

# 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

September 20, 2019

## (Stipulation Letter, Revised Site Plan & Sight Profiles & Revised Architecture)

### VIA HAND DELIVERY AND EMAIL:

Mr. Russell G. Martin, AICP, Director  
Community Development Department  
City of Smyrna  
3180 Atlanta Road  
Smyrna, GA 30080

Re: Application of The Ardent Companies, LLC to Rezone a 29.797 Acre Tract from  
Conditional MU to Conditional MU (No. Z19-014)

Dear Rusty:

You will recall that this firm represents The Ardent Companies, LLC (“Ardent”) concerning the above-captioned Application for an Amendment to the previous Rezoning. The Application is scheduled to be heard and considered by the Mayor and City Council on October 7, 2019. In that regard, thank you for recently taking the time to meet with the City’s Professional Staff, my clients and me. Ardent, its consultants, including Planners & Engineers Collaborative (“PEC”) and McKinley Construction, LLC (“McKinley”), have addressed the issues which have been articulated by Staff and others except for those that are purely a function of the Plan Review process.

The Subject Property, consists of approximately 29.797 acres and is a tract of land which is a part of a Mixed-Use Development originally consisting of over 2 Million square feet which was approved by Cobb County in 2011 and which was subsequently rezoned and annexed into the City of Smyrna on November 18, 2013.

This Application seeks approval from the City for the entitlement of the revised Townhome component and will become a part of the currently positioned Mixed-Use Development known as Riverview Landing which consists of Single-Family Residences; Multi-Family Homes; and, fully integrated Commercial areas which include approximately 18,000 sq. ft. of space to accommodate Neighborhood Retail, Restaurant, Live-Work components, Office and commensurate amenities. As has been Riverview Landing’s history since 2011, all of these components are positioned and oriented in order to take full advantage of the aesthetics and

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA HAND DELIVERY AND EMAIL:

Mr. Russell G. Martin, AICP, Director  
Community Development Department  
September 20, 2019  
Page 2

---

ecological features offered by their collective proximity to the Chattahoochee River and a Linear Park with direct access to the River.

This letter will serve as Ardent's expression of agreement with the following revised stipulations which, upon the Amendment to the Rezoning being approved, shall become conditions and a part of the grant of the requested 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 property (29.797 acres) which constitutes the subject matter of the above-captioned Application for Rezoning Amendment.
2. The Amended Rezoning of the Subject Property shall be from Conditional MU to Conditional MU in substantial conformity to the revised site plan prepared by PEC which is being submitted concurrently herewith.
3. The Subject Property shall be developed for the purposes of the construction and development of attached Single-Family Townhome Residences upon a total of 29.797 acres in order to accommodate the construction and development of 129 Townhomes.
4. The size of the attached Single-Family Townhomes shall range from a minimum of 1,800 sq. ft. up to 2,400 sq. ft. and greater.<sup>1</sup>
5. The architectural style and composition of the Townhomes shall be in substantial conformity to the revised architectural renderings/elevations which are being submitted concurrently herewith. The composition of the Townhomes shall comply with City of Smyrna Regulations and Guidelines and shall consist of a mixture of brick, stacked stone, shake, board and batten and cementitious lap-siding in accordance with the City of Smyrna Zoning Ordinance provisions.

Lap-siding shall not serve as the dominant building material on the facades of any Townhomes having frontage on public rights-of-way. Additionally, no patios, decks or privacy fencing shall be allowed on or oriented to any public rights-of-way. Any covered

---

<sup>1</sup> Price points are anticipated ranging from the mid \$300's to the high \$400's.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA HAND DELIVERY AND EMAIL:

Mr. Russell G. Martin, AICP, Director  
Community Development Department  
September 20, 2019  
Page 3

---

porches or stoops shall be permitted so long as such are apropos to the architectural style and compositions of the Townhomes.

The architectural renderings/elevations consist of both front-loaded and rear-loaded garages, more specifically, there shall be seventy-two (72) rear-loaded Townhomes twenty-four feet (24') in width and fifty-seven (57) front-loaded Townhomes also twenty-four feet (24') in width. The architectural renderings/elevations depict both products and include the Carlisle; the Crayford; the Grantham; the Kings Bridge; the Wendover; the Yukon; the Ashton; the Duncan; and, the Field Glen and will include variations regarding each Townhome being constructed as well as additional upgrades and improvements chosen by individual home buyers.

6. Each Townhome will be able to accommodate (at all times) the parking of two (2) vehicles within the garages and driveways which are a minimum of twenty-two feet (22') in length and of sufficient width to accommodate the parking of a minimum of two (2) additional vehicles. Supplemental guest parking is strategically situated throughout the proposed Townhome Community. There shall be a minimum number of forty-two (42) guest parking spaces which shall be strategically located within the proposed Townhome Community.

The calculation of driveway length shall be measured from a position flush with the garage doors to the five foot (5') sidewalk in order to achieve driveways which meet the foregoing dimensions and specifications.

7. The creation of a Master Mandatory Homeowners Association ("HOA") and the submission a Declaration of Covenants, Conditions and Restrictions ("CCRs") which shall include, in addition to multiple other components, strict architectural controls and substantial conformity to the revised architectural style and composition. The CCRs will also contain specific recitals therein to assure that the leasing of Townhomes shall be allowed but strictly limited to no more than Ten Percent (10%) of the total number of Townhomes and for lease terms a minimum of one (1) year in duration.

The CCRs shall also contain provisions which require the Mandatory HOA to specifically and annually report to the City's Community Development Director regarding the number of homes and the identity of each Townhome leased at any given time during each calendar year and shall expressly provide that, as a matter of law, the City of

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA HAND DELIVERY AND EMAIL:

Mr. Russell G. Martin, AICP, Director  
Community Development Department  
September 20, 2019  
Page 4

---

Smyrna Community Development Department and/or its Code Enforcement Division, has the requisite legal authority to enforce this condition of the Rezoning Amendment.

8. In addition to the foregoing the Mandatory HOA shall also be responsible for the upkeep and maintenance of all common areas; tree preservation areas; community open space, guest parking; amenities; mail kiosks are required by the USPS; and, any landscaped areas or landscape buffers.
9. A third party management company shall be hired to manage the day-to-day operations of the HOA. That same company shall also be responsible for the management of all association monies as well as ensuring that the HOA is properly insured until such time as the HOA makes an independent determination that it can undertake and assume such responsibilities and financial matters on its own.
10. Compliance with recommendations from the City of Smyrna Engineer concerning hydrology, stormwater management, detention, water quality and downstream considerations, including recommendations regarding the ultimate positioning and configuration of on-site detention and water quality. Also, compliance with the following engineering considerations:
  - a. Providing the City Engineer with a Hydrology Study regarding the Subject Property during the Plan Review Process.
  - b. Verifying point(s) of discharge with respect to detention/water quality.
  - c. Providing the City Engineer and the Public Works Director with certified final plans during the Plan Review Process reflecting the manner in which sewer on the Subject Property will be handled.
  - d. Ensuring proper sight distance exists, taking into consideration the curvature of Riverview Road and interior streets or, the implementation of remedial measures in which to mitigate same. Sight distance profiles are being submitted concurrently herewith.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA HAND DELIVERY AND EMAIL:

Mr. Russell G. Martin, AICP, Director  
Community Development Department  
September 20, 2019  
Page 5

---

11. Compliance with the City of Smyrna Fire Marshall's Recommendations with respect to Life-Safety and Fire Prevention issues, including the following:
  - a. Ensuring that the geometry of Riverview Road, particularly at its intersections with Nichols and Dickerson, can accommodate mandated turning movement required for Fire Safety vehicles and apparatus.
  - b. Ensuring that water line diameters will be sufficient and that a fire flow test is conducted and completed during the Plan Review Process.
  - c. Providing the requisite fire suppression in the form of the installation of sprinklers in each Townhome unit.
  - d. Ensuring that there is sufficient interior maneuverability for emergency and fire apparatus vehicles and to ensure that there are no design components which hinder interior accessibility. Additionally, Ardent and/or its successors agree that the Townhome Community will not be gated or restricted in terms of accessibility with respect to fire apparatus, public safety vehicles and/or public traffic.
  - e. Even though the USPS dictates the positioning of mail kiosks which it requires for mail delivery and pickup, the revised site plan reflects the positioning of said kiosks. Ardent will ensure that they are accessible and ADA compatible. Additionally, leading up to and away from the kiosks, ADA approved sidewalks and gutters shall be installed on all interior streets.
  - f. During the Plan Review Process, additional fire hydrant locations within certain areas will be decided upon and implemented.
12. The submission of a landscape plan during the Plan Review Process which shall be subject to Staff review and approval and which shall include, but not necessarily be limited to, the following:
  - a. The landscape plan, which shall be prepared, stamped and signed by a Georgia Registered Landscape Architect or a Degreed Horticulturist, shall identify the following: Open space areas; landscaped common areas; and, other components of the proposed Townhome Community which will be identified during Plan Review.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## **VIA HAND DELIVERY AND EMAIL:**

Mr. Russell G. Martin, AICP, Director  
Community Development Department  
September 20, 2019  
Page 6

---

- b. All HVAC mechanical systems and home utilities within the proposed Townhome Community shall be screened by way of fencing, landscaping and/or respective positioning.
  - c. Entrance signage for the proposed Townhome Community shall be appropriately lighted, landscaped and irrigated and shall be in substantial conformity to the architectural style and the overall signage aesthetics within Riverview Landing.
  - d. Stormwater detention and water quality areas shall be landscaped and fenced appropriately in order to be attractive to homes both inside and outside of the Townhome Community.
13. Compliance with recommendations from the Public Works Director concerning interior aspects of the proposed Townhome Community, as follows:
- a. The streets to be constructed within the proposed Townhome Community shall be built to the City's Design and Detail Specifications.
  - b. Each Townhome unit shall be individually metered with respect to water utilization.
  - c. The public streets shall be designed to provide adequate access and maneuverability for public safety services, public safety vehicles, fire apparatus and sanitation vehicles.
  - d. The public roads within the proposed Townhome Community shall be twenty-four feet/twenty-six feet (24'-26') in width with fifty foot (50') access and utility easements consistent with the details shown on the revised site plan.
  - e. Alleys shall be private and sixteen feet/twenty feet (16'-20') in width with thirty feet/thirty-four feet (30'-34') access and utility easements as shown on the details provided on the revised site plan.
  - f. Sidewalks as hereinabove described shall be provided on at least one side of the interior streets.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA HAND DELIVERY AND EMAIL:

Mr. Russell G. Martin, AICP, Director  
Community Development Department  
September 20, 2019  
Page 7

---

14. Compliance with recommendations from the City Engineer regarding streambank buffers and ensuring that said buffers are placed within a Conservation Easement in favor of the City of Smyrna and in order to ensure that said buffer areas are protected and remain inviolate in perpetuity subsequent to the Plan Review process being completed.
15. Attached hereto and being submitted concurrently herewith are copies of the original Land Disturbance Permit cover page of the grading plan approved by Cobb County on December 3, 2012 for the construction of the existing water quality pond.
16. The Community Development Director shall have the authority to approve minor modifications to the stipulations/conditions, the architectural renderings/elevations, the site plan of the overall proposal as it proceeds to the Plan Review Process and thereafter, except for those that:
  - a. Increase the density of the Townhome 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 in a more restrictive zoning district.
  - d. Change access locations as shown on the revised site plan to a different right-of-way.
  - e. Create the need for the granting of additional Variances waiving Ordinance provisions.

Ardent's Townhome proposal is entirely appropriate from a land use planning perspective and in keeping with the products and price points of other similarly situated Townhome Communities which have been approved and planned and which have similar adjacency to mixed-oriented use corridors.

Please do not hesitate to contact me should you or the Staff require additional information or documentation prior to the formulation of Staff's Analysis and Recommendations or prior to the Application being heard and considered by the Mayor and City Council.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA HAND DELIVERY AND EMAIL:

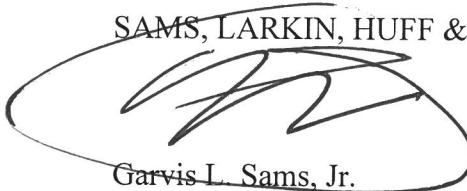
Mr. Russell G. Martin, AICP, Director  
Community Development Department  
September 20, 2019  
Page 8

---

With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP

A handwritten signature in black ink, appearing to read "G. Sams, Jr.", is enclosed within a hand-drawn oval.

Garvis L. Sams, Jr.  
[gsams@slhb-law.com](mailto:gsams@slhb-law.com)

GLS, Jr./dls  
Enclosures/Attachments

- cc:
- Honorable Mayor A. Max Bacon, Mayor (via email w/attachments)
  - Members, Smyrna City Council (via email w/attachments)
  - Ms. Tammi Saddler Jones, City Administrator (via email w/attachments)
  - Scott A. Cochran, Esq. (via email w/attachments)
  - Mr. Kevin Moore, P.E., City Engineer (via email w/attachments)
  - Ms. Ashley White, P.E., Assistant City Engineer (via email w/attachments)
  - Mr. Frank Martin, Public Works Director (via email w/attachments)
  - Mr. Timothy Grubaugh, Fire Marshall (via email w/attachments)
  - Ms. Terri Graham, City Clerk (via email w/attachments)
  - Mr. Kenneth Wood, P.E., LEED, AP Planners & Engineers Collaborative (via email w/attachments)
  - Mr. Tom Boland, Economic Development Manager (via email w/attachments)
  - Mr. Gregg Goldenberg, The Ardent Companies (via email w/attachments)
  - Mr. James Bikoff, The Ardent Companies (via email w/attachments)
  - Mr. Don Gale, McKinley Homes (via email w/attachments)