

AN ORDINANCE

**REZONING** property in the corporate limits of the City of Marietta, Georgia, Land Lots 863 & 866, District 16, Parcels 0030, 0040, & 1090 of the 2<sup>nd</sup> Section, Cobb County, Georgia, and being known as **1468 & 1540 Cobb Parkway North and 1497 Hamilton Grove Boulevard.**

WHEREAS, application has been filed by **TRATON, LLC** for rezoning property in the corporate limits of the City of Marietta, Georgia; and,

WHEREAS, following proper notice, a public hearing was held before this body; and,

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:**

**Section 1:** The following property to wit:

ALL THAT TRACT OR PARCELS of land lying and being in Land Lot 863 and 866 of the 16th District, 2nd Section, Cobb County, Georgia, being comprised of 6.7 acres, more or less, and being more particularly described as follows:

BEGINNING at a point formed by the common corner of Land Lots 863, 864, 865, and 866 of said District, Section, and County; running thence along the common line between land lots 863 and 864 north 00 degrees 59 minutes 54 seconds east a distance of 50 feet to a point; thence leaving said land lot line and running south 87 degrees 49 minutes and 51 seconds east a distance of 423.94 feet to a point; thence running southwesterly along an arc having a length of 75.83 feet, a radius of 83.43 feet, and a chord bearing of south 56 degrees 02 minutes 19 seconds west and a chord distance of 73.25 feet to a point; thence south 30 degrees 00 minutes 00 seconds west a distance of 12.96 feet to a point; thence south 60 degrees 00 minutes 00 seconds east a distance of 94.72 feet; thence north 30 degrees 00 minutes 00 seconds east a distance of 12.96 feet to a point; thence running northeasterly along an arc having a length of 95.79 feet, a radius of 84.00 feet, and a chord bearing of north 62 degrees 40 minutes 07 seconds east and a chord distance of 90.69 feet to a point; thence south 55 degrees 10 minutes 22 seconds east a distance of 13.41 feet to a point on the line common to land lots 863 and 866 of said District, Section and County; running thence south 87 degrees 50 minutes 38 seconds east for a distance of 125.00 feet to an iron pin and corner; thence leaving said land lot line and running south 26 degrees 54 minutes 57 seconds east for a distance of 219.06 feet to an iron pin; running thence south 58 degrees 06 minutes 44 seconds east for a distance of 318.08 feet to an iron pin and corner; running thence south 28 degrees 47 minutes 13 seconds west for a distance of 249.40 feet to an iron pin and corner on the northeasterly right of way of U.S. Highway 41; running thence along said northeasterly right of way of U.S. Highway

41, north 61 degrees 24 minutes 18 seconds west for a distance of 328.00 feet to a right of way monument and corner; thence continuing along said northeasterly right of way of U.S. Highway 41, north 28 degrees 07 minutes 08 seconds east for a distance of 15.05 feet to a right of way monument and corner; thence continuing along said northeasterly right of way of U.S. Highway 41, north 61 degrees 23 minutes 45 seconds west for a distance of 100.83 feet to an iron pin and corner; thence continuing along said northeasterly right of way of U.S. Highway 41, north 60 degrees 59 minutes 15 seconds west a distance of 101.00 feet; thence south 29 degrees 00 minutes 45 seconds west a distance of 15.00 feet to a point; thence continuing along said northeasterly right of way of U.S. Highway 41, running north 60 degrees 59 minutes 15 seconds west a distance of 53.39 feet to a point; thence continuing along the northeasterly right of way of U.S. Highway 41 along an arc having a length of 467.76 feet, a radius of 6,990.27 feet, and a chord bearing of north 59 degrees 04 minutes 14 seconds west and a chord distance of 467.67 to a point on the line common to land lots 865 and 866 of the 16<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, GA; thence running northerly along said common land lot line north 00 degrees 58 minutes 23 seconds east a distance of 86.34 feet to a point, said point being the point formed by the common corner of Land Lots 863, 864, 865, and 866 and the point of BEGINNING.

Said tract being 6.7 acres, more or less.

**Section 2:** The above-described property is hereby rezoned into the corporate limits in the City of Marietta, Georgia from MXD (Mixed Use Development – City) and GC (General Commercial – County) to MXD (Mixed Use Development) in the City.

**Section 3:** The following stipulations are incorporated as conditions of zoning:

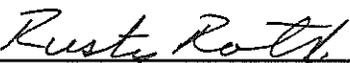
- Letter of stipulations and variances from J. Kevin Moore of Moore Ingram Johnson & Steele to Shelby Little, Planning & Zoning Manager for the City of Marietta, dated May 1, 2020.

**Section 4:** It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

**Section 5:** All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

**Section 6:** This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

Final Ordinance submitted by:

  
\_\_\_\_\_  
Rusty Roth, Director  
Department of Development Services

Approved as to form:

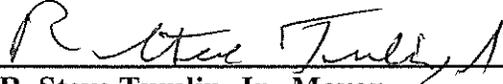
  
\_\_\_\_\_  
Douglas R. Haynie, City Attorney

Approved by City Council:

DATE: May 13, 2020

APPROVED:

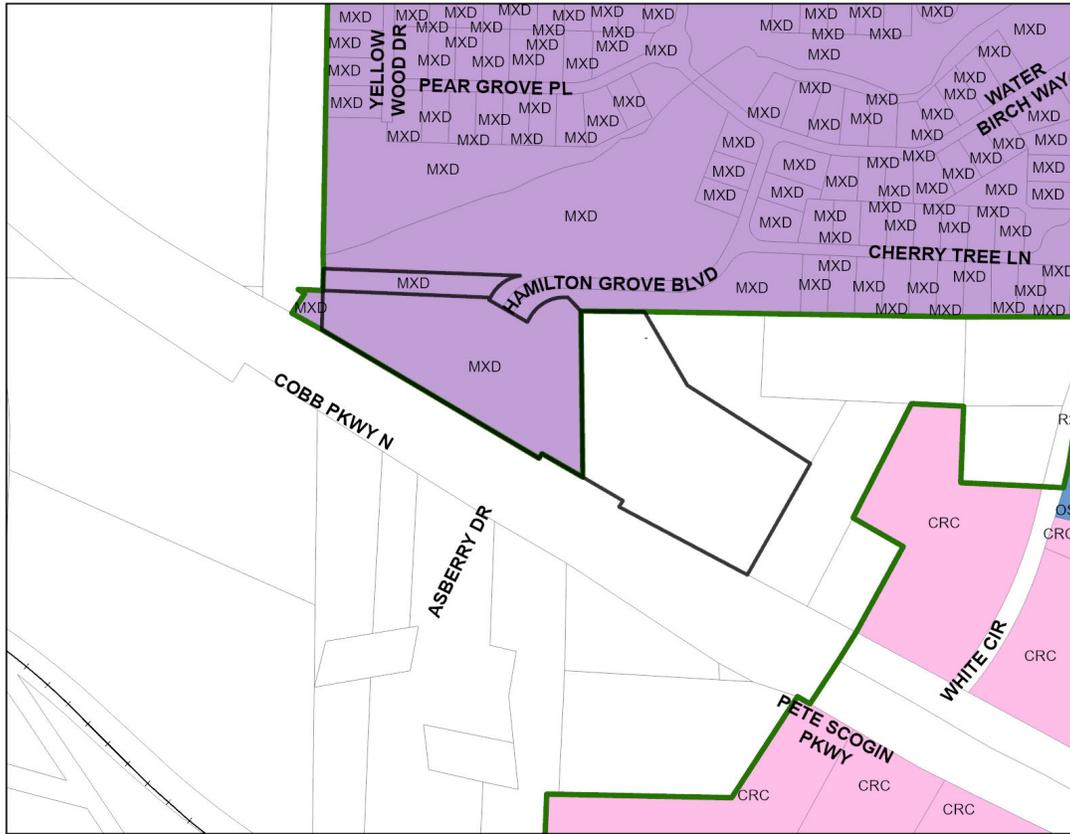
ATTEST:

  
\_\_\_\_\_  
R. Steve Tumlin, Jr., Mayor

  
\_\_\_\_\_  
Stephanie Guy, City Clerk

**MAP**

**City of Marietta Area Zoning Map**

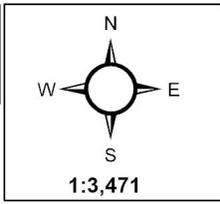


Zoning		District	Land Lot	Parcel	Current Zoning	Proposed Zoning
<b>SINGLE FAMILY RESIDENTIAL</b> R-1 One Unit/Acre R-2 Two Unit/Acre R-3 Three Unit/Acre R-4 Four Unit/Acre	<b>COMMERCIAL</b> NRC Neighborhood Retail CRC Community Retail RRC Regional Retail CBD Central Business District PCD Planned Commercial Dev.	16	866	0030	GC	MXD
<b>ATTACHED FAMILY RESIDENTIAL</b> RA-4 Four Unit/Acre RA-6 Six Unit/Acre RA-8 Eight Unit/Acre PRD(SF) Planned Residential Dev. MHP Mobile Home Park	MXD Mixed-Use Dev. OIT Office Institutional Trans. LRO Low-Rise Office OI Office Institutional OS Office Services OHR Office High-Rise	16	866	0040	MXD	MXD
<b>MULTI FAMILY RESIDENTIAL</b> RM-8 Eight Unit/Acre RM-10 Ten Unit/Acre RM-12 Twelve Unit/Acre RHR Residential High Rise PRD(MF) Planned Residential Dev.	<b>INDUSTRIAL</b> LI Light Industrial HI Heavy Industrial PID Planned Industrial Dev.	16	866	1090	MXD	MXD

Comments:  
**1498 & 1540 Cobb Pkwy N**  
**1497 Hamilton Grove Blvd**

Date: **2/4/2020**

**Planning & Zoning Division**



# MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP  
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**HARRISBURG, PENNSYLVANIA**  
3909 HARTZDALE DRIVE  
SUITE 901  
CAMP HILL, PENNSYLVANIA 17011  
TELEPHONE (717) 790-2854

May 1, 2020

## Hand Delivered

Ms. Shelby Little, AICP  
Zoning Manager  
Department of Planning and Zoning  
City of Marietta  
205 Lawrence Street  
Marietta, Georgia 30060

RE: Application for Rezoning - Zoning Case No.: Z2020-09  
(Legistar No. 20200073)  
Applicant: Traton, LLC  
Property Owners: Traton Corp. of Cobb, Inc.; Traton Investments, LLC; and The Institutional Property Group, a Joint Venture  
Property: 6.7 acres, more or less, located on the northeasterly side of Cobb Parkway North, at the terminus of Hamilton Grove Boulevard, being more particularly known as 1468 and 1540 Cobb Parkway North, and 1497 Hamilton Grove Boulevard, Land Lot 866, 16<sup>th</sup> District, 2<sup>nd</sup> Section, City of Marietta, Cobb County, Georgia

Dear Shelby:

The undersigned and this firm represent Traton, LLC, the Applicant (hereinafter referred to as "Applicant"), and the Property Owners listed in the Application for Rezoning (hereinafter collectively referred to as "Owners" or "Property Owners"), in their request for annexation and rezoning of approximately 6.7 acres of property located on the northeasterly side of Cobb Parkway North, at the terminus of Hamilton Grove Boulevard, being more particularly known as 1468 and 1540 Cobb Parkway North and 1497 Hamilton Grove Boulevard, Land Lot 866, 16<sup>th</sup> District, 2<sup>nd</sup> Section, City of Marietta, Cobb County, Georgia, (hereinafter the "Property" or "Subject Property"). After conferences and communications with Planning and Zoning Staff and various City Staff; ongoing meetings and discussions with Hamilton Grove Homeowner Association Board representatives; as well as area residents and representatives of nearby

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Ms. Shelby Little, AICP  
Zoning Manager  
Department of Planning and Zoning  
City of Marietta  
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neighborhoods; reviewing the City's Rezoning Application Analysis; and reviewing the use of the Subject Property and the uses of surrounding properties, we have been authorized by the Applicant to submit this letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. The proposed stipulations are as follows:

- (1) Applicant seeks rezoning of the Subject Property from the existing zoning categories of Mixed Use ("MXD") (City of Marietta) and General Commercial ("GC") (Cobb County) to the proposed zoning category of Mixed Use ("MXD"), with reference to the revised Zoning Plan prepared for Applicant by Gaskins Surveying Company, Inc., dated and last revised April 30, 2020, and submitted contemporaneously with this stipulation letter. A reduced copy of the revised Zoning Plan is attached for ease of reference as Exhibit "A" and incorporated herein by reference.
- (2) The Subject Property consists of 6.79 acres, more or less, of total site area and shall be developed for a residential community, in the townhome style, containing a maximum of forty-five (45) residences, as shown on the referenced, revised Rezoning Plan.
- (3) The proposed townhomes shall be Traditional in style and architecture and shall have exterior facades consisting of brick, stone, stacked stone, cedar shake shingles, board and batten, cementitious siding, and combinations thereof, with complementary accents, in compliance with the City of Marietta's "four-sided architecture" requirement.
- (4) The proposed townhomes shall have a minimum of 1,800 square feet of heated and cooled area.
- (5) Applicant agrees to the recording and enforcement of a Declaration of Covenants, Easements, and Restrictions which shall contain covenants, rules, and regulations applicable to the proposed townhome community.
- (6) Additionally, and in conjunction with the Declaration of Covenants, Easements, and Restrictions, Applicant agrees to the creation of a mandatory homeowners association which shall be responsible for the upkeep and maintenance of the entrance area, signage, all common areas, open space, landscaped areas, general landscaped areas, mail kiosk, private streets, fencing, open space amenities, and the like contained within the community.

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Zoning Manager  
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- (7) No more than five (5) percent of the residences shall be leased at any one time, which limitation shall be included within the covenants and enforced by the mandatory homeowners association, consistent with City Ordinances.
- (8) All setbacks, landscape, and buffer areas may be penetrated for purposes of fencing, access, utilities, and stormwater management; including, but not limited to, drainage and detention facilities and any and all slopes or other required engineering features of the foregoing. Any disturbed area shall be restored with comparable plantings as allowed by the City of Marietta or any utility provider.
- (9) There shall be no construction vehicles or construction access through Hamilton Grove Subdivision. All construction access shall be limited to Cobb Parkway and the Property's frontage on Hamilton Grove Boulevard.
- (10) All construction and employee vehicles and equipment will be parked, and otherwise located on, the Subject Property during development of the proposed community and construction of residences.
- (11) Applicant requests the following variances, which shall be deemed approved by the City of Marietta upon approval of the requested rezoning, as referenced and submitted, together with the stipulations set forth herein:
  - (a) Variance to waive the requirement for a cul-de-sac on streets designed with a dead-end and allow for a "hammerhead" configuration; and
  - (b) Variance to reduce the required minimum lot size to the size of the building footprint for townhomes.

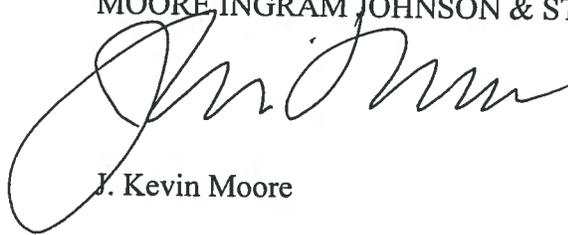
We believe the requested zoning, together with the revised Zoning Plan and the stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration uses of properties in the surrounding area. The proposed residential community shall be a quality development, shall be compatible with and complementary to the Hamilton Grove Subdivision and other surrounding neighborhoods, and shall be an enhancement to the Subject Property and the community as a whole. Thank you for your consideration in this request.

**MOORE INGRAM JOHNSON & STEELE**

Ms. Shelby Little, AICP  
Zoning Manager  
Department of Planning and Zoning  
City of Marietta  
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May 1, 2020

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

Attachments

c: Russell J. Roth, AICP  
Development Director  
City of Marietta  
(With Copies of Attachments)

Hamilton Grove Subdivision  
(With Copies of Attachments)

Traton, LLC  
(With Copies of Attachments)

