FILE REFERENCE NO: 20160015
ORDINANCE NO: 7870

AN ORDINANCE

REZONING property in the corporate limits of the City of Marietta, Georgia in Land Lot 1141, District 16, Parcels 0280 & 0260, 2nd Section, Marietta, Cobb County, Georgia, and being known as **303 & 309 Austin Avenue**.

WHEREAS, application has been filed by **CARY MCCALLUM** 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:

303 Austin Avenue

All that tract of parcel of land lying and being land lot 1441 of the 16th district, 2nd section Cobb County, Georgia and being more particularly described as follows: To find the true point of the beginning at an iron pin on the northwest corner of the intersection of Austin Avenue and Skyview Drive, proceed in a northeasterly direction along the northern edge of Austin Avenue 24.9 feet to an iron pin and the true point of the beginning. From the true point beginning run, thence a northerly direction on a line making an exterior angle of 63 degrees 22' with the northern edge of Austin Avenue a distance of 225.4 feet to an iron pin; thence easterly on a line making a 90 degree angle with the previous course for a distance of 64 feet to an iron pin; thence southerly on a line making an angle of 90 degrees with the previous course a distance of 191 feet at an iron pin on the northern edge of Austin Avenue thence southwesterly along the northern edge of Austin Avenue 75 feet to the point of beginning.

309 Austin Avenue

All that tract of parcel of land lying and being in land lot 1141 of the 16th district, 2nd section, Cobb County Georgia and being more particularly described as follows: Beginning at an iron pin found at the intersection of the north right of way of Austin place and the northwest right of way of Austin avenue, said iron pin being the true point of beginning running thence south 88 degrees 00 minutes west along the north side of Austin place for a distance of 50.20 feet to a point and corner; thence running north 0 degrees 28 minutes west for a distance of 238.27 feet to a point and corner; thence running north 89 degrees 32 minutes east for a distance of 70.0 feet to an iron and corner; thence running southerly for a distance of 225.7 feet to an iron pin located on the northwest side of Austin Avenue thence running south 62 degrees 12 minutes west along the northwest side of Austin Avenue for distance of 24.98 feet and the point of beginning.

Said tract contains 0.702 acres (30,579 square feet) more or less.

Section 2: The above-described property is hereby rezoned into the corporate limits in the City of Marietta, Georgia from R-4 (Single Family Residential – 4 units/acre) to CRC (Community Retail Commercial).

Section 3: The following variances are approved concurrent with this rezoning:

1. Allow the use of business within 100 feet from any property zoned single family residential.
2. Allow company vehicles and equipment to use the existing gravel driveway and to be parked on the existing gravel area to the rear of the property.
3. Allow the existing primary structure to remain within the 40' buffer against the residential zoning district. This variance would be for the existing primary structure only and would voided if the property is redeveloped.

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: **February 10, 2016**

APPROVED:

R. Steve Tumlin, Jr., Mayor

ATTEST:

Stephanie Guy, City Clerk