

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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March 8, 2019

VIA EMAIL & HAND DELIVERY

Mr. Ken Suddreth, Director
Community Development Department
City of Smyrna
3180 Atlanta Road
Smyrna, GA 30080

Re: Application of The Ardent Companies, LLC to Amend/Revise the Site Plan
and Elevations/Renderings approved in connection with No. Z17-003 –
“Riverview Landing” (No. Z19-007)

Dear Ken:

As you know, this firm represents The Ardent Companies, LLC (“Ardent”) concerning the above-captioned Application. In that regard, the Application is scheduled to be heard and considered for final action by the Mayor and City Council on Monday, March 18, 2019. By way of background, the property at issue (“Subject Property”), consisting of an assemblage of approximately eighty-two (82) acres, originally appeared before the Mayor and City Council in the past as a Mixed-Use Development consisting of over 2 Million square feet. After the property was rezoned by Cobb County and then later annexed into and rezoned by the City of Smyrna on November 18, 2013, Ardent’s predecessor in title, Jamestown, continued to own the Subject Property; installed extensive stormwater infrastructure; and, made substantial improvements to Riverview Road.

On March 20, 2017, the City of Smyrna approved Revisions/Amendments to the property Subject Property to accommodate Mixed-Residential utilization consisting of sixty-five (65) Single-Family Detached Residential Homes (originally 155); two-hundred thirty-three (233) Attached Townhomes (originally 322); and, three-hundred ten (310) Multi-Family Luxury Homes (originally 850). Prior to that approval by the City in 2017, Ardent’s Application was reviewed and approved by the Atlanta Regional Commission (“ARC”) and the Georgia Regional Transportation Authority (“GRTA”).

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On February 8, 2019, after discussions with the City's Professional Staff and the Ward Councilman, Ardent filed this current Application on February 8, 2019 in order to request that the City amend and revise the 2017 Approval. Ardent's current request now includes the following, to wit:

- Apartments, Phase I – 310 Homes
- Apartments, Phase II – 270 Homes
- Townhomes – 188 Homes
- Single-Family – 48 Homes
- Total - 816 Homes

In addition to these current revisions and with respect to the Residential components, Ardent, as the Master Developer and Prestwick Companies ("Prestwick") as the Multi-Family Developer are also proposing a Flex-Commercial area which will include approximately 14,500 square feet of space to accommodate Neighborhood Retail, Restaurant, Live-Work, Offices and/or commensurate Amenities. This Commercial component will be positioned and oriented in order to take full advantage of the aesthetics/features offered as a result of these components' collective proximity to the Chattahoochee River and which will be located within the Multi-Family section of the overall Mixed-Residential development.

After taking into consideration recommendations made and direction provided by the City's Professional Staff, Ardent and Prestwick agree to the following stipulations which shall become conditions and a part of the grant of the requested Amendment to the 2017 Rezoning and binding upon the Subject Property thereafter. The referenced amended stipulations/conditions are as follows, to wit:

1. The amended and revised stipulations and conditions set forth herein, to the extent that they are at variance with existing stipulations, shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.

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2. The Amended Rezoning of the Subject Property shall be in substantial conformity to that certain Revised Site Plan and other documentation and exhibits which are being submitted concurrently herewith and attached hereto.
3. Each residential community, excepting, of course, the Multi-Family communities, shall be subject to a Master Mandatory Homeowners Association (“HOA”) and shall include the submission of Covenants, Conditions and Restrictions (“CCRs”) which shall contain, among other components, strict architectural controls.
4. The architectural style and composition of the single-family detached homes and townhomes shall remain as depicted and as approved in 2017. The Multi-Family homes/buildings shall be in substantial conformity to the architectural renderings/elevations which are being submitted concurrently herewith and attached hereto.
5. All entrance signage for Riverview Landing shall be ground-based, monument style with finished materials and colors being in substantial conformity to the architectural style and composition for each residential community as mentioned above. There shall be no billboard signs, no roof signs, unless architecturally integrated into an approved building design and no exterior, temporary unless said signage is announcing an upcoming opening or similar occasion.

However, vertical marquee-type and blade-type signage shall be allowed so long as said signage is substantially compliant with the architectural theme of the overall development. Additionally, ground-mounted directional signage will be utilized throughout the development.

6. At full buildout, there shall be a network of walking trails and bicycle paths located within the proposed community which shall link to various components of the mixed-residential development. Additionally, Ardent and Prestwick have agreed to the dedication of a lineal park along the Chattahoochee River which shall be utilized by the public, homeowners and/or lessees within the mixed-residential development.

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Whether it is the City, Ardent, Prestwick or a Master Association which initially owns the lineal park and, dependent upon the ultimate circumstances regarding said lineal park, the Owner shall be responsible for the park's upkeep and maintenance of the proposed amenities, with Ardent and/or Prestwick being responsible for the installation of access and required parking. However, to be clear, once the lineal park is dedicated to and accepted by the City of Smyrna, the City shall be solely responsible for the perpetual upkeep and maintenance of the lineal park.

The lineal park shall include the reasonable utilization of same, including the existing kayak launch component, community stage and the installation of well-designed and architecturally compatible storage facilities for kayaks, landscaping equipment, etc.

In addition to the foregoing, Ardent and/or Prestwick shall be responsible for the costs and expenses regarding the construction of the public restroom, the location of which is approximately and preliminarily depicted on an exhibit which is submitted herewith and attached hereto. Architectural renderings/elevations depicting the restroom building and its floorplan will be submitted under separate cover. The commencement of construction of the restroom facility shall be triggered by the vertical construction of the next phase of the Multi-Family component as described herein.

7. Lighting, chosen by Ardent and/or Prestwick, within the proposed mixed-residential communities shall be environmentally sensitive, appropriately spaced for safe lighting purposes and, whenever possible, shall be themed to the architectural style and composition of the residences and buildings to be constructed and utilized throughout the community.

Parking area lighting shall be a maximum height of thirty feet (30') and shall consist of environmentally sensitive, energy efficient, horizontal cut-off luminaries in order to eliminate light pollution and in order to prevent illumination from penetrating outside of the boundaries of the Subject Property.

8. Minor modifications to these stipulations/conditions, the Master Plan, lighting, landscaping, architecture and site features of the Subject Property and the like may be approved by the Community Development Director, as needed or necessary. This stipulation/condition will allow up to a ten percent (10%) reduction in density regarding each product type.

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9. All setbacks and buffer areas may be penetrated for the purposes of detention, utilities and stormwater management, as long as such encroachments satisfy City of Smyrna and/or Metropolitan River Protection Act (“MRPA”) regulations. Also, compliance with written recommendations from the City of Smyrna Engineer and Public Works Director concerning the construction of detention and water quality areas on site.¹ Additionally, Ardent agrees to the following:
 - a. All above-ground detention areas shall be landscaped, screened and/or fenced in accordance with the City of Smyrna Development Standards.
 - b. Compliance with provisions of MRPA.
 - c. Any fill placed within flood plain areas must be compensated by an equal volume of cut which must be “field-verified” with as-built certification being provided.
 - d. Compliance with the recommendations regarding the availability and acquisition of water and sewer service the Subject Property. Additionally, compliance with recommendations of the Cobb-Marietta Water Authority.²
 - e. Compliance with Streambank Buffers which were previously approved by Cobb County and the City as shown on the site plan approved by the City as a result of the filing of Ardent’s Amendment Application for Rezoning on January 13, 2017.
10. With respect to the proposed development, the setback requirements for the single-family detached residences shall be as follows:
 - a. Front yard – fifteen feet (15’).
 - b. Side yard – five feet (5’).
 - c. Rear yard - fifteen feet (15’).

¹ The stormwater management components, with the exception of certain limited areas, have been constructed.

² Water and sewer has already been stubbed-out to cross Riverview Road.

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11. The setback requirements for townhomes shall be as follows:
 - a. Side to side distance – fifteen feet (15’).
 - b. Rear to rear distance – forty feet (40’).
 - c. Front to front distance – thirty feet (30’).
 - d. Front to side distance – twenty-five feet (25’).
 - e. Driveway lengths and alleys will follow Urban Design Standards and will vary from the prototypical twenty-two foot (22’) in length driveway standard.
12. Within the Multi-Family Residential component, in addition to the lineal park, public restroom facility, and other amenities as mentioned above, Ardent and/or Prestwick shall be allowed to utilize approximately 14,500 square feet of space for the purposes of retail, live-work, restaurant and river-driven non-residential uses for its residents and also for utilization by the general public. Said “flex-commercial space” shall be situated and oriented in order to take full advantage of this component’s proximity to the Chattahoochee River and its positioning within the Multi-Family component.
13. Compliance with the data contained within that certain “Project Trip Generation Comparison” prepared by Kimley-Horn & Associates which was submitted to GRTA (DRI #2152) and which was also submitted concurrently with the 2017 Amendment Application which was approved on January 13, 2017.
14. Every effort will be made to ensure that dumpsters will be positioned to prevent visual intrusion as seen from major streets, connection points to community spaces and, whenever possible, as seen from any trail or greenspace area along the Chattahoochee River with screening by berms, landscaping, walls and/or vegetation.
15. There shall be no outside storage except for community gardens, contemplative areas, recreational areas and storage to facilitate the utilization of bikes, kayaks, canoes, etc. as such terms are used and defined in the City of Smyrna’s Zoning Ordinance.

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16. All residential components of the Subject Property which have direct contiguity to industrially utilized properties shall have either an existing twenty-five foot (25') natural buffer or a landscaped buffer containing a berm. Where space is limited, an alternative "buffer" composed of a solid architecturally appealing wall or fence, a maximum of eight feet (8') in height, may be utilized.
17. 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, leases, and CCRs:

"The property contained and referenced within 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 do not have any control over the use(s) of such industrial properties."
18. All public street widths, including parking lane widths, travel lane widths and bike lane widths shall be built according to the site plan and/or the submission of a later revised documentation approved by the Community Development Director. Additionally, consistent with direction from the City's Public Works Director, the site plan will be revised to indicate which rights-of-way are private and which rights-of-way are public with right-of way widths indicated thereon.
19. Riverview Road is classified as a Major Collector and, according to available information, the existing right-of-way meets the minimum requirements for this classification. However, Ardent and/or Prestwick will verify that minimum sight distance is available for Riverview Road's intersections with Nichols Drive with Dickerson Drive.

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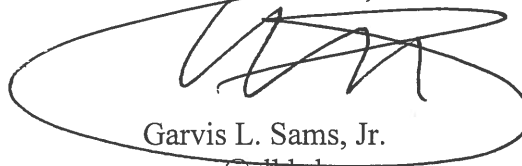
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20. The Community Development Director shall have the authority to approve minor modifications to these stipulations/conditions, the site plan, the architecture and regarding other issues as the development proposal proceeds through the Plan Review Process and thereafter except for those that:
- a. Increase the density of the Residential community
 - b. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district.
 - c. Relocate a structure closer to the property line of adjacent property which is zoned the same or in a more restrictive zoning district.
 - d. Increase the height of a building which is adjacent to a property which is zoned in the same or a more restrictive zoning district.
 - e. Change access locations to a different right-of-way.

Please do not hesitate to contact me or representatives of Ardent and/or Prestwick which are involved within the context of this requested Amendment. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS, Jr./klk
Enclosures/Attachments

cc: Listed on next page

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cc: Honorable Mayor 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. Russell G. Martin, AICP, Senior City Planner (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)
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. Matt Kaczinski, P.E., Planners & Engineers Collaborative
(via email w/attachments)
Mr. Chuck Young, Prestwick Companies (via email w/attachments)
Mr. Gregg Goldenberg, The Ardent Companies (via email w/attachments)
Mr. James Bikoff, The Ardent Companies (via email w/attachments)