

# CITY OF SMYRNA COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM

To: Mayor and Council

From: Ken Suddreth, Community Development Director  
Russell Martin, AICP, Senior Planner

Date: April 9, 2019

CC: Tammi Saddler-Jones, City Administrator

**RE: ZONING AMENDMENT CASE Z19-007 – Riverview Landing**

**Applicant:** The Ardent Companies, LLC  
**Titleholder:** TAC-RW Lot 1, LLC; TAC-RW Lot 2, LLC; TAW-RW Lot 3, LLC

**Existing Zoning:** MU-Conditional  
**Proposed Zoning:** MU-Conditional  
**Size of Tract:** 16.86 acres

**Location:** Riverview Road & Nichols Drive

**Land Lot:** 61, 171, 172, 174, 175, 176 & 284

**Ward:** 7

**Access:** Riverview Road & Nichols Drive

**Existing Improvements:** Vacant Site

**Contiguous Zoning:**

North	MU (Smyrna)
South	MU (Smyrna)
East	Chattahoochee River
West	MU (Smyrna)

**Hearing Dates:**

Panning & Zoning	N/A
Mayor and Council	April 15, 2019

**Proposed Use:**

The applicant is requesting a zoning amendment to modify the currently approved site plan and building elevations.

**Staff Recommendation:**

Community Development recommends **approval** of the proposed zoning amendment with the zoning conditions carried over from Z17-003.



## **PROJECT BACKGROUND**

The Riverview Landing development was originally approved by the Cobb County Board of Commissioners (BOC) on March 15, 2011 by a vote of 4-1. Prior to rezoning, the project received positive findings on the required Development of Regional Impact (DRI) review from the Atlanta Regional Commission (ARC) and the Georgia Regional Transportation Authority (GRTA). As part of the rezoning of the property, the County BOC added zoning stipulations that required the development to meet the recommendations outlined by GRTA and ARC in the DRI review. Between the rezoning in Cobb and the annexation into Smyrna, the applicant demolished the existing buildings, removed all debris and partially graded the site. The subject property was annexed and rezoned into Smyrna on November 18, 2013 by a vote of 7-0 (Zoning Case Z13-015) with the zoning conditions carried over from the County. The previous property owner began construction on the Riverview Road improvements and those improvements were completed by the Fall of 2018.

The originally approved mixed use development (Zoning Case Z13-015) consisted of 155 single-family residences, 332 townhomes, 165 condominium flats, 200 residential senior housing units and 850 apartment units. Overall, the development consisted of 1702 new residential units and 190,000 square feet of commercial space for a total square footage of 2,345,550 square feet for the entire development. The density for the site was 19.42 units per acre or 26,772 square feet per acre. The property owner applied for a zoning amendment in Spring of 2017 (Zoning Case Z17-003) to reduce the overall development with respect to residential units and eliminating almost all the commercial space. The zoning amendment reduced the commercial space down to 3,000 sq. ft. and the residential units down to 65 single-family units, 233 townhome units and 310 multi-family units. The zoning amendment was approved by the Mayor and City Council on March 20, 2017 with 608 residential units and 3,000 sq. ft. of commercial space. The zoning amendment resulted in a net change of -1094 residential units and -187,000 sq. ft. of commercial space.

The 310 multi-family units are currently under construction and should be receiving the first Certificate of Occupancies (CO's) this summer.

## **PROJECT DESCRIPTION**

The applicant is requesting a zoning amendment to modify the site plan and building elevations for a portion of the 82-acre mixed use Riverview Landing development. The applicant is proposing to increase the residential units and commercial space within the development. The zoning proposal is to increase the multi-family units from 310 units to 580 units, decrease the townhomes from 233 units to 188 units, decrease the single-family homes from 65 units to 48 units and increase the commercial floor area from 3000 sq. ft. to 17,680 sq. ft.. The zoning proposal results in a net change of 208 residential units and 14,680 sq.f.t of commercial floor area.

The subject property is located on the northern side of Nichols Drive from Armstrong Place to Riverview Road and across Riverview Road (See zoning vicinity map). The site plan that was

adopted as part of Zoning Case Z17-003, reflected ninety-nine (99) townhome units on the subject property. The applicant is proposing to build a 270-unit multi-family community with 14,680 sq. ft. of commercial and live/work floor area in the place of the 99 townhome units. All other aspects of the master Riverview Landing site plan would remain unchanged.

The proposed site plan modifications would create a residential mass with compatible commercial uses around the intersection of Riverview Road and Nichols Drive and the Chattahoochee River. The proposed plan is broken up into two development pods (Pods A1 & D). The site plan reflects two four-story buildings with 124 residential units and 12,180 sq. ft. of commercial and live/work units along Riverview Road and the Chattahoochee River (identified as Pod A1 on the site plan). The rest of the development is located on the west side of Riverview Road between Nichols Drive and the pond (identified as Pod D on the site plan). Pod D consists of three buildings ranging from three to five stories with 146 residential units and 2,500 sq. ft. of commercial floor area. The proposed development will have 531 total parking spaces at a ratio of 1.97 parking spaces per unit with 248 spaces located in Pod D, 205 spaces located in Pod A1 and 78 on-street parking spaces. The community will have two main amenity areas; the first being located in Pod A1 between the buildings and the second being a lakeside dock and seating area located in Pod D. The site will be limited to five points of ingress/egress, with two full access egress points along Nichols Drive for Pod D and three full access egress points along Riverview Road for Pod A1. These access points are consistent with ARC's and GRTA's recommendation during the DRI review. Finally, the proposed site plan reflects sidewalks throughout the development with appropriate connections to Riverview Road, Nichols Drive and the Chattahoochee River.

### **STAFF COMMENTS**

Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a rezoning request. The following provides the nine factors followed by an analysis of each factor in italics:

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

#### **Applicant's Response**

*"The zoning proposal will permit Residential uses which are suitable in view of use and development of adjacent and nearby properties. While the adjacent area currently has a number of industrial uses, there commercial and residential uses found on properties within this sub-area of the City of Smyrna and also within surrounding area located within unincorporated Cobb County."*

#### **Staff Analysis**

*The applicant is proposing a zoning amendment to modify the currently approved zoning plan and building elevations (Zoning Case Z17-003). The proposed changes will lead to a significant reduction in the overall density of the site. The currently approved site plan allowed for 65 single-family residences, 233 townhomes, 310 apartment units and 3,000 sq. ft. of commercial space. Overall, the currently approved development calls for 608 residential units and 3,000 sq. ft.*

*of commercial space. The zoning proposal will increase the multi-family units from 310 units to 580 units, decrease the townhomes from 233 units to 188 units, decrease the single-family homes from 65 units to 48 units and increase the commercial floor area from 3000 sq. ft. to 17,680 sq. ft.. The zoning proposal results in a net change of 208 residential units and 14,680 sq.f.t of commercial floor area. Even though the zoning proposal increases the density of the site with respect to residential units and commercial space, the overall site density is still significantly lower than the original zoning plan from Zoning Case Z13-015. The zoning proposal meets the intent of the original zoning and is compatible with the community. Therefore, the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*

2. Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property.

*Applicant's Response*

*"The rezoning proposal will not have an adverse effect upon adjacent or nearby properties. Developing the subject property as a unified residential development is preferable to a multiplicity of separate developments and rezonings. Master-planning the subject property into one comprehensive residential development reduces potential problems in the future regarding drainage, access, utilities, infrastructure issues, etc. The rezoning proposal incorporates a unified mixed residential plan to develop the property and incorporates approximately 14,500 sq. ft. of commercial uses and residential uses near the linear park along the Chattahoochee River."*

*Staff Analysis*

*The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The zoning amendment will result in a slight increase in the density of the overall site (but, still below the original zoning), while not significantly changing the overall infrastructure layout in the currently approved zoning plan from Zoning Cases Z13-015 & Z17-003. The zoning proposal maintains buffers from adjoining industrial properties, as well as maintaining similar transportation access points.*

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

*Applicant's Response*

*"Because of the current market trends, the subject property does have reasonable, viable and economic use as currently zoned within the City of Smyrna."*

*Staff Analysis*

*The subject parcel has a reasonable economic use as a currently zoned.*

4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

Applicant's Response

*"The rezoning proposal will not result in a use which would cause an excessive or burdensome use existing streets, transportation facilities, utilities or schools. These opinions are supported by previous comments issued by the City of Smyrna's professional staff and because of the intensity of the previously approved development is more appropriate under this unified, master-planned mixed residential community."*

Staff Analysis

*The slight increase in the number of residential units and commercial space from Zoning Case Z17-003 will not cause an excessive or burdensome use of the existing streets or transportation facilities. The proposed density is still significantly lower than the density approved in the original Zoning Case Z13-015. The applicant is maintaining the road and infrastructure requirements from the DRI review.*

*The zoning proposal will not cause an excessive or burdensome use of the utilities. The project is located within the Cobb County Water System and will be maintained by Cobb County. The zoning proposal is below the density of 1702 residential units and 190,000 sq. ft. of commercial space originally approved by Cobb County. Therefore, water and sewer should be available to the site.*

5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

Applicant's Response

*"The rezoning proposal is in conformity with the policy and intent of the City's Future Land Use Map and seeks to enhance connectivity; reconnect the river; enhance recreational opportunities; emphasize cultural and historic resources; create a community-friendly character; develop a strong sense of identity; and, enhance this sub-area of the City of Smyrna with approximately 14,500 sq. ft. of complementary, river driven commercial uses and a linear park for a multiplicity of recreational uses."*

Staff Analysis

*The subject property has a future land use designation of Mixed Use in the City of Smyrna. The proposed zoning with the increase in density and modification of the zoning plan will not require a change in the City's future land use designation. The zoning proposal will be in conformity with the policy and intent of the City's Future Land Use Plan.*

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Applicant's Response

*"There are existing and changing conditions affecting the use and development of the subject property which give supporting grounds for approving the current amendment proposal by Ardent. Moreover, the proposal constitutes suitable uses for the property which will not adversely affect adjacent properties and will be beneficial to the City of Smyrna as the development continues to fulfil the strategic expansion of the City's boundaries with quality residential development."*

Staff Analysis

*There are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval of the zoning proposal. The subject site has remained vacant since its annexation in 2013. Moreover, the zoning proposal constitutes a suitable use for the property, which will not adversely affect adjacent properties and will be beneficial to the city. The zoning proposal will allow the development to move forward.*

7. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.

Applicant's Response

*"The rezoning proposal will enhance architectural standards, open space requirements and aesthetics of the general neighborhood considering the current historically planned uses in this area of the City of Smyrna."*

Staff Analysis

*The zoning proposal will enhance the architectural and open space requirements of the general neighborhood. The zoning proposal will maintain multi-family units and commercial space around the Riverview Road and Nichols Drive intersection and the Chattahoochee River. In addition, the zoning proposal will maintain a similar amount of open space throughout the development as originally planned.*

8. Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area.

Applicant's Response

*"The proposed zoning conditional classification is similar to the present conditional zoning classification with both mixed residential developments. The currently proposed uses will not create a nuisance and are compatible with the existing uses in the area, particularly in consideration of the inordinate amount of buffering and spacing between the proposed mixed residential development and certain adjacent industrial compatible type uses."*

Staff Analysis

*The zoning proposal will not include uses that will create a nuisance or be incompatible with the existing uses in the area. The residential units will remain well below the original number of units approved on the site and the commercial*

*uses will complement the residential uses. All buffers from industrial uses will remain as originally planned.*

9. Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

*Applicant's Response*

*"The proposed uses positively affect the development along the Riverview Road corridor and will encourage other compatible mixed residential projects within this sub-area of the City."*

*Staff Analysis*

*The zoning proposal with respect to land area or building height will not negatively affect the adjoining property, the general neighborhood and other uses in the immediate area.*

## **PROJECT ANALYSIS**

### Engineering Review

The City Engineer has reviewed the current site plan and in general believes that it should meet the city requirements for transportation improvements and stormwater management. The proposed egress locations match up with the DRI recommendations and existing drives and streets. A sight line issue has been identified at the western most egress point (intersection of Nichols and Armstrong Place) and the City Engineer is recommending that intersection be converted to a four-way stop intersection.

The City Engineer has identified encroachments into the City's Stream Buffer. Some of these encroachments were granted by Cobb County as part of the original zoning and a carried over as part of the annexation into the City. The applicant will be required to provide water quality treatment for the site, as well as provide buffer averaging for the site. The applicant may be required to seek a variance from the state with respect to the new proposed dock on the pond.

### Fire Marshal Review

The Fire Marshal's office has reviewed the current site plan and in general believes that it meets the Fire Code requirements for fire truck access and building separation requirements. All multi-family and commercial buildings will be required to have a fire sprinkler system. The parking deck will need to have a fire sprinkler system and maintain a clearance of 13.5' on the ground floor for fire truck access. The applicant will be required to provide a truck turning model during plan review and permitting to validate adequate access to the site.

### Public Works Review

The subject site is located within the Cobb County Water System. Therefore, the project will need to go through the plan review and permitting process with the Cobb County Water System.

### Planning & Zoning Review

Community Development has reviewed the proposed development against the zoning standards and believes that the proposal for a new 270 multi-family development with 14,680 sq. ft. of commercial floor area is consistent with Mixed Use zoning district. In addition, the zoning proposal is consistent with the City's 2040 Comprehensive Plan designation for this area of Mixed Use. Approval of this request would result in the applicant being able to complete the Riverview Landing development project more in line with the original vision for the project with more residential units and commercial floor area.

The site plan will require a could of variances related to stream buffers. The requested variances are:

1. Stream Buffers:
  - a. *To allow the existing encroachments into the stream buffers to be maintained. (Staff Supports)*
  - b. *To allow stream buffer averaging where new encroachment into the City stream buffer may be proposed. Additional buffer area would be provided to offset the encroachment, and final buffer locations would be determined during the LDP process. (Staff Supports)*

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### **STAFF RECOMMENDATION**

Community Development recommends **approval** of a zoning amendment to modify the currently approved site plan and building elevations with the following conditions carried over from Zoning Case Z17-003 (changes to these stipulations are highlighted in yellow):

1. Approval of the rezoning shall be conditioned upon the all the zoning stipulations agreed upon and approved in the March 15, 2011 Cobb County Board Commissioner's Meeting Minutes. All parts of the of meeting minutes which reference Cobb County Codes or Ordinances have been modified below to reference City of Smyrna Codes and Ordinances.
2. Approval of the zoning amendment shall be conditioned upon the Rezoning Plan submitted ~~March 16, 2017~~ **March 26, 2019**.
3. Approval of the rezoning shall be conditioned upon the Industrial Buffer Plan submitted 2/13/2017 as part of the Planning and Zoning Board Meeting.



4. A permanent public ingress/egress from Dickerson Drive shall be provided above the 100-year flood plain elevation (El. 766 effective March 4, 2013), with access to and through the northern portion of the project prior to the issuance of the first Certificate of Occupancy.

### **Zoning Stipulations from the February 10, 2011 Letter created by Mr. Garvis Sams**

#### **General Stipulations Applicable to the Overall Development**

5. The revised stipulations and conditions set forth herein shall replace and supercede 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 ("subject property").
6. The total site area of the subject property consists of 81.95 acres which shall be developed as a Mixed Use Development including the following: Single-Family Residential, Townhomes, Apartments, Retail and Community Facilities.
7. As part of the future development of the subject property, there shall be Protective Covenants which will be incorporated and expanded as each phase of the proposed community is permitted and platted and which will run with the subject property for the maximum time frame allowed by law, which will include all phases of the proposed community. Concurrently therewith, Property Owner Associations will be formed which will include all components of the proposed development on a phased development basis. The Association(s) shall be responsible for the oversight, up keep and maintenance of the entrance areas, common areas, community buildings and structures, open space areas and similar features contained within the overall community (i.e. walking trails, bike paths, sidewalks, etc.).
8. The Associations to be formed shall have Architectural Design Regulations which shall control such items as signage and other usual and necessary covenants and restrictions to protect the quality and integrity of the overall development.
9. Consistent with GRTA recommendations, the various entrances to the proposed community shall include, with potential modifications, the following: Six (6) intersection locations along Riverview Road; eight (8) intersection locations along Nichols Drive; twelve (12) intersection locations along Armstrong Place; and one (1) intersection location on Dickerson Drive.
10. All entrance signage shall be ground-based, monument-style signage with finish, materials and colors being insubstantial conformity to the architectural style embodied in the mixed-use development. There shall be no billboard signs, no roof signs unless architecturally integrated into an approved building design and no exterior, temporary signs excepting only grand opening signage and signage indicating the coming development. Freestanding signage, including sandwich-style retail boards and other signage shall be permitted in accordance with the terms and provisions of the City of Smyrna Sign Ordinance.

11. Consistent with ARC and GRTA recommendations, at full build-out, there shall be a network of walking trails and bicycle paths located within the proposed community which shall link the various components of the development. In addition, at full build-out, the Developer shall construct an eight foot to twelve foot (8' to 12') wide trail along the Chattahoochee River frontage unless prohibited by City of Smyrna's regulations or where environmental features prohibit cost-effective connections to be built. The trail may be constructed of gravel or other pervious material with input from the City Engineer and the Upper Chattahoochee River Keeper.
12. Lighting within the proposed mixed-use community shall be chosen by the Developer and shall be environmentally sensitive, appropriately spaced for safe lighting purposes (i.e. per the Photometric Plan) and whenever possible shall be themed to the architectural style of the buildings and residences to be constructed and shall be utilized throughout the community. Effort shall be made to make all lighting as unobtrusive as possible.
13. Compliance with the recommendations and conclusions contained within that certain Archaeological Reconnaissance Report prepared by R.S. Webb & Associates. Additionally, compliance with Cobb County Historic Preservation comments and recommendations as provided in the Cobb County Staff Review completed for Z-28.
14. Minor Modifications to Minor Modification to the stipulations/conditions, Master Plan, lighting, landscaping, architecture, site features and the like may be approved by the District Councilperson as needed or necessary.
15. All setbacks and buffer areas may be penetrated for purposed of detention, utilities and stormwater management as long as such encroachments satisfy City of Smyrna and MRPA regulations.
16. An agreement to comply with City of Smyrna Development Standards and Ordinances related to project improvements except as approved herein by the Board of Commissioners, the Cobb County Department of Transportation or the Cobb County Community Development Agency, as their respective authority may allow.
17. Compliance with written recommendations from Cobb County Stormwater Management Division with respect to the location, configuration and methodology of water quality and on-site detention (if any). Additionally, an agreement to the following:
  - a. To design and adhere to the Best Management Practices in the construction of detention and water quality areas on site with such design and installation based upon City of Smyrna Development Standards. To the extent that such infrastructure exceeds these standards, they may be installed in lieu of contributions to the Cobb County Off-Site Detention Fund.
  - b. All above-ground detention areas shall be landscaped and/or fenced in accordance with City of Smyrna Development Standards.

- c. In order to improve water quality, reduce target contaminant loads and to maintain higher water quality standards by addressing run-off and pollution for non-point sources, the Developer and Cobb County have jointly applied for an EPA 319 Grant which proposed improvements, if jointly funded by the Developer and EPA, will be completed in accordance with the submitted grant application.
  - d. To the extent City of Smyrna and the ARC concur with the same, compliance with the comments of the Chattahoochee River Keeper, dated November 30, 2010.
  - e. Compliance with provisions of the Metropolitan River Protection Act ("MRPA").
  - f. Compliance with the Letter of Map Revision issued by FEMA on February 26, 2010 for this segment of the Chattahoochee River.
  - g. All proposed structures must meet the elevation freeboard and venting code requirements.
  - h. Any field placement within the floodplain must be compensated by an equal volume of cut which must be field verified and as-built certification provided.
  - i. Subject to FEMA and City of Smyrna, consideration to be given to raising the grade of the intersection of Riverview Road and Dickerson Drive to allow access of emergency and any other vehicles to the development during the flood conditions on the Chattahoochee River with the Developer agreeing to participate with respect to the incurrence of cost concerning the same.
  - j. Subject to the letter to David Breaden, dated February 9, 2011, from ARC Planner Jim Santo.
18. Compliance with the recommendations of the Cobb County Water System with respect to availability and acquisition of water and sewer to service the subject property. Additionally, compliance with the recommendations of the Cobb County–Marietta Water Authority.
19. An agreement to comply with on-site system improvements mandated by GRTA, Cobb County DOT and the recommendations contained within the Transportation Analysis prepared by Kimley-Horn & Associates and submitted to GRTA on November 5, 2010, as may be modified through negotiations and agreements with Mayor and City Council of Smyrna and/or with the Cobb County Department of Transportation. However, an agreement has been reached with CBIA that "roundabouts" will not be constructed within the proposed development and that the radii currently in place at existing street intersections will be designed to accommodate tractor trailer trucks and industrial vehicles. Other design options, including widened medians and landscape zones, may be considered where not in conflict with normal movement of commercial and industrial traffic.

As part of the foregoing, the Developer agrees to participate with respect to the design, signalization and improvements to the intersection of Riverview Road and Veterans Memorial Highway, if warranted.

20. Prior to the issuance of building permits, Staff shall review and approve all landscaping and architecture not otherwise herein approved as depicted in the renderings/elevations and plans.
21. The Open Space under the MU district shall comply with the regulations contained therein. At present, the overall total Open Space consists of 30.5 acres which translates into 37.2% of the total site area.
22. There will be no occupied buildings within the ultimately reconfigured flood plain except for accessory structures such as pavilions, gazebos, barns, boat houses, etc.
23. The developer shall meet all fire access requirements deemed necessary by the Fire Marshal during construction plan review.
24. The developer shall be responsible for any water and sewer improvements deemed necessary by the Public Works Director during construction plan review.
25. The developer shall be responsible for any stormwater improvements deemed necessary by the City Engineer.
26. Gated access shall be prohibited on the parcels between Riverview Road and the Chattahoochee River.
27. The developer shall be responsible for the provision of a public restroom along the linear park. That restroom shall be provided prior to the dedication of the park to the city.
28. The developer shall be responsible for the installation of a four-way stop at the intersection of Nichols Drive and Armstrong Place.
29. The developer shall provide inter-parcel access between the parcels along the Chattahoochee River. The site plan submitted on 3/26/2019 shows a future connection at the northern end of Pod A1.
30. Mitigation of the encroachment into the 75' impervious surface area stream buffer setback and the 50' undisturbed stream buffer must be provided at a rate of 1:1 elsewhere on site along the same stream. A separate mitigation site plan must be submitted for approval prior to issuance of a land disturbance permit.

#### **Stipulations Applicable to the Non-Residential Components**

31. The front building façades and other facades which face streets or important connecting ways to community spaces shall be a mixture of brick, stone, cedar shake, articulated

stucco, hardi-board, wood siding or other compatible materials. The architectural style and composition shall be reasonably consistent with the renderings/elevations which were submitted under separate cover on ~~January 13, 2017 & 2/13/2017~~ February 8, 2019 as may be approved during the Plan Review process and which shall be consistent with the Architectural Guidelines established by the Developer.

32. The proposed non-residential components shall contain a maximum of ~~3,000~~ 14,680 sq. ft. which will include a flexible mix of commercial space including retail/restaurants, office space and live/work space.
33. Parking area lighting shall be a maximum height of thirty feet (30') and shall be environmentally sensitive, energy efficient, horizontal cut-off luminaires so as to eliminate light pollution and prevent illumination from penetrating outside boundaries of the subject property.
34. The developer agrees to install and construct site lighting pursuant to a Site Lighting/Photometric Plan which shall be submitted to staff for review and approval.
35. Every effort will be made so that dumpsters will be positioned to prevent visual intrusion from major streets, connection points to community spaces and wherever possible from any trail or green space along the Chattahoochee River with screening by berms, landscaping, walls and/or vegetation. Dumpsters shall have rubber lids and bumpers to minimize noise during emptying.
36. An agreement that there shall be no outside storage facilities except for community garden and recreation equipment, including small tractors, storage ancillary to multi-family, bikes, kayaks, canoes, etc. as such terms are used and defined in the City of Smyrna Zoning Ordinance.
37. The non-residential components will include pedestrian walkways between the proposed buildings and throughout the parking areas subject to approval pursuant to the Landscape Plan submitted during the Plan Review process. Additionally, there will be pedestrian connectivity between the non-residential and the residential components.

#### **Stipulations Applicable to the Residential Components**

38. Within residential areas there shall be a total maximum number of ~~sixty-five (65)~~ forty-eight (48) single-family residences; ~~two hundred thirty-three (233)~~ one hundred eighty-eight (188) townhomes; and, ~~three hundred ten (310)~~ five hundred eighty (580) apartment units.
39. The architectural style and composition of the various residential components shall be reasonably consistent with the renderings/elevations which were submitted under separate cover on ~~January 13, 2017 & 2/13/2017~~ February 8, 2019 or as otherwise approved during the Plan Review process in accordance with the Architectural Design Regulations established in advance by the Developer.

40. All residential components of the subject property which are located contiguous to industrially utilized properties (not including Freeman Pond) shall have either an existing natural buffer of at least one-hundred feet (100') in width or a fifty-foot (50') landscaped buffer containing a berm of not less than eight-feet (8') in height. Referenced landscaping shall include landscaping on the sides and top of the berm. However, should such industrial properties cease being used or zoned in an industrial classification, the Developer shall have the option to remove/ reconfigure said buffers and berms.

Where space is especially limited, an alternative buffer composed of a solid, architecturally appealing wall, at least eight-feet (8') in height as may be reduced when placed on a raised berm or existing raised topography, may be constructed with a minimum of twenty-feet (20') of landscaped area remaining on the proposed development site for landscape materials.

In order to protect and/or enhance residential views, the buffer on the Highland District (A-1) shall be a minimum of forty-feet (40') in width with an adequate berm and landscaping.

41. The following recital shall be contained within all marketing documents, all contractual documents concerning the conveyance of property from the Developer, all deeds of conveyance including, but not limited to warranty deeds and quitclaim deeds and all leases, Covenants, Conditions and Restrictions ("CCRs"):

"The property contained and referenced in this document is located in close proximity to a Heavy Industrial area which, may at times, produce loud noises, noxious odors and sounds. Owner and/or Lessee acknowledges and accepts that the Heavy Industrial land uses, including their necessary ancillary activities, are recognized and acceptable conditions concerning which the parties herein have any control over the use of such industrial properties."

In addition to the foregoing, the Developer will utilize sound attenuation devices and construction materials on homes directly abutting industrial property boundaries in order to ameliorate adverse impacts.

42. The establishment of one or more mandatory Property Owners Association(s) which shall include architectural controls (Architectural Review Board), oversights and the submission of Declaration of Covenants, Conditions and Restrictions or, in the case of the condominium component, said units shall comply in all respects to the State of Georgia Condominium Act.
43. A third-party management company and/or the Developer shall manage the day to day operations of the Property Owners Association(s), including the responsibility of all commonly owned properties and all amenities within the proposed community. They shall also be responsible for the management of all association monies as well as ensuring that any association is properly insured.

44. The submission of a landscape plan during the Plan and Review Process which shall be subject to staff review and approval and which shall include the following:
  - a. Sodded or otherwise landscaped front, side and rear yards.
  - b. The installation of underground utilities.
  - c. Ground-based, monument-style signage which shall be landscaped and irrigated as appropriate.
  - d. Landscaping throughout the community which shall be irrigated as appropriate.
45. As recommended by ARC and GRTA, a network of sidewalks and bike paths throughout the residential community which shall be designed to promote a pedestrian and bicycle friendly atmosphere and which shall be designed in order to provide meaningful connectivity to adjacent retail and office areas. All buildings shall have sidewalks on their respective road frontages. Alleys are not required to have sidewalks. All required sidewalks shall be interconnected with sidewalks or trails.

#### **Master Plan Districts and Miscellaneous Stipulations and Conditions**

46. With respect to on-street parking on or immediately adjacent to Riverview Road, parallel parking spaces shall be a minimum of eight-feet (8') in width and shall be a minimum of twenty-feet (20') in length or twenty-two feet (22') wherever the additional length is practical. Angled parking spaces shall be a minimum of eight-feet (8') in width and a minimum of twenty-feet (20') in length. Special loading zones which are intermittently located to serve commercial areas of the development may exceed these maximum lengths as may be required by the City of Smyrna Development Regulations.
47. Trees shall be planted on all streets and shall be a minimum of two and one-half inches (2 1/2") in caliper. Said trees shall have a minimum of twenty-four (24) square feet of planting area and shall be spaced an average of forty-five feet (45') apart and a maximum of fifty-five feet (55'). Smaller, ornamental trees may be spaced an average of twenty-five feet (25') apart. Trees shall be permitted within two-feet (2') of the face of curb at the time of planting. A landscape plan shall be subject to the City's Arborist's review and approval.
48. Street lighting will consist of light fixtures which shall be utilized on all roadways within the development. Street lighting will be chosen by the Developer and shall be located on a landscape plan subject to the City's professional staff's review and approval. Lamps shall be either metal halide, high pressure sodium, or other approved high-efficiency type lamps. The Developer shall determine the type of posts and fixtures subject to review and approval by the City's professional staff.
49. Pedestrian crossings shall be standard painted markings on Riverview Road only. Pedestrian crossings will also be provided at key parking and community facilities. No other pedestrian markings shall be required within the proposed development.

50. With respect to street signage, standard street signage shall be utilized. A “topper” may be installed on the top of the sign indicating the name of the development which shall make reference to the River Line Historic Area.
51. Posted street speed shall be thirty-five (35) miles per hour on Riverview Road. Internal streets shall have a maximum posted speed of twenty-five ((25) miles per hour. Alleys may restrict speeds to ten (10) miles per hour.
52. All public street widths, including parking lane widths, travel lane widths and bike lane widths shall be built according to the City of Smyrna Development Standards, subject to modifications approved by the Ward Representative and/or City of Smyrna professional staff.

**Zoning Stipulations from the March 14, 2011 Letter created by Mr. Garvis Sams**

53. The Developer agrees to comply with the system improvements recommended by GRTA and the City of Smyrna Engineer as may be modified through negotiations and agreements with the City Council of Smyrna and the City Engineer. Additionally, the Developer agrees to fund those certain system improvements delineated in Attachment “A” (General Conditions) of GRTA’s Notice of Decision, dated February 5, 2017 while not being precluded from obtaining available funding, and agrees to post a bond or equivalent form of security with the City of Smyrna in an amount commensurate with the projected cost of the system improvements for which the Developer is responsible. Such bond shall be posted in a manner and in an amount consistent with the phased development of the project and its related system improvements. As a part of the Plan Review process and consistent with the manner in which such plans are presently reviewed by the City of Smyrna’s professional staff, the Developer shall incrementally submit phased construction plans and, simultaneously with the approval of those plans, shall be responsible for the funding of the system improvements and the construction of the transportation infrastructure contained within those phased submissions. The Developer will continue to submit and fund plans accordingly during the phased development and build-out of the project. The funding and construction of said system improvements will be required no sooner than the approval of the phase construction plans. No transportation system improvements will be required until the commencement of major construction activities per the phased construction plans. Specifically, if the Developer proposes minor clean-up construction, including any EPA 319 Grant funded construction or similar riverfront improvement activities, or the construction of any accessory structures consistent with the open space programming anticipated to be an early phase project, such initiatives shall not require transportation system improvements.
54. An agreement that nineteen (19) townhome units within the Highland District (as shown on the revised Concept Master Plan attached hereto) will not initially be built during the estimated seven to ten (7 – 10) year phased project in order to temporarily meet the one-hundred foot (100’) buffer distancing between adjacent industrial properties. These units may be built as an earlier phase if, prior to the construction of said units, the Developer shall either submit evidence of a change in the zoning of the adjacent parcels



to a non-Heavy Industrial classification or submit a written agreement with the adjacent property owner allowing for a reduction in the temporary buffer. The Developer shall file a Zoning Amendment Application for the construction of these units so that the full City Council can review the circumstances at that time.

55. Reference to all other buffers less than one-hundred feet (100'), contained in paragraph 4, page 12 (Stipulations applicable to the Residential Components) of the February 10, 2011 stipulation letter, shall be superseded and replaced with the agreement that all buffers shall one-hundred feet (100') or greater as more fully demonstrated by the Industrial Buffer Plan (Riverview on the Chattahoochee) exhibit submitted as an attachment to a recent letter to Commissioner Helen Goreham, dated February 28, 2011, said Buffer Plan being attached hereto. In addition, in certain locations as indicated on the attached Buffer Plan exhibit, a fifty-foot (50') landscaped buffer containing a berm of not less than eight-feet (8') in height is acceptable. Referenced landscaping shall include landscaping on all sides and top of the berm. Finally, a solid, architecturally appealing wall, at least eight-feet (8') in height and placed on a raised berm with a minimum of twenty-feet (20') of landscaped area remaining on the proposed development site for landscaping materials, shall be constructed in the Highlands District (A-1) directly adjacent to the Heavy Industrial property located at 1650 Armstrong Place (Land District 18; Land Lot 176; Parcel 10). However, in general, should any adjoining industrial properties no longer be zoned in an industrial classification, the Developer shall have the option to remove/reconfigure the above referenced buffers and berms, following the approval by the Smyrna City Council as a Zoning Amendment.
56. The Developer agrees to the positioning of a landscape buffer between the Seagraves' "Pallet" site and the Developer's parcel along Riverview Road which is currently shown on the site plan as "open Space". Should this adjoining industrial property no longer be zoned in an industrial classification, the Developer shall have the option to remove/reconfigure this landscape buffer, following the approval by the Smyrna City Council as a Zoning Amendment.
57. The following revised recital shall be contained within all marketing documents, all contractual documents concerning the conveyance of property from the Developer, all deeds of Conveyance from the Developer including, but not limited to warranty deeds and quitclaim deeds and all leases, covenants, conditions & restrictions from the Developer:

"The property contained and referenced in this document is located in close proximity to a Heavy Industrial area which, may at times, house dangerous equipment, materials and terrain, trespass upon which could cause serious injuries. Also, said properties may produce loud noises, noxious odors and sounds. Owner and/or Lessee acknowledges and accepts that the Heavy Industrial land uses, including their necessary ancillary activities, are recognized and acceptable conditions concerning which the parties herein have no control over the use of such industrial properties. Owner and/or Lessee hereby waive any right to file a cause of action for nuisance that may arise out of the lawful use of the above referenced current heavy industrial properties."

58. Major modifications or revisions to the zoning proposal shall come back for review by the Smyrna City Council in the form of the filing of a Zoning Amendment Application.

### **Cobb County Stormwater Management Comments & Recommendations**

59. It is understood that the current proposal plan may be somewhat conceptual at this time. However, any proposed plan will have to be consistent with all of the Metropolitan River Protection Act (MRPA) guidelines (i.e. impervious setbacks, undisturbed stream buffers, building height restrictions within the 500-year floodplain, impervious and disturbed area coverage limits, etc.) No buildings are to be located within the 150-foot river setback other than public access points.
60. The proposed plan must comply with City of Smyrna Flood Damage Prevention Ordinance. The proposed plan is consistent with the Letter of Map Revision issued by FEMA for this segment of the Chattahoochee River. All proposed structures must meet the elevation freeboard and venting code requirements. Any fill placed within the floodplain must be compensated by an equal volume of cut which must be field verified and as-built certification provided.
61. Based on discussions during the applicants meetings, it is anticipated that innovative water quality and stormwater management measures will be utilized for this development. Since these designs are highly dependent on the final proposed site layout, these issues will need to be addressed during the plan review process.
62. The existing lake located in the center of the site does not have adequate spillway capacity. The proposed plan will include dam modifications required to meet the current City spillway design requirements.
63. Since the existing grade of the Riverview Road is below the 100-year flood elevation, emergency ingress and egress for this development will be limited during severe flood conditions. Consideration should be given to at least raising the grade of the intersection at Riverview Road and Dickerson Drive to allow access to a majority of the development during flood conditions on the Chattahoochee. River.

### **Cobb County Department of Transportation Comments & Recommendations**

64. Riverview road is classified as a major collector and according to the available information; the existing right-of-way does not meet the minimum requirements for this classification. Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on both sides of Riverview Road , a minimum of 40' from the roadway centerline.
65. Recommend installing curb, gutter, and sidewalk along all the road frontages.

66. Recommend applicant verify that the minimum sight distance is available for Dickerson Drive at Riverview Road and if it is not, implement remedial measures, subject to the County's approval, to achieve the minimum requirement of 390'.
67. Recommend the Developer comply with the requirements of GRTA's Notice of Decision recommendations.
68. Recommend applicant be required to meet all Cobb County & City of Smyrna Development Standards and Ordinances related to project improvements.

**Zoning Stipulations from the February 2, 2017 Letter created by Mr. Garvis Sams**

69. The additional stipulations agreed upon by the applicant in the letter submitted and dated on February 2, 2017. If there should be a discrepancy between the stipulations in the February 2, 2017 letter and the stipulations stated above, the stipulations stated above shall apply.

**Zoning Stipulations from the March 8, 2019 Letter created by Mr. Garvis Sams**

70. The additional stipulations agreed upon by the applicant in the letter submitted and dated on March 8, 2019. If there should be a discrepancy between the stipulations in the March, 2019 letter and the stipulations stated above, the stipulations stated above shall apply.

**Subject Property**









**Adjacent Properties**







