510.
  - b. Insuring interior fire apparatus and public safety vehicle maneuverability and access to all portions of the Subject Property.
10. Compliance with recommendations from the Cobb County Department of Transportation ("DOT"). DDR has requested the preparation of a Generation Traffic Study which will be submitted under separate cover as soon as completed.
11. There shall be no outside storage on the Subject Property as such term is defined under the Cobb County Zoning Ordinance.
12. Dumpsters shall be located in positions consistent with Cobb County Ordinance Regulations. Dumpster lids shall contain rubber or plastic cushions to reduce noise and the enclosures surrounding same shall be designed to be complementary to the architectural style and composition of Sandy Plains Village while meeting all Development Standards and Ordinances. DDR and its tenants shall be allowed to employ, either in addition to or in lieu of the foregoing, at-grade trash compaction which shall be screened from view either by way of fencing, landscaping or positioning.
13. Setbacks and/or buffer areas may be penetrated for purposes of the satisfaction of County Codes, Ordinances and Regulations including the installation of detention and stormwater management feature and other engineering considerations mandated by the Cobb County

---

<sup>2</sup> During the Plan Review Process, DDR shall submit a comparative analysis between fully-operational Grocery Stores as a former use in terms of food preparation in relation to the proposed Indoor Recreational Facility which will include a more modest amount of food preparation and service.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL:

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
February 13, 2019  
Page 5

---

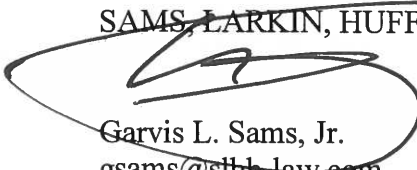
Fire Marshal's Office or unanticipated County-endorsed and/or mandated engineering considerations.

14. The District Commissioner shall have the authority to make minor modifications to the site plan, the architecture and these stipulations/conditions during 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 in the same or a more restricted zoning district.
  - c. Increase the height of a building or a portion of a building which is adjacent to property which is zoned in the same or in a more restrictive zoning district.
  - d. Change access locations to different roadways.<sup>3</sup>
  - e. Increase the square footage of the proposed building; the Floor Area Ratio ("FAR"); or, the percentage of impervious surface.

Please do not hesitate to contact me should you or the County's Staff require any further information or documentation prior to the formulation of your Final Zoning Analysis and Staff Recommendations. 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  
Attachments

---

<sup>3</sup> Sandy Plains Village has a total of six (6) points of ingress/egress, five (5) of which are "right-in/right-out only" with one (1) point of ingress/egress allowing full and complete turning movements.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL:

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
February 13, 2019  
Page 6

---

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)  
Board of Commissioners Assistants (via email w/attachments)  
Mr. Michael Hughes, AICP, Interim Director (via email w/attachments)  
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)  
Mr. Phillip Westbrook, Planner III (via email w/attachments)  
Mr. Donald Wells, Planner I (via email w/attachments)  
Ms. Tannesha Bates, Planner I (via email w/attachments)  
Ms. Pam Mabry, County Clerk (via email w/attachments)  
Ms. Robin Presley, Deputy County Clerk (via email w/attachments)  
Ms. Leila Washington, Deputy County Clerk (via email w/attachments)  
Captain Bob Bennett (via email w/attachments)  
Mr. David Breaden, P.E. (via email w/attachments)  
Ms. Amy Diaz, P.E. (via email w/attachments)  
Ms. Ashley White, P.E. (via email w/attachments)  
Mr. Tim Davidson (via email w/attachments)  
Ms. Lisa Hanson, Chatsworth HOA (via email w/attachments)  
Mr. Todd Zinsmaster, V. P., DDR (via email w/attachments)  
Ms. Lauren Ball, Vice President of Leasing, DDR (via email w/attachments)  
Mr. Joel Dellicarpini, RLA (via email w/attachments)

**STATEMENT OF INTENT**

**OF**

**DDR SOUTHEAST SANDY PLAINS, L.L.C.**

**Proposed Indoor Recreation Center**

**Submitted for the Applicant by:**

**Garvis L. Sams, Jr.  
Sams, Larkin, Huff & Balli, LLP  
Suite 100  
376 Powder Springs Street  
Marietta, GA 30064  
(770) 422-7016  
[gsams@slhb-law.com](mailto:gsams@slhb-law.com)**

DDR Southeast Sandy Plains, L.L.C. is proposing an Indoor Recreational Facility which will include family-oriented attractions including, but not limited to, wall/rock climbing; trampoline adventures; mini-golf; bumper cars and like-kind indoor recreational activities. The Indoor Recreation Facility will be a welcome addition to Sandy Plains Village Shopping Center and will be in a position to host birthday parties, school events, church group functions, fundraisers and other family-oriented activities, as described in the Attachment to this Statement of Intent which is an excerpt from the Lease and which is incorporated herein by reference.

Currently, most nationwide indoor recreation facilities consist primarily of trampoline parks, mini-golf courses or bowling alleys which are principally featured as stand-alone attractions. Those types of businesses have limited outreach that may attract families but which will not entertain family members in a meaningful fashion.

Target demographics for this high-end per capita income sub-area of Unincorporated Cobb County consist of a preponderance of families with children under the age of 18 years of age within a five (5) mile radius of Sandy Plains Village Shopping Center. The Indoor Recreational Facility will be fueled by cutting-age technology with the number one rated POS system in the World - NRC Counterpoint. This software and hardware includes everything from scheduling to inventory management with sophisticated and detailed reporting to maintain a digital menu with online customer interaction which will make this indoor recreation facility an elite indoor adventure venue.



The name of the Facility will be “Ignite Adventure Park” and it will operate as a long-term Lessee comprised of a well-funded, experienced business model which has entered into a Lease Contract with DDR Southeast Sandy Plains, L.L.C., which is a publicly traded company on the New York Stock Exchange.

## Attachment to Statement of Intent

Permitted Use: The Premises shall be used solely as a first-class indoor trampoline and family-oriented recreational facility providing at least five (5) of the following attractions to its patrons: (i) indoor trampolines; (ii) foam pit jumping and inflatables; (iii) laser tag; (iv) ropes course/ninja warrior course, (v) arcade games; (vi) miniature golf/putt-putt golf/black light golf; (vii) go-karts; (viii) bowling, (ix) bumper cars, (x) slides, (xi) soft play/ballistic soft play, and (xii) a climbing wall. At all times Tenant shall provide a minimum of five (5) separate attractions within the Premises for Tenant's patrons. Additionally, (a) a portion of the Premises not to exceed 2,000 square feet in the aggregate may be used as a retail redemption area in connection with Tenant's games, (b) a portion of the Premises, not to exceed 5,000 square feet of gross floor area within the Premises may be used for the incidental sale of tee-shirts and hats, and (c) a portion of the Premises, not to exceed 7,500 square feet of contiguous gross leasable area within the Premises, may be used as a café/restaurant facility (with kitchen) provided the sale of any and all food/beverage items shall not violate any of the exclusives and/or prohibited uses set forth on Exhibit "F" attached hereto and incorporated herein by reference (and provided food and beverage may be served to and consumed by Tenant's patrons throughout the Premises). Tenant shall be permitted to sell alcoholic beverages, on an incidental basis, for on-site consumption only, provided that: (1) the sale of beer, wine, and liquor shall not exceed thirty percent (30%) of Tenant's annual Gross Sales; (2) Tenant shall obtain a beer, wine and liquor license from the State of Georgia and (3) Tenant shall maintain liquor liability insurance as more particularly set forth below. Tenant shall provide all operations and services within the Premises in keeping with all local, state and federal authorities that may have jurisdiction over the Permitted Use.