ROANOKE CITY COUNCIL
REGULAR SESSION

APRIL 18, 2016
2:00 P.M.

CITY COUNCIL CHAMBER

AGENDA

1. Call to Order--Roll Call.

The Invocation will be delivered by Elder Joyce Boisseau, Associate Minister, Guiding Star New Day Ministries.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor David A. Bowers.

Welcome. Mayor Bowers.

NOTICE:

Today's Council meeting will be televised live and replayed on RVTV Channel 3 on Thursday, April 21 at 7:00 p.m., and Saturday, April 23 at 4:00 p.m.; and video streamed by Internet through CivicPlus, at roanokeva.gov/councilmeetings. Council meetings are offered with closed captioning for the hearing impaired.

ANNOUNCEMENTS:

THE PUBLIC IS ADVISED THAT MEMBERS OF COUNCIL RECEIVE THE CITY COUNCIL AGENDA AND RELATED COMMUNICATIONS, REPORTS, ORDINANCES AND RESOLUTIONS, ETC., ON THE THURSDAY PRIOR TO THE COUNCIL MEETING TO PROVIDE SUFFICIENT TIME FOR REVIEW OF INFORMATION.

THE CITY CLERK'S OFFICE PROVIDES THE MAJORITY OF THE CITY COUNCIL AGENDA ON THE INTERNET FOR VIEWING AND RESEARCH PURPOSES. TO ACCESS AGENDA MATERIAL, GO TO THE CITY'S HOMEPAGE AT WWW.ROANOKEVA.GOV, CLICK ON THE GOVERNMENT ICON, CITY COUNCIL AGENDAS.

NOTICE OF INTENT TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT. SPECIAL ASSISTANCE IS AVAILABLE FOR DISABLED PERSONS ADDRESSING CITY COUNCIL. EFFORTS WILL BE MADE TO PROVIDE ADAPTATIONS OR ACCOMMODATIONS BASED ON INDIVIDUAL NEEDS OF QUALIFIED INDIVIDUALS WITH DISABILITIES, PROVIDED THAT REASONABLE ADVANCE NOTIFICATION HAS BEEN RECEIVED BY THE CITY CLERK'S OFFICE.

PERSONS WISHING TO ADDRESS COUNCIL WILL BE REQUIRED TO CONTACT THE CITY CLERK'S OFFICE PRIOR TO THE MONDAY COUNCIL MEETING, OR REGISTER WITH THE STAFF ASSISTANT AT THE ENTRANCE TO THE COUNCIL CHAMBER PRIOR TO COMMENCEMENT OF THE COUNCIL MEETING. ONCE THE COUNCIL MEETING HAS CONVENED, THERE WILL BE NO FURTHER REGISTRATION OF SPEAKERS, EXCEPT FOR PUBLIC HEARING MATTERS. ON THE SAME AGENDA ITEM, ONE TO FOUR SPEAKERS WILL BE ALLOTTED FIVE MINUTES EACH; HOWEVER, IF THERE ARE MORE THAN FOUR SPEAKERS, EACH SPEAKER WILL BE ALLOTTED THREE MINUTES.

ANY PERSON WHO IS INTERESTED IN SERVING ON A CITY COUNCIL-APPOINTED AUTHORITY, BOARD, COMMISSION OR COMMITTEE MAY CONTACT THE CITY CLERK'S OFFICE AT 853-2541, OR ACCESS THE CITY'S HOMEPAGE TO COMPLETE AN ONLINE APPLICATION.

THE COUNCIL OF THE CITY OF ROANOKE IS SEEKING APPLICATIONS FOR THE FOLLOWING CURRENT VACANCIES AND/OR UPCOMING EXPIRATIONS OF TERMS OF OFFICE:

BUILDING AND FIRE CODE OF APPEALS/AT-LARGE – TWO VACANCIES
UNEXPIRED TERM OF OFFICE ENDING JUNE 30, 2017
TERM OF OFFICE ENDING JUNE 30, 2018

ROANOKE VALLEY-ALLEGHANY REGIONAL COMMISSION - ONE VACANCY
UNEXPIRED TERM OF OFFICE ENDING JUNE 30, 2018

HOTEL ROANOKE AND CONFERENCE CENTER COMMISSION - ONE VACANCY
FOUR-YEAR TERM OF OFFICE ENDING APRIL 12, 2020

ROANOKE CITY COUNCIL WILL CONDUCT FOUR INTERVIEWS THIS AFTERNOON COMMENCING AT 4:00 P.M., IN THE COUNCIL CHAMBER, TO CONSIDER APPLICANTS FOR TWO SCHOOL BOARD TRUSTEE POSITIONS FOR THREE-YEAR TERMS OF OFFICE, EFFECTIVE JULY 1, 2016. THE FOUR CANDIDATES ARE WILTON KENNEDY, ANNETTE LEWIS, SUSAN REESE AND LUTHERIA SMITH. A PUBLIC HEARING TO RECEIVE CITIZEN COMMENTS REGARDING THE FOUR CANDIDATES WILL BE HELD ON MONDAY, MAY 16 AT 7:00 P.M., IN THE COUNCIL CHAMBER.

2. PRESENTATIONS AND ACKNOWLEDGEMENTS:

A proclamation declaring April 24, 2016 as Faith Christian School Project Faith Day. P 10

Recognition of Timothy Martin, Communication and Media Coordinator.

3. HEARING OF CITIZENS UPON PUBLIC MATTERS:

CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. ALL MATTERS WILL BE REFERRED TO THE CITY MANAGER FOR RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL, AS HE MAY DEEM APPROPRIATE.

4. CONSENT AGENDA:

ALL MATTERS LISTED UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE MEMBERS OF CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF DISCUSSION IS DESIRED, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

C-1 Minutes of the regular meetings of City Council held on Monday, January 4, 2016, Tuesday, January 19, 2016; Monday, February 1, 2016; and Tuesday, February 16, 2016; and the recessed meeting held on Friday, January 15, 2016.

RECOMMENDED ACTION: Dispense with the reading of the minutes and approve as recorded.

C-2 A communication from the City Manager requesting that the Council convene in a Closed Meeting to discuss disposition of City-owned property located at 2750 Hoover Street, N. W., where discussion in an open meeting would adversely affect the bargaining or negotiating strategy of the public body, pursuant to Section 2.2-3711 (A)(3), Code of Virginia (1950), as amended. P 11

RECOMMENDED ACTION: Concur in the request.

C-3 A communication from Debbie Bonniwell, Executive Director, Blue Ridge Behavioral Healthcare Board of Directors, recommending concurrence in the reappointment of Greg Hamilton as a Board At-large member for a term of three years ending December 31, 2018. P 12

RECOMMENDED ACTION: Concur in the request.

C-4 A communication from Council Member Sherman P. Lea, Chair, City Council Personnel Committee, requesting that Council convene in a Closed Meeting to discuss a personnel matter, being the annual performances of the Council-Appointed Officers, pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended. P 276

RECOMMENDED ACTION: Concur in the request.

C-5 Reports of qualification of the following individuals:

Christopher P. Morrill as a City official representative of the Roanoke Valley Broadband Authority for a four-year term of office ending December 14, 2019;

Steve Stinson as a member of the Parks and Recreation Advisory Board for a three-year term of office ending March 31, 2019; and

Glen Wayne Hall as a member of the Building and Fire Code Board of Appeals to fill the unexpired term of office of Kirk Bates (Citizen at Large) ending June 30, 2016.

RECOMMENDED ACTION: Receive and file.

REGULAR AGENDA:

5. PUBLIC HEARINGS: NONE.

6. PETITIONS AND COMMUNICATIONS:

a. Request of the Roanoke Regional Airport Commission to present its proposed 2016 - 2017 Operating Budget and Proposed Capital Expenditures. Tim Bradshaw, Executive Director, Spokesperson. (Sponsored by the City Manager) P 13 P 19 R 20

b. Request of the Roanoke Valley Resource Authority to present its proposed 2016 - 2017 Annual Budget. Daniel D. Miles, Chief Executive Officer, Spokesperson. (Sponsored by the City Manager)

P 21
P 22
R 23

7. REPORTS OF CITY OFFICERS AND COMMENTS OF CITY MANAGER:

a. CITY MANAGER:

BRIEFINGS:

- Recommended Fiscal Year 2016 - 2017 Budget - 30 minutes

ITEMS RECOMMENDED FOR ACTION:

P 24
R 27
B/O 29
B/O 30
B/O 31

1. Acceptance and execution of the Home Again Permanent Supportive Housing Renewal Grant from the U. S. Department of Housing and Urban Development.

P 32
R 37
B/O 38

2. Acceptance and execution of the Out-of-School Time Grant, in cooperation with Walmart, from the National Recreation and Park's Association.

COMMENTS OF CITY MANAGER.

8. REPORTS OF COMMITTEES: NONE.

9. UNFINISHED BUSINESS: NONE.

10. INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

11. MOTIONS AND MISCELLANEOUS BUSINESS:

a. Inquiries and/or comments by the Mayor and Members of City Council.

b. Vacancies on certain authorities, boards, commissions and committees appointed by Council.

12. OTHER BUSINESS:

a. Petition for Appeal filed by Tammy Britt appealing a decision of the Architectural Review Board denying her request to replace an existing metal shingle roof with Oakridge architectural shingles at 418 Washington Avenue, S. W.
Matter to be continued until Monday, May 16, 2016, at 7:00 p.m.

13. RECESS.

THE COUNCIL MEETING WILL STAND IN RECESS FOR A CLOSED MEETING IN THE COUNCIL CONFERENCE ROOM; AND SUBSEQUENTLY, RECONVENE AT 4:00 P.M. , FOR SCHOOL BOARD TRUSTEE INTERVIEWS IN THE CITY COUNCIL CHAMBER.

FOLLOWING THE INTERVIEWS, THE COUNCIL MEETING WILL ONCE MORE STAND IN RECESS UNTL 7:00 P.M., IN THE CITY COUNCIL CHAMBER.

ROANOKE CITY COUNCIL
REGULAR SESSION

APRIL 18, 2016
7:00 P.M.

CITY COUNCIL CHAMBER

AGENDA

Call to Order--Roll Call.

The Invocation will be delivered by Mayor David A. Bowers.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor Bowers.

Welcome. Mayor Bowers.

CERTIFICATION OF CLOSED MEETING.

NOTICE:

Tonight's Council meeting will be televised live and replayed on RVTV Channel 3 on Thursday, April 21 at 7:00 p.m., and Saturday, April 23 at 4:00 p.m.; and video streamed by Internet through CivicPlus, at roanokeva.gov/councilmeetings. Council meetings are offered with closed captioning for the hearing impaired.

A. PRESENTATIONS AND ACKNOWLEDGEMENTS:

Recognition of the Patrick Henry High School Girls Swim Team.

B. PUBLIC HEARINGS:

1. Request of Contractors & Industrial Supply, Inc., to repeal conditions proffered as part of a previous rezoning in the 3300 block of Salem Turnpike, N. W., pursuant to Ordinance No. 31444-051793 adopted by Roanoke City Council on May 17, 1993. Barney Horrell, Brushy Mountain Engineering, PLLC, Spokesperson. P 39 O 105

2. Request of Coots, Cross, Lavinder & Quinn Management Company, LLC, successor to Coots Ward Management Company, to amend conditions proffered as part of a previous rezoning at 1930 Electric Road, S. W., pursuant to Ordinance No. 33561-090297 adopted by Roanoke City Council on September 2, 1997. Chris Burns, Balzer and Associates, Inc., Spokesperson. P 106 O 133

3. Proposal of the City of Roanoke to convey City-owned property located at 2206 Countryside Road, N. W., to Mr. and Mrs. Walter C. Evans, Jr., to construct a single dwelling home. Christopher P. Morrill, City Manager. P 135 O 142

4. Proposal of the City of Roanoke to grant a pedestrian access easement across City-owned property located at 416 Campbell Avenue, S. W., to 416 Campbell Avenue, LLC. Christopher P. Morrill, City Manager. P 143 O 147

5. Proposal of the City of Roanoke to convey a ten-foot wide gas line easement along Brambleton Avenue inside the boundary of Lakewood Park to Roanoke Gas Company. Christopher P. Morrill, City Manager. P 149 O 151

6. Proposal of the City of Roanoke to convey City-owned property located at 2002 Blue Hills Drive, N. E., to Deschutes Brewery, Inc., to construct a brewery and warehouse facility. Christopher P. Morrill, City Manager. P 153 O 222

C. OTHER BUSINESS:

1. A report of the City Manager recommending execution of a Commonwealth's Development Opportunity Fund Performance Agreement among the City of Roanoke, the Economic Development Authority of the City of Roanoke, and Deschutes Brewery, Inc. (for itself and its subsidiaries and affiliates) for construction and operation of a brewery and warehouse facility to be located at 2002 Blue Hills Drive, N. E.

P 227
O 249
B/O 253

2. A report of the City Manager recommending execution of a Performance Agreement regarding an Operation Period Economic Development Grant among the City of Roanoke, the Economic Development Authority of the City of Roanoke, and Deschutes Brewery, Inc., (for itself and its subsidiaries and affiliates) for construction and operation of a brewery and warehouse facility to be located at 2002 Blue Hills Drive, N. E.

P 254
O 273

D. HEARING OF CITIZENS UPON PUBLIC MATTERS:

CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. ALL MATTERS WILL BE REFERRED TO THE CITY MANAGER FOR RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL, AS HE MAY DEEM APPROPRIATE.

E. RECESS.

THE COUNCIL MEETING WILL STAND IN RECESS UNTIL THURSDAY, APRIL 28, AT 7:00 P.M., IN THE COUNCIL CHAMBER, FOR THE PURPOSE OF CONDUCTING PUBLIC HEARINGS ON THE CITY OF ROANOKE RECOMMENDED FISCAL YEAR 2016-2017 BUDGET; AND THE RECOMMENDED 2016-2017 HUD FUNDS BUDGET AND 2016-2017 ANNUAL UPDATE.

2.

Office of the Mayor

CITY OF ROANOKE

Proclamation

WHEREAS, *Faith Christian School is an accredited, independent Christian Classical School serving students in grades Junior Kindergarten through 12;*

WHEREAS, *Faith Christian School has been serving the community with Project Faith, a school wide community service fundraiser since 2002;*

WHEREAS, *Over the last 14 years, Project Faith has provided over 38,000 volunteer hours, engaged over 5,000 volunteers, completed projects at 37 locations, impacted hundreds of thousands of individuals and raised 1.8 million dollars that went toward teacher salaries, financial aid, educational materials and operating expenses;*

WHEREAS, *Faith Christian School, on its 15th Anniversary of Project Faith, is working throughout Grandin Village serving outstanding small businesses and churches. This is in honor of Faith Christian School's relationship with the Grandin Village Community since 1997, where our first school was held in space at The Heights Community Church; and*

WHEREAS, *Faith Christian School is honored to serve these worthy churches and small businesses through this year's Project Faith 2016 on Friday, April 29th in Grandin Village.*

NOW, THEREFORE, I, *David A. Bowers, Mayor of the City of Roanoke, Virginia, in recognition of this outstanding school mission by Faith Christian School to instill community service in the hearts of its students, do hereby proclaim April 29 throughout this great, six-time All-America City, as*

FAITH CHRISTIAN SCHOOL PROJECT FAITH DAY.

Given under our hands and the Seal of the City of Roanoke this eighteenth day of April in the year two thousand and sixteen.

ATTEST:

Stephanie M. Moon Reynolds

Stephanie M. Moon Reynolds
City Clerk

David A. Bowers
Mayor

C-2

CITY COUNCIL AGENDA REPORT

To: **Honorable Mayor and Members of City Council**

Meeting: **April 18, 2016**

Subject: **Request for Closed Meeting**

This is to request that City Council convene a closed meeting to discuss the disposition of City-owned property located at 2750 Hoover, Street, N.W. bearing Official Tax Map No. 2430601 where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to §2.2-3711.A.3, Code of Virginia (1950), as amended.

Christopher P. Morrill
City Manager

Distribution: Council Appointed Officers

C-3

Blue Ridge Behavioral Healthcare

CITY CLERK H23 APR 04 PM01:09

Executive Director
Debbie Bonniwell

March 29, 2016

Mr. Christopher P. Morrill
City Manager
City of Roanoke
215 Church Ave, SW, Room 364
Roanoke, VA 24011

Dear Mr. Morrill:

According to our Board records, the partial term of Mr. Greg Hamilton as an at-large representative on the Blue Ridge Behavioral Healthcare Board of Directors expired on December 31, 2015. This Board nominates it's at-large representatives, and asks the participating governing bodies to ratify those appointments. We have appreciated Mr. Hamilton's dedication to our mission, and would very much like to have him continue to serve as an At-Large member.

At our December 10, 2015 Board meeting, the Board unanimously endorsed Mr. Hamilton to serve an additional term as an at-large member for which he is eligible according to Title 37.2 - 502 of the Code of Virginia. We respectfully request that the Roanoke City Council ratify the reappointment of Mr. Hamilton for his first full term, from January 1, 2016 through December 31, 2018.

This request is being sent concurrently to administrators in each of our other four local governing bodies for their ratification of at-large members as called for in our By-laws. If I can be of assistance in this process or if you have any questions that I may be helpful with, please do not hesitate to contact me at 540-345-9841 at your convenience.

Sincerely,

Debbie Bonniwell

Debbie Bonniwell, MBA, MSSW, LCSW
Chief Executive Officer

C: The Honorable David A. Bowers, Mayor
Ms. Stephanie M. Moon, MMC, City Clerk
Ms. Donna Henderson
Mr. Greg Hamilton

6.a.

ROANOKE REGIONAL AIRPORT COMMISSION
Roanoke-Blacksburg Regional Airport
5202 Aviation Drive
Roanoke, VA 24012-1148
(540) 362-1999
FAX (540) 563-4838
www.flyroa.com

March 28, 2016

Honorable Mayor and Members
Roanoke City Council
215 Church Avenue, SW
Roanoke, Virginia 24011

Re: Roanoke Regional Airport Commission Fiscal Year 2016-2017 Budget and Proposed Capital Expenditures

Dear Mayor Bowers and Members of Council:

In accordance with the requirements of the Roanoke Regional Airport Commission Contract dated January 28, 1987, as amended, the Roanoke Regional Airport Commission is hereby submitting its Fiscal Year 2016-2017 Operating Budget (Attachment I) for approval. This Budget was adopted by the Commission at its meeting on March 28, 2016. We are also providing a separate listing of Capital Expenditures which are expected to exceed $100,000 in cost and are intended to benefit five or more future accounting periods (Attachment II).

You will note that no deficit is anticipated in either the Operating Budget or for the listed Capital Expenditures; therefore, no additional appropriations are being requested or anticipated from the City or the County of Roanoke. Formal approval of the Operating Budget and the Capital Expenditure List by resolution of each of the participating political subdivisions would be appreciated.

I would be pleased to respond to any questions or comments that you may have with regard to this matter. On behalf of the Commission, thank you very much for your assistance and cooperation.

Sincerely,

Tim Bradshaw AAE

Tim Bradshaw, A.A.E.
Executive Director

Enclosures

cc: Chair and Members, Roanoke Regional Airport Commission
Mark Allan Williams, General Counsel
Daniel Callaghan, Roanoke City Attorney
Stephanie Moon, Clerk, Roanoke City Council

ATTACHMENT I

Roanoke Regional Airport Commission
Budget Executive Summary
Proposed Budget FY 17 vs. Actual Budget FY 16

	OPERATING REVENUES	Proposed Budget FY 17	Annual Budget FY 2016	$ Change	% Change
A.	Airfield	$ 1,263,000	$ 1,191,044	$ 71,956	6.0%
B.	General Aviation	494,000	504,655	(10,655)	-2.1%
C.	Airline Terminal Related	1,305,000	1,209,752	95,248	7.9%
D.	Lease & Concessions	1,914,000	1,809,624	104,376	5.8%
E.	Other Revenues	346,000	349,957	(3,957)	-1.1%
F.	Interest on Investments	193,000	203,558	(10,558)	-5.2%
G.	Gain/(Loss) on sale of assets	5,000	5,000	-	0.0%
H.	State Funds	69,000	113,100	(44,100)	-39.0%
I.	Federal Reimbursable Funds	271,000	305,809	(34,809)	-11.4%
J.	Gross Public Parking Lot Revenue	3,218,000	3,438,263	(220,263)	-6.4%
	Total Operating Revenues	$ 9,078,000	$ 9,130,761	$ (52,761)	-0.6%

	OPERATING EXPENSES	Proposed Budget FY 17	Annual Budget FY 16	$ Change	% Change
A.	Salaries, Wages and Benefits	$ 4,840,696	$4,757,254	83,442	1.8%
B.	Operating Expenditures	4,210,133	4,207,187	2,945	0.1%
C.	Other Maintenance & Improvement Projects	0	45,900	(45,900)	-100.0%
	Total Operations and Maintenance	$ 9,050,829	$ 9,010,341	$ 40,488	0.4%

Operating Net Income (Loss)	$ 27,171	$ 120,420	$ (93,249)	77%

ATTACHMENT II

Proposed Capital Expenditures

(For projects expected to exceed $100,000 in cost and programmed for FY 2016-2017)

I. **Projects:**

A. New Passenger Loading Bridge at Gate 3

1. Description: This project is to add a new loading bridge at Gate 3 and include PC Air and 400 Hz Ground Power Unit. Also required is additional electrical service, modifications need to existing gate door and addition of security equipment.
2. Funding: Estimated cost is $1,500,000.
3. Anticipated Funding Sources:
   a. Federal AIP Grant Funds: $1,350,000
   b. State Aviation Grant Funds: $150,000

B. Replace Four Existing Passenger Loading Bridges

1. Description: The proposed project is to remove and replace the loading bridges at Gates 2, 4, 5, and 6. These bridges are over 25 years old and due to their age are eligible for grant funding for replacement. Replacement of these bridges along with the new bridge at Gate 3 should provide an opportunity for better pricing and having common features for all bridges including PC Air and 400 Hz Ground Power Units.
2. Funding: Estimated cost is $4,500,000
3. Anticipated Funding Sources:
   a. Federal AIP Grant Funds: $4,050,000
   b. State Aviation Grant Funds: $450,000

C. Walkway Canopy

1. Description: Project includes the addition of a canopy to provide weather protection and safety improvements for pedestrians circulating between the parking lots and the terminal building.
2. Funding: Estimated cost is $1,686,300
3. Anticipated Funding Sources:
   a. Federal AIP Grant Funds: $1,517,670
   b. Commission Funds: $168,630

D. Sealcoat Taxiways A, G and T

1. Description: As part of the ongoing airfield pavement maintenance, previously untreated areas of Taxiways A, G and T will be crack sealed, have a sealcoat applied and be remarked.
2. Funding: Budgeted amount is $555,000
3. Anticipated Funding Sources:
   a. State Aviation Grant Funds: $444,000
   b. Commission Funds: $111,000

E. HVAC Control Study/Upgrade

1. Description: Various terminal areas have been divided up for office uses and concession spaces. This has resulted in issues with the existing HVAC system. This project includes an initial study of the HVAC system that is anticipated to result in a construction project to improve the efficiencies of the HVAC system.
2. Funding: Estimated cost is $280,000
3. Anticipated Funding Sources:
   a. State Aviation Grant Funds: $224,000
   b. Commission Funds: $56,000

F. Sealcoat- Airfield & Roads/Parking Lots Phase 4
   4. Description: Allowance for needed pavement repairs including sealcoating, crack sealing and remarking as needed for airfield or parking lots and roadways.
   5. Funding: Budgeted amount is $350,000
   6. Anticipated Funding Sources:
      a. State Aviation Grant Funds: $280,000
      b. Commission Funds: $70,000
G. Snow Removal Equipment Storage
   1. Description: With the anticipated reuse of Building 21 where snow equipment is currently stored, lean-to structures are proposed to be added to Building 31 to provide the needed cover for this equipment.
   2. Funding: Estimated cost is $250,000
   3. Anticipated Funding Sources:
      a. State Aviation Grant Funds: $200,000
      b. Commission Funds: $50,000
H. Rehabilitate Terminal Front Fins, Trusses and Canopies
   1. Description: The terminal front fins, trusses and canopies over the terminal roadway need to be periodically stripped and painted to maintain the structures. Additionally, there is a need to address ADA issues with the trusses to ensure an accessible path.
   2. Funding: Estimated cost is $200,000
   3. Anticipated Funding Source:
      a. State Aviation Grant Funds: $160,000
      b. Commission Funds: $40,000
I. Improve RW 6-24 Safety Areas (Modified EMAS) Environmental Assessment
   1. Description: The FAA is requiring that any potential environmental impacts for the additions of modified EMAS beds at each end of RW 6-24 be studied through an Environmental Assessment process.
   2. Funding: Estimated cost is $200,000
   3. Anticipated Funding Sources:
      a. State Aviation Grant Funds: $180,000
      b. Commission Funds: $20,000
J. Replace Roadway Lights
   1. Description: Inspect and replace tall pole lights along roadway from Waypoint Dr. to Hangar 4 with new concrete bases, poles and LED lighting.
   2. Funding: Estimated cost is $150,000
   3. Anticipated Funding Sources:
      a. State Aviation Grant Funds: $120,000
      b. Commission Funds: $30,000
K. Preliminary Design Tunnel Rehabilitation
   1. Description: Project includes doing the preliminary design for adding a ventilation system to the south tunnel, replacing lighting, adding back-up electrical power, improving guard rails, and any needed structural repairs.
   2. Funding: Estimated cost is $100,000
   3. Anticipated Funding Sources:
      a. State Aviation Grant Funds: $80,000
      b. Commission Funds: $20,000
J. Parking Lot Rehabilitation

1. Description: Project scope will be based on recommendations in the Parking Lot Master Plan that is currently underway but may include rehabilitating the exit canopy and front of lot, replacing toll booths and adding Manager's office, updating signs, and adding Rental Car spaces. Improvements to the Rental Car spaces could be funded separately by proposed Customer Facility Charge (CFC) that may be included in future Rental Car Agreements.
2. Funding: Estimated cost is $1,700,000
3. Anticipated Funding Sources:
   a. Commission Funds: $1,700,000

O. Rental Car Common QTA
1. Description: Discussions with the Rental Car Companies indicated that they would be interested in the Commission providing a Quick Turn Around (QTA) facility for common requirements to wash, fuel and store rental cars. The design of this facility is anticipated in 2017 assuming the future collection of CFCs for the QTA facility.
2. Funding: Estimated cost is $500,000
3. Anticipated Funding Sources:
   a. Commission Funds (Possible CFC Funds): $500,000

II. Anticipated Funding Sources:

Federal AIP Grant Funds	$ 6,917,670
State Aviation Grant Funds	$ 2,288,000
Commission Capital Funds	$ 2,765,630
Estimated Total Projects Funding	$11,971,300

RESOLUTION OF THE ROANOKE REGIONAL AIRPORT COMMISSION

Adopted this 28th day of March, 2016

No. 12-032816

A RESOLUTION approving and adopting the Commission's Operating Budget for fiscal year 2016-2017.

BE IT RESOLVED by the Roanoke Regional Airport Commission that the fiscal year 2016-2017 Operating Budget for the Commission, as set forth in the report and accompanying attachment by the Commission Treasurer dated March 28, 2016, is hereby approved; and,

BE IT FINALLY RESOLVED that the Executive Director is authorized on behalf of the Commission to submit the fiscal year 2016-2017 Operating and Capital Purchase Budget, as well as the previously approved list of Proposed Capital Expenditures, to Roanoke City Council and the Roanoke County Board of Supervisors for approval pursuant to the contract between the Commission, Roanoke City, and Roanoke County dated January 28, 1987, as amended.

ATTEST:

Cathy S. Bowman

Secretary

VOTE:

AYES: Dooley, Gust, Lawrence, Porterfield, Minnix
NAYS: None

I certify that this is a true teste copy.

Cathy S. Bowman

Cathy S. Bowman, Commission Secretary

6.a.

CITY COUNCIL AGENDA REPORT

To: **Honorable Mayor and Members of City Council**

Meeting: **April 18, 2016**

Subject: **Proposed FY-17 Budget for the Roanoke Blacksburg Regional Airport**

I would like to sponsor Timothy Bradshaw, A.A.E., Executive Director of the Roanoke-Blacksburg Regional Airport, to present the Roanoke Regional Airport Commission's proposed Fiscal Year 2017 budget and proposed capital expenditures.

Christopher P. Morrill
City Manager

Distribution: Council Appointed Officers

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6.a.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION approving the Roanoke Regional Airport Commission's 2016-2017 proposed operating and capital budget upon certain terms and conditions.

BE IT RESOLVED by the Council of the City of Roanoke that in accordance with the requirements of the Roanoke Regional Airport Commission Act, as amended, and the Roanoke Regional Airport Commission Contract dated January 28, 1987, as amended, the City of Roanoke hereby approves the Roanoke Regional Airport Commission's 2016-2017 proposed operating and capital budget, as well as a separate listing of certain proposed capital expenditures, as more particularly set forth in a report from the Roanoke Regional Airport Commission to this Council dated March 28, 2016.

ATTEST:

City Clerk.

K:\Measures\Airport Commission Annual Budget 2016.doc

6.b.

ROANOKE VALLEY RESOURCE AUTHORITY

March 29, 2016

Stephanie M. Moon Reynolds, MMC
City Clerk, City of Roanoke
Municipal Building Room 456
215 Church Avenue, SW
Roanoke, VA 24011-1536

Dear Ms. Reynolds:

In accordance with the *Members Use Agreement*, the Resource Authority is submitting its FY 2016-2017 annual budget to the City Council for approval. Enclosed are copies of the budget for each member of the City Council and the City Attorney. A copy of the budget, along with the attached letter, has been sent to Mr. Morrill also.

I understand I am scheduled to present the Authority's budget to the City Council on April 18, 2016 at 2:00 p.m. to answer any questions or comments from the Council regarding our budget.

If you have any questions, need additional copies of the budget, or need to reschedule the Authority's placement on the Council's agenda, please let me know.

Thank you for your assistance.

Sincerely,

Daniel D. Miles, P.E.
Chief Executive Officer

DDM:plb
Attachments (13)

1020 Hollins Road, NE Roanoke, Virginia 24012-8011 (540) 857-5050 Fax (540) 857-5056
Web Site: www.rvra.net

6.b.

CITY COUNCIL AGENDA REPORT

To: **Honorable Mayor and Members of City Council**

Meeting: **April 18, 2016**

Subject: **Proposed FY-17 Budget for the Roanoke Valley Resource Authority**

I would like to sponsor Daniel D. Miles, P.E., Chief Executive Officer of the Roanoke Valley Resource Authority, to present the Authority's proposed Fiscal Year 2017 budget and related expenditures and revenues.

Christopher P. Morrill
City Manager

Distribution: Council Appointed Officers

6.b.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION approving the annual budget of the Roanoke Valley Resource Authority for Fiscal Year 2016-2017, upon certain terms and conditions.

BE IT RESOLVED by the Council of the City of Roanoke that the annual budget for the Roanoke Valley Resource Authority for Fiscal Year 2016-2017, in the amount of $8,338,292 is hereby approved, all as more particularly set forth in a letter, and attachments thereto, to the City Manager dated March 24, 2016, from Daniel D. Miles, P.E., Chief Executive Officer of the Roanoke Valley Resource Authority, copies of which have been provided to Council.

ATTEST:

City Clerk.

CITY COUNCIL AGENDA REPORT

To: Honorable Mayor and Members of City Council
Meeting: April 18, 2016
Subject: City of Roanoke Home Again Permanent Supportive Housing (PSH)

Background:

A City of Roanoke Home Again PSH grant allocation of $215,670 was awarded to the City of Roanoke for a one year period beginning November 1, 2016, through October 31, 2017. A local in-kind dollar for dollar match of supportive services is required and has been committed to by the following agencies: Salem Department of Veterans Affairs Medical Center, City of Roanoke Department of Social Services, Total Action for Progress, Blue Ridge Independent Living Center, Blue Ridge Behavioral Healthcare, City of Roanoke Health Department, Support Systems, Inc., Dominion Day, East Mental Health, Emotional Health Stabilization (EHS), Trust House, Salvation Army The Turning Point, Family Insight, National Counseling Group, Roanoke Resource, and the Roanoke Redevelopment and Housing Authority.

The Homeless Assistance Team (HAT) program was awarded a supportive services only grant of $140,422 for a one year period beginning February 1, 2016. A local cash match of $47,305 is required for a total program budget of $187,727.

Permanent supportive housing continues to be identified as a top priority for the Blue Ridge Continuum of Care (CoC) and the Blue Ridge Interagency Council on Homelessness. This program provides rental assistance and supportive services to disabled homeless individuals and their families. Disabilities are defined as serious mental illness, chronic substance abuse, AIDS or related diseases and physical disabilities. Currently, 42 housing units are under lease in the PSH program including 1 in Salem, 9 in Roanoke County and the remainder in the City.

The street outreach program goals are to assist homeless persons in their transition from streets and emergency shelters to transitional and permanent housing. HAT staff maintain office hours from 8:00 a.m. until noon after which time street outreach is conducted in shelters and other places not designed for human habitation. Through contacts and engagements, staff provides limited case management services including agency referrals, security deposits, food, transportation, and prescription assistance. Last year, the program assisted 2,118 participants.

The Council of Community Services (CCS) and the City of Roanoke partnered together to apply for CoC planning funds. As the grantee, the City was also awarded $37,728 for CoC Planning. This project will provide planning, monitoring and evaluation to the CoC and the Blue Ridge Interagency Council on Homelessness (BRICH). This project will engage the CoC Committee and the BRICH members in strategic planning to increase focus on prevention of homelessness and rapid re-housing. It will increase accountability through adoption of community wide standards, program monitoring, and data collection for reporting progress against objectives and standards in the

strategic business plan. This level of oversight will increase our ability to meet HUD's national objectives. The project will provide written reports, monitoring and evaluation of HUD programs and assist in the development of the annual CoC application.

Cash match for this grant is being provided by the Council of Community Services ($5,000) and the City of Roanoke's HUD Community Development Block Grant Program ($5,000).

Recommended Action:

As fiscal agent, authorize the City Manager to accept the PSH Renewal Grant Award in the amount of $215,670 from the U. S. Department of Housing and Urban Development and execute the required grant documents on behalf of the City; such documents to be approved as to form by the City Attorney.

Adopt the accompanying budget ordinance to establish a revenue estimate in the amount of $215,670 and appropriate funding in the same amount into an account to be established by the Director of Finance in the Grant Fund.

Accept the HAT grant award described above and authorize the City Manager to take such actions and execute such documents as may be necessary to obtain, accept, implement, administer, and use such grant funds, including execution of any required grant agreement, such documents to be in a form approved by the City Attorney.

Adopt the accompanying budget ordinance to establish revenue estimates in the amount of $140,422 for Federal grant funds and $47,305 for local match funds. Transfer funding in the amount of $47,305 from the Transfer to Grant Fund (01-250-9310-9535), and appropriate funding in the amount of $187,727 into accounts to be established in the Grant Fund (as outlined in Attachment A) by the Director of Finance.

Accept the Planning grant in the amount of $37,728 and authorize the City Manager to execute the grant documents associated with this funding. All documents shall be approved as to form by the City Attorney.

Adopt the accompanying budget ordinance to establish a revenue estimate in the amount of $37,728 and to appropriate the same amount to Fees for Professional Services in an account to be established by the Director of Finance in the Grant Fund.

CHRISTOPHER P. MORRILL
City Manager

Attachment

Distribution: Council Appointed Officers
R. Brian Townsend, Assistant City Manager
Barbara A. Dameron, Director of Finance
Jane R. Conlin, Director, Human/Social Services

7.a.1.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION authorizing acceptance of the following grants by the City of Roanoke from the United States Department of Housing and Urban Development ("HUD") to be used for the purposes of ending homelessness (1) a "Home Again" Permanent Supportive Housing ("PSH") grant in the amount of $215,670, (2) a Homeless Assistance Team ("HAT") grant in the amount of $140,422, and (3) a Continuum of Care Planning grant in the amount of $37,728; authorizing the City of Roanoke to serve as fiscal agent for the distribution of such funds; and authorizing the execution of the necessary documents.

BE IT RESOLVED by the Council of the City of Roanoke that:

1. The City of Roanoke hereby ACCEPTS the following grants from HUD:

(a) The "Home Again" PSH grant in the amount of $215,670, with a required local in-kind dollar for dollar match of supportive services, such match to be provided by the City of Roanoke and various external agencies, for a one year period beginning November 1, 2016, through October 31, 2017, to provide rental assistance and supportive services to disabled homeless individuals and their families.

(b) A HAT grant in the amount of $140,422, with a local cash match in the amount of $47,305 from the City of Roanoke, to be used for supportive services to homeless individuals and their families, for the one year period beginning February 1, 2016, through January 31, 2017; and

(c) A Continuum of Care Planning grant in the amount of $37,728, with a local cash match in the amount of $5,000 and in kind supportive services from the City of

Roanoke, and a cash match in the amount of $5,000 and in kind supportive services from the Council of Community Services, to be used for implementing strategies to end homelessness, for the one year period beginning July 1, 2016, through June 30, 2017.

The terms and conditions of the grants are more particularly described in the City Council Agenda Report dated April 18, 2016.

2. The City of Roanoke is authorized to be the fiscal agent for the above referenced grants and shall be responsible for distributing the proceeds of the grants.

3. The City Manager is hereby authorized to execute any and all requisite documents, in a form approved by the City Attorney, and to furnish such additional information as may be required in connection with the City's acceptance of such grants.

ATTEST:

City Clerk

7.a.1.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding from the United States Department of Housing and Urban Development for the Shelter Plus Care Home Again Grant, amending and reordaining certain sections of the 2015-2016 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2015-2016 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Fees for Professional Services	35-630-5308-2010	$ 17,253
Shelter Plus Care	35-630-5308-2159	198,417
Revenues		
Shelter Plus Care FY17	35-630-5308-5308	215,670

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

7.a.1.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding from the United States Department of Housing and Urban Development for the Homeless Assistance Team Grant, amending and reordaining certain sections of the 2015-2016 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2015-2016 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Regular Employee Salary	35-630-5361-1002	$ 105,921
Temporary Employee Wages	35-630-5361-1004	13,520
City Retirement	35-630-5361-1105	16,564
Health Savings	35-630-5361-1117	1,047
FICA	35-630-5361-1120	9,137
Medical Insurance	35-630-5361-1125	18,205
Dental Insurance	35-630-5361-1126	1,000
Life Insurance	35-630-5361-1130	1,261
Disability Insurance	35-630-5361-1131	100
Telephone	35-630-5361-2020	1,400
Telephone-Cellular	35-630-5361-2021	800
Administrative Supplies	35-630-5361-2030	1,500
Motor Fuel Billed Through Fleet	35-630-5361-2039	1,300
Program Activities	35-630-5361-2066	15,372
Postage	35-630-5361-2160	100
Fleet Management Vehicle Repair	35-630-5361-7026	500
Revenues		
Homeless Assistance Team FY16	35-630-5361-5361	140,422
Homeless Assistance Team FY16 - Local	35-630-5361-5362	47,305

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

7.a.1.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding from the United States Department of Housing and Urban Development for the Continuum of Care (CoC) Planning Grant, amending and reordaining certain sections of the 2015-2016 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2015-2016 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Fees for Professional Services	35-630-5424-2010	$ 37,728
Revenues		
CoC Planning FY16 - Federal	35-630-5424-5424	37,728

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

7.a.2.

CITY COUNCIL AGENDA REPORT

To: Honorable Mayor and Members of City Council

Meeting: April 18, 2016

Subject: Out-of-School Time Grant

Background:

The City of Roanoke Parks and Recreation Department has been awarded a $35,000 grant through the National Recreation and Parks Association's Out-of-School Time Grant in cooperation with Walmart.

Considerations:

The purpose of this grant is to increase the number of healthy meals children in low-income communities receive through the Summer Food Service Program (SFSP) and the Child and Adult Care Food Program (CACFP) during out-of-school times. The funds will be directly used to support efforts to:

1. Provide nutrition literacy through enrichment activities to children and families that creates behavior change by teaching the importance of healthy eating;

2. Implement nutrition standards that increase access to healthier foods and support a healthy eating environment; and

3. Promote meal and program efficiencies that will decrease food waste and lead to a more sustainable meal program.

In addition to the City of Roanoke's meal sites, the Parks and Recreation Department will be conducting outreach to other meal sites to engage children and families in healthy eating.

Participating locations include Apple Ridge Farm, Bluestone Park, Boys and Girls Club, Dominion Day Services, Indian Rock Village, Intercept Youth Services, Jamestown Place, Jesus Is Lord Church, Lansdowne Park, Renewed Mind Worship Center, and Villages at Lincoln.

Recommended Action:

Accept the National Recreation and Parks Association's Out-of-School Time Grant in the amount of $35,000, and authorize the City Manager and City Clerk to execute and attest respectively, an agreement with the National Recreation and Parks Association and any other forms necessary to accept such grant, approved as to form by the City Attorney.

Adopt the accompanying budget ordinance to establish a revenue estimate in the amount of $35,000, and appropriate funding in the same amount into an expenditure account to be established in the Grant Fund by the Director of Finance.

Christopher P. Morrill
City Manager

Distribution: Council Appointed Officers
R. Brian Townsend, Assistant City Manager
Barbara A. Dameron, Director of Finance
Steven C. Buschor, Director of Parks and Recreation

National Recreation and Park Association

April 4, 2016

Steven Buschor
City of Roanoke Parks and Recreation Department
215 Church Avenue, SW 303
Roanoke, VA 24011

Dear Steven Buschor,

Thank you for applying for an Out-of-School Time Programs grant from the National Recreation and Park Association (NRPA) in partnership with the Walmart Foundation. I am pleased to inform you that your agency has been selected to receive grant funding in the amount of $35000 to support your agency's out-of-school time programs.

Congratulations – we look forward to working with you to ensure as many children as possible receive nutritious meals and healthy enrichment activity during out-of-school times.

The grant agreement period is April 4, 2016 to March 1, 2017. During this period, your agency is required to:

1. Direct grant funds to:

    A. Increase the number of healthy meals children in low-income communities receive through the Summer Food Service Program (SFSP) and the Child and Adult Care Food Program (CACFP) during out-of-school times.

    B. Provide nutrition literacy to children and families that creates behavior change by teaching the importance of healthy eating.

    C. Implement nutrition and physical activity standards that increase access to healthier foods and increase opportunities for physical activity.

    D. Promote meal and program efficiencies that will decrease food waste and lead to more sustainable meal programs.

2. Provide a copy of your agency's W-9 along with this signed MOU by **May 15, 2016**.

3. Complete the following items at the beginning of the grant period. No grant funds will be disbursed until each of these items are complete.

    a. Complete the Commit to Health pledge for each of your out-of-school time sites where you plan to implement the Healthy Eating and Physical Activity (HEPA) standards. Note that while this grant period is less than a year, Commit to Health is a five year initiative.

    b. Complete the Alliance for a Healthier Generation's Healthy Out-of-School Time Assessment (accessible after registering your sites) at the beginning of the grant period and again by **January 15, 2017**.

c. Create an Action Plan for each of your out-of-school time sites where you will be implementing the HEPA standards (this can be done while completing the assessment) at the beginning of the grant period and again by January 15, 2017.

4. At least one representative from your agency must attend:
   a. Mandatory preliminary phone conference on April 26, 2016.
   b. Mandatory virtual training for Summer programming on May 10, 2016 (it is recommended that additional management and program staff attend this training).
   c. Mandatory virtual training for Fall programming on August 16, 2016 (it is recommended that additional management and program staff attend this training).

5. Implement the Nutrition Literacy Curriculum in at least 10 out-of-school time sites in the Summer and Fall of 2016.

6. Implement the Cooking Matters at the Store Program in the Summer and Fall of 2016.

7. Promote the mHealth (mobile texting) campaign at your park and recreation sites to help engage parents and teens.

8. If selected, participate in an evaluation group conference call on May 17, 2016 and administer surveys pre and post-program to children and staff to evaluate the effectiveness of the nutrition literacy curriculum on increasing knowledge of nutrition and healthy living.

9. If requested, host a half-day site visit by NRPA staff, including local stakeholders.

10. If selected, host focus groups conducted by NRPA staff at one or more of your sites to include program participants, parents/caregivers, and staff.

11. Participate in occasional conference calls with NRPA and other grantees, as requested.

12. If requested, participate in a phone interview with NRPA and a consultant to share information on your successes, challenges, and lessons learned. Your information will be compiled into a case study publication which NRPA will produce as part of this initiative.

13. Share success stories, press releases, photos, videos, quotes, local media and other outreach information highlighting the impact of the grant throughout the grant period. (Please forward to Allison Colman at acolman@nrpa.org)

14. Submit a final report by **January 15, 2017** using an online survey tool provided by NRPA. This report will collect information, such as the number of healthy meals served and the number of children who participated in your out-of-school time programs. It will also collect information on how the grant funds were spent.

Termination for Cause: Either party shall have the right to terminate this MOU for cause if the other party (i) materially breaches its obligations and agreements hereunder, or (ii) commits and/or demonstrates gross neglect in the conduct of its duties hereunder. In addition, NRPA retains the right to terminate this MOU, upon written notice, if it determines

that continued affiliation with your agency is inconsistent with its mission and/or adversely affects its reputation. In order to terminate this MOU for cause, and as a condition to exercising such right to terminate for cause, a party shall give the other party thirty (30) days' prior written notice of such intention to terminate, specifying in detail the grounds or reasons for such termination for cause. Following any notice of termination for cause, the receiving party shall be permitted a reasonable opportunity to cure such claimed cause to the reasonable satisfaction of the other party.

Please acknowledge your agreement to the terms above by signing below. Upon receipt of this signed form, your agency's W-9, and NRPA's verification that your Commit to Health pledges and Healthy Out-of-School Time Assessments and Action Plans have been completed, a check will be issued for your grant funds minus $5000 that will be disbursed upon completion of all grant requirements.

Name of Agency	Primary Point of Contact
Signature	Email for Primary Contact
Printed Name	Telephone for Primary Contact
EIN Number	

Once signed, please scan and e-mail to Allison Colman, Program Manager, at acolman@nrpa.org. Please do not hesitate to contact Allison directly at (703) 858-2156 should you have any questions.

Sincerely,

Rebecca Wickline

Rebecca Wickline
Vice President, Business Development

5T 4/12/16

7.a.2.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION accepting the Out-of-School Time Grant to the City from the National Recreation and Parks Association in cooperation with Walmart, and authorizing execution of any required documentation on behalf of the City in connection with such grant, under certain conditions.

BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. The City Manager is hereby authorized on behalf of the City to accept from the National Recreation and Parks Association a grant in the amount of $35,000, with no local match from the City, to increase the number of healthy meals children in low-income areas receive during out-of-school times, all of which is more particularly described in the City Council Agenda Report dated April 18, 2016.

2. The City Manager and the City Clerk are hereby authorized to execute and attest, respectively, the grant agreement and all necessary documents required to accept the grant, all of such documents to be approved as to form by the City Attorney.

3. The City Manager is further directed to furnish such additional information as may be required in connection with the City's acceptance of this grant.

ATTEST:

City Clerk.

7.a.2.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding from National Recreation and Parks Association for the Out-of-School Time Grant for food service, nutrition education, and sustainability, amending and reordaining certain sections of the 2015-2016 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that certain sections of the 2015-2016 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Professional Fees	35-620-8314-2010	$ 35,000
Revenues		
Summer Food Program FY17	35-620-8314-8314	35,000

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

B.1.

CITY COUNCIL AGENDA REPORT

To: Honorable Mayor and Members of City Council

Meeting: April 18, 2016

Subject: Application by Contractors & Industrial Supply, Inc., to repeal conditions proffered as part of a rezoning at a parcel on the 3300 block of Salem Turnpike, N.W., bearing Official Tax No. 2640351.

Recommendation

The Planning Commission held a public hearing on Monday, April 11, 2016. By a vote of 6 - 0 the Commission recommended approval of the rezoning request, finding that the Original Application is consistent with the City's Comprehensive Plan, *Peter's Creek South Neighborhood Plan*, and Zoning Ordinance as it repeals conditions on the property to allow uses appropriate to the surrounding neighborhood.

Application Information

Request:	Repeal of Proffered Conditions
Owner:	Richard D. Moses, Contractor's & Industrial Supply, Inc.
Applicant:	N/A
Authorized Agent:	Barney Horrell, Brushy Mountain Engineering, PLLC
City Staff Person:	Katharine Gray, Land Use and Urban Design Planner
Site Address/Location:	0 Salem Turnpike, NW (3300 Block)
Official Tax No.:	2640351
Site Area:	Approximately 28,000 square feet
Existing Zoning:	I-1, Light Industrial District, a portion with conditions
Proposed Zoning:	I-1, Light Industrial District
Existing Land Use:	Vacant
Proposed Land Use:	Building Supplies and Materials, Wholesale and Retail
Neighborhood Plan:	Peter's Creek South Neighborhood Plan
Specified Future Land Use:	Industrial
Filing Date:	Original Application: February 19, 2016

Background

The property at 0 Salem Turnpike, N.W., bearing Official Tax No. 2640351 in the 3300 block, has long been vacant. In 1993, the northwest portion of the property along with a portion of the adjacent property to the west was rezoned from LM, Light Manufacturing District, to C-2, General Commercial District, with conditions, to allow the property to be used for an indoor recreation use.

In the 2005 Comprehensive Rezoning of the City, the portions of the parcels rezoned with conditions in 1993 were rezoned to I-1, Light Industrial District, but the conditions remained.

Contractors & Industrial Supply, Inc. has operated since 1997 on the adjacent parcel to the east at 3405 Salem Turnpike, N.W. They have grown over the past twenty years and have outgrown their existing headquarters building. They purchased this property in 2012 for the purpose of creating a new and larger headquarters, but the existing proffered conditions on the northwestern corner portion of the site do not allow them to develop the property as proposed.

In February 2016, the Applicant filed an application to repeal the proffered conditions from 1993.

Conditions Requested To Be Repealed by the Applicant

The applicant hereby requests that the following proffered conditions enacted by Ordinance No. 31444-051793 be repealed as they pertain to Official Tax No. 2640351:

1. That the property will be developed in substantial conformity with the site plan dated January 11, 1993, a copy of which is attached to the Petition for Rezoning as Exhibit "C," subject to any changes required by the City during site plan review.
2. That the subject property requested for rezoning will be used for indoor recreational uses including bingo.
3. That at the expiration of ten years from the effective date of the City ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, the property will automatically revert from C-2, General Commercial District, to LM, Light Manufacturing District, without any further action required of City Council.
4. Furthermore, at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, all the indoor recreational uses established on the subject property shall be discontinued and all new uses on the subject property shall be those as permitted in the LM, Light Manufacturing District.

Considerations

Surrounding Zoning and Land Use:

	Zoning District	Land Use
North	ROS, Recreation and Open Space District	Cemetery
South	I-1, Light Industrial District	Vacant and Building Supplies and Materials, Wholesale
East	I-1, Light Industrial District	Building Supplies and Materials, Wholesale and Retail
West	I-1, Light Industrial District (with conditions on northeastern portion)	Vacant

Compliance with the Zoning Ordinance:

The purpose of the I-1 District is to provide for a range of wholesale, warehousing, distribution, storage, repair and service, assembly or processing, fabrication or manufacturing, accessory commercial and office uses, intensive commercial uses, and other types of uses such as flex space. The regulations of the I-1 District are intended to mitigate conflict between adjacent uses within the district and to protect neighboring nonindustrial districts and uses.
The repeal of proffered conditions will allow new development subject to the dimensional standards of the I-1 district for any future changes.

Conformity with the Comprehensive Plan and Neighborhood Plan:

Both *Vision 2001-2020* and the *Peter's Creek South Neighborhood Plan* identify the need for development of existing industrial properties within existing industrial zoning districts. The repeal of proffered conditions will return the property to a non-conditional industrial zoning state that will allow for the property to be fully developed

Relevant *Vision 2001-2020* policies:

- ED P5. Industrial development. Underutilized and vacant industrial sites will be evaluated and redevelopment encouraged.

Relevant *Peter's Creek South Neighborhood Plan* Policies:

Community Design Discussion

Most industrial uses are located along Shenandoah Avenue and Salem Turnpike. Parts of this industrially-zoned area are either undeveloped or under developed.

The use of the properties in the 3300 block of Salem Turnpike, N.W., has long been one of an industrial nature. The area is shown as an industrial area from the time that it appears as a portion of the City of Roanoke in the 1966 Zoning Map. The 1993 rezoning with conditions to allow an indoor recreation use for ten years was an exception to the typical industrial designation allowed in the area. Now, a new owner proposes to put the vacant property into service as their company headquarters through the repeal of the existing conditions. The future land use map in the neighborhood plan agrees that the property should be used for industrial use. Therefore, the proffered conditions should be removed.

Public Comments:

None.

Planning Commission Work Session:

None.

Planning Commission Public Hearing:

None.

James E. Smith / tmc

James E. Smith, Acting Chair
City Planning Commission

cc: Chris Morrill, City Manager
R. Brian Townsend, Assistant City Manager
Chris Chittum, Director of Planning Building & Development
Ian D. Shaw, Planning Commission Agent
Daniel J. Callaghan, City Attorney
Steven J. Talevi, Assistant City Attorney
Richard D. Moses, Contractor's & Industrial Supply, Inc.
Barney Horrell, Brushy Mountain Engineering, PLLC

REZ 160004

Zoning Amendment Application

RECEIVED
FEB 29 2016
CITY OF ROANOKE
PLANNING BUILDING & DEVELOPMENT

ROANOKE

Click Here to Print

Department of Planning, Building and Development
Room 166, Noel C. Taylor Municipal Building
215 Church Avenue, S.W.
Roanoke, Virginia 24011
Phone: (540) 853-1730 Fax: (540) 853-1230

Date: February 26, 2016

Submittal Number: Original Application

Request (select all that apply):

- ☐ Rezoning, Not Otherwise Listed
- ☐ Rezoning, Conditional
- ☐ Rezoning to Planned Unit Development
- ☐ Establishment of Comprehensive Sign Overlay District
- ☒ Amendment of Proffered Conditions
- ☐ Amendment of Planned Unit Development Plan
- ☐ Amendment of Comprehensive Sign Overlay District

Property Information:

Address: not yet assigned (3300 block of Salem Turnpike NW, Roanoke, VA 24017)

Official Tax No(s).: 2640351

Existing Base Zoning: (If multiple zones, please manually enter all districts.) I-1, Light Industrial ☒ With Conditions ☐ Without Conditions

Ordinance No(s). for Existing Conditions (If applicable): 31444-051793

Requested Zoning: I-1, Light Industrial ☐ With Conditions ☒ Without Conditions

Proposed Land Use: Warehouse, Retail

Property Owner Information:

Name: Richard D. Moses, President - Contractors & Industrial Supply, Inc.

Phone Number: +1 (800) 868-9746

Address: 3304 Salem Turnpike NW, Roanoke, VA 24017

E-Mail: pete@go2cis.com

Richard D. Moses President

Property Owner's Signature:

Applicant Information (if different from owner):

Name:

Phone Number:

Address:

E-Mail:

Applicant's Signature:

Authorized Agent Information (if applicable):

Name: Barney Horrell, Brushy Mountain Engineering, PLLC

Phone Number: +1 (540) 526-6800

Address: 3553 Carvins Cove Road, Salem, VA 24153

E-Mail: barney@brushymtnengr.com

02-26-2016

Authorized Agent's Signature:

Zoning Amendment

Application Checklist

ROANOKE

The following must be submitted for all applications:

- ☒ *Completed* application form and checklist.
- ☒ Written narrative explaining the reason for the request.
- ☒ Metes and bounds description, if applicable.
- ☒ Filing fee.

For a rezoning not otherwise listed, the following must also be submitted:

- ☐ Concept plan meeting the Application Requirements of item '2(c)' in Zoning Amendment Procedures.

For a conditional rezoning, the following must also be submitted:

- ☐ Written proffers. See the City's Guide to Proffered Conditions.
- ☐ Concept plan meeting the Application Requirements of item '2(c)' in Zoning Amendment Procedures. Please label as 'development plan' if proffered.

For a planned unit development, the following must also be submitted:

- ☐ Development plan meeting the requirements of Section 36.2-326 of the City's Zoning Ordinance.

For a comprehensive sign overlay district, the following must be submitted:

- ☐ Comprehensive signage plan meeting the requirements of Section 36.2-336(d)(2) of the City's Zoning Ordinance.

For an amendment of proffered conditions, the following must also be submitted:

- ☒ Amended development or concept plan meeting the Application Requirements of item '2(c)' in Zoning Amendment Procedures, if applicable.
- ☒ Written proffers to be amended. See the City's Guide to Proffered Conditions.
- ☒ Copy of previously adopted Ordinance.

For a planned unit development amendment, the following must also be submitted:

- ☐ Amended development plan meeting the requirements of Section 36.2-326 of the City's Zoning Ordinance.
- ☐ Copy of previously adopted Ordinance.

For a comprehensive sign overlay amendment, the following must also be submitted:

- ☐ Amended comprehensive signage plan meeting the requirements of Section 36.2-336(d) of the City's Zoning Ordinance.
- ☐ Copy of previously adopted Ordinance.

For a proposal that requires a traffic impact study be submitted to the City, the following must also be submitted:

- ☐ A Traffic Impact Study in compliance with Appendix B-2(e) of the City's Zoning Ordinance.

For a proposal that requires a traffic impact analysis be submitted to VDOT, the following must also be submitted:

- ☐ Cover sheet.
- ☐ Traffic Impact analysis.
- ☐ Concept plan.
- ☐ Proffered conditions, if applicable.
- ☐ Required fee.

*An electronic copy of this application and checklist can be found at www.roanokeva.gov/pbd by selecting 'Planning Commission' under 'Boards and Commissions'. A complete packet must be submitted each time an application is amended, unless otherwise specified by staff.

PROJECT NARRATIVE

Contractors & Industrial Supply, Inc. has been operating in Roanoke since 1984. In 1997 it moved from 1805 Shenandoah Avenue to its current location at 3304 Salem Turnpike NW. Today Contractors & Industrial Supply has distribution warehouses in Virginia and North Carolina but Roanoke remains the hometown of the corporate headquarters. The current headquarters has 10-12 employees with a small retail showroom, warehouse space, and several offices. After nearly 20 years in its current location the company space needs have grown beyond the limits of its current facility. Wishing to remain in Roanoke, the company purchased the vacant lot immediately west of its current building with the intent to construct a new, larger stand alone facility. The new facility will allow the company to add a few more employees and more efficiently warehouse its products. The existing facility will be sold or used for lease space.

The vacant lot to the west (Tax # 2640351) is currently zoned Industrial (I-1) but a portion of the lot has proffered conditions which limit the usage of the property. The attached application requests the repeal of these proffered conditions so that the applicant may move forward with the construction of a new single story 180'x100' metal building in compliance with the Industrial zoning of the property.

Again the planned use conforms to the underlying Industrial (I-1) zoning. The new facility is also in line with the Comprehensive Plan and the Neighborhood Plan which has this area slated to remain as industrial type uses. In a prior rezoning petition filed April 14, 1997, a previous land owner proffered several conditions on a portion of the site in return for a temporary rezoning to allow for an indoor recreation use. Ordinance 31444-051793adopted by City Council on May 17, 1993 granted a temporary (10 year term) rezoning of a portion of the properties identified as Tax # 2640351 and Tax # 2640311 from Light Manufacturing (LM) to General Commercial (C-2) subject to four proffered conditions. At the 10-year anniversary of the adoption of the above Ordinance, the property zoning was to revert to LM without further action by the Council. The property was never developed as planned and remains undeveloped to this day. The 10-year date has passed and the property is now technically reverted to the LM zoning which is now classified as Industrial (I-1). In order to ensure all previous zoning and proffered conditions no longer apply to the portion of the property identified as Tax # 2640351, the new property owner, Contractors & Industrial Supply, Inc. is herein requesting that City Council take formal action to remove all four of the previously proffered conditions from the property. This will leave the property zoned Industrial (I-1) and make it subject only to the development regulations of I-1 zoning.

The current preliminary development plan includes a rectangular metal building with customer parking in front of the building and employee parking along the west side. Truck docks in one

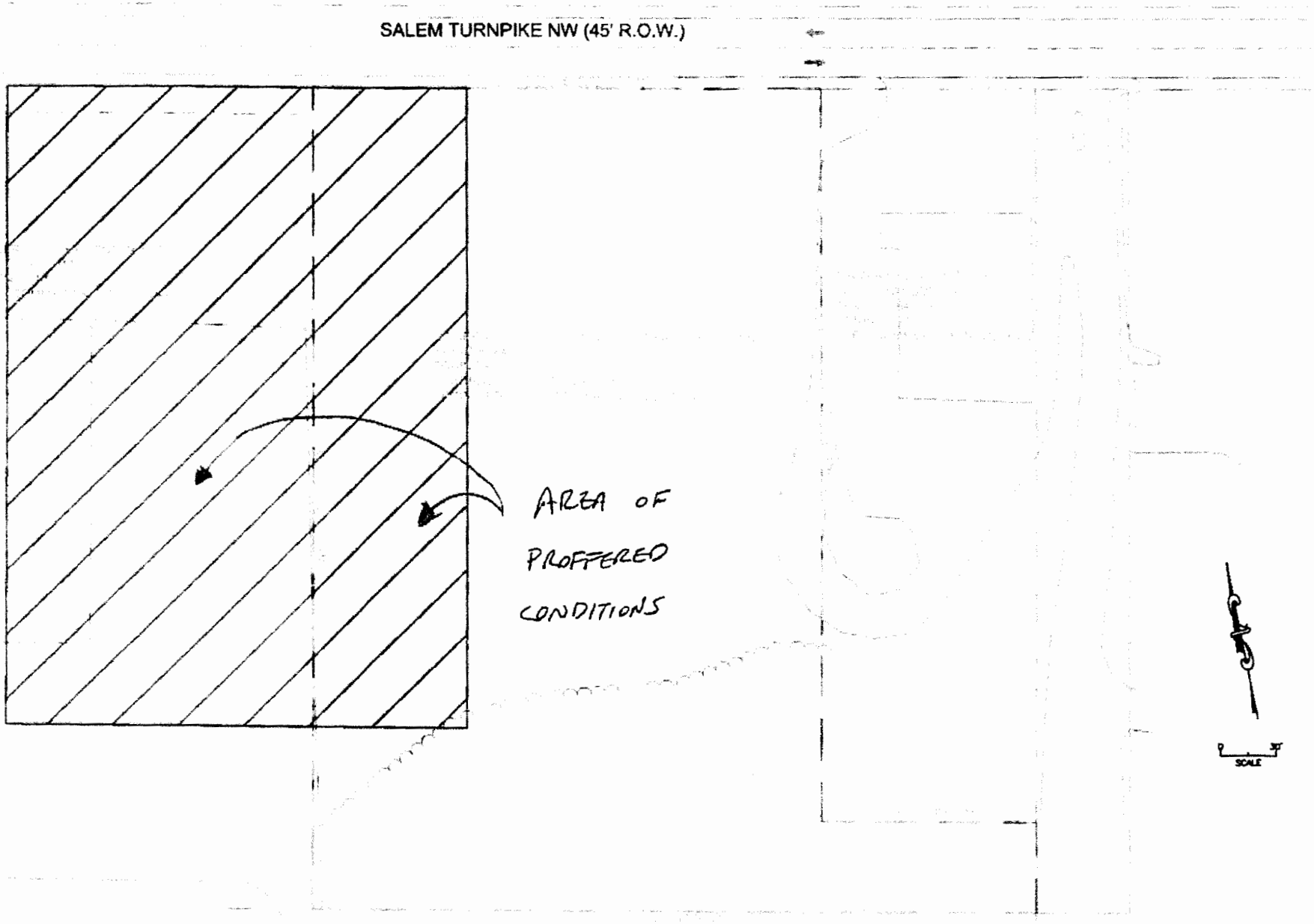
corner will facilitate the easy distribution of supplies and products to customers and the other warehouse locations. Two new access driveways will be constructed onto Salem Turnpike NW. The western drive will be the primary access for employees and the public. The eastern drive will serve as the truck exit. The proposed building setbacks and parking lot design will comply with the Industrial (I-1) zoning regulations. The new site development will also comply with the latest stormwater regulations with some manner of detention and treatment BMP's in the southern portion of the property.

By granting this request to repeal the proffered conditions on a portion of Tax No. 264-0351, the City Council will allow Contractors & Industrial Supply, Inc. to continue growing and contributing to the economy of the City of Roanoke.

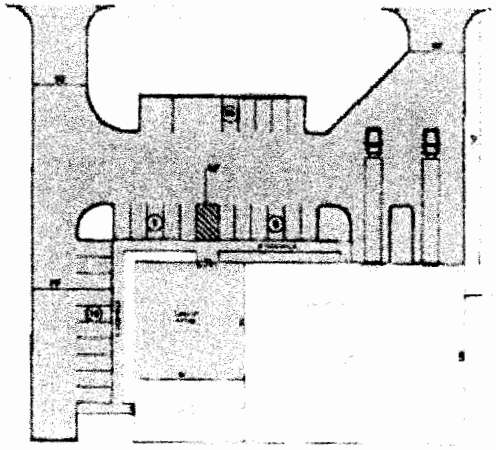
Proffered Conditions to be Repealed

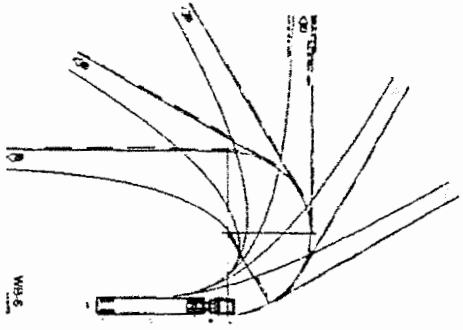
The applicant hereby requests that the following proffered conditions enacted by Ordinance No. 31444-051793 be repealed as they pertain to Official Tax No. 2640351:

1. *That the property will be developed in substantial conformity with the site plan dated January 11, 1993, a copy of which is attached to the Petition for Rezoning as Exhibit "C," subject to any changes required by the City during site plan review.*
2. *That the subject property requested for rezoning will be used for indoor recreational uses including bingo.*
3. *That at the expiration of ten years from the effective date of the City ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, the property will automatically revert from C-2, General Commercial District, to LM, Light Manufacturing District, without any further action required of City Council.*
4. *Furthermore, at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, all the indoor recreational uses established on the subject property shall be discontinued and all new uses on the subject property shall be those as permitted in the LM, Light Manufacturing District.*


SALEM TURNPIKE NW (45' R.O.W.)
AREA OF
PROFFERED
CONDITIONS
SCALE

SALEM TURNPIKE NW (45' R.O.W.)





CONCEPTUAL SITE LAYOUT PLAN

ONTRACTORS & INDUSTRIAL SUPPLY, INC

BRUSHY MOUNTAIN
N INEERING, PLLC

15-016

1 OF 1

CITY OF ROANOKE
OFFICE OF THE CITY CLERK
215 Church Avenue, S.W., Room 456
Roanoke, Virginia 24011
Telephone: (703) 981-2541

MARY F. PARKER
City Clerk, CMC/AAE

SANDRA H. EAKIN
Deputy City Clerk

May 21, 1993

File #51

Mr. W. H. Fralin, Attorney
Jolly, Place, Fralin and Prillaman, P.C.
3912 Electric Road, S. W.
Roanoke, Virginia 24018

Dear Mr. Fralin:

I am enclosing copy of Ordinance No. 31444-051793 rezoning a tract of land lying on the south side of Salem Turnpike, N. W., being the northeasterly 166 feet, more or less, of Official Tax No. 2640311, the westerly 84 feet, more or less, of Official Tax No. 2640351 and extending back between parallel lines 350 feet, more or less, said tract containing 2.00 acres, from LM, Light Manufacturing District, to C-2, General Commercial District, subject to certain proffered conditions. Ordinance No. 31444-051793 was adopted by the Council of the City of Roanoke on first reading on Monday, May 10, 1993, also adopted by the Council on second reading on Monday, May 17, 1993, and will take effect ten days following the date of its second reading.

Sincerely,

Mary F. Parker

Mary F. Parker, CMC/AAE
City Clerk

MFP:sm

Enc.

pc: Mr. Laurence E. Causey, General Partner, H & C Partnership, 3348 Salem Turnpike, N. W., Roanoke, Virginia 24017
Ms. Maude P. Bolling, 3611 New Spring Branch Road, S. E., Roanoke, Virginia 24014
Mr. Alexander N. Apostolou, et als, P. O. Box 1855, Roanoke, Virginia 24008
Fairview Cemetery Co., Inc., P. O. Box 6231, Roanoke, Virginia 24017
Mr. W. Robert Herbert, City Manager
Mr. Wilburn C. Dibling, Jr., City Attorney

pc: Mr. Steven J. Talevi, Assistant City Attorney
Mr. Willard N. Claytor, Director of Real Estate Valuation
Mr. William F. Clark, Director of Public Works
Mr. Kit B. Kiser, Director of Utilities and Operations
Mr. Charles M. Huffine, City Engineer
Mr. Ronald H. Miller, Building Commissioner/Zoning Administrator
Mr. John R. Marlles, Agent, City Planning Commission
Ms. Evelyn D. Dorsey, Acting Assistant Zoning Administrator

51

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

The 17th day of May, 1993.

No. 31444-051793.

AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 264, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City, subject to certain conditions proffered by the applicant.

WHEREAS, application has been made to the Council of the City of Roanoke to have the hereinafter described property rezoned from LM, Light Manufacturing District, to C-2, General Commercial District; subject to certain conditions proffered by the applicant; and

WHEREAS, the City Planning Commission, which after giving proper notice to all concerned as required by §36.1-693, Code of the City of Roanoke (1979), as amended, and after conducting a public hearing on the matter, has made its recommendation to Council; and

WHEREAS, a public hearing was held by City Council on said application at its meeting on May 10, 1993, after due and timely notice thereof as required by §36.1-693, Code of the City of Roanoke (1979), as amended, at which hearing all parties in interest and citizens were given an opportunity to be heard, both for and against the proposed rezoning; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to the Council by the Planning Commission, the City's Comprehensive Plan, and the matters

presented at the public hearing, is of the opinion that the hereinafter described property should be rezoned as herein provided.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 264 of the Sectional 1976 Zone Map, City of Roanoke, be amended in the following particular and no other:

A tract of land lying on the south side of Salem Turnpike, N.W., and being the northeasterly 166 feet, more or less, of Official Tax No. 2640311, and the westerly 84 feet, more or less, of Official Tax No. 2640351 and extending back between parallel lines 350 feet, said tract containing 2.00 acres, as being designated on Sheet No. 264 of the Sectional 1976 Zone Map, City of Roanoke, be, and is hereby rezoned from LM, Light Manufacturing District, to C-2, General Commercial District, subject to those conditions proffered by and set forth in the Petition filed in the Office of the City Clerk on April 14, 1993, and that Sheet No. 264 of the Zone Map be changed in this respect.

ATTEST:

City Clerk.

ROANOKE
Roanoke City Planning Commission

May 10, 1993

The Honorable David A. Bowers, Mayor
and Members of City Council
Roanoke, Virginia

Dear Mayor Bowers and Members of Council:

Subject: Request from H & C Partnership represented by W. H. Fralin, attorney, that a 166' x 350' portion of property located on Salem Turnpike, N. W., designated as a portion of Official Tax No. 2640311 and a 84' x 350' portion of property located on Salem Turnpike, N. W., designated as a portion of Official Tax No. 2640351, be rezoned from LM, Light Manufacturing District, to C-2, General Commercial District, such rezoning to be subject to certain conditions proffered by the petitioner.

I. Background:

A. Purpose of the request is to allow the property to be used for indoor recreational purposes.

B. Original petition to rezone larger tract including adjoining property comprising approximately five (5) acres, designated as Official Tax Nos. 2650361 and 2640316, and the northeasterly portion of Tax No. 2640311 was considered by the Planning Commission on February 5, 1993. Recommendation to deny was made by the Planning Commission for the following reasons: (1) site is suitable for industrial development and is adequately buffered from surrounding land uses; (2) City needs to preserve its viable LM zoned areas; and (3) rezoning the tract to commercial in the middle of an industrially zoned area would be inappropriate.

C. Amended petition to rezone was considered by the Planning Commission at the April 7, 1993, regular meeting of the Commission. The following concerns were expressed by staff and Commission members: (1) proffers may not be enforceable due to their vagueness; (2) rezoning may constitute illegal "spot zoning"; (3) the Commission and the City should not be asked to make a decision regarding a rezoning based on some action that would happen in the future; (4) the rezoning involved an excessive amount of

Room 355 Municipal Building 215 Church Avenue, S.W. Roanoke, Virginia 24011 (703) 981 2344

street frontage on Shenandoah Avenue for commercial development; (5) the rezoning was not consistent with the City's Comprehensive Plan; and (6) splitting an existing structure between two zoning districts was not consistent with good zoning practice and would be difficult to enforce. The Planning Commission recommended denial of the amended application. The application was withdrawn on April 15, 1993.

D. New Petition to rezone was filed on April 14, 1993. The following conditions were proffered by the petitioner:

1. That the property will be developed in substantial conformity with the site plan dated January 11, 1993, a copy of which is attached to the Petition for Rezoning as Exhibit "C," subject to any changes required by the City during site plan review.

2. That the subject property requested for rezoning will be used for indoor recreational uses including bingo.

3. That at the expiration of ten years from the effective date of the City ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, the property will automatically revert from C-2, General Commercial District, to LM, Light Manufacturing District, without any further action required of City Council.

4. Furthermore, at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, all the indoor recreational uses established on the subject property shall be discontinued and all new uses on the subject property shall be those as permitted in the LM, Light Manufacturing District.

New petition and proffers are an attempt by the petitioners to address a number of the concerns and issues associated with the original petition outlined previously.

E. Subject property is located in an area that was designated as an Urban Enterprize Zone in 1984. The purpose of this "overlay" zone is to encourage new businesses and industries to locate in appropriately zoned inner-city areas by offering substantial tax credits and service improvements.

F. Planning Commission public hearing was held on Wednesday, May 5, 1993. Mr. Alton Prilliman attorney and partner of Mr. Heywood Fralin, attorney, appeared before the Commission on behalf of the petitioner. Mr. Prilliman informed the Commission that a new petition had been filed for the subject property addressing the issues and concerns raised at the last public hearing. He then summarized the points set forth in the new petition, particularly the size of the parcel requested for rezoning and the two (2) proffers regarding the reversion of the proposed zoning back to the LM District. Mr. Prilliman concluded his remarks by informing the Commission that he would be happy to address any questions the members may have.

Mr. Marlles gave the staff report on the requested rezoning. He stated that although staff recognized the efforts that had been made by the petitioner to address the concerns expressed by staff and the Commission, staff was still recommending denial on the basis that the rezoning was not in conformity with the City's comprehensive plan and was not consistent with good land use and zoning practice.

No one from the audience appeared to speak in favor or in opposition to the request.

II. Issues:

A. Zoning of the subject property is LM, Light Manufacturing District. The zoning pattern in the area, predominantly light manufacturing, is as follows: to the west, east and south is LM, Light Manufacturing District; to the north, across Salem Turnpike, are RM-1 and RM-2, Manufacturing District. If approved, the requested rezoning will divide an existing structure by the proposed zoning district boundary line. The area requested for rezoning (2.01 acres) is significantly less than the area requested for rezoning in the original petition (± 5 acres) and would involve substantially less street frontage on Salem Turnpike.

B. Land use of the subject property is a vacant industrial building and recently constructed addition. The surrounding land use is predominantly industrial, single family and multifamily uses exist across Salem Turnpike to the west and north; a large cemetery is located to the north; a trucking terminal to the south and several parcels of vacant, undeveloped land to the east.

C. Access to the property is provided by the adjoining

public street, Salem Turnpike. The City Traffic Engineer has stated that there are no plans currently proposed for widening or any other related improvements to Salem Turnpike. The Peters Creek Road extension project (currently under design) is located approximately 1 mile from this property and will increase accessibility to the site.

D. Industrial land has been identified as a valuable economic asset in the City and should be protected. The City's Office of Economic Development and the Roanoke Valley Economic Development Partnership have initiated a number of public and private economic development efforts to promote industrial/manufacturing site development, including this particular site. Strategies have been developed to focus on completing existing developments and to market available areas suitable for industrial development.

Although the current request involves significantly less area than the previous rezoning request, it would still remove viable industrially zoned land from the City's existing inventory and possibly would encourage additional rezoning requests in the area.

E. Comprehensive Plan recommends that:

1. New industries, which provide jobs and add to the City tax base, should be encouraged to develop on appropriate sites;

2. Other uses of limited, undeveloped industrial land be discouraged;

3. Appropriately zoned development in the Urban Enterprise Zone be promoted;

4. New strip commercial development, speculative development and land use conflicts be discouraged.

III. Alternatives:

A. City Council approve the rezoning request.

1. Zoning would become conditional, C-2, General Commercial District. A recently constructed portion of an existing industrial type building, a vacant, undeveloped lot would be zoned for commercial indoor recreational activities. Possible illegal "spot zoning" may occur. Viable industrially zoned land would be removed from the

City's existing inventory.

2. Land use would become commercial indoor recreational activities as previously described. Surrounding land uses, on adjoining properties, would be of an industrial type nature. Approval of the rezoning request would permit commercial uses in the middle of an established industrial area.

3. Access to the subject property would continue to be provided by the adjoining public street, Salem Turnpike. The City Traffic Engineer has stated that traffic generated by the proposed commercial activities would have minimal impact on Salem Turnpike.

4. Industrial area would be negatively affected by the proposed rezoning of an existing industrial type building and recent addition. Rezoning the subject property to commercial would create a disincentive for future industrial development and investment in this area by the interjection of non-supportive commercial uses as proposed.

5. Comprehensive Plan issues as set forth would not be followed.

B. City Council deny the rezoning request.

1. Zoning would remain LM, Light Manufacturing District. The area would remain available for new or infill industrial development or redevelopment.

2. Land use would remain as is currently developed with the possibility of new or existing industries relocating, expanding or developing in this area.

3. Access to and from the subject property would not be an issue.

4. Industrial area would be protected. The property proposed for rezoning is a viable area for industrial development and redevelopment. This has been demonstrated by the fact that over the past 3 years, the City's Office of Economic Development has assembled 8 acres of undeveloped, industrially zoned land in the area to promote and facilitate new industrial development. Rezoning of the property to permit general commercial uses would adversely affect the potential for new industrial development or the redevelopment of existing

industrial sites in this area.

5. Comprehensive Plan issues as set forth would be followed. The subject property is located within an Urban Enterprise Zone which has been set up to promote and facilitate industrial development in this section of the City.

IV. Recommendation:

The Planning Commission, by a voted of 4-1 (Mr. Price absent, Mr. Ferguson resigned and Mrs. Duerk voting in opposition), recommended approval of the requested rezoning finding that under the present circumstances and the new proffers as set forth in the April 14, 1993 petition, that the petitioner has the right to use this portion of his industrially-zoned land for commercial indoor recreational uses (bingo operation) for an interim time period until the demands for new industrial development occurs in that area.

Respectfully submitted,

Charles A. Price

Charles A. Price, Jr., Chairman
Roanoke City Planning Commission

CAP:EDD:mpf

Attachments

cc: Assistant City Attorney
Director of Public Works
City Engineer
Building Commissioner/Zoning Administrator
Attorney for the Petitioner

CITY OF ROANOKE
OFFICE OF THE CITY CLERK
215 Church Avenue, S.W., Room 456
Roanoke, Virginia 24011
Telephone: (703) 981-2541

MARY F. PARKER
City Clerk, CMC/AAE

SANDRA H. EAKIN
Deputy City Clerk

April 15, 1993

File #51

Mr. Charles A. Price, Jr., Chairperson
City Planning Commission
Roanoke, Virginia

Dear Mr. Price:

Pursuant to Section 36.1-690(e) of the Code of the City of Roanoke (1979), as amended, I am enclosing copy of a petition from W. H. Fralin, Attorney, representing H & C Partnership requesting that a tract of land located on Salem Turnpike, N. W., containing 2.00 acres, more or less, being the northeasterly 166 feet, more or less, of property described as Official Tax No. 2640311, and the westerly 84 feet, more or less, of Official Tax No. 2640351, be rezoned from LM, Light Manufacturing District, to C-2, General Commercial District, subject to certain conditions proffered by the petitioner.

Sincerely,

Mary F. Parker

Mary F. Parker, CMC/AAE
City Clerk

MFP:sm
r/HC

Enc.

pc: The Honorable Mayor and Members of the Roanoke City Council
Mr. John R. Marles, Agent, City Planning Commission
Mr. Ronald H. Miller, Building Commissioner/Zoning Administrator
Ms. Evelyn D. Dorsey, Acting Assistant Zoning Administrator
Mr. Steven J. Talevi, Assistant City Attorney
Mr. W. H. Fralin, Attorney, Jolly, Place, Fralin and Prillaman, P.C., 3912 Electric Road, S. W., Roanoke, Virginia 24018
Mr. Laurence E. Causey, General Partner, H & C Partnership, 3348 Salem Turnpike, N. W., Roanoke, Virginia 24017

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

'93 14

IN RE: Rezoning a tract of land lying on the South side of Salem Turnpike NW and being a northeasterly 166 feet, more or less, of Tax Map #2640311; a westerly 84 feet, more or less of Tax Map #2640351 and extending back between parallel lines 350 feet, more or less, all as more particularly described on the attached Exhibit "A"	)	PETITION TO REZONE

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

The Petitioner, H & C Partnership owns land in the City of Roanoke containing 2.00 acres, more or less, located on Salem Turnpike, NW, Roanoke, Virginia 24017, being a northeasterly 166 feet, more or less, of Tax Map #2640311; a westerly 84 feet, more or less, of Tax Map #2640351 and extending back between parallel lines 350 feet, more or less. Said tracts are currently zoned LM, Light Manufacturing District. A Map of the property to be rezoned is attached as Exhibit "B."

Pursuant to Section 36.1-690, Code of the City of Roanoke (1979), as amended, the Petitioner request that the said property be rezoned from LM, Light Manufacturing District to C-2, General Commercial District, subject to certain conditions set forth below, for the purpose of allowing the property to be used for indoor recreation purposes.

The Petitioner hereby proffers and agrees that if the said tract is rezoned as requested, that the rezoning will be subject to, and that the Petitioner will abide by, the following conditions:

1) That the property will be developed in substantial conformity with the site plan dated January 11, 1993 a copy of which is attached to the Petition for Rezoning as Exhibit "C," subject to any changes required by the City during site plan review.

2) That the subject property requested for rezoning will be used for indoor recreational uses including bingo.

3) That at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, the property will automatically revert from C-2, General Commercial District, to LM, Light Manufacturing District, without any further action required of City Council.

4) Furthermore, at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, all the indoor recreational uses established on the subject property shall be discontinued and all new uses on the subject property shall be those as permitted in the LM, Light Manufacturing District.

The Petitioner believes that the requested rezoning is more in conformance with the surrounding area uses than the comprehensive plan which calls for the property to be used for the purposes of light manufacturing activities.

The Petitioner believes the rezoning of the said tracts of land will further the intent and purposes of the City's Zoning Ordinance and will enhance its comprehensive plan, in that it will be in the best interest of the City in promoting economic development within the community.

Attached as Exhibit "D" are the names, addresses and tax numbers of the owners of all lots or property immediately adjacent to and immediately across a street or road from the property to be rezoned.

WHEREFORE, the Petitioner request that the above-described tracts be rezoned as requested in accordance with the provisions of the Zoning Ordinance of the City of Roanoke.

Respectfully submitted this day April 13, 1993.

Respectfully submitted,

H & C PARTNERSHIP, a general partnership

By Laurence E. Cauley
General Partner
3348 Salem Turnpike, NW
Roanoke, VA 24017

JOLLY, PLACE, FRALIN & PRILLAMAN, P.C.
W. H. Fralin
3912 Electric Road, S. W.
Roanoke, Virginia 24018
703/989-0000

Schedule A

All that certain tract or parcel of land containing 2.00 acres, more or less, lying on the South side of Salem Turnpike NW and being a northeasterly 166 feet, more or less, of Tax Map #2640311; a westerly 84 feet, more or less, of Tax Map #2640351 and extending back between parallel lines 350 feet, more or less.

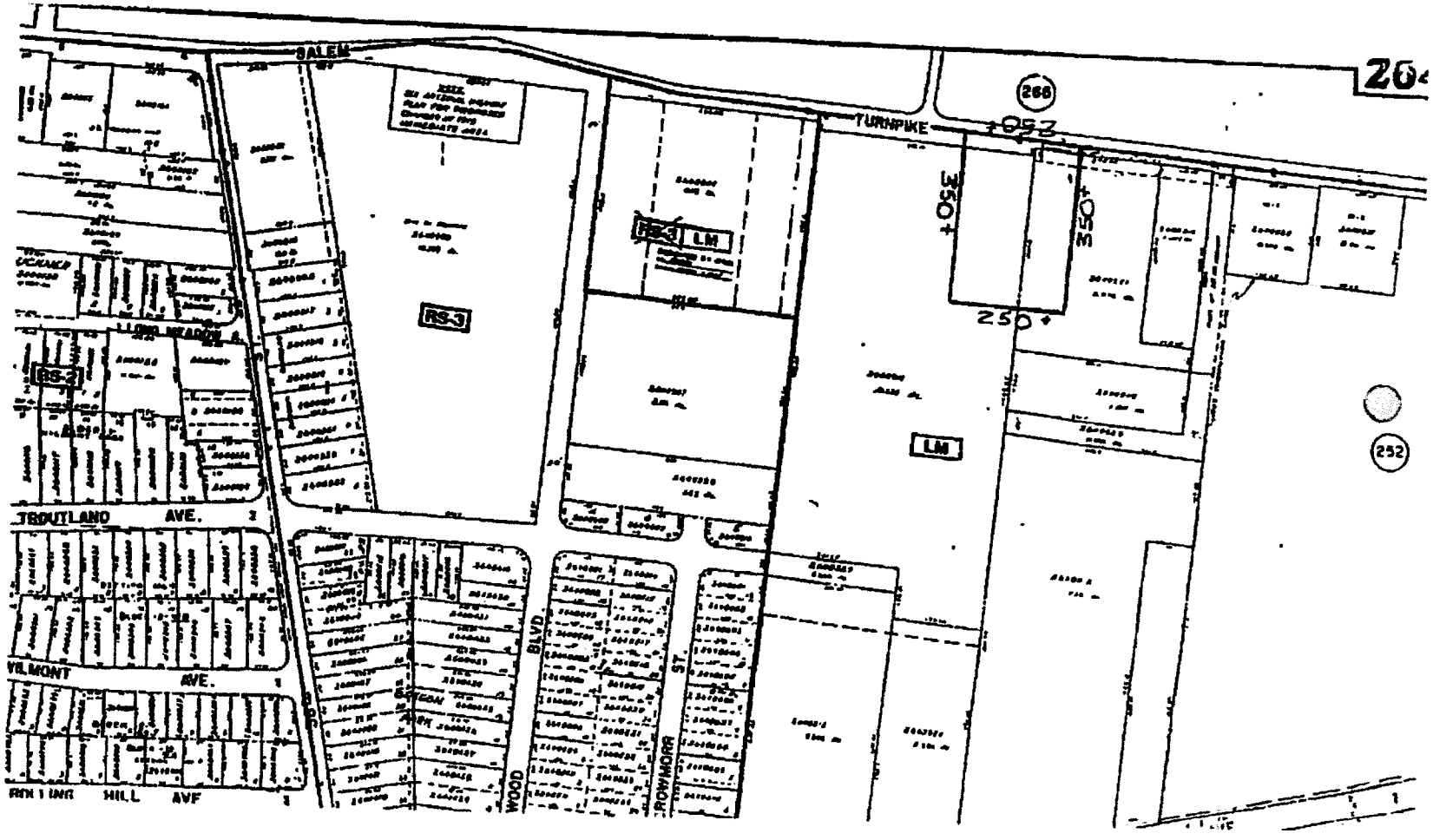
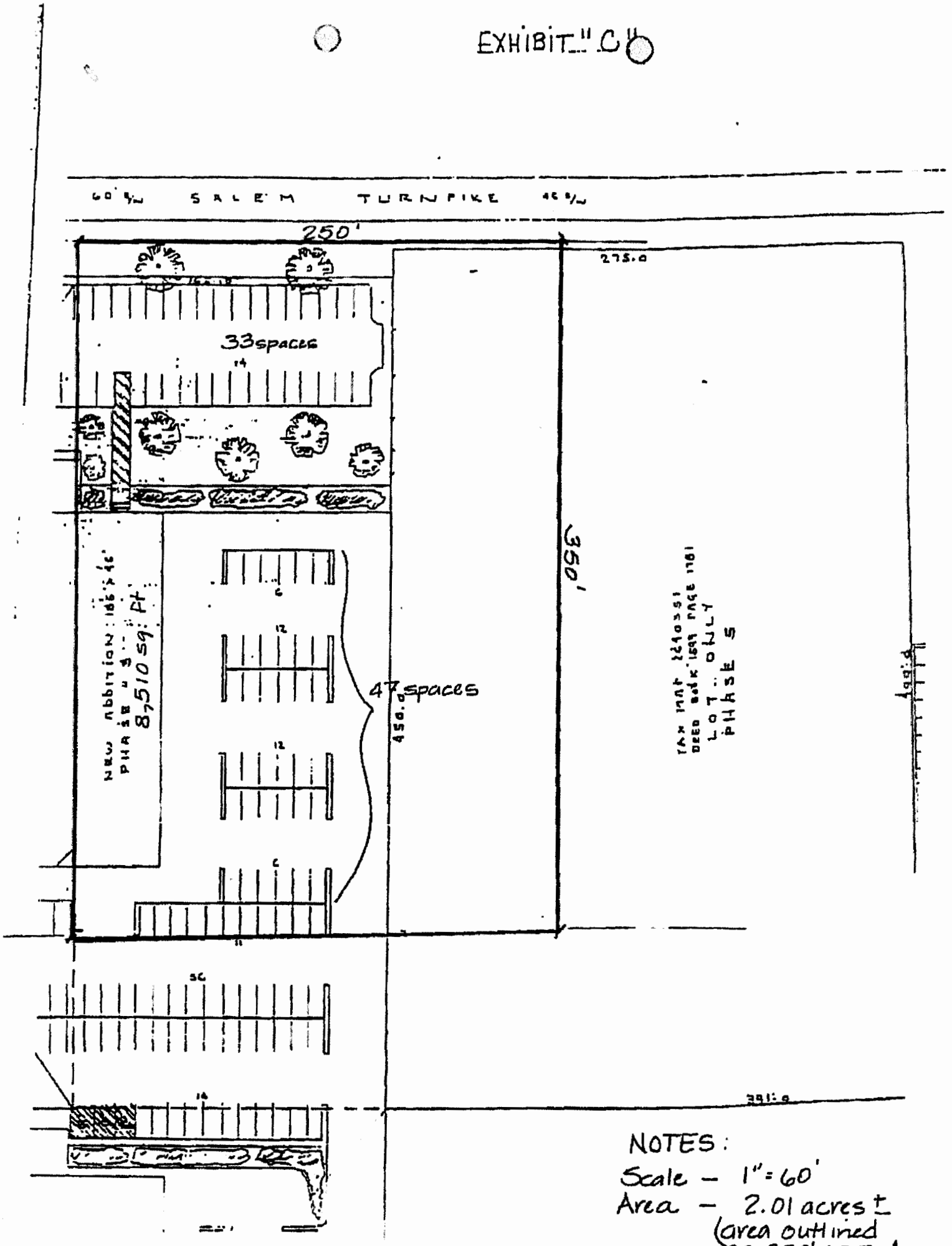

SALEM
TURNPIKE
266
252
RS-3
RS-2
LM
350+
250+
TROUTLAND AVE.
VILMONT AVE.
HILL AVE
WOOD BLVD.
ROWMOOR ST.

EXHIBIT "C"



NOTES:

Scale – 1" = 60'

Area – 2.01 acres ±
(area outlined
as 250' x 350')

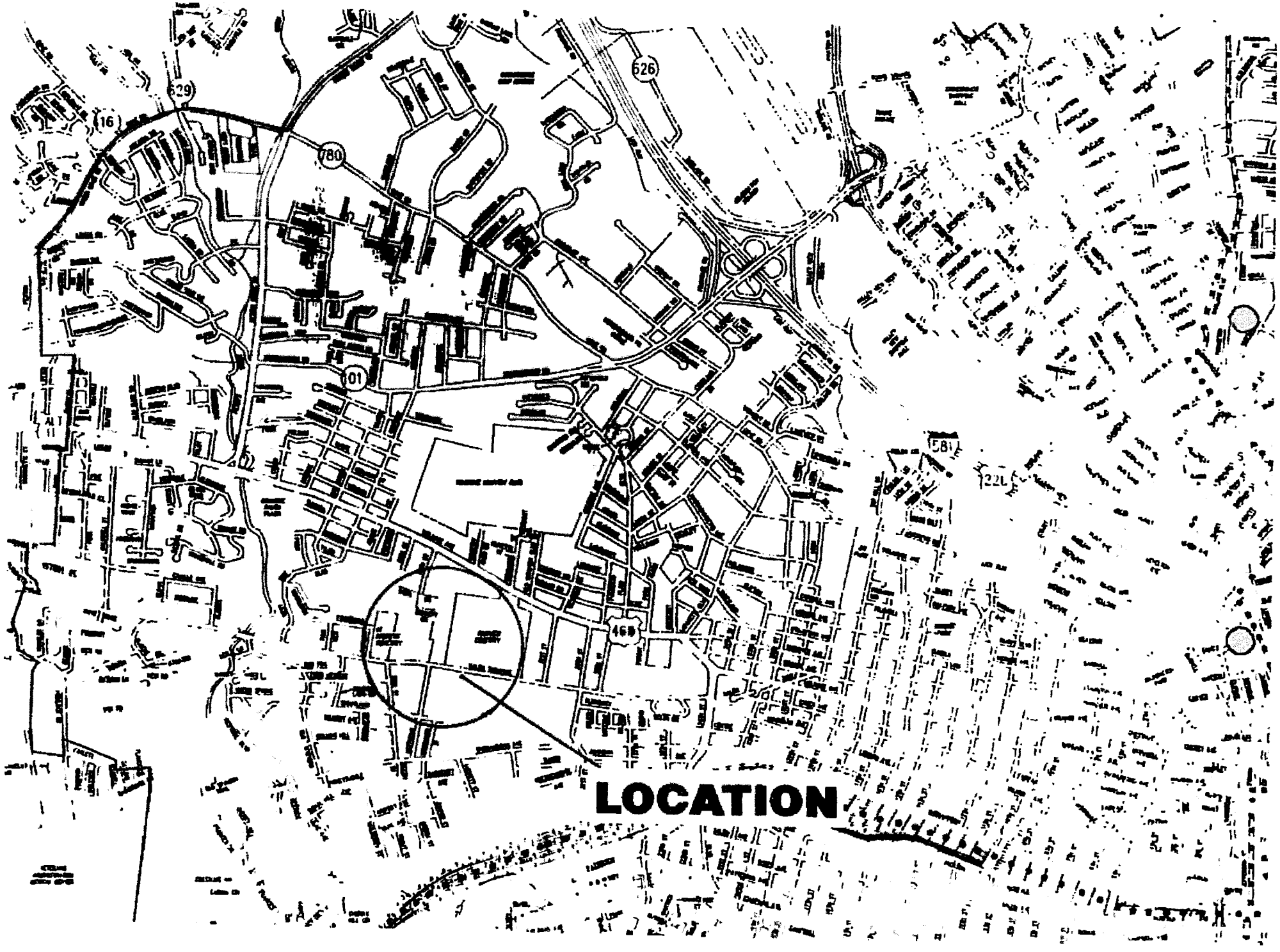
EXHIBIT "D"

Tax Map No. 2520127
Maude P. Bolling
3611 New Spring Branch Road, S.E.
Roanoke, VA 24014

Tax Map. Nos. 2640349/2640326
Alexander N. Apostolou, et als
P.O. Box 1855
Roanoke, VA 24008

Tax Map No. 2650102
Fairview Cemetery Co., Inc.
P.O. Box 6231
Roanoke, VA 24017

Tax Map No. 2640316
RV Properties
P.O. Box 6354
Roanoke, VA 24017


LOCATION
629
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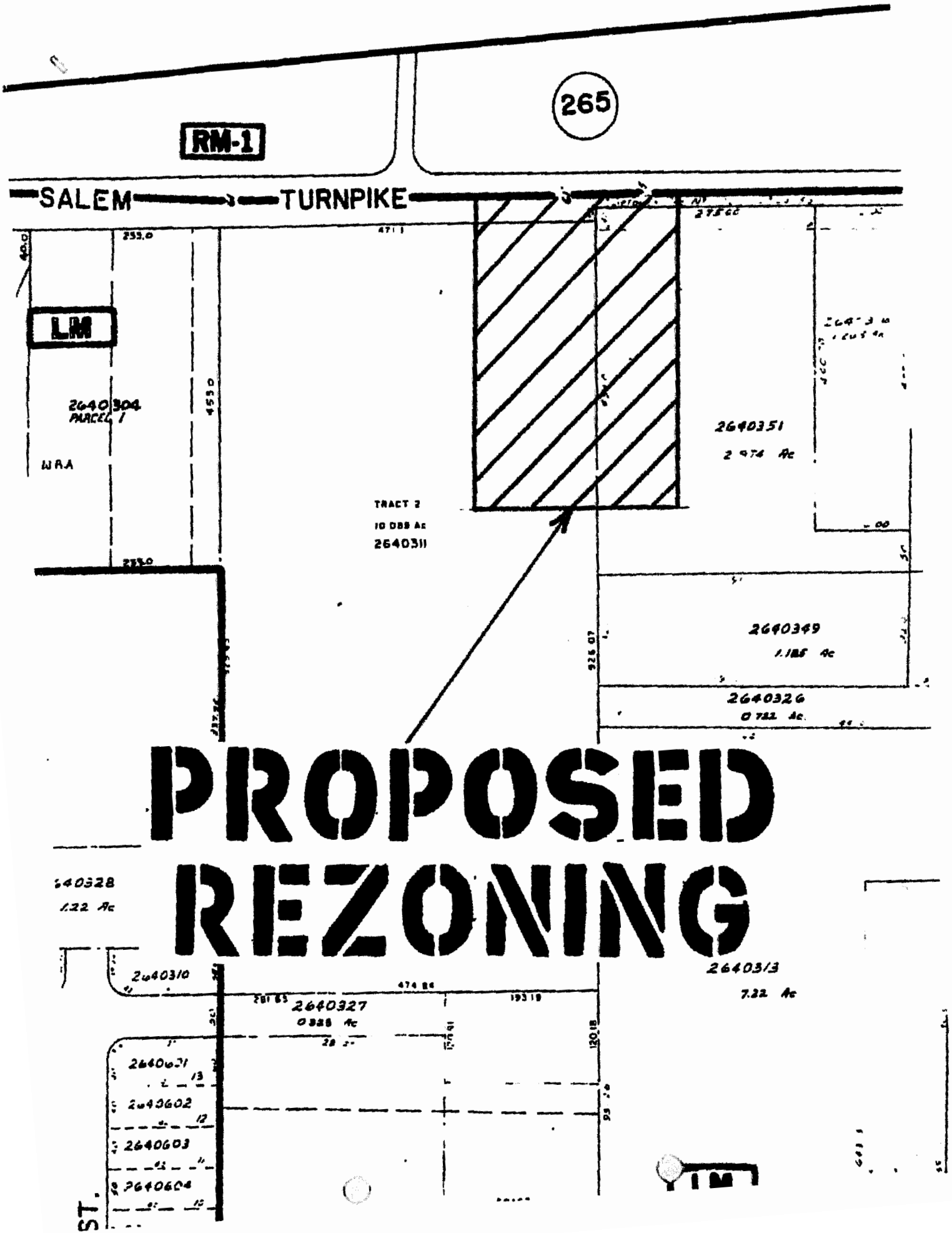
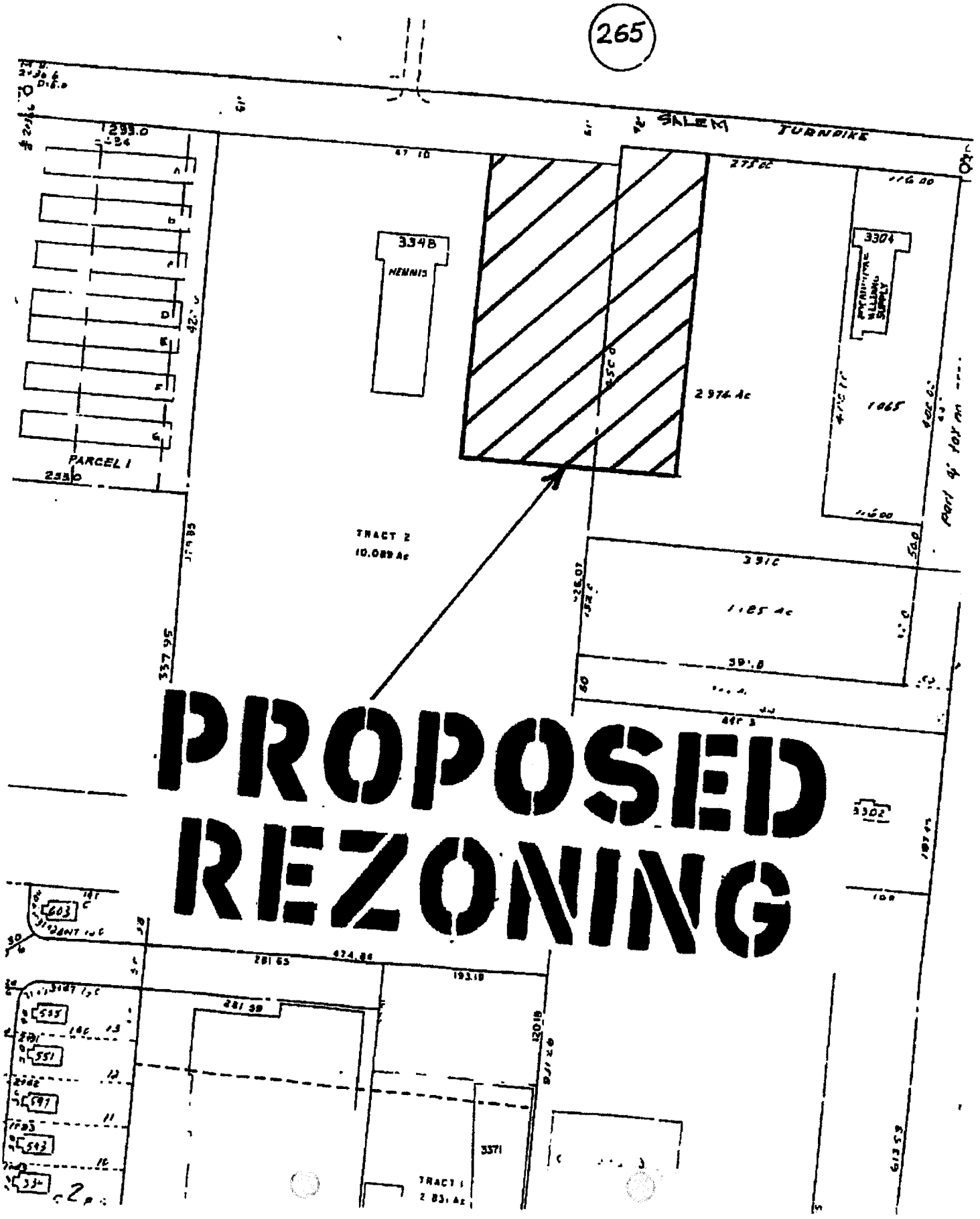
780
626
101
581
22L
469


265
RM-1
SALEM TURNPIKE
LM
2640304
PARCEL 1
WRA
TRACT 2
10.088 Ac
2640311
2640351
2.974 Ac
2640349
1.185 Ac
2640326
0.722 Ac
PROPOSED
REZONING
2640328
1.22 Ac
2640310
2640327
0.328 Ac
2640313
7.22 Ac
2640601
2640602
2640603
2640604
ST.


265
SALEM TURNPIKE
3348
HENNIS
3304
2.974 Ac
1.065
PARCEL I
TRACT 2
10.089 Ac
1.185 Ac
3302
603
551
597
543
3371
TRACT 1
PROPOSED
REZONING

ROANOKE

'93 APR 21 P 1:37 Roanoke City Planning Commission

May 5, 1993

Mr. Charles A. Price, Jr., Chairman
and Members of the Planning Commission
Roanoke, Virginia

Dear Members of the Commission:

Subject: Request from H & C Partnership represented by W. H. Fralin, attorney, that a 166' x 350' portion of property located on Salem Turnpike, N. W., designated as a portion of Official Tax No. 2640311 and a 84' x 350' portion of property located on Salem Turnpike, N. W., designated as a portion of Official Tax No. 2640351, be rezoned from LM, Light Manufacturing District, to C-2, General Commercial District, such rezoning to be subject to certain conditions proffered by the petitioner.

I. Background:

A. Purpose of the request is to allow the property to be used for indoor recreational purposes.

B. Original petition to rezone larger tract including adjoining property comprising approximately five (5) acres, designated as Official Tax Nos. 2650361 and 2640316, and the northeasterly portion of Tax No. 2640311 was considered by the Planning Commission on February 5, 1993. Recommendation to deny was made by the Planning Commission for the following reasons: (1) site is suitable for industrial development and is adequately buffered from surrounding land uses; (2) City needs to preserve its viable LM zoned areas; and (3) rezoning the tract to commercial in the middle of an industrially zoned area would be inappropriate.

C. Amended petition to rezone was considered by the Planning Commission at the April 7, 1993, regular meeting of the Commission. The following concerns were expressed by staff and Commission members: (1) proffers may not be enforceable due to their vagueness; (2) rezoning may constitute illegal "spot zoning"; (3) the Commission and the City should not be asked to make a decision regarding a rezoning based on some action that would happen in the future; (4) the rezoning involved an excessive amount of

street frontage on Shenandoah Avenue for commercial development; (5) the rezoning was not consistent with the City's Comprehensive Plan; and (6) splitting an existing structure between two zoning districts was not consistent with good zoning practice and would be difficult to enforce. The Planning Commission recommended denial of the amended application. The application was withdrawn on April 15, 1993.

D. New Petition to rezone was filed on April 14, 1993. The following conditions were proffered by the petitioner:

1. That the property will be developed in substantial conformity with the site plan dated January 11, 1993, a copy of which is attached to the Petition for Rezoning as Exhibit "C," subject to any changes required by the City during site plan review.

2. That the subject property requested for rezoning will be used for indoor recreational uses including bingo.

3. That at the expiration of ten years from the effective date of the City ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, the property will automatically revert from C-2, General Commercial District, to LM, Light Manufacturing District, without any further action required of City Council.

4. Furthermore, at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, all the indoor recreational uses established on the subject property shall be discontinued and all new uses on the subject property shall be those as permitted in the LM, Light Manufacturing District.

New petition and proffers are an attempt by the petitioners to address a number of the concerns and issues associated with the original petition outlined previously.

E. Subject property is located in an area that was designated as an Urban Enterprize Zone in 1984. The purpose of this "overlay" zone is to encourage new businesses and industries to locate in appropriately zoned inner-city areas by offering substantial tax credits and service improvements.

II. Issues:

A. Zoning of the subject property is LM, Light Manufacturing District. The zoning pattern in the area, predominantly light manufacturing, is as follows: to the west, east and south is LM, Light Manufacturing District; to the north, across Salem Turnpike, are RM-1 and RM-2, Manufacturing District. If approved, the requested rezoning will divide an existing structure by the proposed zoning district boundary line. The area requested for rezoning (2.01 acres) is significantly less than the area requested for rezoning in the original petition (± 5 acres) and would involve substantially less street frontage on Salem Turnpike.

B. Land use of the subject property is a vacant industrial building and recently constructed addition. The surrounding land use is predominantly industrial, single family and multifamily uses exist across Salem Turnpike to the west and north; a large cemetery is located to the north; a trucking terminal to the south and several parcels of vacant, undeveloped land to the east.

C. Access to the property is provided by the adjoining public street, Salem Turnpike. The City Traffic Engineer has stated that there are no plans currently proposed for widening or any other related improvements to Salem Turnpike. The Peters Creek Road extension project (currently under design) is located approximately 1 mile from this property and will increase accessibility to the site.

D. Industrial land has been identified as a valuable economic asset in the City and should be protected. The City's Office of Economic Development and the Roanoke Valley Economic Development Partnership have initiated a number of public and private economic development efforts to promote industrial/manufacturing site development, including this particular site. Strategies have been developed to focus on completing existing developments and to market available areas suitable for industrial development.

Although the current request involves significantly less area than the previous rezoning request, it would still remove viable industrially zoned land from the City's existing inventory and possibly would encourage additional rezoning requests in the area.

E. Comprehensive Plan recommends that:

1. New industries, which provide jobs and add to the City tax base, should be encouraged to develop on appropriate sites;

2. Other uses of limited, undeveloped industrial land be discouraged;

3. Appropriately zoned development in the Urban Enterprise Zone be promoted;

4. New strip commercial development, speculative development and land use conflicts be discouraged.

III. Alternatives:

A. Planning Commission recommend denial of the rezoning request.

1. Zoning would remain LM, Light Manufacturing District. The area would remain available for new or infill industrial development or redevelopment.

2. Land use would remain as is currently developed with the possibility of new or existing industries relocating, expanding or developing in this area.

3. Access to and from the subject property would not be an issue.

4. Industrial area would be presented and protected. The property proposed for rezoning is a viable area for industrial development and redevelopment. This has been demonstrated by the fact that over the past 3 years, the City's Office of Economic Development has assembled 8 acres of undeveloped, industrially zoned land in the area to promote and facilitate new industrial development. Rezoning of the property to permit general commercial uses would adversely affect the potential for new industrial development or the redevelopment of existing industrial sites in this area.

5. Comprehensive Plan issues as set forth would be followed. The subject property is located within an Urban Enterprise Zone which has been set up to promote and facilitate industrial development in this section of the City.

B. Planning Commission recommends approval of the rezoning request.

1. Zoning would become conditional, C-2, General Commercial District. A recently constructed portion of an existing industrial type building, a vacant, undeveloped lot would be zoned for commercial indoor recreational activities. Possible illegal "spot zoning" may occur. Viable industrially zoned land would be removed from the City's existing inventory.

2. Land use would become commercial indoor recreational activities as previously described. Surrounding land uses, on adjoining properties, would be of an industrial type nature. Approval of the rezoning request would permit commercial uses in the middle of an established industrial area.

3. Access to the subject property would continue to be provided by the adjoining public street, Salem Turnpike. The City Traffic Engineer has stated that traffic generated by the proposed commercial activities would have minimal impact on Salem Turnpike.

4. Industrial area would be negatively affected by the proposed rezoning of an existing industrial type building and recent addition. Rezoning the subject property to commercial would create a disincentive for future industrial development and investment in this area by the interjection of non-supportive commercial uses as proposed.

5. Comprehensive Plan issues as set forth would not be followed.

IV. Recommendation:

The Planning staff recommends denial of the requested rezoning for the following reasons: (1) the subject property is appropriately zoned for industrial development and is consistent with the City's economic development strategy for this area, (2) the City's Comprehensive Plan recommends protecting the limited supply of vacant, developable industrial properties to facilitate the City's economic growth and stability;

and (3) the rezoning of a portion of this area for commercial uses would adversely affect the future development or redevelopment of this area for industrial purposes.

Respectfully submitted,

John R. Marlles, Agent
Roanoke City Planning Commission

JRM:ga

Attachments

cc: Assistant City Attorney
Director of Public Works
City Engineer
Building Commissioner/Zoning Administrator
Attorney for the Petitioner

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

IN RE: Rezoning a tract of land lying on the South side of Salem Turnpike NW and being a northeasterly 166 feet, more or less, of Tax Map #2640311; a westerly 84 feet, more or less of Tax Map #2640351 and extending back between parallel lines 350 feet, more or less, all as more particularly described on the attached Exhibit "A"	)))))))))	PETITION TO REZONE

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

The Petitioner, H & C Partnership owns land in the City of Roanoke containing 2.00 acres, more or less, located on Salem Turnpike, NW, Roanoke, Virginia 24017, being a northeasterly 166 feet, more or less, of Tax Map #2640311; a westerly 84 feet, more or less, of Tax Map #2640351 and extending back between parallel lines 350 feet, more or less. Said tracts are currently zoned LM, Light Manufacturing District. A Map of the property to be rezoned is attached as Exhibit "B."

Pursuant to Section 36.1-690, Code of the City of Roanoke (1979), as amended, the Petitioner request that the said property be rezoned from LM, Light Manufacturing District to C-2, General Commercial District, subject to certain conditions set forth below, for the purpose of allowing the property to be used for indoor recreation purposes.

The Petitioner hereby proffers and agrees that if the said tract is rezoned as requested, that the rezoning will be subject to, and that the Petitioner will abide by, the following conditions:

1) That the property will be developed in substantial conformity with the site plan dated January 11, 1993 a copy of which is attached to the Petition for Rezoning as Exhibit "C," subject to any changes required by the City during site plan review.

2) That the subject property requested for rezoning will be used for indoor recreational uses including bingo.

3) That at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, the property will automatically revert from C-2, General Commercial District, to LM, Light Manufacturing District, without any further action required of City Council.

4) Furthermore, at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, all the indoor recreational uses established on the subject property shall be discontinued and all new uses on the subject property shall be those as permitted in the LM, Light Manufacturing District.

The Petitioner believes that the requested rezoning is more in conformance with the surrounding area uses than the comprehensive plan which calls for the property to be used for the purposes of light manufacturing activities.

The Petitioner believes the rezoning of the said tracts of land will further the intent and purposes of the City's Zoning Ordinance and will enhance its comprehensive plan, in that it will be in the best interest of the City in promoting economic development within the community.

Attached as Exhibit "D" are the names, addresses and tax numbers of the owners of all lots or property immediately adjacent to and immediately across a street or road from the property to be rezoned.

WHEREFORE, the Petitioner request that the above-described tracts be rezoned as requested in accordance with the provisions of the Zoning Ordinance of the City of Roanoke.

Respectfully submitted this day April 13, 1993.

Respectfully submitted,

H & C PARTNERSHIP, a general partnership

By _____
General Partner
3348 Salem Turnpike, NW
Roanoke, VA 24017

JOLLY, PLACE, FRALIN & PRILLAMAN, P.C.
W. H. Fralin
3912 Electric Road, S. W.
Roanoke, Virginia 24018
703/989-0000

Schedule A

All that certain tract or parcel of land containing 2.00 acres, more or less, lying on the South side of Salem Turnpike NW and being a northeasterly 166 feet, more or less, of Tax Map #2640311; a westerly 84 feet, more or less, of Tax Map #2640351 and extending back between parallel lines 350 feet, more or less.

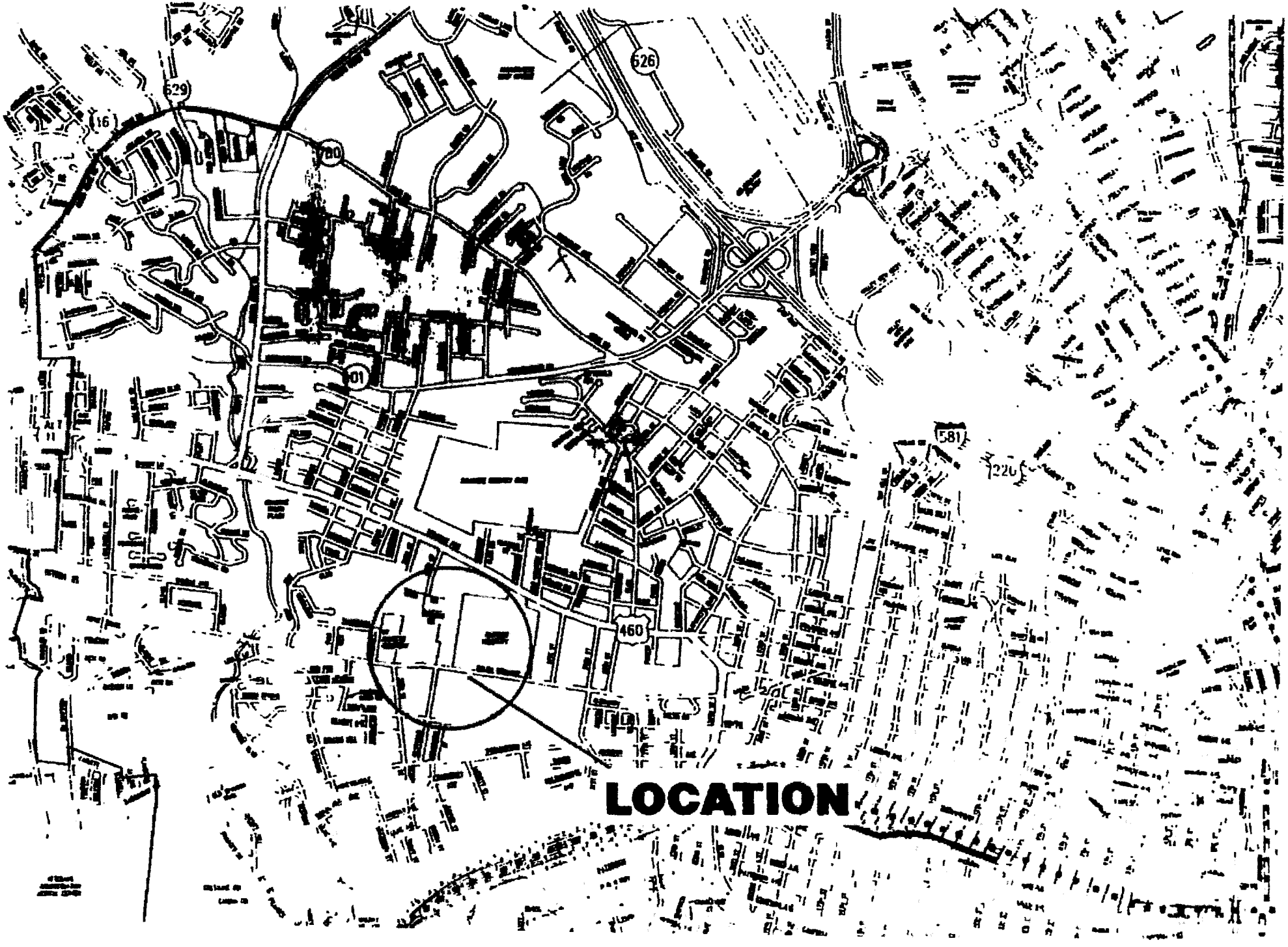
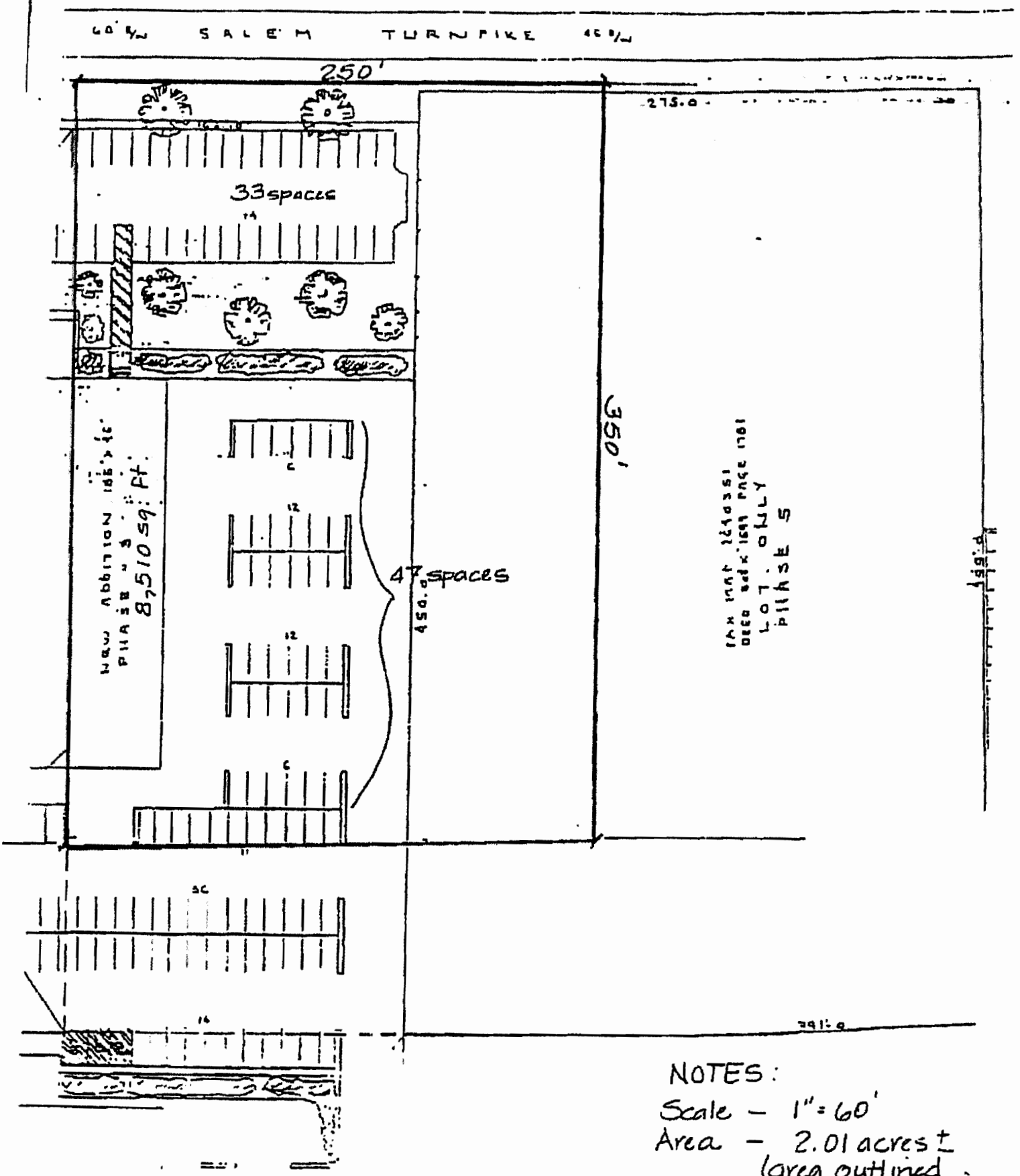

626
629
16
780
601
581
220
460
LOCATION

EXHIBIT "U"



NOTES:

Scale – 1" = 60'

Area – 2.01 acres ±

(area outlined as 250' x 350')

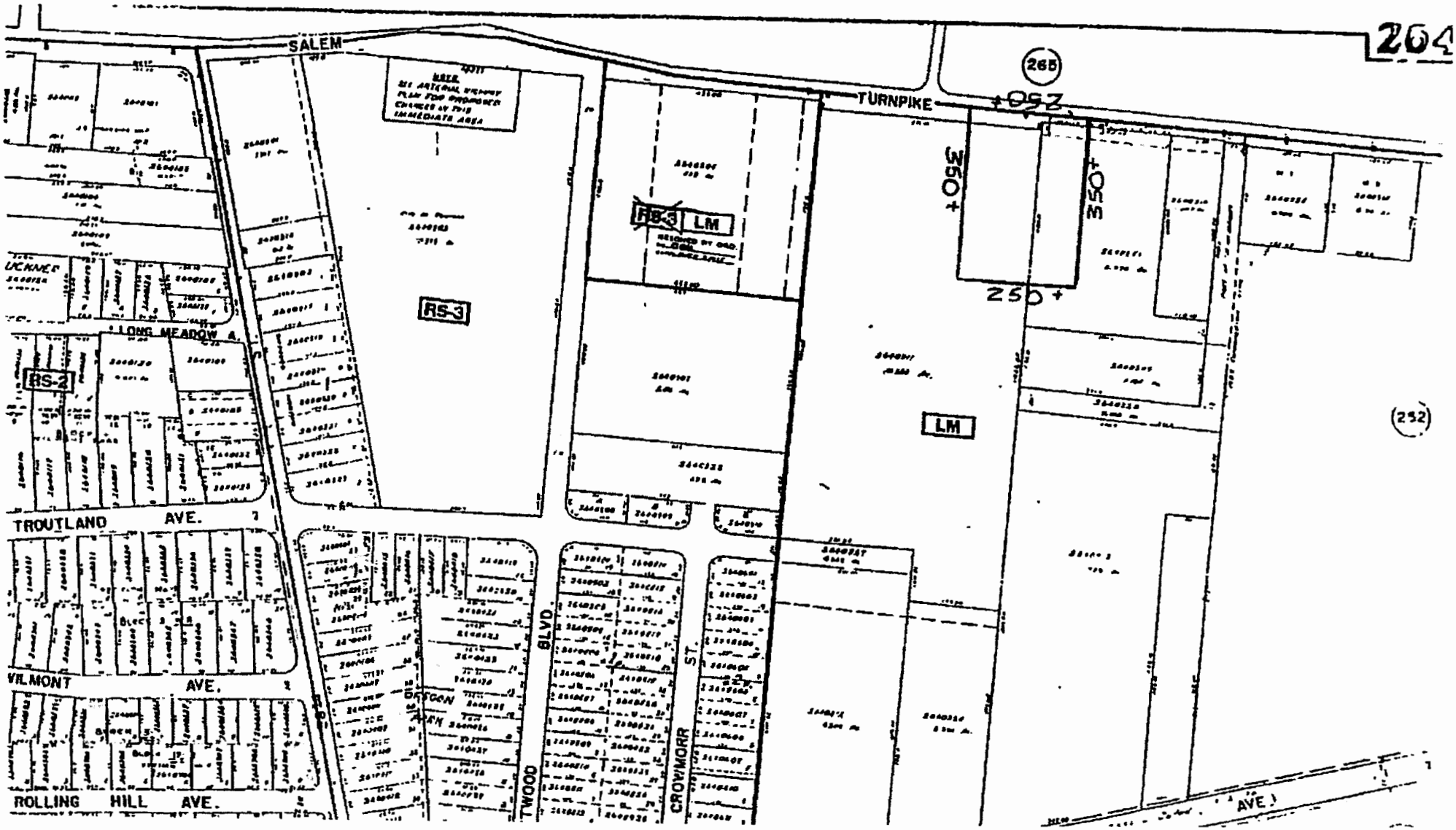

204
SALEM
TURNPIKE
265
252
RS-3
RS-3
LM
LM
RS-2
LONG MEADOW
TROUTLAND AVE.
VILMONT AVE.
ROLLING HILL AVE.
OREGON
TWOOD BLVD.
CROWMORR ST.
AVE.
250+
350+
350+

EXHIBIT "D"

Tax Map No. 2520127
Maude P. Bolling
3611 New Spring Branch Road, S.E.
Roanoke, VA 24014

Tax Map. Nos. 2640349/2640326
Alexander N. Apostolou, et als
P.O. Box 1855
Roanoke, VA 24008

Tax Map No. 2650102
Fairview Cemetery Co., Inc.
P.O. Box 6231
Roanoke, VA 24017

Tax Map No. 2640316
RV Properties
P.O. Box 6354
Roanoke, VA 24017

CITY OF ROANOKE
OFFICE OF THE CITY CLERK
215 Church Avenue, S.W., Room 456
Roanoke, Virginia 24011
Telephone: (703) 981-2541

MARY F. PARKER
City Clerk, CMC/AAE

SANDRA H. EAKIN
Deputy City Clerk

April 22, 1993

File #51

Mr. W. H. Fralin, Attorney
Jolly, Place, Fralin and Prillaman, P.C.
3912 Electric Road, S. W.
Roanoke, Virginia 24018

Dear Mr. Fralin:

Pursuant to Resolution No. 25523 adopted by the Council of the City of Roanoke at a regular meeting held on Monday, April 6, 1981, a public hearing will be held on Monday, May 10, 1993, at 7:30 p.m., or as soon thereafter as the matter may be heard, in the City Council Chamber, fourth floor of the Municipal Building, 215 Church Avenue, S. W., on the request of H & C Partnership that a tract of land lying on the south side of Salem Turnpike, N. W., and being the northeasterly 166 feet, more or less, of Official Tax No. 2640311, the westerly 84 feet, more or less, of Official Tax No. 2640351 and extending back between parallel lines 350 feet, more or less, said tract containing 2.00 acres, such rezoning to be subject to certain proffered conditions, be rezoned from LM, Light Manufacturing District, to C-2, General Commercial District.

For your information, I am enclosing copy of a notice of the public hearing providing for the rezoning, which notice was prepared by the City Attorney's Office. Please review the document and if you have questions, you may contact Mr. Steven J. Talevi, Assistant City Attorney, at 981-2431.

Sincerely,

Mary F. Parker

Mary F. Parker, CMC/AAE
City Clerk

MFP:sm
May

Enc.

.8 · 1

pc: H & C Partnership, 3348 Salem Turnpike, N. W., Roanoke, Virginia 24017
Ms. Maude P. Bolling, 3611 New Spring Branch Road, S. E., Roanoke, Virginia 24014
Mr. Alexander N. Apostolou, et als, P. O. Box 1855, Roanoke, Virginia 24008
Fairview Cemetery Co., Inc., P. O. Box 6231, Roanoke, Virginia 24017

SJT

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Pursuant to the provisions of Article VII of Chapter 36.1, Code of the City of Roanoke (1979), as amended, the Council of the City of Roanoke will hold a Public Hearing on Monday, May 10, 1993, at 7:30 p.m., in the Council Chamber in the Municipal Building, 215 Church Avenue, S.W., on the question of rezoning from LM, Light Manufacturing District, to C-2, General Commercial District, the following property:

> A tract of land lying on the south side of Salem Turnpike, N. W., and being the northeasterly 166 feet, more or less, of Official Tax No. 2640311, the westerly 84 feet, more or less, of Official Tax No. 2640351 and extending back between parallel lines 350 feet, more or less, said tract containing 2.00 acres, such rezoning to be subject to certain proffered conditions.

A copy of this proposal is available for public inspection in the Office of the City Clerk, Room 456, Municipal Building. All parties in interest may appear on the above date and be heard on the question.

GIVEN under my hand this 21st day of April, 1993.

Mary F. Parker, City Clerk.

Please publish in full twice, once on Friday, April 23, 1993, and once on Friday, April 30, 1993, in the Roanoke Times and World-News.

Send publisher's affidavit to:

Mary F. Parker, City Clerk
Room 456, Municipal Building
215 Church Avenue, S. W.
Roanoke, Virginia 24011-1536

Send bill to:

Mr. W. H. Fralin, Attorney
Jolly, Place, Fralin and
Prillaman, P.C.
3912 Electric Road, S. W.
Roanoke, Virginia 24018

ROANOKE TIMES & WORLD-NEWS

AD NUMBER - 42114834

PUBLISHER'S FEE - $117.00

RECEIVED
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'93 MAY 10 A10:31

W H FRALIN ATTY
3912 ELECTRIC ROAD S W
P O BOX 20487

ROANOKE VA 24018

TATE OF VIRGINIA
ITY OF ROANOKE

AFFIDAVIT OF PUBLICATION

I, (THE UNDERSIGNED) AN AUTHORIZED 'PRESENTATIVE OF THE TIMES-WORLD COR-)RATION, WHICH CORPORATION IS PUBLISHER : THE ROANOKE TIMES & WORLD-NEWS, A \ILY NEWSPAPER PUBLISHED IN ROANOKE, IN IE STATE OF VIRGINIA, DO CERTIFY THAT IE ANNEXED NOTICE WAS PUBLISHED IN SAID WSPAPERS ON THE FOLLOWING DATES

04/23/93 MORNING
04/30/93 MORNING

TNESS, THIS 1ST DAY OF MAY 1993

Marilyn M. Edwards

AUTHORIZED SIGNATURE

NOTICE OF
PUBLIC HEARING

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Mary F. Parker,
City Clerk

(14834)

SJT

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Room 456, Municipal Building
215 Church Avenue, S. W.
Roanoke, Virginia 24011-1536

Send bill to:

Mr. W. H. Fralin, Attorney
Jolly, Place, Fralin and
Prillaman, P.C.
3912 Electric Road, S. W.
Roanoke, Virginia 24018

CITY OF ROANOKE
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Telephone: (703) 981-2541

MARY F. PARKER
City Clerk, CMC/AAE

SANDRA H. EAKIN
Deputy City Clerk

April 22, 1993

File #51

Mr. W. H. Fralin, Attorney
Jolly, Place, Fralin and Prillaman, P.C.
3912 Electric Road, S. W.
Roanoke, Virginia 24018

Dear Mr. Fralin:

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For your information, I am enclosing copy of a notice of the public hearing providing for the rezoning, which notice was prepared by the City Attorney's Office. Please review the document and if you have questions, you may contact Mr. Steven J. Talevi, Assistant City Attorney, at 981-2431.

Sincerely,

Mary F. Parker

Mary F. Parker, CMC/AAE
City Clerk

MFP:sm
May

Enc.

pc: H & C Partnership, 3348 Salem Turnpike, N. W., Roanoke, Virginia 24017
Ms. Maude P. Bolling, 3611 New Spring Branch Road, S. E., Roanoke, Virginia 24014
Mr. Alexander N. Apostolou, et als, P. O. Box 1855, Roanoke, Virginia 24008
Fairview Cemetery Co., Inc., P. O. Box 6231, Roanoke, Virginia 24017

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MARY F. PARKER
City Clerk, CMC/AAE

SANDRA H. EAKIN
Deputy City Clerk

April 15, 1993

File #51

Mr. Charles A. Price, Jr., Chairperson
City Planning Commission
Roanoke, Virginia

Dear Mr. Price:

Pursuant to Section 36.1-690(e) of the Code of the City of Roanoke (1979), as amended, I am enclosing copy of a petition from W. H. Fralin, Attorney, representing H & C Partnership requesting that a tract of land located on Salem Turnpike, N. W., containing 2.00 acres, more or less, being the northeasterly 166 feet, more or less, of property described as Official Tax No. 2640311, and the westerly 84 feet, more or less, of Official Tax No. 2640351, be rezoned from LM, Light Manufacturing District, to C-2, General Commercial District, subject to certain conditions proffered by the petitioner.

Sincerely,

Mary F. Parker

Mary F. Parker, CMC/AAE
City Clerk

MFP:sm
r/HC

Enc.

pc: The Honorable Mayor and Members of the Roanoke City Council
Mr. John R. Marlles, Agent, City Planning Commission
Mr. Ronald H. Miller, Building Commissioner/Zoning Administrator
Ms. Evelyn D. Dorsey, Acting Assistant Zoning Administrator
Mr. Steven J. Talevi, Assistant City Attorney
Mr. W. H. Fralin, Attorney, Jolly, Place, Fralin and Prillaman, P.C., 3912 Electric Road, S. W., Roanoke, Virginia 24018
Mr. Laurence E. Causey, General Partner, H & C Partnership, 3348 Salem Turnpike, N. W., Roanoke, Virginia 24017

STATEMENT OF FILING COMPLIANCE AND FEE CALCULATION

Petitioner: Kelly, Price, Fralin & Pallerman

Petition includes:

[✓] (a) Description of the purpose for the zoning and the proposed use of the property.

[✓] (b) Concept plan outlining features of the proposed use of the property including buildings, parking, access and similar features.

[✓] (c) Map or maps of the area requested for rezoning.

[✓] (d) Names, signatures, and addresses of the owner or owners of the lots or property included in the proposed change; and

[✓] (e) Names, addresses and official tax numbers of owners of the lots or property immediately adjacent to and those directly opposite thereto.

Calculated fee: $ 320.00

Secretary/Agent
Roanoke City Planning Commission

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

'93

IN RE: Rezoning a tract of land lying on the South side of Salem Turnpike NW and being a northeasterly 166 feet, more or less, of Tax Map #2640311; a westerly 84 feet, more or less of Tax Map #2640351 and extending back between parallel lines 350 feet, more or less, all as more particularly described on the attached Exhibit "A"	)	PETITION TO REZONE

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

The Petitioner, H & C Partnership owns land in the City of Roanoke containing 2.00 acres, more or less, located on Salem Turnpike, NW, Roanoke, Virginia 24017, being a northeasterly 166 feet, more or less, of Tax Map #2640311; a westerly 84 feet, more or less, of Tax Map #2640351 and extending back between parallel lines 350 feet, more or less. Said tracts are currently zoned LM, Light Manufacturing District. A Map of the property to be rezoned is attached as Exhibit "B."

Pursuant to Section 36.1-690, Code of the City of Roanoke (1979), as amended, the Petitioner request that the said property be rezoned from LM, Light Manufacturing District to C-2, General Commercial District, subject to certain conditions set forth below, for the purpose of allowing the property to be used for indoor recreation purposes.

The Petitioner hereby proffers and agrees that if the said tract is rezoned as requested, that the rezoning will be subject to, and that the Petitioner will abide by, the following conditions:

1) That the property will be developed in substantial conformity with the site plan dated January 11, 1993 a copy of which is attached to the Petition for Rezoning as Exhibit "C," subject to any changes required by the City during site plan review.

2) That the subject property requested for rezoning will be used for indoor recreational uses including bingo.

3) That at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, the property will automatically revert from C-2, General Commercial District, to LM, Light Manufacturing District, without any further action required of City Council.

4) Furthermore, at the expiration of ten years from the effective date of the City Ordinance rezoning the property from LM, Light Manufacturing District, to C-2, General Commercial District, all the indoor recreational uses established on the subject property shall be discontinued and all new uses on the subject property shall be those as permitted in the LM, Light Manufacturing District.

The Petitioner believes that the requested rezoning is more in conformance with the surrounding area uses than the comprehensive plan which calls for the property to be used for the purposes of light manufacturing activities.

The Petitioner believes the rezoning of the said tracts of land will further the intent and purposes of the City's Zoning Ordinance and will enhance its comprehensive plan, in that it will be in the best interest of the City in promoting economic development within the community.

Attached as Exhibit "D" are the names, addresses and tax numbers of the owners of all lots or property immediately adjacent to and immediately across a street or road from the property to be rezoned.

WHEREFORE, the Petitioner request that the above-described tracts be rezoned as requested in accordance with the provisions of the Zoning Ordinance of the City of Roanoke.

Respectfully submitted this day April 13, 1993.

Respectfully submitted,

H & C PARTNERSHIP, a general partnership

By Lawrence E. Cauley
General Partner
3348 Salem Turnpike, NW
Roanoke, VA 24017

JOLLY, PLACE, FRALIN & PRILLAMAN, P.C.
W. H. Fralin
3912 Electric Road, S. W.
Roanoke, Virginia 24018
703/989-0000

Schedule A

All that certain tract or parcel of land containing 2.00 acres, more or less, lying on the South side of Salem Turnpike NW and being a northeasterly 166 feet, more or less, of Tax Map #2640311; a westerly 84 feet, more or less, of Tax Map #2640351 and extending back between parallel lines 350 feet, more or less.

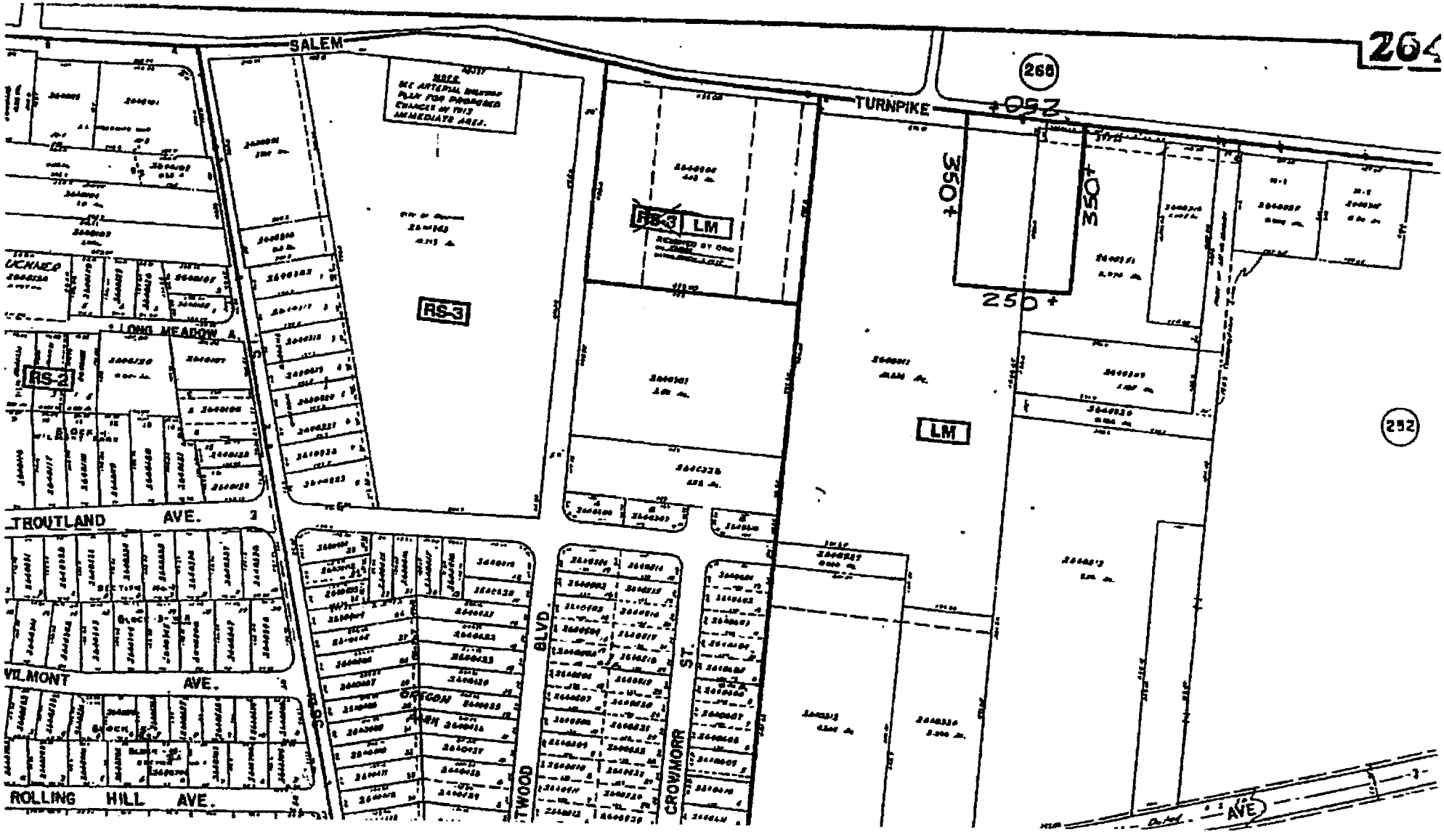
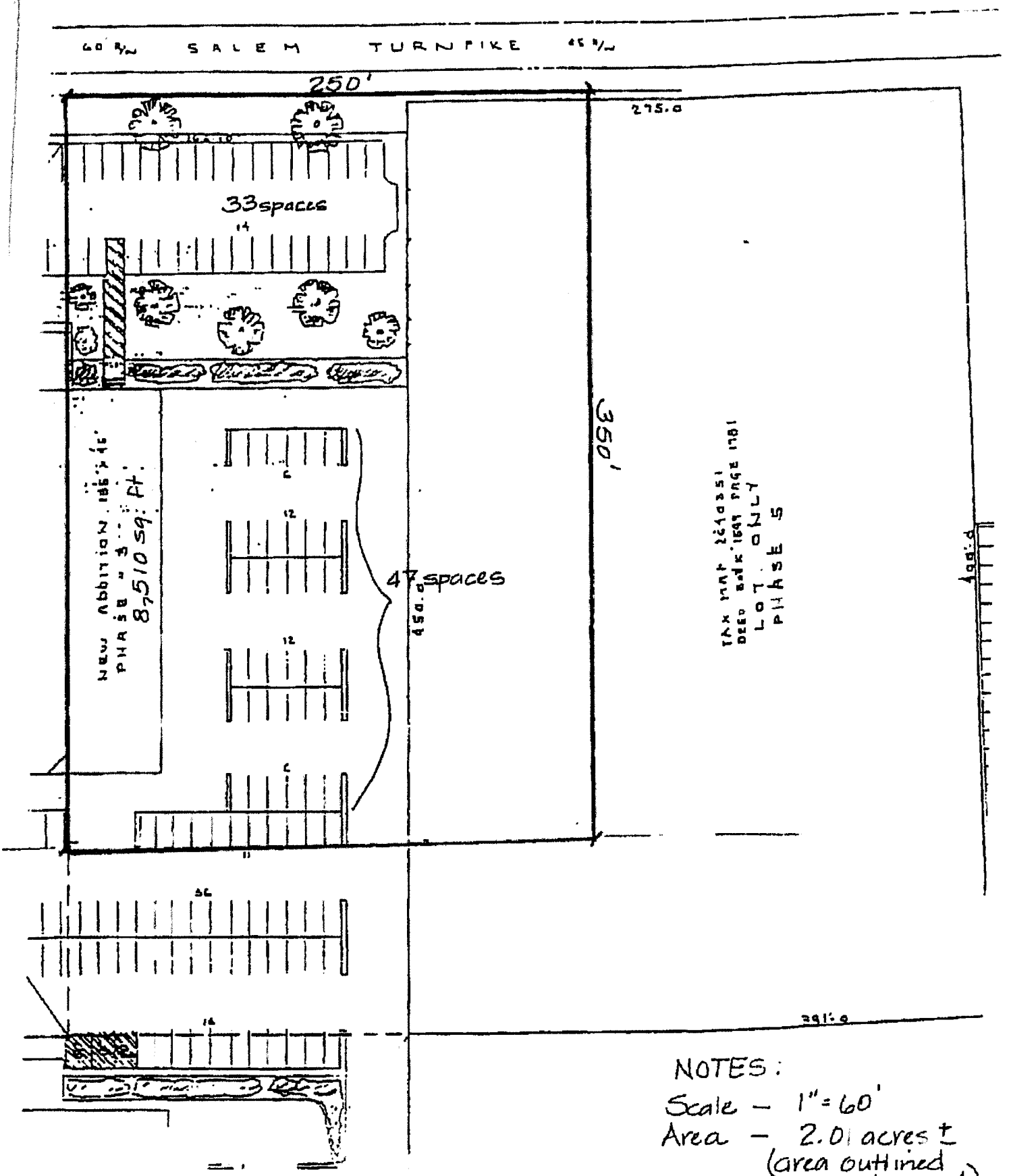

264
SALEM
TURNPIKE
268
252
RS-3
RS-3
LM
LM
RS-2
LONG MEADOW A.
TROUTLAND AVE.
VILMONT AVE.
ROLLING HILL AVE.
OREGON
ALBANY
BLVD.
CROWMORR ST.
AVE
250+
350+
350+
250+

EXHIBIT "C"



NOTES:

Scale – 1" = 60'

Area – 2.01 acres ±

(area outlined as 250' x 350')

EXHIBIT "D"

Tax Map No. 2520127
Maude P. Bolling
3611 New Spring Branch Road, S.E.
Roanoke, VA 24014

Tax Map. Nos. 2640349/2640326
Alexander N. Apostolou, et als
P.O. Box 1855
Roanoke, VA 24008

Tax Map No. 2650102
Fairview Cemetery Co., Inc.
P.O. Box 6231
Roanoke, VA 24017

Tax Map No. 2640316
RV Properties
P.O. Box 6354
Roanoke, VA 24017

NOTICE OF PUBLIC HEARING BEFORE THE ROANOKE CITY PLANNING COMMISSION

TO WHOM IT MAY CONCERN:

The Roanoke City Planning Commission will hold a public hearing on Wednesday, May 5, 1993, at 1:30 p.m., or as soon thereafter as the matter may be heard, in the City Council Chamber, fourth floor, Municipal Building, 215 Church Avenue, S.W., in order to consider the following:

Request from H & C Partnership, represented by W. H. Fralin, attorney, that a 166'x350' portion of property located on Salem Turnpike, N.W., designated as a portion of Official Tax No. 2640311, and a 84'x350' portion of property located on Salem Turnpike, N.W., designated as a portion of Official Tax No. 2640351, be rezoned from LM, Light Manufacturing District, to C-2, General Commercial District, such rezoning to be subject to certain conditions proffered by the petitioner.

A copy of said application is available for review in the Office of Community Planning, Room 355, Municipal Building.

All parties in interest and citizens may appear on the above date and be heard on the matter.

John R. Mariles, Agent
Roanoke City Planning Commission

Please run in newspaper on Tuesday, April 20, 1993 and Tuesday, April 27, 1993.

Please bill to: W. H. Fralin
Jolly, Place, Fralin& Prillaman, PC
3912 Electric Road, S.W.
Roanoke, VA 24018
(703) 989-0000

Please send affidavit of publication to: Office of Community Planning
Room 355, Municipal Building
215 Church Avenue, S.W.
Roanoke, VA 24011

LAW OFFICES
JOLLY, PLACE, FRALIN & PRILLAMAN, P.C.

W. H. JOLLY (1925-1988)
JACK V. PLACE
W. HEYWOOD FRALIN
ALTON D. PRILLAMAN
DAVID C. HELSCHER
STEPHEN M. YOST
WILLIAM C MAXWELL
ROBIN DEARING
WILLIAM H. FRALIN, JR

3912 ELECTRIC ROAD, S.W.
P.O. BOX 20487
ROANOKE, VIRGINIA 24018
(703) 989-0000
FAX (703) 772-0126

SALEM, VA. 24153
105 N. COLORADO STREET
P.O. BOX 279
(703) 389-2349
FAX (703) 389-9560

B PURNELL EGGLESTON
OF COUNSEL

April 14, 1993

RECEIVED
APR 15 1993
CITY OF ROANOKE
OFFICE OF COMMUNITY PLANNING

John Marlles
Agent Roanoke City Planning Commission
Room 355
215 Church Ave., S.W.
Roanoke, Va 24011

RE: Rezoning Application filed on January 13, 1993

Dear Mr. Marlles:

Upon the receipt of this letter I hereby withdraw the original rezoning petition filed on January 13, 1993, on behalf of H&C Partnership to rezone 5.00 acres of land on Salem Turnpike, NW. Receipt of this withdrawal letter should terminate all actions pursuant to the original petition filed January 13, 1993.

Please contact me if you have any questions in this regard.

Very truly yours,

JOLLY, PLACE, FRALIN & PRILLAMAN, P.C.

W. Heywood Fralin

mbw

TO THE CITY CLERK OF THE CITY OF ROANOKE, VIRGINIA

PERTAINING TO THE REZONING REQUEST OF:

'93 MAR 29 P

Request from H & C Partnership and RV Properties,)
represented by W. H. Fralin, Attorney, that Official) Affi-
Tax No. 2640351, 2640316, and a portion of 2640311,)davit
be rezoned from LM to C-2, conditional.)

COMMONWEALTH OF VIRGINIA)
) TO-WIT:
CITY OF ROANOKE)

The affiant, Martha Pace Franklin, first being duly sworn, states that she is Secretary of the City of Roanoke Planning Commission, and as such is competent to make this affidavit of her own personal knowledge. Affidavit states that, pursuant to the provisions of Section 15.1-341, Code of Virginia, (1950), as amended, on behalf of the Planning Commission of the City of Roanoke, she has sent by first-class mail on the 29th day of March, 1993, notices of a public hearing to be held on the 7th day of April, 1993, on the rezoning captioned above to the owner or agent of the parcels listed below at their last known address:

Parcel	Owner, Agent or Occupant	Address
2560127	Maude P. Bolling	3611 New Spring Branch Road, SE Roanoke, VA 24014
2640349	Alexander N. Apostolou, etals	P. O. Box 1855 Roanoke, VA 24008
2650102	Fairview Cemetery Co., Inc.	P. O. Box 6231 Roanoke, VA 24017

Martha Pace Franklin

Martha Pace Franklin

SUBSCRIBED AND SWORN to before me, a Notary Public, in the City of Roanoke, Virginia, this 29th day of March, 1993.

Richard V. Hamilton

Notary Public

My Commission Expires: 2/28/97

ZONING DISTRICT MAP

0 Salem Turnpike NW; Official Tax Parcels: 2640351

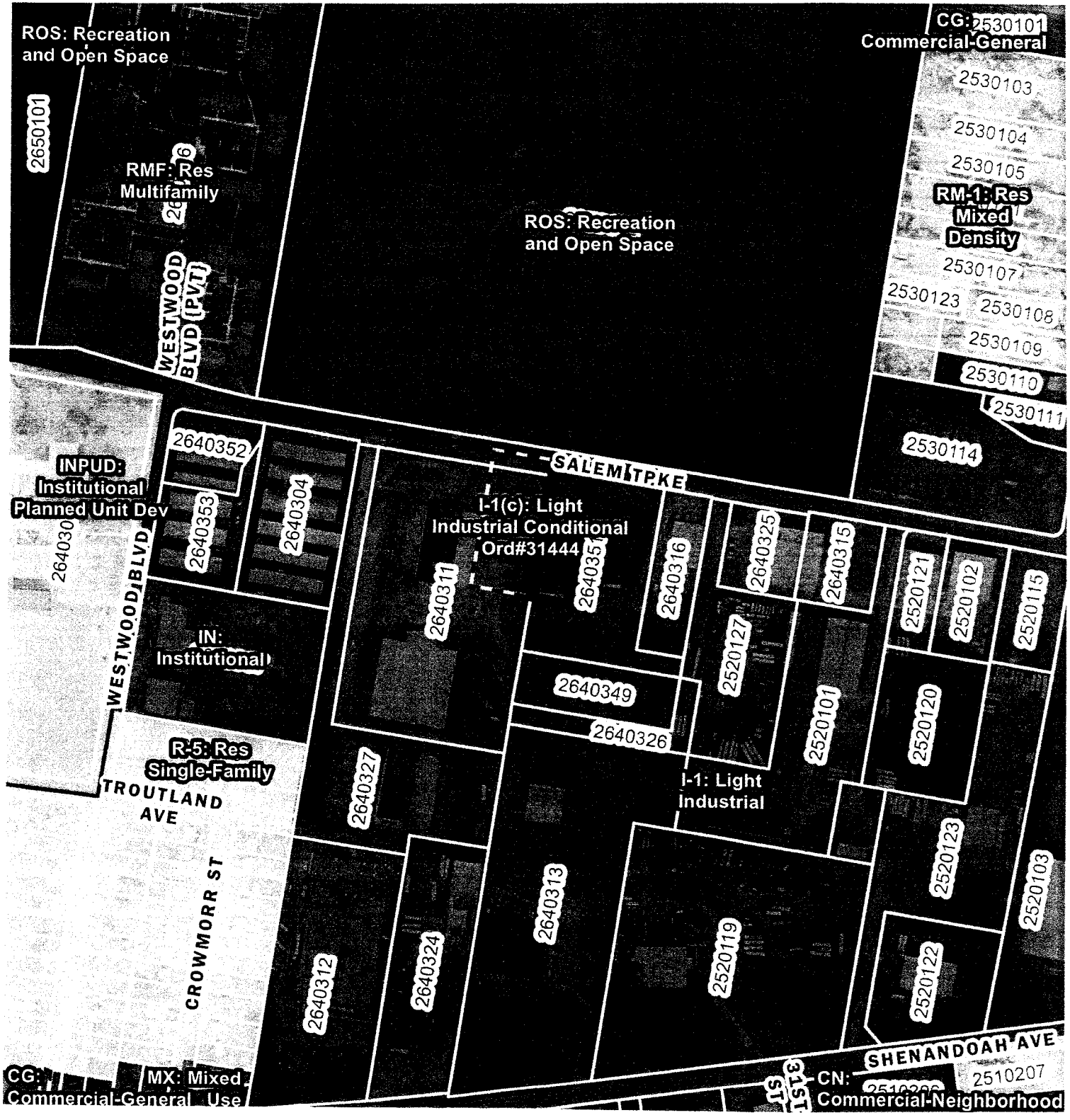
Area to be Rezoned

Zoning

- AD: Airport Dev
- CG: Commercial-General
- CLS: Commercial-Large Site
- CN: Commercial-Neighborhood
- D: Downtown
- I-1: Light Industrial
- I-2: Heavy Industrial
- IN: Institutional
- INPUD: Institutional Planned Unit Dev
- IPUD: Industrial Planned Unit Dev
- MX: Mixed Use
- MXPUD: Mixed Use Planned Unit Dev
- R-12: Res Single-Family
- R-3: Res Single-Family
- R-5: Res Single-Family
- R-7: Res Single-Family
- RA: Res-Agricultural
- RM-1: Res Mixed Density
- RM-2: Res Mixed Density
- RMF: Res Multifamily
- ROS: Recreation and Open Space
- UF: Urban Flex
- Conditional Zoning

0 100 200 Feet

N W E S



SSY 4/13/16

B.1.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to rezone certain property located on the 3300 block of Salem Turnpike, N.W., bearing Official Tax Map No. 2640351, by repealing Ordinance No. 31444-051793, adopted May 17, 1993, to the extent that it placed conditions on the subject property; and dispensing with the second reading of this ordinance by title.

WHEREAS, Richard D. Moses, on behalf of Contractors & Industrial Supply, Inc., has made application to the Council of the City of Roanoke, Virginia ("City Council"), to repeal Ordinance No. 31444-051793, adopted May 17, 1993, to the extent that it placed certain conditions on property located on the 3300 block of Salem Turnpike, N.W., bearing Official Tax Map No. 2640351;

WHEREAS, the City Planning Commission, after giving proper notice to all concerned as required by §36.2-540, Code of the City of Roanoke (1979), as amended, and after conducting a public hearing on the matter, has made its recommendation to Council;

WHEREAS, a public hearing was held by City Council on such application at its meeting on April 18, 2016, after due and timely notice thereof as required by §36.2-540, Code of the City of Roanoke (1979), as amended, at which hearing all parties in interest and citizens were given an opportunity to be heard, both for and against the proposed amendment; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to this Council by the Planning Commission, the City's Comprehensive Plan, and the matters presented at the public hearing, finds that the public necessity, convenience, general welfare and good zoning practice, require the repealing of Ordinance No. 31444-051793, adopted May 17, 1993, to the extent it placed certain conditions on property

B.2.

CITY COUNCIL AGENDA REPORT

To: Honorable Mayor and Members of City Council

Meeting: April 18, 2016

Subject: Application by Coots, Cross, Lavinder & Quinn Management Company, LLC, successor to Coots Ward Management Company, to amend conditions proffered as part of a previous rezoning at 1930 Electric Road, S.W., bearing Official Tax Map No. 5090209, as such proffers pertain to a northern portion of an approximately 0.215 acre parcel that extends to Electric Road, S.W.

Recommendation

The Planning Commission held a public hearing on Monday, April 11, 2016. By a vote of 6 - 0 the Commission recommended approval of the rezoning request, finding that the Original Application is consistent with the City's Comprehensive Plan, *Greater Deyerle Neighborhood Plan*, and Zoning Ordinance as it amends conditions on the property to allow for continued development of the site in a manner appropriate to the surrounding area.

Application Information

Request:	Amendment of Proffered Conditions
Owner:	Coots, Cross, Lavinder & Quinn Management Company, LLC
Applicant:	N/A
Authorized Agent:	Chris Burns, Balzer and Associates Inc.
City Staff Person:	Katharine Gray, Land Use and Urban Design Planner
Site Address/Location:	1930 Electric Road, S.W.
Official Tax No.:	5090209
Site Area:	Approximately 0.215 acre
Existing Zoning:	CN, Commercial - Neighborhood District, a portion with conditions
Proposed Zoning:	CN, Commercial - Neighborhood District, a portion with conditions
Existing Land Use:	Medical clinic
Proposed Land Use:	Medical clinic
Neighborhood Plan:	Greater Deyerle Neighborhood Plan
Specified Future Land Use:	Neighborhood Commercial
Filing Date:	Original Application: February 29, 2016

Background

A large property at the corner of Electric Road and Gatewood Avenue was rezoned in 1994 from RS-1, Residential Single-Family District, to CN, Commercial - Neighborhood District, for the purpose of allowing commercial use of the previously residential building. Proffered conditions on the property were then amended in 1995 to allow for the construction of another office building on the site. The property with conditions was then subdivided into 4 separate portions. The three northernmost portions were made into separate lots.

The southernmost portion of the property was combined with a parcel to the south in 1997 to create a new lot. The proffered conditions apply to only a portion of this new lot. It is this lot, at 1930 Electric Road, S.W., bearing Official Tax No. 5090209, which is the subject of this request.

Proffered conditions on the property were then amended in that same year to increase the square footage allowance to allow for the expansion of an existing office building on the subject property.

The owner of the medical office at 1930 Electric Road, S.W., now wants to expand their building in the portion of the property that contains the proffered conditions. However, the proffered conditions will not allow such expansion as currently written.

In February 2016, the Applicant filed an application to amend the proffered conditions from 1997.

Conditions Requested To Be Repealed by the Applicant

The applicant hereby requests that the following proffered conditions enacted by Ordinance Number 33561-090297 be amended as it pertains to a portion of Official Tax Number 5090209 (approximately 0.215 acres).

1. That the property shall be used for the purpose of professional office buildings **and medical clinic**.
2. ~~That the total square footage of office buildings on the property will be limited to 10,000 square feet.~~
3. The exterior architectural features of the existing structure on the subject property shall be substantially similar to the artist's rendering dated November 11, 1994, prepared by Balzer & Associates. The exterior architectural features of the proposed new structure shall be substantially similar to the photographs made a part of the record.
4. That none of the structures to be erected on the property shall be closer to the residences on Gatewood Drive than are shown on the site plan prepared by Balzer & Associates under date of November 11, 1994. (A copy of which is attached to the Amended Petition to Amend Proffered Conditions as Exhibit B in those matters related to Ordinance No. 32657-092595.)

5. That no entrance/exit to the property will be constructed on Gatewood Avenue.
6. ~~That the storm water management facilities at Sugar Loaf Crossing, Phase II, will be designed to release a post development twenty five year design storm at a rate less than the pre development ten year design storm peak rate.~~
7. The development of the property will be in substantial conformity with the site plan prepared by Balzer & Associates under the date of ~~June 4, 1997~~ **February 26, 2016**, attached hereto as Exhibit C.
8. If the property is not developed by Coots, **Cross, Lavinder & Quinn** ~~Ward~~ Management Company, LLC, these proffers shall be voided and the original proffers reinstated.

The City's stormwater management regulations have changes significantly since the original conditions were developed and Proferred Condition No. 6 is no longer needed.

Considerations

Surrounding Zoning and Land Use:

	Zoning District	Land Use
North	CN, Commercial - Neighborhood District, with conditions	Professional offices
South	CN, Commercial - Neighborhood District and Roanoke County	Medical Clinic; Educational facilities, elementary
East	CN, Commercial - Neighborhood District and R-7, Residential Single - Family District	Medical Clinic; Business Service Establishment, Not Otherwise Listed; Single Family Residential
West	Roanoke County	Place of Worship

Compliance with the Zoning Ordinance:

The purpose of the CN District is to encourage a concentration of neighborhood-scaled retail, office, and service uses, in clearly defined, compact areas in close proximity to residential neighborhoods. The regulations of the district are intended to control the scale of nonresidential buildings in a manner that makes them compatible with and appropriate for surrounding residential areas and to encourage a development pattern that consists of ground floor commercial uses with offices and residential uses on the upper floor levels. The district is intended to promote pedestrian-oriented development, with buildings located close to the street, pedestrian-scaled signage, main entrances oriented to the street frontage sidewalk, windows or display cases along building façades which face the street, and significant building coverage of the site. Although parking areas may be provided, they are generally limited in size and are deemphasized by their location on the site.

The development is subject to dimensional and development standards of the ordinance and subject to the additional proffers regarding land use, material of construction, location of buildings on the property, entrance locations, and developer. Details not shown on the development plan will be finalized during the development review process.

Conformity with the Comprehensive Plan and Neighborhood Plan:

Both *Vision 2001-2020* and the *Greater Deyerle Neighborhood Plan* identify the need for redevelopment of existing commercial properties within existing commercial zoning districts. The amendment of proffered conditions will allow the expansion of an existing business towards a commercial street in a manner appropriate to the surrounding area.

Relevant *Vision 2001-2020* policies:

- NH P2. Neighborhoods as villages. Neighborhoods will function as villages, offering opportunities to live, work, shop, play, and interact in a neighborhood setting. Neighborhood-oriented commercial activity will be encouraged in well-defined village centers.

- ED P6. Commercial development. Roanoke will encourage commercial development in appropriate areas (i.e., key intersections and centers) of Roanoke to serve the needs of citizens and visitors.

Relevant *Greater Deyerle Neighborhood Plan* Policies:

Community Design Policies:

Neighborhood Character: Established neighborhoods should retain their overall character and development patterns, while incorporating new development that is compatible with the neighborhood, the design guidelines of Vision 2001-2020, and efficiently uses limited land resources.

Zoning: Maintain the current zoning districts as they are. If property owners request changes:

- Evaluate rezoning requests based on the specific recommendations and guidelines of this plan.

- Support rezoning requests that will allow for expansion on existing commercial or industrial properties without encroaching into residential areas.

The use of the property has been as commercial use for many years. Proffered conditions exist on a portion of the property as a remnant from the previous rezoning of a larger original parcel in the 1990's that prohibit the expansion of

existing business on the property as desired. The amendment of the proffered conditions does not remove the protections to the residential properties to the northeast that they were originally intended to protect, but continues to offer certainty to surrounding property owners while allowing expansion of the business.

Public Comments:

None.

Planning Commission Work Session:

None.

Planning Commission Public Hearing:

None.

James E. Smith / tmc

James E. Smith, Acting Chair
City Planning Commission

cc: Chris Morrill, City Manager
R. Brian Townsend, Assistant City Manager
Chris Chittum, Director of Planning Building & Development
Ian D. Shaw, Planning Commission Agent
Daniel J. Callaghan, City Attorney
Steven J. Talevi, Assistant City Attorney
Fred A. Coots, III; Coots, Cross, Lavinder & Quinn Management Company, LLC
Chris Burns, Balzer and Associates Inc.

REZ160003

Zoning Amendment Application

RECEIVED

FEB 29 2016

CITY OF ROANOKE
PLANNING BUILDING & DEVELOPMENT

ROANOKE

Click Here to Print

Department of Planning, Building and Development
Room 166, Noel C. Taylor Municipal Building
215 Church Avenue, S.W.
Roanoke, Virginia 24011
Phone: (540) 853-1730 Fax: (540) 853-1230

Date: 2-26-2016

Submittal Number: Original Application

Request (select all that apply):

- ☐ Rezoning, Not Otherwise Listed
- ☐ Rezoning, Conditional
- ☐ Rezoning to Planned Unit Development
- ☐ Establishment of Comprehensive Sign Overlay District
- ☒ Amendment of Proffered Conditions
- ☐ Amendment of Planned Unit Development Plan
- ☐ Amendment of Comprehensive Sign Overlay District

Property Information:

Address: 1930 Electric Road, SW

Official Tax No(s).: Portion of 5090209

Existing Base Zoning: (If multiple zones, please manually enter all districts.) CN, Commercial-Neighborhood ☒ With Conditions ☐ Without Conditions

Ordinance No(s). for Existing Conditions (If applicable): 33561-090297

Requested Zoning: CN, Commercial-Neighborhood ☒ With Conditions ☐ Without Conditions

Proposed Land Use: Medical Office

Property Owner Information:

Name: Coots, Cross, Lavinder & Quinn Management Company, LLC

Phone Number: +1 (540) 989-1170

Address: 1930 Electric Road SW Roanoke, VA 24018

E-Mail: fredandem@live.com

Property Owner's Signature:

Applicant Information (if different from owner):

Name: same as owner

Phone Number:

Address:

E-Mail:

Applicant's Signature:

Authorized Agent Information (if applicable):

Name: Balzer and Associates Inc. c/o Mr. Chris Burns

Phone Number: +1 (540) 772-9580

Address: 1208 Corporate Circle Roanoke, Va 24018

E-Mail: cburns@balzer.cc

Authorized Agent's Signature:

COOTS, CROSS, LAVINDER & QUINN MANAGEMENT COMPANY, LLC
REZONING REQUEST NARRATIVE:

This request is being made on behalf of Coots, Cross, Lavinder & Quinn Management Company, LLC (current property owner) to amend proffered conditions related to a portion of Tax Parcel 5090209 to allow for a proposed addition to their existing dentist office building. The subject property is zoned CN and a portion of the property is subject to conditions from previous ordinances.

The existing conditions on the property apply to adjoining parcels (Tax Parcels (5100809, 5100811, and 5100812), as well as a 0.215 acre portion of the subject parcel (Tax Parcel 5090209). The property was originally rezoned with conditions on January 18, 1994, under Ordinance #31826 to allow for interior renovations to an existing structure to allow it to be used as a professional office building.

The conditions on the property were amended on September 25, 1995, under Ordinance #32657-092595, to allow for additional professional office building space to be constructed on the property, up to a maximum of 8,000 s.f.

The conditions on the property were amended once again on September 2, 1997, under Ordinance #33561-090297, to increase the allowable square footage of professional office building space to 10,000 s.f. to allow for a building expansion to the Coots Ward building. The expansion of the Coots Ward building required the northern property line of Tax Parcel 5090209 to be relocated and a portion of the building addition was located within the zoning parcel affected by the conditions. Prior to this resubdivision, the subject property had not been affected by the rezoning or the conditions on the property.

The proposed request will amend the proffered conditions only for the area located on Tax Parcel 5090209 and will allow for the proposed building expansion. The revisions to the proffered conditions are shown on Exhibit A. Proffered conditions on the adjoining parcels (Tax Parcels 5100809, 5100811, and 5100812) will remain unchanged.

The proposed building expansion will be used for additional exam rooms, as well as an expanded waiting area to better serve the patrons of the business. The expansion will be architecturally consistent with the existing dentist office building. The attached development plan (Exhibit C) shows the location of the proposed building expansion. The location of the expansion is proposed to be between the existing building and Electric Road and minimizes any impact to the surrounding residential neighborhood. No new parking spaces are proposed with this plan, as there are adequate spaces on-site to serve the existing and proposed development. Stormwater management will be provided in accordance with current City of Roanoke regulations.

This area is designated as Commercial in the Greater Deyerle Neighborhood Existing Land Use Map and the proposed development certainly fits within this designation.. This Project is consistent with the existing Sugar Loaf Crossing development and allows for the existing commercial development to continue to expand without encroaching on the surrounding residential area.

On behalf of Coots, Cross, Lavinder & Quinn Management Company, LLC, we are requesting approval of this application for amendment of proffered conditions. This project will allow an already successful site to grow and further serve the residents in the community, while maintaining the integrity and the character of the overall Sugar Loaf Crossing development and the surrounding residential neighborhood.

BALZER
AND ASSOCIATES INC
REFLECTING TOMORROW

Legal Description of a portion of Lot 1A-1 (M.B. 1, PG. 1757) Roanoke City Tax Parcel # 5090209

Property address 1930 Electric Road, S.W.

Commencing at a concrete monument located on the Easterly right of way of Electric Road, S.W. at the Southeasterly intersection of Gatewood Avenue, S.W. and Electric Road, S.W.; thence with Electric Road, S.W. S39°03'00"E 86.22 feet to the actual Point of Beginning; thence leaving Electric Road, S.W. and with the following Northerly lines of Lot 1A-1 (M.B. 1, PG. 1757) Roanoke City Tax Parcel
#5090209, N82°33'00"E 132.42 feet to a point, S18°31'08"E 18.14 feet to a point, N71°28'51"E 71.65 feet to a point, N18°27'00"W 4.12 feet to a point, N82°33'00"E 59.88 feet to a point on the Westerly line of Roanoke City Tax Parcel #5100808; thence leaving the Northerly line of Lot 1A—1 and with the Westerly line of Tax Parcel #5100808 S12°29'00"E 39.65 to a point on the Southerly line of Tax Parcel #5100808; thence leaving Tax Parcel #5100808 with the City Zoning line through Lot 1A-1 S82°33'00"W 228.98 feet to a point; thence S37°42'48"W 13.58 feet to a point along the Easterly right of way of Electric Road, S.W.; thence with Electric Road, S.W. N39°03'00"W 57.63 feet to the point and place of beginning, containing 0.2145 AC. (9,345 S.F.) and being a portion of Lot 1A-1 (M.B. 1, PG. 1757) Roanoke City Tax Parcel # 5090209, lying in the City of Roanoke, Virginia.

PLANNERS • ARCHITECTS • ENGINEERS • SURVEYORS
ROANOKE • RICHMOND • NEW RIVER VALLEY • SHENANDOAH VALLEY • HARRISONBURG
1208 Corporate Circle • Roanoke, Virginia 24018 • (540) 772-9580 • FAX (540) 772-8050
www.balzer.cc

Exhibit A

COOTS, CROSS, LAVINDER & QUINN MANAGEMENT COMPANY, LLC
PROFFERED CONDITIONS TO BE AMENDED:

The applicant hereby requests that the following proffered conditions enacted by Ordinance Number 33561-090297 be amended as it pertains to a portion of Official Tax Number 5090209 (approximately 0.215 acres).

1. That the property shall be used for the purpose of professional office buildings **and medical clinic.**
2. ~~That the total square footage of office buildings on the property will be limited to 10,000 square feet.~~
3. The exterior architectural features of the existing structure on the subject property shall be substantially similar to the artist's rendering dated November 11, 1994, prepared by Balzer & Associates. The exterior architectural features of the proposed new structure shall be substantially similar to the photographs made a part of the record.
4. That none of the structures to be erected on the property shall be closer to the residences on Gatewood Drive than are shown on the site plan prepared by Balzer & Associates under date of November 11, 1994. (A copy of which is attached to the Amended Petition to Amend Proffered Conditions as Exhibit B in those matters related to Ordinance No. 32657-092595.)
5. That no entrance/exit to the property will be constructed on Gatewood Avenue.
6. ~~That the storm water management facilities at Sugar Loaf Crossing, Phase II, will be designed to release a post-development twenty-five year design storm at a rate less than the pre-development ten year design storm peak rate.~~
7. The development of the property will be in substantial conformity with the site plan prepared by Balzer & Associates under the date of ~~June 4, 1997~~ **February 26, 2016**, attached hereto as Exhibit C.
8. If the property is not developed by Coots, **Cross, Lavinder & Quinn** ~~Ward~~ Management Company, **LLC,** these proffers shall be voided and the original proffers reinstated.

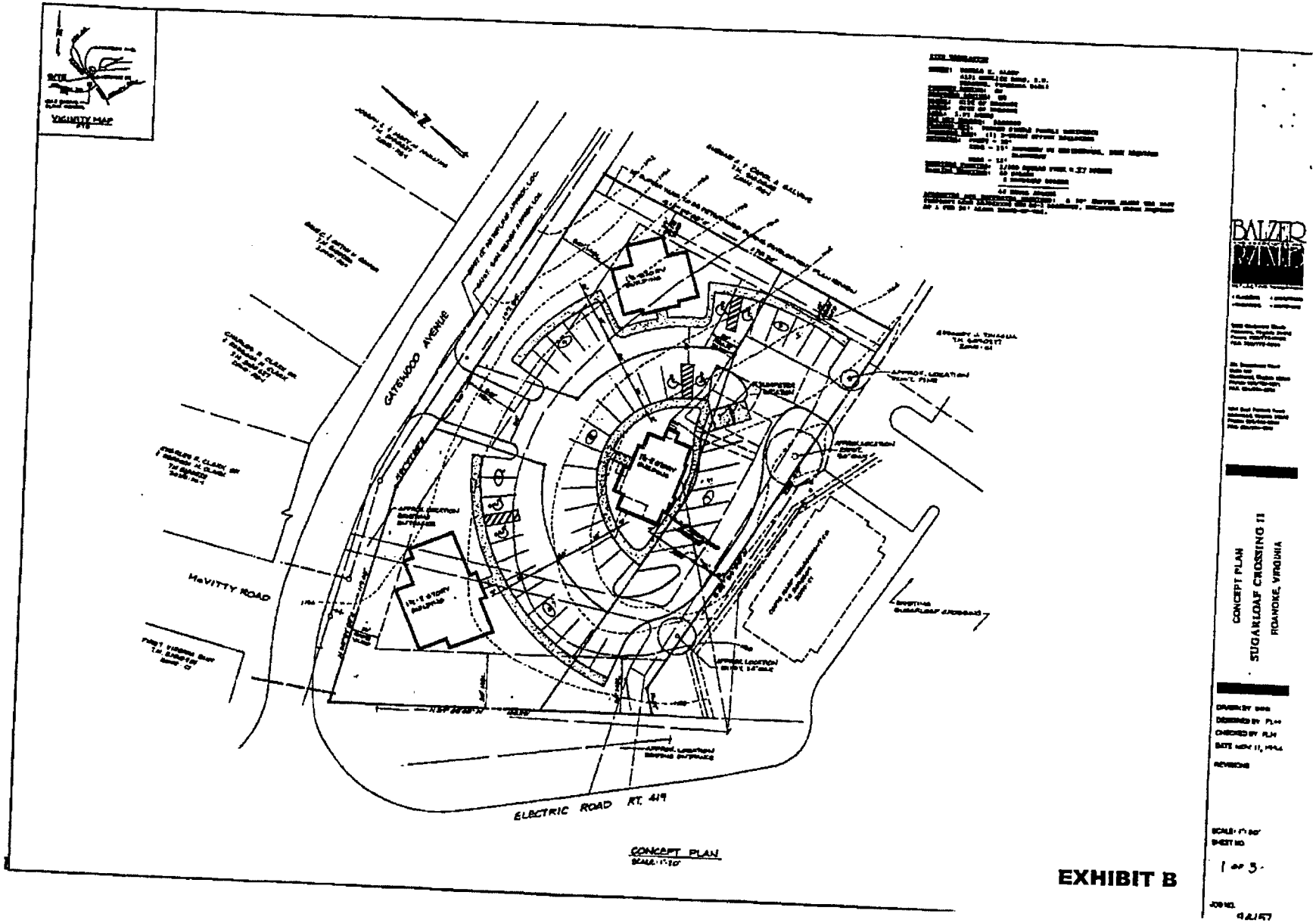

VICINITY MAP
GATEWOOD AVENUE
McVITTY ROAD
ELECTRIC ROAD RT. 419
CONCEPT PLAN
BALZER
CONCEPT PLAN
SUGARLOAF CROSSING II
ROANOKE, VIRGINIA
1 of 3

EXHIBIT B

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

The 2nd day of September, 1997.

No. 33561-090297.

AN ORDINANCE to amend §§36.1-3 and 36.1-4, Code of the City of Roanoke (1979), as amended, and Sheet Nos. 510 and 509, Sectional 1976 Zone Map, City of Roanoke, in order to amend certain conditions presently binding upon certain property previously conditionally zoned CN, Neighborhood Commercial District.

WHEREAS, H. P. Properties, Owner and Coots Ward Management Company, Contract Purchaser, filed an application to the Council of the City of Roanoke to amend certain conditions presently binding on a tract of land, more specifically known as Lot 1, Lot 2, Lot 3, and a .125-acre tract, all of which are shown on a plat of subdivision filed with the Clerk of the Circuit Court and found at Map Book 1, page 1615, and being a portion of a larger tract of land located at 1930 Electric Road, S.W. (formerly known as 1910 McVitty Road, S.W., and designated as Official Tax No. 5100809), now a portion of Official Tax No. 5090209, which property was previously conditionally rezoned by the adoption of Ordinance No. 32657-092595, adopted September 25, 1995; and

WHEREAS, the City Planning Commission, which after giving proper notice to all concerned as required by §36.1-693, Code of the City of Roanoke (1979), as amended, and after conducting a public hearing on the matter, has made its recommendation to Council; and

WHEREAS, a public hearing was held by City Council on said application at its meeting on August 18, 1997, after due and timely

notice thereof as required by §36.1-693, Code of the City of Roanoke (1979), as amended, at which hearing all parties in interest and citizens were given an opportunity to be heard, both for and against the proposed amendment; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to the Council by the Planning Commission, the City's Comprehensive Plan, and the matters presented at the public hearing, is of the opinion that the conditions now binding upon that certain tract of land, more specifically known as Lot 1, Lot 2, Lot 3, and a .125-acre tract, all of which are shown on a plat of subdivision filed with the Clerk of the Circuit Court and found at Map Book 1, page 1615, being a portion of a larger tract of land located at 1930 Electric Road, S.W. (formerly known as 1910 McVitty Road, S.W.), and designated as Official Tax No. 5100809, now a portion of Official Tax No. 5090209, and filed as Exhibit A with the First Amended Petition filed August 1, 1997, should be amended as requested.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that §§36.1-3 and 36.1-4, Code of the City of Roanoke (1979), as amended, and Sheet Nos. 510 and 509 of the Sectional 1976 Zone Map, City of Roanoke, be amended to reflect the changes in proffered conditions as shown in the First Amended Petition filed in the City Clerk's Office on August 1, 1997, and as set forth in the report of the Planning Commission dated August 18, 1997.

ATTEST:

City Clerk.

ROANOKE
VIRGINIA, CHARTERED 1882

Roanoke City Planning Commission

August 18, 1997

The Honorable David A. Bowers, Mayor
and Members of City Council
Roanoke, Virginia

Dear Members of Council:

Subject: Request from H. P. Properties and Coots Ward Management Company, that proffered conditions related to a tract formerly located at 1910 McVitty Road and being a portion of Official Tax No. 5100809 and currently identified as 1930 Electric Road, S.W., a portion of Official Tax No. 5090209, be amended.

I. Background:

A. Purpose of the petition to amend proffered conditions is to allow for the expansion of an existing commercial office building located on Lot I-A, Sugarloaf Crossing, previously having been a portion of Tax Map No. 5090209.

B. Proposed office building expansion would extend on to property originally conditionally rezoned by Roanoke City Council in September, 1995. Existing proffered conditions are as follows:

1. That the property shall be used for the purpose of professional office buildings.

2. That the total square footage of office buildings on the property will be limited to 8,000 square feet.

3. The exterior architectural features of the existing structure on the subject property shall be substantially similar to the artist's rendering dated November 11, 1994, prepared by Balzer & Associates. The exterior architectural features of the proposed new structure shall be substantially similar to the photographs made a part of the record.

4. That none of the structures to be erected on the property shall be closer to the residences on Gatewood Drive that are shown on the site plan prepared by

Balzer & Associates under date of November 11, 1994, a copy of which is attached to the Amended Petition to Amend Proffered Conditions as Exhibit B.

5. That no entrance/exit to the property will be constructed on Gatewood Avenue.

6. That the storm water management facilities at Sugar Loaf Crossing, Phase II, will be designed to release a post-development 25 year design storm at a rate less than the pre-development ten year design storm peak rate.

C. Current petition to amend proffered conditions was filed on June 5, 1997. Amended proffered conditions are as follows:

1. That the total square footage of office buildings on the property will be limited to 10,000 square feet.

2. The development of the property will be in substantial conformity with the site plan prepared by Balzer & Associates under the date of June 4, 1997, attached hereto as Exhibit B.

3. If the property is not developed by Coots Ward Management Company these proffers shall be voided and the original proffers reinstated.

Staff requested that the petitioner submit an amended petition at the Planning Commission public hearing consolidating all proffered conditions which will be in effect on the subject property.

D. Greater Deverle Neighborhood Association president contacted the Planning office on June 23, 1997, to indicate that the organization had no objection to the proposed amendment to proffered conditions.

E. Greater Deverle Neighborhood Plan recommends that:

1. Single family character of the neighborhood should be maintained. New development along the perimeter of the neighborhood in areas zoned for commercial and multifamily development should be well designed and compatible with adjoining residential areas.

2. Signage in commercial areas and at neighborhood entrances should be minimized to maintain the area's residential character.

F. Comprehensive Plan recommends that:

1. Expansion of commercial development be carefully evaluated to ensure minimal conflict with residential areas and to promote good land use.

2. Neighborhood character and environmental quality be protected.

II. Current Situation:

A. Planning Commission public hearing was held on July 2, 1997. Mr. Neil McNally, attorney, appeared before the Commission on behalf of H. P. Properties and Coots-Ward Management. Mr. McNally stated he was submitting an amended petition at the request of the Planning staff which consolidated the new proffers and the previously approved proffers. Mr. McNally stated the petitioner wanted to expand an existing structure that was not part of the original Helms rezoning. In response to a question from Mr. Rife, Mr. McNally stated that the property line was relocated to accommodate the proposed addition.

There was discussion among the Commission members and petitioner's attorney relative to the location of the proposed addition and the existing structure located on Mr. Helms' property. Mr. Rife stated that the addition to the existing structure on Mr. Helms' property may be in violation of the setback requirements as a result of the change in the property line.

Mr. Marlles gave the staff report. He stated that staff was recommending approval of the request. He said that staff felt that the proposed addition would have only a minor impact on the neighborhood.

Mr. Bud McWorter (5006 Gatewood Avenue) appeared before the Commission and stated he was representing the Hidden Valley Estates Neighborhood Watch which was part of the Greater Deyerle Neighborhood Association. Mr. McWorter stated that several of the adjoining homeowners had concerns with the development that was occurring on the area that was the subject of the first rezoning including the changes to the topography and the view of the stone wall. He also stated that he felt that some new construction was occurring without a building permit.

Mr. Butler advised Mr. McWorter that if he felt there were deviations from the proffered site plan for the Helms property, then he should contact the Planning Department for clarification.

Mr. Marlles noted that under the current amended petition, all of those proffers that were part of the original Helms rezoning would still be in place with the exception of the proffer limiting the square footage which would increase from 8,000 to 10,000 square feet. He said that the question of whether those proffers were complied with was a separate issue which would be looked at by staff.

Mr. Butler said that the Commission was being asked to approve a drawing, specified as Exhibit B, which seemed to violate the setback requirements. He said that he felt the drawing needed to be cleaned up so there would be no confusion.

Mr. Talevi asked Mr. McNally if he was willing to proffer Exhibit B deleting the expansion of the existing structure on the Helms property.

Mr. McNally said he would be willing to do that.

There was no further discussion.

B. Amended petition to amend proffered conditions was filed on August 1, 1997. Amended proffered conditions are as follows:

1. That the property shall be used for the purpose of professional office buildings.

2. That the total square footage of office buildings on the property will be limited to 10,000 square feet.

3. The exterior architectural features of the existing structure on the subject property shall be substantially similar to the artist's rendering dated November 11, 1994, prepared by Balzer & Associates. The exterior architectural features of the proposed new structure shall be substantially similar to the photographs made a part of the record.

4. That none of the structures to be erected on the property shall be closer to the residences on Gatewood Drive than are shown on the site plan prepared by Balzer & Associates under date of November 11, 1994. (A copy of which is attached to the Amended Petition to Amend Proffered Conditions as Exhibit B in those matters related to Ordinance No. 32657-092595.)

5. That no entrance/exit to the property will be constructed on Gatewood Avenue.

6. That the storm water management facilities at Sugar Loaf Crossing, Phase II, will be designed to release a post-development twenty-five year design storm at a rate less than the pre-development ten year design storm peak rate.

7. The development of the property will be in substantial conformity with the site plan prepared by Balzer & Associates under the date of June 4, 1997, attached hereto as Exhibit B.

8. If the property is not developed by Coots Ward Management Company, these proffers shall be voided and the original proffers reinstated.

III. Issues:

A. Zoning.

B. Land use.

C. Traffic.

D. Neighborhood impact.

E. Neighborhood plan.

F. Comprehensive Plan.

IV. Alternatives:

A. City Council approve the requested change in proffered conditions.

1. Zoning of the subject property would remain conditional CN, Neighborhood Commercial District, with amended proffers which would permit the expansion of an existing commercial office building.

2. Land use would remain the same.

3. Traffic impact of proposed 3,181 square foot expansion to existing commercial office building would be minimal.

4. Neighborhood impact of proposed office building expansion would be minimal given the location of the proposed structure on the site.

5. Neighborhood plan issues as set forth would be addressed.

6. Comprehensive plan issues as set forth would be addressed.

B. City Council deny the requested change in proffered conditions.

1. Zoning of the subject property would remain conditional CN, Neighborhood Commercial District. Proposed expansion to existing commercial office building would not be possible.

2. Land use would remain the same.

3. Traffic impact would not be an issue.

4. Neighborhood impact would not be an issue.

5. Neighborhood plan issues as set forth would not be addressed.

6. Comprehensive plan issues as set forth would not be addressed.

V. Recommendation:

Planning Commission , by a vote of 4-0, (Mrs. Coles, Mrs. Duerk and Mr. Manetta absent) recommended approval of the petition to amend proffered conditions. The proposed amendment to proffered conditions will allow for the expansion of an existing commercial office building without any detrimental impact on the adjacent residential neighborhood.

Respectfully submitted,

Gilbert Butler

Gilbert E. Butler, Jr., Chairman
Roanoke City Planning Commission

JRM:mpf
attachment
cc: Assistant City Attorney
Attorney for the Petitioner

VIRGINIA: IN THE COUNCIL OF THE CITY OF ROANOKE

RE: FIRST AMENDED PETITION TO AMEND PROFFERED CONDITIONS RELATED TO A TRACT OF LAND LOCATED AT 1910 MCVITTY ROAD, S.W., DESIGNATED AS OFFICIAL TAX NO. 5100809 OF THE CITY OF ROANOKE

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

The Petitioners, H.P. Properties, Owner and Coots Ward Management Company, Contract Purchaser, own land in the City of Roanoke containing 0.215 acre, more or less, located at 1930 Electric Road, S.W., in the City of Roanoke, Virginia, more specifically identified as previously having been a portion of Tax Map No. 5100809 and now a portion of Tax Map No. 5090209 pursuant to a plat of survey approved by the Roanoke City Planning Commission on February 18, 1997 and which plat is of record in the Circuit Court Clerk's Office for the City of Roanoke, Virginia in Map Book 1, page 1615, a copy of said plat is attached hereto as Exhibit A; said property being situated east of Electric Road and south of Gatewood Avenue in the City of Roanoke. Said property is currently zoned CN, Neighborhood Commercial District.

Pursuant to Section 36.1-690, Code of the City of Roanoke (1979), as amended, the Petitioners hereby request that the previously approved proffers on said property be revised and amended. The Petitioners believe the amendment of proffers on said tract of land will further the intent and purposes of the City's zoning ordinance and it comprehensive plan, in that it will allow for the expansion of an existing commercial office building on Lot 1A, Sugarloaf Crossing, as shown on Exhibit A and will further conform to the uses of the comprehensive plan of the City of Roanoke.

Key&Tatel
P.C.
ATTORNEYS AT LAW
[illegible]
P.O. Box [illegible]
[illegible] Virginia 24038

The Petitioners hereby request that the following proffer be approved as part of the rezoning of the subject property by City Council by Ordinance No. 32657-092595, be deleted:

1. That the total square footage of office buildings on the property will be limited to 8,000 square feet.

The Petitioners hereby request that the following proffers be

accepted and that the Petitioners will abide by the following conditions:

1. That the property shall be used for the purpose of professional office buildings.

2. That the total square footage of office buildings on the property will be limited to 10,000 square feet.

3. The exterior architectural features of the existing structure on the subject property shall be substantially similar to the artist's rendering dated November 11, 1994, prepared by Balzer & Associates. The exterior architectural features of the proposed new structure shall be substantially similar to the photographs made a part of the record.

4. That none of the structures to be erected on the property shall be closer to the residences on Gatewood Drive than are shown on the site plan prepared by Balzer & Associates under date of November 11, 1994. (A copy of which is attached to the Amended Petition to Amend Proffered Conditions as Exhibit B in those matters related to Ordinance No. 32657-092595.)

5. That no entrance/exit to the property will be constructed on Gatewood Avenue.

6. That the storm water management facilities at Sugar Loaf Crossing, Phase II, will be designed to release a post-development twenty-five year design storm at a rate less that the pre-development ten year design storm peak rate.

7. The development of the property will be in substantial conformity with the site plan prepared by Balzer & Associates under the date of June 4, 1997, attached hereto as Exhibit B.

8. If the property is not developed by Coots Ward Management Company, these proffers shall be voided and the original proffers reinstated.

Attached as Exhibit C, 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 property.

Attached as Exhibit D is a copy of the appraisal map for the subject property.

Key&Tatel
P.C.
ATTORNEYS AT LAW
[illegible] STREET AT [illegible] AVENUE, S.W.
P.O. Box [illegible]
ROANOKE, VIRGINIA 24008

WHEREFORE, the Petitioners request that the above-described amended proffers be approved in accordance with the provisions of the zoning ordinances of the City of Roanoke.

Respectfully submitted this 2nd day of July, 1997.

Respectfully submitted,

H.P. PROPERTIES
COOTS WARD MANAGEMENT COMPANY

By: _____
Of Counsel

Neil E. McNally, Esquire
KEY & TATEL, P.C.
Post Office Box 1625
Roanoke, Virginia 24008-1625
(540) 982-0007
VSB# 22220

H.P. PROPERTIES

_____
LEE T. HELMS, PARTNER/OWNER

COOTS WARD MANAGEMENT COMPANY

_____
B. SCOTT WARD, PRINCIPAL

Key&Tatel
P.C.
ATTORNEYS AT LAW
[illegible] S. [illegible] Street at Hemlock Way, SW
P.O. Box 1625
Roanoke, Virginia 24008

KNOW ALL MEN BY THESE PRESENTS TO WIT:

THAT HP PROPERTIES AND COOTS WARD MANAGEMENT COMPANY ARE THE FEE SIMPLE OWNERS OF THE LAND SHOWN HEREON BOUNDED BY CORNERS 1 THRU 14 TO 1, INCLUSIVE, SAID LAND BEING ALL OF THE LAND CONVEYED TO SAID HP PROPERTIES IN DEED BOOK 1749, PAGE 153 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF ROANOKE, VIRGINIA, AND ALL OF THE LAND CONVEYED TO SAID COOTS WARD MANAGEMENT COMPANY IN DEED BOOK 1669, PAGE 707 AS RECORDED IN THE AFORESAID CLERK'S OFFICE.

THE SAID OWNERS HEREBY CERTIFY THAT THEY HAVE SUBDIVIDED THE LAND AS SHOWN HEREON, AS REQUIRED BY SECTION 15.1-465 THROUGH 15.1-485 OF THE 1950 CODE OF VIRGINIA, AS AMENDED TO DATE, ENTIRELY WITH THEIR OWN FREE WILL AND CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE OWNERS OR PROPRIETORS OF THE LAND AND THE TRUSTEES IN ANY DEED OF TRUST, OR OTHER INSTRUMENT IMPOSING A LIEN UPON SUCH LAND, IF ANY THERE BE.

IN WITNESS WHEREOF, ARE HEREBY PLACED THE FOLLOWING SIGNATURE AND SEAL:

HP PROPERTIES

BY: _____ ITS _____

COOTS WARD MANAGEMENT COMPANY

BY: _____ ITS _____

STATE OF VIRGINIA
COMMONWEALTH AT LARGE

I, _____, A NOTARY PUBLIC IN AND FOR THE AFORESAID STATE DO HEREBY CERTIFY THAT _____ WHOSE NAME IS SIGNED TO THE FOREGOING INSTRUMENT, HAS PERSONALLY APPEARED BEFORE ME AND ACKNOWLEDGED THE SAME ON THIS _____ DAY OF _____, 19__.

_____
NOTARY PUBLIC

MY COMMISSION EXPIRES _____

STATE OF VIRGINIA
COMMONWEALTH AT LARGE

I, _____, A NOTARY PUBLIC IN AND FOR THE AFORESAID STATE DO HEREBY CERTIFY THAT _____ WHOSE NAME IS SIGNED TO THE FOREGOING INSTRUMENT, HAS PERSONALLY APPEARED BEFORE ME AND ACKNOWLEDGED THE SAME ON THIS _____ DAY OF _____, 19__.

_____
NOTARY PUBLIC

MY COMMISSION EXPIRES _____

APPROVED:

_____ DATE
ENGINEER, CITY OF ROANOKE

_____ DATE
SECRET. CITY OF ROANOKE PLANNING COMMISSION

IN THE CLERK'S OFFICE FOR THE CIRCUIT COURT OF THE CITY OF ROANOKE, VIRGINIA, THIS MAP WAS PRESENTED AND WITH THE CERTIFICATE OF ACKNOWLEDGEMENT THERETO ANNEXED, ADMITTED TO RECORD AT 10:22 O'CLOCK A.M. ON THIS 30th DAY OF January, 19 97, IN MAP BOOK _____, PAGE 615.

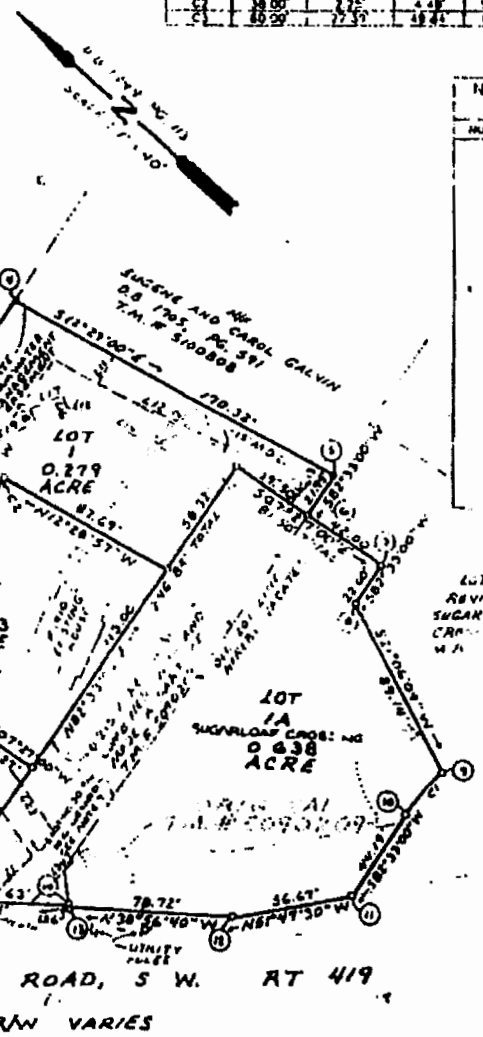
BY: _____ CLERK

_____ DEPUTY CLERK

LEGEND:

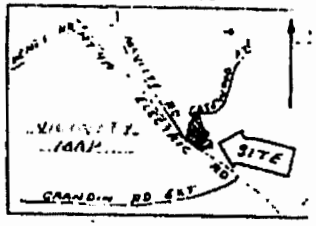
- IRON PIN FOUND
- IRON PIN SET
- PINK INTERNET
- MAN HOLE
- S.S. CLEANOUT
- VALVE
- OTHER ELEMENTS

CURVE	RADIUS	TANGENT	CHORD	BEARING	LENGTH	DELTA
C1	117.00	13.57	26.66	S 19°13'00" W	27.00'	13°45'04"
C2	14.00'	4.76	4.48	S 19°13'00" W	4.50'	18°41'18"
C3	60.00'	27.32	48.41	N 79°20'00" E	51.38'	49°04'46"



NEW PRIVATE STORMWATER MANAGEMENT EASEMENT		
NUMBER	DIRECTION	DISTANCE
L1	N 86°50'15" E	29.57'
L2	N 13°56'18" E	53.17'
L3	N 33°58'34" E	77.06'
L4	N 40°53'29" W	44.90'
L5	N 48°06'31" E	16.60'
L6	N 40°53'29" W	43.93'
L7	N 55°28'36" E	48.70'
L8	N 07°53'00" W	18.79'
L9	N 82°07'00" E	94.06'
L10	N 12°29'00" W	53.41'
L11	N 77°31'00" E	15.06'
L13	N 74°52'46" E	18.00'
L14	N 13°07'20" W	110.55'
L15	N 61°48'49" W	4.00'
L16	N 29°00'12" E	7.30'
L17	N 84°56'48" W	17.00
L18	N 25°00'12" E	7.00'
L19	N 71°02'42" W	24.80'
L20	N 83°31'22" E	12.10
L21	N 55°28'36" E	67.27
L22	N 33°58'34" E	73.75
L23	N 13°56'18" E	62.88'
L24	N 86°51'15" E	28.38'
L25	N 38°03'00" W	20.25'

THIS ORIGINAL PLAT HAS NOT BEEN REDUCED



BOUNDARY COORDINATES ORIGIN OF COORDINATES ASSUMED		
CORNER	NORTHING	EASTING
1	1981.29402	4015.15036
2	2006.43829	4021.49287
3	2049.25040	4108.82426
4	2076.31880	4304.29920
5	1910.07340	4341.11496
6	1907.17734	4313.35[illegible]
7	1865.526[illegible]	4324.[illegible]
8	1862.67874	4302.98235
9	1779.51278	4270.88852
10	1778.69048	4243.86537
11	1772.86763	4159.43443
12	1807.91906	4154.90509
13	1869.14402	4155.42426
14	1859.56931	4105.[illegible]
1	1981.29402	[illegible]

LOT 2 REVISED SUGAR LOAF CROSSING

[illegible] DATE
[illegible] CITY MANAGER'S [illegible]
[illegible] REFERENCE: DEED BOOK 1749, PAGE 153
DEED B.K. 1669, PAGE 707

1. TAX MAP NUMBER: S100808 AND S100809
2. NO TITLE REPORT FURNISHED
3. PROPERTY IS IN F.E.M.A. DEFINED ZONE X UNSHADED.
4. CURRENTLY ZONED: CD (T.M. 05090209)
   CN (CONDITIONAL)
   (T.M. 05100[illegible])
5. EXISTING 20' R/W TO GRAVEYARD AS SHOWN CROSSING LOT 1A - SUGARLOAF CROSSING - WAS TAKEN FROM PLAT PREPARED BY H.E. DEARING, SHOWING PROPERTY OF E.H. MILLER AND SON, DATED DECEMBER 2, 1960. TITLE REPORT 4095-1759 PREPARED BY LAWYER TITLE INSURANCE CORPORATION DATED OCTOBER 2, 1995 MAKES NO REFERENCE TO THE EXISTENCE OR RELEASE OF SUCH EASEMENT.

LINE TABLE		
LINE	BEARING	DISTANCE
L26	S 37°43'48" W	11.56'

SUBDIVISION PLAT FOR

HP PROPERTIES
&
COOTS WARD MANAGEMENT COMPANY

SHOWING THE SUBDIVISION OF 1.07 ACRES
OWNED BY HP PROPERTIES
CREATING HEREON LOT 1 (0.279 AC)
LOT 2 (0.253 AC) AND LOT 3 (0.309 AC)
PHASE II
SUGARLOAF CROSSING
AND COMBINING 0.215 ACRES
OF SAID 1.07 ACRES WITH ORIGINAL
LOT 1 SUGARLOAF CROSSING (M.B.1, PAGE 1010)
PROPERTY OF COOTS WARD MANAGEMENT COMPANY
TO CREATE NEW LOT 1A (0.638 AC)
SUGARLOAF CROSSING
SITUATED AT ELECTRIC ROAD AND GATEWOOD AVENUE, S.W.
CITY OF ROANOKE, VIRGINIA
JANUARY 4, 1997

BALZER

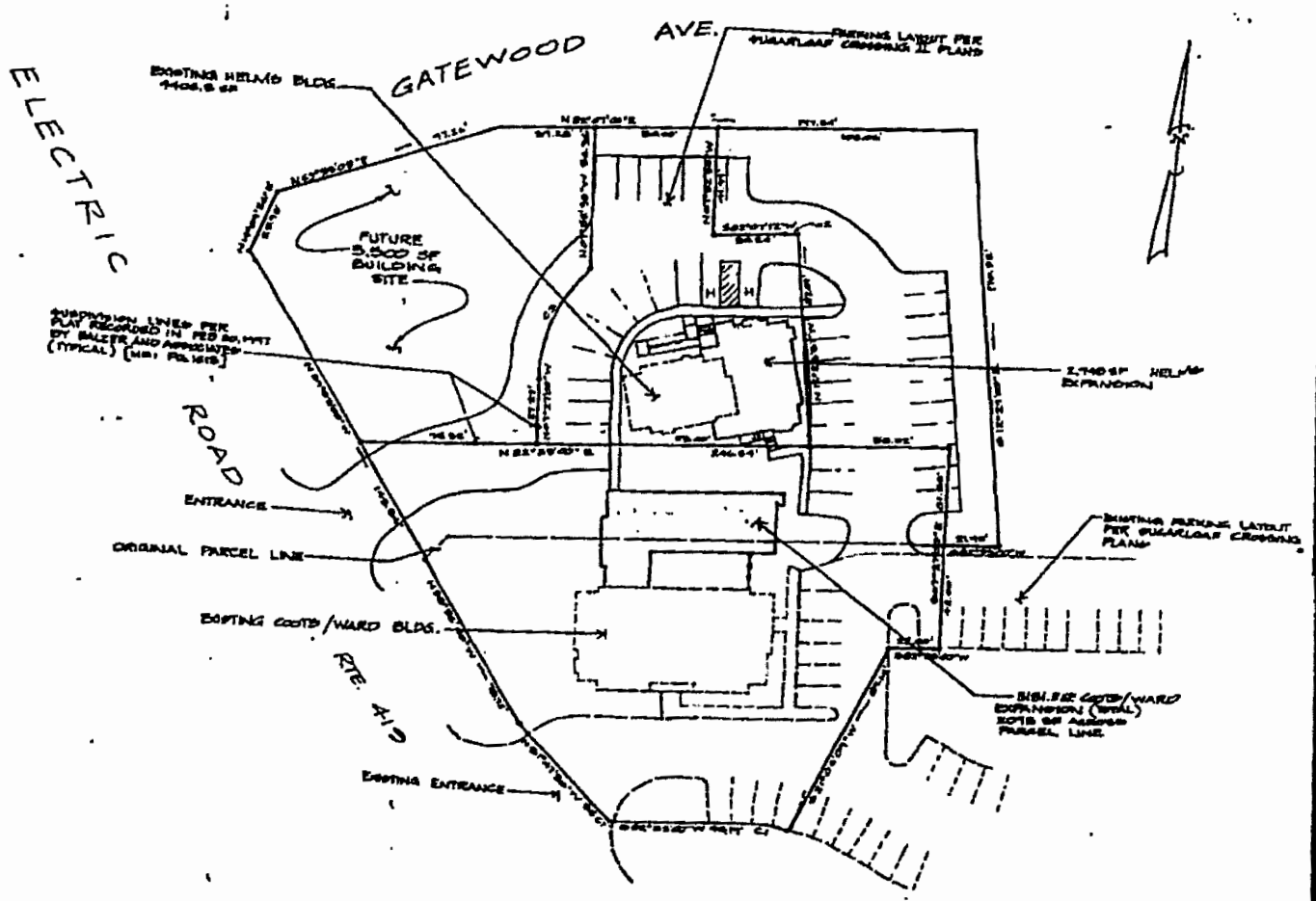
Exhibit B

NORTH

LEGEND
O IRON PIN SET
● IRON PIN FOUND

SCALE: NO SCALE

CURVE	RADIUS	TANGENT	CHORD	BEARING	LENGTH	DELTA
C1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
C2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
C3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]



OVERVIEW PLAN
SUGARLOAF CROSSING

BALZER AND ASSOCIATES, INC.
BYNUM
REFLECTING TOMORROW

JOB No. 94157

·PLANNERS·ARCHITECTS·ENGINEERS·SURVEYORS·
1208 CORPORATE CIRCLE, ROANOKE, VIRGINIA 772-9580

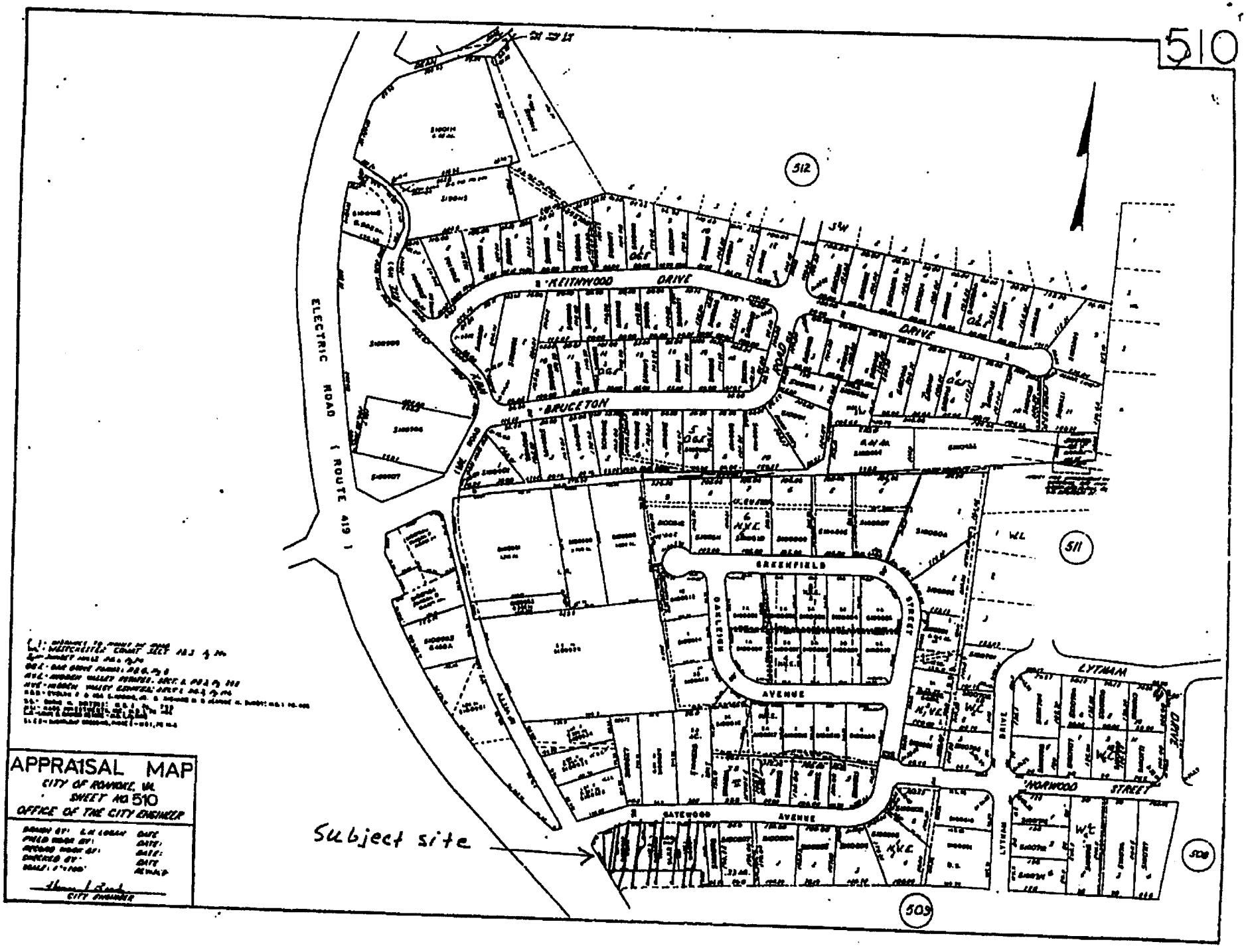
487480

EXHIBIT C

TAX MAP NO	OWNER'S NAME AND ADDRESS
5090277	J. Gregory Tinaglia 1940 Electric Road SW Roanoke, Virginia 24018
5100525	Joseph L. and Mary M. Mullins 5047 Gatewood Avenue SW Roanoke, Virginia 24018
5100526	Gene C. and Cathy H. Comer 5053 Gatewood Avenue SW Roanoke, Virginia 24018
5100527	Charles R. Clark, Sr. Rebecca H. Clark 2154 McVitty Road SW Roanoke, Virginia 24018
5100528	Charles R. Clark, Sr. Rebecca H. Clark 2154 McVitty Road SW Roanoke, Virginia 24018
5100808	Eugene A. and Carol A. Galvin 5040 Gatewood Avenue SW Roanoke, Virginia 24018
5100901	First Virginia Bank 1828 Electric Road SW Roanoke, Virginia 24018

Gofland, Ltd.
c/o Osterhoudt, Ferguson, Natt, Aheron & Agee, P.C.
1919 Electric Road SW
Roanoke, Virginia 24018

Good Shepherd Lutheran Church
1887 Electric Road SW
Roanoke, Virginia 24018


510
512
511
509
508
KEITHWOOD DRIVE
BRUCETON ROAD
DRIVE
ELECTRIC ROAD (ROUTE 419)
GREENFIELD
AVENUE
STREET
LYTMAN
DRIVE
NORWOOD STREET
GATEWOOD AVENUE
Subject site
APPRAISAL MAP
CITY OF ROANOKE, VA.
SHEET NO 510
OFFICE OF THE CITY ENGINEER
CITY ENGINEER

SITE INFORMATION:

DEVELOPER: COOTS, CROSS, LAVINDER & QUINN MANAGEMENT CO., LLC
1930 ELECTRIC ROAD SW
ROANOKE, VA 24011
Phone: (540) 989-1170
Contact: MR. FRED COOTS, JR

AGENT: BALZER AND ASSOCIATES, INC.
1208 CORPORATE CIRCLE
ROANOKE, VIRGINIA 24018
Phone: (540) 772-9580
Contact: MR. CHRISTOPHER BURNS

TAX PARCEL NO.: 5090209
SITE ADDRESS: 1930 ELECTRIC ROAD SW
OWNER: COOTS, CROSS, LAVINDER & QUINN MANAGEMENT CO., LLC
SITE AREA: 0.638 AC. (0.215 AC. AFFECTED BY CONDITIONS)
ZONING: CN WITH PROFFERED CONDITIONS
ORD. #33561-090297

TOTAL PARCEL AREA: 0.638 AC.
AREA AFFECTED BY PROFFERED CONDITIONS: 0.215 AC.

CN ZONING INFORMATION: SECTION 36.2-316

MINIMUM LOT SIZE REQUIRED: 5,000 S.F.

MAXIMUM LOT SIZE ALLOWED: 87,120 S.F.

SETBACKS:
FRONT: 0' MINIMUM 10' MAXIMUM
SIDE: 0'
REAR: 0'

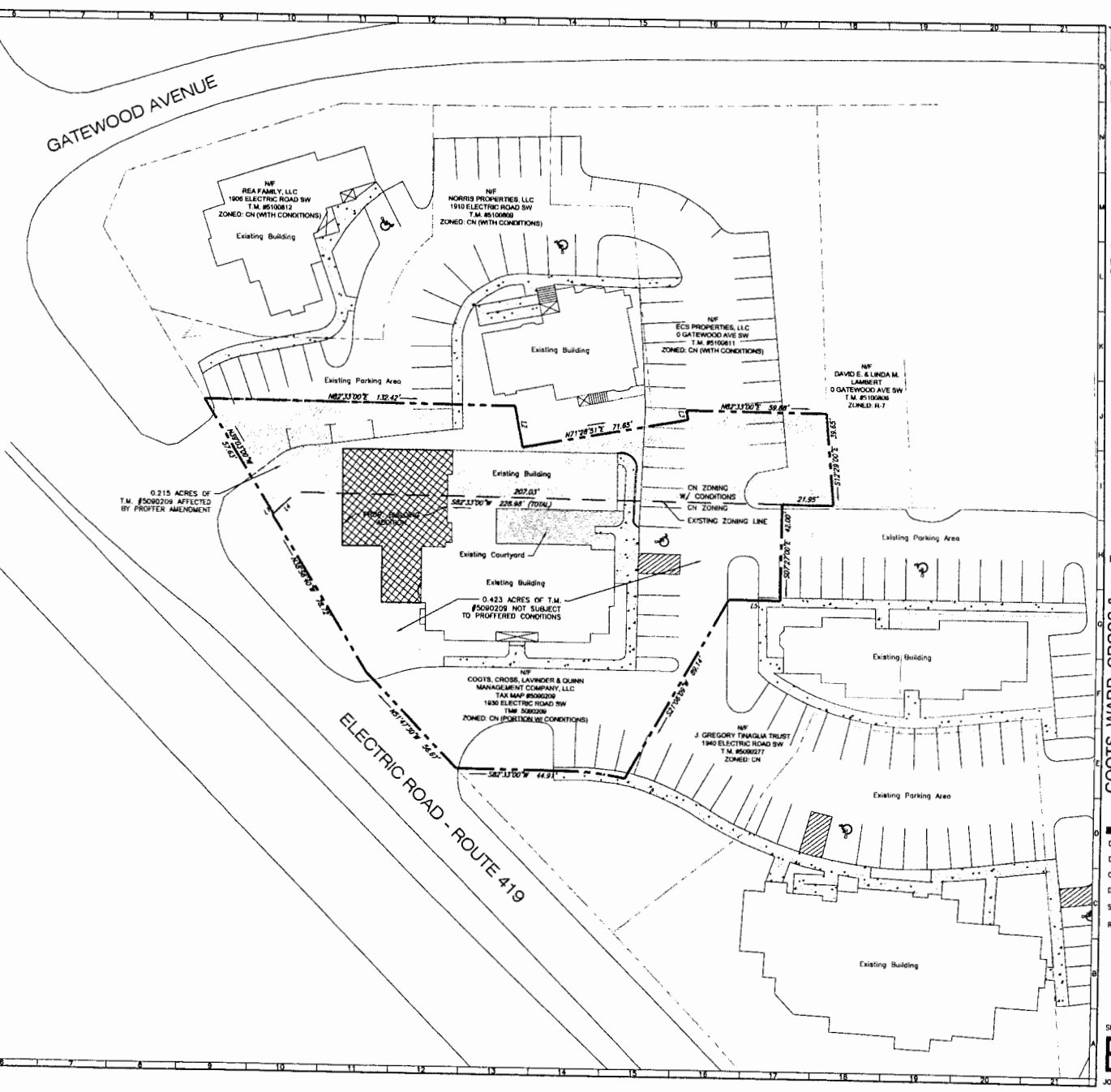
MIN. FLOOR AREA RATIO: 5.0

MAX. BUILDING HEIGHT: 45'

MAX. IMPERVIOUS SURFACE AREA: 100%

MIN. FACADE TRANSPARENCY: 50% GROUND FLOOR, 20% UPPER FLOORS

LINE TABLE		
LINE	ANGLE	DISTANCE
L1	N37°42'48"E	0.56'
L2	S18°31'08"E	18.14'
L3	N18°27'00"W	4.12'
L4	S37°42'48"W	13.58'
L5	S82°33'00"W	22.00'



BALZER AND ASSOCIATES, INC.
REFLECTING TOMORROW
www.balzer.cc
Roanoke
New River Valley
Richmond
Staunton
Harrisonburg
PROFESSIONAL LAND DEVELOPMENT ENGINEERING
SITE DEVELOPMENT ENGINEERING
LAND USE PLANNING & ZONING
LANDSCAPE ARCHITECTURE
LAND SURVEYING
ARCHITECTURE
STRUCTURAL ENGINEERING
TRANSPORTATION ENGINEERING
ENVIRONMENTAL & SOIL SCIENCE
WETLAND DELINEATIONS & STREAM EVALUATIONS

Balzer and Associates, Inc.
1208 Corporate Circle
Roanoke, VA 24018
540-772-9580
FAX 540-772-8050

PRELIMINARY
NOT FOR CONSTRUCTION

COOTS, WARD, CROSS & ASSOCIATES FAMILY DENTISTRY

DEVELOPMENT PLAN - EXHIBIT 'C'

1930 ELECTRIC ROAD
CITY OF ROANOKE, VIRGINIA

DRAWN BY CPB
DESIGNED BY CPB
CHECKED BY SMH
DATE 2/26/2018
SCALE 1"=20'
REVISIONS:

SHEET NO.
EX-C
JOB NO. 03160003.00

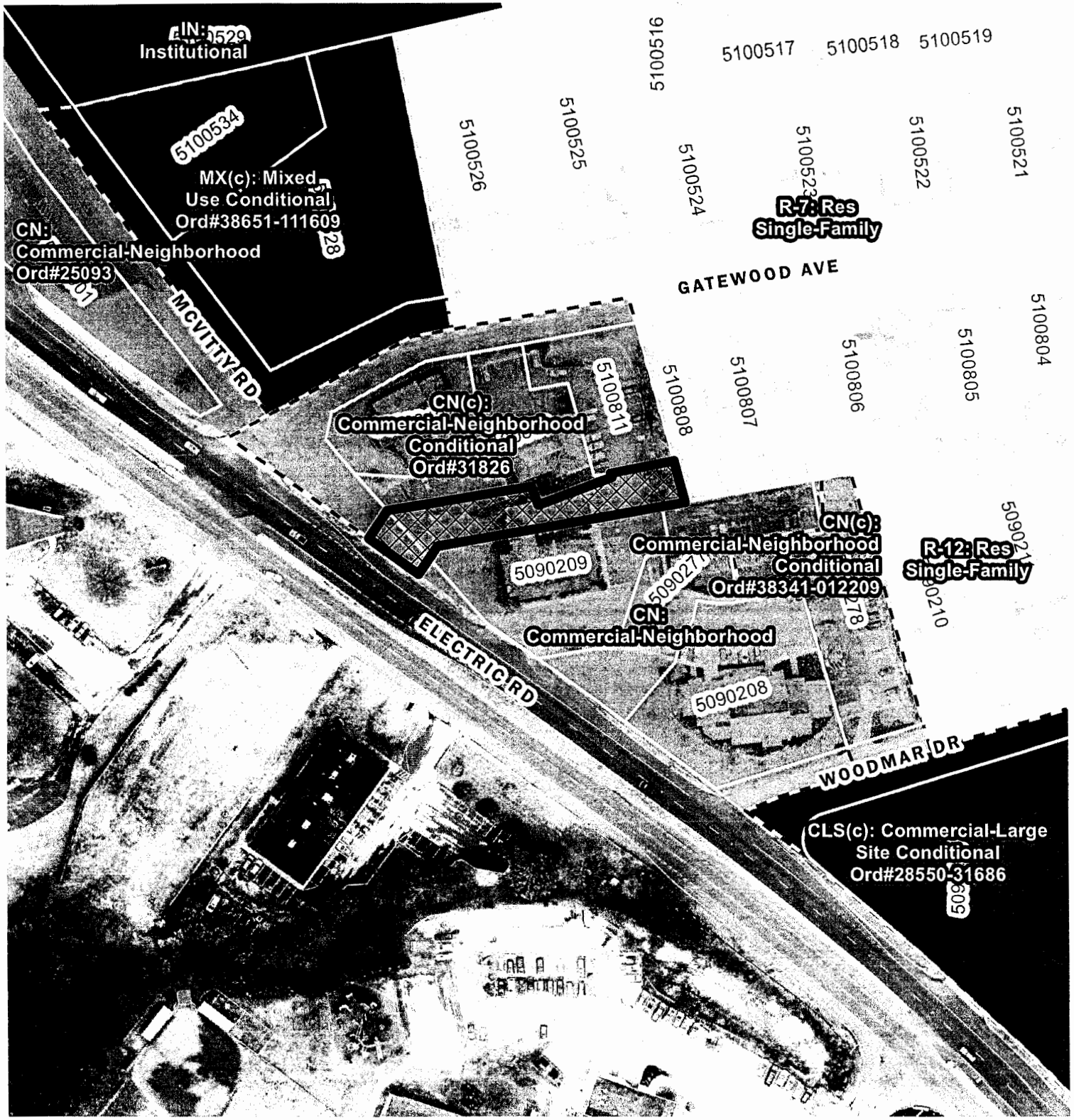
ZONING DISTRICT MAP

1930 Electric Road SW;
Official Tax Parcels: 5090209

Area to be Rezoned

Zoning

- AD: Airport Dev
- CG: Commercial-General
- CLS: Commercial-Large Site
- CN: Commercial-Neighborhood
- D: Downtown
- I-1: Light Industrial
- I-2: Heavy Industrial
- IN: Institutional
- INPUD: Institutional Planned Unit Dev
- IPUD: Industrial Planned Unit Dev
- MX: Mixed Use
- MXPUD: Mixed Use Planned Unit Dev
- R-12: Res Single-Family
- R-3: Res Single-Family
- R-5: Res Single-Family
- R-7: Res Single-Family
- RA: Res-Agricultural
- RM-1: Res Mixed Density
- RM-2: Res Mixed Density
- RMF: Res Multifamily
- ROS: Recreation and Open Space
- UF: Urban Flex
- Conditional Zoning



0 100 200 Feet

N W E S

SJC
4/12/16

B.2.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to rezone certain property located at 1930 Electric Road, S.W., by amending proffered conditions presently binding upon such property; and dispensing with the second reading of this ordinance by title.

WHEREAS, Coots, Cross, Lavinder & Quinn Management Company, LLC, has made application to the Council of the City of Roanoke, Virginia ("City Council"), to amend certain conditions presently binding upon a tract of land located at 1930 Electric Road, S.W., being designated as a portion of Official Tax Map No. 5090209, which property is zoned CN, Commercial-Neighborhood District, with proffers, such proffers being accepted by the adoption of Ordinance No. 31826, on January 18, 1994, and amended by the adoption of Ordinance No. 32657-092595, on September 25, 1995, and Ordinance No. 33561-090297, adopted on September 2, 1997;

WHEREAS, the City Planning Commission, after giving proper notice to all concerned as required by §36.2-540, Code of the City of Roanoke (1979), as amended, and after conducting a public hearing on the matter, has made its recommendation to Council;

WHEREAS, a public hearing was held by City Council on such application at its meeting on April 18, 2016, after due and timely notice thereof as required by §36.2-540, Code of the City of Roanoke (1979), as amended, at which hearing all parties in interest and citizens were given an opportunity to be heard, both for and against the proposed amendment; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to this Council by the Planning Commission, the City's Comprehensive Plan, and the matters presented at the public hearing, finds that the public necessity, convenience, general welfare and good zoning practice, require the amendment of the proffers applicable to the subject property, and is of the opinion that the conditions now binding upon a tract of land located at 1930 Electric Road, S.W., being designated as a portion of Official Tax Map No. 5090209, should be amended as requested, and that such property be zoned CN, Commercial-Neighborhood District, with proffers as set forth in the Zoning Amendment Application dated February 26, 2016.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that:

1. Section 36.2-100, Code of the City of Roanoke (1979), as amended, and the Official Zoning Map, City of Roanoke, Virginia, dated December 5, 2005, as amended, be amended to reflect the proffered conditions as amended by the Zoning Amendment Application dated February 26, 2016, so that the subject property is zoned CN, Commercial-Neighborhood District, with such proffers.

2. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk

Amend proffers - 1930 Electric Road.doc

B.3.

CITY COUNCIL AGENDA REPORT

To: **Honorable Mayor and Members of City Council**

Meeting: **April 18, 2016**

Subject: **Sale of City-Owned Property, Known as 2206 Countryside Road, N.W., Tax Map No. #6431501**

Background:

Walter C. Evans, Jr. and Margaret Renee Evans currently reside in the City on Gladies Street, NW. They have expressed their interest to city staff regarding the purchase of 2206 Countryside Road., N.W., identified by Official Tax Map No. 6431501 to construct a single dwelling. (See attached exhibit).

The sale of this city-owned property was specifically recommended by the Countryside Master Plan. The proposed action would have no identifiable adverse impact on future use of the remaining Countryside properties. The Evans' have agreed to assume all costs related to the property conveyance.

The proposed sale price of $22,500 reflects the current assessed value of this portion of the former golf course property.

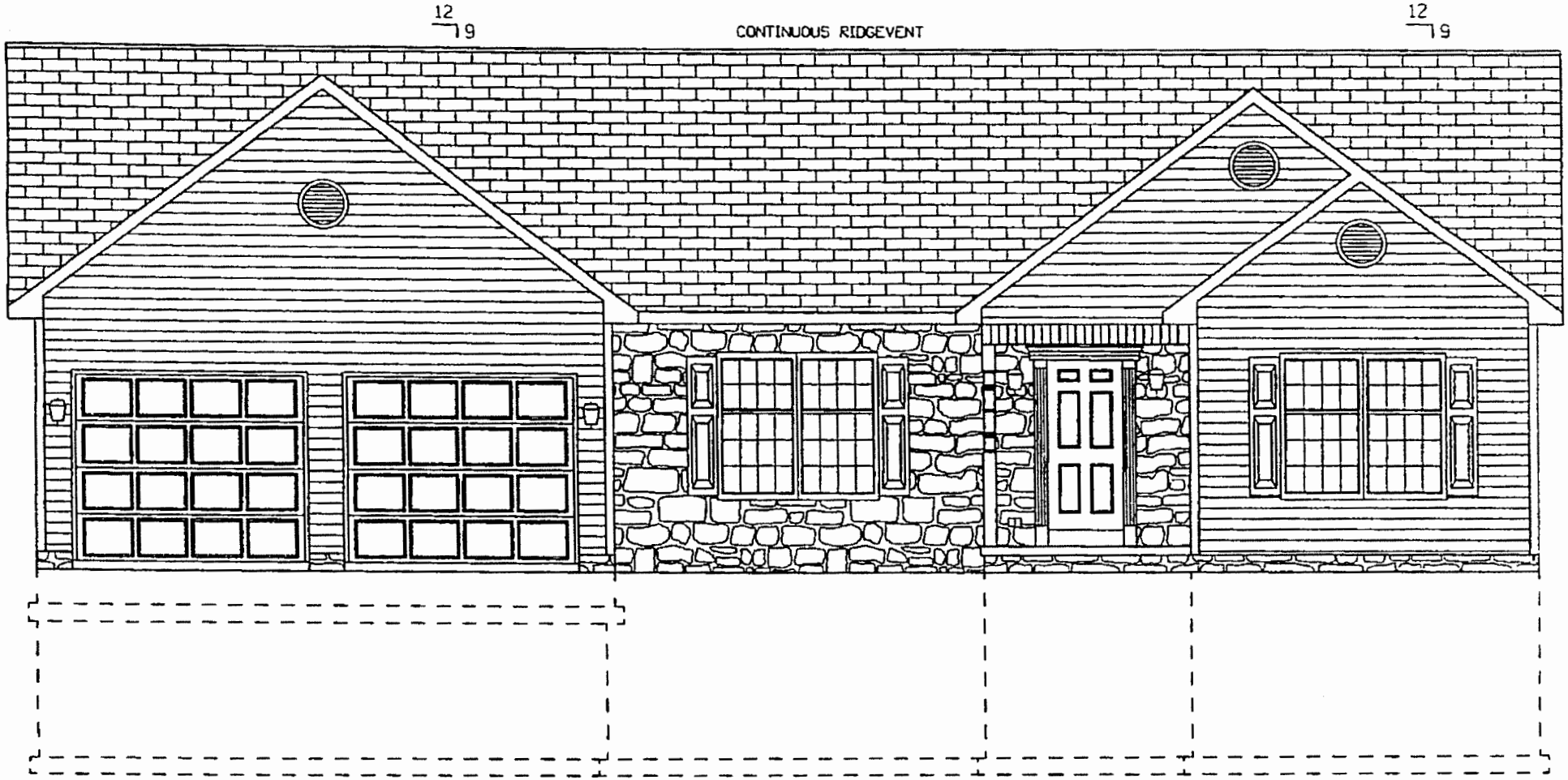
Recommended Action:

Absent comments at the public hearing to the contrary, adopt the attached ordinance authoring the City Manager to execute an agreement substantially similar to the one attached to this report, and to execute such other documents and to take such further actions as may be necessary to implement, administer, and enforce such agreement. All documents are subject to approval as to form by the City Attorney.

CHRISTOPHER P. MORRILL
City Manager

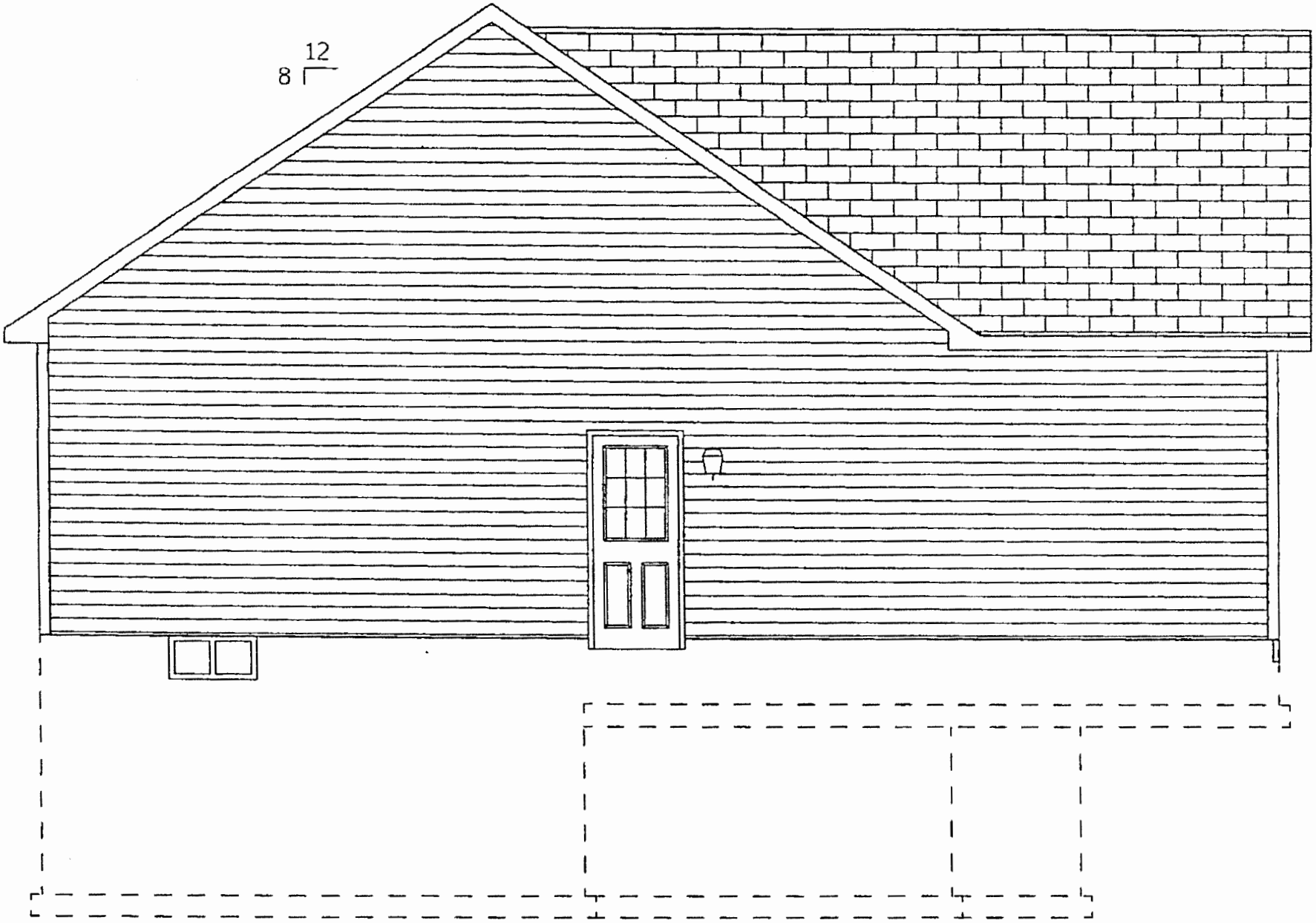
Attachment

Distribution: Council Appointed Officers
R. Brian Townsend, Assist. City Mgr. for Community Dev.
Susan Lower, Director of Real Estate Valuation
Wayne F. Bowers, Director of Economic Development
Barbara A. Dameron, Director of Finance
Chris Chittum, Director of Planning, Bldg., and Development
Cassandra L. Turner, Economic Development Specialist

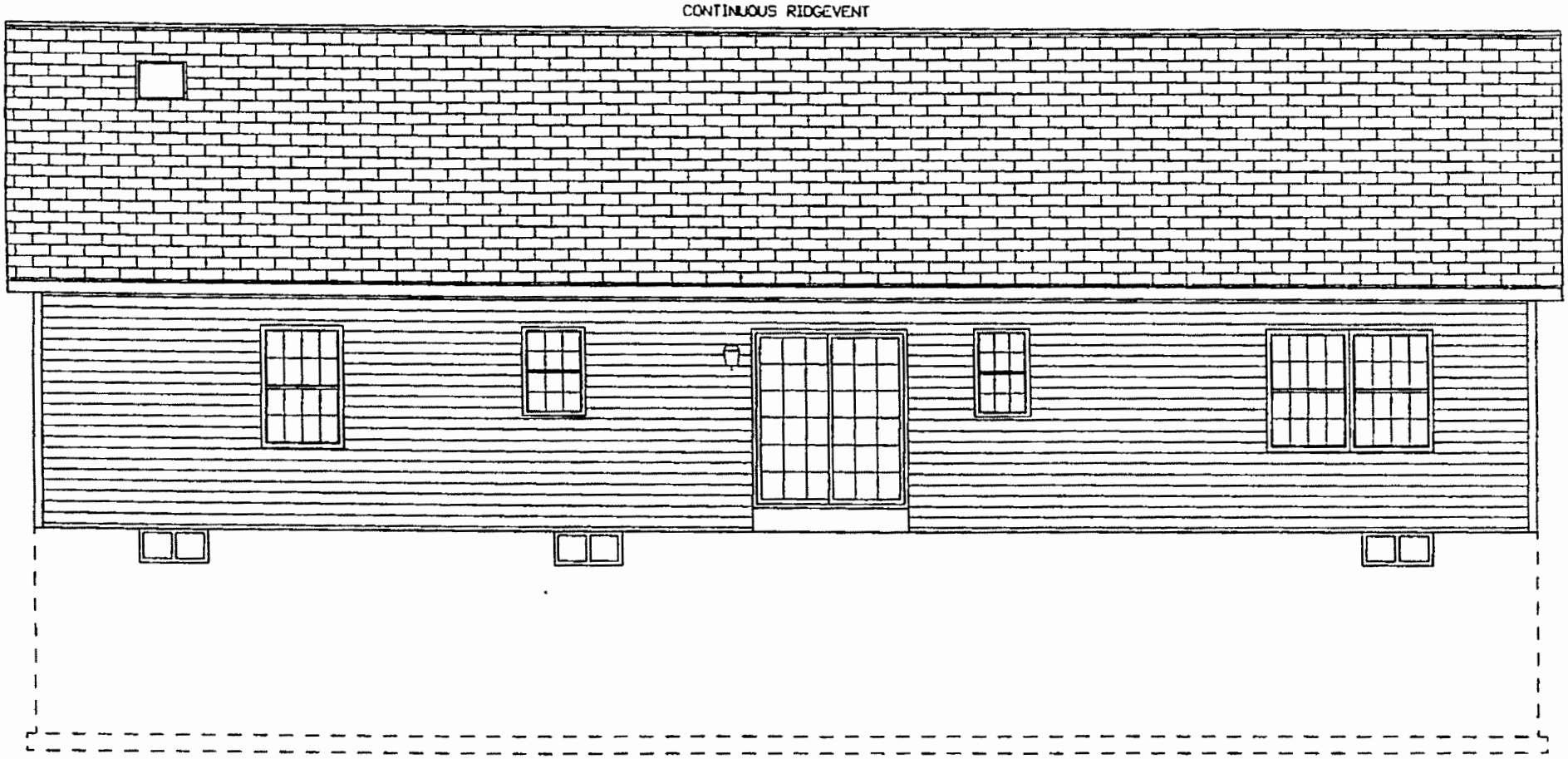


FRONT ELEVATION

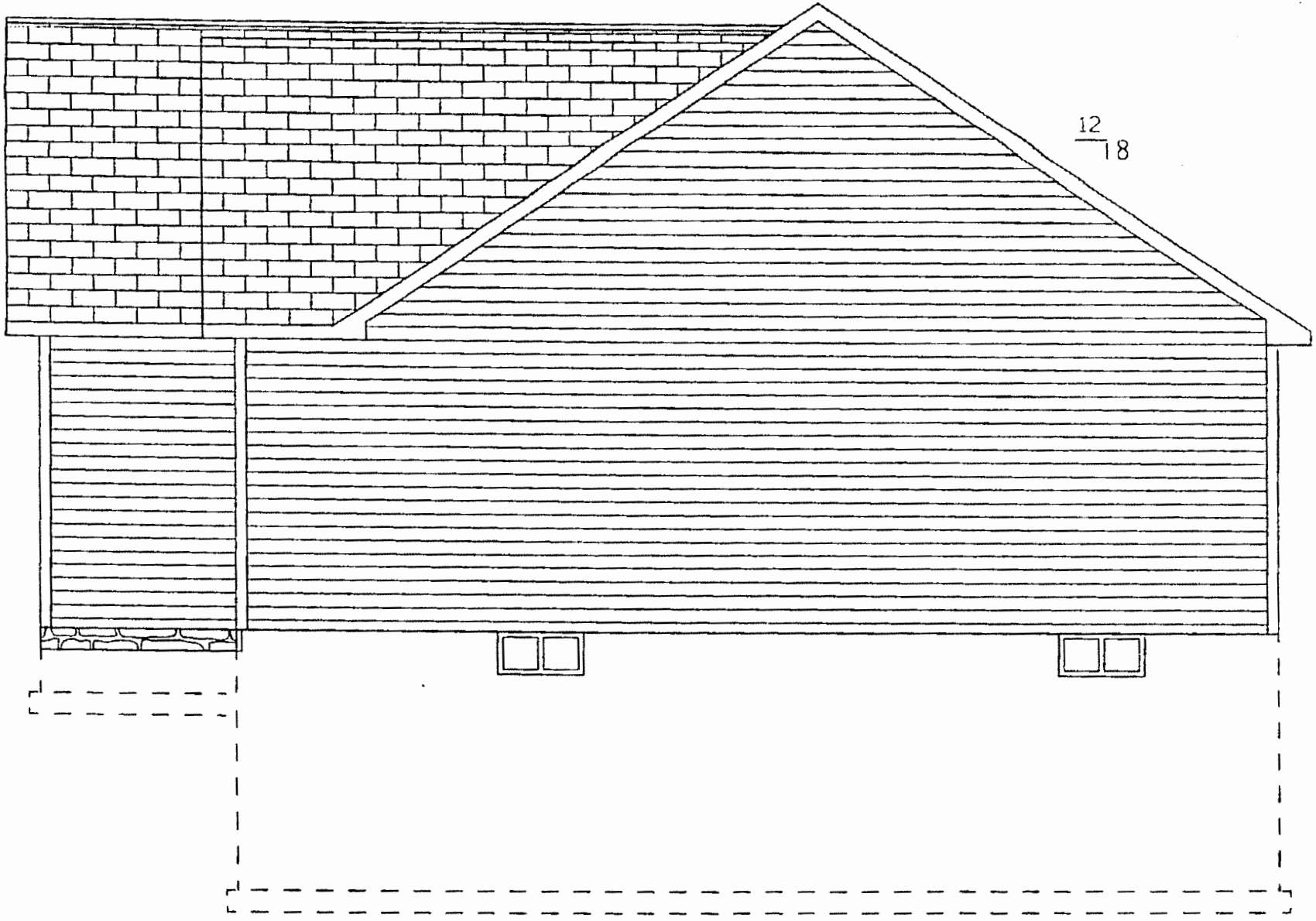
SUMMERWOOD PLAN B



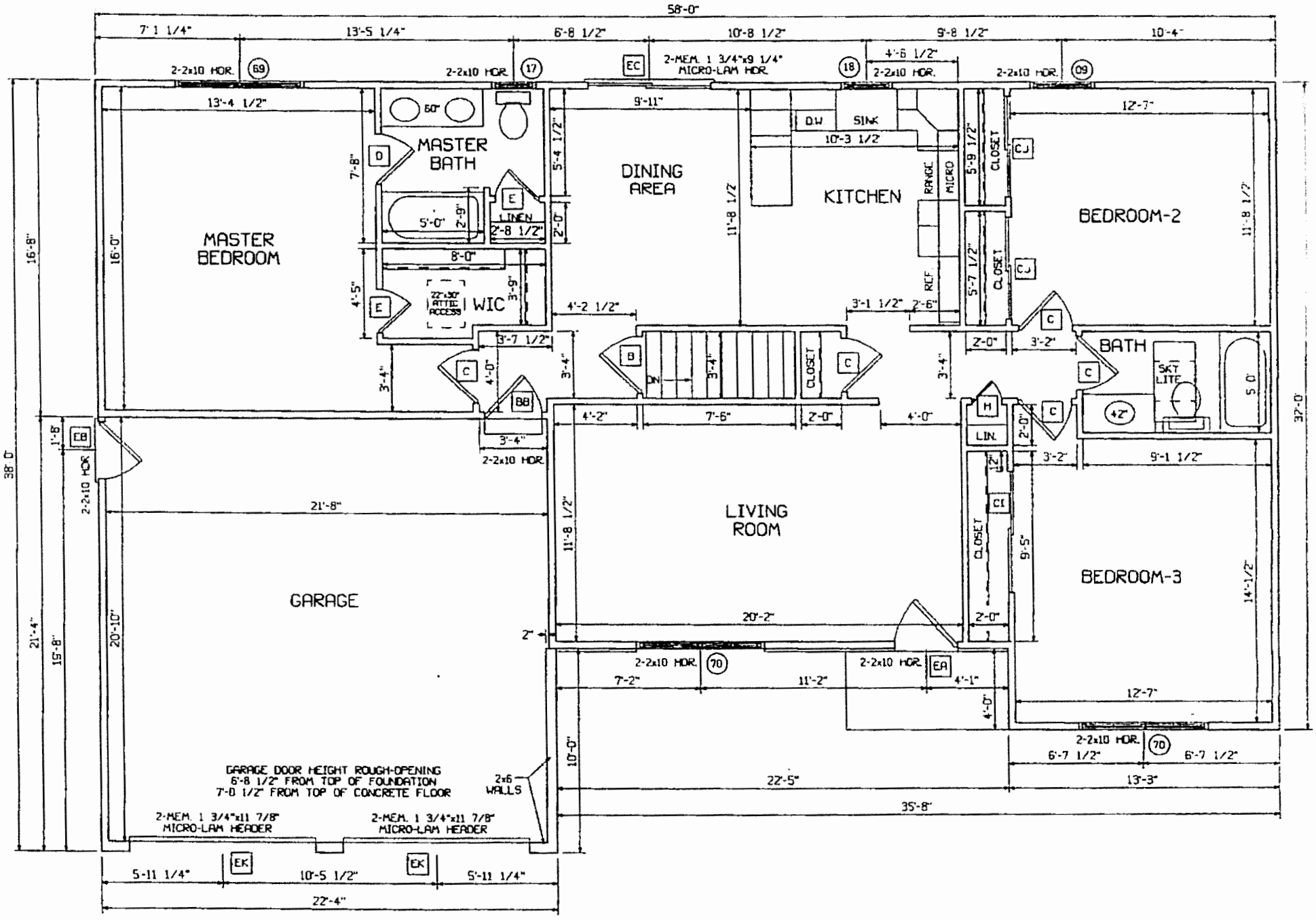
LEFT ELEVATION



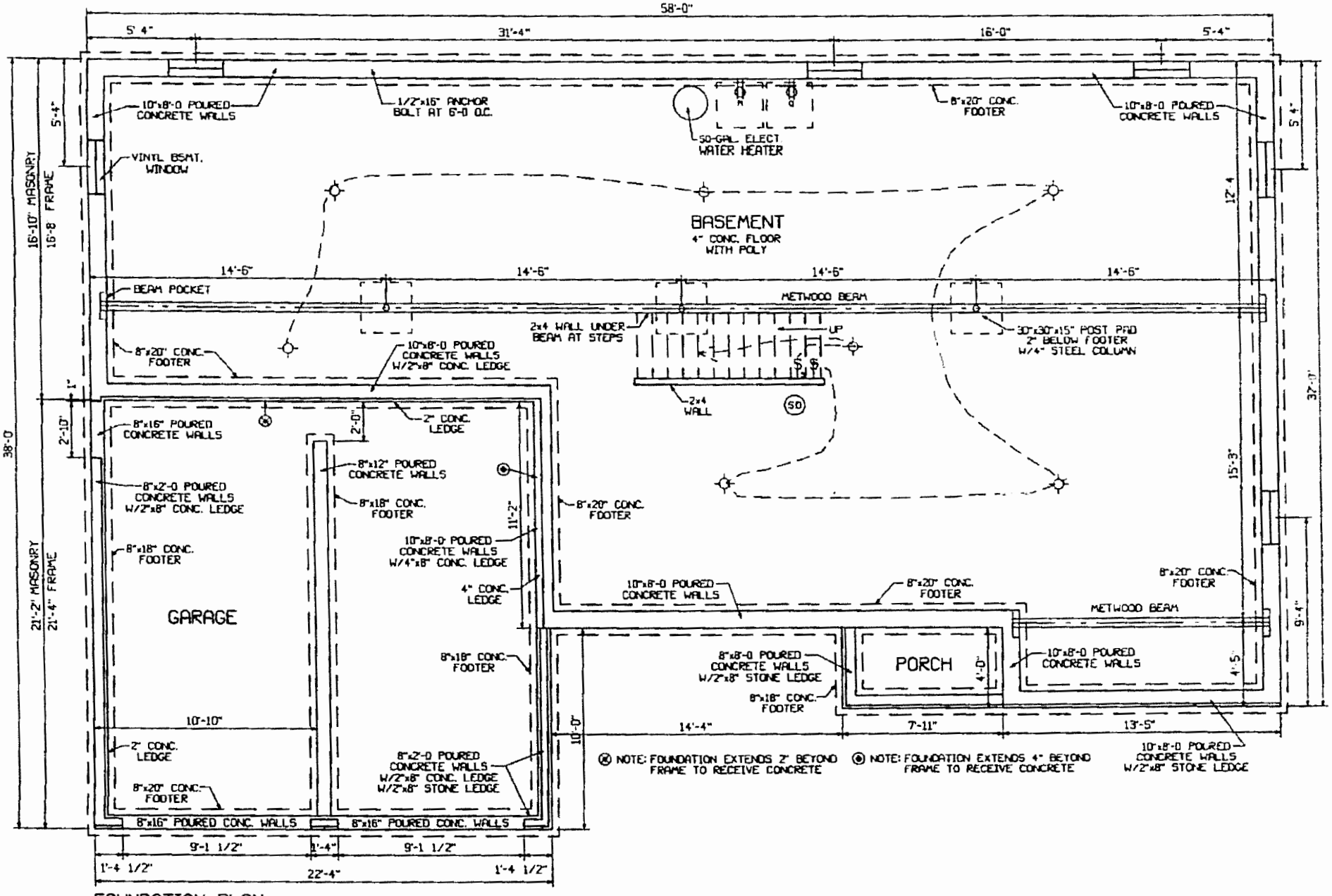
REAR ELEVATION



RIGHT ELEVATION


58'-0"
MASTER BEDROOM
MASTER BATH
LINEN
WIC
22"x30" ATTIC ACCESS
DINING AREA
KITCHEN
D.W.
SINK
RANGE
MICRO
REF.
CLOSET
BEDROOM-2
BATH
SKY LITE
LIN.
LIVING ROOM
BEDROOM-3
GARAGE
GARAGE DOOR HEIGHT ROUGH-OPENING
6'-8 1/2" FROM TOP OF FOUNDATION
7'-0 1/2" FROM TOP OF CONCRETE FLOOR
2-MEM. 1 3/4"x11 7/8" MICRO-LAM HEADER
2-MEM. 1 3/4"x11 7/8" MICRO-LAM HEADER
2-MEM. 1 3/4"x9 1/4" MICRO-LAM HDR.
2-2x10 HDR.
2x6 WALLS
22'-4"
35'-8"
38'-0"
32'-0"

.OOR PLAN



FOUNDATION PLAN

B.3.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the City Manager to execute the necessary documents providing for the conveyance of a parcel of City-owned property, being approximately 0.5188 acres, located at 2206 Countryside Road, N.W., Roanoke, Virginia, designated as Roanoke City Official Tax Map No. 6431501, to Walter C. Evans, Jr. and Margaret Renee Evans, upon certain terms and conditions; and dispensing with the second reading of this Ordinance by title.

WHEREAS, a public hearing was held on April 18, 2016, pursuant to §§15.2-1800 and 15.2-1813, Code of Virginia (1950), as amended, at which hearing all parties in interest and citizens were afforded an opportunity to be heard on such conveyance.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that:

1. The City Manager is hereby authorized, for and on behalf of the City, to execute the necessary documents providing for the conveyance of a parcel of City-owned property, being approximately 0.5188 acres, located at 2206 Countryside Road, N.W., Roanoke, Virginia, and designated as Roanoke City Official Tax Map No. 6431501, to Walter C. Evans, Jr. and Margaret Renee Evans, for the purchase price of $22,500, upon certain terms and conditions, and as more particularly stated in the City Council Agenda Report dated April 18, 2016.

2. All documents necessary for this conveyance shall be in form approved by the City Attorney.

3. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this Ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

B.4.

CITY COUNCIL AGENDA REPORT

To: **Honorable Mayor and Members of City Council**

Meeting: **April 18, 2016**

Subject: **Request for a Pedestrian Access Easement Across City-Owned Property, Official Tax Map No. 1011204**

Background:

416 Campbell Avenue, LLC, is requesting a pedestrian access easement across City-owned property located at Campbell Avenue, S.W., depicted as Official Tax Map No. 1011204. The purpose of the easement is to provide pedestrian access and egress from the pubic way to a new entry proposed on the eastern side of the adjoining building located at 416 Campbell Avenue, S.W., Official Tax Map No. 1011203. Please see Exhibit #1 for a sketch detailing the extent and location of the easement requested. The requested access easement will provide enhanced building safety and function by providing a secondary access and egress location to the building at 416 Campbell Avenue, S.W. The adjacent City-owned property is used as a parking lot for the police department, and the granting of this easement will not have any adverse impact on that use.

Under applicable provisions of state law, this pedestrian access will be limited to a term of 40 years. 416 Campbell Avenue, LLC will also prepare, at its expense, a plat that describes the area and dimensions of the pedestrian easement.

State Code requires City Council to hold a public hearing before it may authorize the grant of this requested pedestrian easement. Council has authorized a public hearing.

Recommended Action:

Following the public hearing and subject to comments made at the public hearing, authorize the City Manager to execute the Deed of Easement as described above to 416 Campbell Avenue, LLC, which pedestrian easement shall be approved as to form by the City Attorney.

Christopher P. Morrill
City Manager

Attachment: Exhibit #1

Distribution: Council Appointed Officers
R. Brian Townsend, Assistant City Manager for Community Development
Wayne F. Bowers, Director of Economic Development
Barbara A. Dameron, Director of Finance
Cassandra L. Turner, Economic Development Specialist

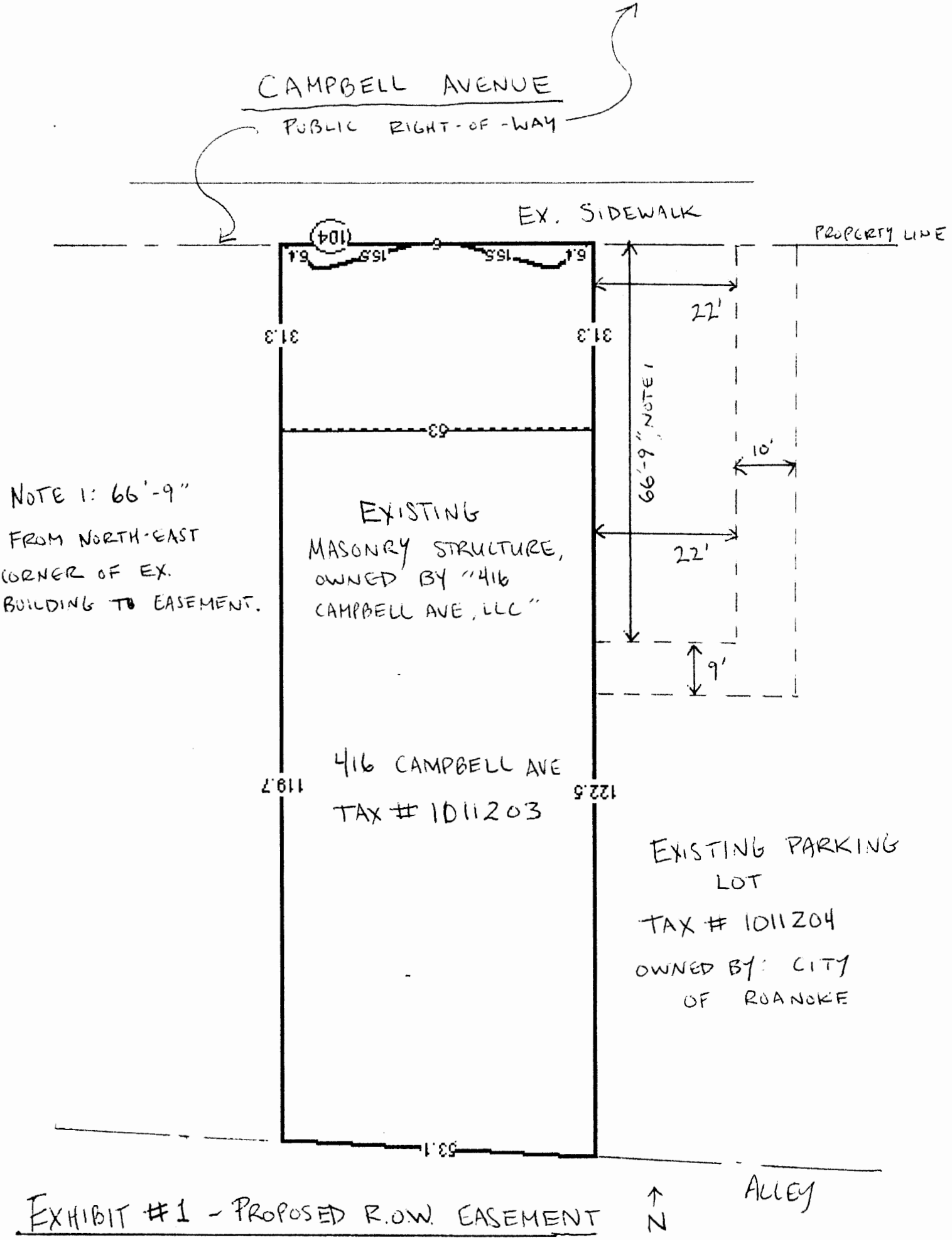


EXHIBIT #1 - PROPOSED R.O.W. EASEMENT

NO SCALE DWN BY: MAG, 3/15/16

416 Campbell Ave, SW

Proposed Access Easement

B.4.

D2C

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the conveyance of a non-exclusive Pedestrian Access Easement with an approximate width of 10 feet and approximate length of 22 feet, across City-owned property, designated as Official Tax Map No. 1011204, located at 0 Campbell Avenue, S.W., Roanoke, Virginia, to 416 Campbell Avenue, LLC ("416 Campbell"); upon certain terms and conditions; and dispensing with the second reading of this ordinance by title.

WHEREAS, a public hearing was held April 18, 2016, pursuant to Section 15.2-1800 and Section 15.2-1813, Code of Virginia (1950), as amended, at which hearing all parties in interest and citizens were afforded an opportunity to be heard on the proposed pedestrian access easement.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that:

1. The City Manager and City Clerk are hereby authorized, for and on behalf of the City, to execute and attest, respectively, the necessary documents providing for the conveyance of a non-exclusive Pedestrian Access Easement, with an approximate width of 10 feet and approximate length of 22 feet, across City-owned property, designated as Official Tax Map No. 1011204, located at 0 Campbell Avenue, S.W., Roanoke, Virginia, to 416 Campbell Avenue, LLC, the owner of an adjacent parcel of real property located at 416 Campbell Ave., Roanoke, VA, in order for 416 Campbell to provide the building located at 416 Campbell Ave. with pedestrian access and egress from the public right of way to a new entry proposed on the eastern

side of such building, as more particularly set forth in the City Council Agenda Report dated April 18, 2016.

2. The term of the proposed easement shall be limited to 40 years, in accordance with Section 15.2-2100 of the Code of Virginia (1950) as amended.

3. All documents necessary for this conveyance shall be in a form approved by the City Attorney.

4. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk

B.5.

CITY COUNCIL AGENDA REPORT

To: **Honorable Mayor and Members of City Council**

Meeting: **April 18, 2016**

Subject: **Request to Convey Roanoke Gas Company a Ten Foot Wide Gas Line Easement Along Brambleton Avenue, Inside the Boundary of City-Owned Property Also Known As Tax Map No. 1350601, Lakewood Park**

Background:

Roanoke Gas Company has requested a ten foot wide gas line easement along Brambleton Avenue just inside the boundary of city-owned property, identified as Official Tax Map No. 1350601 (Easement). Such Easement is for a term not to exceed 40 years. The Easement is needed in order to supply gas utility service to parcels that adjoin or are located nearby. The City of Roanoke will grant Roanoke Gas Company the authorization to construct, install, operate, repair, and maintain a gas pipeline (with appliances and accessories useful and necessary in connection therewith) over, under, through and across its land. The proposed Plat is attached.

Recommended Action:

Following the public hearing and subject to comments made at the public hearing, authorize the City Manager to execute the Deed of Easement as described above to Roanoke Gas Company, such easement shall be approved as to form by the City Attorney.

Christopher P. Morrill
City Manager

Attachment

Distribution: Council Appointed Officers
R. Brian Townsend, Asst. City Manager for Community Dev.
Barbara A. Dameron, Director of Finance
Wayne F. Bowers, Director of Economic Development
Steven Buschor, Director Parks and Recreation
Cassandra L. Turner, Economic Development Specialist

Instrument Number: _____

WITNESS THE SIGNATURES AND SEAL OF THE SAID OWNER:

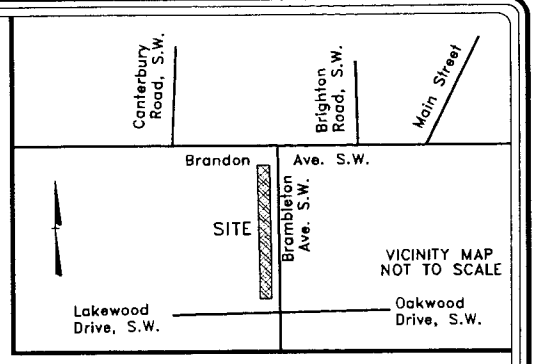
_____

ROANOKE CITY REPRESENTATIVE: DATE:

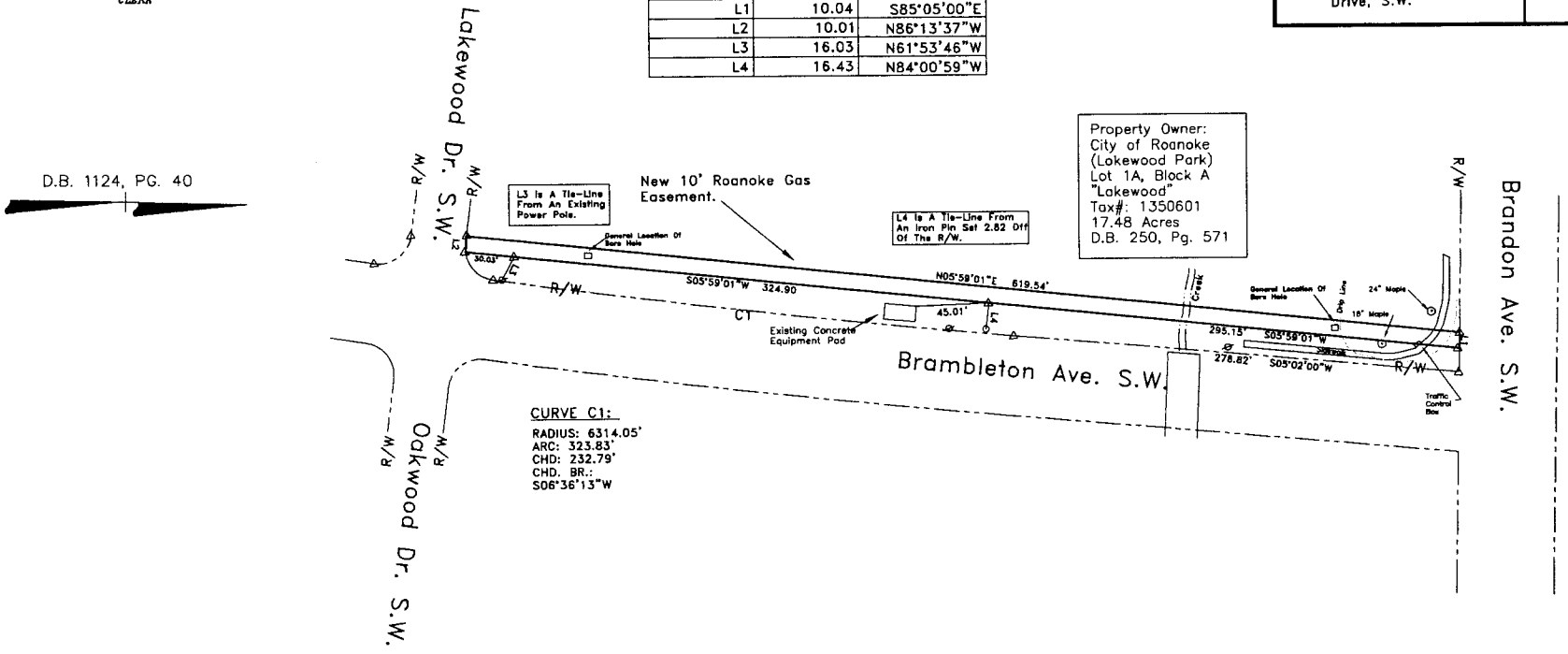
IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF ROANOKE VIRGINIA THIS MAP PRESENTED ON THIS ____ DAY OF _____ 2016 AND WITH CERTIFICATE OF DEDICATION AND ACKNOWLEDGMENT THERETO ANNEXED, ADMITTED TO RECORD _____ O'CLOCK __ .M.

TESTE: _____

CLERK



LINE TABLE		
LINE	LENGTH	BEARING
L1	10.04	S85°05'00"E
L2	10.01	N86°13'37"W
L3	16.03	N61°53'46"W
L4	16.43	N84°00'59"W



CITY OF ROANOKE
STATE OF VIRGINIA

I, _____ A NOTARY PUBLIC IN AND FOR THE AFORESAID CITY AND STATE DO HEREBY CERTIFY THAT _____ WHOSE NAME IS SIGNED TO THE FOREGOING WRITING DATED _____, 2016, HAS PERSONALLY APPEARED BEFORE ME IN MY COUNTY AND STATE AND ACKNOWLEDGED THE SAME ON THIS ____ DAY OF _____ 2016.

MY COMMISSION EXPIRES: _____

NOTARY PUBLIC: _____

REGISTRATION NO. _____

LEGEND:

- ○ IP FOUND
- ● IP SET
- △ CALCULATED POINT
- UTILITY POLE

COMMONWEALTH OF VIRGINIA
02/16/2016
RODERICK F. PIERSON
Roderick Pierson
LICENSE NO.
1969
LAND SURVEYOR

This is to certify that on February 16, 2016 I made an accurate survey of the premises shown hereon and that there are no easements or encroachments visible on the ground other than as shown hereon.

THE OFFICE OF

NEW GASLINE EASEMENT FOR ROANOKE GAS

BEING 10-FOOT IN WIDTH
LOCATED ALONG

BRAMBLETON AVE. S.W.

In The

City of Roanoke, Virginia

SCALE : 1"= 50' DATE: FEBRUARY 16, 2016

SHEET 1 OF 1

GRAPHIC SCALE

50 0 25 50 100 200

(IN FEET)
1 inch = 50 ft.

c:data/DWGS/ROANOKEGAS/BRAMBLETON/BRANDON/R2015124

D2C

B.5.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the conveyance of a forty (40) year non-exclusive gas line easement, with an approximate width of ten (10) feet, across City-owned property located adjacent to Brambleton Avenue, S.W., designated as Official Tax Map No. 1350601, known as Lakewood Park, to Roanoke Gas Company ("Roanoke Gas"), upon certain terms and conditions; and dispensing with the second reading of this Ordinance by title.

WHEREAS, a public hearing was held April 18, 2016, pursuant to Section 15.2-1800 and Section 15.2-1813, Code of Virginia (1950), as amended, at which hearing all parties in interest and citizens were afforded an opportunity to be heard on the proposed conveyance of such gas line easement.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that:

1. The City Manager is hereby authorized, for and on behalf of the City, to execute the necessary documents providing for the conveyance of a forty (40) year non-exclusive gas line easement, with an approximate width of ten (10) feet, across City-owned property located adjacent to Brambleton Avenue, S.W., designated as Official Tax Map No. 1350601, known as Lakewood Park, to Roanoke Gas Company, to allow Roanoke Gas to construct, install, and thereafter maintain and replace a gas line, for the purpose of providing utility service to adjacent and neighboring properties, as more particularly set forth in the City Council Agenda Report dated April 18, 2016, and the attachment to that letter.

2. All documents necessary for this conveyance shall be in a form approved by the City Attorney.

3. Pursuant to Section 12, Roanoke City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk

B.6.

CITY COUNCIL AGENDA REPORT

To: **Honorable Mayor and Members of City Council**

Meeting: **April 18, 2016**

Subject: **Sale of City-Owned Property Located at 2002 Blue Hills Drive, N.E., Roanoke, Virginia (Official Tax Map No. 7230101) to Deschutes Brewery, Inc. and/or its subsidiaries and affiliates.**

Background:

The City of Roanoke (City) is the owner of a parcel of land, consisting of approximately 49.4173 acres, located at 2002 Blue Hills Drive, N.E., Roanoke, Virginia (Official Tax Map No. 7230101) (Property). Deschutes Brewery, Inc., (Deschutes) an Oregon corporation qualified to transact business in the Commonwealth of Virginia, has submitted a proposal to purchase the Property and to construct a brewery and warehouse facility (Facility). The attached proposed Contract for Purchase and Sale of Real Property (Contract) contains the terms and conditions for conveying the Property to Deschutes. The Contract provides that the sale of the Property will be made to Deschutes or its subsidiaries or affiliates (Subsidiaries) that may be created to own and/or operate the Facility.

Considerations:

Deschutes proposes to construct the Facility at an estimated cost of $40,000,000 for the building and $45,000,000 for production machinery. Initial employment at the Facility is projected to be 108 employees.

The Contract provides a purchase price of $2,750,000. Deschutes and its Subsidiaries agree to execute a Note, substantially similar to the Note attached to this Agenda Report, in the principal amount of $2,750,000, obligating Deschutes and its Subsidiaries to pay the City, subject to the terms of the Note, the principal amount together with accrued interest at the rate of one percent (1%) per annum, as set forth in the Note, under which Note principal and accrued interest shall be due in five (5) equal annual installments of principal together with all accrued and unpaid interest on the unpaid principal balance of this Note; provided that each installment payment shall be deemed paid and satisfied in full as it comes due, and Deschutes and its Subsidiaries shall be under no obligation to pay that installment payment to the City, if, at the time an installment is due, Deschutes and its Subsidiaries have performed their obligations as provided under the terms of the Note and Section 19 of the

Contract; and provided further that, if an Event of Default, as set forth in the Note, has occurred, the City may accelerate payment of the remaining unpaid balance due under the Note and demand payment in full of the unpaid principal balance of the Note, together with all accrued interest thereon.

The primary requirements to avoid an Event of Default are:

- Develop the Property substantially in accordance with the Proposal (Contract Exhibit 2);
- Commence construction by no later than June 1, 2019;
- Invest a minimum of $55,000,000 in building improvements and equipment;
- Complete construction, and begin commercial production and sale of beer by no later than June 1, 2021;
- Employ and maintain at least 70 full-time employees.

Prior to Closing, Deschutes shall have been authorized or approved for certain incentives, as defined in the proposed Contract, including grants from the Commonwealth of Virginia (including a Commonwealth's Development Fund Opportunity Grant), and from the Economic Development Authority of the City of Roanoke, Virginia, as more specifically described in the proposed Contract.

The Contract further provides that upon sale of the Property, Deschutes or the Subsidiary of Deschutes that will own the Facility will grant a first priority Deed of Trust, substantially similar to the Deed of Trust attached to this Agenda Report, on the Property to the City to secure payment and performance of the Note by Deschutes. The Deed of Trust provides the City with the power to sell the Property at foreclosure sale in the event of a material default as defined in the Deed of Trust. The Deed of Trust further provides that, upon satisfaction in full of all obligations of Deschutes and its Subsidiaries under the Note and Deed of Trust, the City will release and discharge the Deed of Trust.

The Contract provides Deschutes with a 120 day Inspection Period for a due diligence review, and a 270 day Approval Period that can be extended an additional 270 days to obtain all Permits and Approvals. Closing on the Property shall occur no later than May 1, 2018.

Following Closing, the City commits to make the following public infrastructure improvements:

- Extend Blue Hills Drive, N.E., from its current termination point to the Property;
- Extend water, sewer, and high speed internet service to the Property;
- Extend Tinker Creek Greenway to Mason Mill Park and provide a connection to the Property;
- Relocate and place underground the electric lines currently crossing the Property ;
- Install five (5) brewery directional signs and four (4) additional street lights along 13th Street, N.E., and Mason Mill Road, N.E.

The Contract also requires the City to exercise good faith efforts to acquire certain parcels of real property adjacent to the Property (Adjacent Parcels) and transfer those Adjacent Parcels to Deschutes or its Subsidiaries during the term of the Contract and through the term of the Note. The Adjacent Parcels are described in Exhibit 6 to the proposed Contract. Each acquisition and transfer of any of the Adjacent Parcels shall be subject to further action and approval by City Council.

Recommended Action:

Absent comments at the public hearing to the contrary, approve the attached ordinance authorizing the City Manager to execute a contract substantially similar to the Contract attached to this Agenda Report; and at Closing, execute and deliver a Special Warranty Deed conveying the Property to Deschutes or one or more of its Subsidiaries; accept a note and deed of trust, substantially similar to the respective Note and Deed of Trust attached to this Agenda Report; and execute such other documents and to take such further actions as may be necessary to implement, administer, and enforce such Contract, the Note, and the Deed of Trust. All documents are subject to approval as to form by the City Attorney.

Christopher P. Morrill
City Manager

Attachments

Distribution: Council Appointed Officers
R. Brian Townsend, Assistant City Manager for Community Development
Barbara A. Dameron, Director of Finance
Wayne Bowers, Director of Economic Development

CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY

This Contract for Purchase and Sale of Real Property ("**Contract**" or "**Agreement**") is entered into effective _____, 2016 ("**Effective Date**"), by and between the City of Roanoke, Virginia, a Virginia municipal corporation ("**Seller**" or "**City**"), and Deschutes Brewery, Inc., an Oregon corporation qualified to transact business in the Commonwealth of Virginia ("Parent"), and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are "Subsidiaries" and the Parent and the Subsidiaries together, jointly and severally, are the "**Buyer**").

RECITALS:

WHEREAS, Seller is the owner in fee simple of certain real property located at 2002 Blue Hills Drive, N.E., Roanoke, Virginia 24012, Official Tax Map No. 7230101, containing approximately 49.4173 acres, as shown and described more particularly in the attached Exhibit 1 ("**Property**");

WHEREAS, Seller is desirous of selling the Property to Buyer and Buyer is desirous of acquiring such Property for the construction and operation of a brewery in accordance with Buyer's proposal attached hereto as Exhibit 2, together with such supplements, additions, and amendments that Buyer shall make prior to Closing, accepted by Seller and which acceptance shall not be unreasonably withheld, and shall be attached hereto (collectively, the "**Proposal**");

WHEREAS, the Property is currently undeveloped and situated within the Roanoke Centre for Industry and Technology;

WHEREAS, Buyer proposes to make substantial improvements to the Property for the construction, equipping, and operation of a brewery and warehouse facility ("**Facility**") that will employ at least 70 Full-Time Employees as of June 1, 2021;

WHEREAS, the City recognizes that the development, construction, and operation of the Facility will require the expenditure of significant sums for the acquisition and installation of specialized machinery and equipment for the operation of the Facility in accordance with all applicable federal, state, and local laws, rules, regulations, and ordinances;

WHEREAS, Buyer has requested Seller to make certain public infrastructure improvements to assist in the development of the Project and Seller is willing to make certain public infrastructure improvements in accordance with the terms of this Contract;

WHEREAS, Buyer has requested economic assistance from the City and the Economic Development Authority of the City of Roanoke, Virginia ("**EDA**"), to assist with the costs of the acquisition and installation of specialized machinery and equipment necessary for the construction and operation of the Facility; and

WHEREAS, the City and EDA desire that development of the Facility as described in the Proposal proceed and the City and EDA have determined that the Project will promote economic development within the City and within the Roanoke Region and the Project will provide additional tax revenue, services, and employment opportunities to benefit the citizens of the City and the Roanoke Region.

THEREFORE, for and in consideration of the mutual covenants and conditions set forth in this Contract including the Recitals above, which Recitals are incorporated herein and made a part of this Contract, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, Seller and Buyer hereby agree as follows:

SECTION 1. DEFINITIONS.

Unless the context otherwise specifies or requires, for the purpose of this Contract, the following terms shall have the meanings set forth in this Section:

"Buyer Post-Closing Covenants" has the meaning set forth in Section 19 below.

"Closing" means the consummation of the transaction set forth in this Contract by Seller's conveyance of the Property to Buyer pursuant to the Deed.

"Closing Date" is defined in Section 10 below.

"Construction Activity" means the receipt of all Permits and Approvals necessary for the commencement of site work on the Property, and the initiation of such site work.

"Commencement Date" means the date on which Buyer certifies in writing to Seller that Buyer has commenced Construction Activity, which date shall be no later than June 1, 2019.

"Contemplated Use" means the development of the Property by Buyer for the purpose of developing a brewery and warehouse for the commercial production and sale of beer.

"Days" means, unless otherwise stated, consecutive calendar days.

"Deed" means a special warranty deed conveying title to the Property in a form and substance reasonably acceptable to Buyer.

"Deed of Restriction" means the Deed of Restriction to the Roanoke Centre for Industry and Technology, as amended, dated February 15, 2012, and recorded in the Clerk's Office of the Circuit Court for the City of Roanoke, Virginia.

"Deed of Trust" means the deed of trust that shall be substantially in the form of Exhibit 3 attached hereto and made a part hereof, granted by Buyer to Seller to create a first

priority lien on the Property to secure payment and performance of Buyer's obligations under the Promissory Note and the Restrictive Covenants.

"Earnest Money" means the deposit of $10,000 previously made by Buyer in accordance with the LOI.

"Full-Time Employees" means new permanent full-time employment of an indefinite duration at the Facility, for which the standard fringe benefits are provided by Buyer for each of the Full-Time Employees, and for which each of the Full-Time Employees receives a minimum of at least $12.69 per hour, not including health insurance benefits and other standard fringe benefits. Each job for Full-Time Employees must require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of Buyer's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth of Virginia, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as such jobs.

"Governmental Authority" means the United States of America, the Commonwealth of Virginia, any other state of the United States, the City, any Federal, state, regional, or local body, commission, or agency having jurisdiction with respect to the construction, development, occupancy, use, and operation of the Facility.

"LOI" means the Letter of Intent executed by Buyer and Seller dated as of December 31, 2015, with respect to the proposed purchase and sale of the Property.

"Permits and Approvals" mean all permits, approvals, consents, and authorizations issued by a Governmental Authority that are required for the construction, and use of the Facility or otherwise in connection with the Project, all such permits, approvals, consents, and authorizations having been finally issued and subject to no condition unacceptable to Buyer and subject to no appeal.

"Plans" or "Plan" mean the design plans and/or drawings and/or other documents as approved by the City of Roanoke Department of Planning, Building and Development.

"Production Date" means June 1, 2021.

"Project" means and includes the design, engineering, and construction of the Facility to be developed by Buyer in accordance with the Proposal, as well as any related and/or connected work that may be required and/or done on any part of the Property.

"Promissory Note" means the promissory note substantially in the form of Exhibit 4 attached hereto and made a part hereof, in the principal amount of $2,750,000, together with interest at the annual rate of 1%, to be executed by Buyer and delivered by Buyer to Seller as payment of the Purchase Price.

"Property" means the real property located at 2002 Blue Hills Drive, N.E., Roanoke, Virginia 24012, designated as Official Tax Map No. 7230101, and containing approximately 49.4173 acres, together with all improvements thereon. The Property is a portion of the property conveyed to Seller by (i) deed dated October 2, 1989, from Anderson Wade Douthat, III, and Frances Brown recorded in the Office of the Clerk of the Circuit Court of the City of Roanoke, Virginia in Deed Book 1610, Page 205; (ii) deed of correction dated October 3, 1989, from Nancy D. Goss, L.W. Goss, James F. Douthat, Ann Scott Douthat, Anderson Wade Douthat III, and Frances Brown recorded in the Office of the Clerk of the Circuit Court of the City of Roanoke, Virginia in Deed Book 1612, Page 1155; and (iii) deed dated June 22, 1990, from Nancy D. Goss and L.W. Goss, recorded in the Office of the Clerk of the Circuit Court of the City of Roanoke, Virginia in Deed Book 1624, Page 1883. The Property is more particularly described in Exhibit 1 attached hereto and made a part hereof. The description of the Property will be amended to reflect the description established by the final survey obtained by Buyer and prepared by Lumsden Associates, P.C., entitled "Plat Showing ALTA/ACSM Land Title Survey of Tract 1-A (49.4173 acres/2,152,616 Square Feet)(Map Book 1, Pages 2966-2967), Property of the City of Roanoke, Virginia (Deed Book 1610, Page 205), situated at #2002 Blue Hills Drive, NE, Roanoke, Virginia," with a date of March 7, 2016, and last revision date of _____ ("Plat").

"Proposal" is defined in the Recitals.

"Public Infrastructure Improvements" is defined in Section 20 of this Contract.

"Purchase Price" means the sum of $2,750,000 to be paid by Buyer for the acquisition of the Property from Seller. Buyer shall pay the Purchase Price by execution, delivery, and performance of the Promissory Note.

"Restrictive Covenants" means the obligations of Buyer under Section 19.B. below.

"Substantial Completion" or "Substantially Completed" means the Facility is sufficiently complete so that it may be occupied and utilized for the Contemplated Use.

"Title Company" means any nationally recognized title insurance company acceptable to Buyer.

SECTION 2. PURCHASE AND SALE OF PROPERTY. Seller agrees to sell the Property to Buyer and Buyer agrees to purchase the Property from Seller, on and subject to all the terms, covenants, and conditions set forth in this Contract.

SECTION 3. PAYMENT OF PURCHASE PRICE. Buyer shall execute, deliver, and perform the Promissory Note and Deed of Trust as payment of the Purchase Price. At Closing Seller shall return the Earnest Money to Buyer. Buyer further agrees to promptly pay for the actual, reasonable costs for any advertisement of required public hearing(s) related to the sale of the Property under this Contract. Pursuant to the laws of the Commonwealth of Virginia, Seller must advertise notice of a public hearing before

Roanoke City Council once in a newspaper of general circulation within Roanoke City. Any reimbursement for such authorized costs shall be made directly to the entity providing the advertising at such payment address as is provided by such entity providing the advertising.

SECTION 4. RIGHT OF ENTRY AND INSPECTION PERIOD.

A. Buyer shall have one hundred twenty (120) Days following the Effective Date to complete Buyer's due diligence review of the Property ("**Inspection Period**"). Should Buyer determine during such Inspection Period that it is not satisfied with the Property or any characteristics thereof for any reason whatsoever, in Buyer's sole and absolute discretion, Buyer may terminate this Contract by notifying Seller in writing as soon as possible, but no later than ten (10) Days after the end of such Inspection Period, of Buyer's decision to terminate the Contract. In such case, this Contract shall thereon be terminated and of no further force and effect and the Earnest Money shall be returned to Buyer, unless Seller and Buyer mutually agree to modify this Contract to address such issue(s).

B. In connection with Buyer's due diligence review referenced above, Seller hereby grants to Buyer, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives, and consultants, a revocable right to enter on the Property at any time during the Inspection Period on not less than two (2) working days prior written notice to Seller, to survey, make test borings, and carry out such other examinations, exploratory work, or settings as may be necessary or advisable to complete Phase I and Phase II Environmental Assessments, geotechnical assessments, nondestructive engineering evaluations of the Property, to otherwise perform Buyer's due diligence with respect to the Property, and to store property and equipment, on the following terms and conditions:

1. If Buyer exceeds its rights granted under this Section 4 or fails to obtain and maintain the insurance required by this Section 4, Seller may immediately revoke this right of entry.

2. Buyer agrees to be responsible for any and all damages resulting from the activity or activities of Buyer, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives and consultants, on the Property in the exercise of the rights granted under this Section 4. Buyer shall, at its sole cost, promptly and fully restore any land disturbed by the exercise of the rights under this Section 4 to a condition equal to that existing immediately prior to entry on the Property if Buyer does not purchase the Property.

3. Buyer shall indemnify and hold Seller harmless from any loss, damage, or claim arising out of Buyer's access to the Property pursuant to this Section 4 for the purpose of making tests, inspections, studies, and other investigations. Buyer's indemnity obligations hereunder are conditioned

on Seller: (i) promptly notifying Buyer in writing of any claim; (ii) cooperating with Buyer in the defense of the claim; and (iii) granting Buyer sole control of defense or settlement of the claim at the sole cost and expense of Buyer. Under no circumstance shall Buyer be obligated to indemnify or defend Seller for or from Seller's own negligence, willful misconduct or unlawful act or omission, or any claim resulting from any of the foregoing.

4. Buyer shall, at its sole expense, obtain and maintain, or have its contractors or representatives obtain and maintain, the insurance set forth below. Any required insurance shall be effective prior to the beginning of any work or other performance by Buyer under this Section 4. The following policies and coverages are required:

   (i) Commercial General Liability. Commercial General Liability insurance, written on an occurrence basis, shall insure against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out of Buyer's acts or omissions. The minimum limits of liability for this coverage shall be $1,000,000 per occurrence and $2,000,000 general aggregate.

   (ii) Contractual Liability. Broad form Contractual Liability insurance shall include the indemnification obligation set forth above.

   (iii) Workers' Compensation. Workers' Compensation insurance covering Buyer's statutory obligation under the laws of the Commonwealth of Virginia and Employer's Liability insurance shall be maintained for all its employees engaged in work under this Section 4. Minimum limits of liability for Employer's Liability shall be $100,000 bodily injury by accident each occurrence; $500,000 bodily injury by disease (policy limit); and $100,000 bodily injury by disease (each employee). With respect to the Workers' Compensation coverage, Buyer agrees to use reasonable efforts to obtain a waiver by the insurance company of rights of subrogation against Seller if the policy does not expressly permit a waiver of subrogation.

   (iv) Automobile Liability. The minimum limit of liability for Automobile Liability Insurance shall be $1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Section 4 and shall be written on an occurrence basis.

5. The insurance coverages and amounts set forth above may be met by an umbrella liability policy following the form of the underlying primary

coverage in a minimum amount of $1,000,000. Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy numbers indicated for the insurance providing the coverages required by this Section 4, and it is further agreed that such statement shall be made a part of the certificate of insurance furnished by Buyer to Seller.

6. All insurance shall also meet the following requirements: Buyer shall furnish Seller appropriate documentation showing the type, amount, effective dates, and date of expiration of policies; that the City of Roanoke, its officers, employees, agents, volunteers, and representatives are named as additional insureds; where waiver of subrogation is specified with respect to any policy or insurance required, any such waiver that Buyer is able to obtain shall be specified; insurance coverage shall be in a form and with an insurance company approved by Seller, which approval shall not be unreasonably withheld; and any insurance company providing coverage shall be authorized to do business in the Commonwealth of Virginia. Buyer shall provide the City's Risk Manager with not less than thirty (30) Days advance notice of cancellation or material alteration of any of the above required insurance coverage.

7. Buyer, in performing its inspections on the Property pursuant to this Section 4 shall at all times comply with all applicable federal, state, and local laws, rules, and regulations.

8. On the request of Seller, Buyer shall, within a reasonable period of time after receipt of any preliminary or final survey, test results or conclusory reports and opinion statements, deliver copies of same to Seller. If Seller so requests, Buyer shall also turn over copies of raw data obtained and any laboratory and observation reports or analyses. Such copies of all the above shall be provided to Seller without charge. All such deliverables shall be without any warranties whatsoever, and neither Buyer nor the provider of any report or opinion shall be deemed to make or have made any representations or warranties to Seller regarding such report or opinion, or any information contained therein, and Seller may not rely on any such report or opinion, or any information contained therein.

SECTION 5. PERMITS AND APPROVALS. Buyer shall have 270 Days ("**Approval Period**") beginning on the expiration of the Inspection Period to obtain all Permits and Approvals Buyer deems necessary or appropriate for the construction of the Facility. Buyer may extend the Approval Period for an additional period of 270 Days provided Buyer is diligently presenting applications and diligently and timely making efforts, in good faith, to obtain all Permits and Approvals Buyer deems necessary or appropriate for the construction of the Facility, or to satisfy itself that such Permits and Approvals will be available.

SECTION 6. TITLE. Buyer's obligation to purchase the Property is conditioned on the Property being conveyed by Seller to Buyer, with special warranty covenants, and free of encumbrances created or suffered by Seller except for such encumbrances that constitute Permitted Encumbrances. "**Permitted Encumbrances**" means and includes only the following:

A. Ad valorem real property taxes and stormwater utility fees for the current year, not yet due and payable;

B. The Deed of Restriction;

C. Special exceptions 2 through 16 in the preliminary title report of Fidelity National Title Insurance Company dated January 12, 2016 ("**Title Report**"), and special exception 17 in the Title Report for all matters identified in special exception 17, other than matters created, granted, or suffered by Seller during the period when Seller had title to the Property;

D. The conditions on the Plat;

E. The Deed of Trust;

F. The Restrictive Covenants; and

G. The limitation on transfers of the Property set forth in Section 19.C. of this Contract.

SECTION 7. INCENTIVES AND EDA GRANT. Buyer's obligation under this Contract to close the purchase of the Property is expressly subject to and conditioned on the authorization or approval of the following incentives and grants available to Buyer, or requested by Buyer, from the Commonwealth of Virginia or the City (collectively, "**Incentives**"):

A. Authorizations by the Commonwealth of Virginia:

1. A grant from the Commonwealth's Opportunity Fund in an amount commercially reasonable and on terms and conditions acceptable to Buyer.

2. A grant from the Virginia Jobs Investment Program in an amount commercially reasonable and on terms and conditions acceptable to Buyer.

3. State Enterprise Zone Grants consisting of a Real Property Investment Grant and a Jobs Creation Grant on commercially reasonable terms and conditions acceptable to Buyer.

4. State Manufacturing Sales and Use Tax exemption on commercially reasonable terms and conditions acceptable to Buyer.

B. Approval or authorization by City Council of:

1. Performance Agreement Regarding Operation Period Economic Development Grant ("EDA Operation Grant) acceptable to Buyer, the City, and the EDA that includes future grant funds with respect to the provision of a grant based on an amount equal to 50% of certain tax revenues actually received by the City from the Project after completion of construction of the Facility for a period of four (4) years, and in a form substantially similar to Exhibit 5 attached hereto and made a part hereof.

2. City Enterprise Zone Grants consisting of building permit fee rebates, and water, fire, and sewer hookup rebates.

3. The grant from the Commonwealth's Opportunity Fund identified above.

C. Approval or authorization by EDA of:

1. The EDA Operation Grant documents.

2. Job Training Grant in an amount and on commercially reasonable terms and conditions acceptable to Buyer.

3. EDA Construction Grant in an amount and on commercially reasonable terms and conditions acceptable to Buyer.

4. The grant from the Commonwealth's Opportunity Fund identified above.

Seller shall use its best efforts to assist Buyer in applying for the Incentives. If during the Approval Period, as extended, Buyer determines in its sole discretion that the Incentives have not been approved and/or awarded in amounts and on commercially reasonable terms and conditions that render the Project economically viable, then Buyer shall have the right to terminate this Contract by providing written notice to Seller of such termination, in which event the Earnest Money shall be returned to Buyer and neither party shall have any further rights or obligations under this Contract.

SECTION 8. CONDITIONS TO BUYER'S OBLIGATION TO CLOSE.

A. The following are conditions precedent to Buyer's obligation to purchase the Property or otherwise to perform any obligations provided for in this Contract:

1. The fulfillment to Buyer's reasonable satisfaction of Seller's obligation to convey title to the Property on the Closing Date to Buyer pursuant to the terms and conditions of this Agreement.

2. Buyer shall have obtained, at Buyer's expense, all Permits and Approvals Buyer deems necessary or advisable for the construction of the Facility.

3. Buyer must be satisfied in its sole discretion with the results of its due diligence and inspections of the Property, including, without limitations, those undertaken pursuant to Section 4 above.

4. Buyer must have approved and accepted in its sole discretion all Incentives in accordance with Section 7 above.

5. Seller must not be in default of Seller's obligations under this Contract, and Seller's representations and warranties in this Contract must remain true and correct as of the Closing.

6. The Title Company's commitment to issue, on payment of its normal premium, to Buyer its A.L.T.A. (Form B) Owner's Policy of Title Insurance (the "**Title Policy**") insuring Buyer in the amount of the Purchase Price in respect to the Property and that title to the Property is vested in Buyer subject only to the Permitted Encumbrances.

All of the foregoing conditions are for the benefit of Buyer, and Buyer may choose, in Buyer's sole discretion, to proceed with the Closing despite having knowledge that one or more of the above conditions have not been satisfied.

SECTION 9. CONDITIONS TO SELLER'S OBLIGATION TO CLOSE. As a condition precedent to Seller's obligation to sell the Property or otherwise to perform any obligations provided for in this Contract, Buyer must not be in material default of its obligations under this Contract, and Buyer's representations and warranties in this Contract must remain true and correct as of the Closing. The foregoing conditions are for the benefit of Seller, and Seller may choose, in Seller's sole discretion, to proceed with the Closing despite having knowledge that one or more of the above conditions have not been satisfied.

SECTION 10. CLOSING DATE. The Closing of this transaction shall occur prior to May 1, 2018, on a date selected by Buyer ("**Closing Date**") that is within thirty (30) days to one-hundred twenty (120) days after satisfaction of all conditions set forth in Section 8 above. Buyer shall provide Seller with not less than thirty (30) days advance written notice of the Closing Date. The Closing shall occur at a mutually acceptable time (anticipated to be approximately 10:00 A.M) on the Closing Date in the Office of the City Attorney, or at such other location and time as shall be approved by Buyer and Seller.

SECTION 11. CLOSING DELIVERABLES & MECHANICS.

A. Seller's Obligations at Closing. On the Closing Date, Seller shall sell and convey the Property to Buyer by delivering or causing to be delivered to Buyer the following:

1. The duly executed and acknowledged Deed conveying to Buyer the Property in accordance with the provisions of this Contract;

2. A mechanic's lien affidavit executed by a representative of Seller, satisfactory to the Title Company, and to the effect that no work has been performed on the Property by Seller in the one hundred twenty-five (125) days immediately preceding the Closing Date that could result in a mechanic's lien claim, or, if such work has been performed, it has been paid for in full;

3. Such evidence and documents including, without limitation, a certified copy of the ordinance adopted by Seller, as may reasonably be required by the Title Company evidencing the authority of the person(s) executing the various documents on behalf of Seller in connection with its sale of the Property;

4. A written certification that Seller's representations and warranties in Section 16 of this Agreement remain true and correct as of the Closing;

5. A duly executed counterpart of a Closing Statement; and

6. Any other items required to be delivered pursuant to this Contract or other items reasonably required by the Title Company and that do not include the payment of money, indemnity, or assumption of any liability or obligation.

B. Buyer's Obligations at Closing. At the Closing, Buyer shall Purchase the Property from Seller for the Purchase Price by executing and delivering the Promissory Note and Deed of Trust to Seller.

C. Prorated Expenses. At Closing, real property taxes (if any), and storm water utility fees shall be prorated with Seller responsible for all periods prior to Closing and Buyer being responsible for all periods thereafter. The settlement of any such amounts between Buyer and Seller shall occur at Closing or as soon as reasonably possible thereafter.

D. Title Policy. Buyer shall cause the Title Company to issue and deliver the Title Policy to Buyer after the Closing Date.

E. Buyer's Expenses. Buyer shall pay for (i) the cost of all Buyer's investigations of the Property including but not limited to Buyer's examination of title; (ii) all attorney's fees and expenses incurred by legal counsel to Buyer; (iii) any Grantee's tax and recording costs required to be paid in connection with the recording of the Deed; and (iv) the title insurance premiums for issuance of the Title Policy.

F. Seller's Expenses. Seller shall pay (i) the Grantor's tax, if any; and (ii) all attorney's fees and expenses incurred by legal counsel to Seller, if any.

G. Possession. Seller shall deliver exclusive possession of the Property to Buyer on the Closing Date, subject to the provisions of this Contract.

SECTION 12. ACQUISITION OF ADDITIONAL PARCELS. In developing plans for the expansion of Roanoke Centre for Industry and Technology, Seller has sought to acquire certain parcels of real property, together with buildings and improvements thereon, situated in Roanoke, Virginia and adjacent to the Property (collectively, the "**Adjacent Parcels**"). The Adjacent Parcels are more particularly described in Exhibit 6 attached hereto and made a part hereof.

The City has been seeking to acquire the Adjacent Parcels through good faith negotiations with the owners of the Adjacent Parcels, and shall continue to exercise Seller's best efforts to acquire title to the Adjacent Parcels. Seller's obligation under this Section 12 shall automatically terminate and expire (i) upon satisfaction in full or payment in full of the Promissory Note; or (ii) Buyer's breach of the Restrictive Covenants; whichever event occurs first. In the event that City Council approves the acquisition of any or all of the Adjacent Parcels prior to satisfaction in full of all obligations under the Promissory Note, Buyer and City agree to amend this Agreement to include such Adjacent Parcels into this Contract. Any such amendments to this Contract will include increasing the Purchase Price and the principal amount of the Promissory Note and amendments to the Deed of Trust, by the amount paid by the City for each of the Adjacent Parcels so acquired; subject to Buyer's written pre-approval of any such additional amount.

The acquisition of each of the Adjacent Parcels by Buyer shall be subject to Buyer's approval, including, without limitation, Buyer's satisfaction as to the condition and zoning, and the status of title, of and to each of the Adjacent Parcels to be acquired by Buyer from Seller. Seller shall provide Buyer with all reports, inspections and other information obtained by Seller with respect to each of the Adjacent Parcels. Any increase in the principal amount of the Promissory Note as required pursuant to this Section 12 shall not extend the term of the Promissory Note. Any increase in the principal amount of the Promissory Note pursuant to this Section 12 ("**Note Increase**") will result in an amendment to the Promissory Note increasing (by the amount of the Note Increase) the amount of principal and interest owing under the Promissory Note. For avoidance of any doubt, such additional principal and interest shall be eligible for forgiveness over the remaining term of the Promissory Note subject to the conditions for forgiveness under the Promissory Note.

The acquisition of any of the Adjacent Parcels and each amendment of this Contract, Promissory Note, and Deed of Trust as set forth in this Section 12 shall be subject to separate approval by Roanoke City Council, following notice and public hearing as may be required pursuant to the laws of the Commonwealth of Virginia. Prior to the termination of Seller's obligations under this Section 12, Buyer shall be responsible for the actual, reasonable cost of the advertisement of notice of each public hearing for the acquisition of each of the Adjacent Parcels pursuant to the above provisions of this Section 12 as required by the laws of the Commonwealth of Virginia.

The provisions of this Section 12 shall survive the Closing and shall terminate and expire as provided in this Section 12.

SECTION 13. CONDEMNATION. Seller has no actual knowledge of any pending or threatened condemnation of the Property. However, if, after the date hereof and prior to the Closing Date, all or any part of Property is subjected to a bona fide threat of condemnation or condemned or taken by a body having the power of eminent domain or a transfer in lieu of condemnation, Seller shall promptly notify Buyer thereof in writing and within thirty (30) days after receipt of written notice to Buyer, Buyer may by written notice to Seller elect to cancel this Contract prior to the Closing Date, in which event all parties shall be relieved and released of and from any further duties, obligations, rights, or liabilities hereunder, and this Contract shall be deemed terminated and of no further force and effect. If no such election is made by Buyer to cancel this Contract, this Contract shall remain in full force and effect and the purchase contemplated herein, less any interest taken by condemnation or eminent domain, shall be effected with no further adjustments, and on the Closing Date, Seller shall assign, transfer, and set over to Buyer all of the right, title, and interest of Seller in and to any awards that have been or that may thereafter be made for any such taking or takings.

SECTION 14. RISK OF LOSS. Risk of Loss by fire or other casualty shall be on Seller until Closing is completed, subject only to Buyer's obligations under this Agreement. If the Property is substantially damaged or destroyed before Closing by such casualty, then Buyer may cancel this Contract by giving Seller written notice of such cancellation, and neither party will have any further obligations to the other and Seller shall not be liable to Buyer for any failure to deliver the Property to Buyer. In the event that this Contract is cancelled pursuant to this Section 14, the Earnest Money shall be returned to Buyer.

SECTION 15. NO BROKERS OR FINDERS. Buyer has not incurred any liability or obligation – whether contingent or otherwise – for a brokerage commission, a finder's fee, or any other similar payment in connection with this Agreement or the transaction contemplated herein. Seller has not incurred any liability or obligation – whether contingent or otherwise – for a brokerage commission, a finder's fee, or any other similar payment in connection with this Agreement or the transaction contemplated herein.

SECTION 16. SELLER'S REPRESENTATIONS AND WARRANTIES.

A. Subject only to the representations and warranties set forth in Section 16.B. below, Seller's other representations and warranties in this Agreement, and Seller's representations and warranties in any instruments delivered by Seller to Buyer at Closing, including, without limitation, the Deed, Buyer's purchase of the Property will be "AS IS".

B. Seller represents and warrants to Buyer with respect to the Property that:

1. Title. Seller is the legal and beneficial fee simple titleholder of the Property and has good, marketable title to the Property, free and clear of all liens, encumbrances, claims, covenants, conditions, restrictions, easements, rights of way, options, judgments, or other matters, created by

Seller, subject to all matters disclosed by the Title Report and the Plat. Seller will convey title to the Property to Buyer subject to the special warranty covenants and free of encumbrances created or suffered by Seller except for such encumbrances that constitute Permitted Encumbrances.

2. Condemnation. Seller has no knowledge of any pending or threatened proceedings for condemnation or the exercise of the right of eminent domain as to any part of the Property or the limiting or denying of any right of access thereto.

3. Special Taxes. Seller has no knowledge of, nor has it received any notice of, any other special taxes or assessments relating to the Property or any part thereof.

4. Hazardous Materials. Seller makes no warranties or representatives of any type regarding hazardous materials of any type.

5. No Leases. There are no leases of or affecting the Property.

6. Access. Ingress to and egress from the Property is available and provided through Mason Mill Road, N.E. and Blue Hills Drive, N.E. The Property has usable frontage and legal access to said roads.

7. No Conflicts. Seller's execution and performance of this Agreement does not: (i) breach any other agreement to which Seller is a party; or (ii) violate any law, judgment, or order to which Seller is subject.

8. No Notice of Violations. Seller has received no notice of any violation of zoning requirements or other ordinances, rules or regulations with respect to the Property.

9. No Litigation. There is no litigation, claim, or arbitration, pending or, to the knowledge of Seller's City Manager or Seller's City Attorney, threatened, with regard to the Property.

SECTION 17. DEFAULT OF CLOSING OBLIGATIONS.

A. In the event that the Closing does not occur by reason of any default by Seller, Buyer shall be entitled to return of the Earnest Money and shall also have the right to pursue the remedy of specific performance of this Contract. These remedies shall be the sole remedies available to Buyer for Seller's breach of Seller's closing obligations.

B. In the event that the Closing does not occur by reason of any default by Buyer, Buyer and Seller agree that it would be impractical and extremely difficult to estimate the damages that Seller may suffer. Therefore, Buyer and Seller agree

that a reasonable estimate of the total net detriment that Seller would suffer if Buyer defaults and fails to complete the purchase of the Property is and shall be, and Seller's sole and exclusive remedy (whether at law or in equity) shall be, an amount equal to the Earnest Money. This amount shall be the full, agreed, and liquidated damages for the breach of this Agreement by Buyer (excluding Buyer's breach of any of the Restrictive Covenants), all other claims to damages or other remedies being herein expressly waived by Seller. The retention by Seller of the Earnest Money as liquidated damages is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to Seller.

SECTION 18. LIMITS ON ASSIGNMENT. Each party agrees not to assign or transfer any part of the party's rights or obligations under Sections 2 through 17 of this Contract without the prior written consent of the other party, which consent shall not be unreasonably withheld, and any such assignment shall not relieve the assigning party from any of its obligations under this Contract; provided that Parent may close the acquisition of the Property through, or transfer the Property to, a wholly owned Subsidiary without Seller's consent; provided, further, the Parent shall provide Seller notice of such assignment to a wholly owned Subsidiary ten (10) Days before such assignment is effective. The Parent and the Subsidiary shall be jointly and severally liable as Buyer. For avoidance of any doubt, an assignment does not include any transfer of a minority interest in the shares or other ownership interests of Buyer, regardless of whether the transfer occurs voluntarily or involuntarily, by operation of law, or because of any act or occurrence.

SECTION 19. BUYER POST-CLOSING COVENANTS. Buyer acknowledges and agrees that a part of the consideration for Seller is Buyer's commitment, following completion of the Closing, to develop the Project in accordance with the Proposal and to perform the following post-closing covenants ("**Buyer Post-Closing Covenants**") in accordance with the terms and conditions set forth in this Contract

A. Project. Buyer will (i) develop the Property substantially in accordance with the Proposal and the Plans, and in accordance with all applicable environmental and other laws; and (ii) develop the Property in accordance with all applicable federal, state, and local laws, ordinances, and regulations, including all applicable licensing requirements.

B. Restrictive Covenants.

1. Construction. Buyer will commence Construction Activity, in accordance with the Proposal and Plans, by the Commencement Date, and will diligently continue to construct the Project, subject to delays caused by events set forth in Section 34 of this Contract. Completion of the Project shall be pursued diligently by Buyer, subject to delays caused by the events set forth in Section 34 of this Contract.
2. Minimum Investment. Buyer will invest a minimum of $55,000,000 in building construction and equipment at the Property in connection with the

Project ("**Minimum Investment**") by the Production Date. The Minimum Investment shall not include the amount of the Purchase Price. Within ninety (90) Days after the issuance of the final certificate of occupancy for the Facility by the City of Roanoke Planning, Building and Development Department for the use, occupancy and operation of the Facility, Buyer shall certify, in writing, to the City the amount invested by Buyer in building construction and equipment at the Property in connection with the Project ("**Buyer's Investment**"). The certification shall include an itemization of these costs in reasonable detail certified by the Chief Financial Officer of Buyer.

3. Completion. The Facility shall be Substantially Completed and production and sale of beer at the Facility shall commence by the Production Date.

4. Minimum Employment. Buyer shall employ at least 70 Full-Time Employees at the Facility as of the Production Date and maintain at least 70 Full-Time Employees for five (5) years after the Production Date. Buyer shall certify to the City on or about the Production Date the number of Full-Time Employees at the Facility on that date and shall certify on or about each of the first, second, third, fourth and fifth anniversary dates of the Production Date the number of Full-Time Employees at the Facility on each such subsequent anniversary date of the Production Date, which must be not less than 70 Full-Time Employees.

5. Survival of Restrictive Covenants. Buyer agrees that the Restrictive Covenants shall be recorded either directly or by reference in the Deed, shall survive Closing, and shall be binding on Buyer's successors and assigns. A copy of this Contract shall also be recorded with the Deed. The Restrictive Covenants shall run with the land. On the written request of Buyer after satisfaction of one or more Restrictive Covenants, the City shall confirm the satisfaction of such Restrictive Covenants and, if one or more of Restrictive Covenants have been satisfied, the City shall execute and deliver to Buyer a document in which the City acknowledges the satisfaction of such Restrictive Covenants. Such document shall be in a form suitable for recording in the Clerk's Office of the Circuit Court for the City of Roanoke, Virginia. The form of the document shall be approved by the City Attorney and shall acknowledge satisfaction of only those Restrictive Covenants that have been satisfied and shall further provide that any remaining Restrictive Covenants that have not been satisfied remain in full force and effect. If requested by Buyer, the City shall provide a separate document following the satisfaction of each of the Restrictive Covenants. Buyer shall be responsible for the costs of recording each such document.

C. Limitations on Transfer. Buyer shall not sell, transfer, or otherwise dispose of the Property, any portion of the Property, or any interest in the Property, other than a deed of trust or mortgage in connection with the development and construction of the Project, until the date of Substantial Completion. If Buyer conveys, transfers, or attempts to convey or transfer the Property, any portion of the Property, or any interest in the Property, such conveyance shall be deemed void and of no force or effect, and Buyer shall remain bound by this Contract. Notwithstanding any of the foregoing, there shall be no restriction on Buyer transferring the Property or any interest therein at any time to any wholly owned subsidiary of Buyer, subject to the terms of this Contract.

D. Default and Remedies: The liabilities of Buyer under this Contract for any breach or default of any of the Buyer Post-Closing Covenants, and Seller's remedies for any breach or default of any of the Buyer Post-Closing Covenants under this Contract, shall be as follows:

1. If Buyer is in material breach of any of Buyer's obligations under Section 19.A., and fails to cure such breach within 30 Days after receipt of written notice from Seller specifying the nature of the breach with reasonable particularity, Buyer shall be deemed to be in default of such obligation(s); provided that if the breach is of such a nature that it cannot be completely remedied within the 30-Day period, Buyer shall not be in default if Buyer begins correction of the breach within the 30-Day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. If Buyer is in default of any of Buyer's obligations under Section 19.A., Seller's sole and exclusive remedy with respect to this Contract shall be to accelerate payment under the Promissory Note and demand payment in full of the unpaid principal balance of the Promissory Note, together with all accrued and unpaid interest thereon, and in the absence of payment in full, exercise all remedies available to Seller to collect the unpaid principal balance and accrued but unpaid interest due under the Promissory Note.

   The parties acknowledge and agree that Buyer and the Project are subject to all applicable land use and development laws, ordinances, and regulations of the City, and the City's enforcement of such laws, ordinances, and regulations are not affected in any way by this Contract. The notice provision contained herein and the remedy set forth herein shall not affect, alter, or limit the City's enforcement of all applicable laws, rules and regulations or compelling compliance with approvals issued by any department of the City, including notice of violations of any applicable ordinances, regulations, and rules.

2. If Buyer is in breach of any of Buyer's obligations under Section 19.B., Seller's sole and exclusive remedies with respect to such default(s) under this Contract shall be to accelerate payment of the remaining unpaid

balance due under the Promissory Note together with accrued but unpaid interest thereon, and demand payment in full of the unpaid principal balance of the Promissory Note, together with all accrued but unpaid interest thereon; provided that, if Buyer fails to honor the demand and pay in full the unpaid principal balance of the Promissory Note, together with interest thereon, Seller shall have all remedies available to Seller to collect all amounts then due under the Promissory Note.

3. If Buyer is in breach of any of Buyer's obligations under Section 19, Seller may seek relief from the Circuit Court of the City of Roanoke, Virginia, to enforce Seller's remedies under this Section 19.D.

SECTION 20. PUBLIC INFRASTRUCTURE IMPROVEMENTS. Following the Closing, Seller shall, at its sole cost and expense, initiate, design, and construct the following public infrastructure improvements in connection with the Project (referred to collectively as the "**Public Infrastructure Improvements**"):

1. Extension of water, sanitary sewer, and high speed internet service within the public right-of-way to the Property in a location acceptable to and approved by Buyer, and with such capacity as is needed for the Facility and for Buyer to perform.

2. Extension of Blue Hills Drive, N.E., from its current termination point to the Property at a location acceptable and approved by Buyer.

3. Extension of Tinker Creek Greenway from its current terminus northward to Mason Mill Park and connection of the Property to the Tinker Creek Greenway at a location acceptable to and approved by Buyer.

4. Installation of five (5) directional signs along 13th Street, N.E., and Mason Mill Road, N.E., providing the public with directions to the Facility.

5. Installation of four (4) additional street lights along 13th Street, N.E., and Mason Mill Road, N.E.

6. Relocating and placing underground the electric lines currently crossing the Property in a location acceptable to and approved by Buyer.

Seller shall coordinate with Buyer for and regarding any portions of the Public Infrastructure Improvements that will be made on or adjacent to the Property. In connection therewith, Buyer will grant and dedicate to Seller and/or the Western Virginia Water Authority, at any time before Substantial Completion, all reasonably necessary easements on Buyer's Property for the construction of infrastructure improvements needed for or benefiting the Property and which easements are necessary to and benefitting the development of the Project in accordance with the Proposal, including, but not limited to, storm drainage, sanitary sewers, and/or water, all at no cost to Seller

and/or the Western Virginia Water Authority. Each such easement shall be in a location acceptable to and approved by Buyer. Buyer further agrees to grant easements to the utility providing electric utility service to the Property for the relocation of existing electric utility lines across the Property to locations reasonably acceptable to Buyer and that do not interfere with the Project.

Prior to commencement of any such work, Seller shall provide Buyer with written plans depicting the location of the infrastructure improvements to be made for items (1), (2), and (3) above. Buyer shall have thirty (30) Days in which to review such plans and either accept or reject such plans. If Buyer fails to act within such time period, Buyer shall be deemed to have accepted and approved such locations.

Seller shall complete all Public Infrastructure Improvements by June 1, 2021; provided that the Public Infrastructure Improvements listed in subsections (1) and (6) above must be completed prior to Buyer's commencement of Construction Activities or June 1, 2019, whichever date is earlier.

The provisions of this Section 20 shall survive the Closing.

SECTION 21. NOTICES. All notices hereunder must be in writing and shall be deemed validly given, by personal service, if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, addressed as follows (or any other address the party to be notified may have designated to the sender by like notice):

If to Seller:	City of Roanoke, ATTN: City Manager 364 Noel C. Taylor Municipal Building 215 Church Avenue, S.W. Roanoke, Virginia 24011 Fax No. 540-853-2333
With a Copy to:	City of Roanoke Department of Economic Development ATTN: Economic Development Director 117 Church Avenue, S.W. Roanoke, Virginia 24011 Fax No. 540-853-1213
If to Buyer:	Deschutes Brewery Inc. ATTN: CEO 901 SW Simpson Avenue Bend, Oregon 97702
With a Copy to:	Karnopp Petersen LLP ATTN: Jon J. Napier 360 SW Bond Street, Suite 400 Bend, Oregon 97702

Notice shall be deemed delivered on the date of personal service, five days after deposit in the United States mail, or the day after delivery to a nationally recognized overnight courier.

SECTION 22. TIME. Time is of the essence in the performance of the parties' respective obligations in this Contract.

SECTION 23. SUCCESSORS AND ASSIGNS. This Contract shall inure to the benefit of and be binding on the parties hereto and their respective successors and permitted assigns.

SECTION 24. COUNTERPART COPIES. This Contract may be executed in one or more counterparts, and all such counterparts so executed shall constitute one Contract binding on all of the parties hereto, notwithstanding that all of the parties are not signatories to the same counterpart.

SECTION 25. CONSTRUCTION. The parties acknowledge that each party and its counsel have reviewed and revised this Contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract or any amendments or exhibits hereto.

SECTION 26. SEVERABILITY. If a provision of this Agreement is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Agreement shall not be impaired.

SECTION 27. COOPERATION. Each party agrees to cooperate with the other in a reasonable manner to carry out the intent and purpose of this Contract.

SECTION 28. AUTHORITY TO SIGN. The persons who have executed this Contract on behalf of the parties represent and warrant they are duly authorized to execute this Contract on behalf of their respective entity.

SECTION 29. NONWAIVER. Each party agrees that any party's waiver or failure to enforce or require performance of any term or condition of this Contract or any party's waiver of any particular breach of this Contract by any other party extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Contract or a waiver of any other breaches of the Contract by any party and does not bar the non-defaulting party from requiring the defaulting party to comply with all the terms and conditions of this Contract and does not bar the non-defaulting party from asserting any and all rights and/or remedies it has or might have against the defaulting party under this Contract or by law.

SECTION 30. FAITH BASED ORGANIZATIONS. Pursuant to Virginia Code Section 2.2.-4343.1, be advised that the City does not discriminate against faith-based organizations.

SECTION 31. NONDISCRIMINATION. In performing Buyer's Post-Closing Covenants:

A. Buyer will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Buyer. Buyer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. Buyer in all solicitations or advertisements for employees placed by or on behalf of Buyer will state that Buyer is an equal opportunity employer.

C. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.

SECTION 32. COMPLIANCE WITH STATE LAW; FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA. Buyer shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Buyer agrees not to allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth of Virginia, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time before the date the Promissory Note is paid in full, and to promptly cure any such lapse, revocation or cancellation following notice from Seller. It shall be a condition of Seller's closing obligations under Section 9 above that Buyer not be in breach of this Section 32. If Buyer is in breach of this Section 32 after Closing, Buyer shall be deemed to be in breach of Buyer's obligations under Section 19.A, and Seller's remedy shall be as set forth in Section 19.D.1 above.

SECTION 33. APPROPRIATION OF FUNDS. All obligations or fundings undertaken by Seller in connection with this Contract are subject to the availability of funds and the appropriation of such funds by City Council as may be necessary for such obligations or funding. The City Manager shall include funding for the Seller's obligations under this Agreement in each annual budget proposed by the City Manager. If any such funding is not approved, withdrawn, or otherwise not made available for this Contract, with the result that Seller is unable to perform its obligations under this Contract, Seller shall provide Buyer with written notice of such unavailability of funding.

SECTION 34. FORCE MAJEURE. Neither party shall be in default or otherwise liable for any delay in or failure of its performance under this Contract if such delay or

failure arises by any reason beyond its reasonable control, including any act of God, any acts of common enemy, the elements, earthquakes, floods, fires, epidemics, riots, strikes, failures or delay in transportation or communication, shortages of material, approval delays or any act or failure to act by the other party or such other party's employees, agents or contractors; provided, however, that Buyer's lack of funds shall not be deemed to be a reason beyond Buyer's reasonable control. The Parties shall promptly inform and consult with each other as to any of the above causes which in their judgment may or could be the cause of a delay in the performance of this Agreement.

For purposes of this Contract, any one (1) delay caused by any such occurrence shall not be deemed to last longer than six (6) months and the party claiming delay caused by any and all such occurrences shall give the other party written notice of the same within 30 days after the date such claiming party learns of such occurrence. Notwithstanding anything else set forth above, after a total of twelve (12) months of delays of any type have been claimed by a party as being subject to force majeure, no further delays or claims of any type shall be claimed by such party as being subject to force majeure and/or being an excusable delay.

SECTION 35. ENTIRE CONTRACT. This Contract, together with the exhibits hereto, contains all representations and the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda, or contracts are replaced in total by this Contract and the exhibits hereto. No amendment to this Contract shall be valid unless made in writing and signed by the parties.

SECTION 36. FORUM SELECTION AND CHOICE OF LAW. By virtue of entering into this Contract, the parties agree and submit themselves to a court of competent jurisdiction, which shall be the Circuit Court or General District Court for City of Roanoke, Virginia, and further agree that this Contract is controlled by the laws of the Commonwealth of Virginia, with the exception of Virginia's conflict of law provisions which shall not apply, and that all claims, disputes and other matters shall be decided only by such court according to the laws of the Commonwealth of Virginia as aforesaid. Each party further waives and agrees not to assert in any such action, suit or proceeding, that the party is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding, is brought in an inconvenient forum or that the venue of the action, suit or proceeding, is improper.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, Buyer and Seller have executed this Contract by their authorized representatives effective as of the Effective Date.

ATTEST:

_____
City Clerk

CITY OF ROANOKE, VIRGINIA

By_____
Christopher P. Morrill, City Manager

COMMONWEALTH OF VIRGINIA
CITY OF ROANOKE, to-wit:

The foregoing instrument was acknowledged before me this ___day of _____, 2016, by Christopher P. Morrill, City Manager for the City of Roanoke, Virginia, a Virginia Municipal Corporation, for and on behalf of said municipal corporation.

My commission expires:

_____

_____
Notary Public

SEAL

WITNESS/ATTEST:

_____

DESCHUTES BREWERY, INC.
on behalf of itself and its subsidiaries and and affiliates that may be created to own and/or operate the Facility

By_____
Gary Fish, CEO

_____
_____

To-Wit:

The foregoing instrument was acknowledged before me this ___day of _____, 2016, by Gary Fish, CEO of Deschutes Brewery, Inc., an Oregon Corporation for and on behalf of Deschutes Brewery, Inc.

My commission expires:

_____

_____
Notary Public

SEAL

Approved as to Form:

_____
Assistant City Attorney

Approved as to Execution:

_____
Assistant City Attorney

Authorized by Ordinance No. _____.

EXHIBIT 1 TO CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY

Legal Description Of Real Property
Roanoke Official Tax Map No. 7230101

ALL OF THAT CERTAIN PARCEL OF REAL ESTATE containing 49.4173 acres, more or less, known as "Tract 1-A" as shown on the plat entitled "Plat of Survey Subdividing Tract 1 (73.308 Acres) (Map Book 1, Pages 2875-76) Property of the City of Roanoke, Virginia (D.B. 1610, Pg. 205) Creating Hereon Tract 1-A (49.417 Acres) and Tract H (17.482 Acres) and Dedicating a 5.959 AC. Parcel for the Right-of-Way of Blue Hills Drive, N.E. Extension and Dedicating a 0.123 AC. Parcel and a 0.327 AC. Parcel for the Right-of-Way of Mason Mill Road, N.E.", prepared by Lumsden Associates, P.C., dated March 7, 2006, on record in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Map Book 1, Page 2966, and known as Roanoke Official Tax Map No. 7230101.

Being the same property conveyed to the City of Roanoke, Virginia, by the following deeds:

(1) Deed dated October 2, 1989, from Anderson Wade Douthat, III, and Frances Brown, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1610, Page 205,

(2) Deed of Correction dated October 3, 1989, from Nancy D. Goss and L.W. Goss, James F. Douthat and Ann Scott Douthat, and Anderson Wade Douthat, III, and Frances Brown, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1612, Page 1155, and

(3) Deed dated June, 22, 1990, from Nancy D. Goss and L.W. Goss, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1624, Page 1883.

The description of the Real Property will be amended to reflect the description established by the final survey obtain by Grantor and prepared by Lumsden Associates, P.C., entitled "Plat Showing ALTA/ACSM Land Title Survey of Tract 1-A (49.4173 acres/2,152,616 Square Feet) (Map Book 1, Pages 2966-2967), Property of the City of Roanoke, Virginia (Deed Book 1610, Page 205), situated at #2002 Blue Hills Drive, NE, Roanoke, Virginia," with a date of March 7, 2016, last revision date of_____, 2016.

EXHIBIT 2 TO CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY

Buyer's Proposal
(4 pages)

Proposal for a

Production Brewery

In Roanoke, VA

Deschutes Brewery, Inc. ("Company") of Bend, Oregon proposes to construct a production brewery in Roanoke, Virginia on property located at 2002 Blue Hills Drive, N.E., (Official Tax Map No. 7230101.) The proposed brewery is intended to produce and distribute finished product across the eastern United States. Potential export of finished product to Europe is also highly probable. The new facility is expected to begin production in 2021 and to produce a projected 190,000 barrels of beer the first year. By 2025 it is projected that the brewery will produce approximately 330,000 barrels annually. The facility is being planned with the potential for future expansions that would allow for the production of up to 1,000,000 barrels annually upon ultimate build-out.

The production brewery is expected to employ 108 workers initially and 154 workers by year four. Deschutes is recognized as a valued corporate citizen in the locations which the Company now operates and plans to become an active and excellent addition to the Roanoke community.

The estimated timeline for the decision and implementation of the project is as follows:

February 2016	Select location
Late 2016-Early 2018	Perform due diligence and facility design/engineering
Early 2019	Begin construction
Mid 2019	Installation of process equipment
May 2020	Facility completion
July 2020	Begin bottling at a reduced efficiency
January 2021	Full production (190,000 BBLs annually)

1. **Labor Requirements:**

a) Initial hiring is estimated to begin in 2018 during construction of the new brewery. Construction is targeted to be completed in 2020. Initially, the facility is projected to begin brewing at a reduced efficiency reaching full production in 2021. Employment during construction and initial ramp-up is estimated in the table below:

Year	Employment
2018	4 - 5
2019	10 - 12

2020	52

b) A detailed breakdown of anticipated employment requirements for the new brewery in full production is included below:

PRODUCTION BREWERY		
Job Categories	**Phase 1 2021**	**Phase 2 2025**
Production		
Production Workers (Brewing/Cellar)	13	20
Packaging Operators	25	35
Quality Control Production / Technician	3	6
Production Planning	2	4
Maintenance Mechanics	10	15
Other Production (Sanitation & Security)	5	6
Production Supervisors	4	10
Warehouse		
Shipping & Receiving	5	12
Facility Supervisor (Receiving & Warehouse)	1	2
Inventory Control	1	2
Managers		
Operations Management	1	1
Quality Control Manager	1	1
Maintenance Manager	1	1
Plant Manager	1	1
Human Resources Manager	1	1
Materials Manager	1	1
Other Management	17	20
Other		
Purchasing Agent	1	1
Tour Guides	10	10
Tour Guide Supervisor	1	1
Other Administrative	4	4
Total	**108**	**154**

c) Special labor skills and/or certifications are required for all skilled positions. These include maintenance mechanics, brewers, quality control technicians, inventory control specialists, certified forklift drivers, and plant engineers.

d) Additional special labor skills and/or certifications are required for some skilled positions. These include PLC programmers, automation, and instrumentation workers.

e) There are no expected seasonal / peak fluctuations regarding employment numbers with the exception of internships during summer peak hours.

f) Up to twenty full time positions are expected to transfer from the Company's existing locations.

g) The proposed operation is to initially be a 1 shift / 8 hour / 5 day per week operation. This is expected to become a 2-shift operation upon full build out. In addition, maintenance and sanitation support is to occur on the weekends, as required.

2. **Estimated Project Investment:**

   a) Estimated investment for initial construction of the new brewery is included below:

Category	Phase 1 Initial Investment	Phase 2
Building	$40,000,000	TBD
Production Machinery	$45,000,000	TBD
Misc. Costs*	$10,000,000+	TBD
TOTAL	**$95,000,000+**	**TBD**

*Misc costs included engineering, transportation of equipment, installation of equipment, project management, commissioning, training, and other costs incurred during start-up.

EXHIBIT 3 TO CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY

Deed of Trust

DRAFT DATE 4.7.2016

Prepared by:
David L. Collins
Assistant City Attorney
VSB #42673
Office of the City Attorney
Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 464
Roanoke, VA 24011

DEED OF TRUST

THIS DEED OF TRUST is made and entered into this _____ day of _____, 20___ ("Effective Date"), by and among [DESCHUTES BREWERY SUBSIDIARY] ("Grantor"), whose mailing address is 901 SW Simpson Avenue, Bend, Oregon 97702; DANIEL J. CALLAGHAN, ESQ. and DAVID L. COLLINS, ESQ., Trustees, residents of the City of Roanoke, Virginia, whose addresses are Roanoke City Attorney's Office, Room 464, Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia, 24011, ("Trustees"), (Grantee for purposes of indexing); and the CITY OF ROANOKE, VIRGINIA, a Virginia municipal corporation, ("Beneficiary" or "City"), whose address is Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia 24011;

WITNESSETH:

WHEREAS, Grantor, as Buyer, and Beneficiary, as Seller, entered into a Contract for Purchase and Sale of Real Property ("Contract") dated _____, 2016, for the sale by City to Grantor of that certain lot or parcel of land, with all improvements thereon and appurtenances thereunto belonging, situate, lying and being in the City of Roanoke, Virginia, more particularly described in Schedule A, attached hereto and made a part hereof, and commonly known as Tract 1-A, 2002 Blue Hills Drive, N.E., Roanoke, Virginia 24012, Roanoke Official Tax Map No. 7230101 (the "Real Property");

WHEREAS, Grantor acquired the Real Property from Beneficiary by deed of Beneficiary dated _____ and recorded in the Clerk's Office of the Circuit Court for the City of Roanoke as Instrument No._____ on _____;

WHEREAS, the sale price of the Real Property was $2,750,000, and the Grantor executed a Nonnegotiable Promissory Note dated _____, _____, in the principal amount of $2,750,000 ("Note"), obligating Grantor to pay City, subject to the terms of the Note, the principal amount together with accrued interest at the rate of one percent (1%) per annum, as set forth in the Note; and

WHEREAS, Grantor desires to convey this Deed of Trust unto the Trustees to secure the Note, as required by the terms of the Contract.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the sum of Ten and no/100 Dollars ($10.00), the mutual agreements contained herein, the above recitals which are

incorporated herein by reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to secure the Obligations (as that term is defined below), the Grantor does hereby GRANT and CONVEY, by General Warranty with English covenants of Title, unto the Grantee, as Trustees, with the power of sale, the Real Property.

TOGETHER WITH all buildings, improvements, and fixtures now or hereafter erected thereon, and also together with all easements relating to the Real Property, as well as any unearned hazard insurance premium with respect to such property, all of which are hereby pledged, assigned, transferred and set over unto the Trustees, whether now due or hereafter to become due. All of the foregoing realty and personalty are hereafter sometimes referred to collectively as the "Property."

AND, as additional security for the payment obligations of Grantor set forth in the Note and/or the payment and performance of Grantor's obligations set forth in this Deed of Trust (collectively, the "Obligations"), the Grantor hereby transfers, sets over, and assigns to the Trustees all judgments, awards of damages, settlements and compensation made in connection with or in lieu of a) any taking of the Real Property by or under assertion of the power of eminent domain, b) any damage to or destruction of the Real Property by insured casualty, and c) any other injury or damages to the Real Property. The Trustees are authorized and empowered (but not required) to collect and receive any such sums and, if collected and received, shall apply such sums in whole or in part to the reduction of the payment and performance of the Obligations.

IN TRUST for the benefit of the City of Roanoke, Virginia as beneficiary to secure the Beneficiary, its successors and assigns, the payment and performance of the Obligations.

The parties agree that all capitalized terms not defined in this Deed of Trust shall have the meanings ascribed to such terms as set forth in the Contract; a copy of the Contract is attached to this Deed of Trust as Attachment 1 attached hereto. This Deed of Trust is made and shall be construed in accordance with and under the provisions of Sections 55-59, 55-59.1 through 55-59.4 and 55-60, of the Code of Virginia (1950) as amended. This Deed of Trust shall be governed by the laws of the Commonwealth of Virginia, with venue being in a state court of competent jurisdiction in the City of Roanoke, Virginia.

A "Material Default" shall exist if Grantor: (i) fails to pay any amount due and payable under the Note or this Deed of Trust within thirty (30) days of Grantor's receipt of written notice from Beneficiary specifying the payment default; or (ii) breaches any of Grantor's obligations under this Deed of Trust (excluding any payment obligations), and fails to cure such breach within 30 days after receipt of written notice from Beneficiary specifying the nature of the breach with reasonable particularity, provided that if the breach is of such a nature that it cannot be completely remedied within the 30-day period, this provision shall be complied with and a "Material Default" shall not exist if Grantor begins correction of the breach within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

If a Material Default exists, then, to the extent permitted by applicable law under the power of sale, the Beneficiary may, at its option, direct Trustees to take possession of all or any

portion of the Property and proceed to sell the same as a whole or in parts or parcels, at public auction, for cash or credit, upon reasonable and appropriate terms, and to have Trustees take any or all other actions set forth herein. To the extent permitted by applicable law, Grantor consents that such sale may be made of the Property as a whole or in parcels, as Trustees, in their reasonable discretion, may determine, and Grantor further consents that the sale may be on or off the Real Property. The sale by Trustees of less than the whole of the Property shall not exhaust the power of sale herein granted, and Trustees are specifically empowered to make a successive sale or sales under such power until the whole of the Property shall be sold; and, if the proceeds of such sale of less than the whole of the Property shall be less than the amount necessary to satisfy the payment obligations of Grantor to Beneficiary secured by this Deed of Trust and the expense of executing this Deed of Trust as provided herein, this Deed of Trust and the lien hereof shall remain in full force and effect as to the unsold portion of the Property just as though no sale had been made; provided, however, that Grantor shall never have any right to require the sale of less than the whole of the Property but Beneficiary shall have the right, at its sole election, to request Trustees to sell less than the whole of the Property. The power of sale granted herein shall not be exhausted by any sale held hereunder by Trustees or the Trustees' substitute or successor, and such power of sale may be exercised from time to time and as many times as Beneficiary may deem necessary until all of the Property has been duly sold and any amount owing by Grantor to Beneficiary under the Note or this Deed of Trust has been fully paid.

Grantor represents and warrants that Grantor has title to the Real Property in fee simple as conveyed by Beneficiary to Grantor, and has good right and power to convey the Real Property. During the time period that any balance remains outstanding under the Note, Grantor further covenants and agrees as follows:

(1) Grantor shall fully and promptly pay and perform all of Grantor's obligations arising under this Deed of Trust when such performance is due.

(2) Grantor also shall pay, when due, all claims of every kind and nature which might or could become a lien on the property or any part hereof having priority over the lien of this Deed of Trust, and Grantor shall not at any time create or allow to exist any lien on the Real Property having priority over the lien of this Deed of Trust other than those specifically approved by Beneficiary; provided, however, that the following are excepted from the foregoing: (a) Permitted Encumbrances; (b) liens for taxes, assessments and other obligations which are not delinquent although by law are given the status of a lien; and (c) such of the claims in subsection (b) above during the time they are being contested by Grantor in good faith and by appropriate legal proceedings, but Grantor shall post such security for the payment of such contested claims as is requested by Beneficiary.

(3) Grantor will keep the Property in good repair and condition, reasonable wear and tear excepted, and will not commit or permit any waste of the Real Property; provided that the foregoing shall not prevent or restrict Grantor from developing the Facility or undertaking activities on the Real Property in connection therewith. Grantor shall comply with all applicable laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property, and not suffer or permit any material violations thereof.

(4) (a) Beneficiary and its agents may make reasonable entries upon and inspections of the Property on not less than two (2) working days prior written notice to Grantor and specifying reasonable cause for the inspection. To the extent permitted by law, and without waiving the defense of sovereign immunity, Beneficiary shall be responsible for its own negligence while on the Property under this provision. Beneficiary shall require any independent contractor entering the Property for or on behalf of Beneficiary to have adequate liability insurance that includes an indemnity for the benefit of Beneficiary and Grantor to hold Beneficiary and Grantor harmless from acts and omissions of such independent contractor while on the Property in connection with any inspection conducted hereunder.

(b) The right of inspection provided for in Section 4 (a) above in no way limits the Beneficiary, in its capacity as a municipal corporation, to regulate and enforce all applicable land use and development regulations, including building codes, fire and safety codes, and all other applicable land use and development laws, ordinances, and regulations applicable to the Property and enforceable by the City.

(5) Grantor shall maintain insurance for the full replacement cost of any improvements on the Real Property.

(6) Grantor shall pay, when due, all taxes and assessments, both general and special, ground rents, fines, penalties, impositions, levies, dues and charges of every type or nature levied upon or assessed against the Real Property, including any personal property included thereon, and shall annually provide to Beneficiary, promptly following Beneficiary's request, evidence that all such payments have been paid when due.

(7) Except with respect to a foreclosure as hereinafter provided (in which event, Beneficiary shall be entitled to recover its reasonable attorneys' fees and expenses), if any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Deed of Trust, or otherwise in connection with the subject matter of this Deed of Trust, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind directly related to such proceeding as determined by the presiding officials or court, as applicable.

In the event of foreclosure hereunder, Beneficiary must give Grantor at least fourteen (14) days' written notice by certified or registered mail at Grantor's last known address prior to any sale.

If Trustees are directed by Beneficiary to institute foreclosure hereunder, public advertising has commenced, and the Property is redeemed by the makers or endorsers hereof prior to sale, then Trustees shall be entitled to any actual reasonable out-of-pocket costs or expenses incurred by Trustees in connection with such foreclosure, including reasonable

attorneys' fees and expenses. In the event of redemption by Grantor, the Trustees shall not be entitled to any commission. In the event of a sale at foreclosure, the Trustees shall be entitled to a commission of three (3%) percent of the gross sales price, in addition to recovery of the Trustees' actual reasonable out-of-pocket expenses or costs, including reasonable attorneys' fees and expenses.

If a Material Default exists, it shall be the duty of Trustees, upon written request of Beneficiary, to sell the Real Property herein conveyed at public auction in the jurisdiction in which the Real Property lies. But before executing this Deed of Trust, Trustees shall give notice of the time, place and terms of sale by advertisement in a newspaper of general circulation in such jurisdiction once per week for two consecutive weeks, and by such other advertisement as Trustees deem fit.

If Grantor fails to perform any of the covenants and agreements contained in this Deed of Trust or defaults on any deed of trust or similar instrument to which this Deed of Trust is subordinated, or any action or proceeding is commenced which materially affects Beneficiary's interest in the Property, the failure to pay delinquent taxes or insurance premiums, or the commencement of a proceeding in eminent domain, insolvency, code enforcement or arrangements or proceedings involving bankruptcy by Grantor, then Beneficiary, at Beneficiary's option and with reasonable advance notice to Grantor, may make such appearances, disburse such sums and take such actions as are reasonable to protect Beneficiary's interest, including but not limited to payment of delinquent taxes or insurance premiums, disbursements of reasonable attorney's fees and entry upon the Real Property to make repairs or to secure the same against unauthorized entry and/or the elements.

Any amounts disbursed by Beneficiary pursuant to the preceding paragraph shall become additional indebtedness of Grantor secured by this Deed of Trust. Unless Grantor and Beneficiary agree to other terms of payment, such amounts shall be due and payable on Beneficiary's written demand to Grantor, and shall bear interest from the date of disbursement at the lesser of nine percent (9%) per annum or the then highest jurisdictional rate applied by Virginia Court.

Any forbearance by Beneficiary in exercising any right or remedy hereunder or otherwise available by applicable law, shall not be a waiver of or preclude the subsequent exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Beneficiary pursuant to the terms of this Deed of Trust shall not be a waiver of any right by Beneficiary to accelerate the maturity of the indebtedness secured by this Deed of Trust.

Except as otherwise provided in this Deed of Trust with respect to the right of the Beneficiary to change or replace Trustees, Beneficiary may not assign or transfer all or any part of its rights under this Deed of Trust without the prior written consent of Grantor, which consent Grantor may withhold in Grantor's sole discretion. Grantor shall not sell, convey, transfer or dispose of the Real Property without first obtaining the written consent of Beneficiary, which consent shall not be unreasonably withheld or delayed. Consent to one such transaction shall not be deemed to be a waiver of the right to require such consent to future or successive transaction. Grantor reserves the right to place subordinate deeds of trust and encumbrances on the Property without securing consent from Beneficiary.

The covenants and agreements contained herein shall bind, and the rights hereunder shall inure to, the respective authorized successors and assigns of Beneficiary and the respective authorized successors and assigns of Grantor.

Beneficiary has that power and shall be entitled to, in its sole discretion and without cause, successively to remove Trustees, or any successor Trustee, and to appoint another Trustee or Trustees in the place and stead of Trustees or any successor Trustee, by written instrument duly recorded in the Clerk's Office of the Circuit Court of the City of Roanoke, Virginia, any such successor Trustee shall have the same title, authority, and power as the original Trustees herein named.

The authority, power, and discretion hereinabove granted to the Trustees may be exercised by any of them, without the other, with the same effect as if exercised jointly by all of them.

Within 30 days after the full payment of any and all payment obligations of Grantor set forth in the Note and this Deed of Trust, Beneficiary must cause Trustees to release this Deed of Trust. Within 10 days after Beneficiary delivers the written request to release this Deed of Trust to Trustees, Trustees must release this Deed of Trust and record the release in the Clerk's Office of the Circuit Court of the City of Roanoke, Virginia.

Time is of the essence with respect to this Deed of Trust.

NOTICE—THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL OR THE TERMS THEREOF BEING MODIFIED IN THE EVENT OF ANY SALE, REFINANCE OR CONVEYANCE OF THE PROPERTY SECURED HEREBY.

WITNESS the following signature of the duly authorized officer and seal effective as of the Effective Date:

Grantor:

[DESCHUTES BREWERY SUBSIDIARY]

By:_____
Printed Name:_____
Title: _____

STATE OF_____:
To-wit:
_____OF_____:

The foregoing instrument was acknowledged before me this ____ day of _____, 20 ___, by _____of [Deschutes Brewery Subsidiary, for and on behalf of Deschutes Brewery Subsidiary]

My commission expires:
_____

_____
Notary Public

SEAL

Trustees:

_____(SEAL)
Printed Name:_____
Title:_____

_____(SEAL)
Printed Name:_____
Title:_____

COMMONWEALTH OF VIRGINIA:
To-wit:
CITY OF ROANOKE:

The foregoing instrument was acknowledged before me this ____ day of _____, 20___, by _____ Trustee.

My commission expires:
_____

_____
Notary Public

SEAL

COMMONWEALTH OF VIRGINIA:
To-wit:
CITY OF ROANOKE:

The foregoing instrument was acknowledged before me this ____ day of _____, 20 ___, by _____ Trustee.

My commission expires:
_____

_____
Notary Public
SEAL

Beneficiary:

CITY OF ROANOKE, VIRGINIA, a Virginia municipal corporation

By:_____
Christopher P. Morrill, City Manager

COMMONWEALTH OF VIRGINIA:
To-wit:
CITY OF ROANOKE:

The foregoing instrument was acknowledged before me this ____ day of _____, 20___, by Christopher P. Morrill, the City Manager of the City of Roanoke, Virginia, for and on behalf of the City of Roanoke, Virginia.

My commission expires:
_____

_____
Notary Public

SEAL

SCHEDULE A TO DEED OF TRUST CONVEYED BY [DESCHUTES BREWERY SUBSIDIARY.]

LEGAL DESCRIPTION OF REAL PROPERTY
ROANOKE OFFICIAL TAX MAP NO. 7230101

ALL OF THAT CERTAIN PARCEL OF REAL ESTATE containing 49.4173 acres, more or less, known as "Tract 1-A" as shown on the plat entitled "Plat of Survey Subdividing Tract 1 (73.308 Acres) (Map Book 1, Pages 2875-76) Property of the City of Roanoke, Virginia (D.B. 1610, Pg. 205) Creating Hereon Tract 1-A (49.417 Acres) and Tract H (17.482 Acres) and Dedicating a 5.959 AC. Parcel for the Right-of-Way of Blue Hills Drive, N.E. Extension and Dedicating a 0.123 AC. Parcel and a 0.327 AC. Parcel for the Right-of-Way of Mason Mill Road, N.E.", prepared by Lumsden Associates, P.C., dated March 7, 2006, on record in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Map Book 1, Page 2966, and known as Roanoke Official Tax Map No. 7230101.

Being the same property conveyed to the City of Roanoke, Virginia, by the following deeds:

(1) Deed dated October 2, 1989, from Anderson Wade Douthat, III, and Frances Brown, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1610, Page 205,

(2) Deed of Correction dated October 3, 1989, from Nancy D. Goss and L.W. Goss, James F. Douthat and Ann Scott Douthat, and Anderson Wade Douthat, III, and Frances Brown, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1612, Page 1155, and

(3) Deed dated June, 22, 1990, from Nancy D. Goss and L.W. Goss, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1624, Page 1883.

The description of the Real Property will be amended to reflect the description established by the final survey obtain by Grantor and prepared by Lumsden Associates, P.C., entitled "Plat Showing ALTA/ACSM Land Title Survey of Tract 1-A (49.4173 acres/2,152,616 Square Feet) (Map Book 1, Pages 2966-2967), Property of the City of Roanoke, Virginia (Deed Book 1610, Page 205), situated at #2002 Blue Hills Drive, NE, Roanoke, Virginia," with a date of March 7, 2016, last revision date of_____, 2016.

ATTACHMENT 1

Contract for Purchase and Sale of Real Property dated _____, 2016
between Grantor and Beneficiary

(Copy of executed Contract to be attached to executed Deed of Trust)

EXHIBIT 4 TO CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY

Promissory Note

DRAFT DATE 4.7.2016

NONNEGOTIABLE PROMISSORY NOTE

Date: _____, 20____

Payors: Deschutes Brewery, Inc., an Oregon corporation
901 SW Simpson Avenue
Bend, OR 97702

And [Subsidiary]

Holder or City: City of Roanoke, Virginia, a Virginia municipal corporation
City Treasurer, Suite 254
Noel C. Taylor Municipal Building
215 Church Avenue, S.W.
Roanoke, VA 24011

Principal Amount: U.S. $2,750,000

For value received, Deschutes Brewery, Inc., an Oregon corporation, qualified to conduct business in the Commonwealth of Virginia and [Subsidiary, a _____ qualified to conduct business in the Commonwealth of Virginia] ("Payors"), jointly and severally promise to pay only to the City of Roanoke, Virginia, a Virginia municipal corporation (the "City" or "Holder"), at the Office of the City: 215 Church Avenue, Roanoke, Virginia 24011, or at such other location as the City may designate in writing, the principal sum of Two Million Seven Hundred Fifty Thousand Dollars and no/Dollars ($2,750,000), together with interest payable at the rate of one percent (1%) per annum (this Nonnegotiable Promissory Note is hereinafter referred to as "Note"). This Note is being executed and delivered by Payors to the City pursuant to the terms of a Contract for Purchase and Sale of Real Property, by and between Deschutes Brewery, Inc., as Parent and as a Buyer, and the City as Seller, dated _____, 2016 ("Contract"). Capitalized terms set forth in this Note and not defined in this Note shall have the meaning ascribed to such terms in the Contract.

Principal and accrued interest shall be due in five (5) annual installments each in the amount of (i) $550,000 in principal, and (ii) all accrued and unpaid interest on the unpaid principal balance of this Note as of the applicable due date.

The first installment of principal and accrued interest shall be due on that date which is one (1) year after the Production Date. Each subsequent annual installment of principal and accrued interest shall be due on the same day of each succeeding year.

Each installment payment shall be deemed paid and satisfied in full as it comes due, and Payors shall be under no obligation to pay that installment payment to the City, provided Payors are not then in material breach or default of any of Payors' obligations under

Section 19.A. of the Contract, and are not in breach or default of any of Payors' obligations under Section 19.B of the Contract; provided that, for a breach of Section 19.A of the Contract, if Payors are within any cure period under Section 19.D of the Contract, the due date of any then due installment payment(s) shall be extended during the pendency of such cure period, and, if Payors successfully cure said breach within the time period allowed under the Contract, such installment payment(s) shall be deemed paid and satisfied in full.

Each of the following shall constitute an "Event of Default" under this Note: (i) any of the Payors is in default of any of Payors' obligations under Section 19.A., Section 19.B.1, Section 19.B.2, Section 19.B.3, or Section 19.B.4 of the Contract; (ii) the Property subject to the Deed of Trust is sold or transferred, without the consent of the Holder unless permitted by the Contract; or (iii) any of the Payors fails to pay any amount due under this Note within thirty (30) days of Payors' receipt of written notice from Holder specifying the payment default.

Upon the occurrence of an Event of Default, the Holder shall have the right to accelerate payment of the remaining unpaid balance due under this Note together with accrued interest thereon, and demand payment in full of the unpaid principal balance of the Promissory Note, together with all accrued interest thereon. In the event that any of the Payors fail to honor the demand and pay in full the unpaid principal balance of this Note, together with interest thereon, Holder will have all remedies available to Holder to collect all amounts then due under the Promissory Note, from any of the Payors, jointly and severally. Holder may recover its costs of collection, including its reasonable attorneys' fees and expenses, to the extent Holder is entitled to those fees and expenses under this Note.

Payors agree that, following the occurrence of an Event of Default, City may exercise all rights City has available under law and at equity to collect any amount due under this Note, including, and not limited to, initiating foreclosure proceedings against the Property pursuant to the Deed of Trust that secures this Note. **Under no circumstances shall Payors' obligations under or with respect to this Note exceed, in the aggregate, payment to Holder of an amount equal to the original principal amount of this Note, any accrued interest due hereunder, and its costs of collection, including reasonable attorneys' fees and expenses to the extent Holder is entitled to those fees and expenses under this Note.**

If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Note, or otherwise in connection with the subject matter of this Note, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind directly related to such proceeding as determined by the presiding officials or court, as applicable.

From time to time, without affecting the obligations under this Note of the Payors, any successors or permitted assigns of the Payors, or any guarantor of this Note, Holder may:

(i) without giving notice to or obtaining the consent of any of the Payors, any successors or assigns of the Payors, or any guarantor of this Note, and without liability on the part of the Holder, at the sole option of the Holder extend the time for payment of any amount due under this Note, reduce the payments thereon, release anyone liable on any of said outstanding principal balance, accept a renewal of this Note, join in any extension or subordination agreement, release any security herefor, and release any other or additional security; and (ii) agree in writing with the Payors to modify the rate of interest or period of amortization of this Note, to change the amount of the annual installments payable hereunder, or to extend the terms and time of payment of said outstanding principal balance. Any assignment or assumption of the obligations of the Payors hereunder shall not relieve Payors from their joint and several obligations hereunder.

Payors, jointly and severally, hereby waive presentment, demand, protest, and notice of dishonor. The provisions of this Note, the Contract, and the Deed of Trust, shall be binding on the successors and permitted assigns of Payors and, subject to the nonnegotiable nature of this Note, the successors of Holder, including, but not limited to, any receiver, trustee, representative or other person appointed under foreign or domestic bankruptcy, receivership or similar proceedings. The debt evidenced by this Note is secured by a Deed of Trust of even date herewith, covering the Property, as more fully described in the Deed of Trust and the Contract.

This Note is nonnegotiable and may not be sold, assigned, or otherwise negotiated to any person without the prior written consent of Payors, which Payors may withhold in Payors' sole discretion.

The Payors may prepay a part or all of the unpaid principal amount and any accrued but unpaid interest at any time; provided that the treatment of any payment by the Payors to Holder as a prepayment of this Note shall be at the sole and absolute discretion and designation of Payor, and, for avoidance of any doubt, Holder does <u>not</u> have the unilateral right to treat or designate any payment from Payors as a prepayment of this Note or any amount due hereunder.

The validity of this Note, the Contract, and the Deed of Trust, and the rights and obligations of the parties under such documents, shall be governed by, interpreted, construed and enforced pursuant to and in accordance with the laws of the Commonwealth of Virginia, without regard to its conflict of laws principles. Any controversy arising under or in relation to this Note, Contract, and the Deed of Trust shall be litigated exclusively in a state court of competent jurisdiction in the City of Roanoke, Virginia.

The persons signing this Note on behalf of Payors represent that such persons are authorized to sign this Note on behalf of Payors and to bind each of the Payors, jointly and severally, to its terms.

[*Signature Page Follows*]

Dated effective as of the date at the beginning of this Note.

DESCHUTES BREWERY, INC.,
an Oregon corporation

By:_____

Name:_____

Title:_____

STATE OF_____:
To-wit:
_____OF_____:

The foregoing instrument was acknowledged before me this ____ day of _____, 20___, by _____of Deschutes Brewery, Inc., an Oregon Corporation, for and on behalf of Deschutes Brewery, Inc.

My commission expires:
_____

_____
Notary Public

SEAL

[Subsidiary]
A Virginia _____

By:_____

Name:_____

Title:_____

STATE OF_____:
To-wit:
_____OF_____:

The foregoing instrument was acknowledged before me this ____ day of _____, 20___, by _____of [subsidiary]., a_____, for and on behalf of [subsidiary]

My commission expires:
_____

_____
Notary Public

SEAL

EXHIBIT 5 TO CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY

Performance Agreement Regarding Operation Period Economic Development Grant

PERFORMANCE AGREEMENT

REGARDING

OPERATION PERIOD

ECONOMIC DEVELOPMENT GRANT

This Performance Agreement Regarding Operation Period Economic Development Grant ("EDA Operation Grant Agreement") is dated _____, 2016, by and among the City of Roanoke, Virginia, a municipal corporation ("City"), Deschutes Brewery Inc., (the "Parent"), an Oregon corporation, authorized to transact business in the Commonwealth of Virginia, and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are "Subsidiaries" and the Parent and Subsidiaries together, jointly and severally, are "Deschutes"), and the Economic Development Authority of the City of Roanoke, Virginia, an industrial development authority organized and existing under the laws of the Commonwealth of Virginia ("EDA").

RECITALS

WHEREAS, Deschutes has proposed to construct, equip, and operate at 2002 Blue Hills Drive, N.E., in the City, a brewery and warehouse for the commercial production and sale of beer ("Facility");

WHEREAS, construction of the Facility will involve substantial investment in the property to be acquired by Deschutes from the City at 2002 Blue Hills Drive, N.E., Roanoke, Virginia, containing approximately 49.4173 acres, more or less, depicted as Official Tax Map No. 7230101, and more particularly described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, construction of the Facility will require the acquisition and installation of specialized machinery and equipment designed for the production of beer at the Facility ("Equipment") and such Equipment is more particularly described in Exhibit B attached hereto and made a part hereof;

WHEREAS, construction of the Facility at the Property ("Project"), including installation of the Equipment, will be performed substantially in accordance with certain plans ("Project Plans") to be submitted to the City of Roanoke Planning, Building and Development Department;

WHEREAS, the City and Deschutes have entered into a Contract for the Purchase and Sale of Real Property dated _____, 2016 ("Contract") under which Deschutes has agreed, subject to terms and conditions, as set forth in the Contract, to purchase the Property for $2,750,000;

WHEREAS, the City recognizes that construction of the Facility will require Deschutes to incur significant costs related to acquisition and installation of the Equipment;

WHEREAS, Deschutes has requested economic grants from the City through the EDA to assist with the cost of acquisition and installation of the Equipment and related costs necessary for the acquisition and installation of Equipment ("Equipment Expenses");

WHEREAS, the City and the EDA desire that development of the Project proceed, have determined such Project will promote economic development within the City and within the Roanoke Region, and such Project will provide additional tax revenue and services to benefit the citizens of the City and the Roanoke Region;

WHEREAS, the EDA, based on the undertakings of Deschutes, has determined to make an annual economic development grant for a specified period to Deschutes from funds to be provided to the EDA by the City, all in accordance with the terms of this EDA Operation Grant Agreement;

WHEREAS, Deschutes plans to undertake the Project based, in part, on the commitment of the EDA and City to make an annual economic development grant for a specified period to Deschutes in accordance with the terms of this EDA Operation Grant Agreement; and

WHEREAS, the parties wish to reduce to writing the agreement of the parties concerning this matter.

NOW, THEREFORE, the parties, in consideration of the promises and obligations contained in the above Recitals, which Recitals are incorporated herein and made a part hereof, and as set forth herein, mutually agree as follows:

SECTION 1. EDA OPERATION GRANTS.

Subject to the terms of this EDA Operation Grant Agreement, the EDA shall, for the purposes of promoting economic development in the City and the Roanoke Region, make four (4) annual EDA Operation Grants (each an EDA Operation Grant), the total amount of which is estimated to be $1,500,000, to Deschutes in order to assist with Equipment Expenses related to completing the Project. The EDA's obligations hereunder are not general obligations of the EDA, but are special obligations of the EDA limited to those funds which are provided by the City and received by the EDA under the terms set forth herein.

SECTION 2. OBLIGATIONS OF DESCHUTES.

Deschutes agrees and promises that in order to qualify to receive and to continue to receive each EDA Operation Grant for each grant year (as defined in this Agreement), Deschutes shall do or provide each of the following, all of which are material to this EDA Operation Grant Agreement:

A. Provide to the EDA and the City on request prior to the execution of this EDA Operation Grant Agreement, and promptly at any time after its execution, sufficient

documentation, as reasonably determined by the EDA and the City, establishing that Deschutes has the right, authority, and financial ability to develop the Property as contemplated by this EDA Operation Grant Agreement and to operate the Facility on such Property.

B. Deschutes shall complete construction of the Facility and commence production and sale of beer at the Facility on or before June 1, 2021, in accordance with all permits, approvals, and authorizations pursuant to applicable federal, state, and local laws, rules, regulations, and ordinances.

C. Deschutes shall spend or cause to be spent the amount of at least $26,000,000 by June 1, 2021, for the items set forth in Exhibit B (the "Minimum Equipment Expenses"). Deschutes shall provide verification of the expenditures for such Minimum Equipment Expenses by submitting a copy of the inventory of its business personal property tax /machinery and tools tax return at the time Deschutes submits its initial request for an EDA Operation Grant.

D. Deschutes shall file all appropriate and applicable real estate taxes, other taxes, fees, stormwater utility fees, and other tax forms or notices with the City and timely pay all such taxes and fees to the City and not claim any exemptions from real estate taxes or other taxes or fees with respect to the Property or the Facility for any periods of time for which EDA Operation Grant funds are requested. Deschutes shall also ensure that the owner of the Property and any entity that may operate and/or manage the Facility and/or Property, if different than Deschutes, also complies with all the obligations of this Section 2 (D) and any other applicable provisions of this EDA Operation Grant Agreement.

SECTION 3. EDA OPERATION GRANT.

Subject to the conditions as set forth in this EDA Operation Grant Agreement, the EDA will provide certain grant funds, limited to those funds which are received by the EDA from the City, as set forth below, to Deschutes, in order to assist with the acquisition and installation of the Equipment necessary to operate the Facility, as follows:

A. Deschutes shall apply for its initial EDA Operation Grant pursuant to this EDA Operation Grant Agreement by April 1 of the year in which Deschutes has submitted its initial inventory for business personal property/machinery and tools to the City of Roanoke, Virginia, Commissioner of Revenue ("Commissioner") for the initial assessment of the City's business personal property tax / machinery and tools tax and Deschutes has received and paid the assessment for such business property tax/ machinery and tools tax by March 15 of that year ("First Grant Year"). Each Grant Year shall be a calendar year commencing January 1 and ending December 31.

B. Such EDA Operation Grant may be requested for a maximum period of four (4) consecutive Grant Years, beginning with the first Grant Year as determined in Section 3 (A) above. The four (4) year period shall continue to run whether or not an

EDA Operation Grant request is made for any particular Grant Year. All EDA Operation Grant requests must be submitted to the EDA not later than April 1 of each subsequent Grant Year, provided that Deschutes has timely completed the following: (i) submitted its inventory of business personal property/machinery and tools with the Commissioner; and (ii) paid the assessment of the business personal property tax / machinery and tools tax determined by the Commissioner on or before March of each subsequent Grant Year.

Furthermore, the amount of the EDA Operation Grant shall be reduced by the amount, if any, of a refund made by the City to Deschutes for an adjustment or overpayment of business personal property taxes/ machinery and tools taxes based upon an exoneration, in whole or in part, of the value of business personal property/machinery and tools for a prior Grant Year.

C. The amount of each EDA Operation Grant request shall only be for an amount equal to 50% of the revenue amount actually received by the City as of March 15 of the Grant Year, subject to the limits set forth in this EDA Operation Grant Agreement, that directly resulted from the Property, the Facility or the Project and that came from business personal property taxes / machinery and tools taxes. Provided, however, any increase in the rate of the aforementioned tax for the purpose of dedicating the incremental revenue for a specific project or purpose shall be excluded from and not counted in the amount of tax revenue resulting from the Property or Project.

SECTION 4. DISTRIBUTION OF EDA OPERATION GRANT FUNDS.

Following its payment of business personal property taxes / machinery and tools taxes to the City in each Grant Year, but in no event later than April 1 of each Grant Year, and upon Deschutes' compliance with the obligations set forth in this EDA Operation Grant Agreement, Deschutes may request in writing that the EDA obtain and provide the EDA Operation Grant funds mentioned above in accordance with the terms of this EDA Operation Grant Agreement. Such request must be accompanied by sufficient documentation to establish to the reasonable satisfaction of the EDA and the City, Deschutes' compliance with the obligations set forth in this EDA Operation Grant Agreement. Upon receipt of such request, and approval by the EDA (approved request), the EDA will forward the approved request to the City Manager and Director of Economic Development. The written EDA Operation Grant request(s) from Deschutes to the EDA will be on a form approved by the EDA's counsel, attached hereto as Exhibit C. The EDA may disapprove any request not complying with the terms of this Agreement or require a revised request be submitted. Should the EDA disapprove an EDA Operation Grant request or require that Deschutes submit a revised request, the EDA shall provide written notice to Deschutes stating the basis for disapproval and any defect in the EDA Operation Grant request and specifying the required additional information. Deschutes shall submit the revised or resubmitted request within 30 days of receipt of such written notice. After the EDA approves a request, the EDA will promptly make a written request to the City for the distribution to the EDA of the City's appropriation of such funds. The EDA will forward approved Grant requests to the City Manager as well as the Director of Economic Development. The City will process such

approved request within 45 days of receipt thereof, subject to such funds being appropriated, as set forth in more detail in Section 20 below.

The EDA will make any approved payment to Deschutes within 10 business days from the date of receipt of the funds from the City, provided, however, the EDA has no liability in the event the City delays processing the EDA's requisition. The EDA's obligations shall be limited to those funds which the EDA shall receive from the City and shall not be a general obligation, but a special obligation of the EDA. Furthermore, no EDA Operation Grant requests may be made by Deschutes or will be considered by the EDA after June 30 of the end of the fourth Grant Year.

SECTION 5. PAYMENT OF EDA'S FEES.

Deschutes shall pay all reasonable out-of-pocket fees (including attorney's fees), costs, and expenses of EDA incurred by EDA in connection with the approval of this EDA Operation Grant Agreement, but as to this approval of this EDA Operation Grant Agreement such amount will not exceed $5,000.00. Payment of such expenses shall not be made from proceeds of the EDA Operation Grant or any other EDA Grant. EDA will submit statements to Deschutes for such items and Deschutes will pay such statements within 30 days after such receipt of the invoice by Deschutes.

SECTION 6. REPORTS TO THE EDA AND THE CITY.

Until Deschutes is no longer eligible to receive any EDA Grant pursuant to this EDA Operation Grant Agreement, Deschutes agrees to report to and provide the EDA and the City on a semi-annual basis, on or before June 30 and December 31 of each year, sufficient information related to Deschutes' compliance with the conditions of this EDA Operation Grant Agreement and to provide appropriate documentation to support such compliance. Deschutes also agrees to allow the EDA, the City, and/or its representative, on written request by the EDA or the City, to inspect, audit, copy, or examine any of Deschutes's books, documents, or other relevant materials that contains information relevant to Deschutes' compliance with the conditions of this EDA Operation Grant Agreement for the sole and exclusive purpose of confirming Deschutes' compliance with the conditions of this EDA Operation Grant Agreement. All such documents, information (including electronic data), or access shall be provided or made available within 30 days of a written request from either the EDA or the City, at no cost to the EDA or the City. However, any such audit or examination will not be more frequent than twice within a calendar year.

SECTION 7. COMPLIANCE WITH LAWS.

Deschutes agrees to comply with all applicable federal, state, and local laws, rules, and regulations in the performance of this EDA Operation Grant Agreement, including, but not limited to, obtaining, timely paying, and maintaining a City business license.

SECTION 8. COOPERATION.

Each party agrees to cooperate with the other in a reasonable manner to carry out the intent and purpose of this EDA Operation Grant Agreement.

SECTION 9. SEVERABILITY.

If any term of this EDA Operation Grant Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this EDA Operation Grant Agreement, which will continue in full force and effect. The parties intend the remaining provisions of the EDA Operation Grant Agreement be enforced to the fullest extent permitted by applicable law.

SECTION 10. AUTHORITY TO SIGN.

The persons who have executed this EDA Operation Grant Agreement on behalf of the parties represent and warrant they are duly authorized to execute this EDA Operation Grant Agreement on behalf of their respective entities.

SECTION 11. COUNTERPART COPIES.

This EDA Operation Grant Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

SECTION 12. SUCCESSORS.

The terms, conditions, provisions, and undertakings of this EDA Operation Grant Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and permitted assigns.

SECTION 13. NONDISCRIMINATION.

Until Deschutes is no longer eligible to receive any EDA Operation Grant pursuant to this EDA Operation Grant Agreement, Deschutes agrees as follows with respect to the Project and the Facility:

A. Deschutes will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Deschutes. Deschutes agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. Deschutes in all solicitations or advertisements for employees placed by or on behalf of Deschutes will state Deschutes is an equal opportunity employer.

C. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

SECTION 14. ASSIGNMENT.

Deschutes shall not assign or transfer any part of this EDA Operation Grant Agreement to any party without the prior written consent of the City which consent shall not be unreasonably withheld, delayed, or conditioned. A change in the holder of the controlling interest in Deschutes shall constitute a transfer that is subject to the prior consent of the City. However, for avoidance of any doubt, an assignment does not include any transfer of a minority interest in the shares or other ownership interests of Deschutes, regardless of whether the transfer occurs voluntarily or involuntarily, by operation of law, or because of any act or occurrence

SECTION 15. INDEMNITY.

Deschutes agrees to indemnify and hold harmless the EDA, the City, and their officers, directors, and employees free and harmless for and from any and all claims, causes of action, damages, or any liability of any type, including reasonable attorney's fees, on account of any claims by or any injury or damage to any persons or property growing out of or directly or indirectly resulting or arising in any way out of any actions, omissions, or activities of Deschutes or its agents, employees, or representatives arising out of or connected in any way to any of the matters involved in this EDA Operation Grant Agreement or any performance thereunder, except to the extent caused by the sole actions, omissions, or activities of the City, the EDA, or their agents or employees.

SECTION 16. OPPORTUNITY TO CURE.

Except for the requirements contained in Section 2.B, 2.C, and 2.D above, Deschutes shall not be deemed to have failed to perform or discharge any of Deschutes' duties or obligations in the other sections of this Agreement until such time as Deschutes receives written notice thereof and an opportunity to cure within thirty (30) days after written notice thereof, which notice shall specify the failure, or, if the failure is of such nature that it could not reasonably be cured within such thirty (30) day period and Deschutes does, within said thirty (30) day period, commences to cure such failure and thereafter proceed, with due diligence, to cure it as soon as is reasonably practicable under the circumstances, but in no event shall any such cure period be longer than a total of 180 days from the date of such notice.

SECTION 17. FORUM SELECTION AND CHOICE OF LAW.

This EDA Operation Grant Agreement shall be governed, interpreted, and construed under the substantive laws of the Commonwealth of Virginia, and any cause of action regarding the rights and duties of the parties must be brought in the Circuit Court or General District Court for the City of Roanoke, Virginia. This EDA Operation Grant Agreement is not subject to the conflict of laws provisions of the Commonwealth of Virginia, and all claims, disputes, and other matters shall be decided only by such court according to the laws of the Commonwealth of Virginia as

aforesaid. The parties further waive and agree not to assert in any such action, suit, or proceeding, that such party is not personally subject to the jurisdiction of such courts, that the action, suit, or proceeding, is brought in an inconvenient forum or that the venue of the action, suit, or proceeding is improper.

SECTION 18. NONWAIVER.

Each party agrees any party's waiver or failure to enforce or require performance of any term or condition of this EDA Operation Grant Agreement or any party's waiver of any breach of this EDA Operation Grant Agreement by any other party extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this EDA Operation Grant Agreement or a waiver of any other breaches of the Agreement by either party and does not waive the defaulting party's obligation under this EDA Operation Grant Agreement and does not bar the non-defaulting party from asserting any and all rights and/or remedies it has or might have against the defaulting party under this Agreement or by law.

SECTION 19. CAPTIONS AND HEADINGS.

The section captions and headings are for convenience and reference purposes and shall not affect in any way the meaning or interpretation of this EDA Operation Grant Agreement.

SECTION 20. APPROPRIATION OF FUNDS.

All obligations or funding undertaken by the City or the EDA in connection with this EDA Operation Grant Agreement are subject to availability of funds and the appropriation of such funds by City Council as may be necessary for such obligations or funding. If any such funding is not provided, withdrawn, or otherwise not made available for this EDA Operation Grant Agreement, with the result that the City is unable to perform its obligations hereunder, the City shall give written notice to Deschutes of such unavailability of funding. The City Manager shall include funding for the EDA Operation Grants under this EDA Operation Grant Agreement in each annual budget proposed by the City Manager. If any such funding is not approved, withdrawn, or otherwise not made available for the EDA Operation Grants under this EDA Operation Grant Agreement, City shall provide Deschutes with written notice of such unavailability of funding.

SECTION 21. PERFORMANCE.

If Deschutes fails to comply with any of Deschutes' material obligations under this EDA Operation Grant Agreement, and which are not cured as may be allowed by this EDA Operation Grant Agreement, as determined by the City in the City's reasonable discretion, Deschutes will not be entitled to be eligible for and/or receive and/or continue to be eligible for and/or receive any such EDA Operation Grants funds as referred to above or in this EDA Operation Grant Agreement.

SECTION 22. NOTICES.

All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by a nationally recognized overnight courier, addressed as follows (or any other address the party to be notified may have designated to the sender by like notice):

If to City, to:	City of Roanoke, City Manager 364 Noel C. Taylor Municipal Building 215 Church Avenue, SW Roanoke, Virginia 24011 Fax No. 540-853-1138
With a copy to:	City of Roanoke, Economic Development Director 117 Church Avenue, SW Roanoke, Virginia 24011 Fax No. 540-853-1213
And, a copy to:	City of Roanoke, City Attorney 464 Noel C. Taylor Municipal Building 215 Church Avenue, SW Roanoke, Virginia 24011 Fax No. 540-853-1221
If to EDA, to:	Chair, Economic Development Authority of the City of Roanoke, Virginia c/o Harwell M. Darby, Jr., Esquire Glenn, Feldmann, Darby & Goodlatte 210 First Street, SW, Suite 200 Roanoke, Virginia 24011 Fax No. 540-224-8050
If to Deschutes, to:	Deschutes Brewery, Inc. 901 SW Simpson Avenue Bend, Oregon 97702 Attention: CEO
With a copy to:	Karnopp Petersen LLP 360 SW Bond Street, Suite 400 Bend, Oregon 97702 Facsimile: 541-388-5410 Attention: Jon J. Napier

Notice shall be deemed delivered upon the date of personal service, five days after deposit in the United States mail, or the day after delivery to a nationally recognized overnight courier.

SECTION 23. FAITH BASED ORGANIZATIONS.

Pursuant to Virginia Code Section 2.2-4343.1, be advised the City does not discriminate against faith-based organizations.

SECTION 24. FORCE MAJEURE.

A delay in, or failure of, performance by any party, shall not constitute a default, nor shall Deschutes, the City, or EDA be held liable for loss or damage, or be in breach of this EDA Operation Grant Agreement, if and to the extent that such delay, failure, loss, or damage is caused by an occurrence beyond the reasonable control of such party, and its agents, employees, contractors, subcontractors, and consultants, including results from Acts of God or the public enemy, compliance with any order or request of any governmental authority or person authorized to act therefore, acts of declared or undeclared war, public disorders, rebellion, sabotage, revolution, earthquake, floods, riots, strikes, labor or equipment difficulties, delays in transportation, inability of party to obtain necessary materials or equipment or permits due to existing or future laws, rules or regulations of governmental authorities or any other causes, whether direct or indirect, and which by the exercise of reasonable diligence said party is unable to prevent; provided, however, that lack of funds shall not be deemed to be a reason beyond the reasonable control of Deschutes. For purposes of this EDA Operation Grant Agreement any one delay caused by any such occurrence shall not be deemed to last longer than 6 months and the party claiming delay caused by any and all such occurrences shall give the other parties written notice of the same within 30 days after the date such claiming party learns of such occurrence. Notwithstanding anything else set forth above, after a total of 9 months of delays of any type have been claimed by a party as being subject to force majeure, no further delays or claims of any type shall be claimed by such party as being subject to force majeure and/or being an excusable delay.

SECTION 25. COMPLIANCE WITH STATE LAW, FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA.

Deschutes shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Deschutes shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract or agreement. The City or EDA may void this EDA Operation Grant Agreement if Deschutes fails to remain in compliance with the provisions of this section. However, the City and EDA agree that Deschutes may cure this matter within thirty (30) days after Deschutes' receipt of written notice from the City or EDA, as applicable, specifying the breach with reasonable particularity and stating that the City or EDA, as applicable, plans to void this EDA Operation Grant Agreement if such breach is not cured within thirty (30) days.

SECTION 26. DRAFTING OF THE EDA OPERATION GRANT AGREEMENT.

The provisions of this EDA Operation Grant Agreement shall not be construed in favor of or against either party, but shall be construed according to their fair meaning as if all parties jointly prepared this EDA Operation Grant Agreement.

SECTION 27. RETENTION OF REPORTS TO EDA AND THE CITY.

The City, EDA, and Deschutes shall maintain all books, records, and other documents relating to this EDA Operation Grant Agreement for a period of five (5) years after the end of each fiscal year included in this EDA Operation Grant Agreement. The City, EDA, and Deschutes, and their authorized employees, agents, and/or representatives, shall have reasonable access to and the right to examine, copy, and/or audit any of such materials of the other parties during the term of this EDA Operation Grant Agreement and/or retention period in connection with this EDA Operation Grant Agreement.

SECTION 28. ATTORNEY'S FEES.

If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this EDA Operation Grant Agreement, or otherwise in connection with the subject matter of this EDA Operation Grant Agreement, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind directly related to such proceeding as determined by the presiding officials or court, as applicable.

SECTION 29. ENTIRE AGREEMENT.

This EDA Operation Grant Agreement, together with any exhibits or attachments, constitutes the entire agreement of the parties with regard to its subject matter and supersedes all prior agreements between the parties regarding said subject matter. No amendment to this Agreement shall be valid unless made in writing and signed by the parties.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, the parties have executed this EDA Operation Grant Agreement by their authorized representatives.

ATTEST:

_____
City Clerk

CITY OF ROANOKE, VIRGINIA

By:_____
Christopher P. Morrill, City Manager

WITNESS:

_____
_____
Printed Name and Title

DESCHUTES BREWERY, INC.
on behalf of itself and its subsidiaries and any affiliates that may be created to own and/or operate the Facility

By:_____
Gary Fish, CEO

WITNESS:

_____
Braxton G. Naff, Secretary

ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF ROANOKE, VIRGINIA

By:_____
Allen Damon Williams, Chair

Approved as to form

_____
City Attorney
Date: _____

Approved as to execution

_____
City Attorney
Date: _____

Approved as to form

_____
EDA Counsel
Date:_____

Approved as to execution

_____
EDA Counsel
Date:_____

Appropriation and funds required for this Agreement are subject to future appropriation.

_____
Director of Finance

Authorized by Ordinance No.

_____
Date Acct#

Exhibit A to Performance Agreement Regarding Operation Period Economic Development Grant Among City of Roanoke, Virginia, Economic Development Authority of the City of Roanoke, and Deschutes Brewery, Inc. dated _____, 2016.

DESCRIPTION OF PROPERTY

ALL OF THAT CERTAIN PARCEL OF REAL ESTATE containing 49.4173 acres, more or less, known as "Tract 1-A" as shown on the plat entitled "Plat of Survey Subdividing Tract 1 (73.308 Acres) (Map Book 1, Pages 2875-76) Property of the City of Roanoke, Virginia (D.B. 1610, Pg. 205) Creating Hereon Tract 1-A (49.417 Acres) and Tract H (17.482 Acres) and Dedicating a 5.959 AC. Parcel for the Right-of-Way of Blue Hills Drive, N.E. Extension and Dedicating a 0.123 AC. Parcel and a 0.327 AC. Parcel for the Right-of-Way of Mason Mill Road, N.E.", prepared by Lumsden Associates, P.C., dated March 7, 2006, on record in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Map Book 1, Page 2966, and known as Roanoke Official Tax Map No. 7230101.

Being the same property conveyed to the City of Roanoke, Virginia, by the following deeds:

(1) Deed dated October 2, 1989, from Anderson Wade Douthat, III, and Frances Brown, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1610, Page 205,

(2) Deed of Correction dated October 3, 1989, from Nancy D. Goss and L.W. Goss, James F. Douthat and Ann Scott Douthat, and Anderson Wade Douthat, III, and Frances Brown, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1612, Page 1155, and

(3) Deed dated June, 22, 1990, from Nancy D. Goss and L.W. Goss, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1624, Page 1883.

The description of the Real Property will be amended to reflect the description established by the final survey obtain by Grantor and prepared by Lumsden Associates, P.C., entitled "Plat Showing ALTA/ACSM Land Title Survey of Tract 1-A (49.4173 acres/2,152,616 Square Feet) (Map Book 1, Pages 2966-2967), Property of the City of Roanoke, Virginia (Deed Book 1610, Page 205), situated at #2002 Blue Hills Drive, NE, Roanoke, Virginia," with a date of March 7, 2016, last revision date of_____, 2016.

Exhibit C to Performance Agreement Regarding Operation Period Economic Development Grant among the City of Roanoke, Virginia, Deschutes Brewery, Inc., and the Economic Development Authority of the City of Roanoke, Virginia

EDA Operation Grant Request Form

This EDA Operation Grant Request is submitted pursuant to a certain Performance Agreement Regarding Operation Period Economic Development Grant dated _____, (the "EDA Operation Grant Agreement"), by and among the City of Roanoke, Virginia, ("City"), Deschutes Brewery, Inc., ("Deschutes"), and the Economic Development Authority of the City of Roanoke, Virginia, ("EDA"). Terms defined herein shall have the same meanings ascribed to such terms in the EDA Operation Grant Agreement.

The EDA Operation Grant Agreement provides that Deschutes shall perform and comply with certain obligations as set forth in the EDA Operation Grant Agreement in order to qualify to receive and to continue to receive an EDA Operation Grant for each Grant Year as set forth in such EDA Operation Grant Agreement. Upon compliance with the provisions of the EDA Operation Grant Agreement, Deschutes may make a request to the EDA for an EDA Operation Grant in accordance with the procedures set forth in the EDA Operation Grant Agreement and subject to the terms and limitations on the amount of such Grant as further set forth in the EDA Operation Grant Agreement. Furthermore, Deschutes must supply documentation as required by the EDA Operation Grant Agreement in order to document Deschutes' request and Deschutes' compliance with the EDA Operation Grant Agreement. This documentation is set forth in Attachment 1 to this form. Each Grant Year is to be considered separately for compliance with the requirements for an EDA Operation Grant Request.

Deschutes warrants and represents that it has complied with all the terms and conditions of the EDA Operation Grant Agreement necessary for Deschutes to obtain EDA Operation Grant Funds from the EDA, including, but not limited to, the applicable provisions of Section 2 of the EDA Operation Grant Agreement.

Attached to this EDA Operation Grant Request form is the information Deschutes represents as being sufficient to demonstrate that the City has been paid and has actually received the sum of $_____ from the applicable revenue sources referred to in the EDA Operation Grant Agreement from the Project as of March 15, _____, and that Deschutes has complied with all requirements of the EDA Operation Grant Agreement to qualify it to receive this EDA Operation Grant. Deschutes further warrants and represents that {check one] ___ Deschutes has not applied for or received a refund of business personal property taxes/ machinery and tools taxes paid to the City during a prior Grant Year; or ____ Deschutes has received a refund of $____ for business personal property taxes / machinery and tools taxes paid to the City for a prior Grant Year and such refund was not included in a prior Grant Request Form submitted by Deschutes ("Refunded Amount"). Accordingly, Deschutes hereby requests from the EDA an EDA Operation Grant, as provided for in the EDA Operation Grant Agreement, in the amount of $_____, which is an amount that is allowed by the terms of such EDA Operation Grant Agreement and which is supported by the attached documentation as Attachment 1 to this EDA Operation Grant Request. This EDA Operation Grant Request is for Grant Year No. _____.

Amounts previously paid by the EDA to Deschutes in EDA Operation Grants total $_____.

The EDA Operation Grant Agreement provides an EDA Operation Grant Request may be requested for a maximum period of four (4) consecutive years, which shall begin and include the first Grant Year . Therefore, since this is EDA Operation Grant Request No. _____ for the Grant Year January 1, _____, through December 30, _____, there remain(s) _____ consecutive years for which an EDA Operation Grant Request may be made by Deschutes provided Deschutes complies with the terms and provisions of the EDA Operation Grant Agreement. No EDA Operation Grant Request may be presented for any Grant Year after January 1, 2025 through December 31, 2025 and must be submitted on or before April 1, 2025.

In the event of a conflict or difference between the terms of the EDA Operation Grant Agreement and those contained in this EDA Operation Grant Request form, the terms and provisions of the EDA Operation Grant Agreement shall control.

Deschutes respectfully requests that the EDA process this EDA Operation Grant Request through the City and send copies to the City Manager and the City's Economic Development Administrator, in accordance with the provisions of the EDA Operation Grant Agreement.

This EDA Operation Grant Request is dated _____.

WITNESS:	Deschutes Brewery, Inc.
_____	By: _____
_____ Printed Name and Title	_____ Printed Name and Title
	[Subsidiary]

Exhibit B to Performance Agreement Regarding Operation Period Economic Development Grant Among City of Roanoke, Virginia; Economic Development Authority of the City of Roanoke; and Deschutes Brewery, Inc.

Deschutes Brewery - Anticipated Equipment at Commissioning - Roanoke, VA

Production area	Type of equipment
Core Utilities	
	Natural gas fired boilers
	Glycol chilling system
	Water filtration system (including RO)
	Fork trucks
	Waste treatment pH adjustment
	QC equipment
Brewing	
	Mash Tun / lauter tun / hop strainer / kettle / whirlpool - 250 bbl
	Grain silos - 5 to 20 ton
	Cable levy malt conveyance system
	Malt loading station
Process Valves, Tanks, Pumps	
	Centrifuges
	CIP plant
	Pasteurizer
	Yeast management system
Cellaring	
	Centrifuge - 2.5 to 5.0 bbl per minute
	Fermentation vessels - 1,000 bbl
	Bright beer vessels - 1,000 bbl
Bottling / Racking / Kegging	
	Bulk glass de-palletizer
	Conveyance - 1,000 to 2,500 feet
	Empty bottle inspector
	Rinser / filler / crowner / labeler
	Case carton erector
	Six pack erector
	Label inspection equipment
	Case packer
	Full bottle inspector
	Aggregation tables
	Palletizer
	Shrink wrapper
	Fork trucks
	Keg cleaning and filling unit
	Robotic palletizer / shrink wrapper
Automation software	

Total estimated cost for all listed equipment exceeds $45,000,000

ATTACHMENT 1 to EDA Operation Grant Request Form

Each Operation Grant Request shall include the following documentation:

(1) A copy of the inventory of business personal property/machinery and tools for the current Grant Year submitted by Deschutes to the City of Roanoke, Virginia Commissioner of Revenue ("Commissioner");

(2) A copy of the assessment of business personal property tax/ machinery and tools tax due from Deschutes with respect to such business personal property/machinery and tools; and

(3) Evidence of payment of the business personal property tax/ machinery and tools tax paid to the City.

EXHIBIT 6 TO CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY

Schedule of Adjacent Parcels

STREET ADDRESS	OFFICIAL TAX MAP NO.
2300 Mason Mill Road, N.E.	7170501
2310 Mason Mill Road, N.E.	7170502
0 Mason Mill Road, N.E.	7170503
0 Mason Mill Road, N.E.	7170504
2402 Mason Mill Road, N.E.	7170505
2410 Mason Mill Road, N.E.	7170509
2426 Mason Mill Road, N.E.	7170507

B.6.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the City Manager to execute a Contract for Purchase and Sale of Real Property (the "Contract") between the City of Roanoke, Virginia (the "City"), and Deschutes Brewery, Inc., an Oregon corporation qualified to transact business in the Commonwealth of Virginia (the "Parent"), and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are "Subsidiaries" and the Parent and the Subsidiaries together, jointly and severally, are the "Buyer"), to sell to the Buyer certain real property located at 2002 Blue Hills Drive, N.E., Roanoke, Virginia 24012, consisting of approximately 49.4173 acres, more or less, together with all improvements thereon, designated as Official Tax Map No. 7230101 (the "Property"), for the construction and operation of a brewery and warehouse facility (the "Facility"), upon certain terms and conditions; authorizing the City Manager to accept a Nonnegotiable Promissory Note (the "Note") from the Buyer in the principal amount of $2,750,000 obligating the Buyer to pay the City, subject to the terms of the Note, the principal amount together with accrued interest at the rate of one percent (1%) per annum, as set forth in the Note; authorizing the City Manager to execute a Deed of Trust between the City and the Buyer in which the Buyer will grant a first priority Deed of Trust on the Property to the City to secure payment and performance of the Note by the Buyer, as required by the terms of the Contract; authorizing the City Manager to execute such further documents and take such further actions as may be necessary to accomplish the above matters; and dispensing with the second reading of this Ordinance by title.

WHEREAS, City is the owner in fee simple of the Property, and the City is desirous of selling the Property to the Buyer and the Buyer is desirous of acquiring the Property for the construction and operation of the Facility;

WHEREAS, the City proposes to execute a Contract (the "Contract"), in the form of the Contract attached to the City Council Agenda Report dated April 18, 2016 (the "Agenda Report"), with the Buyer for the purchase of the Property for the sum of $2,750,000, together with other consideration and performance of other obligations by the Buyer;

WHEREAS, the Buyer agrees to execute a Note (the "Note"), in the form of the Note attached to the Agenda Report, in the principal amount of $2,750,000, obligating the Buyer to pay the City, subject to the terms of the Note, the principal amount together with accrued interest at the rate of one percent (1%) per annum, as set forth in the Note, under which Note principal and accrued interest shall be due in five (5) equal annual installments of principal together with all accrued and unpaid interest on the unpaid principal balance of this Note; provided that each installment payment shall be deemed paid and satisfied in full as it comes due, and the Buyer shall be under no obligation to pay that installment payment to the City, if, at the time an installment is due, the Buyer has performed its obligations as provided under the terms of the Note and Section 19 of the Contract; and provided further that, if an Event of Default, as set forth in the Note, has occurred, the City may accelerate payment of the remaining unpaid balance due under the Note and demand payment in full of the unpaid principal balance of the Note, together with all accrued interest thereon;

WHEREAS, upon sale of the Property to the Buyer, the Buyer will grant a first priority Deed of Trust on the Property, in the form of the Deed of Trust attached to the Agenda Report (the "Deed of Trust"), to the City to secure payment and performance of the Note by the Buyer,

as required by the terms of the Contract; and the Deed of Trust provides the City with the power to sell the Property at foreclosure sale in the event of a material default as defined in the Deed of Trust; and the Deed of Trust further provides that, upon satisfaction in full of all obligations of the Buyer under the Note and Deed of Trust, the City will release and discharge the Deed of Trust;

WHEREAS, a public hearing was held on April 18, 2016, pursuant to Section 15.2-1800 and Section 15.2-1813, Code of Virginia (1950), as amended, at which hearing all parties in interest and citizens were afforded an opportunity to be heard on such conveyance; and

WHEREAS, after closing the public hearing, Council believes that the sale of the Property to the Buyer in accordance with the terms of the proposed Contract, Note, and Deed of Trust, will benefit the City and its citizens.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The City Council finds the sale of the Property will be of economic benefit to the City and its citizens.

2. The City Manager is hereby authorized on behalf of the City to execute a Contract, substantially similar to the Contract attached to the Agenda Report , to sell to the Buyer the Property for the purchase price of $2,750,000, together with other consideration and performance of other obligations by the Buyer, for the construction and operation of the Facility, upon such terms and conditions as more particularly set forth in the above-mentioned Agenda Report.

3. The City Manager is hereby authorized on behalf of the City to accept a note, substantially similar to the Note attached to the Agenda Report, obligating the Buyer to pay the City, subject to the terms of the Note, the principal amount together with accrued interest at the

rate of one percent (1%) per annum, as set forth in the Note, upon such terms and conditions as more particularly set forth in the Agenda Report. The City Manager is further authorized to execute such other documents and take such further action as may be necessary to implement, administer, enforce, and release and discharge the Note in accordance with the terms of the Note.

4. The City Manager is hereby authorized on behalf of the City to execute and accept a Deed of Trust, substantially similar to the Deed of Trust attached to the Agenda Report, in which the Buyer will grant a first priority lien on the Property to the City to secure payment and performance of the Note by the Buyer, as required by the terms of the Contract, upon such terms and conditions as more particularly set forth in the Agenda Report. The City Manager is further authorized to execute such other documents and take such further action as may be necessary to implement, administer, enforce, and release the Deed of Trust in accordance with the terms of the Deed of Trust.

5. The City Manager is further authorized to execute such further documents, including a Special Warranty Deed of Conveyance for the transfer of the Property to the Buyer in accordance with the terms of the Contract, and take such further actions as may be necessary to implement, administer, and enforce the Contract, the Note, and the Deed of Trust, and complete the sale and transfer of the Property to the Buyer.

6. The City Manager is further authorized on behalf of the City to negotiate and execute such further documents and take such further actions related to this matter and as may be necessary to implement, administer, and enforce the conditions and obligations that must be met by the Buyer pursuant to the Contract, Note, and Deed of Trust.

7. The form of the documents referred to above and in the Agenda Report are to be approved by the City Attorney.

8. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this Ordinance by title is hereby dispensed with.

ATTEST:

City Clerk

C.1.

CITY COUNCIL AGENDA REPORT

To: Honorable Mayor and Members of City Council

Meeting: April 18, 2016

Subject: Commonwealth's Development Opportunity Fund Performance Agreement among the City of Roanoke, Economic Development Authority of the City of Roanoke, Virginia, and Deschutes Brewery, Inc. (for Itself and its Subsidiaries and Affiliates), for Construction and Operation of a Brewery and Warehouse Facility to be Located at 2002 Blue Hills Drive, N.E. Roanoke, Virginia (Official Tax Map No. 7230101)

Background:

The Commonwealth of Virginia through the Virginia Economic Development Partnership Authority (VEDP) has awarded a Commonwealth's Development Opportunity Fund grant of $3,000,000 (COF Grant) to the City of Roanoke for the purpose of inducing Deschutes Brewery, Inc. an Oregon corporation, authorized to transact business in the Commonwealth of Virginia, as the Parent, and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are Subsidiaries and the Parent and Subsidiaries together, jointly and severally, are Deschutes), to construct, equip, and operate a brewery and warehouse facility (Facility) on property currently owned by the City at 2002 Blue Hills Drive, N.E. Roanoke, Virginia (Official Tax Map No. 7230101) (Property). The funds are to be made available to Deschutes subject to certain performance requirements. These requirements are included in the attached proposed Commonwealth's Development Opportunity Fund Performance Agreement (Agreement) among the City, Deschutes, and the Economic Development Authority of the City of Roanoke, Virginia (EDA).

Considerations:

The City and Deschutes have proposed a contract (Contract) under which Deschutes will acquire the Property from the City and construct, equip, and operate the Facility. City Council will consider the Contract following a public hearing on the proposed sale of the Property as required by State Code on April 18, 2016. The COF Grant will be disbursed by VEDP to the City by no later than June 1, 2016. The City will then transfer the funds to the EDA for placement in an escrow account as provided in the attached Escrow Agreement between the City and EDA. The COF Grant will be disbursed from the escrow account by the

EDA and transferred to Deschutes within 30 days after Deschutes has acquired the Property and commenced Construction Activity in accordance with the terms and conditions of the Contract. The proceeds of the COF Grant can be used by Deschutes for: public and private utility extension or capacity development on and off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; grading, drainage, paving, and any other activity required to prepare a site for construction; and construction of the Facility. In the event that Deschutes does not satisfy these requirements, EDA will distribute the COF Grant to the City and the City will return the COF Grant to VEDP.

The Agreement provides for full repayment of the COF Grant funds by Deschutes if statutory minimum capital investment ($1,500,000) and job creation requirements (15 New Jobs) are not met By Deschutes by June 1, 2021. If statutory minimum capital investment and job creation requirements are met, but the total capital investment ($85,000,000) and job creation requirements (108 jobs) are not achieved by June 1, 2021, Deschutes would be required to make a partial repayment of the COF Grant. The partial repayment is calculated based upon the level of investment and/or job creation actually achieved by Deschutes on June 1, 2021.

The City is required to fully match the $3,000,000 COF Grant by providing an equal amount of local grants and other incentives to Deschutes. The match requirement will be satisfied by some combination of the following:

- Land value, forgiveness of debt, appreciation of land value $3,500,000
- Blue Hills Drive road and utility extensions (City Share) 2,404,180
- City & EDA Operation Period Grant 1,500,000
- Tinker Creek Greenway extension 1,000,000
- EDA Construction and Job Training Grants 225,000
- Enterprise Zone grants 140,070
- Relocate and place underground electric lines crossing Property 35,436
- Installing directional signs and additional street lights along 13th Street, N.E., and Mason Mill Road, N.E. 4,665

Pursuant to the terms of the Agreement, VEDP agrees that (i) only the forgiveness of debt that occurs on or prior to June 1, 2022; and (ii) only the portion of the EDA Operation Period Grant disbursed on or before June 1, 2022 may be counted toward the local match requirement. The Agreement provides that the City shall be required, subject to appropriation, to make additional incentives in the event of a shortfall from the minimum requirement of $3,000,000 in Local Incentives.

Recommended Action:

Adopt the attached ordinance authorizing the City Manager to accept the COF Grant, and execute an agreement substantially similar to the Agreement attached to this Agenda Report, execute an escrow agreement substantially similar to the Escrow Agreement attached to this Agenda Report, and execute such other documents and to take such further actions as may be necessary to implement, administer, and enforce such agreements. All documents are subject to approval as to form by the City Attorney.

Adopt the accompanying Budget Ordinance to establish a revenue account to receive the $3,000,000 COF Grant and a corresponding expenditure account for transfer of the funds to the EDA pursuant to the terms of the Escrow Agreement.

Christopher P. Morrill
City Manager

Attachments

Distribution: Council Appointed Officers
R. Brian Townsend, Assistant City Manager for Community Development
Barbara A. Dameron, Director of Finance
Wayne Bowers, Director of Economic Development

COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** ("Agreement") made and entered this ____ day of April, 2016, by and among the **CITY OF ROANOKE, VIRGINIA** (the "Locality"), a Virginia municipal corporation, **DESCHUTES BREWERY, INC.** ("Parent"), an Oregon corporation, authorized to transact business in the Commonwealth, and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are "Subsidiaries" and the Parent and Subsidiaries together, jointly and severally, are the "Company"), and the **ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF ROANOKE, VIRGINIA** (the "Authority" or the "EDA"), a political subdivision of the Commonwealth of Virginia.

RECITALS:

WHEREAS, the Locality has been awarded a grant of and expects to receive $3,000,000 from the Commonwealth's Development Opportunity Fund (a "COF Grant") through the Virginia Economic Development Partnership Authority ("VEDP") for the purpose of inducing the Company to construct, equip, and operate a brewery and warehouse facility in the Locality (the "Facility"), thereby making a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are hereinafter defined;

WHEREAS, the Locality and the Company have entered into a Contract for the acquisition of the Property at which location the Company will, after acquisition of the Property pursuant to the terms of the Contract, develop, construct, and operate the Facility;

WHEREAS, the Locality is willing to provide the funds to the Authority with the expectation that the Authority will provide the funds to or for the use of the Company, provided that the Company promises to meet certain criteria relating to Capital Investment and New Jobs;

WHEREAS, the Locality, the Authority and the Company desire to set forth their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, the obligations of the Company regarding Capital Investment and New Job creation and Maintenance, and the repayment by the Company of all or part of the COF Grant under certain circumstances;

WHEREAS, the construction, equipping, and operation of the Facility is expected to result in a capital expenditure by or on behalf of the Company of approximately $85,000,000, of which approximately $45,000,000 will be invested in machinery and equipment and approximately $40,000,000 will be invested in the construction of a new building;

WHEREAS, it is expected that the construction, equipping, and operation of the Facility will result in the creation and Maintenance of 108 New Jobs at the Facility as further set forth in the Agreement; and

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the COF Grant.

NOW, THEREFORE, in consideration of the foregoing Recitals which are incorporated herein and made a part hereof, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

Section 1. Definitions.

For the purposes of this Agreement, unless the context otherwise specifies or requires, the following terms shall have the following definitions:

"Capital Investment" means a capital expenditure by or on behalf of the Company in taxable real property (including, without limitation, improvements), taxable tangible personal property, or both, at the Facility. Without limitation, the purchase or lease of furniture, fixtures, machinery and equipment, including under an operating lease, by or on behalf of the Company will qualify as Capital Investment.

"Contract" means the Contract for Purchase and Sale of Real Property dated April ___, 2016, by and between the Locality, as Seller, and the Company, as Buyer, for the Property.

"Day" or "Days" shall mean calendar days.

"EDA Construction Period Grant Agreement" means that separate performance agreement between the Authority and the Company providing for an economic development grant to the Company by the Authority in the amount of $ 200,000 and comprising a portion of the Local-Level Incentives, including a mechanism for the Authority to enforce the Company's Repayment Obligations if necessary.

"Maintain" means that the New Jobs will continue without interruption from the date of creation through the Performance Date, allowing for the movement of positions to different shifts and positions to accommodate changes in work flow. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company's employment levels (so long as there is active recruitment for open positions), (ii) strikes, and (iii) other temporary work stoppages.

"New Job" means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are provided by the Company for the employee, and for which the Company pays an average annual wage (i.e. the average annual wage of all New Jobs counted toward the Target measured on the Performance Date) of at least $44,928, not including the standard fringe benefits. Each New Job must require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the Company's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in

the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs.

"Performance Date" means June 1, 2021. The Performance Date is not subject to extension.

"Property" means the real property located at 2002 Blue Hills Drive, N.E., Roanoke, Virginia, designated as Roanoke Official Tax Map No. 7230101, and more particularly described in the Contract.

"Targets" means Capital Investments by the Company at the Facility of at least $85,000,000 and Company's target to create and Maintain at least 108 New Jobs at the Facility, all as of the Performance Date; provided that the Company has acquired the Property in accordance with the terms of the Contract and commenced Construction Activities by the Commencement Date set forth in the Contract.

"Virginia Code" means the Code of Virginia of 1950, as amended.

Section 2. <u>Targets; Statutory Criteria</u>.

The Company will acquire the Property in accordance with and subject to the terms of the Contract and commence Construction Activities by the Commencement Date set forth in the Contract. Acquisition of the Property and commencement of Construction Activities by the Commencement Date, as set forth in the Contract, are conditions precedent to the COF Grant. As set forth in the definition of "Targets", the Targets are to make a Capital Investment of at least $85,000,000, and create and Maintain at least 108 New Jobs at the Facility, all as of the Performance Date.

The Locality and the Authority hereby strongly encourage the Company to ensure that at least 30% of the New Jobs are offered to "Residents" of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in Virginia or natural persons who, for an aggregate of more than 183 Days of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

The average annual wage of the New Jobs of at least $44,928 is more than the prevailing average annual wage in the Locality of $42,570. The Locality is a high-unemployment locality, with an unemployment rate for 2014, which is the last year for which such data is available, of 5.9% as compared to the 2014 statewide unemployment rate of 5.2%. The Locality is a high-poverty locality, with a poverty rate for 2014, which is the last year for which such data is available, of 20.4% as compared to the 2014 statewide poverty rate of 11.8%.

When the Company applied for the COF Grant on February 11, 2016, it entered into an Agreement with VEDP regarding the application (the "Certification Agreement"). In the Certification Agreement, the Company agreed that neither the Company, nor its officers, directors, and owners of or who have a controlling ownership interest in the Company (the "Applicant Group"), would make a Contribution during the No Contribution Period, as such

capitalized terms are defined in the Certification Agreement. The No Contribution Period ends on the one-year anniversary of the date of this Agreement. If the Company is made aware that any member of the Applicant Group has made a Contribution during the No Contribution Period, the Company shall provide immediate notice to VEDP. With the September 1, 2017, annual report described in Section 6 herein, the Company shall certify whether any member of the Applicant Group made any Contribution during the No Contribution Period. Such certification will be in the form attached to this Agreement as Appendix A. If VEDP has possession of other evidence indicating that a member of the Applicant Group made a Contribution during the No Contribution Period, VEDP will provide such evidence to the Company. If any member or members of the Applicant Group made a Contribution during the No Contribution Period, the Company shall repay the entire COF Grant to the Authority within 90 Days of the earlier of the date of the (i) Company notice to VEDP, (ii) certification due in accordance with Section 6 herein, or (iii) delivery by VEDP to the Company of evidence in the possession of VEDP indicating that a member of the Applicant Group made a Contribution during the No Contribution Period (the "Contribution Notification Date"). Further, the Company shall assist with the implementation of the civil penalties to be paid by the member or members of the Applicant Group who made such Contributions.

Section 3. <u>Disbursement of COF Grant</u>.

By no later than June 1, 2016, the Locality will request the disbursement to it of the COF Grant. If not so requested by the Locality by June 1, 2016, this Agreement will terminate unless such date is extended in writing by VEDP. The Locality and the Company will be entitled to reapply for a COF Grant thereafter, based upon the terms, conditions and availability of funds at that time.

Within 30 Days of its receipt of the COF Grant proceeds, the Locality will disburse the COF Grant proceeds to the Authority to be held in escrow by the Authority pursuant to the terms and conditions of an escrow agreement between the Locality and the Authority. Within 30 Days of the Authority's receipt of written notice from the Locality that the Company has acquired the Property pursuant to the terms of the Contract and has commenced Construction Activity by the Commencement Date set forth in the Contract, the Authority will disburse the COF Grant proceeds to the Company as an inducement to the Company to achieve the Targets at the Facility. As permitted by Section 2.2-115(D) of the Virginia Code, the Company will use the COF Grant proceeds for: public and private utility extension or capacity development on and off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; grading, drainage, paving, and any other activity required to prepare a site for construction; and construction of the Facility. It is understood that the Locality is only responsible for the amount of funds the Locality receives from the COF Grant, and the Authority's obligations under this Agreement are not general obligations of the Authority, but are special obligations of the Authority limited to those funds which are provided by the Locality and received by the Authority under the terms of this Agreement.

In the event that the Company has not acquired the Property in accordance with the terms of the Contract or has not commenced Construction Activities by the Commencement Date set forth in the Contract, the Authority shall, within 30 Days after receipt of written notice from the Locality, return the funds provided by the Locality hereunder, without any accrued interest

thereon, to the Locality and the Locality shall return such funds to VEDP for redeposit into the Commonwealth's Development Opportunity Fund. Upon return of the funds to VEDP, this Agreement shall automatically terminate, and the Company shall have no right to receive the COF Grant and shall have no further obligations under this Agreement.

Section 4. Break-Even Point; State and Local Incentives.

(a) *State-Level Incentives:* VEDP has estimated that the Commonwealth will reach its "break-even point" by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth's expenditures on incentives, including but not limited to the COF Grant. With regard to the Facility, the Commonwealth expects to provide incentives in the following amounts:

Category of Incentive:	Total Amount
COF Grant	$3,000,000
Virginia Jobs Investment Program ("VJIP") (Estimated)	81,000
Enterprise Zone Job Creation Grant ("E. Z. Job Creation Grant") (Estimated)	308,800
Enterprise Zone Real Property Investment Grant ("E. Z. Real Property Investment Grant") (Estimated)	200,000
Economic Development Access Program Grant (Estimated)	650,000

The proceeds of the COF Grant shall be used for the purposes described in Section 3. The VJIP proceeds shall be used by the Company to pay or reimburse itself for recruitment and training costs. The proceeds of the E. Z. Job Creation Grant and the E. Z. Real Property Investment Grant may be used by the Company for any lawful purpose. The proceeds of the Economic Development Access Program Grant will be used for transportation improvements associated with the development of the Facility.

(b) *Locality-Level Incentives:* The Locality expects to provide the following incentives, as matching grants or otherwise, for the Facility:

Category of Incentive:	Total Amount
Land Sale, Forgiveness of Debt, and Appreciation of Assessed Value of Land	$3,500,000*
Building Permit Fees Rebate (Estimated)	132,360
Water, Fire and Sewer Hookup Fees Grant ("Connection Fees Rebate") (Estimated)	7,710
Underground Power Line Installation (Estimated)	35,436
Road Signage from Downtown to Roanoke Center for Industry and Technology ("Road Signage") (Estimated)	1,665
Blue Hills Drive Road Extension ("Road Extension") (Estimated)	2,404,180**
13th Street and Mason Mill Road Street Light Installation ("Street Light Installation") (Estimated)	3,000

Tinker Creek Greenway Connection ("Greenway Connection") (Estimated)	1,000,000
EDA Construction Period Grant (Estimated)	200,000
Authority Enterprise Zone Job Training Grant ("Authority E. Z. Job Training Grant") (Estimated)	25,000
Operation Period Grant (Estimated)	1,500,000***

* Pursuant and subject to the terms of the Contract, the Company will acquire the Property for the purchase price of $2,750,000 by executing and delivering a Promissory Note, secured by a Deed of Trust, to the Locality. The Promissory Note is payable in five annual installments commencing one (1) year after the Performance Date; provided that the Locality will forgive each annual installment if the Company satisfies the conditions set forth in the Promissory Note. The projected assessment of the Property after the Company acquires the Property pursuant to the terms of the Contract is approximately $3,500,000. For purposes of this Agreement and calculation of the Locality-Level Incentives attributable to the Property, the amount applicable to the Locality-Level Incentives attributable to the Property shall be the minimum of $1,300,000; the sum of (i) the first principal installment due under the Promissory Note ($550,000) and (ii) the difference between the assumed assessed value of the Property and the Purchase Price for the Property under the Contract ($750,000), assuming the first installment is due not later than June 1, 2022.

** This amount may include a grant from the United States Economic Development Administration in the amount of $1,527,090. For purposes of this Agreement, the amount applicable to the Locality-Level Incentives attributable to the road extension improvements shall be $877,090, assuming the Locality receives the full amount of the federal grant.

*** The Locality, the Authority, and the Company are entering into a Performance Agreement Regarding Operation Period Economic Development Grant to provide the Company with up to four (4) operational grants, the total amount of which is estimated to be $1,500,000. In accordance with EDA Operation Period Economic Development Grant, the amount of each operational grant will be an amount equal to 50% of the revenue amount actually received by the Locality from the Company for business personal property taxes/machinery and tools taxes incurred at the Facility. For purposes of this Agreement, the amount applicable to the Locality-Level Incentives attributable to the Operation Period Grant shall be the minimum sum of $350,000, assuming the first Operation Period Grant provided to the Company occurs on or before January 1, 2022.

If, by the Performance Date, the proceeds or value of the Locality-Level Incentives set forth above that have been disbursed or committed to be disbursed by the Locality to the Company total less than the $3,000,000 COF Grant local match requirement, the Locality, subject to appropriation, will make an additional grant to the Authority for the Authority to make a grant to the Company of the difference at the Performance Date, so long as the Company has met its Targets.

The value of the Land Sale, Forgiveness of Debt, and Appreciation of Assessed Value of Land, the Building Permit Fees Rebate, the Connection Fees Rebate, and the Underground Power Line Installation shall represent cost savings to the Company. The Road Signage, the

Road Extension, the Street Light Installation, and the Greenway Connection shall provide access to the Facility and benefit the Company and the public. The proceeds of the EDA Construction Period Grant shall be used by the Company for public and private utility extension or capacity development on and off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; grading, drainage, paving, and any other activity required to prepare a site for construction; and construction of the Facility. The proceeds of the Authority E. Z. Job Training Grant shall be used by the Company to reimburse itself for job training costs. The proceeds of the EDA Operation Period Grant shall be used by the Company to defray the cost of acquisition and installation of the Equipment and related costs necessary for the acquisition and installation of Equipment that will be incurred by the Company.

Section 5. <u>Repayment Obligation</u>.

(a) *If Statutory Minimum Eligibility Requirements are Not Met:* Section 2.2-115 of the Virginia Code requires that the Company make a Capital Investment of at least $1,500,000 in the Facility and create and Maintain at least 15 New Jobs at the Facility as of the Performance Date in order to be eligible for the COF Grant. Failure by the Company to meet either of these statutory minimum eligibility requirements by the Performance Date shall constitute a breach of this Agreement and the entire COF Grant must be repaid by the Company to the Authority.

(b) *If Statutory Minimum Eligibility Requirements are Met:* The provisions of this subsection (b) shall become applicable only if the Company has met the statutory minimum eligibility requirements set forth in subsection (a). For purposes of repayment, the COF Grant is to be allocated as $1,500,000 (50%) for the Company's Capital Investment Target and $1,500,000 (50%) for its New Jobs Target. If the Company has met at least 90% of both of the Targets at the Performance Date, then and thereafter the Company is no longer obligated to repay any portion the COF Grant. If the Company has not met at least 90% of either or both of its Targets at the Performance Date, the Company shall repay to the Authority that part of the COF Grant that is proportional to the Target or Targets for which there is a shortfall. For example, if at the Performance Date, the Capital Investment is only $63,750,000 (reflecting achievement of 75% of the Capital Investment Target) and only 81 New Jobs have been created and Maintained (reflecting achievement of 75% of the New Jobs Target), the Company shall repay to the Authority 25% of the moneys allocated to the Capital Investment Target ($375,000) and 25% of the moneys allocated to the New Jobs Target ($375,000).

(c) *Determination of Inability to Comply:* If the Locality, the Authority or VEDP shall reasonably and in good faith determine at any time prior to the Performance Date (a "Determination Date") that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, the Company must repay the entire COF Grant to the Authority. Such a determination shall be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant material event that demonstrates that the Company will be unable or is unwilling to satisfy the Targets for the COF Grant.

(d) *Repayment Due to Contributions:* As described in Section 2, if any member of the Applicant Group made a Contribution during the No Contribution Period, the Company shall repay the entire COF Grant to the Authority within 90 Days of the Contribution Notification Date.

(e) *Repayment Dates:* ***Such repayment shall be due from the Company to the Authority within ninety days of the Performance Date, the Contribution Notification Date, or the Determination Date, as applicable.*** Any moneys repaid by the Company to the Authority hereunder shall be repaid by the Authority to the Locality and shall be repaid by the Locality promptly to VEDP for redeposit into the Commonwealth's Development Opportunity Fund. The Locality and the Authority shall use commercially reasonable efforts to recover such funds, including legal action for breach of this Agreement. Neither the Locality nor the Authority shall have any responsibility for the repayment of any sums hereunder unless said sums have been received by the Authority from the Company.

Section 6. <u>Company Reporting</u>.

The Company shall provide, at the Company's expense, detailed verification reasonably satisfactory to the Locality, the Authority and VEDP of the Company's progress on the Targets. Such progress reports will be provided annually, starting at September 1, 2017, and covering the period through the prior June 1. Further, the Company shall provide such progress reports at such other times as the Locality, the Authority or VEDP may reasonably require.

With its September 1, 2017, progress report, the Company shall certify in the form attached to this Agreement as Appendix A whether any member of the Applicant made a Contribution during the No Contribution Period.

With each such progress report, the Company shall report to VEDP the amount paid by the Company in the prior calendar year in Virginia corporate income tax or, as applicable, shall provide to VEDP a copy of its Virginia income tax form filed with respect to its status as a pass-through entity. VEDP has represented to the Company that it considers such information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such information will be used by VEDP solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

The Company hereby authorizes the Locality, including the Office of Real Estate Valuation, the Office of the Commissioner of the Revenue, and the Office of the Treasurer, to release to VEDP the Company's real estate tax, business personal property tax and machinery and tools tax information. Such information shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the Capital Investment Target. If VEDP should require additional documentation or consents from the Company to access such information, the Company shall promptly provide, at the Company's expense, such additional documentation or consents as the Locality, the Authority or VEDP may request.

If requested by VEDP, the Company shall provide to VEDP copies of the Company's quarterly filings with the Virginia Employment Commission covering the period from the date of this Agreement through the Performance Date.

Section 7. Notices.

Formal notices and communications between the Parties shall be given either by (i) personal service, (ii) delivery by a reputable document delivery service that provides a receipt showing date and time of delivery, (iii) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, or (iv) delivery by facsimile or electronic mail (email) with transmittal confirmation and confirmation of delivery, addressed as noted below (or any other address the party to be notified may have designated to the sender by like notice). Notices and communications personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices and communications mailed shall be deemed effective on the fifth business day following deposit in the United States mail. Notices and communications delivered by facsimile or email shall be deemed effective the next business day, not less than 24 hours, following the date of transmittal and confirmation of delivery to the intended recipient. Such written notices and communications shall be addressed to:

if to the Company, to:

Deschutes Brewery, Inc.
901 SW Simpson Avenue
Bend, Oregon 97702
Attention: CEO

with a copy to:

Karnopp Petersen LLP
360 SW Bond Street, Suite 400
Bend, Oregon 97702
Facsimile: 541-388-5410
Attention: Jon J. Napier

if to the Locality, to:

City of Roanoke, Virginia
Noel C. Taylor Municipal Building
215 Church Avenue S.W., Room 364
Roanoke, Virginia 24011
Facsimile: 540-853-1153
Email: citymgr@roanokeva.gov
Attention: City Manager

with a copy to:

City of Roanoke, Virginia
Noel C. Taylor Municipal Building
215 Church Avenue S.W., Room 464
Roanoke, Virginia 24011
Facsimile: 540-853-1221
Email: cityatty@roanokeva.gov
Attention: City Attorney

if to the Authority, to:

Economic Development Authority of the
City of Roanoke, Virginia
117 Church Avenue, S.W.
Roanoke, Virginia 24011
Facsimile: 540-853-1213
Email: econdevl@roanokeva.gov
Attention: Chair

with a copy to:

Economic Development Authority of the
City of Roanoke, Virginia
37 Campbell Avenue, S.W.
Roanoke, Virginia 24011
Facsimile: 540-224-8050
Email: hdarby@glennfeldmann.com
Attention: Harwell M. Darby, Jr., Esq.

if to VEDP, to:

Virginia Economic Development Partnership
Until 5/22/16: 901 East Byrd Street, 19th Floor
After 5/22/16: 901 East Cary Street, 8th Floor
Post Office Box 798 (zip: 23218-0798)
Richmond, Virginia 23219
Facsimile: 804.545.5611
Email: dgundersen@yesvirginia.org
Attention: President and CEO

with a copy to:

Virginia Economic Development Partnership
Until 5/22/16: 901 East Byrd Street, 19th Floor
After 5/22/16: 901 East Cary Street, 8th Floor
Post Office Box 798 (zip: 23218-0798)
Richmond, Virginia 23219
Facsimile: 804.545.5611
Email: smcninch@yesvirginia.org
Attention: General Counsel

Section 8. Miscellaneous.

(a) *Entire Agreement; Amendments*: This Agreement constitutes the entire agreement among the parties hereto as to the COF Grant and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality, the Authority and VEDP.

(b) *Governing Law; Venue*: This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall only lie in the Circuit Court of the City of Roanoke, Virginia and such litigation shall be brought only in such court.

(c) *Counterparts*: This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability*: If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

(e) *Attorney's Fees:* If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Agreement, or otherwise in connection with the subject matter of this Agreement, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind directly related to such proceeding as determined by the presiding officials or court, as applicable.

SIGNATURE PAGE ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement as of the date first written above.

WITNESS:

_____

_____
Printed Name and Title
(SEAL)

CITY OF ROANOKE, VIRGINIA

By_____
Christopher P. Morrill, City Manager

WITNESS:

_____
Braxton G. Naff, Secretary
(SEAL)

ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF ROANOKE, VIRGINIA

By _____
Allen Damon Williams, Chair

WITNESS:

_____

_____
Printed Name and Title

DESCHUTES BREWERY, INC.
on behalf of itself and its subsidiaries and affiliates that may be created to own and/or operate the Facility

_____

_____
Printed Name and Title

Approved as to Form

_____
City Attorney

Approved as to Form

_____
Counsel for EDA

Approved as to Execution

_____
City Attorney

Approved as to Execution

_____
Counsel for EDA

Appropriation and funds required for this
Agreement are subject to future appropriation.

_____
Director of Finance

_____
Date Acct#

Authorized by Ordinance No. _____

COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

PERFORMANCE AGREEMENT

APPENDIX A

NO CONTRIBUTION CERTIFICATION

Deschutes Brewery, Inc. (the "Company"), and the Virginia Economic Development Partnership Authority ("VEDP") entered into an Agreement dated [_____], 2016 (the "Certification Agreement"), with respect to the Company's application for a grant from the Commonwealth's Development Opportunity Fund (a "COF Grant").

Pursuant to the Certification Agreement, the Company, on behalf of itself and the Company's officers, directors, and owners of or who have a controlling ownership interest in the Company (the "Applicant Group"), listed in the Appendix to the Certification Agreement, made certain certifications and covenants in accordance with Section 2.2-115 I. of the Code of Virginia of 1950, as amended. These certifications and covenants were meant to ensure that no member of the Applicant Group would make a Contribution during the No Contribution Period, as such capitalized terms are defined in the Agreement.

□ By its signature below, the Company hereby certifies to VEDP that, to the best of its knowledge, no member of Applicant Group made a Contribution during the No Contribution Period.

OR

□ By its signature below, the Company hereby certifies to VEDP that to the best of its knowledge, the following members of the Applicant Group made the following Contributions during the No Contribution Period:

Name	Amount of Contribution	Date of Contribution

In accordance with the COF Grant Performance Agreement dated [_____], 2016, the Company will repay the entire COF Grant to the Economic Development Authority of the City of Roanoke, Virginia within 90 Days of this Certification.

DESCHUTES BREWERY, INC.

By _____
Name: _____
Title: _____
Date: _____, 2017

DRAFT DATE: 04.07.2016

ESCROW AGREEMENT

This Escrow Agreement ("Agreement") is made this ___ day of _____, 2016, by and between the CITY OF ROANOKE, VIRGINIA, a Virginia municipal corporation ("City"), and the ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF ROANOKE, VIRGINIA, a political subdivision of the Commonwealth of Virginia ("EDA").

RECITALS:

WHEREAS, the City has entered into a Contract for Purchase and Sale of Real Property dated _____, 2016 ("Contract") with Deschutes Brewery, Inc., an Oregon corporation authorized to conduct business in the Commonwealth of Virginia, and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are "Subsidiaries" and the Parent and Subsidiaries together, jointly and severally, are the "Deschutes"), for the sale of certain real property, together with improvements thereon situated at 2002 Blue Hills Drive, N. E., Roanoke, Virginia, depicted as Official Tax Map No. 7230101 ("Property"), to construct, equip, and operate a brewery and warehouse facility at the Property ("Facility");

WHEREAS, pursuant to the terms of the Contract, Deschutes may conduct its due diligence with respect to the conditions of the Property and seek Permits and Approval prior to the acquisition of title to the Property;

WHEREAS, Deschutes is obligated to commence Construction Activity as defined in the Contract at the Property on or before June 1, 2019;

WHEREAS the City, the EDA, and Deschutes have entered into a Commonwealth's Development Opportunity Fund Performance Agreement dated _____, 2016 ("COF Performance Agreement") which sets forth the terms and conditions under which the City will receive a grant in the amount of $3,000,000 ("COF Grant") from the Virginia Economic Development Partnership Authority, ("VEDP");

WHEREAS, pursuant to the terms of the COF Performance Agreement the City is required to request disbursement of the proceeds of the COF Grant from VEDP on or before June 1, 2016;

WHEREAS, pursuant to the COF Performance Agreement, the City is required to disburse the proceeds of the COF Grant to EDA to be held in escrow by EDA pending notification from the City that Deschutes has acquired the Property in accordance with the terms of the Contract and commenced Construction Activity in accordance with the Contract;

WHEREAS, VEDP has advised the City and EDA that any interest income the EDA may earn during the period the EDA holds such COF Grant funds shall be deemed to be the property of the EDA, and the City and EDA hereby agree to this as well; and

WHEREAS, the City and EDA desire to enter into this Agreement to set forth their agreement regarding the proceeds of the COF Grant.

THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, including the Recitals set forth in this Agreement which Recitals are incorporated herein and made a part of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the City and EDA, the City and EDA agree as follows:

SECTION 1. DEFINED TERMS.

Unless the context otherwise specifies or requires, or unless defined in this Agreement, capitalized terms used in this Agreement shall have the meaning ascribed to such capitalized terms as set forth in the Contract.

SECTION 2. DEPOSIT OF GRANT PROCEEDS.

After the City requests and receives the COF Grant funds from the VEDP, the City will provide such funds to the EDA, as the escrow agent of the City, to be held in escrow by EDA, in an interest bearing account or accounts if the EDA elects to do so, and the COF Grant funds, and any interest thereon, will be disbursed or applied in accordance with the terms and conditions of this Agreement. EDA will acknowledge receipt of the proceeds of the COF Grant funds and EDA will confirm that the proceeds of the COF Grant have been deposited into a separate, segregated account or accounts of EDA. EDA shall hold the proceeds of the COF Grant in trust and shall disburse the proceeds of the COF Grant solely pursuant to written instructions provided to EDA by the City and in accordance with this Agreement.

SECTION 3. INVESTMENT OF PROCEEDS, QUARTERLY REPORTS.

3.1 EDA shall invest the proceeds of the COF Grant in investments permitted to be used by political subdivisions of the Commonwealth under the laws of the Commonwealth of Virginia, including the Virginia Security for Public Deposits Act (Va. Code § 2.2-4400 *et seq.*) and the Investment of Public Funds Act (Va. Code § 2.2-4500 *et seq.*).

3.2 Quarterly, beginning as of September 1, 2016, and thereafter until the proceeds of the COF Grant have been disbursed by EDA pursuant to the provisions of this Agreement, EDA shall deliver to the Director of Finance for the City a statement describing the balance of the account in which the proceeds of the COF Grant are held by it, including any income that may have been earned on the proceeds of the COF Grant.

SECTION 4. DISBURSEMENT.

4.1 Disbursement to Deschutes.

Within 30 days after receipt of written notice from the City that Deschutes has (i) acquired the Property in accordance with the terms of the Contract; and (ii) commenced

Construction Activities by the Commencement Date; EDA shall disburse the sum of $3,000,000, which funds constitute the COF Grant, to Deschutes in accordance with Section 3 of the COF Performance Agreement.

4.2 Disbursement to City.

In the event that Deschutes has not (i) acquired the Property in accordance with the terms of the Contract; or (ii) commenced Construction Activities by the Commencement Date; EDA, within 30 days after EDA's receipt of written notice from the City pursuant to this Section 4.2, shall disburse the sum of $3,000,000 to the City. The City shall return within 30 days of the City's receipt of such funds the sum of $3,000,000 to the VEDP, for redeposit into the Commonwealth's Development Opportunity Fund.

SECTION 5. LIABILITY OF ESCROW AGENT.

5.1 The liability of EDA, as escrow agent under this Agreement, shall be limited to the disbursement of $3,000,000 pursuant to Section 4 of this Agreement. EDA shall be responsible for any loss in investment of the proceeds of the COF Grant resulting from the actions of the EDA, to the extent that any loss results in the balance of the proceeds of the COF Grant being less than $3,000,000.

5.2 In the event that, at the time a disbursement is required to be made by EDA pursuant to Section 4 of this Agreement, the balance of proceeds of the COF Grant held by EDA in escrow is less than $3,000,000, the difference between (i) $3,000,000, and (ii) the balance of the COF Grant held by EDA shall constitute a general obligation of EDA for which the City shall have all rights and remedies available to the City to recover any such difference that resulted from the actions of the EDA.

SECTION 6. FEES.

EDA shall retain all income earned on the account or accounts established pursuant to this Agreement in which the proceeds of the COF Grant are placed and invested by EDA that remains after disbursement of $3,000,000 by EDA pursuant to this Agreement, if any. The EDA shall be deemed the sole owner of all such excess funds and may use any such funds for any purposes allowed by law. EDA shall be entitled to no other compensation or reimbursement hereunder.

SECTION 7. ASSIGNMENT.

EDA shall not assign or transfer any of its rights, duties, or obligations under this Agreement without the express prior written consent of the City, which consent may be granted or withheld in the sole and absolute discretion of the City.

SECTION 8. TERMINATION.

This Agreement shall terminate upon the disbursement of $3,000,000 by EDA pursuant to Section 4 of this Agreement.

SECTION 9. ENTIRE AGREEMENT; AMENDMENTS.

This Agreement constitutes the entire agreement of the City and EDA with respect to the escrow of the proceeds of the COF Grant. This shall not be amended, altered, or modified except by an agreement in writing executed by the City and EDA.

SECTION 10. AUTHORITY TO SIGN.

The persons executing this Agreement on behalf of the City or EDA represent and warrant that they are authorized to execute this Agreement on behalf the City or EDA, respectfully.

SECTION 11. FORUM SELECTION AND APPLICABLE LAW.

This Agreement shall be governed, interpreted, and construed under the substantive laws of the Commonwealth of Virginia, and any cause of action regarding the rights and duties of the parties must be brought in the Circuit Court or General District Court for the City of Roanoke, Virginia.

SECTION 12. FAITH BASED ORGANIZATIONS.

Pursuant to Virginia Code Section 2.2-4343.1, be advised that the City does not discriminate against faith-based organizations.

SECTION 13. NOTICES.

All notices hereunder shall be in writing and shall be deemed validly given, if personally delivered, sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, addressed to the following addresses (or to any other address the party to be notified may have designated to the sender by like notice of such address change):

If to the City:

City of Roanoke,
ATTN: City Manager
364 Noel C. Taylor Municipal Building
215 Church Avenue, S.W.
Roanoke, Virginia 24011
Fax No. 540-853-2333

With a Copy to:

City of Roanoke Department of Economic Development
ATTN: Economic Development Director
117 Church Avenue, S.W.
Roanoke, VA 24011
Fax No. 540-853-1213

If to EDA:

Economic Development Authority of the
City of Roanoke, Virginia
ATTN: Chair
c/o Harwell M. Darby, Jr., Esquire
Glenn, Feldmann, Darby & Goodlatte
210 1st Street, S.W., Suite 200
Roanoke, VA 24011

Notice shall be deemed delivered upon the date of personal service, five (5) business days after deposit in the United States mail, or the day after delivery to a nationally recognized overnight courier.

SIGNATURES APPEAR ON FOLLOWING PAGE

DRAFT DATE: 04.07.2016

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives.

ATTEST:

_____
City Clerk

(SEAL)

CITY OF ROANOKE, VIRGINIA

By:_____
Christopher P. Morrill, City Manager

WITNESS:

_____
Braxton G. Naff, Secretary

ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF ROANOKE, VIRGINIA

By:_____
Allen Damon Williams, Chair

Approved as to form

_____
City Attorney

Approved as to form

_____
EDA Counsel

Appropriation and funds required for this Agreement are subject to future appropriation.

_____
Director of Finance

_____
Date Acct #

Authorized by Ordinance No. _____

C.1.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the proper City officials to execute a Commonwealth's Development Opportunity Fund Performance Agreement (the "Performance Agreement") among the City of Roanoke, Virginia (the "City"), the Economic Development Authority of the City of Roanoke, Virginia (the "EDA"), and Deschutes Brewery, Inc., (the "Parent"), an Oregon corporation, authorized to transact business in the Commonwealth of Virginia, and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are "Subsidiaries" and the Parent and Subsidiaries together, jointly and severally, are "Deschutes"), that provides for a grant in the amount of $3,000,000 subject to certain undertakings and obligations by the parties in connection with the development of City-owned property located at 2002 Blue Hills Drive, N.E., Roanoke, Virginia 24012 ("Property") that Deschutes will acquire for the construction and operation of a brewery and warehouse facility (the "Facility"); authorizing the City Manager to execute an Escrow Agreement between the City and EDA (the "Escrow Agreement"); authorizing the City Manager to accept the COF Grant, defined below, with the requirement that Deschutes achieve certain Local Incentives as described in the Performance Agreement and to take such actions and execute such documents as may be necessary to provide for the implementation, administration, and enforcement of the Performance Agreement and the Escrow Agreement; and dispensing with the second reading of this Ordinance by title.

WHEREAS, the City has been awarded a grant of and expects to receive $3,000,000 from the Commonwealth's Development Opportunity Fund (a "COF Grant") through the Virginia Economic Development Partnership Authority (the "VEDP") for the purpose of

inducing Deschutes to construct, equip, and operate the Facility located at the Property, as set forth in the City Council Agenda Report dated April 18, 2016 (the "Agenda Report");

WHEREAS, the Performance Agreement requires the City to provide Local Incentives to Deschutes in an amount at least equal to the amount of the COF Grant, all as more particularly set forth in the Agenda Report;

WHEREAS, the City and Deschutes have negotiated and agreed to enter into a Contract for Purchase and Sale of Real Property (the "Contract") under which Contract Deschutes will acquire the Property and at which location Deschutes will, after acquisition of the Property, develop, construct, and operate the Facility;

WHEREAS, Deschutes has requested an economic development grant through the VEDP to assist with the cost of constructing the Facility at the Property (the "Project");

WHEREAS, pursuant to the Performance Agreement, the City is required to disburse the proceeds of the COF Grant to the EDA to be held in escrow by the EDA, pending acquisition of the Property by Deschutes and commencement of Construction Activity in accordance with the terms of the Contract, and upon satisfaction of these conditions, the EDA will provide the funds to or for the use of Deschutes, subject to Deschutes' promises and commitments to meet certain undertakings and obligations;

WHEREAS, the City and the EDA desire to enter into the Escrow Agreement to set forth their agreement regarding the proceeds of the COF Grant;

WHEREAS, City staff has advised Council that the Project will benefit economic development within the City and the Roanoke Region, and the Project will provide additional tax revenue and services to benefit the citizens of the City and the Roanoke Region; and

WHEREAS, the City and the EDA wish to encourage Deschutes to complete the Project in order to enhance and promote economic development within the City and the Roanoke Region.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. City Council hereby approves the terms of the Performance Agreement among the City, the EDA, and Deschutes, as set forth in the attachment to the Agenda Report, which provides for certain undertakings and obligations by Deschutes, as well as certain undertakings by the City and the EDA. City Council further finds that the economic development grant provided for by the Performance Agreement will promote economic development within the City and the Roanoke Region and will be of economic benefit to the City and its citizens.

2. The City Manager is hereby authorized on behalf of the City to accept the COF Grant and execute the Performance Agreement among the City, the EDA, and Deschutes, upon certain terms and conditions as set forth in the Agenda Report. The Performance Agreement shall be substantially similar to the one attached to such Agenda Report and in a form approved by the City Attorney. Such Performance Agreement will also be subject to the approval of the EDA.

3. The City Manager is hereby authorized on behalf of the City to execute the Escrow Agreement between the City and the EDA, upon certain terms and conditions as set forth in the Agenda Report. The Escrow Agreement shall be substantially similar to the one attached to such Agenda Report and in a form approved by the City Attorney. Such Escrow Agreement will also be subject to the approval of the EDA.

4. The City Manager is further authorized to take such actions and execute such documents as may be necessary to provide for the implementation, administration, and enforcement of the Performance Agreement and the Escrow Agreement, including, without

limitation, requesting and receiving the proceeds of the COF Grant from the VEDP and delivering the proceeds of the COF Grant to the EDA in accordance with the Escrow Agreement. Such other documents shall be in a form approved by the City Attorney.

5. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this Ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

C.1.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding for the Deschutes Commonwealth's Development Opportunity Fund Grant Performance Agreement project, amending and reordaining certain sections of the 2015-2016 Capital Projects Fund Appropriations and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2015-2016 Capital Projects Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Appropriated from State Grant Funds	08-530-9471-9007	$ 3,000,000
Revenues		
Deschutes – COF Grant	08-530-9471-9471	3,000,000

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

C.2.

CITY COUNCIL AGENDA REPORT

To: **Honorable Mayor and Members of City Council**

Meeting: **April 18, 2016**

Subject: **Performance Agreement Regarding Operation Period Economic Development Grant among the City of Roanoke, Economic Development Authority of the City of Roanoke, Virginia, and Deschutes Brewery, Inc. (for Itself and its Subsidiaries and Affiliates), for Construction and Operation of a Brewery and Warehouse Facility to be Located at 2002 Blue Hills Drive, N.E. Roanoke, Virginia (Official Tax Map No. 7230101)**

Background:

The City of Roanoke (City) and the Economic Development Authority of the City of Roanoke, Virginia (EDA), for the purpose of inducing Deschutes Brewery, Inc. an Oregon corporation, authorized to transact business in the Commonwealth of Virginia, the Parent, and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are "Subsidiaries" and the Parent and Subsidiaries together, jointly and severally, are Deschutes) to construct, equip, and operate a brewery and warehouse facility (Facility) on property currently owned by the City at 2002 Blue Hills Drive, N.E., Roanoke, Virginia (Official Tax Map No. 7230101) (Property) proposes to provide grants composed of an amount equal to a portion of the business personal property tax/machinery and tools tax paid by Deschutes for property located at the Facility, subject to certain undertakings and obligations by the parties as enumerated in the attached proposed Performance Agreement Regarding Operation Period Economic Development Grant (Agreement) among the City, EDA, and Deschutes.

Considerations:

In order to qualify for the Operation Period Economic Development Grant, Deschutes must complete construction of the Facility and commence commercial production and sale of beer on or before June 1, 2021 at the Facility; must spend at least $26,000,000 by June 1, 2021, for equipment installed at the Facility; and must file and pay all applicable City taxes and fees.

Deschutes is required to pay all reasonable out-of-pocket fees (including attorney's fees), costs, and expenses of EDA not to exceed $5,000 incurred by EDA in connection with approval of this Agreement.

If these requirements are fully satisfied, Deschutes will be eligible for a maximum of four (4) consecutive annual grants commencing with the first year that Deschutes submits its initial inventory for business personal property tax/machinery and tools tax to the City Commissioner of Revenue. The amount of each grant will be equal to 50% of the revenue actually received by the City as of March 15, for the subject grant year from business personal property tax/machinery and tools tax generated at the Facility.

The estimated value of the equipment to be located at the Facility upon the commencement of production as listed in Exhibit B of the Agreement is expected to exceed $45,000,000. Based on the current tax rate, the total business personal property tax/machinery and tools tax on equipment with a value of $45,000,000 during the first four years of brewery operation would be $2,794,500. The total amount of the four grants that would be paid to Deschutes based on this amount of estimated investment would be $1,397,250 (50% of $2,794,500).

Recommended Action:

Adopt the attached ordinance authorizing the City Manager to execute an agreement substantially similar to the Agreement attached to this Report, and to execute such other documents and to take such further actions as may be necessary to implement, administer, and enforce such Agreement. All documents are subject to approval as to form by the City Attorney.

Christopher P. Morrill
City Manager

Attachments

Distribution: Council Appointed Officers
R. Brian Townsend, Assistant City Manager for Community Development
Barbara A. Dameron, Director of Finance
Wayne Bowers, Director of Economic Development

PERFORMANCE AGREEMENT

REGARDING

OPERATION PERIOD

ECONOMIC DEVELOPMENT GRANT

This Performance Agreement Regarding Operation Period Economic Development Grant ("EDA Operation Grant Agreement") is dated _____, 2016, by and among the City of Roanoke, Virginia, a municipal corporation ("City"), Deschutes Brewery Inc., (the "Parent"), an Oregon corporation, authorized to transact business in the Commonwealth of Virginia, and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are "Subsidiaries" and the Parent and Subsidiaries together, jointly and severally, are "Deschutes"), and the Economic Development Authority of the City of Roanoke, Virginia, an industrial development authority organized and existing under the laws of the Commonwealth of Virginia ("EDA").

RECITALS

WHEREAS, Deschutes has proposed to construct, equip, and operate at 2002 Blue Hills Drive, N.E., in the City, a brewery and warehouse for the commercial production and sale of beer ("Facility");

WHEREAS, construction of the Facility will involve substantial investment in the property to be acquired by Deschutes from the City at 2002 Blue Hills Drive, N.E., Roanoke, Virginia, containing approximately 49.4173 acres, more or less, depicted as Official Tax Map No. 7230101, and more particularly described in Exhibit A attached hereto and made a part hereof ("Property");

WHEREAS, construction of the Facility will require the acquisition and installation of specialized machinery and equipment designed for the production of beer at the Facility ("Equipment") and such Equipment is more particularly described in Exhibit B attached hereto and made a part hereof;

WHEREAS, construction of the Facility at the Property ("Project"), including installation of the Equipment, will be performed substantially in accordance with certain plans ("Project Plans") to be submitted to the City of Roanoke Planning, Building and Development Department;

WHEREAS, the City and Deschutes have entered into a Contract for the Purchase and Sale of Real Property dated _____, 2016 ("Contract") under which Deschutes has agreed, subject to terms and conditions, as set forth in the Contract, to purchase the Property for $2,750,000;

WHEREAS, the City recognizes that construction of the Facility will require Deschutes to incur significant costs related to acquisition and installation of the Equipment;

WHEREAS, Deschutes has requested economic grants from the City through the EDA to assist with the cost of acquisition and installation of the Equipment and related costs necessary for the acquisition and installation of Equipment ("Equipment Expenses");

WHEREAS, the City and the EDA desire that development of the Project proceed, have determined such Project will promote economic development within the City and within the Roanoke Region, and such Project will provide additional tax revenue and services to benefit the citizens of the City and the Roanoke Region;

WHEREAS, the EDA, based on the undertakings of Deschutes, has determined to make an annual economic development grant for a specified period to Deschutes from funds to be provided to the EDA by the City, all in accordance with the terms of this EDA Operation Grant Agreement;

WHEREAS, Deschutes plans to undertake the Project based, in part, on the commitment of the EDA and City to make an annual economic development grant for a specified period to Deschutes in accordance with the terms of this EDA Operation Grant Agreement; and

WHEREAS, the parties wish to reduce to writing the agreement of the parties concerning this matter.

NOW, THEREFORE, the parties, in consideration of the promises and obligations contained in the above Recitals, which Recitals are incorporated herein and made a part hereof, and as set forth herein, mutually agree as follows:

SECTION 1. EDA OPERATION GRANTS.

Subject to the terms of this EDA Operation Grant Agreement, the EDA shall, for the purposes of promoting economic development in the City and the Roanoke Region, make four (4) annual EDA Operation Grants (each an EDA Operation Grant), the total amount of which is estimated to be $1,500,000, to Deschutes in order to assist with Equipment Expenses related to completing the Project. The EDA's obligations hereunder are not general obligations of the EDA, but are special obligations of the EDA limited to those funds which are provided by the City and received by the EDA under the terms set forth herein.

SECTION 2. OBLIGATIONS OF DESCHUTES.

Deschutes agrees and promises that in order to qualify to receive and to continue to receive each EDA Operation Grant for each grant year (as defined in this Agreement), Deschutes shall do or provide each of the following, all of which are material to this EDA Operation Grant Agreement:

A. Provide to the EDA and the City on request prior to the execution of this EDA Operation Grant Agreement, and promptly at any time after its execution, sufficient

documentation, as reasonably determined by the EDA and the City, establishing that Deschutes has the right, authority, and financial ability to develop the Property as contemplated by this EDA Operation Grant Agreement and to operate the Facility on such Property.

B. Deschutes shall complete construction of the Facility and commence production and sale of beer at the Facility on or before June 1, 2021, in accordance with all permits, approvals, and authorizations pursuant to applicable federal, state, and local laws, rules, regulations, and ordinances.

C. Deschutes shall spend or cause to be spent the amount of at least $26,000,000 by June 1, 2021, for the items set forth in Exhibit B (the "Minimum Equipment Expenses"). Deschutes shall provide verification of the expenditures for such Minimum Equipment Expenses by submitting a copy of the inventory of its business personal property tax /machinery and tools tax return at the time Deschutes submits its initial request for an EDA Operation Grant.

D. Deschutes shall file all appropriate and applicable real estate taxes, other taxes, fees, stormwater utility fees, and other tax forms or notices with the City and timely pay all such taxes and fees to the City and not claim any exemptions from real estate taxes or other taxes or fees with respect to the Property or the Facility for any periods of time for which EDA Operation Grant funds are requested. Deschutes shall also ensure that the owner of the Property and any entity that may operate and/or manage the Facility and/or Property, if different than Deschutes, also complies with all the obligations of this Section 2 (D) and any other applicable provisions of this EDA Operation Grant Agreement.

SECTION 3. EDA OPERATION GRANT.

Subject to the conditions as set forth in this EDA Operation Grant Agreement, the EDA will provide certain grant funds, limited to those funds which are received by the EDA from the City, as set forth below, to Deschutes, in order to assist with the acquisition and installation of the Equipment necessary to operate the Facility, as follows:

A. Deschutes shall apply for its initial EDA Operation Grant pursuant to this EDA Operation Grant Agreement by April 1 of the year in which Deschutes has submitted its initial inventory for business personal property/machinery and tools to the City of Roanoke, Virginia, Commissioner of Revenue ("Commissioner") for the initial assessment of the City's business personal property tax / machinery and tools tax and Deschutes has received and paid the assessment for such business property tax/ machinery and tools tax by March 15 of that year ("First Grant Year"). Each Grant Year shall be a calendar year commencing January 1 and ending December 31.

B. Such EDA Operation Grant may be requested for a maximum period of four (4) consecutive Grant Years, beginning with the first Grant Year as determined in Section 3 (A) above. The four (4) year period shall continue to run whether or not an

EDA Operation Grant request is made for any particular Grant Year. All EDA Operation Grant requests must be submitted to the EDA not later than April 1 of each subsequent Grant Year, provided that Deschutes has timely completed the following: (i) submitted its inventory of business personal property/machinery and tools with the Commissioner; and (ii) paid the assessment of the business personal property tax / machinery and tools tax determined by the Commissioner on or before March of each subsequent Grant Year.

Furthermore, the amount of the EDA Operation Grant shall be reduced by the amount, if any, of a refund made by the City to Deschutes for an adjustment or overpayment of business personal property taxes/ machinery and tools taxes based upon an exoneration, in whole or in part, of the value of business personal property/machinery and tools for a prior Grant Year.

C. The amount of each EDA Operation Grant request shall only be for an amount equal to 50% of the revenue amount actually received by the City as of March 15 of the Grant Year, subject to the limits set forth in this EDA Operation Grant Agreement, that directly resulted from the Property, the Facility or the Project and that came from business personal property taxes / machinery and tools taxes. Provided, however, any increase in the rate of the aforementioned tax for the purpose of dedicating the incremental revenue for a specific project or purpose shall be excluded from and not counted in the amount of tax revenue resulting from the Property or Project.

SECTION 4. DISTRIBUTION OF EDA OPERATION GRANT FUNDS.

Following its payment of business personal property taxes / machinery and tools taxes to the City in each Grant Year, but in no event later than April 1 of each Grant Year, and upon Deschutes' compliance with the obligations set forth in this EDA Operation Grant Agreement, Deschutes may request in writing that the EDA obtain and provide the EDA Operation Grant funds mentioned above in accordance with the terms of this EDA Operation Grant Agreement. Such request must be accompanied by sufficient documentation to establish to the reasonable satisfaction of the EDA and the City, Deschutes' compliance with the obligations set forth in this EDA Operation Grant Agreement. Upon receipt of such request, and approval by the EDA (approved request), the EDA will forward the approved request to the City Manager and Director of Economic Development. The written EDA Operation Grant request(s) from Deschutes to the EDA will be on a form approved by the EDA's counsel, attached hereto as Exhibit C. The EDA may disapprove any request not complying with the terms of this Agreement or require a revised request be submitted. Should the EDA disapprove an EDA Operation Grant request or require that Deschutes submit a revised request, the EDA shall provide written notice to Deschutes stating the basis for disapproval and any defect in the EDA Operation Grant request and specifying the required additional information. Deschutes shall submit the revised or resubmitted request within 30 days of receipt of such written notice. After the EDA approves a request, the EDA will promptly make a written request to the City for the distribution to the EDA of the City's appropriation of such funds. The EDA will forward approved Grant requests to the City Manager as well as the Director of Economic Development. The City will process such

approved request within 45 days of receipt thereof, subject to such funds being appropriated, as set forth in more detail in Section 20 below.

The EDA will make any approved payment to Deschutes within 10 business days from the date of receipt of the funds from the City, provided, however, the EDA has no liability in the event the City delays processing the EDA's requisition. The EDA's obligations shall be limited to those funds which the EDA shall receive from the City and shall not be a general obligation, but a special obligation of the EDA. Furthermore, no EDA Operation Grant requests may be made by Deschutes or will be considered by the EDA after June 30 of the end of the fourth Grant Year.

SECTION 5. PAYMENT OF EDA'S FEES.

Deschutes shall pay all reasonable out-of-pocket fees (including attorney's fees), costs, and expenses of EDA incurred by EDA in connection with the approval of this EDA Operation Grant Agreement, but as to this approval of this EDA Operation Grant Agreement such amount will not exceed $5,000.00. Payment of such expenses shall not be made from proceeds of the EDA Operation Grant or any other EDA Grant. EDA will submit statements to Deschutes for such items and Deschutes will pay such statements within 30 days after such receipt of the invoice by Deschutes.

SECTION 6. REPORTS TO THE EDA AND THE CITY.

Until Deschutes is no longer eligible to receive any EDA Grant pursuant to this EDA Operation Grant Agreement, Deschutes agrees to report to and provide the EDA and the City on a semi-annual basis, on or before June 30 and December 31 of each year, sufficient information related to Deschutes' compliance with the conditions of this EDA Operation Grant Agreement and to provide appropriate documentation to support such compliance. Deschutes also agrees to allow the EDA, the City, and/or its representative, on written request by the EDA or the City, to inspect, audit, copy, or examine any of Deschutes's books, documents, or other relevant materials that contains information relevant to Deschutes' compliance with the conditions of this EDA Operation Grant Agreement for the sole and exclusive purpose of confirming Deschutes' compliance with the conditions of this EDA Operation Grant Agreement. All such documents, information (including electronic data), or access shall be provided or made available within 30 days of a written request from either the EDA or the City, at no cost to the EDA or the City. However, any such audit or examination will not be more frequent than twice within a calendar year.

SECTION 7. COMPLIANCE WITH LAWS.

Deschutes agrees to comply with all applicable federal, state, and local laws, rules, and regulations in the performance of this EDA Operation Grant Agreement, including, but not limited to, obtaining, timely paying, and maintaining a City business license.

SECTION 8. COOPERATION.

Each party agrees to cooperate with the other in a reasonable manner to carry out the intent and purpose of this EDA Operation Grant Agreement.

SECTION 9. SEVERABILITY.

If any term of this EDA Operation Grant Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this EDA Operation Grant Agreement, which will continue in full force and effect. The parties intend the remaining provisions of the EDA Operation Grant Agreement be enforced to the fullest extent permitted by applicable law.

SECTION 10. AUTHORITY TO SIGN.

The persons who have executed this EDA Operation Grant Agreement on behalf of the parties represent and warrant they are duly authorized to execute this EDA Operation Grant Agreement on behalf of their respective entities.

SECTION 11. COUNTERPART COPIES.

This EDA Operation Grant Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

SECTION 12. SUCCESSORS.

The terms, conditions, provisions, and undertakings of this EDA Operation Grant Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and permitted assigns.

SECTION 13. NONDISCRIMINATION.

Until Deschutes is no longer eligible to receive any EDA Operation Grant pursuant to this EDA Operation Grant Agreement, Deschutes agrees as follows with respect to the Project and the Facility:

A. Deschutes will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Deschutes. Deschutes agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. Deschutes in all solicitations or advertisements for employees placed by or on behalf of Deschutes will state Deschutes is an equal opportunity employer.

C. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

SECTION 14. ASSIGNMENT.

Deschutes shall not assign or transfer any part of this EDA Operation Grant Agreement to any party without the prior written consent of the City which consent shall not be unreasonably withheld, delayed, or conditioned. A change in the holder of the controlling interest in Deschutes shall constitute a transfer that is subject to the prior consent of the City. However, for avoidance of any doubt, an assignment does not include any transfer of a minority interest in the shares or other ownership interests of Deschutes, regardless of whether the transfer occurs voluntarily or involuntarily, by operation of law, or because of any act or occurrence

SECTION 15. INDEMNITY.

Deschutes agrees to indemnify and hold harmless the EDA, the City, and their officers, directors, and employees free and harmless for and from any and all claims, causes of action, damages, or any liability of any type, including reasonable attorney's fees, on account of any claims by or any injury or damage to any persons or property growing out of or directly or indirectly resulting or arising in any way out of any actions, omissions, or activities of Deschutes or its agents, employees, or representatives arising out of or connected in any way to any of the matters involved in this EDA Operation Grant Agreement or any performance thereunder, except to the extent caused by the sole actions, omissions, or activities of the City, the EDA, or their agents or employees.

SECTION 16. OPPORTUNITY TO CURE.

Except for the requirements contained in Section 2.B, 2.C, and 2.D above, Deschutes shall not be deemed to have failed to perform or discharge any of Deschutes' duties or obligations in the other sections of this Agreement until such time as Deschutes receives written notice thereof and an opportunity to cure within thirty (30) days after written notice thereof, which notice shall specify the failure, or, if the failure is of such nature that it could not reasonably be cured within such thirty (30) day period and Deschutes does, within said thirty (30) day period, commences to cure such failure and thereafter proceed, with due diligence, to cure it as soon as is reasonably practicable under the circumstances, but in no event shall any such cure period be longer than a total of 180 days from the date of such notice.

SECTION 17. FORUM SELECTION AND CHOICE OF LAW.

This EDA Operation Grant Agreement shall be governed, interpreted, and construed under the substantive laws of the Commonwealth of Virginia, and any cause of action regarding the rights and duties of the parties must be brought in the Circuit Court or General District Court for the City of Roanoke, Virginia. This EDA Operation Grant Agreement is not subject to the conflict of laws provisions of the Commonwealth of Virginia, and all claims, disputes, and other matters shall be decided only by such court according to the laws of the Commonwealth of Virginia as

aforesaid. The parties further waive and agree not to assert in any such action, suit, or proceeding, that such party is not personally subject to the jurisdiction of such courts, that the action, suit, or proceeding, is brought in an inconvenient forum or that the venue of the action, suit, or proceeding is improper.

SECTION 18. NONWAIVER.

Each party agrees any party's waiver or failure to enforce or require performance of any term or condition of this EDA Operation Grant Agreement or any party's waiver of any breach of this EDA Operation Grant Agreement by any other party extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this EDA Operation Grant Agreement or a waiver of any other breaches of the Agreement by either party and does not waive the defaulting party's obligation under this EDA Operation Grant Agreement and does not bar the non-defaulting party from asserting any and all rights and/or remedies it has or might have against the defaulting party under this Agreement or by law.

SECTION 19. CAPTIONS AND HEADINGS.

The section captions and headings are for convenience and reference purposes and shall not affect in any way the meaning or interpretation of this EDA Operation Grant Agreement.

SECTION 20. APPROPRIATION OF FUNDS.

All obligations or funding undertaken by the City or the EDA in connection with this EDA Operation Grant Agreement are subject to availability of funds and the appropriation of such funds by City Council as may be necessary for such obligations or funding. If any such funding is not provided, withdrawn, or otherwise not made available for this EDA Operation Grant Agreement, with the result that the City is unable to perform its obligations hereunder, the City shall give written notice to Deschutes of such unavailability of funding. The City Manager shall include funding for the EDA Operation Grants under this EDA Operation Grant Agreement in each annual budget proposed by the City Manager. If any such funding is not approved, withdrawn, or otherwise not made available for the EDA Operation Grants under this EDA Operation Grant Agreement, City shall provide Deschutes with written notice of such unavailability of funding.

SECTION 21. PERFORMANCE.

If Deschutes fails to comply with any of Deschutes' material obligations under this EDA Operation Grant Agreement, and which are not cured as may be allowed by this EDA Operation Grant Agreement, as determined by the City in the City's reasonable discretion, Deschutes will not be entitled to be eligible for and/or receive and/or continue to be eligible for and/or receive any such EDA Operation Grants funds as referred to above or in this EDA Operation Grant Agreement.

SECTION 22. NOTICES.

All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by a nationally recognized overnight courier, addressed as follows (or any other address the party to be notified may have designated to the sender by like notice):

If to City, to:	City of Roanoke, City Manager 364 Noel C. Taylor Municipal Building 215 Church Avenue, SW Roanoke, Virginia 24011 Fax No. 540-853-1138
With a copy to:	City of Roanoke, Economic Development Director 117 Church Avenue, SW Roanoke, Virginia 24011 Fax No. 540-853-1213
And, a copy to:	City of Roanoke, City Attorney 464 Noel C. Taylor Municipal Building 215 Church Avenue, SW Roanoke, Virginia 24011 Fax No. 540-853-1221
If to EDA, to:	Chair, Economic Development Authority of the City of Roanoke, Virginia c/o Harwell M. Darby, Jr., Esquire Glenn, Feldmann, Darby & Goodlatte 210 First Street, SW, Suite 200 Roanoke, Virginia 24011 Fax No. 540-224-8050
If to Deschutes, to:	Deschutes Brewery, Inc. 901 SW Simpson Avenue Bend, Oregon 97702 Attention: CEO
With a copy to:	Karnopp Petersen LLP 360 SW Bond Street, Suite 400 Bend, Oregon 97702 Facsimile: 541-388-5410 Attention: Jon J. Napier

Notice shall be deemed delivered upon the date of personal service, five days after deposit in the United States mail, or the day after delivery to a nationally recognized overnight courier.

SECTION 23. FAITH BASED ORGANIZATIONS.

Pursuant to Virginia Code Section 2.2-4343.1, be advised the City does not discriminate against faith-based organizations.

SECTION 24. FORCE MAJEURE.

A delay in, or failure of, performance by any party, shall not constitute a default, nor shall Deschutes, the City, or EDA be held liable for loss or damage, or be in breach of this EDA Operation Grant Agreement, if and to the extent that such delay, failure, loss, or damage is caused by an occurrence beyond the reasonable control of such party, and its agents, employees, contractors, subcontractors, and consultants, including results from Acts of God or the public enemy, compliance with any order or request of any governmental authority or person authorized to act therefore, acts of declared or undeclared war, public disorders, rebellion, sabotage, revolution, earthquake, floods, riots, strikes, labor or equipment difficulties, delays in transportation, inability of party to obtain necessary materials or equipment or permits due to existing or future laws, rules or regulations of governmental authorities or any other causes, whether direct or indirect, and which by the exercise of reasonable diligence said party is unable to prevent; provided, however, that lack of funds shall not be deemed to be a reason beyond the reasonable control of Deschutes. For purposes of this EDA Operation Grant Agreement any one delay caused by any such occurrence shall not be deemed to last longer than 6 months and the party claiming delay caused by any and all such occurrences shall give the other parties written notice of the same within 30 days after the date such claiming party learns of such occurrence. Notwithstanding anything else set forth above, after a total of 9 months of delays of any type have been claimed by a party as being subject to force majeure, no further delays or claims of any type shall be claimed by such party as being subject to force majeure and/or being an excusable delay.

SECTION 25. COMPLIANCE WITH STATE LAW, FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA.

Deschutes shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Deschutes shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract or agreement. The City or EDA may void this EDA Operation Grant Agreement if Deschutes fails to remain in compliance with the provisions of this section. However, the City and EDA agree that Deschutes may cure this matter within thirty (30) days after Deschutes' receipt of written notice from the City or EDA, as applicable, specifying the breach with reasonable particularity and stating that the City or EDA, as applicable, plans to void this EDA Operation Grant Agreement if such breach is not cured within thirty (30) days.

SECTION 26. DRAFTING OF THE EDA OPERATION GRANT AGREEMENT.

The provisions of this EDA Operation Grant Agreement shall not be construed in favor of or against either party, but shall be construed according to their fair meaning as if all parties jointly prepared this EDA Operation Grant Agreement.

SECTION 27. RETENTION OF REPORTS TO EDA AND THE CITY.

The City, EDA, and Deschutes shall maintain all books, records, and other documents relating to this EDA Operation Grant Agreement for a period of five (5) years after the end of each fiscal year included in this EDA Operation Grant Agreement. The City, EDA, and Deschutes, and their authorized employees, agents, and/or representatives, shall have reasonable access to and the right to examine, copy, and/or audit any of such materials of the other parties during the term of this EDA Operation Grant Agreement and/or retention period in connection with this EDA Operation Grant Agreement.

SECTION 28. ATTORNEY'S FEES.

If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this EDA Operation Grant Agreement, or otherwise in connection with the subject matter of this EDA Operation Grant Agreement, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind directly related to such proceeding as determined by the presiding officials or court, as applicable.

SECTION 29. ENTIRE AGREEMENT.

This EDA Operation Grant Agreement, together with any exhibits or attachments, constitutes the entire agreement of the parties with regard to its subject matter and supersedes all prior agreements between the parties regarding said subject matter. No amendment to this Agreement shall be valid unless made in writing and signed by the parties.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, the parties have executed this EDA Operation Grant Agreement by their authorized representatives.

ATTEST:

_____
City Clerk

CITY OF ROANOKE, VIRGINIA

By:_____
Christopher P. Morrill, City Manager

WITNESS:

_____
_____
Printed Name and Title

DESCHUTES BREWERY, INC.
on behalf of itself and its subsidiaries and any affiliates that may be created to own and/or operate the Facility

By:_____
Gary Fish, CEO

WITNESS:

_____
Braxton G. Naff, Secretary

ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF ROANOKE, VIRGINIA

By:_____
Allen Damon Williams, Chair

Approved as to form

_____
City Attorney
Date: _____

Approved as to execution

_____
City Attorney
Date: _____

Approved as to form

_____
EDA Counsel
Date:_____

Approved as to execution

_____
EDA Counsel
Date:_____

Appropriation and funds required for this Agreement are subject to future appropriation.

_____
Director of Finance

Authorized by Ordinance No.

_____
Date Acct#

Exhibit A to Performance Agreement Regarding Operation Period Economic Development Grant Among City of Roanoke, Virginia, Economic Development Authority of the City of Roanoke, and Deschutes Brewery, Inc. dated _____, 2016.

DESCRIPTION OF PROPERTY

ALL OF THAT CERTAIN PARCEL OF REAL ESTATE containing 49.4173 acres, more or less, known as "Tract 1-A" as shown on the plat entitled "Plat of Survey Subdividing Tract 1 (73.308 Acres) (Map Book 1, Pages 2875-76) Property of the City of Roanoke, Virginia (D.B. 1610, Pg. 205) Creating Hereon Tract 1-A (49.417 Acres) and Tract H (17.482 Acres) and Dedicating a 5.959 AC. Parcel for the Right-of-Way of Blue Hills Drive, N.E. Extension and Dedicating a 0.123 AC. Parcel and a 0.327 AC. Parcel for the Right-of-Way of Mason Mill Road, N.E.", prepared by Lumsden Associates, P.C., dated March 7, 2006, on record in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Map Book 1, Page 2966, and known as Roanoke Official Tax Map No. 7230101.

Being the same property conveyed to the City of Roanoke, Virginia, by the following deeds:

(1) Deed dated October 2, 1989, from Anderson Wade Douthat, III, and Frances Brown, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1610, Page 205,

(2) Deed of Correction dated October 3, 1989, from Nancy D. Goss and L.W. Goss, James F. Douthat and Ann Scott Douthat, and Anderson Wade Douthat, III, and Frances Brown, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1612, Page 1155, and

(3) Deed dated June, 22, 1990, from Nancy D. Goss and L.W. Goss, recorded in the Clerk of Circuit Court's Office for the City of Roanoke, Virginia, in Deed Book 1624, Page 1883.

The description of the Real Property will be amended to reflect the description established by the final survey obtain by Grantor and prepared by Lumsden Associates, P.C., entitled "Plat Showing ALTA/ACSM Land Title Survey of Tract 1-A (49.4173 acres/2,152,616 Square Feet) (Map Book 1, Pages 2966-2967), Property of the City of Roanoke, Virginia (Deed Book 1610, Page 205), situated at #2002 Blue Hills Drive, NE, Roanoke, Virginia," with a date of March 7, 2016, last revision date of_____, 2016.

Exhibit B to Performance Agreement Regarding Operation Period Economic Development Grant Among City of Roanoke, Virginia; Economic Development Authority of the City of Roanoke; and Deschutes Brewery, Inc.

Deschutes Brewery - Anticipated Equipment at Commissioning - Roanoke, VA

Production area	Type of equipment
Core Utilities	
	Natural gas fired boilers
	Glycol chilling system
	Water filtration system (including RO)
	Fork trucks
	Waste treatment pH adjustment
	QC equipment
Brewing	
	Mash Tun / lauter tun / hop strainer / kettle / whirlpool - 250 bbl
	Grain silos - 5 to 20 ton
	Cable levy malt conveyance system
	Malt loading station
Process Valves, Tanks, Pumps	
	Centrifuges
	CIP plant
	Pasteurizer
	Yeast management system
Cellaring	
	Centrifuge - 2.5 to 5.0 bbl per minute
	Fermentation vessels - 1,000 bbl
	Bright beer vessels - 1,000 bbl
Bottling / Racking / Kegging	
	Bulk glass de-palletizer
	Conveyance - 1,000 to 2,500 feet
	Empty bottle inspector
	Rinser / filler / crowner / labeler
	Case carton erector
	Six pack erector
	Label inspection equipment
	Case packer
	Full bottle inspector
	Aggregation tables
	Palletizer
	Shrink wrapper
	Fork trucks
	Keg cleaning and filling unit
	Robotic palletizer / shrink wrapper
Automation software	

Total estimated cost for all listed equipment exceeds $45,000,000

Exhibit C to Performance Agreement Regarding Operation Period Economic Development Grant among the City of Roanoke, Virginia, Deschutes Brewery, Inc., and the Economic Development Authority of the City of Roanoke, Virginia

EDA Operation Grant Request Form

This EDA Operation Grant Request is submitted pursuant to a certain Performance Agreement Regarding Operation Period Economic Development Grant dated _____, (the "EDA Operation Grant Agreement"), by and among the City of Roanoke, Virginia, ("City"), Deschutes Brewery, Inc., ("Deschutes"), and the Economic Development Authority of the City of Roanoke, Virginia, ("EDA"). Terms defined herein shall have the same meanings ascribed to such terms in the EDA Operation Grant Agreement.

The EDA Operation Grant Agreement provides that Deschutes shall perform and comply with certain obligations as set forth in the EDA Operation Grant Agreement in order to qualify to receive and to continue to receive an EDA Operation Grant for each Grant Year as set forth in such EDA Operation Grant Agreement. Upon compliance with the provisions of the EDA Operation Grant Agreement, Deschutes may make a request to the EDA for an EDA Operation Grant in accordance with the procedures set forth in the EDA Operation Grant Agreement and subject to the terms and limitations on the amount of such Grant as further set forth in the EDA Operation Grant Agreement. Furthermore, Deschutes must supply documentation as required by the EDA Operation Grant Agreement in order to document Deschutes' request and Deschutes' compliance with the EDA Operation Grant Agreement. This documentation is set forth in Attachment 1 to this form. Each Grant Year is to be considered separately for compliance with the requirements for an EDA Operation Grant Request.

Deschutes warrants and represents that it has complied with all the terms and conditions of the EDA Operation Grant Agreement necessary for Deschutes to obtain EDA Operation Grant Funds from the EDA, including, but not limited to, the applicable provisions of Section 2 of the EDA Operation Grant Agreement.

Attached to this EDA Operation Grant Request form is the information Deschutes represents as being sufficient to demonstrate that the City has been paid and has actually received the sum of $_____ from the applicable revenue sources referred to in the EDA Operation Grant Agreement from the Project as of March 15, _____, and that Deschutes has complied with all requirements of the EDA Operation Grant Agreement to qualify it to receive this EDA Operation Grant. Deschutes further warrants and represents that {check one] ___ Deschutes has not applied for or received a refund of business personal property taxes/ machinery and tools taxes paid to the City during a prior Grant Year; or ____ Deschutes has received a refund of $____ for business personal property taxes / machinery and tools taxes paid to the City for a prior Grant Year and such refund was not included in a prior Grant Request Form submitted by Deschutes ("Refunded Amount"). Accordingly, Deschutes hereby requests from the EDA an EDA Operation Grant, as provided for in the EDA Operation Grant Agreement, in the amount of $_____, which is an amount that is allowed by the terms of such EDA Operation Grant Agreement and which is supported by the attached documentation as Attachment 1 to this EDA Operation Grant Request. This EDA Operation Grant Request is for Grant Year No. _____.

Amounts previously paid by the EDA to Deschutes in EDA Operation Grants total $_____.

The EDA Operation Grant Agreement provides an EDA Operation Grant Request may be requested for a maximum period of four (4) consecutive years, which shall begin and include the first Grant Year . Therefore, since this is EDA Operation Grant Request No. _____ for the Grant Year January 1, _____, through December 30, _____, there remain(s) _____ consecutive years for which an EDA Operation Grant Request may be made by Deschutes provided Deschutes complies with the terms and provisions of the EDA Operation Grant Agreement. No EDA Operation Grant Request may be presented for any Grant Year after January 1, 2025 through December 31, 2025 and must be submitted on or before April 1, 2025.

In the event of a conflict or difference between the terms of the EDA Operation Grant Agreement and those contained in this EDA Operation Grant Request form, the terms and provisions of the EDA Operation Grant Agreement shall control.

Deschutes respectfully requests that the EDA process this EDA Operation Grant Request through the City and send copies to the City Manager and the City's Economic Development Administrator, in accordance with the provisions of the EDA Operation Grant Agreement.

This EDA Operation Grant Request is dated _____.

WITNESS:

_____

_____
Printed Name and Title

Deschutes Brewery, Inc.

By: _____

_____
Printed Name and Title

[Subsidiary]

ATTACHMENT 1 to EDA Operation Grant Request Form

Each Operation Grant Request shall include the following documentation:

(1) A copy of the inventory of business personal property/machinery and tools for the current Grant Year submitted by Deschutes to the City of Roanoke, Virginia Commissioner of Revenue ("Commissioner");

(2) A copy of the assessment of business personal property tax/ machinery and tools tax due from Deschutes with respect to such business personal property/machinery and tools; and

(3) Evidence of payment of the business personal property tax/ machinery and tools tax paid to the City.

C.2.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the proper City officials to execute a Performance Agreement Regarding Operation Period Economic Development Grant among the City of Roanoke, Virginia (the "City"), the Economic Development Authority of the City of Roanoke, Virginia (the "EDA"), and Deschutes Brewery, Inc. (the "Parent"), an Oregon corporation, authorized to transact business in the Commonwealth of Virginia, and its subsidiaries or affiliates that may be created to own and/or operate the Facility described below (together, such subsidiaries and affiliates are "Subsidiaries" and the Parent and Subsidiaries together, jointly and severally, are "Deschutes"), that provides for grants estimated to be $1,500,000 subject to certain undertakings and obligations by the parties in connection with the development of City-owned property located at 2002 Blue Hills Drive, N.E., Roanoke, Virginia 24012 ("Property") that Deschutes will acquire for the construction and operation of a brewery and warehouse facility (the "Facility"); authorizing the City Manager to take such actions and execute such documents as may be necessary to provide for the implementation, administration, and enforcement of such Performance Agreement; and dispensing with the second reading of this Ordinance by title.

WHEREAS, Deschutes has proposed the construction and operation of a brewery and warehouse facility located at the Property after Deschutes acquires the Property from the City in accordance with the terms and conditions of a Contract for the Purchase and Sale of Real Estate between the City and Deschutes (the "Contract"), as set forth in the City Council Agenda Report dated April 18, 2016 (the "Agenda Report");

WHEREAS, construction of the Facility at the Property (the "Project") will require the acquisition and installation of specialized machinery and equipment designed for the production of beer at the Facility (the "Equipment");

WHEREAS, Deschutes has requested an economic development grant through the EDA to assist with the cost of acquisition and installation of the Equipment and related costs necessary for the acquisition and installation of the Equipment;

WHEREAS, City staff has advised Council that the Project will benefit economic development within the City and the Roanoke Region, and the Project will provide additional tax revenue and services to benefit the citizens of the City and the Roanoke Region; and

WHEREAS, the City and the EDA wish to encourage Deschutes to complete the Project in order to enhance and promote economic development within the City and the Roanoke Region.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. City Council hereby approves the terms of the Performance Agreement Regarding Operation Period Economic Development Grant among the City, the EDA, and Deschutes (the "Performance Agreement"), as set forth in the attachment to the Agenda Report, which provides for certain undertakings and obligations by Deschutes, as well as certain undertakings by the City and the EDA. City Council further finds that the economic development grant provided for by the Performance Agreement will promote economic development within the City and the Roanoke Region and will be of economic benefit to the City and its citizens.

2. The City Manager is hereby authorized on behalf of the City to execute the Performance Agreement, upon certain terms and conditions as set forth in the Agenda Report. The Performance Agreement shall be substantially similar to the one attached to such Agenda

Report and in a form approved by the City Attorney. The Performance Agreement will also be subject to the approval of the EDA.

3. The City Manager is further authorized to take such actions and execute such documents as may be necessary to provide for the implementation, administration, and enforcement of the Performance Agreement. Such other documents shall be in a form approved by the City Attorney.

4. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this Ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

C-4

CITY OF ROANOKE

CITY COUNCIL
215 Church Avenue, S.W.
Noel C. Taylor Municipal Building, Suite 456
Roanoke, Virginia 24011-1536
Telephone: (540) 853-2541
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DAVID A. BOWERS
Mayor

Council Members
William D. Bestpitch
Raphael E. "Ray" Ferris
Sherman P. Lea
Anita J. Price
Court G. Rosen
David B. Trinkle

April 18, 2016

The Honorable Mayor and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Mayor Bowers and Members of Council:

I wish to request a Closed Meeting to discuss the annual performances of the Council-Appointed Officers, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

Sincerely,

Sherman Lea

Sherman P. Lea, Chair
City Council Personnel Committee

SPL:ctw