

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.  
JOEL L. LARKIN  
PARKS F. HUFF  
JAMES A. BALLI

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MARIETTA, GEORGIA 30064-3448

770•422•7016  
TELEPHONE  
770•426•6583  
FACSIMILE

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ADAM J. ROZEN

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WWW.SLHB-LAW.COM

August 9, 2019

## VIA HAND DELIVERY

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

Re: Application of The Ardent Companies, LLC to Rezone a 22.57 Acre Tract from Conditional MU to Conditional MU; Land Lots 171 & 172 of the 18<sup>th</sup> District, City of Smyrna, Cobb County, Georgia.

Dear Rusty:

As you know, this firm represents The Ardent Companies, LLC (“Ardent”) concerning the above-captioned Zoning Amendment Application for Rezoning.

By meeting today’s deadline, it is my understanding that the Application will be heard by the Mayor and City Council on September 16, 2019. With respect to the foregoing, enclosed please find the original Application and supplemental documentation as follows:

1. Titleholder signatures and paid tax receipts indicating that taxes have been paid on the subject property with respect to both the City of Smyrna and Cobb County and the Deed reflecting the current Titleholder.
2. A legal description of the subject property, printed and provided in Word format.
3. A full-sized copy, an 11” x 17” sized copy and an 8½” x 11” copy of the Site Plan.
4. The Tree Protection/Replacement Plan was submitted with the former Applications for Annexation and Rezoning which were approved by the City (Case #Z-13-015) and you have advised that the submission of a new Tree Plan is not necessary.

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## VIA HAND DELIVERY

Mr. Russell G. Martin, Director  
Community Development Department  
August 9, 2019  
Page 2

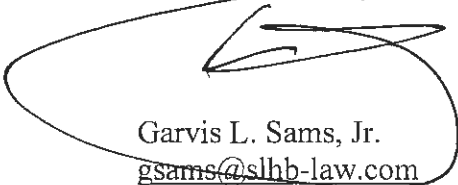
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5. A copy of comments from the Cobb County Water System regarding the availability of and accessibility to water and sewer to the site contained in the original rezoning analysis regarding Z-28 (Cobb County [2010]) and subsequent submittals made on behalf of Ardent.
6. Preliminary architectural renderings/elevations which substantially depict the architectural style and composition of the proposed Townhomes.
7. A Constitutional Challenge.
8. A check made payable to the City of Smyrna in the sum of \$2,000.00 representing the Application fee.
9. A disc containing a pdf copy of this submittal and the legal description.

I will be contacting you and your staff to discuss potential stipulations/conditions of the Zoning Amendment Request and to address any concerns which you or the staff may have regarding the Application. In the interim, should you have any questions or need any additional documentation or information, please do not hesitate to contact me. 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/klk  
Enclosures

cc: Listed on next page

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA HAND DELIVERY

Mr. Russell G. Martin, Director  
Community Development Department  
August 9, 2019  
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cc: Hon. A. Max Bacon, Mayor (via email w/attachments)  
Members, City of Smyrna City Council (via email w/attachments)  
Ms. Tammi Saddler Jones, City Administrator (via email w/attachments)  
Mr. Tom Boland, Economic Development Manager (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 Marshal (via email w/attachments)  
Ms. Terri Graham, City Clerk (via email w/attachments)  
Mr. Gregg I. Goldenberg, President & CEO (via email w/attachments)  
Mr. James Bikoff, Associate (via email w/attachments)  
Mr. Kenneth J. Wood, PE. (via email w/attachments)

**APPLICATION FOR ZONING AMENDMENT  
TO THE CITY OF SMYRNA**

*Please Type or Print Clearly*

(To be completed by City)

**Ward:** \_\_\_\_\_

**Application No:** \_\_\_\_\_

**Hearing Date:** \_\_\_\_\_

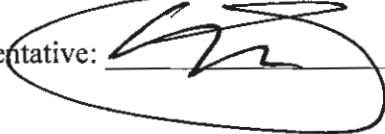
**APPLICANT:** The Ardent Companies

Name: Garvis L. Sams, Jr. (Attorney for Applicant)  
(Representative's name, printed)

Address: 376 Powder Springs Street, Suite 100, Marietta, GA 30064

Business Phone: 770-422-7016 Cell Phone: 404-975-7772 Fax Number: 770-426-6583

E-Mail Address: gsams@slhb-law.com

Signature of Representative: 

**TITLEHOLDER:**

Name: See Attached  
(Titleholder's name, printed)

Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Signature of Titleholder: \_\_\_\_\_  
(Attach additional signatures, if needed)

(To be completed by City)

Received: \_\_\_\_\_

Heard by P&Z Board: \_\_\_\_\_

P&Z Recommendation: \_\_\_\_\_

Advertised: \_\_\_\_\_

Posted: \_\_\_\_\_

**Approved/Denied:** \_\_\_\_\_

TITLEHOLDER SIGNATURE PAGE

**APPLICATION FOR ZONING AMENDMENT  
TO THE CITY OF SMYRNA**

*Please Type or Print Clearly*

(To be completed by City)

**Ward:** \_\_\_\_\_

**Application No:** \_\_\_\_\_

**Hearing Date:** \_\_\_\_\_

**APPLICANT:** The Ardent Companies

Name: Garvis L. Sams, Jr. (Sams, Larkin, Huff & Balli, LLP)  
(Representative's name, printed)

Address: 376 Powder Springs Street, Suite 100, Marietta, GA 30064

Business Phone: 770-422-7016 Cell Phone: 404-975-7772 Fax Number: 770-426-6583

E-Mail Address: gsams@slhb-law.com

Signature of Representative: \_\_\_\_\_

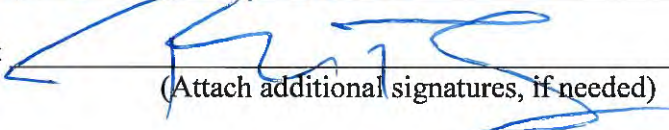
**TITLEHOLDER:**

Name: TAC RW Lot 2, LLC  
(Titleholder's name, printed)

Address: 2100 Powers Ferry Road SE, Suite 350, Atlanta, GA 30339

Business Phone: 678-712-4953 Cell Phone: 404-680-8205 Home Phone: \_\_\_\_\_

E-mail Address: jbaikoff@theardentcompanies.com

Signature of Titleholder:   
(Attach additional signatures, if needed)

(To be completed by City)

Received: \_\_\_\_\_

Heard by P&Z Board: \_\_\_\_\_

P&Z Recommendation: \_\_\_\_\_

Advertised: \_\_\_\_\_

Posted: \_\_\_\_\_

Approved/Denied: \_\_\_\_\_

**ZONING:**

Conditional MU

Present Zoning

**LAND USE:**

Mixed Use

Present Land Use

For the Purpose of Attached Townhomes

Size of Tract 22.57 Acres

Location Within the interior of Riverview Landing development (Pods C1 and C2)

(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 171 & 172 District 18th

We have investigated the site as to the existence of archaeological and/or architectural landmarks. I hereby certify that there are no X there are      such assets. If any, they are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DESCRIPTION OF PROPOSED ZONING AMENDMENT:**

The Applicant proposes and requests a Zoning Amendment to modify the site plan to include the development of 130-unit high-end townhome community within the overall 82 acre mixed residential use development which is currently under construction (Riverview Landing). The size of the proposed units will range from 1,800 square feet to 2,400 square feet and will be traditional in architecture.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CONTIGUOUS ZONING**

**North:** Cobb County - Heavy Industrial

**East:** Cobb County - Heavy Industrial / Smyrna - RAD

**South:** Smyrna - MU

**West:** Smyrna - MU

**CONTIGUOUS LAND USE**

**North:** Cobb County - Industrial

**East:** Cobb County - Industrial

**South:** Smyrna - Mixed Use

**West:** Smyrna - Mixed Use

**INFRASTRUCTURE**

**WATER AND SEWER**

A letter from Scott Stokes, Director of Public Works Department is required stating that water is available and the supply is adequate for this project.

A letter from Scott Stokes, Director of Public Works Department is required stating that sewer is available and the capacity is adequate for this project.

- If it is Cobb County Water, Cobb County must then furnish these letters.

Comments:

A copy of the Cobb County Water System comments regarding Z-28 of 2010 were submitted with the Application.

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**TRANSPORTATION**

Access to Property? Riverview Road & Nichols Drive

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Improvements proposed by developer? Development of a 130-unit high-end townhome community to be included within the mixed residential use development which is nestled along the Chattahoochee River, and a part of Riverview Landing.

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Comments:

The Zoning Amendment request is consistent with the City's Future Land Use Map; the City's Comprehensive Land Use Plan; and, is appropriate in the context of current policy decisions made by the City of Smyrna.

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**ZONING DISCLOSURE REPORT**

Has the applicant\* made, within two years immediately preceding the filing of this application for zoning amendment, campaign contributions aggregating \$250 or more or made gifts having in the aggregate a value of \$250 or more to the Mayor or any member of the City Council who will consider this application?

No

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If so, the applicant\* and the attorney representing the applicant\* must file a disclosure report with the Mayor and City Council of the City of Smyrna, within 10 days after this application is filed.

**Please supply the following information, which will be considered as the required disclosure:**

The name of the Mayor or member of the City Council to whom the campaign contribution or gift was made:

N/A

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The dollar amount of each campaign contribution made by the applicant\* to the Mayor or any member of the City Council during the two years immediately preceding the filing of this application, and the date of each such contribution:

N/A

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An enumeration and description of each gift having a value of \$250 or more by the applicant\* to the Mayor and any member of the City Council during the two years immediately preceding the filing of this application:

N/A

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Does the Mayor or any member of the City Council have a property interest (direct or indirect ownership including any percentage of ownership less than total) in the subject property?

No

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If so, describe the natural and extent of such interest: \_\_\_\_\_

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**ZONING DISCLOSURE REPORT (CONTINUED)**

Does the Mayor or any member of the City Council have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is 10% or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property?

No

If so, describe the nature and extent of such interest:

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Does the Mayor or any member of the City Council have a spouse, mother, father, brother, sister, son, or daughter who has any interest as described above?

No

If so, describe the relationship and the nature and extent of such interest:

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If the answer to any of the above is "Yes", then the Mayor or the member of the City Council must immediately disclose the nature and extent of such interest, in writing, to the Mayor and City Council of the City of Smyrna. A copy should be filed with this application\*\*. Such disclosures shall be public record and available for public inspection any time during normal working hours.

We certify that the foregoing information is true and correct, this 23<sup>rd</sup> day of July, 2019.

  
(Applicant's Signature)

\_\_\_\_\_  
(Attorney's Signature, if applicable)

Notes

\* Applicant is defined as any individual or business entity (corporation, partnership, limited partnership, firm enterprise, franchise, association or trust) applying for zoning action.

\*\* Copy to be filed with the City of Smyrna Zoning Department and City Clerk along with a copy of the zoning application including a copy of the legal description of the property.

**CAMPAIGN DISCLOSURE REPORT<sup>1</sup>**  
**BY ATTORNEY FOR APPLICANT<sup>2</sup>**

Has the Applicant made, within two (2) years immediately preceding the filing of this Application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Smyrna City Council or Planning Commission who will consider the Application?

Yes \_\_\_\_\_

If so, the Applicant and the attorney representing the Application must file a disclosure report with the Smyrna City Council within ten (10) days after this Application is first filed.

Please supply the following information which will be considered as the required disclosure:


The name of the member(s) of the Smyrna City Council or Planning Commission to whom the campaign contribution or gift was made: Derek A. Norton

The dollar amount of each campaign contribution made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application and the date of each such contribution: On 2/21/18, a check in the sum of \$2,000.00 to the Committee to Elect Derek Norton, Mayor.

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application: N/A

I certify that the foregoing information is true and correct, this the 9<sup>th</sup> day of August, 2019.

SAMS, LARKIN, HUFF & BALLI, LLP

By:   
GARVIS L. SAMS, JR.  
Attorney for Applicant

<sup>1</sup>If the answer to any of the above is "Yes", then the member of the Smyrna City Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing to the Smyrna City Council. A copy should be filed with this Application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

<sup>2</sup>Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.


**DISCLOSURE**

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS "YES", YOU MAY BE REQUIRED UNDER O.C.G.A. §36-67A-3 TO PROVIDE FURTHER INFORMATION:

- A) ARE YOU, OR ANYONE ELSE WITH A PROPERTY INTEREST IN THE SUBJECT PROPERTY, A MEMBER OF THE CITY OF SMYRNA PLANNING COMMISSION OR CITY OF SMYRNA MAYOR AND COUNCIL? **NO**
  
- B) DOES AN OFFICIAL OF SUCH PUBLIC BODIES HAVE ANY FINANCIAL INTEREST IN ANY BUSINESS ENTITY WHICH HAS A PROPERTY INTEREST IN THE SUBJECT PROPERTY? **NO**
  
- C) DOES A MEMBER OF THE FAMILY OF SUCH OFFICIALS HAVE AN INTEREST IN THE SUBJECT PROPERTY AS DESCRIBED IN (A) AND (B)? **NO**
  
- D) WITHIN TWO (2) YEARS IMMEDIATELY PRECEDING THIS APPLICATION, HAVE YOU MADE CAMPAIGN CONTRIBUTION(S) OR GIVEN GIFTS TO SUCH PUBLIC OFFICIALS AGGREGATING \$250.00 OR MORE? **YES**

SAMS, LARKIN, HUFF & BALLI, LLP

August 9, 2019  
DATE

By:   
\_\_\_\_\_  
Garvis L. Sams, Jr.  
Attorney for Applicant

**ZONING AMENDMENT ANALYSIS**

Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Mayor and Council when considering a zoning amendment request. Please provide responses to the following using additional pages as necessary. **This section must be filled out by the applicant prior to submittal of the zoning amendment request.**

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

This proposed Zoning Amendment will permit additional Residential uses which are suitable in view of the use and development of adjacent and nearby properties. While adjacent areas in Cobb County currently have a number of Industrial uses, there are Commercial and Residential uses found on properties within this sub-area of the City of Smyrna; within surrounding areas located within Unincorporated Cobb County; and, within the overall Riverview Landing mixed residential development

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

The proposed Zoning Amendment will not have an adverse effect upon adjacent or nearby properties.

This area is mixed use in nature and the proposal fits into the character of this sub-area of the City.

The Zoning Amendment request seeks approval of a total of 130 residential attached townhomes.

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

Because of the current market trends, the Subject Property does have a reasonable, viable and economic use as currently zoned within the City of Smyrna.

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**ZONING AMENDMENT ANALYSIS (CONTINUED)**

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.

The proposed Zoning Amendment will not result in a use which would cause an excessive or burdensome use of existing or proposed streets, transportation facilities, utilities or schools. These opinions are consistent with comments previously authored by the City of Smyrna's Professional Staff.

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

The proposed Zoning Amendment is in conformity with the policy and intent of the City's Future Land Use Map and seeks to enhance the mixed residential neighborhood with the development of attached luxury townhomes.

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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.

There are existing and changing conditions affecting the use and development of the Subject Property which give supporting grounds for approving the current proposed amendment 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 development of Riverview Landing continues.

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**ZONING AMENDMENT ANALYSIS (CONTINUED)**

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.

The proposed Zoning Amendment will enhance architectural standards and aesthetics of the residential neighborhoods within Riverview Landing.

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

Utilization of this portion of Riverview Landing will not create a nuisance and is compatible with existing uses in the area particularly in consideration of the amount of buffering and spacing between the uses within and abutting Riverview Landing.

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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.

The proposed Townhomes positively affect the development along the Riverview Road Corridor and will encourage other compatible residential and/or mixed-use projects within this sub-area of the City.

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Printed: 7/16/2019

### Cobb County Online Tax Receipt

Thank you for your payment!

**CARLA JACKSON** TAX COMMISSIONER  
**HEATHER WALKER** CHIEF DEPUTY  
 Phone: 770-528-8600  
 Fax: 770-528-8679

Payer:  
 TAC RIVERVIEW MASTER LLC

**TAC RW LOT 2 LLC**

**Payment Date: 10/26/2018**

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2018	18017100040	10/15/2018	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$0.00	\$0.00	\$0.00	\$0.00	\$36,933.15	\$0.00	



Scan this code with your mobile phone to view this bill!



# Munis Self Service

## Real Estate

**View Bill**

[View bill image](#)

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**As of** 7/16/2019  
**Bill Year** 2018  
**Bill** 16025  
**Owner** TAC RW LOT 2 LLC  
**Parcel ID** 18017100040

[View payments/adjustments](#)

<b>Installment</b>	<b>Pay By</b>	<b>Amount</b>	<b>Payments/Credits</b>	<b>Balance</b>	<b>Interest</b>	<b>Due</b>
1	11/15/2018	\$12,078.17	\$12,078.17	\$0.00	\$0.00	\$0.00
<b>TOTAL</b>		\$12,078.17	\$12,078.17	\$0.00	\$0.00	\$0.00

## LEGAL DESCRIPTION POD C1

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 171 & 172 of the 18<sup>th</sup> District, Cobb County, Georgia and being more particularly described as follows:

BEGINNING at an iron pin set at the intersection of the northwesterly right-of-way line of River View Road (60' R/W) with the westerly right-of-way line of Dickerson Drive (70' R/W); thence along said right-of-way line of River View Road the following courses and distances: 245.98 feet along an arc of a curve to the left, said curve having a radius of 440.00 feet and a chord bearing and distance of South 34 degrees 49 minutes 16 seconds West 242.79 feet; thence South 18 degrees 48 minutes 21 seconds West a distance of 113.51 feet to a point; thence South 22 degrees 38 minutes 00 seconds West a distance of 48.06 feet to a point; thence South 27 degrees 09 minutes 05 seconds West a distance of 134.78 feet to a point; thence South 26 degrees 51 minutes 49 seconds West a distance of 141.93 feet to a point; thence 112.81 feet along an arc of a curve to the left, said curve having a radius of 10,040.00 feet and a chord bearing and distance of South 26 degrees 32 minutes 29 seconds West 112.81 feet to a point; Thence leaving said right-of-way line North 63 degrees 16 minutes 28 seconds West a distance of 25.52 feet to a point; thence 77.72 feet along an arc of a curve to the left, said curve having a radius of 275.00 feet and a chord bearing and distance of North 71 degrees 22 minutes 14 seconds West 77.46 feet to a point; thence North 79 degrees 27 minutes 59 seconds West a distance of 161.02 feet to a point; thence 198.23 feet along an arc of a curve to the right, said curve having a radius of 325.00 feet and a chord bearing and distance of North 61 degrees 59 minutes 35 seconds West 195.17 feet to a point; thence North 44 degrees 31 minutes 12 seconds West a distance of 271.83 feet to a point; thence 117.67 feet along an arc of a curve to the right, said curve having a radius of 125.00 feet and a chord bearing and distance of North 17 degrees 33 minutes 7 seconds West 113.37 feet to a point; thence North 9 degrees 24 minutes 58 seconds East a distance of 109.75 feet to a point; thence 71.04 feet along an arc of a curve to the left, said curve having a radius of 75.00 feet and a chord bearing and distance of North 17 degrees 43 minutes 3 seconds West 68.41 feet to a point; thence North 44 degrees 51 minutes 4 seconds West a distance of 57.89 feet to a point; thence North 43 degrees 28 minutes 41 seconds East a distance of 536.47 feet to a point on the Land Lot Line common to Land Lots 62 & 171; thence along said Land Lot Line South 89 degrees 50 minutes 4 seconds East a distance of 187.27 feet to a point; thence leaving said Land Lot Line South 67 degrees 17 minutes 56 seconds East a distance of 136.06 feet to a point; thence North 77 degrees 44 minutes 39 seconds East a distance of 32.98 feet to a point; thence South 65 degrees 11 minutes 42 seconds East a distance of 366.82 feet to a point on said westerly right-of-way line of Dickerson Drive; thence along said right-of-way line South 6 degrees 13 minutes 44 seconds East a distance of 119.68 feet to a point; thence South 6 degrees 13 minutes 44 seconds East, a distance of 45.74 feet to a point and the TRUE POINT OF BEGINNING.

Said tract containing 17.232 acres.

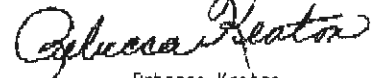
## POD C2

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 171 of the 18<sup>th</sup> District, Cobb County, Georgia and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING; commence from an iron pin set at the intersection of the northwesterly right-of-way line of River View Road (60' R/W) with the westerly right-of-way line of Dickerson Drive (70' R/W); thence along said right-of-way line of Dickerson Drive North 6 degrees 13 minutes 44 seconds West a distance of 45.74 feet to a point; thence North 6 degrees 13 minutes 44 seconds West, a distance of 119.68 feet to a point; thence leaving said right-of-way line North 65 degrees 11 minutes 42 seconds West a distance of 366.82 feet to a point; thence South 77 degrees 44 minutes 39 seconds West a distance of 32.98 feet to a point; thence North 67 degrees 17 minutes 56 seconds West a distance of 136.06 feet to a point on the Land Lot Line common to Land Lots 62 & 171; thence along said Land Lot Line North 89 degrees 50 minutes 4 seconds West a distance of 187.27 feet to a point and the TRUE POINT OF BEGINNING, from the TRUE POINT OF BEGINNING as thus established; thence leaving said Land Lot Line South 43 degrees 28 minutes 41 seconds West a distance of 536.47 feet to a point; thence South 43 degrees 28 minutes 41 seconds West, a distance of 261.49 feet to a point on the easterly right-of-way line of Nichols Drive (Variable R/W); thence along said right-of-way the following courses and distances: North 2 degrees 8 minutes 50 seconds East a distance of 122.88 feet to a point; thence 33.25 feet along an arc of a curve to the left, said curve having a radius of 60.00 feet and a chord bearing and distance of North 51 degrees 55 minutes 13 seconds East 32.83 feet to a point; thence 180.70 feet along an arc of a curve to the left, said curve having a radius of 60.00 feet and a chord bearing and distance of North 49 degrees 19 minutes 7 seconds West 119.75 feet to a point; thence leaving said right-of-way line North 70 degrees 57 minutes 11 seconds West a distance of 194.12 feet to an iron pin found; thence North 5 degrees 34 minutes 47 seconds East a distance of 300.07 feet to an iron pin found on the Land Lot line common to Land Lots 63 & 171; thence along said Land Lot Line South 89 degrees 19 minutes 52 seconds East a distance of 212.19 feet to a point; thence South 89 degrees 50 minutes 4 seconds East a distance of 551.56 feet to a point and the TRUE POINT OF BEGINNING.

Said tract containing 5.338 acres.





Rebecca Keaton  
Clerk of Superior Court Cobb Cty. Ga.

Lot 2

Space Above This Line for Recorder's Use

13  
34

After recording return to:  
Eric L. Weiss, Esq.  
Schulten Ward Turner & Weiss LLP  
260 Peachtree Street, NW, Suite 2700  
Atlanta GA 30303

STATE OF GEORGIA  
COUNTY OF COBB

**LIMITED WARRANTY DEED**

THIS INDENTURE is made this 21<sup>st</sup> day of October, 2016, by and between RIVERVIEW INDUSTRIES, L.P., a Delaware limited partnership ("Grantor"); and TAC-RW LOT 2, LLC, a Georgia limited liability company ("Grantee"). The words "Grantor" and "Grantee" include the neuter, masculine and feminine genders, and the singular and the plural.

**WITNESSETH:**

GRANTOR, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee all those certain tracts or parcels of land lying and being in Cobb County, Georgia (hereinafter referred to collectively as the "Land") as more particularly described in the attached Exhibit "A," which exhibit is incorporated herein, reserving any and all rights necessary for a temporary construction easement, including, but not limited to, easements for access, storage, and slope, for the completion of and dedication to the City of Smyrna of the road being constructed on the Land (the "Temporary Construction Easement"); provided the Temporary Construction Easement shall automatically terminate One Hundred Eighty (180) days from when this Limited Warranty Deed is recorded in the Cobb County, Georgia, Real Estate Records.

TOGETHER WITH all rights, members, structures, easements, alleys, ways, appurtenances, improvements, chattels, timber, shrubbery, trees, plants, fixtures, privileges,

tenements or hereditaments incident or appurtenant thereto (the foregoing, together with the Land, are herein referred to as the "Property"), subject only to those matters set forth and described on Exhibit "B" attached hereto and by this reference made a part hereof (herein referred to as the "Permitted Encumbrances").

TO HAVE AND TO HOLD the Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever in FEE SIMPLE, subject only to the Permitted Encumbrances.

AND GRANTOR WILL WARRANT and forever defend the right and the title to the Property, subject to the Permitted Encumbrances, unto Grantee, its successors and assigns, against the claims of any persons owning, holding or claiming by, through or under Grantor.

**[SIGNATURES BEGIN ON NEXT PAGE]**

IN WITNESS WHEREOF, Grantor has caused its duly authorized representatives to execute, seal and deliver this indenture, all the day and year first written above.

GRANTOR:

RIVERVIEW INDUSTRIES, L.P.,  
a Delaware limited partnership

By: JT Riverview, LLC,  
a Georgia limited liability company,  
its general partner

By: JAMESTOWN U.S. PROPERTIES  
CORP.  
a Georgia corporation,  
its managing member

Signed, sealed and delivered  
in the presence of:

[Signature]  
Unofficial Witness

Wendy T. Chambers  
Notary Public

My Commission Expires:  
April 13, 2019

(NOTARIAL SEAL)



By: [Signature]  
Name: Matt Bronfman  
Title: President

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE LAND**

**HALE PARCEL 18-0171-0009-0:**

ALL THAT TRACT or parcel of land lying and being in Land Lot 171 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, and being 2.5 acres, according to a survey for William L. Hale Contracting Company, dated July 25, 1980, by Thomas M. Wilson R.L.S., and being more particularly described as follows:

BEGINNING at an iron pin (post) located on the North line of Land Lot 171 at a point 322.2 feet East of the intersection of Land Lots 62, 63, 170, and 171; and from said Point of Beginning running South 66 degrees 12 minutes 10 seconds East 508.3 feet to an iron pin; thence running South 42 degrees 29 minutes 25 seconds West 313.9 feet to an iron pin (post) located on the Southeastern portion of the cul-de-sac of said Nichols Drive; running thence along the cul-de-sac of said Nichols Drive Northerly and Westerly 177.87 feet (arc) to an iron pin on said cul-de-sac; thence running North 71 degrees 39 minutes 40 seconds West 193.7 feet to an iron pin found; thence running North 04 degrees 20 minutes 05 seconds East 300.00 feet to an iron pin at the POINT OF BEGINNING.

**VBW PARCEL 18-171-10:**

All that tract or parcel of land lying and being in Land Lot 171 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, commence at the northwest corner of said Land Lot 171; thence run South 42 degrees 00 minutes 16 seconds East 817.30 feet to the east side of Nichols Drive and THE POINT OF BEGINNING, said point of beginning being at the northwest corner of Tract "A" conveyed herein; thence South 88 degrees 52 minutes 20 seconds East along the north line of Tract "A" conveyed herein 189.60 feet to an iron pin set; thence South 74 degrees 34 minutes 40 seconds East 335.7 feet; thence North 21 degrees 23 minutes 20 seconds East 248.5 feet; thence North 66 degrees 12 minutes 20 seconds West 170.0 feet; thence North 09 degrees 12 minutes East 100 feet; thence North 66 degrees 12 minutes 10 seconds West 244.7 feet to a point on the northwest line of a Georgia Power transmission line right of way 200 feet wide; thence South 42 degrees 29 minutes 25 seconds West 313.9 feet to the southeasterly side of a cul-de-sac at the northern terminus of Nichols Drive; thence southwesterly along the side of said cul-de-sac, and following the curvature thereof 33.36 feet to the intersection of the east side of Nichols Drive with said cul-de-sac; thence South 01 degree 09 minutes 50 seconds West 151.8 feet to the Point of Beginning; being 4.194 acres as surveyed by Delta



Engineers & Surveyors, Inc. on December 21, 1972 and platted by J. W. Lynah Surveyors on plat for Joe Cheatham, dated October 21, 1986.

**VBW PARCEL 18-171-11:**

All that tract or parcel of land lying and being in Land Lot 171 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, commence at the northwest corner of said Land Lot 171; thence run South 42 degrees 00 minutes 16 seconds East 817.30 feet to the east side of Nichols Drive and THE POINT OF BEGINNING; thence South 00 degrees 24 minutes 17 seconds East along the east side of Nichols Drive 166.25 feet to an iron pin set; thence North 49 degrees 13 minutes 01 second East 248.79 feet to an iron pin set; thence North 88 degrees 52 minutes 20 seconds West 189.60 feet to the POINT OF BEGINNING; being 0.362 of an acre as shown on plat of Survey for Joe Cheatham dated October 21, 1986, by David W. Lynah, Georgia Registered Land Surveyor No. 1845.

**CPS PARCEL 18-0171-0-012-0:**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 171 and 175 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, being more particularly described as follows:

TO FINE THE TRUE POINT OF BEGINNING, COMMENCE at an iron in on the east right of way line of Nichols Drive (60-foot right of way), South 42 degrees 00 minutes 16 seconds East, 817.30 feet from the northwest corner of said Land Lot 171; running thence South 00 degrees 24 minutes 17 seconds East along the east right of way line of Nichols Drive, 166.25 feet to an iron pin and the TRUE POINT OF BEGINNING; thence from said TRUE POINT OF BEGINNING, running North 49 degrees 57 minutes 27 seconds East, 252.54 feet to an iron pin the west line of property now or formerly owned by James E. Jones; thence south 01 degree 09 minutes 50 seconds West along the west line of said Jones property, 813.69 feet to a concrete marker on the northeast right of way line of Nichols Drive, thence North 56 degrees 45 minutes 21 seconds West along the northeast right of way line of Nichols Drive, 106.72 feet to a point thence northwesterly along the northeast right of way line of Nichols Drive and following its arc to the right (which arc is subtended by a chord running North 27 degrees 41 minutes 40 seconds West, 206.32 feet), 215.30 feet to a point; thence North 01 degrees 09 minutes 50 seconds East along the east right of way line of Nichols Drive, 409.95 feet to the TRUE POINT OF BEGINNING; said tract containing 2.876 acres according to plat of survey for Riverview Recycling, Inc., prepared by David W. Lynah, Georgia Registered No. 1845, D. W. Lynah Surveyors, dated September 18, 1990, Revised September 19, 1990.

**DAVIS PARCEL 18-0171-0-003-0:**

ALL THAT TRACT or parcel of land lying and being in Land Lots 171, 172, 174 and 175 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, and being more particularly described as follows:

BEGIN at a five-eighths-inch rebar located on the northwest side of River View Road (60-foot right-of-way) at its intersection with the southwest corner of a 100-foot Southern Bell Telephone and Telegraph Easement; thence North 77 degrees 21 minutes 29 seconds West a distance of 235.11 feet along the southerly edge of the aforementioned 100-foot Southern Bell Telephone and Telegraph Easement to a five-eighths-inch rebar; thence North 56 degrees 23 minutes 39 seconds West a distance of 275.60 feet along the southern line of said easement to a five-eighths-inch rebar, which rebar is located on the easterly edge of a 200-foot Georgia Power Easement; thence North 03 degrees 53 minutes 00 seconds East a distance of 447.27 feet along the easterly edge of said easement to a three-quarter-inch open-top pipe; thence South 69 degrees 00 minutes 17 seconds East a distance of 348.30 feet to a three-quarter-inch open-top pipe; thence South 68 degrees 51 minutes 26 seconds East a distance of 333.83 feet to a five-eighths-inch rebar located on the westerly edge of a 60-foot right-of-way of River View Road; thence in a southerly direction along the westerly edge of said right-of-way and following the arc of the curve thereof an arc distance of 30.26 feet, said arc being subtended by a chord bearing South 27 degrees 04 minutes 56 seconds West with a chord distance of 30.26 feet; thence South 26 degrees 46 minutes 58 second West a distance of 296.46 feet along the westerly edge of said right-of-way in a southerly direction along the arc of the curve an arc distance of 128.58 feet and being subtended by a chord bearing South 28 degrees 04 minutes 56 seconds West with a chord distance of 128.57 feet to a five-eighths-inch rebar located at the TRUE POINT OF BEGINNING.

The above-described tract of land is designated as Tract A, containing 6.247 acres, upon the plat of survey prepared for Jerry L. Eaves and James E. Jones by Trenton D. Turk, Registered Georgia Land Surveyor No. 2411, dated May 8, 2003, which survey by reference thereto is incorporated herein for a more complete description of the property.

**BEAVER PARCEL 18-0171-0-004-0:****Tract I:**

All that tract or parcel of land lying and being in Land Lots 171 and 172 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin on the northwesterly side of Riverview Drive (Riverview Road), 400 feet northeasterly as measured along the northwesterly side of Riverview Drive, from the point of intersection of the northwesterly side of Riverview Drive and the centerline of the Southern Bell Telephone and Telegraph Company right-of-way; thence running northeasterly along the northwesterly side of Riverview Drive 380 feet to an iron pin; thence northwesterly forming an interior angle of 82 degrees 55 minutes with the northwesterly side of Riverview Drive, 392.8 feet to an iron pin; thence southwesterly forming an interior angle of 89 degrees 79 minutes with the preceding course 365 feet to an iron pin; thence southeasterly, forming an interior angle of 92 degrees 24 minutes with the preceding course, 344.4 feet to the northwesterly side of Riverview Drive and the POINT OF BEGINNING. The above description is in accordance with the Survey by H. V. Fitzpatrick, Surveyor, dated April 1964.

**LESS AND EXCEPT** all that tract or parcel of land as shown in the Right of Way Deed to Cobb County from Jerry L. Eaves, dated July 9, 1970 and recorded in Deed Book 1165 Page 599, Cobb County, Georgia Records.

Being the same property as conveyed in Warranty Deed from Mildred H. Boykin to Jerry L. Eaves, dated October 13, 1964, recorded in Deed Book 796, page 509, aforesaid records.

Tract II:

All that tract or parcel of land lying and being in Land Lots 171 and 172 of the 18th District, 2nd Section of Cobb County, Georgia and being more particularly described as follows:

BEGINNING at an iron pin located on the westerly right-of-way of Riverview Road at a point being the southeasterly corner of the Jerry L. Eaves property and the northeasterly corner of the James E. Jones property; thence running westerly along the dividing line between the James E. Jones property and the Jerry L. Eaves property 344 feet to an iron pin and THE POINT OF BEGINNING; thence running in a northerly direction and along the north property line of Jerry L. Eaves 365 feet to an iron pin located at the northwesterly corner of the Jerry L. Eaves property; thence running at an interior angle of 90 degrees 21 minutes with the last preceding course a distance of 444 feet to an iron pin located on the southeast boundary of the Georgia Power Company right-of-way (200 feet); thence running at an interior angle of 74 degrees 30 minutes with the last preceding course a distance of 363 feet along the Georgia Power Company right-of-way to a point; thence running at an interior angle of 107 degrees 33 minutes with the last preceding course a distance of 353 feet to an iron pin and the POINT OF BEGINNING. Said tract of land containing 3.25 acres.

Being the same property conveyed in Warranty Deed from James E. Jones to Jerry L. Eaves, dated February 9, 1976, recorded in Deed Book 1664 Page 211, Cobb County, Georgia Records.

The aforesaid property (both Tracts I and II) are shown on plat of Survey prepared for Jerry L. Eaves and James E. Jones dated May 8, 2003, by Trenton D. Turk, Land Surveyor for GeoSurvey, Ltd. GRLS 2411, and designated as Tract C containing 3.072 acres and Tract B containing 3.238 acres

**UNITED RENTALS PARCEL 18-0172-0013-0:**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 171 AND 172 OF THE 18TH DISTRICT, SECOND SECTION OF COBB COUNTY, GEORGIA, CONTAINING 2,473 ACRES ACCORDING TO A PLAT ENTITLED "ALTA/ACSM LAND TITLE SURVEY FOR UNITED RENTALS (NORTH AMERICA), INC., 8150 RIVER VIEW ROAD, COBB COUNTY, MABLETON, GEORGIA", DATED 5/23/07 BY SITE DESIGN, INC. WITH THE FOLLOWING METES AND BOUNDS TO WIT:

BEGINNING AT AN OLD 1/2" IRON PIN ON THE WESTERN RIGHT OF WAY OF RIVER VIEW ROAD AT THE JOINT CORNER OF WILLIAM C. SHIPPEY PROPERTY, NOW OR FORMERLY, SAID IRON PIN ALSO BEING 476.3 FEET SOUTHWEST OF THE SOUTHERN RIGHT OF WAY OF DICKERSON DRIVE; THENCE RUNNING ALONG SAID WESTERN RIGHT OF WAY OF RIVER VIEW ROAD AND ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 632.20 FEET, AN ARC LENGTH OF 182.21 FEET AND A CHORD BEARING AND DISTANCE OF S 21-55-10 W 181.58 FEET TO A 5/8" REBAR IRON PIN SET AT A FENCE POST AT THE JOINT CORNER OF CLAUDE W. BEAVER PROPERTY, NOW OR FORMERLY; THENCE TURNING

AND LEAVING SAID RIGHT OF WAY AND RUNNING ALONG THE LINE OF SAID BEAVER PROPERTY N 73-42-00 W 395.90 FEET TO A 5/8" REBAR IRON PIN SET; THENCE TURNING AND RUNNING N 74-34-40 W 104.11 FEET TO A 5/8" REBAR IRON PIN SET AT THE JOINT CORNER OF VBW, LLC PROPERTY, NOW OR FORMERLY; THENCE TURNING AND RUNNING ALONG THE LINE OF SAID VBW, LLC PROPERTY N 21-24-16 E 248.48 FEET TO AN OLD 1/2" REBAR IRON PIN ON THE LINE OF WILLIAM C. SHIPPEY PROPERTY, NOW OR FORMERLY; THENCE TURNING AND RUNNING ALONG THE LINE OF SAID SHIPPEY PROPERTY S 65-12-20 E 499.94 FEET TO THE POINT OF BEGINNING

THIS BEING THE SAME PROPERTY REFERRED TO IN FIRST AMERICAN TITLE INSURANCE TITLE COMMITMENT NO. 1478.008(O) BEARING AN EFFECTIVE DATE OF MAY 22, 2007

**CPS PARCEL 18-0172-0-012-0:**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 171 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin on the northwesterly side of River Road (also known as Riverview Road), 356.0 feet southwesterly from the intersection of the northwesterly side of River Road with the southerly side of Dickerson Road and running thence in a southwesterly direction along the northwesterly side of River Road 100.0 feet to an iron pin; running thence North 67 degrees West 670.0 feet to an iron pin; running thence North 20 degrees 16 minutes East 100.0 feet to an iron pin; running thence South 67 degrees East 670.0 feet to an iron pin at the POINT OF BEGINNING; said tract containing 1 ½ acres.

**ELHADDAD PARCEL 18-0172-0004-0:**

TRACT 1 PROPERTY LINE DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 171 OF THE 18<sup>TH</sup> DISTRICT, 2<sup>ND</sup> SECTION, COBB COUNTY, GEORGIA, AS SHOWN ON SURVEY FOR RIVERVIEW INDUSTRIES L.P. PREPARED BY GASKINS DATED OCTOBER 26, 2007, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT #4 REBAR SET AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY OF RIVER VIEW ROAD (60° R/W) AND THE WESTERLY RIGHT OF WAY OF DICKERSON DRIVE (APPARENT 70° R/W). SAID POINT BEING THE POINT OF BEGINNING;

THENCE LEAVING SAID WESTERLY RIGHT OF WAY OF DICKERSON DRIVE AND FOLLOWING ALONG SAID NORTHWESTERLY RIGHT OF WAY OF RIVER VIEW ROAD ALONG A CURVE TO THE RIGHT, AN ARC DISTANCE OF 263.60 FEET, SAID CURVE HAVING A RADIUS OF 209.30 FEET AND BEING SUBTENDED BY A CHORD OF 246.52 FEET, AT SOUTH 38 DEGREES 20 MINUTES 54 SECONDS WEST, TO A POINT; THENCE SOUTH 02 DEGREES 16 MINUTES 03 SECONDS WEST, 88.73 FEET TO A #4 REBAR FOUND; THENCE LEAVING SAID NORTHWESTERLY RIGHT OF WAY OF RIVER VIEW ROAD AND FOLLOWING ALONG THE PROPERTY OF NOW OR FORMERLY RIVERVIEW INDUSTRIES, L.P. NORTH 65 DEGREES 00 MINUTES 54

SECONDS WEST, 649.80 FEET TO A #4 REBAR SET; THENCE FOLLOWING ALONG THE PROPERTY OF NOW OR FORMERLY WILLIAM L. HALE NORTH 65 DEGREES 34 MINUTES 32 SECONDS WEST, 774.60 FEET TO A #4 REBAR SET ON THE NORTHERN LINE OF LAND LOT 117; THENCE ALONG SAID NORTHERN LINE OF LAND LOT 117 AND FOLLOWING ALONG THE PROPERTY OF NOW OR FORMERLY THE ENCLAVE AT OAKDALE, PHASE 1 AND MKRS PROPERTIES, LLLP SOUTH 89 DEGREES 40 MINUTES 31 SECONDS EAST, 1023.60 FEET TO A #4 REBAR SET; THENCE LEAVING SAID NORTHERN LINE OF LAND LOT 171 AND FOLLOWING ALONG THE PROPERTY OF NOW OR FORMERLY MKRS PROPERTIES, LLLP AND LISA R. BAKER SOUTH 65 DEGREES 26 MINUTES 40 SECONDS EAST, 458.58 FEET TO A #4 REBAR SET ON THE WESTERLY RIGHT OF WAY OF DICKERSON DRIVE; THENCE FOLLOWING ALONG SAID WESTERLY RIGHT OF WAY OF DICKERSON DRIVE SOUTH 04 DEGREES 56 MINUTES 07 SECOND EAST, 116.81 FEET TO A #4 REBAR SET AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY OF RIVER VIEW ROAD AND THE WESTERLY RIGHT OF WAY OF DICKERSON DRIVE, SAID POINT BEING THE POINT OF BEGINNING.

SAID TRACT 1 CONTAINS A TOTAL OF 9.01 ACRES MORE OR LESS THAT INCLUDES AREA OF 0.06 ACRES SHOWN AS POSSIBLE OVERLAP.

#### TRACT 2 PROPERTY LINE DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 171 OF THE 18<sup>TH</sup> DISTRICT, 2<sup>ND</sup> SECTION, COBB COUNTY, GEORGIA, AS SHOWN ON SURVEY FOR RIVERVIEW INDUSTRIES L.P. PREPARED BY GASKINS DATED OCTOBER 26, 2007, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT #4 REBAR SET AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY OF RIVER VIEW ROAD (60° R/W) AND THE WESTERLY RIGHT OF WAY OF DICKERSON DRIVE (APPARENT 70° R/W); THENCE LEAVING SAID INTERSECTION SOUTH 00 DEGREES 36 MINUTES 39 SECOND EAST, 108.84 FEET TO A RIGHT OF WAY MONUMENT FOUND ON THE SOUTHEASTERLY RIGHT OF WAY OF RIVER VIEW ROAD (60° R/W), SAID POINT BEING THE POINT OF BEGINNING.

THENCE LEAVING SAID SOUTHEASTERLY RIGHT OF WAY OF RIVER VIEW ROAD AND FOLLOWING ALONG THE PROPERTY OF NOW OR FORMERLY DONALD K. GRIFFITH SOUTH 65 DEGREES 43 MINUTES 56 SECONDS EAST, 199.23 FEET TO A #4 REBAR SET; THENCE FOLLOWING THE PROPERTY OF NOW OR FORMERLY DONALD K. GRIFFITH AND LEE ROY HOFFMAN SOUTH 26 DEGREES 20 MINUTES 43 SECOND WEST, 91.85 FEET TO A #4 REBAR SET; THENCE FOLLOWING THE PROPERTY OF NOW OR FORMERLY LEE HOFFMAN NORTH 73 DEGREES 26 MINUTES 54 SECONDS WEST, 219.53 FEET TO A #4 REBAR SET ON THE SOUTHEASTERLY RIGHT OF WAY OF RIVER VIEW ROAD; THENCE FOLLOWING ALONG SAID SOUTHEASTERLY RIGHT OF WAY OF RIVER VIEW ROAD ALONG A CURVE TO THE RIGHT, AN ARC DISTANCE OF 123.78 FEET, SAID CURVE HAVING A RADIUS OF 365.14 FEET AND BEING SUBTENDED BY A CHORD OF 123.19 FEET, AT NORTH 34 DEGREES 34 MINUTES 14 SECONDS, TO A R/W MONUMENT FOUND, SAID POINT BEING THE POINT OF BEGINNING.

SAID TRACT 2 CONTAINS A TOTAL OF 0.51 ACRES MORE OR LESS THAT INCLUDES AREA OF 0.09 ACRES SHOWN AS POSSIBLE OVERLAP.

**ALL LESS AND EXCEPT THE FOLLOWING:**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 61, 62, 171 & 172 of the 18<sup>th</sup> District, Cobb County, Georgia and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, commence from an iron pin set at the intersection of the northwesterly right-of-way line of River View Road (60' R/W) with the westerly right-of-way line of Dickerson Drive (70' R/W); thence along said right-of-way line of Dickerson Drive the following courses and distances: North 06 degrees 13 minutes 44 seconds West a distance of 119.68 feet to a point and the TRUE POINT OF BEGINNING, from the TRUE POINT OF BEGINNING as thus established; thence North 65 degrees 11 minutes 42 seconds West a distance of 366.82 feet to a point; thence South 77 degrees 44 minutes 39 seconds West a distance of 32.98 feet to a point; thence North 67 degrees 17 minutes 56 seconds West a distance of 136.06 feet to a point; thence South 89 degrees 01 minutes 28 seconds East a distance of 61.56 feet to a point at the approximate Land Lot Corner common to Land Lots 61, 62, 171 & 172; thence leaving said Land Lot Line South 65 degrees 11 minutes 42 seconds East a distance of 59.50 feet to an iron pin set; thence North 79 degrees 07 minutes 18 seconds East a distance of 215.08 feet to an iron pin set; thence North 65 degrees 31 minutes 18 seconds East a distance of 120.00 feet to an iron pin set on the westerly right-of-way line of Dickerson Drive (70' R/W); thence along said right-of-way line of Dickerson Drive the following courses and distances: South 28 degrees 05 minutes 42 seconds East a distance of 20.30 feet to a point; thence South 28 degrees 05 minutes 42 seconds East a distance of 13.20 feet; thence South 12 degrees 14 minutes 42 seconds East a distance of 119.66 feet to a point; thence South 06 degrees 36 minutes 25 seconds East a distance of 117.99 feet to a point and the TRUE POINT OF BEGINNING.

Said tract containing 1.062 acres.

**EXHIBIT B**

**PERMITTED EXCEPTIONS**

1. Taxes for the year 2017 and subsequent years, a lien not yet due and payable.
2. Rights of parties in possession pursuant to unrecorded leases.
3. Rights of upper, lower and adjacent riparian owners in and to the waters of creeks and branches crossing or adjoining subject property and the natural flow thereof, free from diminution or pollution.
4. Easement from C.W. McAteer to American Telephone and Telegraph Company dated October 19, 1942, recorded December 23, 1942 in Deed book 139, Page 613, Cobb County, Georgia records; as transferred to Southern Bell Telephone and Telegraph Company by Assignment dated April 11, 1974, recorded July 11, 1975 in Deed Book 1614, Page 903, Cobb County, Georgia records.
5. Easement from Mrs. H.T. Brown to American Telephone and Telegraph Company dated November 18, 1942, recorded December 23, 1942 in Deed book 139, Page 616, aforesaid records; as transferred to Southern Bell Telephone and Telegraph Company by Assignment dated April 11, 1974, recorded July 11, 1975 in Deed Book 1614, Page 903, aforesaid records.
6. General Permit Easement from C.W. McAteer to Southern Bell Telephone and Telegraph Company dated November 5, 1949, recorded January 20, 1951 in Deed Book 225, Page 281, aforesaid records.
7. Easement from James E. Jones to Georgia Power Company dated April 13, 1988, recorded May 8, 1988 in Deed Book 4912, Page 289, aforesaid records.
8. Rights of others for the use of the pond located on the property.
9. Right of Way Easement from Mildred H. Boykin to Colonial Pipeline Company dated December 10, 1962, recorded February 5, 1963 in Deed Book 685, Page 406, aforesaid records.
10. Right of way Deed from Jerry L. Eaves to Cobb County dated July 9, 1970, recorded July 10, 1970 in Deed Book 1165, Page 599, aforesaid records.
11. Easement from Jerry L. Eaves to Georgia Power Company dated April 14, 1988, recorded May 9, 1988 in Deed Book 4912, Page 293, aforesaid records.
12. Easement Agreement from Claude W. Beaver to Georgia Power Company dated May 3, 2008, recorded June 12, 2008 in Deed Book 14616, Page 1167, aforesaid records.

13. Right of Way Easement from Mary S. Jenkins Martin a/k/a Mrs. Mary S. Jenkins to Colonial Pipeline Company dated December 7, 1962 recorded February 4, 1963 in Deed Book 685 Page 486, aforesaid records.
14. Boundary Line Agreement between Mrs. Mary L. Martin and Danny B. Capehart dated March 15, 1965 recorded March 19, 1965 in Deed Book 828 Page 14, aforesaid records.
15. Boundary Line Agreement between Mrs. Mary L. Martin and Jerry L. Eaves dated March 15, 1965 recorded March 19, 1965 in Deed Book 828 Page 15, aforesaid records.
16. Boundary Line Agreement between Mrs. W.G. Martin a/k/a Mrs. Mary L. Martin and J.H. Hudgins dated March 15, 1965 recorded March 19, 1965 in Deed Book 828 Page 16, aforesaid records.
17. Boundary Line Agreement between Mrs. W. G. Martin a/k/a Mrs. Mary L. Martin and Mildred H. Boykin dated March 15, 1965 recorded March 19, 1965 in Deed Book 828 Page 17, aforesaid records.
18. Right of Way Deed with easements contained therein from Dr. Braxton O. Godwin to Cobb County, Georgia dated July 28, 1970 recorded August 3, 1970 in Deed Book 1170 Page 56, aforesaid records.
19. Encroachment Agreement between Crawford Construction Company and Georgia Power Company dated February 18, 1997 recorded August 25, 1997 in Deed Book 10595 Page 307, aforesaid records.
20. Easement from Cleve Hicks to Georgia Power Company dated September 20, 1944 recorded in Deed Book 155 Page 229, aforesaid records.
21. Easement from V. L. Robinson to Georgia Power Company, dated 12/6/1935, recorded in Deed Book 120 Page 8, aforesaid records.
22. Easement from R. L. Burden to Georgia Power Company, dated 4/10/1940, recorded in Deed Book 138 Page 85(b), aforesaid records.
23. Easement from A. L. Smith to Georgia Power Company, dated 4/10/1940, recorded in Deed Book 138 Page 85(c), aforesaid records.
24. Right of Way Easement from J. E. Kennedy to Georgia Power Company, dated 9/26/1944, recorded in Deed Book 155 Page 227, aforesaid records.
25. Easement from W.T. Mayfield to Georgia Power Company, dated 9/29/1944, recorded in Deed Book 155 Page 285, aforesaid records.
26. Easement from M. C. Bailey to Georgia Power Company, dated 7/23/1948, recorded in Deed Book 202 Page 77, aforesaid records.



27. Easement Agreement from Riverview Industries, L.P. to Georgia Power Company dated 7/1/2008, recorded in Deed Book 14625 Page 744, aforesaid records.
28. Easement from Riverview Industries, L.P. to BellSouth Telecommunications, Inc. d/b/a AT&T Georgia, dated 5/19/2011, recorded in Deed Book 14855 Page 4629, aforesaid records.
29. Easement from Lloyd Spivey and Hope Spivey to Colonial Pipeline Company, recorded in Deed Book 685, Page 480, and in Deed Book 692, Page 282, aforesaid records.
30. Easement from Kenneth F. Spivey to Georgia Power Company, recorded in Deed Book 4950, Page 140, and in Deed Book 4950, Page 141, aforesaid records.
31. Sewer Easement from Kenneth F. Spivey to Cobb County, recorded in Deed Book 4001, Page 442, aforesaid records.
32. Matters as shown on that certain ALTA/NSPS Land Title Survey prepared by Jonathan N. Howard of Planners and Engineers Collaborative, dated January 21, 2009, last revised October 17, 2016 in File No. 08031.00 as follows:
  - a. Old Barb wire fence and meandering fences
  - b. Telephone Service Line
  - c. Power Service Line
  - d. 100' Southern Bell Easement
  - e. Georgia Power Easement
  - f. American Telephone and Telegraph Easement
  - g. Dirt Drive crossing property
  - h. 18' RCP
  - i. River View Road currently under construction
  - j. 20 Easement per the Enclave at Oakdale Sanitary Sewer Outfall
  - k. Creeks
  - l. Overhead Power Line

APPLICANT: Green Street/Marthasville/Jamestown

PETITION NO.: Z-28

PRESENT ZONING: HL R-20

PETITION FOR: PVC

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**DRAINAGE COMMENTS**

Min. Bk. 62 Petition No. 2-28 '10  
Doc. Type revised Stormwater  
Management Comments  
Meeting Date 3/15/11

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Chattahoochee River FLOOD HAZARD INFO: Zone AE

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS:  YES  NO  POSSIBLY, NOT VERIFIED

Location: \_\_\_\_\_

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE:  YES  NO  POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area
- Georgia Erosion-Sediment Control Law and County Ordinance - **County Review/State Review.**
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: 50', 75', 100' or 200' each side of creek channel.

**DOWNSTREAM CONDITION**

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream \_\_\_\_\_  
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream receiving stream (Chattahoochee River).

APPLICANT: Green Street/Marthasville/Jamestown

PETITION NO.: Z-28

PRESENT ZONING: HL, R-20

PETITION FOR: PVC

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DRAINAGE COMMENTS CONTINUED

Petition No. 2-28 '10  
Meeting Date 8/15/11  
Continued

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill placed within the floodplain must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

ADDITIONAL COMMENTS

Revised Comments based on Plan dated November 25, 2010.

1. It is understood that the current proposed 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 (ie. 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.
2. The proposed plan must comply with Cobb County's 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.
3. Based on discussions during the applicant 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.
4. 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 County spillway design requirements.
5. Since the existing grade of 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.









TO THE MAYOR AND CITY COUNCIL

CITY OF SMYRNA, GEORGIA

**CONSTITUTIONAL STATEMENT**

COMES NOW, THE ARDENT COMPANIES, LLC, hereinafter referred to as the "Applicant" for Amendment to Rezoning and asserts the following, to wit:

1.

By application to which this exhibit relates, the Applicant has applied for an Amendment to the Rezoning of certain real property lying and being in the City of Smyrna, Cobb County, Georgia, a more particular description and delineation of the subject property, hereinafter referred to as the "Property", being set forth in said Application.

2.

The Application for an Amendment to the Zoning of the property seeks a Rezoning Amendment from the existing category of Conditional MU, as established by the governing authority of the City of Smyrna, Georgia to the zoning category of Conditional MU as presently proposed.

3.

The current Conditional MU zoning classification of the property and all intervening classifications between same and the Conditional MU as proposed are unconstitutional in that they deprive the Applicant under and pursuant to Article 1, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation.

4.

The zoning classification of Conditional MU and all intervening classifications between same and Conditional MU as proposed, as they presently exist, violate the Applicant's rights to the unfettered use of the property in that the existing zoning classification does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classification is unconstitutional in that it is arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

5.

The City of Smyrna Zoning Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with zoning applications also violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand, and are in many instances controlled by political considerations rather than the facts and considerations required by law.

Respectfully submitted, this the 9 day of Aug., 2019.

SAMS, LARKIN, HUFF & BALLI, LLP



By: \_\_\_\_\_

Garvis L. Sams, Jr.  
Attorney for Applicant  
Ga. Bar No. 623950