



City of Smyrna

City of Smyrna
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Legislation Text

File #: 2017-71, **Version:** 1

WARD: 7

COMMITTEE: Community Development

\$ IMPACT: N/A

Public Hearing - Zoning Request Z17-003 - Modification of the site plan and building elevations - 82 Acres - Land Lots 61, 171, 172, 174, 175, 176 & 284 - Riverview Road from Nichols Drive to Dickerson Drive - The Ardent Companies, LLC

: The applicant is requesting a zoning amendment to modify the site plan and building elevations of the 82-acre mixed use development off Riverview Road and Nichols Drive. The currently approved mixed use development (Z13-015) consisted of 155 single-family residences, 332 townhomes, 165 condominium flats, 200 potential senior housing units; and, 850 apartment units. Overall, the development consisted of 1702 new potential units and 190,000 square feet of commercial space for a total square footage of 2,345,550 square feet for the entire development. The density for the site was 19.42 units per acre or 26,772 square feet per acre. The proposal under consideration will reduce the commercial space down to 3,000 sq. ft. and the residential units down to 65 single-family units, 233 townhome units and 310 multi-family units. The proposed development will result in 608 residential units and 3,000 sq. ft. of commercial space. The zoning proposal will result in a net increase of 1094 residential units and 187,000 sq. ft. of commercial space.

GROUND: The applicant is requesting a zoning amendment to modify the site plan and building elevations for the 82-acre mixed use development off Riverview Road and Nichols Drive. The development was approved by the Cobb County Board of Commissioners (BOC) on March 15, 2011 by a vote of 4-1. Prior to rezoning, the project received positive findings on the required Development of Regional Impact (DRI) review from the Atlanta Regional Commission (ARC) and the Georgia Regional Transportation Authority (GRTA). As part of the rezoning of the property, the County BOC added zoning stipulations that required the development to meet the recommendations made by GRTA and ARC in the DRI review. Between the rezoning in Cobb and the annexation into Smyrna, the applicant demolished the existing buildings, removed all debris and partially graded the site. The subject property was annexed and rezoned into Smyrna on November 18, 2013 by a vote of 7-0 (Zoning Case Z13-015) with the conditions carried over from the County. The previous property owner began construction on the Riverview improvements and should be complete by the end of 2017.

RECOMMENDATION/REQUESTED ACTION: Community Development recommends **approval** of a zoning amendment to modify the currently approved site plan and building elevations with the following conditions carried over from Zoning Case Z13-015 (changes to these stipulations are highlighted in yellow):

Approval of the rezoning shall be conditioned upon the all the zoning stipulations agreed upon and approved in the March 15, 2011 Cobb County Board Commissioner's Meeting Minutes. All parts of the meeting minutes which reference Cobb County Codes or Ordinances have been modified below to reference City of Smyrna Codes and Ordinances.

Approval of the rezoning zoning amendment shall be conditioned upon the Illustrative Master Plan and Rezoning Plan submitted March 16, 2017, attached as part of the March 15, 2011 Cobb County Board Commissioner's Meeting Minutes.

Approval of the rezoning shall be conditioned upon the Industrial Buffer Plan submitted 2/13/2017 as part of the Planning and Zoning Board Meeting, and Concept Master Plan attached as part of the March 15, 2011 Cobb County Board Commissioner's Meeting Minutes.

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

g Stipulations from the February 10, 2011 Letter created by Mr. Garvis Sams

General Stipulations Applicable to the Overall Development

The revised stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned application for rezoning ("subject property").

Rezoning of the subject property shall be from the Heavy Industrial ("HI") and R-20 zoning districts to Conditional Planned Village Community with reference to that certain Master Site Plan prepared by Planners & Engineers Collaborative, which was submitted under separate cover on November 12, 2010. Any grandfathered HI use which has not lapsed for more than twelve (12) months shall not be in conflict with the rezoning.

The total site area of the subject property consists of 81.95 acres which shall be developed as a Mixed Use Development including the following: Single-Family Residential, Townhomes, Condominiums, Senior Housing, Apartments, Retail, Restaurants, Schools and Community Facilities. ; office and Self-Service Storage Buildings.

As part of the future development of the subject property, there shall be Protective Covenants which will be incorporated and expanded as each phase of the proposed community is permitted and platted and which will run with the subject property for the maximum time frame allowed by law, which will include all phases of the proposed community. Concurrently therewith, Property Owner Associations will be formed which will include all components of the proposed development on a phased development basis. The Association(s) shall be responsible for the oversight, up keep and maintenance of the entrance areas, common areas, community buildings and structures, open space areas and similar features contained within the overall community (i.e. walking trails, bike paths, sidewalks, etc.).

The Associations to be formed shall have Architectural Design Regulations which shall control such items as signage and other usual and necessary covenants and restrictions to protect the quality and integrity of the overall development.

Consistent with GRTA recommendations, the various entrances to the proposed community shall include, with potential modifications, the following: Six (6) intersection locations along Riverview Road; eight (8) intersection locations along Nichols Drive; twelve (12) intersection locations along Armstrong Place; and

one (1) intersection location on Dickerson Drive.

All entrance signage shall be ground-based, monument-style signage with finish, materials and colors being insubstantial conformity to the architectural style embodied in the mixed-use development. There shall be no billboard signs, no roof signs unless architecturally integrated into an approved building design and no exterior, temporary signs excepting only grand opening signage and signage indicating the coming development. Freestanding signage, including sandwich-style retail boards and other signage shall be permitted in accordance with the terms and provisions of the City of Smyrna Sign Ordinance.

Consistent with ARC and GRTA recommendations, at full build-out, there shall be a network of walking trails and bicycle paths located within the proposed community which shall link the various components of the development. In addition, at full build-out, the Developer shall construct an eight foot to twelve foot (8' to 12') wide trail along the Chattahoochee River frontage unless prohibited by City of Smyrna's regulations or where environmental features prohibit cost-effective connections to be built. The trail may be constructed of gravel or other pervious material with input from the City Engineer and the Upper Chattahoochee River Keeper.

Lighting within the proposed mixed-use community shall be chosen by the Developer and shall be environmentally sensitive, appropriately spaced for safe lighting purposes (i.e. per the Photometric Plan) and whenever possible shall be themed to the architectural style of the buildings and residences to be constructed and shall be utilized throughout the community. Effort shall be made to make all lighting as unobtrusive as possible.

Compliance with the recommendations and conclusions contained within that certain Archaeological Reconnaissance Report prepared by R.S. Webb & Associates. Additionally, compliance with Cobb County Historic Preservation comments and recommendations as provided in the Cobb County Staff Review completed for Z-28.

Minor Modifications to Minor Modification to the stipulations/conditions, Master Plan, lighting, landscaping, architecture, site features and the like may be approved by the District Councilperson as needed or necessary.

In order to facilitate the approval of the Master Plan changes, the Developer shall form an Advisory Committee consisting of the Developer, a representative from CIBA, a representative from MIC and the Director of Community Development, who shall facilitate decisions with respect to issues upon which the Developer, CBIA and MIC can not agree. The Advisory Committee shall also assist the Developer in the creation of Architectural Design Regulations which will be the basis by which the Property Owners Association's Architectural Review Board approves all initial building designs. The primary focus for the community representatives on the Advisory Committee shall be the Design Guidelines which affect property adjacent to Riverview Road.

All setbacks and buffer areas may be penetrated for purposed of detention, utilities and stormwater management as long as such encroachments satisfy City of Smyrna and MRPA regulations.

An agreement to comply with City of Smyrna Development Standards and Ordinances related to project improvements except as approved herein by the Board of Commissioners, the Cobb County Department of Transportation or the Cobb County Community Development Agency, as their respective authority may allow.

Compliance with written recommendations from Cobb County Stormwater Management Division with respect to the location, configuration and methodology of water quality and on-site detention (if any). Additionally, an agreement to the following:

- a. To design and adhere to the Best Management Practices in the construction of detention and water quality areas on site with such design and installation based upon City of Smyrna Development Standards. To the extent that such infrastructure exceeds these standards, they may be installed in lieu of contributions to the Cobb County Off-Site Detention Fund.
- b. All above-ground detention areas shall be landscaped and/or fenced in accordance with City of Smyrna Development Standards.
- c. In order to improve water quality, reduce target contaminant loads and to maintain higher water quality standards by addressing run-off and pollution for non-point sources, the Developer and Cobb County have jointly applied for an EPA 319 Grant which proposed improvements, if jointly funded by the Developer and EPA, will be completed in accordance with the submitted grant application.
- d. To the extent City of Smyrna and the ARC concur with the same, compliance with the comments of the Chattahoochee River Keeper, dated November 30, 2010.
- e. Compliance with provisions of the Metropolitan River Protection Act ("MRPA").
- f. Compliance with the Letter of Map Revision issued by FEMA on February 26, 2010 for this segment of the Chattahoochee River.
- g. All proposed structures must meet the elevation freeboard and venting code requirements.
- h. Any field placement within the floodplain must be compensated by an equal volume of cut which must be field verified and as-built certification provided.
- i. Subject to FEMA and City of Smyrna, consideration to be given to raising the grade of the intersection of Riverview Road and Dickerson Drive to allow access of emergency and any other vehicles to the development during the flood conditions on the Chattahoochee River with the Developer agreeing to participate with respect to the incurrence of cost concerning the same.
- j. Subject to the letter to David Breaden, dated February 9, 2011, from ARC Planner Jim Santo.

Compliance with the recommendations of the Cobb County Water System with respect to availability and acquisition of water and sewer to service the subject property. Additionally, compliance with the recommendations of the Cobb County-Marietta Water Authority.

With respect to the proposed development, the Developer seeks a rezoning to a Conceptual Site Plan and seeks contemporaneous variances to the regulations of the PVC zoning district which are consistent with the Conceptual Site Plan and which include the following:

- a. Allowing a PVC development in an Industrial or Industrial Compatible area.

- b. The allowance of restaurants larger than three thousand square feet (3,000 sq. ft.)
- c. Allowing Self-Service Storage Facility within the MU zoning district.
- d. A waiver of the front setback from fifty feet to zero feet (50'-0'), side setbacks from fifteen feet to zero feet (15'-0') and rear setbacks from thirty feet to zero feet (30'-0').
- e. Waiving requirement for retail and service square footage from eighty-five thousand, one-hundred square feet (85,100 sq. ft.) to one-hundred ninety thousand square feet (190,000 sq. ft.).
- f. A reduction in the forty foot (40') landscape screening buffer in Overlook District (B1) to zero feet (for approximately 500 linear feet of common boundary with the Enclave at Oakdale).
- g. Waiving the parking requirements for the proposed commercial space including retail/restaurants, office space and self storage facilities so that parking ratios shall be set at not less than three (3) spaces per one-thousand square feet (1,000 sq. ft.) of building area, subject to the submission of a "Shared Parking Analysis" (including on-street parking) for staff review and approval. Parking for any self storage facilities shall have a parking ratio of not less than 4 space per twenty-five hundred square feet (2,500 sq. ft.).

An agreement to comply with on-site system improvements mandated by GRTA, Cobb County DOT and the recommendations contained within the Transportation Analysis prepared by Kimley-Horn & Associates and submitted to GRTA on November 5, 2010, as may be modified through negotiations and agreements with Mayor and City Council of Smyrna and/or with the Cobb County Department of Transportation. However, an agreement has been reached with CBIA that "roundabouts" will not be constructed within the proposed development and that the radii currently in place at existing street intersections will be designed to accommodate tractor trailer trucks and industrial vehicles. Other design options, including widened medians and landscape zones, may be considered where not in conflict with normal movement of commercial and industrial traffic.

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

Prior to the issuance of building permits, Staff shall review and approve all landscaping and architecture not otherwise herein approved as depicted in the renderings/elevations and plans. submitted to Cobb County on November 12, 2010 and those which may be filed under separate cover. A set of Architectural Design Regulations will be established by the Developer with assistance from the Advisory Committee and shall be used for approval of all initial improvements by the Property Owners Association/s ARB.

Proposed Plans are to include restaurants as a part of the retail component within the proposed community. Said restaurants may serve alcoholic beverages as part of their respective food services upon securing the proper permits from the City of Smyrna and State agencies.

There shall be no tenant vehicles or vehicles of any type permanently parked in front of the proposed overall development containing tenant identification signage or advertising signage. This provision shall be contained within any lease between the Property Owner and any prospective tenant and the Property Owner agrees to make its best efforts to enforce these provisions against any tenant which violates the

foregoing.

The Open Space under the MU district shall comply with the regulations contained therein. At present, the overall total Open Space consists of 30.5 acres which translates into 37.2% of the total site area.

There will be no occupied buildings within the ultimately reconfigured flood plain except for accessory structures such as pavilions, gazebos, barns, boat houses, etc.

Regulations Applicable to the Non-Residential Components

The Developer proposes retail, restaurants, live-work, farmers market building, community facilities, flex-space buildings, self service storage buildings and offices utilizing the Village Concept with varying storefronts, roof elevations, and other aesthetically pleasing treatments. The front building façades and other facades which face streets or important connecting ways to community spaces shall be a mixture of brick, stone, cedar shake, articulated stucco, hardi-board, wood siding or other compatible materials. The architectural style and composition shall be reasonably consistent with the renderings/elevations which were submitted under separate cover on November 12, 2010 January 13, 2017 & 2/13/2017 as may be approved during the Plan Review process and which shall be consistent with the Architectural Guidelines established by the Developer.

Pursuant to a request from CBIA, only self-service storage buildings or other non-residential buildings shall be constructed within the A-4 (Creekside) District as shown on the Rezoning Master Plan.

The proposed non-residential components shall contain a maximum of 190,000 3,000 sq. ft. which will include a flexible mix of commercial space including retail/restaurants, office space and self-service storage facilities.

Landscaping for the proposed development shall be pursuant to that certain Landscape Plan which shall be submitted under separate cover, reference being made to said plan for a more particular delineation and location of plantings and species to be planted.

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

Hooded security lighting shall be utilized on the building within the non-residential areas as required by City of Smyrna Codes and Ordinances.

The developer agrees to install and construct site lighting pursuant to a Site Lighting/Photometric Plan which shall be submitted to staff for review and approval.

Every effort will be made so that dumpsters will be positioned to prevent visual intrusion from major streets, connection points to community spaces and wherever possible from any trail or green space along the Chattahoochee River with screening by berms, landscaping, walls and/or vegetation. Dumpsters shall have rubber lids and bumpers to minimize noise during emptying.

All exhaust from restaurant facilities shall be filtered and attenuated to minimize grease and odors.

There shall be no outside paging systems, phones bells and loud speakers. However, outdoor music systems shall be allowed.

The following uses shall be prohibited:

- a. Automotive sales, repair and/or service facilities.
- b. Video arcades as a primary use.
- c. Adult themed bookstores as a primary use.
- d. Pawn shops and check cashing establishments.
- e. Skating rinks, except small, season-appropriate rinks.
- f. Houses of worship.
- g. Tattoo or body piercing parlors and any business which principally features sexually explicit products or drug-related paraphernalia.
- h. Retail facilities which sell knives as a primary use.
- i. Retail facilities which sell or initiate transactions including guns or weapons.
- j. Retail facilities which sell gasoline except as an accessory use limited to two (2) pump stations.
- k. Wholesale warehouse sales centers.

An agreement that there shall be no outside storage facilities except for community garden and recreation equipment, including small tractors, storage ancillary to multi-family and commercial utilization, bikes, kayaks, canoes, etc. as such terms are used and defined in the City of Smyrna Zoning Ordinance.

The non-residential components will include pedestrian walkways between the proposed buildings and throughout the parking areas subject to approval pursuant to the Landscape Plan submitted during the Plan Review process. Additionally, there will be pedestrian connectivity between the non-residential and the residential components.

There shall be no non-residential building footprint which exceeds thirty-five thousand square feet (35,000 sq. ft.).

Regulations Applicable to the Residential Components

Within residential areas there shall be a total maximum number of one-hundred fifty-five (155) single-family residences; three-hundred thirty-two (332) townhomes; one-hundred sixty-five (165) condominium flats; two hundred (200) residential senior housing units; and, eight hundred fifty (850) three-hundred ten (310) apartment units.

The architectural style and composition of the various residential components shall be reasonably consistent with the renderings/elevations which were submitted under separate cover on November 12, 2010 January 13, 2017 & 2/13/2017 or as otherwise approved during the Plan Review process in accordance with the Architectural Design Regulations established in advance by the Developer with the assistance from the Advisory Committee.

The Developer agrees to begin development of the other mixed-use components of the proposed development during the construction of the multi-family dwellings or immediately upon reaching a maximum threshold of 450 multi-family units. Prior to any additional multi-family development above this threshold, the Developer shall begin the construction of (including any non-multi-family construction begun before the

threshold has been reached) Ten (10) acres of other mixed-use development including retail, office, open space and/or for sale housing. Excepting the apartments and the RSL development, all residential development will be “for sale” units.

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

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

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

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

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

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

The establishment of one or more mandatory Property Owners Association(s) which shall include architectural controls (Architectural Review Board), oversights and the submission of Declaration of Covenants, Conditions and Restrictions or, in the case of the condominium component, said units shall comply in all respects to the State of Georgia Condominium Act.

A third-party management company and/or the Developer shall manage the day to day operations of the Property Owners Association(s), including the responsibility of all commonly owned properties and all amenities within the proposed community. They shall also be responsible for the management of all association monies as well as ensuring that any association is properly insured.

The submission of a landscape plan during the Plan and Review Process which shall be subject to staff review and approval and which shall include the following:

- a. Sodded or otherwise landscaped front, side and rear yards.
- b. The installation of underground utilities.

- c. Ground-based, monument-style signage which shall be landscaped and irrigated as appropriate.
- d. Landscaping throughout the community which shall be irrigated as appropriate.

As recommended by ARC and GRTA, a network of sidewalks and bike paths throughout the residential community which shall be designed to promote a pedestrian and bicycle friendly atmosphere and which shall be designed in order to provide meaningful connectivity to adjacent retail and office areas. All buildings shall have sidewalks on their respective road frontages. Alleys are not required to have sidewalks. All required sidewalks shall be interconnected with sidewalks or trails.

Master Plan Districts and Miscellaneous Stipulations and Conditions

The gross square footage of permitted uses within the Master Plan Districts shall be as described on the Rezoning Master Plan (Riverview on the Chattahoochee) prepared by Planners & Engineers Collaborative, which was submitted under separate cover on November 12, 2010. Any unused permitted development may be transferred to and among the various districts shown on Master Plan except for the A-4 (Creekside) District which shall be utilized for self-service storage buildings and non-residential uses. However, there shall be no multi-family apartments, nor commercial/retail/office development within the B-1 (Overlook) District.

Bike lanes, where designated along Riverview Road, shall be a minimum of four-feet (4') in width, except where on-street parking is also present and then shall be a minimum of four-feet, six-inches (4'6") in width. On all of the internal streets, bike routes shall be permitted and encouraged.

For non-residential uses, an appropriate amount of bicycle parking shall be provided subject to staff review and approval. Public and resident access to bicycle parking facilities within commercial/office areas shall be permitted during non-business hours.

With respect to on-street parking on or immediately adjacent to Riverview Road, parallel parking spaces shall be a minimum of eight-feet (8') in width and shall be a minimum of twenty-feet (20') in length or twenty-two feet (22') wherever the additional length is practical. Angled parking spaces shall be a minimum of eight-feet (8') in width and a minimum of twenty-feet (20') in length. Special loading zones which are intermittently located to serve commercial areas of the development may exceed these maximum lengths as may be required by the City of Smyrna Development Regulations.

Trees shall be planted on all streets and shall be a minimum of two and one-half inches (2 1/2") in caliper. Said trees shall have a minimum of twenty-four (24) square feet of planting area and shall be spaced an average of forty-five feet (45') apart and a maximum of fifty-five feet (55'). Smaller, ornamental trees may be spaced an average of twenty-five feet (25') apart. Trees shall be permitted within two-feet (2') of the face of curb at the time of planting. A landscape plan shall be subject to the City's Arborist's review and approval.

Street lighting will consist of light fixtures which shall be utilized on all roadways within the development. Street lighting will be chosen by the Developer and shall be located on a landscape plan subject to the City's professional staff's review and approval. Lamps shall be either metal halide, high pressure sodium, or other approved high-efficiency type lamps. The Developer shall determine the type of posts and fixtures subject to review and approval by the City's professional staff.

Pedestrian crossings shall be standard painted markings on Riverview Road only. Pedestrian

crossings will also be provided at key parking and community facilities. No other pedestrian markings shall be required within the proposed development.

With respect to street signage, standard street signage shall be utilized. A “topper” may be installed on the top of the sign indicating the name of the development which shall make reference to the River Line Historic Area.

Posted street speed shall be thirty-five (35) miles per hour on Riverview Road. Internal streets shall have a maximum posted speed of twenty-five ((25) miles per hour. Alleys may restrict speeds to ten (10) miles per hour.

All public street widths, including parking lane widths, travel lane widths and bike lane widths shall be built according to the City of Smyrna Development Standards, subject to modifications approved by the Ward Representative and/or City of Smyrna professional staff.

If a land disturbance Permit regarding the proposed Mixed-Use Development is not secured or if initial land disturbance does not commence within a three (3) year period from the date of rezoning approval, the subject property shall revert to its original zoning classification.

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

In order to facilitate transportation, traffic and related infrastructure issues, the Developer shall form an Advisory Committee consisting of the Developer, a representative from CBIA, a representative from Community Development Agency who will be an ex officio member of the Committee and the City of Smyrna Engineer who shall facilitate decisions with respect to issues upon which the Developer and the CBIA cannot agree. The Advisory Committee shall also assist the Developer with respect to infrastructure design issues during the Plan Review process with the primary focus of the Advisory Committee being to ensure compliance with GRTA and City of Smyrna requirements and to foster compatibility between the proposed development and existing industrial business.

The Developer agrees to comply with the system improvements recommended by GRTA and the City of Smyrna Engineer as may be modified through negotiations and agreements with the City Council of Smyrna and the City Engineer. Additionally, the Developer agrees to fund those certain system improvements delineated in Attachment “A” (General Conditions) of GRTA’s Notice of Decision, dated December 20, 2010 February 5, 2017 while not being precluded from obtaining available funding, and agrees to post a bond or equivalent form of security with the City of Smyrna in an amount commensurate with the projected cost of the system improvements for which the Developer is responsible. Such bond shall be posted in a manner and in an amount consistent with the phased development of the project and its related system improvements. As a part of the Plan Review process and consistent with the manner in which such plans are presently reviewed by the City of Smyrna’s professional staff, the Developer shall incrementally submit phased construction plans and, simultaneously with the approval of those plans, shall be responsible for the funding of the system improvements and the construction of the transportation infrastructure contained within those phased submissions. The Developer will continue to submit and fund plans accordingly during the phased development and build-out of the project. The funding and construction of said system improvements will be required no sooner than the approval of the phase construction plans. No transportation system improvements will be required until the commencement of major construction activities per the phased construction plans. Specifically, if the Developer proposes minor clean-up construction, including any EPA 319 Grant funded construction or similar riverfront improvement activities,

or the construction of any accessory structures consistent with the open space programming anticipated to be an early phase project, such initiatives shall not require transportation system improvements.

An agreement that nineteen (19) townhome units within the Highland District (as shown on the revised Concept Master Plan attached hereto) will not initially be built during the estimated seven to ten (7 - 10) year phased project in order to temporarily meet the one-hundred foot (100') buffer distancing between adjacent industrial properties. These units may be built as an earlier phase if, prior to the construction of said units, the Developer shall either submit evidence of a change in the zoning of the adjacent parcels to a non-Heavy Industrial classification or submit a written agreement with the adjacent property owner allowing for a reduction in the temporary buffer. The Developer shall file a Zoning Amendment Application for the construction of these units so that the full City Council can review the circumstances at that time.

Reference to all other buffers less than one-hundred feet (100'), contained in paragraph 4, page 12 (Stipulations applicable to the Residential Components) of the February 10, 2011 stipulation letter, shall be superseded and replaced with the agreement that all buffers shall one-hundred feet (100') or greater as more fully demonstrated by the Industrial Buffer Plan (Riverview on the Chattahoochee) exhibit submitted as an attachment to a recent letter to Commissioner Helen Goreham, dated February 28, 2011, said Buffer Plan being attached hereto. In addition, in certain locations as indicated on the attached Buffer Plan exhibit, a fifty-foot (50') landscaped buffer containing a berm of not less than eight-feet (8') in height is acceptable. Referenced landscaping shall include landscaping on all sides and top of the berm. Finally, a solid, architecturally appealing wall, at least eight-feet (8') in height and placed on a raised berm with a minimum of twenty-feet (20') of landscaped area remaining on the proposed development site for landscaping materials, shall be constructed in the Highlands District (A-1) directly adjacent to the Heavy Industrial property located at 1650 Armstrong Place (Land District 18; Land Lot 176; Parcel 10). However, in general, should any adjoining industrial properties no longer be zoned in an industrial classification, the Developer shall have the option to remove/reconfigure the above referenced buffers and berms, following the approval by the Smyrna City Council as a Zoning Amendment.

Previously, the Creekside District, as shown on that certain Rezoning Master Plan (Riverview on the Chattahoochee) prepared by Planner & Engineers Collaborative which was submitted on November 12, 2010, has been restricted to self-service storage buildings and other non-residential buildings. However, the Developer also agrees to eliminate the construction and development of restaurants within said district.

The Developer agrees to the positioning of a landscape buffer between the Seagraves' "Pallet" site and the Developer's parcel along Riverview Road which is currently shown on the site plan as "open Space". Should this adjoining industrial property no longer be zoned in an industrial classification, the Developer shall have the option to remove/reconfigure this landscape buffer, following the approval by the Smyrna City Council as a Zoning Amendment.

The following revised recital shall be contained within all marketing documents, all contractual documents concerning the conveyance of property from the Developer, all deeds of Conveyance from the Developer including, but not limited to warranty deeds and quitclaim deeds and all leases, covenants, conditions & restrictions from the Developer:

"The property contained and referenced in this document is located in close proximity to a Heavy Industrial area which, may at times, house dangerous equipment, materials and terrain, trespass upon which could cause serious injuries. Also, said properties may produce loud noises, noxious odors and sounds. Owner and/or Lessee acknowledges and accepts that the Heavy Industrial land uses, including their necessary

ancillary activities, are recognized and acceptable conditions concerning which the parties herein have no control over the use of such industrial properties. Owner and/or Lessee hereby waive any right to file a cause of action for nuisance that may arise out of the lawful use of the above referenced current heavy industrial properties.”

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

County Stormwater Management Comments & Recommendations

It is understood that the current proposal plan may be somewhat conceptual at this time. However, any proposed plan will have to be consistent with all of the Metropolitan River Protection Act (MRPA) guidelines (i.e. impervious setbacks, undisturbed stream buffers, building height restrictions within the 500-year floodplain, impervious and disturbed area coverage limits, etc.) No buildings are to be located within the 150-foot river setback other than public access points.

The proposed plan must comply with City of Smyrna Flood Damage Prevention Ordinance. The proposed plan is consistent with the Letter of Map Revision issued by FEMA for this segment of the Chattahoochee River. All proposed structures must meet the elevation freeboard and venting code requirements. Any fill placed within the floodplain must be compensated by an equal volume of cut which must be field verified and as-built certification provided.

Based on discussions during the applicants meetings, it is anticipated that innovative water quality and stormwater management measures will be utilized for this development. Since these designs are highly dependent on the final proposed site layout, these issues will need to be addressed during the plan review process.

The existing lake located in the center of the site does not have adequate spillway capacity. The proposed plan will include dam modifications required to meet the current City spillway design requirements.

Since the existing grade of the Riverview Road is below the 100-year flood elevation, emergency ingress and egress for this development will be limited during severe flood conditions. Consideration should be given to at least raising the grade of the intersection at Riverview Road and Dickerson Drive to allow access to a majority of the development during flood conditions on the Chattahoochee. River.

County Department of Transportation Comments & Recommendations

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

Recommend installing curb, gutter, and sidewalk along all the road frontages.

Recommend applicant verify that the minimum sight distance is available for Dickerson Drive at Riverview Road and if it is not, implement remedial measures, subject to the County's approval, to achieve the minimum requirement of 390'.

Recommend the Developer comply with the requirements of GRTA's Notice of Decision recommendations.

Recommend applicant be required to meet all Cobb County & City of Smyrna Development Standards and Ordinances related to project improvements.

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

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