

**AN ORDINANCE**

**REZONING** property in the corporate limits of the City of Marietta, Georgia in Land Lot 138, District 17, Parcel 0030 of the 2<sup>nd</sup> Section, Cobb County, Georgia, and being known as **400 Booth Road**.

**WHEREAS**, application has been filed by **TOTAL PROPERTY ADVISORS 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 properties to wit:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 138 OF THE 17<sup>th</sup> DISTRICT, 2<sup>nd</sup> SECTION, CITY OF MARIETTA, COBB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A #4 REBAR FOUND 354.8 FEET WEST OF THE NORTHEAST CORNER ON LAND LOT 138 ON THE NORTHERN RIGHT-OF-WAY OF BOOTH ROAD (50' R/W), SAID POINT BEING THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 30 MINUTES 08 SECONDS WEST 659.84 FEET TO A #4 REBAR FOUND; THENCE SOUTH 89 DEGREES 44 MINUTES 50 SECONDS WEST 659.97 FEET TO A 1" OPEN TOP PIPE FOUND; THENCE NORTH 00 DEGREES 30 MINUTES 20 SECONDS EAST 664.40 FEET TO A 1" OPEN TOP PIPE FOUND ON THE NORTHERN LINE OF LAND LOT 138: THENCE ALONG SAID LAND LOT LINE NORTH 89 DEGREES 16 MINUTES 19 SECONDS EAST 66.34 FEET TO A #4 REBAR FOUND AT THE WESTERLY RIGHT-OF-WAY OF SUGAR SPRINGS ROAD (50' R/W); THENCE CONTINUING ALONG SAID LAND LOT LINE SOUTH 89 DEGREES 22 MINUTES 00 SECONDS EAST 50.76 FEET TO A #4 REBAR FOUND ON THE EASTERLY RIGHT-OF-WAY OF SUGAR SPRINGS ROAD (50' R/W); THENCE LEAVING SAID RIGHT-OF-WAY NORTH 89 DEGREES 27 MINUTES 52 SECONDS EAST 175.95 FEET TO A #4 REBAR FOUND; THENCE SOUTH 89 DEGREES 23 MINUTES 35 SECONDS EAST 51.16 FEET TO A #4 REBAR FOUND; THENCE SOUTH 89 DEGREES 26 MINUTES 57 SECONDS EAST 315.71 FEET TO A #4 REBAR FOUND, SAID POINT BEING THE POINT OF BEGINNING;

SAID TRACT BEING 10.05 ACRES, 437766 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-2 (Single Family Residential – 2 units/acre) to PRD-SF (Planned Residential Development – Single Family).

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

1. Stipulation letter from Parks F. Huff of Sams, Larkin & Huff, LLP to Russell J. Roth, Director of Development Services for the City of Marietta, dated April 12, 2023.

**Section 4:** The following variances are incorporated as conditions of zoning:

1. Variance to waive the Purpose and Intent of the PRD-SF district [*§708.09 (A)*]
2. Variance not to extend or connect a new street to an existing street. [*§716.03 (B)*]
3. Variance to allow proposed street not to extend to the boundary line of the tract in order to provide normal circulation of traffic within the vicinity. [*§730.01 (B)*]
4. Variance to allow a cul-de-sac road to exceed 700 feet in length. [*§730.01 (E)*]

**Section 5:** 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 6:** All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

**Section 7:** 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:

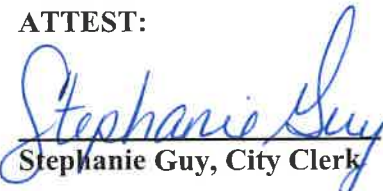
  
\_\_\_\_\_  
Douglas R. Haignie, City Attorney

Approved by City Council:

DATE: April 12, 2023

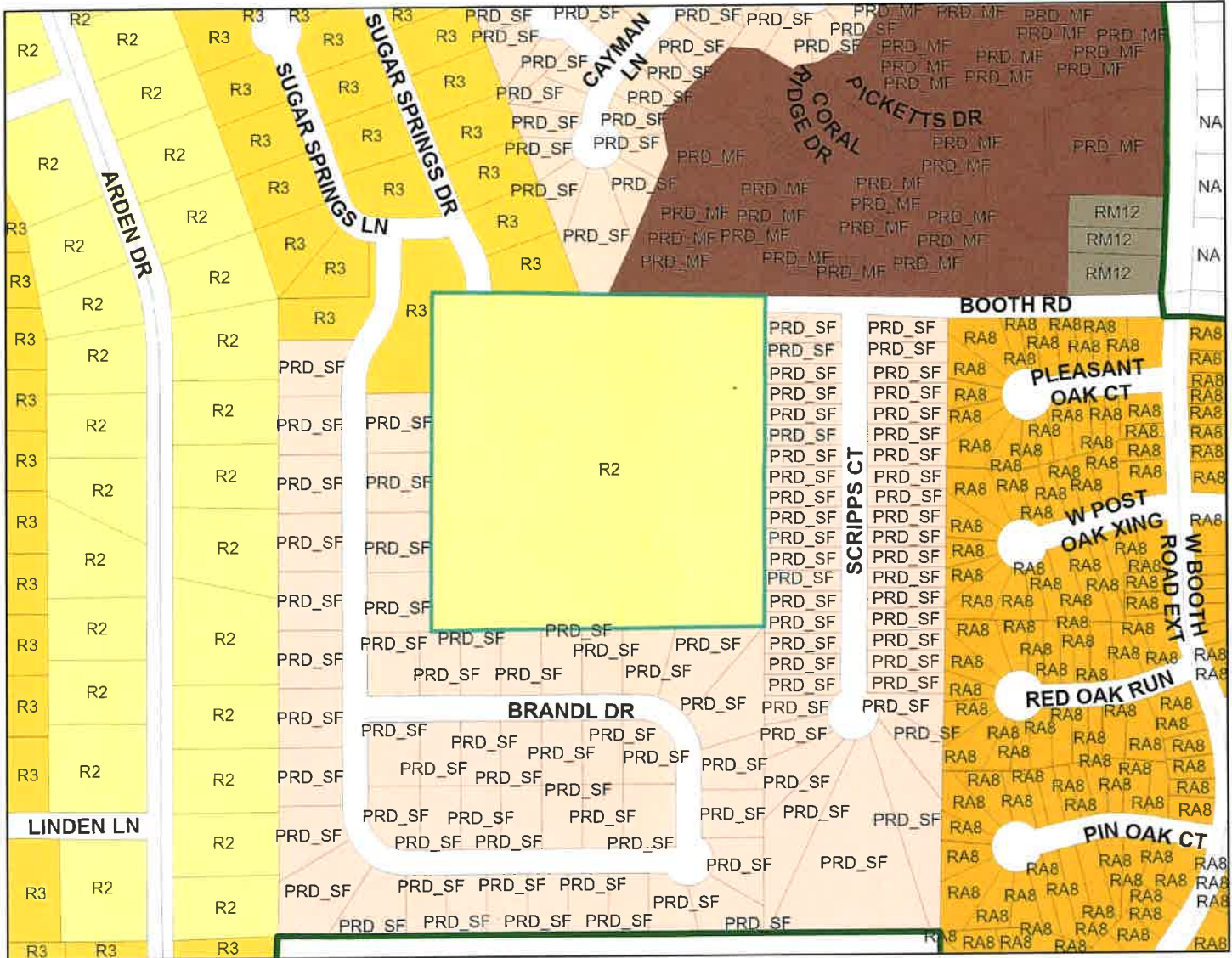
APPROVED:

ATTEST:

  
Stephanie Guy, City Clerk

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

# City of Marietta Area Zoning Map

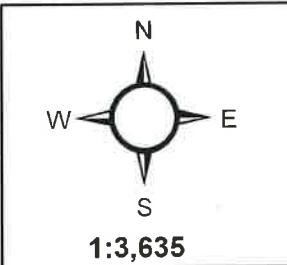


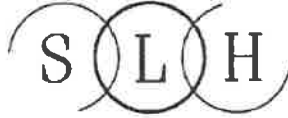
Zoning		District	Land Lot	Parcel	Current Zoning	Proposed Zoning
<b>SINGLE FAMILY RESIDENTIAL</b> R-1 One Unit/Acre R-2 Two Unit/Acre R-3 Three Unit/Acre R-4 Four Unit/Acre <b>ATTACHED FAMILY RESIDENTIAL</b> RA-4 Four Unit/Acre RA-6 Six Unit/Acre RA-8 Eight Unit/Acre PRD(SF) Planned Residential Dev. MHP Mobile Home Park <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>COMMERCIAL</b> NRC Neighborhood Retail CRC Community Retail RRC Regional Retail CBD Central Business District PCD Planned Commercial Dev. MXD Mixed-Use Dev. OIT Office Institutional Trans. LRO Low-rise Office OI Office Institutional OS Office Services OHR Office High-rise <b>INDUSTRIAL</b> LI Light Industrial HI Heavy Industrial PID Planned Industrial Dev.	16	138	0030	R-2	PRD-SF

Comments:  
**400 Booth Road**

Date: **1/25/2023**

**Planning & Zoning Division**





GARVIS L. SAMS, JR.  
JOEL L. LARKIN  
PARKS F. HUFF

**SAMS, LARKIN & HUFF**  
A LIMITED LIABILITY PARTNERSHIP  
SUITE 100  
376 POWDER SPRINGS STREET  
MARIETTA, GEORGIA 30064-3448

770-422-7016  
TELEPHONE  
770-426-6583  
FACSIMILE

April 12, 2023

**REVISED - LETTER OF AGREEABLE CONDITIONS**

**VIA EMAIL**

Mr. Russell J. Roth, AICP, Director  
City of Marietta Development Services  
205 Lawrence Street  
Marietta, Georgia 30060

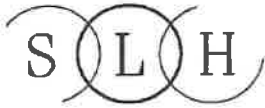
Re: Application for Rezoning of TOTAL PROPERTY ADVISORS, LLC regarding a 10.05 ±  
Acre Tract (No. Z2023-04) located at 400 Booth Road

Dear Rusty:

This firm represents Total Property Advisors, LLC, (hereinafter "Applicant") in the Application for Rezoning with regard to approximately 10.05 acres, more or less, located on the west side of the intersection of Scripps Court and Booth Road at 400 Booth Road, Marietta, Georgia 30008; Land Lot 138, 17th District, Parcel 0030, 2<sup>nd</sup> Section, Cobb County, Georgia (hereinafter the "Property" or the "Subject Property"). After conversations with the Applicant and discussions with planning and zoning staff and various City of Marietta departmental representatives, reviewing the Staff Comments and Recommendations, reviewing the uses of surrounding properties, we are submitting this *revised* 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 category of R-2 to PRD-SF (Planned Residential Development – Single Family Residential) per the City of Marietta ("City") ordinances for the construction of Fee Simple Single Family Detached Homes, specific to the *revised* site plan by Watts & Browning Engineers, Inc. dated March 24, 2023. A copy of the *revised* site plan is attached as Exhibit A and incorporated herein by reference.
2. The Subject Property shall be developed for a residential community consisting of a maximum of thirty-five (35) single family detached homes. The entire site is comprised of 10.05+/- acres and is planned for a total of 35 homes or a maximum density of 3.5 units per acre. However, the area within the Accident Protection Zone shall be limited to 2.1 DUA per the site plan. All homes constructed will be constructed with one home no less than two feet (2') from the side property line and the adjacent home no less than five feet (5') from the share side property line. All homes shall have a minimum lot width size of thirty-four (34')



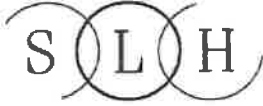
VIA EMAIL

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at the building setback line and shall have a minimum of seven feet (7') feet between the housing structures. The goal of the Applicant is to maximize the distance between buildings throughout the neighborhood wherever possible.

3. Applicant agrees the minimum house size for the homes in the proposed development shall be 1,700 square feet of heated and cooled living space. It is anticipated that the typical product constructed will range from 1,850 to 2,450+ square feet of heated and cooled living space.
4. Homes within the proposed community shall be substantially similar in style and architecture to the elevations attached hereto as Exhibit "B". All homes will be detached and have a minimum of seven feet (7') between the homes as side yards (See proposed product photos attached). All homes will have similar front elevations and shall, as a general rule, use a combination of masonry (i.e., brick, stone or stacked stone or any combination thereof) and stucco, cement fiber board & batten, cement lap siding, cement shake or cedar shake shingles or combination thereof. Side and rear elevations may also utilize masonry (i.e. brick, stone, stacked stone or any combination thereof) as well as stucco, cement fiber board & batten, cement lap siding, cement shake or cedar shake shingles or combination thereof.
5. Applicant shall commit to four-sides architectural detailing in a similar fashion as presented by the photos of actual homes constructed in the City of Marietta off White Circle (See Exhibit "B").
6. The proposed community shall have private streets built to City approved specifications to be maintained by the HOA after the community infrastructure is released to the City upon completion of the applicant maintenance period. All driveways shall be constructed in such a manner as to minimize parking in fronts of homes and homeowners will be instructed to use designated off-street parking when driveways are full of vehicles. Adequate off-street parking shall be provided in accordance with City standards. All streets and off-street parking shall be constructed and maintained to City Department of Transportation ("City DOT") standards.
7. Applicant agrees to the creation of a mandatory homeowners association ("HOA"). The HOA shall be solely responsible among other things, strict architectural control, the upkeep and maintenance of all front, rear and side yards of all homes, common areas, amenities, and amenity areas; including the entrance areas, pavilion, Open Space (see Site plan Exhibit "A"), mail kiosk, boundary buffers, fencing, off-street parking and other items so constructed by the Applicant.
8. Additionally, and in conjunction with the creation of the mandatory HOA, Applicant agrees to the recording and enforcement of protective covenants which will contain covenants, rules,



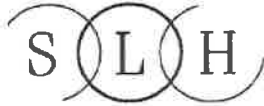
VIA EMAIL

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and regulations applicable to the proposed community. In accordance with City of Marietta guidelines, Applicant will limit the number of rental units at any one time in the community to no more than five (5%) percent of total units or no more than two (2) homes (rounded up from 1.85). This rental cap of five (5%) will be incorporated into the mandatory HOA documents.

9. Applicant agrees to construct a minimum of nine ("9") off-street parking spaces.
10. The entrance signage for the proposed community shall be ground based, monument-style signage, and shall consist of brick, stone, stacked stone, or combinations thereof, with accents architecturally consistent with the proposed homes.
11. Landscaping of the entrance areas as well as the frontage of the proposed community along all public streets, shall be professionally designed by a registered landscape architect and professionally implemented, which shall include the installation of an irrigation system, where appropriate. Maintenance of the entrance area and public street frontage at the entrance shall be by the mandatory HOA as set forth in the declaration of covenants, easements, and restrictions. All detention ponds shall be professionally landscaped in accordance with any applicable City standards.
12. The submission of a Landscape Plan, designed by a registered landscape architect, during the Plan Review process which shall be subject to staff review and approval, and which shall include the sodded yards throughout the residential development and irrigated, as necessary.
13. Any streetlights installed within the proposed community will comply with the current City of Marietta Street Lighting Ordinance and shall be environmentally sensitive with down lighting.
14. All utilities servicing the residences within the proposed community shall be underground.
15. Electric and communications transformers, all mechanical and HVAC equipment and all trash and/or garbage receptacles shall be enclosed and/or concealed from view through landscaping or similar measures as long as such efforts toward shielding or concealment do not interfere with utility placement.
16. Applicant agrees the stormwater management facilities and system, hydrology, stormwater management and downstream considerations including, but not limited to, recommendations regarding the shall be constructed and installed consistent with all requirements of the City of Marietta Public Works and the City Engineer.



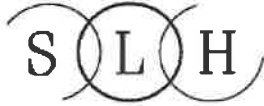
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17. Per the state waters map from Stephen Modica of Gaia Environmental Consulting, LLC dated on August 18, 2022, Applicant acknowledges there are state waters located on the Property and has incorporated such findings in the proposed site plan.
18. All setbacks shall be as shown on the referenced site plan.
19. Applicant agrees to the installation of interior sidewalks along all interior streets as per the attached site plan.
20. Applicant shall construct an open-air pavilion/gazebo with appropriate landscaping for the use and enjoyment of the homeowners. The pavilion/gazebo shall be constructed per the attached site plan adjacent to the Open Space. In addition, a dog park shall be constructed adjacent to the mail kiosk per the attached site plan. The pavilion, Open Space and landscaping associated with these amenities shall be maintained by the HOA.
21. All construction vehicles will be parked on-site on the property at all times. No construction vehicles shall be parked on Cunningham Road or other surrounding streets to the proposed development.
22. Adherence to the following construction hours:
  - a. 7:00 a.m. until 7:00 p.m., Monday through Friday, from October 1st to March 31<sup>st</sup>.
  - b. 7:00 a.m. until 8:00 p.m., Monday through Friday, from April 1 to September 30<sup>th</sup>.
  - c. 9:00 a.m. until 6:00 p.m. on Saturdays.
  - d. No outside work on Sundays unless approved ahead of time by the City's Director of Development Services.
23. The Director of Development Services shall have the authority to approve minor modifications and revisions as the Development Proposal proceeds through the Plan Review process and thereafter, except for those:
  - a. Increase the density of the residential community.
  - b. Violate the City of Marietta Zoning or Developmental Ordinances and Regulations.
  - c. Expressly contravene the existing policies and procedures of the City of Marietta.
  - d. Require the granting of a Waiver or a Variance.

We believe the requested zoning, together with the *revised* site plan and the stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration the area and existing neighborhoods and residents surrounding the proposed development. The proposed residential



**VIA EMAIL**

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community shall be a quality development, shall be compatible with surrounding neighborhoods, and shall be an enhancement to the Subject Property and the community as a whole.

Should you have any questions regarding this application, please let me know. Thank you.

Sincerely,

SAMS, LARKIN & HUFF, LLP

A handwritten signature in black ink, appearing to read "Parks F. Huff".

Parks F. Huff

[phuff@samslarkinhuff.com](mailto:phuff@samslarkinhuff.com)

PFH/lkj

Attachments

cc: Ms. Lisa Rajabnik, Planning and Zoning Coordinator (via email w/attachments)  
Ms. Shelby Little, Planning & Zoning Manager (via email w/attachments)  
Ms. Sarah Ciccone, Planning & Zoning Administrator (via email w/attachments)



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# EXHIBIT “A”



**Exhibit "B" Similar Proposed Product Front, Side & Rear Elevations**

