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October 26, 2009

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

RE: Amended Letter of Intent for Small Tract Status in the Parkway Village District,  
City of Roswell, GA for property known as 11575 King Road, Roswell, Georgia

Dear Mayor and Councilpersons:

This firm represents Marilyn Wankat, the Applicant/Owner on the above-referenced application for Small Tract Status and associated Variance. This letter is Applicant/Owner's Amended Letter of Intent for this Application.

Applicant has owned and operated a daycare facility at this location prior to the adoption of the Parkway Village District and was operating within an R-2 zoning. In 2003 the City of Roswell modified its zoning ordinance and daycare was removed from the R-2 zoning classification. In December 2008 the daycare business that was existing there closed and the property has since been vacant. Due to the vacancy for longer than three months, the City removed the daycare status. My client is seeking to reinstate the daycare use only for the Property.

Since the Property is now in the Parkway Village District, the Applicant is also seeking a variance per the original Letter of Intent and Application to eliminate the required 40' Streetscape. The property currently has a 10' landscape strip in front of the existing parking lot. This variance is required simply to allow the use of the Property as it was prior to December 2008. No changes will be made to the exterior of the property. It will look exactly like it does today. The variance request to change the amount of parking is no longer being requested.

The granting of this request for small tract status and variance will have no negative impact on adjoining or nearby properties, but should serve to increase the value of such properties. If the Application is approved the property will once again be used as a daycare center. This development 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,

Mayor and City Council  
City of Roswell  
October 26, 2009  
Page 2

Georgia while causing a severe financial burden upon the property Owner/Applicant. The project proposed herein is consistent with development in the surrounding area.

It is the position of the Applicant that the Roswell Zoning Ordinance in zoning the property R-2 without Small Tract Status and without the variance, 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); and Article 3, Section 6, Paragraph 2 of the Constitution of the State of Georgia (1983). To zone this property to any intervening category that 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.

The Applicant respectfully requests that the Roswell City Council grant Small Tract Status and the variance.

Very truly yours,  
Rolader & Rolader



Donald A. Rolader

Enclosure