

AN ORDINANCE

REZONING property in the corporate limits of the City of Marietta, Georgia in Land Lots 789 & 799, District 17, Parcels 0120 of the 2nd Section, Cobb County, Georgia, and being known as **2360 Delk Road**.

WHEREAS, application has been filed by **5th STREET CAPITAL PARTNERS, LLC (YK DELK RD 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 789 and 799 of the 17th District, 2nd Section, of Cobb County, Georgia, and being more particularly described as follows:

Beginning at a concrete monument found at the intersection of the Southern right-of-way line of Delk Road with the Northeastern right-of-way line of Interstate Highway No. 75; running thence along the Southern right-of-way line of Delk Road the following courses and distances; South 88 degrees 49 minutes 58 seconds East 156.24 feet to an iron pin found; North 50 degrees 21 minutes 34 seconds East 152.58 feet to an iron pin set; and North 88 degrees 21 minutes 16 seconds East 49.75 feet to an iron pin found; thence leaving said right-of-way line and running South 00 degrees 56 minutes 16 seconds West 200 feet to a Railroad Spike found; thence South 89 degrees 02 minutes 28 seconds East 300 feet to an iron pin set; thence South 29 degrees .22 minutes 00 seconds West 591.57 feet to an iron pin found on the Northeastern right-of-way line of Interstate Highway No. 75; thence Northwesterly along said right-of-way line of the following courses and distances: North 29 degrees 43 minutes 28 seconds West 7.65 feet to a concrete monument found; North 30 degrees 49 minutes 04 seconds West 163.20 feet to a concrete monument found; North 30 degrees 04 minutes 00 seconds West 358.76 feet to a concrete monument found; and North 28 degrees 02 minutes 32 seconds West 272.04 feet to the Point of Beginning; a as more particularly shown on Plat of as-built survey prepared for Motel and operating L.P., by James Robert Cheatham, GR, R.L.S. No. 1575, dated October 5, 1981 and last revised May 11, 1987, which plat is hereby incorporated and made a part of this description. Said property contained 4.9824 acres according to said survey.

Together with a right of way and easement for ingress and egress in, on, over and across the following described property:

All that tract or parcel of land lying and being in Land Lots 786 and 799 of the 17th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

To find the Point of Beginning, commence at the intersection of the Southerly side of Delk Road with the Northeasterly side of Interstate Highway 75 (Project N.I-75-3 (21) 273) at Station 17, 12, 100' Ft., Delk Road; thence running South 88 degrees 59 minutes 32 seconds East along the Southerly side of Delk Road 188.15 feet to a concrete monument; running thence North 79 degrees 42 minutes 53 seconds East along the Southerly side of Delk Road 153.11 feet to a concrete monument; running thence Delk Road 153.11 east to a concrete monument; running thence South 88 degrees 59 minutes 32 seconds East 50 feet to a 2-inch iron pin 70 feet right of centerline of Delk Road, which is the Point of Beginning of the easement tract; running thence South 88 degrees 59 minutes 32 seconds East along the Southerly side of Delk Road 50 feet to a point; thence running South 01 degrees 00 minutes 28 seconds West, 200.00 feet to a point; running thence North 88 degrees 59 minutes 32 seconds West 50 feet to a 2-inch iron pin; running thence North 01 degrees 00 minutes 28 seconds East 200.00 feet to a 2-inch iron pin on the Southerly side of Delk Road and the Point of Beginning; being a portion of the property described in the Deed from Ralph Torrance to Humble oil and refining company dated April 23, 1965, recorded in Volume 832 at Page 535 of the Cobb County Records.

LESS AND EXCEPT from the above described property that portion of the property conveyed by that certain Condemnation - Department of Transportation vs. 0.206 acres of land; and certain easement rights; and Motel 6 Operating, L.P.; and Humble Oil and Refining Company, individually, being Docket No. 881675099, filed for record October 14, 1988 at 11:31 a.m., Records of Cobb County, Georgia.

Section 2: The above-described property is hereby rezoned into the corporate limits in the City of Marietta, Georgia from from CRC (Community Retail Commercial) to RHR (Residential High Rise).

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

- Letter of stipulations and conditions from Julie L. Sellers of Dillard Sellers, Attorneys at Law, to Russell J. Roth, Director of the Department of Development Services for the City of Marietta, dated July 13, 2023.

Section 4: The following stipulations are incorporated as a condition of zoning:

1. Variance to reduce the minimum floor area from 500 square feet for an efficiency to 300 square feet (Sect. 708.13 H)
2. Variance to allow a multifamily development containing more than 100 dwelling units only have one access point to an arterial road (Sect. 730.01 A)
3. Variance to reduce the minimum building height from 5 stories to 4 stories (Sect. 708.13 H)
4. Variance to decrease the minimum parking required from 2 spaces per unit (654 total spaces) to one space per unit (295 spaces) (Sect. 708.13 H)
5. Variance to allow the maximum impervious surface to exceed 60% for existing conditions (Sect. 708.13 H)

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:



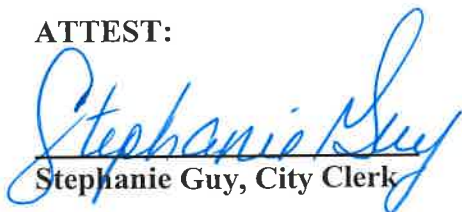
Douglas R. Haynie, City Attorney

Approved by City Council:

DATE: July 13, 2023

APPROVED:

ATTEST:



Stephanie Guy, City Clerk



R. Steve Tumlin, Jr., Mayor



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July 13, 2023

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Mayor Tumlin and City Councilmembers
City of Marietta
205 Lawrence Street
Marietta, GA 30060

Re: Zoning Case Z2023-13 (2360 Delk Road)

Dear Mayor Tumlin and City Councilmembers:

Our firm represents Applicant, 5th Street Capital Partners, LLC, in connection with the above-referenced application. This application seeks approval of a zoning change to allow the existing Motel 6/Studio 6 property at 2360 Delk Road to change from operation as a motel to a studio apartment community. On July 5th, we submitted a list of six stipulations and received a recommendation of approval from the Planning Commission. We have received additional feedback and now proffer two additional stipulations in connection with this application.

First, the Planning Commission requested that the Applicant provide aid and assistance program to residents who would be displaced with the conversion. The Applicant is agreeable to this request and proposes stipulation #7:

Prior to the City's issuance of a building permit for the renovation work to convert the existing motel rooms into apartments, the Applicant shall provide the Development Services Director a copy of the program details regarding aid and assistance for individuals who have been living at the property.

We have been in contact with community organizations and will partner with residents and agencies to provide assistance. Applicant will work with the existing residents to explore options for staying at the property as apartment lessees.

Next, the existing billboard on the property is a valuable asset and property right with significant revenue potential given the proximity to I-75 and the prominent location. The Applicant has demonstrated a commitment to improving and enhancing the Delk Road corridor and understands the City has a desire to reduce the number of billboards in the City. The elimination of this billboard would be a loss of revenue and an added expense for demolition. In an effort to partner with the City to elevate this corridor, Application is agreeable to the following stipulation on the express condition that this Application is approved as requested, including variances and stipulations as presented by Applicant, without any additional conditions:

- e. Uniform window treatments to present a consistent and visually pleasing appearance from the exterior.
6. To increase the security and safety of the Property, the multi-family residential conversion shall include:
 - a. Installation of gates and controlled access for vehicles;
 - b. Installation of security cameras;
 - c. Coordination with the Marietta Police Department for participation in the City's Systems in Marietta Intersecting with Law Enforcement (SMILE) program;
 - d. Two (2) apartment units available for courtesy officer residents (occupancy by local law enforcement officers including, Marietta Police Officers); and
 - e. On-site security officer.
7. Prior to the City's issuance of a building permit for the renovation work to convert the existing motel rooms into apartments, the Applicant shall provide the Development Services Director a copy of the program details regarding aid and assistance for individuals who have been living at the property.
8. Within 3 years after the City issues building permits for the renovation work to convert the existing motel rooms into apartments, the Property Owner shall remove the existing billboard.

We appreciate the City's thoughtful consideration of this application and the many benefits of converting the existing use into a quality residential use with commitments from both the Applicant and the future residents.

Sincerely,

Dillard Sellers, LLC



Julie L. Sellers
Attorney for Applicant

cc: Rusty Roth, AICP, Development Services Director (rroth@mariettaga.gov)
Douglas Haynie, Esq., City Attorney (dhaynie@hlclaw.com)