

THIRD
AMENDED
PETITION TO AMEND PROFFERED CONDITIONS
AND PROFFER OF CONDITIONS

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

IN RE:

AMENDMENT AND SUBSTITUTION OF PROFFERED CONDITIONS ON ELEVEN (11) AND PROFFER OF CONDITIONS ON FOUR (4) TRACTS OF LAND LYING AND BEING IN THE CITY OF ROANOKE, VIRGINIA AND BRIEFLY DESCRIBED AS:
TAX MAP NO. 5470115, 1.48 ACRES, PINE GROVE, 4156 SOUTHERN LANE, S.W.; TAX MAP NO. 5470113, 0.5 ACRES, PART LOT 4, MAGGIE REDD PROPERTY, 4148 SOUTHERN HILL LANE, S.W.; TAX MAP NO. 5470114, 0.84 ACRES, PINE GROVE, GRIFFIN ROAD, S.W.; TAX MAP NO. 5470112, 1.34 ACRES, PINE GROVE, 4325 SOUTHERN HILLS LANE, S.W.; TAX MAP NO. 5470111, 1.19 ACRES, PINE GROVE, 4134 SOUTHERN LANE, S.W.; TAX MAP NO. 5470108, 0.51 ACRES, PINE GROVE, SOUTHERN LANE, S.W.; TAX MAP NO. 5470109, 0.71 ACRES, PINE GROVE, 4146 SOUTHERN HILLS DRIVE, S.W.; TAX MAP NO. 5470110, 0.06 ACRES, PINE GROVE, GRIFFIN ROAD, S.W.; TAX MAP NO. 5480701, 0.18 ACRES, PART PARCEL NO. 3, PINE GROVE, 4118 SOUTHERN HILLS LANE, S.W. AND TAX MAP NO. 5480704, 5.3 ACRES, PINE GROVE, 4116 SOUTHERN HILLS DRIVE, S.W.; TAX MAP NO. 5480716, .357 ACRES, PINE GROVE, FRANKLIN ROAD, S.W., TAX MAP NO. 5480717, .143 ACRES, PINE GROVE, FRANKLIN ROAD, S.W., TAX MAP NO. 5470103, 245 ACRES, OGDEN, 4166 FRANKLIN ROAD, S.W., TAX MAP NO. 5470104, .89 ACRES, OGDEN, 4176 FRANKLIN RD., S.W., TAX MAP NO. 5470102, .4 ACRES, OGDEN, FRANKLIN RD., S.W.

TO THE HONORABLE MAYOR AND MEMBERS OF THE COUNCIL OF THE CITY OF ROANOKE:

BY ORDINANCE NO. 33759-040698 AT THE REQUEST OF SOUTHERN LANE GROUP, LLC, A VIRGINIA LIMITED LIABILITY COMPANY, CITY COUNCIL REZONED THE PROPERTY IDENTIFIED AS TAX MAP NOS. 5470115, 5470113, 5470114, 5470112, 5470111, 5470108, 5470109, 5470110, 5480701 AND 5480704 FROM R.S.-3 TO C-2, GENERAL COMMERCIAL DISTRICT, WITH PROFFERED CONDITIONS. THIS PROPERTY, TOGETHER WITH TAX MAP NOS. 5470103, 5470102, 5480717 AND 5480718, WHICH ARE ALSO ZONED C-2, GENERAL COMMERCIAL DISTRICT, WERE TO BE COMBINED AS THE SITE FOR A RETAIL OUT PARCEL DEVELOPMENT AS SHOWN ON MAP OF THE REFERENCED PROPERTY ATTACHED HERETO AS EXHIBIT A.

PETITIONER, FASON-SOUTHERN LANE, LLC, OWNS THE ABOVE REFERENCED PROPERTY AND IS THE CONTRACT PURCHASER OF THE PROPERTY IDENTIFIED AS TAX NO. 5470104 WHICH IS ZONED C-2, GENERAL COMMERCIAL DISTRICT. FASON-SOUTHERN LANE, LLC REQUESTS THAT THE PROFFERED CONDITIONS WHICH APPLY TO THE ABOVE-REFERENCED PARCELS OF PROPERTY BE AMENDED AND THAT THE CONDITIONS PROFFERED IN THIS PETITION APPLY TO ALL OF THE PROPERTY OWNED BY OR UNDER CONTRACT TO PETITIONER FASON-SOUTHERN LANE, LLC. SAVE-X 2 LLC, THE VIRGINIA LIMITED LIABILITY COMPANY THAT OWNS TAX MAP NO. 5470104, JOINS WITH PETITIONER FASON-SOUTHERN LANE, LLC IN THIS REQUEST.

PETITIONER, FASON-SOUTHERN LANE, LLC BELIEVES THAT THE REPEAL OF PROFFERS IN ORDINANCE NO. 33759-040698 IN FAVOR OF THE CONDITIONS PROFFERED IN THIS PETITION WILL FURTHER THE INTENT AND THE PURPOSE OF THE CITY'S ZONING ORDINANCE AND ITS COMPREHENSIVE PLAN IN THAT IT WOULD ALLOW FOR A BETTER USE OF THE PROPERTY OF PETITIONER.

PETITIONER HEREBY REQUESTS THAT THE FOLLOWING PROFFERS ENACTED BY ORDINANCE NO. 33759-040698 BE REPEALED:

1. THE PROPERTY WILL BE DEVELOPED IN SUBSTANTIAL CONFORMITY WITH THE DEVELOPMENT PLAN PREPARED BY LUMSDEN ASSOCIATES, DATED JUNE 17, 1997, AND REVISED AUGUST 7, 1997, A COPY OF WHICH IS ATTACHED TO THE PETITION FOR REZONING AS EXHIBIT B, SUBJECT TO ANY CHANGES REQUIRED BY THE CITY AS PART OF COMPREHENSIVE DEVELOPMENT PLAN REVIEW.

2. THE EXTERIOR TREATMENT OF ALL BUILDINGS ON THE PROPERTY SHALL BE ARCHITECTURALLY FINISHED AND SHALL BE CONSISTENT IN THE USE OF ARCHITECTURAL DETAILS AND MATERIALS ON ALL SIDES OF THE BUILDING.

3. ALL LIGHTING ON THE PROPERTY SHALL CONSIST OF FIXTURES DESIGNED WITH SHIELDS THAT DIRECT ILLUMINATION AWAY FROM THE ADJOINING RESIDENTIAL NEIGHBORHOOD ALONG THE EASTERLY SIDE OF GRIFFIN ROAD.

4. ALL DUMPSTERS, LOADING DOCKS AND HEATING/AIR CONDITIONING HANDLING UNITS SHALL BE SCREENED FROM VIEW BY LANDSCAPING, MASONRY OR METAL SCREEN WALLS.

5. THERE SHALL BE NO BUILDING WALL SIGNS FACING THE RESIDENTIALLY ZONED NEIGHBORHOODS ALONG THE EASTERLY SIDE OF GRIFFIN ROAD.

6. OUTDOOR ADVERTISING, AS DEFINED IN THE ROANOKE CITY CODE, SHALL NOT BE PERMITTED.

7. THE COMBINED SURFACE AREA OF ALL SIGNS ON THE COMMERCIAL LOTS, INCLUDING SIGNS ERRECTED IN A REQUIRED YARD, SHALL NOT EXCEED 2.5 SQUARE FEET FOR EACH FOOT OF LOT FRONTAGE FOR THE FIRST ONE HUNDRED FEET OF LOT FRONTAGE, AND AN ADDITIONAL 1.0 SQUARE FEET FOR EACH FOOT OF LOT FRONTAGE REMAINING. ALL FREESTANDING SIGN STRUCTURES SHALL BE LIMITED TO ONE PER LOT WITH A SIGNAGE AREA NO GREATER THAN 100 SQUARE FEET.

8. TRACT E SHALL NOT BE USED AS A RESTAURANT. ANY RESTAURANTS LOCATED ON TRACTS, D, G & F SHALL NOT BE FAST FOOD RESTAURANTS. ANY RESTAURANTS CONSTRUCTED ON TRACTS D, G & F SHALL CONTAIN ODOR ABATEMENT EQUIPMENT TO ABATE THE DISBURSEMENT OF COOKING ODORS TO THE OUTDOORS.

9. ANY STRUCTURE CONSTRUCTED ON TRACT E, INCLUDING A MOTEL OR HOTEL, WILL BE NO MORE THAN THREE (3) STORIES HIGH OR A MAXIMUM OF 45 FEET MEASURED FROM GROUND LEVEL.

10. A SIDEWALK SHALL BE INCLUDED ALONG THE NORTHERN SIDE OF THE RELOCATED SOUTHERN HILLS DRIVE, AND CONTINUE ALONG THE EASTERN SIDE OF SOUTHERN LANE, SUCH, SIDEWALK SHALL RUN THE LENGTH OF THE RELOCATED SOUTHERN HILLS DRIVE ON THE SITE AND THAT PORTION OF SOUTHERN LANE SHOWN ON THE DEVELOPMENT PLAN.

11. THE FOLLOWING C-2 USES AS DESIGNATED IN THE CODE OF THE CITY OF ROANOKE SHALL NOT BE PERMITTED ON TRACTS D, E, F OR G:

36.1-206(11) POLICE STATIONS.

36.1-206(14) MILITARY RESERVE AND NATIONAL GUARD CENTERS.

36.1-206(15) TRAINING FACILITIES RELATED TO POLICE, FIRE, RESCUE AND AMBULANCE USES.

36.1-206(19) COLISEUMS, STADIUMS, EXHIBITION HALLS, AND SIMILAR FACILITIES.

36.1-206(21) PARKS AND PLAYGROUNDS.

36.1-206(22) DRIVE-IN MOVIE THEATERS.

36.1-206(34) NEIGHBORHOOD AND HIGHWAY CONVENIENCE STORES.

36.1-206(35) OUTDOOR ADVERTISING SUBJECT TO THE REQUIREMENTS OF SECTION 36.1-440 ET SEQ.

36.1-206(36) GAS STATIONS.

36.1-206(39) AUTOMOBILE CLEANING FACILITIES.

36.1-206(40) AUTOMOBILE REPAIR ESTABLISHMENTS EXCEPT PAINTING AND BODY SHOPS.

36.1-206(42) PUBLIC PARKING STRUCTURES.

36.1-206(44) BUS TERMINALS FOR THE LOADING AND UNLOADING OF PASSENGERS.

36.1-206(45) VETERINARY CLINICS WITH NO OUTSIDE CORRALS OR PENS.

36.1-206(46) KENNELS WITH NO OUTSIDE PENS OR "RUNS."

36.1-206(47) PLANT NURSERIES AND GREENHOUSES INCLUDING THOSE WITH RETAIL SALES. (ORD. NO. 28611, § 2, 4-27-87; ORD. NO. 29932, 2-20-90; ORD. NO. 30648A, 8-26-9 1).

36.1-207(1) GROUP CARE FACILITIES SUBJECT TO THE REQUIREMENTS OF SECTION 36.1-560 ET SEQ.

36.1-207(4) ESTABLISHMENTS PRIMARILY ENGAGED IN THE SALE OR RENTAL OF AUTOMOBILES, TRUCKS AND CONSTRUCTION EQUIPMENT INCLUDING THE INCIDENTAL REPAIR AND MAINTENANCE OF VEHICLES WHERE THE LOT AREA IS LESS THAN TWENTY THOUSAND (20,000) SQUARE FEET.

36.1-207(5) AUTOMOBILE PAINTING AND BODY SHOPS PROVIDED THAT THERE SHALL BE NO OUTDOOR STORAGE OF DAMAGED AUTOMOBILES, EQUIPMENT, AUTO PARTS OR OTHER MATERIALS.

36.1-207(9) UTILITY SUBSTATIONS, TRANSMISSION LINES AND TOWERS, BOOSTER STATIONS, RELAY STATIONS AND TRANSFORMERS, AND SIMILAR USES PROVIDED THAT LIGHT, FUMES, NOISE, UNSIGHTLINESS, OR OTHER ASSOCIATED ACTIVITIES OR EMISSIONS ARE ADEQUATELY SCREENED FROM THE SURROUNDING NEIGHBORHOOD.

36.1-207(10) MEDICAL LABORATORIES.

TENT ADDITIONALLY, OPEN AIR MARKETS SELLING SECOND HAND MERCHANDISE AND OTHER MISCELLANEOUS ITEMS SHALL NOT BE PERMITTED ON TRACTS D, E, F OR G.

12. SIGNAGE APPROVED BY THE PETITIONER AND THE CITY OF ROANOKE, AND IDENTIFYING THE SOUTHERN HILLS NEIGHBORHOOD SHALL BE PLACED ON BOTH SIDES OF SOUTHERN HILLS DRIVE AT ITS INTERSECTION WITH GRIFFIN ROAD.

13. PETITIONER'S LANDSCAPE BUFFERING/SCREENING ALONG GRIFFIN ROAD SHALL BE DESIGNED SO THAT A ROW OF EVERGREEN TREES SHALL FACE THE RESIDENTIAL NEIGHBORHOOD LOCATED ON THE EASTERLY SIDE OF GRIFFIN ROAD, FOLLOWED BY A SECOND AND INTERIOR ROW OF DECIDUOUS TREES, SUBJECT TO ANY CHANGES REQUIRED BY THE CITY AS PART OF COMPREHENSIVE DEVELOPMENT PLAN REVIEW.

PETITIONER HEREBY REQUESTS THAT THE FOLLOWING PROFFERED CONDITIONS BE SUBSTITUTED AND ADOPTED FOR THOSE EXISTING PROFFERS DELINEATED ABOVE AND APPLY TO ALL OF THE REFERENCED PROPERTY OWNED BY OR UNDER CONTRACT BY THE PETITIONER:

1. THE PROPERTY WILL BE DEVELOPED IN SUBSTANTIAL CONFORMITY WITH THE DEVELOPMENT PLAN PREPARED BY MATTERN & CRAIG, DATED JULY 8, 2005, A COPY OF WHICH IS ATTACHED TO THIS PETITION AS EXHIBIT B, SUBJECT TO ANY CHANGES REQUIRED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION OR THE CITY AS PART OF COMPREHENSIVE DEVELOPMENT PLAN REVIEW.

2. THE 105,000 ± S.F. COMMERCIAL BUILDING SHALL BE ARCHITECTURALLY FINISHED IN SUBSTANTIAL CONFORMITY WITH THE JULY 25, 2005, RENDERING OF THE HOME DEPOT, CITY OF ROANOKE, FRANKLIN ROAD & VALLEY AVENUE, BY ARCHITECTURAL GROUP INTERNATIONAL, A COPY OF WHICH IS ATTACHED TO THIS PETITION AS EXHIBIT C.

3. ANY OUTDOOR LIGHT FIXTURE SHALL BE A FULL CUTOFF FIXTURE OR A DECORATIVE FIXTURE WITH FULL CUTOFF OPTICS. A "FULL CUTOFF FIXTURE" SHALL MEAN AN OUTDOOR LIGHT FIXTURE SHIELDED IN SUCH A MANNER THAT ALL LIGHT EMITTED BY THE FIXTURE, EITHER DIRECTLY FROM THE LAMP OR INDIRECTLY FROM THE FIXTURE, IS PROJECTED BELOW THE HORIZONTAL PLANE. A "DECORATIVE FIXTURE WITH FULL CUTOFF OPTICS" SHALL MEAN AN OUTDOOR LIGHT FIXTURE WITH MANUFACTURER-PROVIDED OR MANUFACTURE-INSTALLED FULL CUT-OFF OPTICS.

4. THE SPILLOVER OF LIGHTING FROM ANY PARKING AREA ON THE SUBJECT PROPERTY ONTO PUBLIC RIGHTS-OF-WAY OR ADJUTING PROPERTY IN RESIDENTIALLY ZONED DISTRICTS SHALL NOT EXCEED ONE-HALF (0.5) FOOT CANDLE AT THE PROPERTY LINE.

5. ANY OUTDOOR LIGHTING IN PARKING AREAS SHALL NOT EXCEED FORTY (40) FEET IN HEIGHT. THE MAXIMUM HEIGHT SHALL APPLY TO THE HEIGHT OF THE POLES OR OTHER STANDARDS TO WHICH THE FIXTURES ARE ATTACHED OR THE TOP MOST POINT OF THE FIXTURE ITSELF, WHICHEVER IS HIGHER.

6. OUTDOOR LIGHTING INFORMATION FOR THE SUBJECT PROPERTY SHALL BE SUBMITTED DURING COMPREHENSIVE DEVELOPMENT PLAN REVIEW. SUCH INFORMATION SHALL INCLUDE THE FOLLOWING:

(A) LOCATION OF ALL OUTDOOR LIGHTING FIXTURES INCLUDING THE MANUFACTURER'S SPECIFICATIONS OF THE AREA TO BE LIGHTED WITH SUCH FIXTURES;

(B) PLANS INDICATING THE LOCATION ON THE PROPERTY, AND THE TYPE, OF ILLUMINATING DEVICES, FIXTURES, LAMPS, SUPPORTS, REFLECTORS AND OTHER DEVICES;

(C) DESCRIPTION OF THE ILLUMINATING DEVICES, FIXTURES, LAMPS, SUPPORTS, REFLECTORS AND OTHER DEVICES;

(D) PHOTOMETRIC DATA, SUCH AS THAT FURNISHED BY MANUFACTURERS, SHOWING THE ANGLE OF CUT OFF OF LIGHT EMISSIONS; AND

(E) OTHER INFORMATION AS MAY BE DEEMED NECESSARY BY THE ZONING ADMINISTRATOR TO DETERMINE COMPLIANCE WITH THE LIGHTING PROFFERS.

7. ALL DUMPSTERS, LOADING DOCKS, HEATING/AIR CONDITIONING HANDLING UNITS AND GROUND MOUNTED ELECTRICAL TRANSFORMER BOXES SHALL BE SCREENED FROM VIEW FROM PUBLIC RIGHTS OF WAY ADJACENT TO THE SUBJECT PROPERTY BY LANDSCAPING, MASONRY OR METAL SCREEN WALLS.

8. THERE SHALL BE NO BUILDING WALL SIGNS FACING THE RESIDENTIALLY ZONED NEIGHBORHOODS ALONG THE EASTERLY SIDE OF GRIFFIN ROAD.

9. SIGNAGE PROVIDED BY THE PETITIONER AND APPROVED BY THE CITY OF ROANOKE, AND IDENTIFYING THE SOUTHERN HILLS NEIGHBORHOOD SHALL BE PLACED ON THE SIDE OF GRIFFIN ROAD NEAR ITS INTERSECTION WITH ROY DRIVE.

10. LANDSCAPING SHALL BE AS SHOWN ON THE CONCEPT LANDSCAPE PLAN, THE HOME DEPOT, FRANKLIN ROAD AND VALLEY AVENUE, CITY OF ROANOKE, VIRGINIA, DATED JULY 8, 2005, PREPARED BY MATTERN & CRAIG, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT D, SUBJECT TO ANY CHANGES REQUIRED BY THE CITY AS PART OF COMPREHENSIVE DEVELOPMENT PLAN REVIEW.

11. THE FOLLOWING C-2 USES AS DESIGNATED IN THE CODE OF THE CITY OF ROANOKE SHALL BE PERMITTED ON THE SUBJECT PROPERTIES:

36.1-206(1) DWELLINGS LOCATED ABOVE GROUND FLOOR NONRESIDENTIAL USES.

36.1-206 (3) TRADE, BUSINESS AND ART SCHOOLS OF A NONINDUSTRIAL NATURE.

36.1-206 (4) TRADE AND VOCATIONAL SCHOOLS OF AN INDUSTRIAL NATURE.

36.1-206 (6) DAY CARE CENTERS WITH UNLIMITED CAPACITY SUBJECT TO THE REQUIREMENTS OF SECTION 36.1-510 ET SEQ.

36.1-206 (7) CHURCHES, SYNAGOGUES AND OTHER PLACES OF WORSHIP INCLUDING ACCESSORY COLUMBARIUMS.

36.1-206 (8) LIBRARIES, MUSEUMS, ART GALLERIES AND ART STUDIOS AND OTHER SIMILAR USES INCLUDING ASSOCIATED EDUCATIONAL AND INSTRUCTIONAL ACTIVITIES.

36.1-206 (16) POST OFFICES.

36.1-206 (17) INDOOR RECREATIONAL USES INCLUDING BOWLING ALLEYS, INDOOR TENNIS COURTS, SQUASH COURTS, FITNESS CENTERS AND OTHER SIMILAR USES.

36.1-206 (18) THEATERS WITH UNLIMITED SEATING CAPACITY.

36.1-206 (20) OUTDOOR RECREATIONAL FACILITIES INCLUDING SWIMMING CLUBS, TENNIS COURTS, ATHLETIC FACILITIES AND OTHER SIMILAR USES.

36.1-206 (23) GENERAL AND PROFESSIONAL OFFICES INCLUDING FINANCIAL INSTITUTIONS.

36.1-206 (24) MEDICAL CLINICS.

36.1-206 (25) MEDICAL OFFICES.

36.1-206 (26) GENERAL SERVICE ESTABLISHMENTS, EXCEPT FOR REPAIR OR MAINTENANCE OF MOTOR VEHICLES OR TRAILERS, PROVIDED THAT, ALL REPAIR OR MAINTENANCE ACTIVITIES SHALL OCCUR IN A WHOLLY ENCLOSED BUILDING.

36.1-206 (27) FUNERAL HOMES.

36.1-206 (28) RESTAURANTS.

36.1-206 (29) HOTELS, MOTELS, AND INNS.

36.1-206 (30) BED AND BREAKFAST ESTABLISHMENTS SUBJECT TO THE REQUIREMENTS OF SECTION 36.1-520 ET SEQ.

36.1-206 (31) GENERAL RETAIL ESTABLISHMENTS PRIMARILY ENGAGED IN THE RETAIL SALE OR RENTAL OF MERCHANDISE, GOODS, OR PRODUCTS EXCEPT AUTOMOBILES, TRUCKS, OR CONSTRUCTION EQUIPMENT; AND INCLUDING THE INCIDENTAL REPAIR AND ASSEMBLY OF MERCHANDISE, GOODS OR PRODUCTS TO BE SOLD ON THE PREMISES.

36.1-206 (32) OPEN AIR MARKETS SELLING FARM PRODUCE, CRAFTS, PLANTS, SECONDHAND MERCHANDISE AND OTHER MISCELLANEOUS ITEMS.

36.1-206 (33) FOOD STORES WITH UNLIMITED GROSS FLOOR AREA.

36.1-206 (34) NEIGHBORHOOD AND HIGHWAY CONVENIENCE STORES, PROVIDED THAT NO MOTOR VEHICLE SERVICE STATION CANOPY OVER A GAS PUMP ISLAND SHALL BE ALLOWED, UNLESS:

(A) SUCH CANOPY SHALL HAVE A MAXIMUM CLEAR, UNOBSTRUCTED HEIGHT TO ITS UNDERSIDE NOT TO EXCEED FOURTEEN (14) FEET SIX (6) INCHES AND A MAXIMUM OVERALL HEIGHT NOT TO EXCEED SIXTEEN (16) FEET SIX (6) INCHES;

(B) THERE SHALL BE NO ILLUMINATION OF ANY PORTION OF THE FASCIA OF THE CANOPY;

(C) ANY LIGHTING FIXTURES OR SOURCES OF LIGHT THAT ARE A PART OF THE UNDERSIDE OF THE CANOPY SHALL BE RECESSED INTO THE UNDERSIDE OF THE CANOPY SO AS NOT TO PROTRUDE BELOW THE CANOPY CEILING. ALL SUCH LIGHTING ASSOCIATED WITH THE CANOPY SHALL BE DIRECTED DOWNWARD TOWARD THE PUMP ISLANDS AND SHALL NOT BE DIRECTED OUTWARD OR AWAY FROM THE SITE.

(D) THE VERTICAL DIMENSION OF THE FASCIA OF SUCH CANOPY SHALL BE NO MORE THAN TWO (2) FEET; AND

(E) SIGNS ATTACHED TO OR ON SUCH CANOPY SHALL NOT BE ILLUMINATED AND SHALL NOT EXTEND BEYOND THE ENDS OR EXTREMITIES OF THE FASCIA OF THE CANOPY TO WHICH OR ON WHICH THEY ARE ATTACHED.

36.1-206 (37) NEW MOTOR VEHICLE SALES AND SERVICE ESTABLISHMENTS, PROVIDED THE LOT AREA FOR THIS USE IS NO LESS THAN FORTY THOUSAND (40,000) SQUARE FEET.

36.1-206 (38) AUTO ACCESSORY SALES WITH RELATED INSTALLATION.

36.1-206 (43) STORAGE AND WAREHOUSE ACTIVITIES WHICH ARE ACCESSORY TO A RETAIL USE WHERE ALL STORAGE ACTIVITIES ARE WHOLLY ENCLOSED IN A BUILDING WHICH IS LOCATED ON THE SAME LOT AS THE RETAIL USE AND WHERE THE GROSS FLOOR AREA OF BUILDINGS USED FOR STORAGE ACTIVITIES DOES NOT EXCEED FIFTY (50) PERCENT OF THE GROSS FLOOR AREA OF THE RETAIL USE.

36.1-206 (47) PLANT NURSERIES AND GREENHOUSES INCLUDING THOSE WITH RETAIL SALES.

36.1-206 (48) COMMERCIAL PRINTING ESTABLISHMENTS WHICH PRINT NEWSPAPERS, PUBLICATIONS, AND OTHER MATERIALS.

36.1-206 (49) PERSONAL SERVICE ESTABLISHMENTS.

36.1-206 (50) BUSINESS SERVICE ESTABLISHMENTS.

12. THE FOLLOWING C-2 USES AS DESIGNATED IN THE CODE OF THE CITY OF ROANOKE SHALL BE PERMITTED ON THE SUBJECT PROPERTIES BY SPECIAL EXCEPTION GRANTED BY THE BOARD OF ZONING APPEALS:

36.1-207 (2) FAST FOOD RESTAURANTS.

36.1-207 (7) ESTABLISHMENTS PRIMARILY ENGAGED IN THE WHOLESALE DISTRIBUTION OF GOODS WHERE ALL RELATED ACTIVITIES ARE WHOLLY ENCLOSED IN A BUILDING PROVIDED THAT:

(A) THE TOTAL GROSS FLOOR AREA OF BUILDINGS ON A LOT SHALL NOT EXCEED TWELVE THOUSAND (12,000) SQUARE FEET.

(B) THE USE IS LOCATED ON A MAJOR ARTERIAL ROAD OR HIGHWAY.

36.1-207 (8) MANUFACTURING, ASSEMBLY, MIXING, PROCESSING OR OTHER PROCESSES WHICH ARE ACCESSORY TO A RETAIL USE, WHERE ALL SUCH ACTIVITIES ARE WHOLLY ENCLOSED IN THE SAME BUILDING AS THE RETAIL USE

AND WHERE NO MORE THAN FIVE (5) PEOPLE ARE INVOLVED IN SUCH PROCESSES ON THE PREMISES.

13. AS ANY DEVELOPMENT ON TRACTS B AND C, AS IDENTIFIED ON THE CONCEPT SITE PLAN (EXHIBIT B), WILL BE VISIBLE FROM PUBLIC ROADS FROM MULTIPLE DIRECTIONS, THE ARCHITECTURAL TREATMENT AND PALETTE OF EXTERIOR MATERIALS UTILIZED FOR ANY STRUCTURE BUILT ON EITHER OF THESE TRACTS SHALL BE APPLIED TO ALL FACADES OF SUCH STRUCTURE IN A CONSISTENT AND UNIFORM MANNER.

14. THE SEASONAL SALES AREA DESIGNATED ON THE CONCEPT SITE PLAN (EXHIBIT B) WILL BE USED SOLELY FOR THE SEASONAL SALE OF PLANTS, SHRUBS, TREES AND ASSORTED POTTED NURSERY PRODUCTS TOGETHER WITH ASSOCIATED BAG PRODUCTS SUCH AS MULCH, TOP SOIL AND POTTING SOIL. THE SEASONAL SALES AREA WILL BE IN USE, INTERMITTENTLY, FOR APPROXIMATELY SIX MONTHS PER YEAR FOR THE SALE OF PLANTS AND PLANT RELATED ITEMS APPROPRIATE TO THE TIME OF THE YEAR, SUCH AS SPRING AND SUMMER LIVE PLANTS AND CHRISTMAS TREES AND RELATED GREENERY. NO BUILDINGS, SHEDS, TRAILERS, LAWN

MOWERS, GAS GRILLS, TRACTORS OR SIMILAR ITEMS WILL BE DISPLAYED, STORED OR SOLD IN THE SEASONAL SALES AREA.

15. IF REQUESTED BY THE CITY AS PART OF THE COMPREHENSIVE DEVELOPMENT PLAN REVIEW, A NATURAL NON-HANDICAPPED ACCESSIBLE PEDESTRIAN ACCESS WILL BE LOCATED BETWEEN THE HOME DEPOT PARKING LOT AND GRIFFIN ROAD NEAR ITS INTERSECTION WITH SOUTHERN HILLS DRIVE.

16. THE FINISHED GRADE OF GRIFFIN ROAD BETWEEN ITS INTERSECTION WITH SOUTHERN LANE AND ITS INTERSECTION WITH SOUTHERN HILLS DRIVE AS SHOWN ON THE CONCEPT SITE PLAN (EXHIBIT B) WILL NOT EXCEED TWELVE AND ONE-HALF (12 ½) PERCENT.

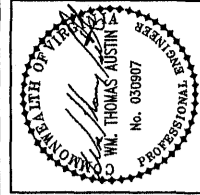
17. THERE WILL BE NO OUTDOOR STORAGE OF GOODS, MATERIALS OR MERCHANDISE OTHER THAN AS PROFFERED FOR THE SEASONAL SALES AREA DESIGNATED ON THE CONCEPT SITE PLAN (EXHIBIT B) AND THE AREAS SURROUNDED BY ORNAMENTAL FENCE SHOWN ON THE CONCEPT SITE PLAN (EXHIBIT B) AND THE

RENDERING OF THE HOME DEPOT BUILDING (EXHIBIT C).

ATTACHED AS EXHIBIT E ARE THE NAMES, ADDRESSES AND TAX NUMBERS OF THE OWNER OR OWNERS OF ALL LOTS OR PROPERTY IMMEDIATELY ADJACENT TO AND IMMEDIATELY ACROSS A STREET OR ROAD FROM THE SUBJECT PROPERTY.

WHEREFORE, THE PETITIONER REQUESTS THAT THE ABOVE-DESCRIBED AMENDED PROFFERS BE APPROVED AS HEREIN SET OUT IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING ORDINANCE OF THE CITY OF ROANOKE.

RESPECTFULLY SUBMITTED, THIS ____TH DAY OF JULY, 2005.



Seal of the City of Roanoke, Virginia, featuring a circular design with the text 'CITY OF ROANOKE, VIRGINIA' and '1837'.

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