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April 4, 2011

Mayor and City Council
City of Roswell, Georgia
38 Hill Street
Roswell, Georgia 30075

RE: Rezoning of 913 Forrest Street from R-2 to O-P, City of Roswell, GA
Assurance Property Holdings, *Property Owner/Applicant*



Dear Mayor and Councilpersons:

Robert Legg on behalf of Assurance Property Holdings, the Applicant/Owner, is seeking approval of this Application for Rezoning and Variances for property known as 913 Forrest Street in the City of Roswell. This letter shall be construed as the Letter of Intent for this Application.

By this letter the Applicant is requesting to rezone this property to O-P for use as an office for its pool construction business. The Applicant/Owner is also requesting variances to reduce the side and rear setbacks.

The property to the north, east and south is zoned R-2. The property to the south is undeveloped while the other tracts are used as residential. Across the street the property is used as the Cultural Arts Center. The proposal conforms to the intent of the Comprehensive Land Use Plan.

The Applicant/Owner is requesting a variance to reduce the building setback line from 50' to 40' on the North boundary and from 50' to 20' on the South boundary and second variance to reduce the buffer from 40' to 10' on the North boundary and 8' on the South. The justification for the Variance Requests are as follows:

1. This is a small lot with an old, existing structure that has been restored. The Comprehensive Plan shows this property to be office professional in the future. Presently there are residential lots on either side. The buffers between office professional property and residential property are substantial and would not permit the development of this property as office professional. The request for variance is the minimum reduction in

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buffers that will permit the use of the existing structure as O-P next door to residentially zoned property.

2. A literal interpretation of the ordinance would not permit the property to be used as office professional property, even though the Comprehensive Plan indicates this as the best use for the property.
3. This area is changing from residential to office professional pursuant to the Comprehensive Plan for the City. Granting the variance will permit the property to be used for office professional purposes, but will not give it any special privileges whatsoever.
4. The requested variance is the minimum variance to permit the use of this property as office professional property. The neighborhood is converting from residential to office professional uses. The requested variance is in harmony with the purpose of the ordinance and will not be injurious to the neighborhood or general welfare.
5. The property is an existing dwelling on an existing lot. Applicant did not create the lot or construct the structure. The necessity for the variance is not the result of actions of the Applicant.
6. The requested variance is the minimum that will make possible the proposed use of the land and building in the office professional district.
7. The variance shall simply permit the use of the existing structure for office professional purposes. Such use is permitted by right in the O-P zoning district.

The granting of this Zoning Application will have no negative impact on adjoining or nearby properties, but should serve to increase the value of such properties. This use will not unduly tax any City of Roswell services, including, but not limited to, fire and police protection, water service and garbage collection. Presently sewer is available through Fulton County. The development will have no impact on the Fulton County School System. To deny this Application will be of no benefit to the citizens of Roswell, Georgia while causing a severe financial burden upon the Owner/Applicant. This site is appropriate for the use requested.

It is the position of the Applicant that the Roswell Zoning Ordinance in zoning the property Residential-2, as it currently exists, is unconstitutional in that it destroys the marketability of the property and renders the property less valuable, and such zoning therefore constitutes a taking of the property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, as well as Article 1, Section 1, Paragraph 1; Article 1, Section 3, Paragraph 1(a);



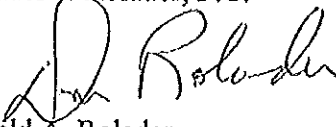
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and Article 3, Section 6, Paragraph 2 of the Constitution of the State of Georgia (1983). To zone this property to any intervening category which is less than requested is unconstitutional, renders the property unusable and constitutes the taking of Applicant's property without just and adequate compensation and without due process of law in violation of the provisions of the United States and Georgia Constitutions cited in this paragraph. The same effect would be true by imposing onerous, burdensome or unnecessary conditions on the property, including conditions that violate the provisions of the Georgia Impact Fee Law regarding extractions for system improvements. Further, denial of this Application will deny Applicant and Owner equal protection of the law.

The Applicant respectfully requests that the Roswell City Council grant this Rezoning and Variances.

Very truly yours,
Rolader & Rolader, P.C.


Donald A. Rolader
For the Firm

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Community
Development
Dept