FILE REFERENCE NO: 20141204
ORDINANCE NO: 7798

AN ORDINANCE

REZONING property in the corporate limits of the City of Marietta, Georgia in Land Lot 12130, District 16, Parcels 0050, 0040, 0020, 0030, 0100, 0660, 0740, 0280, 0060, 0860, 0310, 2nd Section, Marietta, Cobb County, Georgia and being known as 53, 75, 76, & 83 Beavers St; 57 Gunter St, 98, 110, &114 Howard St; 829, 891, & 895 Washington Ave from RM-12 (Multi Family Residential – 12 units/acre), R-4 (Single Family Residential – 4 units/acre), OI (Office Institutional), and CRC (Community Retail Commercial) to PRD-SF (Planned Residential Development - Single Family).

WHEREAS, application has been filed by **BROCK BUILT HOMES, 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:

TRACT 1

ALL THAT TRACT or parcel of land lying and being located in Land Lot 1213 of the 16th District, being the City of Marietta, Cobb County, Georgia and being more particularly described as follows:

Commencing at the northwesterly mitered right-of-way intersection of Washington Avenue (apparent 40' R/W) and the easterly right-of-way of Howard Street (apparent 40' R/W); said point being a ½" rebar with cap found; thence continue along Howard Street N01°34'02"E, a distance of 137.08 feet to a ½" rebar with cap found; thence N02°00'54"E, a distance of 212.35 feet to a ½" rebar with cap found; thence N01°58'16"E, a distance of 188.98 feet to a ½" rebar found; thence N01°48'16"E, a distance of 87.61 feet to a ½" rebar found; thence N02°00'36"E, a distance of 87.50 feet to a concrete monument found; thence N01°59'04"E, a distance of 131.51 feet to a point and the right-of-way intersection of the northerly right-of-way of Gunter Street (40' R/W) and the easterly side of Howard Street (apparent 40' R/W) and the POINT OF BEGINNING;

Thence continue northerly along said line, a distance of 265.51 feet to a ½" rebar with cap found; thence leaving said right-of-way S87°40'07"E, a distance of 428.45 feet to the easterly right-of-way of Adams Circle (40' R/W); thence S09°59'46"E, a distance of 284.35 feet to a point of curve to the right having an arc length of 93.57 feet, a radius of 166.50 feet S06°06'10"W with a distance of 92.34 feet; thence S22°12'06"W, a distance of 37.77 feet to a point of curve to the

right having an arc length of 55.32 feet, a radius of 85.00 feet S40°50'51"W with a distance of 54.35 feet; thence S59°29'35"W, a distance of 52.50 feet to a point of curve to the right having an arc length of 23.76 feet, a radius of 15.00 feet N75°07'24"W with a distance of 21.35 feet to the easterly right-of-way intersection of Gunter Street (40' R/W) and the northwesterly right-of-way of Adams Circle (40' R/W); thence N29°44'23"W, a distance of 111.71 feet to a point of curve to the left having an arc length of 199.23 feet, a radius of 210.00 feet N56°55'08"W with a distance of 191.85 feet; to a point of compound curve to the left, having an arc distance of 66.16 feet, a radius of 738.64 feet, N86°39'51"W with a distance of 66.13 feet; thence N89°54'31"W, a distance of 63.97 feet to a point of curve to the right having an arc length of 24.06 feet, a radius of 15.00 feet N43°57'44"W with a distance of 21.56 feet to the easterly right-of-way of Howard Street (40' R/W) and back to the POINT OF BEGINNING.

Said tract containing 160,899 square feet or 3.694 acres.

TRACT 2

ALL THAT TRACT or parcel of land lying and being located in Land Lot 1213 of the 16th District, being the City of Marietta, Cobb County, Georgia and being more particularly described as follows:

Commencing at the northwesterly mitered right-of-way intersection of Washington Avenue (apparent 40' R/W) and the easterly right-of-way of Howard Street (apparent 40' R/W); said point being a ½" rebar with cap found; thence continue along Howard Street N01°34'02"E, a distance of 137.08 feet to a ½" rebar with cap found; thence N02°00'54"E, a distance of 212.35 feet to a ½" rebar with cap found; thence N01°58'16"E, a distance of 188.98 feet to a ½" rebar found; thence N01°48'16"E, a distance of 87.61 feet to a ½" rebar found; thence N02°00'36"E, a distance of 87.50 feet to a concrete monument found; thence N01°59'04"E, a distance of 397.02 feet to a ½" rebar with cap found; thence S87°40'07"E, a distance of 469.38 feet to the easterly right-of-way of Adams Circle (40' R/W) and the POINT OF BEGINNING;

Thence continue easterly along said line, a distance of 236.23 feet to a ½" rebar found and the land lot intersection of Land Lots 1164, 1165, 1212 and 1213; thence S00°46'49"W, a distance of 858.47 feet to the northerly right-of-way of Gunter Street (40' R/W) and the point of curve of a nontangent curve to the left, with an arc distance of 41.23 feet, a radius of 130.00 feet, N50°00'43"W, with a distance of 41.06 feet; thence N59°05'55"W, a distance of 89.74 feet to a point of curve to the right having an arc length of 139.73 feet, a radius of 280.00 feet N44°48'10"W with a distance of 138.28 feet; thence N30°30'25"W, a distance of 196.72 feet to the easterly right-of-way of Gunter Street (40' R/W) and the southwesterly right-of-way of Adams Circle (40' R/W) and to a point of curve to the right having an arc length of 23.56 feet, a radius of 15.00 feet N14°29'35"E with a distance of 21.21 feet; thence N59°29'35"E, a distance of 52.49 feet to a point of curve to the left having an arc length of 81.36 feet, a radius of 125.00 feet N40°50'51"E with a distance of 79.93 feet; thence N22°12'06"E, a distance of 37.77 feet to a point of curve to the left having an arc length of 116.04 feet, a radius of 206.50 feet N06°06'10"E with a distance of 114.52 feet; thence N09°59'46"W, a distance of 275.61 feet back to the POINT OF BEGINNING.

Said tract containing 175,791 square feet or 4.036 acres.

TRACT 3

ALL THAT TRACT or parcel of land lying and being located in Land Lot 1213 of the 16th District, being the City of Marietta, Cobb County, Georgia and being more particularly described as follows:

Commencing at the northwesterly mitered right-of-way intersection of Washington Avenue (apparent 40' R/W) and the easterly right-of-way of Howard Street (apparent 40' R/W); said point being a ½" rebar with cap found; thence N01°34'02"E, a distance of 137.08 feet to a ½" rebar with cap found; thence N02°00'54"E, a distance of 212.35 feet to a ½" rebar with cap found; thence N01°58'16"E, a distance of 188.98 feet to a ½" rebar found; thence N01°48'16"E, a distance of 87.61 feet to a ½" rebar found; thence N02°00'36"E, a distance of 87.50 feet to a concrete monument found; thence N01°59'04"E, a distance of 61.47 feet to the easterly right-of-way of Howard Street (40' R/W) and the southwesterly right-of-way of Gunter Street (40' R/W) and to a point of curve to the right having an arc length of 23.07 feet, a radius of 15.00 feet N46°02'16"E with a distance of 20.86 feet; thence S89°54'31"E, a distance of 66.05 feet to the point of curve of a non tangent curve to the right, with an arc distance of 62.34 feet, a radius of 698.64 feet, S86°39'16"E, with a distance of 62.32 feet; to a point of compound curve to the right, having an arc distance of 161.28 feet, a radius of 170.00 feet, S56°55'08"E with a distance of 155.30 feet; thence S29°44'23"E, a distance of 111.46 feet; thence S30°30'25"E, a distance of 267.72 feet to a point of curve to the left having an arc length of 159.69 feet, a radius of 320.00 feet S44°48'10"E with a distance of 158.04 feet; thence S59°05'55"E, a distance of 89.74 feet to a point of curve to the right having an arc length of 93.76 feet, a radius of 90.00 feet S29°15'17"E with a distance of 89.57 feet; thence S00°35'21"W, a distance of 145.93 feet to the northerly right-of-way of Washington Avenue (40' R/W); thence N88°25'53"W, a distance of 123.44 feet to a concrete monument found; thence N88°27'08"W, a distance of 109.49 feet to a point; thence S88°08'37"W, a distance of 111.11 feet to a concrete monument found; thence N00°50'41"E, a distance of 143.68 feet to a concrete monument found; thence N88°48'32"W, a distance of 64.70 feet to an iron pin set; thence N01°20'49"E, a distance of 106.38 feet to a 1.5" open top pipe found; thence N87°49'19"W, a distance of 75.67 feet to a ½" rebar found; thence N87°28'04"W, a distance of 70.23 feet to a 1" open top pipe found; thence N01°16'06"E, a distance of 161.46 feet to a point; thence N87°44'16"W, a distance of 19.92 feet to a concrete monument found; thence S00°12'28"W, a distance of 76.75 feet; thence S02°02'38"W, a distance of 74.94 feet to a point; thence S01°57'18"W, a distance of 122.76 feet to a point; thence S01°55'38"W, a distance of 68.00 feet to a point; thence continue southerly along said line, a distance of 82.04 feet to a ½" rebar with cap found and the northerly right-of-way of Washington Avenue (40' R/W); thence S89°18'16"W, a distance of 126.75 feet to a ½" rebar with cap found; thence N51°20'17"W, a distance of 20.38 feet back to the POINT OF BEGINNING.

Said tract containing 335,103 square feet or 7.693 acres.

Section 2: The above-described property is hereby rezoned into the corporate limits in the City of Marietta, Georgia from RM-12 (Multifamily Residential - 12 units/acre), CRC (Community Retail Commercial), OI (Office Institutional), R-4 (Single Family Residential – 4 units/acre) to PRD-SF (Planned Residential Development—Single Family).

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

1. The plan titled "Detailed Plan for Marvelle" by Dovetail Civil Designs, Inc., dated March 10, 2015, submitted by Brock Built Homes, LLC shall serve as the approved general plan and detailed plan for the development.
2. Variance to reduce the required right of way for Gunter Street and Adams Circle from 50' to 40.'
3. Variance to reduce the easement width for a private street from 50' to 20' for Private Streets A-K.
4. Variance to reduce the travel-way (primary asphalt or concrete drive) for two way private streets from 20' to a minimum of 14' of paving with 20' of drivable surface.
5. Variance to allow private streets (C, D, E, F, I, J) without a minimum turnaround of 80' roadway diameter and 100' right of way diameter.
6. The developer is required to install "No Parking" signs on all private streets.
7. The abandonment and rezoning of the Beavers Street and Gunter Street (near Washington Avenue) right-of-way will have to be completed prior to beginning construction of the project.
8. Architectural elevations for the units will be brought back to City Council for approval prior to issuance of any building permits.
9. The applicant will work with the neighboring property owner at 861 Washington Avenue to ensure provision of a 20 foot access easement around the building.
10. Allow for modification of the Landscape/Tree Protection Plan since provision of a 20 foot easement around the building on the property at 861 Washington Avenue may require relocation of some trees proposed on the Landscape/Tree Protection Plan to other locations on the site.

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:

_____

Brian Binzer, Director
Department of Development Services

Approved as to form:

_____

Douglas R. Haynie, City Attorney

Approved by City Council:

DATE:_____March 11, 2015_____ **APPROVED:**

ATTEST:

_____
R. Steve Tumlin, Jr., Mayor

_____
Stephanie Guy, City Clerk