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October 1, 2009

City Council of the City of  
Roswell, Georgia  
38 Hill Street  
Suite G-30  
Roswell, Georgia 30075



Re: Conditional Use Permit Application Letter of Intent

Ladies and Gentlemen:

David V. Filer, DVM (hereinafter "Applicant"), is under contract to purchase 900 Holcomb Bridge Road, Roswell, Fulton County, Georgia (the "Property") from American Medicorp Development Co. The Applicant desires to operate an Animal Surgery Center and Emergency Clinic on the Property and seeks a Conditional Use approval for such. The Property is a 1.503 acre tract located on the northwest corner of Holcomb Bridge Road and Warsaw Road in the City of Roswell. The Property is currently used as a Medical Clinic and is zoned O-P.

The City of Roswell has pending a text amendment to the O-P zoning category to allow for uses including the proposed use of an Animal Surgery Center and Emergency Clinic.

To the immediate north of the Subject Property is an office development zoned O-P, and to the south and east across Warsaw Road is a vacant office building also zoned O-P. The property to the immediate west is the Brookwood Grill Restaurant and is zoned C-3. The proposed use is compatible with the all adjacent property. The proposed Animal Surgery Center and Emergency Clinic represents an appropriate transition from more intense use of the C-3 restaurant use to the business/office use to the south and east. There are residential uses not adjacent to the subject tract to the northwest on Warsaw

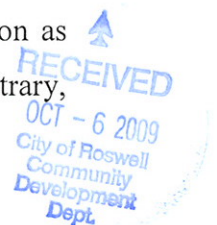
Road which will not be affected by the proposed use. The Animal Surgery Center and Emergency Clinic will not be like a kennel use wherein many animals are kept. The proposed uses will be for sick animals requiring surgery, and sometimes, overnight care. There will not be any animals kept outside the building and no adjacent property will be affected by any animal noises. The facilities will be only for the care, observation and treatment of the animals.

The proposed uses will not adversely affect the existing use or usability of adjacent or nearby properties, and will, in fact, complement the surrounding uses. The property is currently used as a human medical clinic. The use will primarily remain the same except animals will be treated. The proposed use will not excessively overtax the existing water supply or sewage, drainage or transportation facilities and will not cause an excessive use of the area fire or police protection or solid waste collections and disposal services. The proposed use will have a limited impact on schools. Allowing the proposed use will be in conformity with the policy intent of the Comprehensive Plan and when the City of Roswell allows the proposed use in the O-P Zoning Category, it will be in conformity with the land use element.

The Property as currently conditioned is unconstitutional and constitutes a taking of the Applicant's Property rights in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the City of Roswell City Council without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the City of Roswell to grant such Conditional Use Application as requested by the Applicant would be unconstitutional and discriminate in an arbitrary,



capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

The Conditional Use Application, if granted, would not cause any detriment to the public health, welfare or safety and will have little or no impact on the surrounding property.

Accordingly, your Applicant respectfully requests that the Application be granted as requested.

Respectfully submitted,  
  
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Attorney for Applicant

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Community  
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