

**AN ORDINANCE**

**REZONING** property in the corporate limits of the City of Marietta, Georgia in Land Lot 1215, District 16, Parcels 1500 & 0440 of the 2<sup>nd</sup> Section, Cobb County, Georgia, and being known as **523 & 533 Washington Avenue.**

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**WHEREAS**, application has been filed by **SKY PROP 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:

**523 Washington Avenue**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE CITY OF MARIETTA, BEING PART OF LAND LOT 1215 OF THE 16TH DISTRICT, 2ND SECTION OF COBB COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS TRACT 1, BEING 0.296 ACRES MORE OR LESS, IN THAT CERTAIN EXEMPTION PLAT OF PHILLIP MARTIN PROPERTY BY WEST GEORGIA SURVEYORS, INC., LARRY D. NEESE, GEORGIA REGISTERED LAND SURVEYOR NO. 2235, DATED JUNE 24, 2004, ATTACHED HERETO AS EXHIBIT "B" AND INCORPORATED HEREIN BY REFERENCE FOR A MORE PARTICULAR DESCRIPTION;

BEING THE SAME PROPERTY CONVEYED IN THAT CERTAIN QUIT-CLAIM DEED FROM PHILLIP HARMON MARTIN TO PHILLIP H. MARTIN, TRUSTEE OF THE PHILLIP H. MARTIN TRUST, DATED APRIL 29, 2004, FILED MAY 11, 2004 IN DEED BOOK 13975, PAGE 2055, COBB COUNTY, GEORGIA RECORDS.

LESS AND EXCEPT:

THAT PORTION OF THE ABOVE-DESCRIBED PROPERTY CONVEYED IN THAT CERTAIN RIGHT OF WAY DEED FROM ROBERT WEBB BROWN AND ELEANOR P. BROWN TO THE CITY OF MARIETTA, DATED OCTOBER 7, 1997, FILED NOVEMBER 13, 1997 IN DEED BOOK 10793, PAGE 516, COBB COUNTY, GEORGIA RECORDS.

SUBJECT TO ALL RESTRICTIONS AND EASEMENTS OF RECORD.

**533 Washington Avenue**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE CITY OF MARIETTA, BEING PART OF LAND LOT 1215 OF THE 16TH DISTRICT, 2ND SECTION OF COBB COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS TRACT 2, BEING 0.365 ACRES MORE OR LESS, IN THAT CERTAIN EXEMPTION PLAT OF PHILLIP MARTIN PROPERTY BY WEST GEORGIA SURVEYORS, INC., LARRY D. NEESE, GEORGIA REGISTERED LAND SURVEYOR NO. 2235, DATED JUNE 24, 2004, ATTACHED HERETO AS EXHIBIT "B" AND INCORPORATED HEREIN BY REFERENCE FOR A MORE PARTICULAR DESCRIPTION;

BEING THE SAME PROPERTY CONVEYED IN THAT CERTAIN QUIT-CLAIM DEED FROM PHILLIP HARMON MARTIN TO PHILLIP H. MARTIN, TRUSTEE OF THE PHILLIP H. MARTIN TRUST, DATED APRIL 29, 2004, FILED MAY 11, 2004 IN DEED BOOK 13975, PAGE 2055, COBB COUNTY, GEORGIA RECORDS; LESS AND EXCEPT PROPERTY CONVEYED IN THAT CERTAIN WARRANTY DEED FROM PHILLIP H. MARTIN TO PHILLIP H. MARTIN, AS SOLE TRUSTEE OF THE PHILLIP H. MARTIN LIVING TRUST, DATED MAY 30, 2007, FILED JUNE 27, 2007 IN DEED BOOK 14506, PAGE 3120, COBB COUNTY GEORGIA RECORDS.

LESS AND EXCEPT:

THAT PORTION OF THE ABOVE-DESCRIBED PROPERTY CONVEYED IN THAT CERTAIN RIGHT OF WAY DEED FROM ROBERT WEBB BROWN AND ELEANOR P. BROWN TO THE CITY OF MARIETTA, DATED OCTOBER 7, 1997, FILED NOVEMBER 13, 1997 IN DEED BOOK 10793, PAGE 516, COBB COUNTY, GEORGIA RECORDS.

SUBJECT TO ALL RESTRICTIONS AND EASEMENTS OF RECORD.

**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) and CRC (Community Retail Commercial) to CRC (Community Retail Commercial).

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

1. Variance to allow the existing sidewalk to remain along the entire frontage in lieu of constructing a 6-foot sidewalk with 2-foot grass strip. [*§712.09 (F.4.a.i)*]
2. Variance to increase the maximum front setback from 16 ft. to 18 ft. [*§712.09 (F.2.b.i)*]
3. Variance to reduce the setback for an accessory structure adjacent to residential from 25 ft. to 24 ft. [*§708.16 (F.1)*]
4. Variance to allow two garages (accessory structures) not to reflect the architectural style and building material of the dwelling (principal) structure for the duration of the renovation of the main structure. At that time, at least one structure must be removed/demolished and the remaining structure must be modified to match the architectural style of the principal building. This work must be complete prior to occupancy of the principal structure. [*§712.09 (F.3.b.ix)*]

**Section 4:** The following stipulation is incorporated as a condition of zoning:

1. The chain link fence fronting Washington Avenue must be removed and replaced with a wrought iron (or of similar appearance) ornamental fence meeting Section 710.04, Fences and walls.

**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.

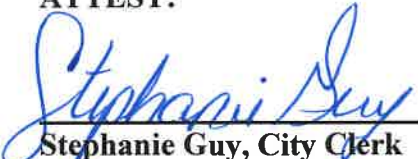
**Final Ordinance submitted by:**   
**Rusty Roth, Director**  
**Department of Development Services**


**Approved as to form:**   
**Douglas R. Haynie, City Attorney**

**Approved by City Council:**

**DATE:** May 10, 2023

**APPROVED:**

**ATTEST:**  
  
**Stephanie Guy, City Clerk**

  
**R. Steve Tumlin, Jr., Mayor**