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June 12, 2020

**(REVISED STIPULATION LETTER, REVISED SITE PLAN
& REVISED ARCHITECTURAL RENDERINGS/ELEVATIONS)**

**VIA HAND DELIVERY AND
VIA EMAIL:**

Mr. Rusty Martin, ACIP, Director
Community Development Department
City of Smyrna
3180 Atlanta Road
Smyrna, GA 30080

Re: Application of The Woodbery Group, LLC to Rezone an approximate 3.2 acre assemblage of properties from GC, R-15 & RTD to MU (No. Z20-008)

Dear Rusty:

As you know, this firm represents The Woodbery Group, LLC (“Woodbery”) regarding the above-captioned Application for Rezoning which was submitted to the City of Smyrna on May 8, 2020. The application is currently scheduled to be heard and considered by the Planning Commission on June 29, 2020. Thereafter, the application is presently scheduled to be heard and considered for final action by the Mayor and City Council on July 20, 2020.

The property at issue (“Subject Property”) consists of an approximate 3.2 acre assembled tracts of properties including the REV parcel on Emory Lane which are designated as lying and being within a Community Activity Center (“CAC”) under the City’s Future Land Use Map. Additionally, the Subject Property is situated within the geographical boundaries of the Livable Centers Initiative (“LCI”) Study which was adopted by the City of Smyrna in April, 2017; and, in an area under the LCI along the Spring Road Corridor which contemplates the type of Mixed-Use Development which Woodbery proposes.

Contiguous zoning districts and contiguous land use categories are as follows: properties zoned GC & NS within the CAC to the north; properties zoned R-15 and within the Moderate Density Residential (“MODR”) area to the east; properties zoned both RTD & R-15 and within both CAC and MODR areas, respectively, concerning land uses to the south; and, properties zoned RTD and within a Medium-High Density Residential (“MHDR”) area to the west.

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Woodbery seeks a Rezoning of an assemblage of multiple properties to be developed as a Mixed-Use Development which will serve as a transition from single-family attached and detached to commercial by combining both retail and residential uses into a unified plan of development along this section of the Spring Road Corridor. The Mixed-Use Development will be self-sustaining in terms of its mixture of residential and commercial utilization and will provide an excellent transition from the City core to this section of the Spring Road Corridor.

As a result of the foregoing, the proposed assemblage and development will be strategically positioned to connect more commercial and higher density residential uses to this sub-area within the City limits and will enhance architectural standards and aesthetics in accordance with the renderings/elevations depicting the architectural style and composition of the proposed buildings and which define this area as a Gateway which will provide local services, residential and commercial uses to this existing and vibrant community. Moreover, Mr. Woodbery has already received expressed interest in the form of a Letter of Intent from an Art Gallery and other self-sustaining retail interests.

While this application has been pending, Mr. Woodbery, his consultants and I have interfaced with members of the community, including residential property owners; commercial business owners (including REV Coffee which has a portion of its parcel within the assemblage); and, the City's professional staff. In fact, thank you and your staff and the City Engineer and his staff for meeting with us earlier this week to more fully ensure that we are following direction in terms of the potential and hopefully ultimate approval of Mr. Woodbery's Mixed-Use rezoning proposal.

In that regard, this letter will serve as Woodbery's expression of agreement with the following stipulations which, upon the Application for Rezoning being approved, shall become conditions and a part of the grant of the requested Rezoning and Entitlements and which shall be binding upon the Subject Property thereafter. The referenced stipulations/conditions 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 Subject Property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The Rezoning of the Subject Property shall be from GC & RTD to MU in substantial conformity to the revised Site Plan which is being submitted concurrently herewith.

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3. The Subject Property shall be developed for the purposes of the construction and development of Class A, highly-amenitized multi-family homes and commercial uses within a “New Urbanistic” setting which includes residential over retail with the prevailing architecture being oriented toward and presenting primarily towards the Spring Road Corridor.

Woodbery proposes the construction of a maximum number of one-hundred and five (105) luxury multi-family apartments; approximately 10,800 square feet of retail space; and, approximately 4,300 square feet of commercial space to accommodate the Community’s amenities (cybercafé, fitness/workout area, leasing office, etc.) for an approximate total of 15,100 square feet of retail and commercial space.

The above components will be a part of the two (2) buildings as shown on the revised site plan with commensurate surface parking and will present themselves architecturally as retail and commercial space with pedestrian walkability and connectivity between the residential and non-residential components.

4. The mixture of luxury residential multi-family units shall consist of the following:
 - a. Seventy percent (70%) one (1) bedroom and/or studio units;
 - b. Twenty-five percent (25%) two (2) bedroom units; and,
 - c. Five percent (5%) three (3) bedroom units.
 - d. Of the total 105 Multi-Family units, the Community Development Director shall have the authority to make minor revisions up to ten percent (10%) regarding the mix of luxury residential units.
5. Of the entirety of the 105 units, five percent (5%) of said Multi-Family homes will be made available to individuals and/or families whose incomes are no more than eighty percent (80%) of the Area Median Income (“AMI”) and the rents for said units shall be capped at thirty-three percent (33%) of the tenants’ income. This work force requirement shall terminate ten (10) years after the full build-out of the residential component.

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6. The residential multi-family luxury apartments shall include:
 - a. Woodbery intends to include a preponderance of nine-foot (9') ceiling heights from floor to finished ceilings. There will be a few instances where individual units will have portions thereof which are eight feet, six inches (8' 6") in height;
 - b. Enhanced granite/Corian, marble/quartz and/or other solid surface countertops;
 - c. Upper cabinetry and/or its equivalent, including wood or Thermofoil cabinet veneers for durable finishes;
 - d. Wireless internet in common gathering areas, and high-speed internet wiring in all units;
 - e. A fully equipped fitness center.
 - f. Stainless steel or other luxury-finished appliances;
 - g. Stainless steel or other luxury-finished kitchen sinks;
 - h. Ceramic tile, wood plank or wood-like vinyl plank and/or high-end carpeting;
 - i. Spacious, open floor plans;
 - j. Uniform window treatments to present an aesthetically pleasing and consistent appearance;
 - k. High-end landscaping and hardscaping throughout the proposed Community;
 - l. Energy-efficient construction which will meet the Georgia Energy Code; and,
 - m. Double-paned, insulated windows.
7. The residential Community shall also include a state-of-the-art fitness center; convenient club rooms and a central postal area; and, a grilling area.

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8. Either a third-party management company and/or Woodbery shall manage the day-to-day operations of the Master Owner's Association, including the management of all Association monies as well as ensuring that the Association is properly insured.
9. The architectural style and composition of the buildings as mentioned above shall be in substantial conformity to the architectural renderings/elevations being submitted concurrently herewith and shall comply with the City of Smyrna's regulations and guidelines and shall consist of a mixture of brick, stacked-stone, board and batten and cementitious lap siding.
10. Prior to the issuance of the first Certificate of Occupancy, Woodbery shall submit documentation in order to form a Master Association for the entire development which will include all phases of the community. The Master Association shall be responsible for the oversight, upkeep and maintenance of all entrance areas, common areas, community buildings and structures, open space areas and similar features contained within the overall Community (i.e. landscaping, sidewalks, parking, etc.).
11. The Master Association shall have architectural design regulations which will also control such items such as signage and other usual and necessary Covenants, Conditions and Restrictions ("CCRs") to protect the quality and integrity of the overall Mixed-Use Development.
12. Woodbery agrees to construct all the necessary interior roadway and infrastructure improvements, as more particularly shown and reflected on the Site Plan. Additionally, Woodbery agrees to comply in all respects with the City's Design and Detail Specifications with respect to such roadway infrastructure and improvements.
13. All entrance signage shall be ground-based, monument-styled signage with finish, material and colors being in substantial conformity to the architectural style embodied in the Mixed-Use Development. There shall be no billboard signs, no roof signs and no exterior temporary signs, excepting only "Grand Opening" signage and signage indicating the coming development.

Free-standing signage, including "Sandwich-Style" retail billboards and other signage such as building-attached, vertical marquee signs shall be permitted. However, vertical marquee signage attached to the buildings may be utilized in addition to other signage mentioned above.

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14. The entrance areas of the Mixed-Use Community shall be professionally designed, landscaped, maintained and themed to the prevailing architectural style and composition of the Community.
15. Lighting within the proposed Community shall be environmentally sensitive, decoratively themed to the architectural style and composition of the respective components of the development and which may include decorative goose-necked lighting. However, said decorative lighting will be utilized for building and signage illumination only. Every effort shall be made to make all lighting as environmentally sensitive and as unobtrusive as possible.
16. All setbacks and buffer areas may be penetrated for purposes of detention, utilities, fire prevention, life-safety and stormwater management, as long as such encroachments satisfy City of Smyrna regulations.
17. As mentioned above, parking for the Mixed-Use Community shall be provided by means of surface parking and parallel on street parking, thus employing a "Shared Parking Agreement".

Woodbery also agrees to provide ancillary sufficient and adequate parking for the total development and "Over-Flow" parking for REV Coffee on the Emory Lane tract and within the Mixed-Use Community. Any Reciprocal Easement Agreements ("REAs") shall be submitted to staff for review and approval.

18. All streets within the proposed Community shall be private and shall be owned or maintained by the Master Association mentioned above.
19. As shown on the Site Plan and within the architectural renderings/elevations, the proposed Mixed-Use Development shall have recessed areas, outdoor dining and alcoves for restaurant use so as not to impede pedestrian traffic with outside seating. Sidewalks which are located within the proposed Community shall range from five feet (5') to ten feet (10') in width.
20. As mentioned above, the proposed Mixed-Use Development may ultimately include restaurants as part of the retail component. Said restaurants may serve alcoholic beverages as a part of their respective food services upon securing the proper permits from the City of Smyrna and/or State Agencies.

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21. In lieu of listing all applicable requests for concurrent Variances to the MU zoning district, this project is being stipulated as “Site Plan Specific” so that the overall project is built in accordance with and in substantial conformity to the Site Plan and/or the within stipulations/conditions described herein. Notwithstanding anything contained herein to the contrary, the maximum number of residential multi-family uses shall not exceed a total number of one-hundred and five (105) units.
22. Landscaping for the proposed development shall be pursuant to a specific Landscape Plan which shall be submitted during the Plan Review Process, with reference being made to said Landscape Plan for a more particular delineation and location of the plantings and species to be planted.
23. Parking area lighting, as mentioned above, shall be situated as a maximum height of thirty feet (30’) and shall include environmentally sensitive, energy efficient, horizontal cut-off luminaries so as to eliminate light pollution and so as to prevent illumination from penetrating outside the boundaries of the Subject Property. Woodbery agrees to utilize the same style parking area lighting as has been utilized within Market Village and within other areas of the City’s Central Business District (“CBD”).
24. Woodbery agrees to install and construct said site lighting pursuant to a Site Lighting/Photometric Plan which shall be submitted to the City’s staff for review and approval during the Plan Review Process.
25. Dumpsters shall be positioned in order to prevent visual intrusion to streets, connection points to community spaces and wherever possible with screening by landscaping, walls and/or vegetation. Dumpsters shall have rubber lids and bumpers to minimize noise during emptying. At-grade trash compaction shall also be allowed and screened as appropriate in accordance with Smyrna Development Regulations.
26. There shall be no outside paging systems, phone bells or loudspeakers. However, outdoor music systems and outdoor musical performers shall be allowed.
27. The following uses shall be prohibited:
 - a. Video arcades and game parlors as a primary use;
 - b. Adult-themed book and novelty stores as primary uses;

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- c. Automotive sales, repair or service facilities;
- d. Movie theaters;
- e. Gas stations and convenience stores with gas sales;
- f. Fast-food establishments;
- g. Pawn shops;
- h. Automotive wash services;
- i. Boat sales and repairs;
- j. Boarding and breeding kennels;
- k. Dry cleaning plants;
- l. Farm equipment sales and service;
- m. Lumber, hardware and other building material establishments;
- n. Mobile home and travel trailer sales;
- o. Motorcycle sales and service;
- p. Check cashing establishments;
- q. Taxi stands and/or station terminals for bus and/or rail passenger service;
- r. Tattoo parlors;
- s. Pool or billiard halls as primary uses;
- t. Massage parlors; and,
- u. Package stores (except in the context of wine/spirits sold in a market or specialty shop).

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28. Compliance with recommendations from the City Engineer with respect to traffic & transportation issues and those recommendations contained within that certain Traffic Impact Study being prepared by Lowe Engineering which will be submitted under separate cover prior to the Planning Commission Hearing.
 - a. The installation of sidewalk, curb and gutter on Jonquil Drive inside the right-of-way.
 - b. Undertaking necessary remedial measures in order to bring Corn Road up to standard width for the frontage of the Subject Property thereon.
 - c. Additionally, compliance with the City Engineer's comments regarding any encroachments into City right-of-way.
29. Compliance with the Auto Turn site plan which is being submitted concurrently herewith and with the following recommendations from the Fire Marshal's Office:
 - a. The addition of potentially 2-3 hydrants.
 - b. Compliance with International Fire Code ("IFC") No. 510 testing.
 - c. Right-in/Right-out points of ingress/egress.
 - d. Curbs shall be mountable for purposes of more effective Life Safety and Fire Prevention methodology.
30. Subject to recommendations from the City Engineer with respect to detention, hydrology, water quality and downstream considerations including, but not necessarily limited to, recommendations contained within that certain preliminary Hydrology Study by Eberly and Associates, Inc. which was submitted to the City Engineer under separate cover previous to the submission of this letter and attachments.
31. The Community Development Director shall have the authority to approve minor modifications to these stipulations/conditions, 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:

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- a. Increase the density of the Community.
- 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 a property which is zoned a more restrictive zoning district.
- d. Changes access location as shown on the Site Plan to a different right-of-way.

Woodbery's proposed Mixed-Use Community has been designed as a walkable, new urbanistic, upscale, lifestyle development which will translate into significant and positive economic impacts for the City of Smyrna and which will constitute a development which will exceed \$30 Million at full buildout. Moreover, the requested Rezoning constitutes an appropriate use of the Subject Property which will constitute a vast enhancement within this sub-area of the City of Smyrna, and which will also precipitate additional and appropriate commercial and residential development along the Spring Road Corridor.

Please do not hesitate to contact Mr. Woodbery or me should you or your staff have any additional questions regarding Woodbery's revised proposal and these revised stipulations/conditions or if you need additional information or documentation prior to the application being heard and considered by the Planning Commission and the Mayor and City Council. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP

Garvis L. Sams, Jr.
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GLS, Jr./dls

Attachments

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cc: Honorable Derek Norton, Mayor (via email w/attachments)
Members, City of Smyrna City Council (via email w/attachments)
Members, City of Smyrna Planning & Zoning Board (via email w/attachments)
Ms. Tammi Saddler Jones, City Administrator (via email w/attachments)
Ms. Heather Peacon-Corn, City Clerk
Scott A. Cochran, Esq. (via email w/attachments)
Mr. Kevin Moore, P.E., City Engineer (via email w/attachments)
Mr. Frank Martin, Director of Public Works (via email w/attachments)
Ms. Ashley White, Assistant City Engineer (via email w/attachments)
Mr. Timothy Grubaugh, Deputy Fire Marshall (via email w/attachments)
Mr. Joey Staubes, Planner II (via email w/attachments)
Mr. David Woodbery, The Woodbery Group, LLC (via email w/attachments)
Mr. Todd Prinkey, The Woodbery Group, LLC (via email w/attachments)
Mr. Sameer S. Patharkar, P.E., Lowe Engineering (via email w/attachments)



Spring and Jonquil Apartments

Spring Rd & Jonquil Dr.
Smyrna, GA 30080



Building 100

Concept Rendering
Scale: NTS





Spring and Jonquil Apartments

Spring Rd & Jonquil Dr.
Smyrna, GA 30080



Buildings 100 & 200

Concept Rendering
Scale: NTS

