

# 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

February 2, 2017

## VIA EMAIL

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

Re: Application of The Ardent Companies, LLC to Rezone an 81.88 Acre Tract from  
Conditional MU to Conditional MU (No. Z17-003)

Dear Ken:

As you know, this firm has been engaged by and represents The Ardent Companies, LLC ("Ardent") concerning the above-captioned Application for Rezoning. In that regard, the Application will be heard and considered by the Planning & Zoning Board on February 13, 2017 and, thereafter, will be heard and considered for final action by the Mayor and City Council on March 20, 2017.

After the subject property was Rezoned by Cobb County and then Annexed into and Rezoned by the City of Smyrna on November 18, 2013, the above-captioned Application for Rezoning was submitted to Smyrna's Community Development Department on January 13, 2017. Prior to action by the City of Smyrna, both the Atlanta Regional Commission ("ARC") and the Georgia Regional Transportation Authority ("GRTA") were consulted and made a determination that their respective original findings with respect to the 2013 rezoning are not adversely impacted. Most recently, Ardent and its subsidiaries have purchased the subject property with a proposal for a down-zoning of the property for mixed-residential utilization which consists of the following:

- A maximum number of sixty-five (65) single-family detached residential homes; two hundred thirty-three (233) attached townhomes; and, three hundred ten (310) multi-family homes.
- An approximate twenty-four (24) acre lineal tract along the Chattahoochee River which will be designated as Open Space with ample access and commensurate parking.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL

Mr. Kenneth Suddreth, Director  
Community Development Department  
February 2, 2017  
Page 2

---

Since Ardent filed this Application for Rezoning, clearance from ARC and preliminary approval by GRTA has been received concerning the revised development, with the final decision by GRTA expected on or before February 5, 2017.

During the pendency of this application, we have had the opportunity to establish a dialogue with the City's professional staff and with others. In that regard, Ardent is amenable to the following stipulations becoming conditions and a part of the grant of the rezoning and binding upon the subject property thereafter. The referenced stipulations/conditions are as follows, to wit:

1. The 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 which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The Rezoning of the subject property shall be in substantial conformity with that certain rezoning site plan, dated January 6, 2017, which was submitted concurrently with the Application for Rezoning on January 13, 2017. A copy of said site plan is attached hereto and made a part hereof by reference and marked as Exhibit "A". The total site area of the subject property consists of 81.88 acres which shall be developed as mixed-residential communities consisting of single-family detached homes, townhomes and multi-family homes.
3. Each residential community shall be subject to a Master Mandatory Homeowners Association ("HOA") and 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, townhomes and multi-family homes shall be in substantial conformity to the architectural renderings/elevations which were submitted concurrently with the Application for Rezoning, with excerpts from said renderings/elevations being attached hereto and made a part hereof by reference and marked collectively as Exhibit "B".
5. All entrance signage shall be ground-based, monument style with finished materials and colors being in substantial conformity to the architectural style and composition

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL

Mr. Kenneth Suddreth, Director  
Community Development Department  
February 2, 2017  
Page 3

---

signs, no roof signs, unless architecturally integrated into an approved building design, and no exterior, temporary signs; however, vertical marquee signage on the front of certain buildings shall be allowed so long as same is consistent with the architectural theme of the overall 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 development. Additionally, Ardent is considering a potential dedication of an approximate twenty-four (24) acre lineal park along the Chattahoochee River which shall be utilized by both the public and the homeowners within the mixed-residential development.

Whether it is Ardent or the City which owns the lineal park and, dependent upon the ultimate circumstances regarding said acreage, the Owner shall be responsible for the perpetual maintenance of the Open Space, with Ardent being responsible for the installation of access and commensurate parking. Said acreage will include the reasonable utilization of same, including the existing kayak launch, community stage and the installation of well-designed and architecturally compatible storage facilities for kayaks, landscaping equipment, etc.

7. Lighting within the proposed mixed-use 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.

The parking area lighting shall be a maximum height of thirty feet (30') and shall be environmentally sensitive, energy efficient, horizontal cut-off luminaires in order to eliminate light pollution and in order to prevent illumination from penetrating outside 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 ten percent (10%) density reductions in each product type with said reduction in density being reviewed and approved by the Community Development Director.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL

Mr. Kenneth Suddreth, Director  
Community Development Department  
February 2, 2017  
Page 4

---

9. All setbacks and buffer areas may be penetrated for the purposes of detention, utilities and stormwater management, as long as such encroachments satisfy Smyrna regulations and 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.<sup>1</sup>

Additionally, Ardent agrees to the following:

- a. All above-ground detention areas shall be landscaped and/or fenced in accordance with the City of Smyrna Development Standards.
  - b. Compliance with provisions of MRPA.
  - c. Any fill placement within the flood plain must be compensated by an equal volume of cut which must be “field-verified” and as-built certification provided.
  - d. Compliance with the recommendations with respect to the availability and acquisition of water and sewer to service the subject property. Additionally, compliance with recommendations of the Cobb-Marietta Water Authority.<sup>2</sup>
  - e. Compliance with Streambank Buffers which were previously approved by Cobb County and the City as shown on the site plan submitted concurrently with the 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’).

---

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

<sup>2</sup> Water and sewer has already been stubbed-out to cross Riverview Road.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL

Mr. Kenneth Suddreth, Director  
Community Development Department  
February 2, 2017  
Page 5

---

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 as discussed with staff and will vary from the prototypical twenty-two foot (22’) driveway standard.
12. Within the multi-family residential component, the builder shall be allowed to utilize an approximate 3,000 square feet of one of the buildings for the purposes of a “coffee shop” for its residents and also for utilization by the general public. Said coffee shop shall be situated and oriented to take full advantage of the aesthetics offered as a result of its proximity to the Chattahoochee River and situated 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 Application for Rezoning, a copy of which is attached hereto and made a part hereof by reference and marked as Exhibit “C”.
14. Every effort will be made so that any dumpsters will be positioned to prevent visual intrusion from major streets, connection points to community spaces and, whenever possible, from any trail or greenspace along the Chattahoochee River with screening by berms, landscaping, walls and/or vegetation.
15. An agreement that there shall be no outside storage except for community gardens, recreational areas, storage for the utilization of bikes, kayaks, canoes, etc. as such terms are used and defined in the City of Smyrna’s Zoning Ordinance.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL

Mr. Kenneth Suddreth, Director  
Community Development Department  
February 2, 2017  
Page 6

---

16. All residential components of the subject property which are located contiguous 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 and leases, and CCRs:

"The property contained and referenced in this document is located in close proximity to a Heavy Industrial area which, may at times, produce loud noises, noxious odors and sounds. Owner and/or Lessee acknowledges and accepts that the Heavy Industrial land uses, including their necessary ancillary activities, are recognized and acceptable conditions concerning which the parties herein 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 site plan. Additionally, consistent with recent 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 will verify that minimum sight distance is available for Riverview Road's intersections with Nichols Drive and for Dickerson Drive.
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:

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL

Mr. Kenneth Suddreth, Director  
Community Development Department  
February 2, 2017  
Page 7

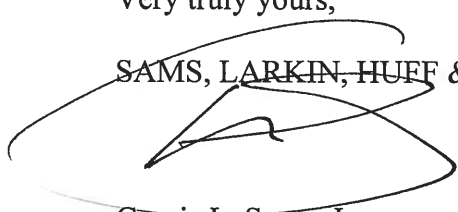
---

- 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 should you or staff require any further information and documentation prior to the formation of Staff's Analysis & Recommendations. 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/dls  
Attachments

cc: Hon. A. Max Bacon, Mayor (via email w/attachments)  
Members, Smyrna City Council (via email w/attachments)  
Members, Planning & Zoning Board (via email w/attachments)  
Mr. Michael L. Jones, P.E., City Administrator (via email w/attachments)  
Scott A. Cochran, Esq. (via email w/attachments)  
Mr. Eric Randall, P.E., City Engineer (via email w/attachments)  
Mr. Scott Stokes, Public Works Director (via email w/attachments)  
Ms. Terri Graham, City Clerk (via email w/attachments)

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA EMAIL

Mr. Kenneth Suddreth, Director  
Community Development Department  
February 2, 2017  
Page 8

---

Mr. Russell Martin, AICP, Senior Planner (via email w/attachments)  
Mr. John Walker, P.E., Kimley-Horn Associates (via email w/attachments)  
Mr. Kenneth Wood, P.E., Planner & Engineers Collaborative (via email w/attachments)  
Mr. Chuck Young, Prestwick Companies (via email w/attachments)  
Mr. Neville Allison, The Ardent Companies (via email w/attachments)