

Index #: RZ10-07Genero #: 10070033Legistar #: 10-0461

## ZONING APPLICATION

## TYPE OF REQUEST:

- ☒ Rezoning  
☐ Concurrent Variance  
☐ Conditional Use  
☐ Text Amendment  
☐ Other (Explain)

Present Zoning

C-3 with conditions

Requested Zoning

C-3 NO CONDITIONS

Proposed Use

RETAIL/RESTAURANT/OFFICE

Total Acreage

0.6 Acres

## PROJECT

595 CROSSVILLE ROAD

Name of Project

Property Address/Location

595 E. CROSSVILLE ROAD

Suite/Apt. #

City

State

Zip Code

Land Lot

District

Section

Property ID

## APPLICANT/OWNER

DAVID J. OLIVER

Applicant

JAZZ DEVELOPMENT, LLC

Company

P.O. BOX 190625

Mailing Address

404.245.6034404.245.6034

Suite/Apt. #

City

State

Zip Code

Phone

Cell Phone

Fax Phone

E-mail

## REPRESENTATIVE

Same As Applicant

Contact Name and Company (Owner's Agent or Attorney)

Contact Mailing Address

Suite/Apt. #

City

State

Zip Code

Phone

Cell Phone

Fax Phone

E-mail

I hereby certify that all information provided herein is true and correct

[Signature]Date: 6/30/10

Applicant Signature: Property Owner or Owner's Representative

OFFICE USE

Fee: \$

☐ Cash☐ Check #☐ CC - Visa/

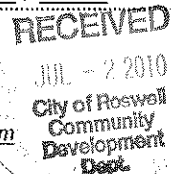
MC

Date: / /

☐ Approved☐ Denied

By: \_\_\_\_\_

Date: / /





## Analysis Requirements

**REZONING APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 6 pursuant to O.C.G.A. 36-67-3. Further, please complete criteria 7 through 23, as noted below.

**CONCURRENT VARIANCE APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 23. Complete also the Concurrent Variance Justification, questions 1 - 7 at the end of this section.

**CONDITIONAL USE APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 8; also 13, and 18 through 22. Criteria 9 through 12, and 14 through 17, and 23 are NOT required to be completed for a Conditional Use Application.

1. Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. *YES. RETAIL, RESTAURANT, AND OFFICE USES CONSISTENT WITH THE SURROUNDING PROPERTIES.*
2. Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property. *No.*
3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned. *YES, but limited by conditions. Reasonable uses for the property should include restaurant, food service including sale of alcoholic beverages, and retail.*
4. Whether the proposal will result in a use which would or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. *No change in traffic generation is expected. No additional parking is being added. No impact on schools or utilities.*





5. Whether the proposal is in conformity with the policy intent of the Comprehensive Plan including land use element.

*The proposal is consistent with other properties at the intersection and consistent with the land use plan.*

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.

*The property is in severe disrepair with major deferred maintenance. Plans for the property include repairs and renovation to interior and exterior to encourage new businesses to open. Many new businesses in the market today offer food service or alcohol.*

An applicant for an amendment to the official zoning map may decline to provide any information related to criteria seven (7) through twenty-three (23) if he or she completes, signs, and notarizes the following statement:

*"I do not regard the information required by the City, or any portion thereof as indicated, as necessary or relevant to the City Council in their consideration of my application for rezoning. I stipulate that such information shall not be relevant to the City Council in their deliberations or to any court in its review of the decision on my application for rezoning."*

Owner of Property (Signature)

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

*The above named individual personally appeared before me, and on oath states that he/she is the*  
*\_\_\_\_\_ for the foregoing, and that all above statements are true to the best of his/her knowledge.*

Notary Public (Signature)

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

My Commission Expires:

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

7. An explanation of the existing uses and zoning of subject property.

*The property is zoned C-3 with three (3) conditions which affect the use.*

- 1. "The structure would house no restaurant"*
- 2. "The structure would house no alcoholic beverage outlet"*

*3. At least 50% of the building shall be devoted to office professional use"*  
*Historically, the property has been used for retail and office use.*

8. An explanation of the existing uses and zoning of nearby property.

*Nearby properties are used for retail, office, restaurant, alcohol beverage outlets, automotive, fast food, and service.*





9. An explanation of the existing value of the property under the existing zoning and/or overlay district classification.

*Purchase price is \$375,000 but the property needs repairs and improvements.*

10. Whether the property can be used in accordance with the existing regulations.

*yes, but the market for retail space would be much improved if restaurant/food service/alcohol was permitted.*

11. The extent to which the property value of the subject property is diminished by the existing zoning district and/or overlay district classification.

*Many small retail/restaurant tenants are active in the market and it would be a severe disadvantage to competition.*

12. The value of the property under the proposed zoning district and/or overlay district classification.

*Unknown at this time due to not having tenants.*

13. The suitability of the subject property under the existing zoning district and/or district classification for the proposed use.

*Not suitable for active restaurants and small food service users.*

14. The suitability of the subject property under the proposed zoning district and/or overlay district classification.

*The proposed zoning would make it much more viable.*





15. The length of time the property has been vacant or unused as currently zoned.

*November 2009 the property was foreclosed and vacated shortly thereafter.*

16. A description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district.

*Listed for sale January 2010*

17. The possible creation of an isolated zoning district unrelated to adjacent and nearby districts.

*Not Applicable.*

18. Possible effects of a change in zoning or overlay district map, or change in use, on the character of a zoning district.

*N/A*

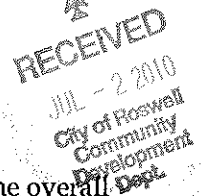
19. Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.

*N/A*

20. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.

*No impact foreseen.*





21. The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme, with due consideration given as to whether or not the proposed change will help to carry out the purposes of these zoning regulations.

*Not applicable.*

22. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.

*No impact to residential neighborhoods foreseen.*

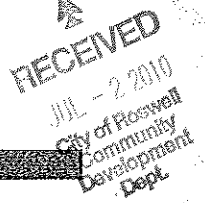
23. The amount of undeveloped land in the general area affected which has the same zoning or overlay district classification as the map change requested.

*Not applicable.*

#### **Concurrent Variance Justification If Required**

An applicant requesting consideration of a Concurrent Variance to any provision of the Zoning Ordinance shall provide written justification that one or more of the following condition(s) exist:

1. There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape, topography that are not applicable to other lands or structures in the same district.
2. Any information whereby 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 applicant's property is located.
3. Any information supporting that 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.
4. Any information that the requested variance will be in harmony with the purpose of the intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
5. Any information that special circumstances are not the result of the actions of the applicant.
6. Any information that the variance request is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.
7. Any information that 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.



**Application Signature Page**

Please complete this Applicant Signature Page for ALL applications. READ CAREFULLY BEFORE SIGNING.

- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the *Roswell Zoning Ordinance*) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange sign permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.
- I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My signed Campaign Disclosure Statement is included with this Application (required for rezoning only).
- I understand that due to a sewer allocation system controlled by Fulton County, sewerage capacity may not be available. I agree to arrange sewer service separately from this application. The method of sewage disposal that is planned for this property is:

Check one:

- ☒ Sanitary Sewer  
☐ Septic Tank

*I respectfully petition that this property be considered as described in this application*

From Use District

C-3

To Use District: C-3 NO CONDITIONS

Wherefore, applicant prays that the procedures incident to the presentation of this petition be taken, and the property be considered accordingly. Additionally, applicant further acknowledges and fully understands all above statements made by the City of Roswell.

**APPLICANT SIGNATURE (REQUIRED FOR ALL APPLICATIONS)**

*I hereby certify that all information provided herein is true and correct*

RBC Bank by [Signature], Bank Officer  
Owner of Property (Signature)

500 WEST MORGAN STREET DARIEN NC 27001  
Street Address, City, State, Zip

Date: 6/24/10

Phone 919 687 3226

**NOTARY**

Personally appeared before me the above Owner named RBC Bank by Steven R. DeLuca, bank officer who on oath says that he/she is the Applicant for the foregoing, and that all the above statements are true to the best of his/her knowledge.

[Signature]  
Notary Public (Signature)

Date: 6/24/10

Date: 10/25/2014  
Commission Expires

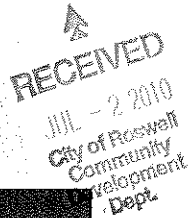
**ATTORNEY/ AGENT (IF APPLICABLE)**

Attorney/ Agent (Signature)

Street Address, City, State, Zip

Phone

**Leslie A. McRae**  
Notary Public  
Wake County  
North Carolina  
My Commission Expires 10/25/2014



### Campaign Disclosure Ordinance

Please read the law and complete the Campaign Disclosure Statement on the following page if you are requesting a Rezoning, Concurrent Variance, or Conditional Use.

GA Citation/Title

GA Code 36-67A-3, Disclosure of campaign contributions

\*38069 Code, 36-67A-3

### CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)

#### 36-67A-3 Disclosure of campaign contributions.

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.
- c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the opponent to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)  
*Official Code of Georgia Annotated Copyright 1982 - 2000 State of Georgia.*





### APPLICANT CAMPAIGN DISCLOSURE STATEMENT

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Roswell City Council or a member of the City of Roswell Planning Commission?

☐ YES

☒ NO

DAVID J. OLIVER

Date: 6 / 30 / 10

Applicant/Owner of Property (Signature)

3909 Club Drive Atlanta, Ga. 30319

Street Address, City, State, Zip

If the answer is yes, please complete the following section:

| Date | Government Official | Official Position | Description | Amount |
|------|---------------------|-------------------|-------------|--------|
|      |                     |                   |             |        |
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RECEIVED  
JUL - 2 2010  
City of Roswell  
Community  
Development  
Dept.



**Planning & Zoning Director Acceptance Stamp**

- ☒ Rezoning
- ☐ Concurrent Variance
- ☐ Conditional Use

RECEIVED BY THE CITY OF ROSWELL  
ZONING OFFICE 7-2-2010

Date

APPROVED FOR INITIATION OF A ZONING  
AMENDMENT TO THE ROWELL ZONING  
ORDINANCE AND ZONING MAP BY THE  
ZONING DIRECTOR.

Bradford P. Brussel  
Zoning Director

TIME: 3:52 DATE: 7-13-2010

THIS APPLICATION SHALL BE CONSIDERED  
AS REFERRED TO AS REFERRING  
PETITION NUMBER

R210-07