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August 7, 2014

Mayor and City Council
City of Roswell
38 Hill Street, Suite G30
Roswell, GA 30075

RE: Variance Requests for Property on Crossville Road, Parkway Village District, City of Roswell, GA
by The Providence Group Of Georgia, LLC; Second Amended Request Letter

Dear Mayor and Council:

The Providence Group Of Georgia, LLC has previously filed three requests for variances on property located on Crossville Road in the Parkway Village District. The proposed use of the property is fee simple single family townhome residences for sale. This correspondence shall serve as the Second Amended Variance Request Letter for this application, and should be incorporated into a made a part of the file. I represent the Applicant for the purposes of this application.

The property in question is in the Parkway Village District, and its East and North boundaries abut properties outside the District. The West boundary abuts Sterling Crossville Townhomes, a single family "for sale" neighborhood of condominiums in the Parkway Village District. The property is long on its north south axis, but is narrow on its east west axis. It has a creek with buffers and setbacks abutting the east boundary, and an existing lake takes up a large portion of the southeast quadrant. Development of the property is limited by geometry of the lot, existence of the creek, lake and buffers. It is not permissible or economically feasible to drain the existing lake.

Imposition of a 175 foot buffer or 150 foot buffer with berms on this property on the basis that it is a "multifamily" use imposes substantial hardships on the property, is an incorrect interpretation of the proposed use, and renders the property economically handicapped and virtually unfit for single family townhome development. The property cannot be developed in a viable manner without the grant of the requested variance to the hardships imposed on this property. If the variance is not granted, the developable portion of the property is a narrow strip of land running the entire length of the parcel. This is not reasonable.

Applicant now requests one variance in this Application. Variance 1 is to reduce the buffer and setback on the east boundary to a 40 foot buffer and an additional 20 foot building setback. Variance 2 (North boundary) and Variance 3 (West boundary) are hereby WITHDRAWN.

- (a) There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.**

The property is deep and narrow in shape. It abuts district boundaries on two sides. A creek buffer impacts the entire eastern boundary and an existing lake/pond occupies the southeast quadrant of the property. The size, shape and topography (creek buffer and lake) affect the development of the property even with single family residential setbacks. The imposition of Parkway Village boundary setbacks on the East boundary yields a narrow, long strip of property running north to south which is not economically or reasonably developable either for residential or commercial development. This impact is not suffered by other lands in the district. This property is handicapped by imposition of district standards. These conditions are extraordinary and exceptional and create a practical difficulty which is that the property cannot be developed like other properties in the District unless the variance is granted. The creek buffer and the lake on the east boundary create sufficient separation from existing single family homes.

- (b) A literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.**

As stated above, a literal interpretation of the ordinance would deprive the applicant of any meaningful development of the property. The large buffers were designed to lessen the impact of intense office or commercial development in the Parkway Village District upon neighboring residential areas abutting but not within the District. This use is fee simple single family "for sale" residential development, which has no negative impact. The City's choice to classify the development as "multifamily" when it is in fact single family development causes the unfair imposition of the large buffers and creates an extreme hardship on the property when compared to similar uses in the Parkway Village District.

- (c) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.**

Approving the requested variance allows the property to be developed for single family residential use similar to the abutting property to the west which is Sterling Crossville Townhomes. It does not confer any special privileges upon the property. It permits the property to have the SAME BUFFERS and SETBACKS as required of the Sterling Townhome development to the west. Failing to approve the requested variance would impose an unreasonable hardship on the property in question.

- (d) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.**

Granting the requested variance will allow the applicant to develop single family residences in a district that permits far more intense uses. Surrounding properties are either townhomes or single family residences. The proposed use is in harmony with surrounding uses. The purpose and intent of the ordinance was to impose large buffers where intense uses (office, apartments or commercial) might abut a residential area. The proposed use is single family residential. There is no need or reason to impose such buffers on this site. The result of imposing those buffers was unforeseen at the time the ordinance was adopted. If imposed, the buffers make the developable portion of this property, a long, narrow strip of land unfit for development. That is a hardship. It imposes buffers and setbacks not imposed on like uses in the District. That imposition is discriminatory.

- (e) The special circumstances are not the result of the actions of the applicant.**

The applicant did not subdivide the property to its current boundaries, nor did the applicant cause the position of the City to be that single family residential townhomes constitute "multifamily" development. They are not multifamily housing. The applicant did not enact the Parkway Village District ordinance. The applicant did not build the lake/pond or locate the streams on the property. The Owner has owned the property since 1963 and suffers this hardship only because the property is at the end of the Parkway Village District. Owner did not elect or consent to being the end parcel of the District. If the property was not the end parcel of the Parkway Village District, this variance would not be necessary. The special circumstances are not the result of actions of the applicant. The special circumstances are the direct result of actions of the City.

- (f) The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.**

The requested variance is the minimum necessary to develop the property in a manner that is consistent with nearby uses in the district, and is economically feasible.

- (g) The variance shall not permit a use of land, buildings or structures, which is not permitted by right in the zoning district or overlay district involved.**

Single family residential use (fee simple townhomes) is a permitted use in the Parkway Village District as a matter of right. Imposition of substantial buffers on the east boundary of this property causes a serious hardship on the applicant, causes a taking of the property in question and yields no corresponding benefit to the City of Roswell or to the public welfare. No health, safety, welfare or morals issues are involved.

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Applicant seeks no advantage by virtue of this variance request. Applicant is requesting the variance to permit the normal development of the property under the same standards which apply to other properties in the Parkway Village District, including the Sterling Crossville Townhome Development directly abutting the entire west boundary of this property. Failure to grant this variance is discriminatory and represents a taking of Owner's property without just and adequate compensation. It is further a denial of the equal protection rights and due process rights afforded Applicant and Owner under the Constitution of the United States.

The City gains no benefit by denying this Variance Request. Granting the Variance Request has no negative impact on the health, safety, morals or general welfare of the citizens of Roswell, Georgia. Failure to grant the requested variance imposes a serious economic impact on the property owner, which impact is not imposed on other property owners in the District. The denial of this request violates Article 1, Section 1, Paragraph 1; Article 1, Section 3, Paragraph 1 (a); and Article 3, Section 6, Paragraph 2 of the Constitution of the State of Georgia (1983)

The applicant respectfully requests that approval of these three variance requests be granted as submitted.

Sincerely,



Donald A. Rolader

cc: Mike Smith
The Providence Group