ROANOKE CITY COUNCIL
REGULAR SESSION

NOVEMBER 21, 2016
2:00 P.M.

CITY COUNCIL CHAMBER

AGENDA

1. Call to Order--Roll Call.

The Invocation will be delivered by The Reverend Eric C. Long, Pastor, St. John Episcopal Church.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor Sherman P. Lea, Sr.

Welcome. Mayor Lea.

NOTICE:

Today's Council meeting will be televised live and replayed on RVTV Channel 3 on Friday, November 25 at 7:00 p.m., and Sunday, November 27 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 Council of the City of Roanoke is seeking applications for the following current vacancies and/or upcoming expirations of terms of office:

Board of Zoning Appeals – two vacancies
Three-year terms of office ending December 31, 2020

Personnel and Employment Practices Commission – two vacancies
Unexpired term of office ending June 30, 2018
Three-year term of office ending June 30, 2019

Contact the City Clerk's Office at 853-2541, or access the City's homepage to complete an online application.

2. PRESENTATIONS AND ACKNOWLEDGEMENTS:

Recognition of the Department of Technology on Roanoke being named a Top Digital City for 15 consecutive years.

Recognition of the Office of Communications on receipt of two Gold Summit Awards from the Public Relations Society of America, Blue Ridge Chapter; and three 3CMA Awards from the City-County Communications and Marketing Association.

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 A communication from Council Member David B. Trinkle, Chair, City Council Personnel Committee, requesting that Council convene in a Closed Meeting to discuss a personnel matter, being the mid-year performances of Council-Appointed Officers, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended. P 9

RECOMMENDED ACTION: Concur in the request.

C-2 A communication from the City Attorney requesting that City Council schedule a public hearing for Monday, December 19, 2016 at 7:00 p.m., or as soon thereafter as the matter may be heard, or as such later date and time as the City Manager may determine, with regard to a proposed change in the City Charter. P 10

RECOMMENDED ACTION: Concur in the request.

C-3 A communication from the City Clerk advising of the resignation of James D. Ritchie, Sr., as a City representative of the Roanoke Greenway Commission, effective December 31, 2016. P 12

RECOMMENDED ACTION: Accept the resignation and receive and file the communication.

C-4 A communication from the City Clerk advising of the resignation of Susan Reese as a member of the Human Services Advisory Board, effective immediately. P 13

RECOMMENDED ACTION: Accept the resignation and receive and file the communication.

C-5 A communication from Debbie Bonniwell, Chief Executive Officer, Blue Ridge Behavioral Healthcare, requesting that Council ratify the reappointment of Colonel Bobby Russell as an at-large member of the Board of Directors to fill the unexpired term of Greg Hamilton ending December 31, 2018. P 14

RECOMMENDED ACTION: Concur in the request.

C-8 Reports of qualification of the following individuals:

Amelia Merchant as a member (City Manager's designee) of the Defined Contribution Board to fill the unexpired term of Sherman M. Stovall, Assistant City Manager for Operations, ending June 30, 2017;

Tom Roller as a member of the Roanoke Civic Center Commission for a term of office ending September 30, 2019; and

Bradley Stephens as a member of the Human Services Advisory Board for a four-year term of office ending November 30, 2020.

RECOMMENDED ACTION: Receive and file.

REGULAR AGENDA:

BID OPENINGS:

Bids for the sale and transfer of a certain easement on City-owned properties within the City, in connection with the Hotel Project at Market Garage situated at 27 Church Avenue, S. E.

5. PUBLIC HEARINGS: NONE.

6. PETITIONS AND COMMUNICATIONS:

a. Request of 100 Fearless Peacemakers to share information with regard to upcoming activities of the organization. Shawn Hunter, Supreme Captain, Spokesperson. (Sponsored by Mayor Lea and Vice-Mayor Price) | P 15

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

a. CITY MANAGER:

BRIEFINGS: NONE.

ITEMS RECOMMENDED FOR ACTION:

1. Acknowledgement of Western Virginia Workforce Development Board Program Year 2016 Workforce Innovation and Opportunity Act (WIOA) funding for award period July 1, 2016 to June 30, 2018. | P 16 R 18

2. Acceptance and appropriation of the Byrne Justice Assistance Grant funds from the Virginia Department of Criminal Justice Services to support the Positive Action in Roanoke Project. | P 20 R 23 B/O 24

3. Acceptance of a donation from the Firehouse Subs Public Safety Foundation for police ballistic shields and tourniquets. | P 25 R 26

4. Execution of Amendment No. 1 to the contract with Line and Grade, LLC, for additional engineering design services in connection with the Colonial Avenue Improvements Project. | P 28 R 30

5. Execution of Amendment No. 2 to the contract with AECOM Technical Services, Inc., to provide engineering design services in connection with the Franklin Road Bridge replacement over Norfolk Southern Railway. | P 32 R 34

COMMENTS OF CITY MANAGER.

8. REPORTS OF COMMITTEES:

P 36
P 37
B/O 38

a. A report of the Roanoke City School Board requesting appropriation of funds for various educational programs; and a report of the Director of Finance recommending that Council concur in the request. Donna Caldwell, Director of Accounting, Spokesperson.

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. RECESS.

THE COUNCIL MEETING WILL STAND IN RECESS TO BE RECONVENED AT 7:00 P.M., IN THE CITY COUNCIL CHAMBER, ROOM 450, NOEL C. TAYLOR MUNICIPAL BUILDING.

ROANOKE CITY COUNCIL
REGULAR SESSION

NOVEMBER 21, 2016
7:00 P.M.

CITY COUNCIL CHAMBER

AGENDA

Call to Order--Roll Call.

The Invocation will be delivered by Mayor Sherman P. Lea, Sr.

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

Welcome. Mayor Lea.

CERTIFICATION OF CLOSED MEETING.

NOTICE:

Tonight's Council meeting will be televised live and replayed on RVTV Channel 3 on Friday, November 25 at 7:00 p.m., and Sunday, November 27 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. PRESENTATION AND ACKNOWLEDGEMENTS:

Recognition of winners of the 12th Annual Fire Prevention Week Art Contest.

B. PUBLIC HEARINGS:

1. Request of Ivy View, LLC, to repeal all proffers related to a previous rezoning located at 2207, 2203, 0, 2219, 0, and 2211 Franklin Road, S. W. Maryellen Goodlatte, Esquire, Spokesperson. P 39 O 96

2. Request of the City of Roanoke to rezone and repeal all proffers related to a previous rezoning at 2002 Blue Hills Drive, N. E., from I-1, Light Industrial District, with conditions, and ROS, Recreation and Open Space District, to I-1, Light Industrial District. Ian Shaw, Agent, Spokesperson. P 99 O 111

3. Request of the City of Roanoke Planning Commission to amend Chapter 36.2, Zoning, Code of the City of Roanoke, (1979), as amended, to update the Zoning Ordinance. Ian Shaw, Agent, Spokesperson. P 113 O 177

4. Request of the City of Roanoke Planning Commission to amend Chapter 31.1, Subdivisions, Code of the City of Roanoke, (1979), as amended, to update the Subdivision Ordinance. Ian Shaw, Agent, Spokesperson. P 234 O 246

5. Request of the City of Roanoke Planning Commission to amend the City's Fee Compendium to create new fees for zoning modifications and plat and plan review; and to amend rezoning fees. Ian Shaw, Agent, Spokesperson. P 251 O 260

6. Request of the City of Roanoke regarding a Deed of Easement, subject to certain terms and conditions, in connection with the Hotel Project situated at 27 Church Avenue, S. E. Christopher P. Morrill, City Manager.

C. OTHER BUSINESS:

1. A report of the City Manager recommending approval of an encroachment permit for installation of a connection to an electrical box into the City's public right-of-way adjacent to the new Hampton Inn and Suites at 27 Church Avenue, S. E. P 262 O 264

2. A report of the City Manager recommending approval of a revised Performance Agreement among the City, the Economic Development Authority of the City of Roanoke, Virginia, and HRP Ivy Market, LLC. P 268 O 300

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. ADJOURNMENT.

C-1

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
Fax: (540) 853-1145
Email: clerk@roanokeva.gov

SHERMAN P. LEA, SR.
Mayor

Council Members
William D. Bestpitch
Michelle L. Dykstra
Raphael E. "Ray" Ferris
John A. Garland
Anita J. Price
David B. Trinkle

November 21, 2016

The Honorable Mayor Sherman P. Lea and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Mayor Lea and Members of Council:

I wish to request a Closed Meeting to discuss the mid-year performance of the Council-Appointed Officers, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

Sincerely,

David B. Trinkle, Chair
City Council Personnel Committee

DBT:ctw

C-2

CITY OF ROANOKE
OFFICE OF THE CITY ATTORNEY
464 MUNICIPAL BUILDING
215 CHURCH AVENUE, SW
ROANOKE, VIRGINIA 24011-1595

TELEPHONE 540-853-2431
FAX 540-853-1221
EMAIL: cityatty@roanokeva.gov

Daniel J. Callaghan
City Attorney

Timothy R. Spencer
Steven J. Talevi
David L. Collins
Heather P. Ferguson
Laura M. Carini
Assistant City Attorneys

November 21, 2016

The Honorable Sherman P. Lea, Sr., Mayor
and Members of City Council
Roanoke, Virginia

Re: Request to schedule a public hearing to consider requesting the General Assembly Adopt an amendment to the City Charter

Honorable Mayor and Members of Council

The City Council Legislative Committee recommended, and Council adopted, the 2017 Legislative Program for Council. One item included in the 2017 Legislative Program requests that the General Assembly amend Section 10 of the City Charter to require Council to meet in regular session at least once each month. Presently, Section 10 requires Council to meet at least twice each month. The objective of this proposal is to provide Council with greater flexibility in setting its schedule. Under current State Code, in the absence of a specific charter provision, the local governing body of a city must meet at least six (6) times during each fiscal year (Section 15.2-1416).

State Code permits a governing body to request the General Assembly to amend the locality's charter, after a public hearing at which time citizens may be heard on the matter (Section 15.2-202). Advertisement of the public hearing must be at least ten (10) days prior to the public hearing.

Action requested.

Authorize the scheduling of a public hearing for Monday, December 19, 2016, at 2:00 p.m., or at such time as the matter may be reached, or at such later date and time as the City Manager may determine, to consider the comments of citizens on amending the City Charter to adjust the required minimum number of meetings of City Council from at least two (2) regular session meetings each month to at least one (1) regular session each month.

Respectfully requested,

Daniel J. Callaghan
City Attorney

DJC/lsc

c: Christopher P. Morrill, City Manager
R. Brian Townsend, Assistant City Manager
for Community Development
Sherman Stovall, Assistant City Manager
for Operations
Barbara Dameron, Director of Finance
Troy D. Harmon, City Auditor
Stephanie Moon Reynolds, City Clerk

C-3

CITY OF ROANOKE
OFFICE OF THE CITY CLERK
215 Church Avenue, S. W., Suite 456
Roanoke, Virginia 24011-1536
Telephone: (540) 853-2541
Fax: (540) 853-1145
E-mail: clerk@roanokeva.gov

STEPHANIE M. MOON REYNOLDS, MMC
City Clerk

CECELIA F. MCCOY
Deputy City Clerk

CECELIA T. WEBB, CMC
Assistant Deputy City Clerk

November 21, 2016

The Honorable Mayor and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Mayor Lea and Members of Council:

This is to advise that James D. Ritchie, Sr., has tendered his resignation as a City representative of the Roanoke Greenway Commission, effective December 31, 2016, due to relocation out of the City.

Sincerely,

Stephanie M. Moon Reynolds

Stephanie M. Moon Reynolds, MMC
City Clerk

C-4

CITY OF ROANOKE
OFFICE OF THE CITY CLERK

215 Church Avenue, S. W., Suite 456
Roanoke, Virginia 24011-1536
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STEPHANIE M. MOON REYNOLDS, MMC
City Clerk

CECELIA F. MCCOY
Deputy City Clerk

CECELIA T. WEBB, CMC
Assistant Deputy City Clerk

November 21, 2016

The Honorable Mayor and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Mayor Lea and Members of Council:

This is to advise that Susan Reese has tendered her resignation as a member of the Human Services Advisory Board, effective immediately.

Sincerely,

Stephanie M. Moon Reynolds

Stephanie M. Moon Reynolds, MMC
City Clerk

C-5

Blue Ridge Behavioral Healthcare

CITY CLERK 2016 NOV 07 PM 05:08

Office of the CEO

October 31, 2016

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

Dear Mr. Morrill:

The Blue Ridge Behavioral Healthcare (BRBH) Board of Directors voted to nominate Col. Bobby Russell as an at-large board member at the October 20, 2016 board meeting. Col. Russell will serve in the vacant at-large board appointment that was previously held by Mr. Greg Hamilton, who submitted his resignation letter on September 18, 2016. As per our bylaws, the BRBH Board nominates our at-large board representatives, and asks the participating governing bodies to approve those appointments.

At our October 20, 2016 Board meeting, the Board unanimously endorsed Col. Russell to serve 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 approve the appointment of Col. Russell for an unexpired partial term, from October 20, 2016 through December 31, 2018.

This request is being sent concurrently to administrators in each of our other four local governing bodies for approval by the five local governing bodies 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, or Ashley Simmons, Executive Office Coordinator, at your convenience.

Sincerely,

Debbie Bonniwell

Debbie Bonniwell, MBA, LCSW
Chief Executive Officer

C: The Honorable Sherman P. Lea, Sr., Mayor
Ms. Donna Henderson, Chair, Blue Ridge Behavioral Healthcare Board of Directors
Col. Bobby Russell
Ms. Stephanie M. Moon, MMC, City Clerk

Executive Offices 301 Elm Avenue SW Roanoke, VA 24016-4001 (540) 345-9841 Fax (540)345-6891

6.a.

CITY OF ROANOKE

CITY COUNCIL
215 Church Avenue, S.W.
Noel C. Taylor Municipal Building, Suite 456
Roanoke, Virginia 24011-1536
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SHERMAN P. LEA, SR.
Mayor

Council Members
William D. Bestpitch
Michelle L. Dykstra
Raphael E. "Ray" Ferris
John A. Garland
Anita J. Price
David B. Trinkle

November 21, 2016

The Honorable Mayor and Members
of Roanoke City Council
Roanoke, Virginia

Dear Members of Council:

We jointly sponsor a request of Shawn Hunter, Supreme Captain, 100 Fearless Peacemakers, to share information with regard to the upcoming activities of the organization at the regular meeting of City Council to be held on Monday, November 21, 2016, at 2:00 p.m.

Sincerely,

Sherman P. Lea Sr.

Sherman P. Lea, Sr.
Mayor

Anita James Price

Anita J. Price
Vice-Mayor

SPL/AJP:ctw

7.a.1.

CITY COUNCIL AGENDA REPORT

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

Meeting: **November 21, 2016**

Subject: **Funding for Western Virginia Workforce Development Board Workforce Innovation and Opportunity Act (WIOA) Programs (CM16-00165)**

Background:

The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014 and replaced the Workforce Investment Act of 1998 (WIA). WIOA provisions related to Department of Labor Programs were effective July 1, 2015.

The City of Roanoke is the grant recipient for Workforce Innovation and Opportunity Act (WIOA) funding, thus, City Council must recognize the grant funding received, in order for the Western Virginia Workforce Development Board to administer WIOA programs in Local Workforce Development Area III of Virginia. The Roanoke Valley-Alleghany Regional Commission serves as the fiscal agent for The Western Virginia Workforce Development Board and the WIOA funds allocated to Area III which encompasses the counties of Alleghany, Botetourt, Craig, Franklin and Roanoke, and the cities of Covington, Roanoke, and Salem.

WIOA funding is for four primary client populations:

- Dislocated workers who have been laid off from employment through no fault of their own. Services provided these individuals include intensive job search assistance and employment counseling, additional training to upgrade skills or obtain initial certification or degree, on the job training and supportive services.
- Economically disadvantaged individuals as determined by household income guidelines defined by the U.S. Department of Labor. Services provided these individuals include intensive job search assistance and employment counseling, additional training to upgrade skills or obtain initial certification or degree, on the job training and supportive services.
- Youth who are economically disadvantaged, or who have other barriers to becoming successfully employed adults. Services provided these individuals include career counseling and exploration, incentives to remain in school, work readiness classes, summer work program, mentoring, tutoring and post secondary education/training.
- Businesses in need of employment and job training services.

The City of Roanoke has received a Notice of Obligation, on behalf of the Western Virginia Workforce Development Board, from the Virginia Community College System, allocating $1,582,996 of PY2016 WIOA funds, for WIOA Activities for award period July 1, 2016 - June 30, 2018.

Considerations:

- Program Operations - Existing activities will continue and planned programs will be implemented.

- Funding - Funds are available from the Grantor agency and other sources as indicated, at no additional cost to the City.

Recommended Action:

Recognize the Western Virginia Workforce Development Board PY2016 WIOA funds of $1,582,996, for award period July 1, 2016 to June 30, 2018.

CHRISTOPHER P. MORRILL
City Manager

Distribution: Council Appointed Officers
R. Brian Townsend, Asst. City Mgr. for Community Development
Barbara A. Dameron, Director of Finance
Jenny B. Alexander, Acting Director of Human/Social Services

#CM16-00165

PK

7.a.1.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION acknowledging and recognizing the PY2016 Workforce Innovation and Opportunity Act ("WIOA") funding from the Virginia Community College System in the amount of $1,582,996 for WIOA activities, for the award period of July 1, 2016, through June 30, 2018, the foregoing funding to be administered by the Western Virginia Workforce Development Board.

WHEREAS, pursuant to the WIOA that was enacted on July 22, 2014 and replaced the Workforce Investment Act of 1998, federal funding is provided to support various programs in support of various client populations as more particularly described in the City Council Agenda Report dated November 21, 2016; and

WHEREAS, the Roanoke Valley-Alleghany Regional Commission was designated as the fiscal agent for WIOA funds and administers the federal funds provided by WIOA through the Virginia Community College System for Local Workforce Area III, the designated area which encompasses the counties of Alleghany, Botetourt, Craig, Franklin, and Roanoke, and the cities of Covington, Roanoke, and Salem.

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

1. Council acknowledges and recognizes for the purpose of administering the Western Virginia Workforce Development Board, the PY2016 WIOA funding in the amount of $1,582,996 from the Virginia Community College System, with no local match from the City, to be administered by the Western Virginia Workforce Development Board, and to be used during the award period of July 1, 2016, through June 30, 2018, for the purpose of administering the

WIOA activities, as more particularly set out in the City Council Agenda Report dated November 21, 2016.

2. The City Manager is directed to furnish such additional information as may be required in connection with the acknowledgement and recognition of the foregoing funding.

3. The City Clerk is directed to provide an attested copy of this Resolution to the Western Virginia Workforce Development Board.

ATTEST:

City Clerk.

7.a.2.

CITY COUNCIL AGENDA REPORT

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

Meeting: **November 21, 2016**

Subject: **Acceptance and Appropriation of Byrne Justice Assistance Grant (JAG) funds for Positive Action in Roanoke. (CM16-00160)**

Background:

The Virginia Department of Criminal Justice Services has awarded the City of Roanoke Federal funding from the Byrne Justice Assistance Grant (JAG) program for the Project titled, "Positive Action in Roanoke". This funding will be used by Family Service Roanoke Valley (FSRV) to create and administer the Positive Action program in four public housing sites. The amount of the federal funding is $44,090 and FSRV is contributing $4,899 in matching funds for a program total of $48,989. FSRV will be reporting on the required match each quarter but it is not part of the funds that the City of Roanoke Finance Department is tracking.

Positive Action is a research-based social-emotional learning curriculum that includes family engagement activities and a community service learning program for children in 3rd through 5th grade residing in the public housing neighborhoods. These children often face multiple risk factors that increase the likelihood of high rates of juvenile delinquency. This project proposes to increase protective factors of these children in order to decrease the rates of criminality, increase school success, and increase positive self-images and engagements with the community. The program also increases the positive knowledge skills of the parents through communication and relationship building activities.

Considerations:

A recent Needs Assessment was conducted in the largest Roanoke Redevelopment and Housing Authority neighborhood. This study showed that children residing in this neighborhood graduated from high school at lower rates than average, had lower standardized test scores in elementary years, and engaged in fewer after school programs that offer sports, arts enrichment, academic remediation and enrichment. The objectives of Family Service of Roanoke Valley's implementation of Positive Action will be to strengthen school, community, family and individual protective factors as well as increase parent and youth knowledge of the risks of anti-social behaviors.

Recommended Action:

Adopt a resolution accepting the Byrne Justice Assistance Program Grant funding from the Virginia Department of Criminal Justice Services Grant # 17-A4052AD15 for the Positive Action in Roanoke program.

Authorize the City Manager to execute any forms required by the Virginia Department of Criminal Justice Services in order to accept these funds; such documents to be approved as to form by the City Attorney.

Adopt the accompanying budget ordinance to establish a revenue estimate for Federal grant funds of $44,090 and appropriate funding in the amount of $44,090 into expenditure accounts to be established by the Director of Finance. Family Service Roanoke Valley will be contributing the required $4,899 in matching funds separately.

Christopher P. Morrill
City Manager

Distribution: Council Appointed Officers
R. Brian Townsend, Asst. City Mgr. for Community Development
Barbara A. Dameron, Director of Finance
Jenny Alexander, Interim Director of Human and Social Services
Yolanda Conaway-Wood, Executive Director for Student Services, Roanoke City Public Schools
James M. O'Hare, Youth Care Administrator

Attachment A
Byrne Justice Assistance Grant, Family Service of Roanoke Valley, Positive Action
2016 Account Set-up Transactions

Account No.	Description	Amount
35-630-xxxx-xxxx	Federal Pass-thru Revenue—2016 Byrne Justice Assistance Grant Grant # 17-A4052AD15	$44,090
	Total Revenues	$44,090
Expenditures:		
32-630-xxxx-2010	Fees for Professional Services	$33,903
35-630-xxxx-2030	Administrative Supplies	$2,014
35-630-xxxx-2066	Program Activities	$7,476
35-630-xxxx-2144	Travel	$697
	Total Expenditures	$44,090

7.a.2.

DJC

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION accepting federal Byrne Justice Assistance Grant (JAG) program funding made to the City in collaboration with Family Service of Roanoke Valley, from the Virginia Department of Criminal Justice Services in connection with the "Positive Action in Roanoke" project, and authorizing execution of any required documentation on behalf of the City.

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

1. The City of Roanoke does hereby accept federal Byrne JAG program funding made to the City in collaboration with Family Service of Roanoke Valley, from the Virginia Department of Criminal Justice Services in the amount of $44,090, with a local match from the City in the amount of $4,899, to be provided by Family Service of Roanoke Valley, for a total award of $48,989, to be expended on the "Positive Action in Roanoke" project, a research-based social-emotional learning curriculum that includes family engagement activities, and a community service learning program for children in 3rd through 5th grade residing in the public housing neighborhoods, as more particularly described in the City Council Agenda Report dated November 21, 2016.

2. The City Manager is hereby authorized to accept, execute, and file on behalf of the City of Roanoke, any and all documents required to obtain such funding, and to execute a contract with Family Service of Roanoke Valley to implement the program. All such documents shall 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 the U.S. Department of Justice Byrne Justice Assistance Grant (JAG) Program, as provided by the Virginia Department of Criminal Justice Services for the Positive Action Program, amending and reordaining certain sections of the 2016-2017 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 2016-2017 Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Fees for Professional Services	35-630-5029-2010	$ 33,903
Administrative Supplies	35-630-5029-2030	2,014
Program Activities	35-630-5029-2066	7,476
Business Meals and Travel	35-630-5029-2144	697
Revenues		
Byrne JAG Positive Action FY17	35-630-5029-5029	44,090

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.

CITY COUNCIL AGENDA REPORT

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

Meeting: **November 21, 2016**

Subject: **Firehouse Subs Public Safety Foundation Grant - Police Ballistic Shields and Tourniquets**

Background:

The Firehouse Subs Public Safety Foundation would like to purchase and donate seven ballistic shields and 250 tourniquets in belt carry pouches to the Roanoke Police Department. The total value of this grant donation will be $30,229. The Firehouse Subs Public Safety Foundation will purchase the items directly and donate them to the Roanoke Police Department.

The Firehouse Subs Public Safety Foundation is a 501(c)(3) nonprofit. The foundation was established in 2005 in the aftermath of Hurricane Katrina by firefighting brothers, and restaurateurs, Chris Sorensen and Robin Sorensen. The foundation has a commitment to providing first responders with life-saving equipment and resources. The Foundation has awarded more than $20 million to public safety organizations throughout the country and to more than 1,450 fire, police and EMS departments. The Firehouse Subs Public Safety Foundation recently donated three automated external defibrillators (AEDs) to the Roanoke Police Department.

Approximately $16,205 will be spent on ballistic shields with accessories and $14,024 will be spent on tourniquets and belt carry pouches. No local match funding or grant account transactions are required for this donation

Recommended Action:

Accept the donation described above and authorize the City Manager to execute the grant agreement and any related documents; all such documents to be approved as to form by the City Attorney.

CHRISTOPHER P. MORRILL
City Manager

Distribution: Council Appointed Officers
R. Brian Townsend, Assistant City Manager
Barbara A. Dameron, Director of Finance
Timothy S. Jones, Chief of Police
Amelia C. Merchant, Director of Management and Budget

7.a.3.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION authorizing acceptance of a donation from Firehouse Subs Public Safety Foundation, to the Roanoke City Police Department of seven (7) ballistic shields and two hundred fifty (250) tourniquets in belt carry pouches, and authorizing execution of any and all necessary documents to accept the donation.

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

1. The City Manager is hereby authorized on behalf of the City to accept from Firehouse Subs Public Safety Foundation, a donation to the Roanoke City Police Department of seven (7) ballistic shields, and two hundred fifty (250) tourniquets in belt carry pouches. Approximately $16,205 will be spent on ballistic shields with accessories and $14,024 will be spent on tourniquets and belt carry pouches, making the total value of this grant donation to be $30,229. The grant, which requires no match by the City, is more particularly described in the City Council Agenda Report dated November 21, 2016.

2. The City Manager and the City Clerk are hereby authorized to execute and attest, respectively, for and on behalf of the City, any and all requisite documents pertaining to the City's acceptance of the donation, such documents to be approved as to form by the City Attorney.

3. This Council wishes to express its appreciation and that of the citizens of the City of Roanoke to Firehouse Subs Public Safety Foundation, for their generous donation to the Roanoke City Police Department as described above.

4. The City Clerk is directed to transmit a copy of this Resolution to Firehouse Subs Public Safety Foundation, expressing the City's appreciation for its donation.

ATTEST:

City Clerk.

7.a.4.

CITY COUNCIL AGENDA REPORT

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

Meeting: **November 21, 2016**

Subject: **Amendment No. 1 to Contract with Line and Grade, LLC for Colonial Avenue Improvements - Engineering Design Services (CM16-00161)**

Background:

The City entered into a Contract with Line and Grade, LLC dated December 1, 2015 to perform multiple phases of engineering services for the improvements to Colonial Avenue from Overland Road to Winding Way Road. The initial phase of the Contract provided for the Conceptual Design Phase services up to 50% design for a fee of $250,000.

Considerations:

The City desires to have Line and Grade, LLC provide services for completing construction documents for bidding, assisting with project meetings, and providing post design services during construction.

Line and Grade, LLC submitted a proposal for a Contract Amendment for the completion of construction documents for an additional fee of $239,900. The services will include, but will not necessarily be limited to, completing final design documents, supporting the City with the bid, project coordination of utilities, rights of way, etc., site visits, attending project meetings, and other associated services or work deemed necessary.

In addition to the above fee, other project expenses connected with the project's construction phase may involve encountering unexpected conditions that may necessitate Line and Grade, LLC providing services above those stipulated. Therefore, future amendments may be needed to the Contract with Line and Grade, LLC to perform additional services as the project develops. However, the total of such other amendments is not expected to exceed an additional $60,000 over and above the previously mentioned $239,900, for total Contract Amendments not to exceed $299,900. Funding is available in the project account 08-530-9458, Colonial Avenue Improvements.

Recommended Action:

Authorize the City Manager to execute additional amendments as mentioned above, approved as to form by the City Attorney, to the City's Contract with Line and Grade, LLC in an amount not to exceed $299,900 for additional professional services, including an Amendment for $239,900 as set forth above.

Authorize the City Manager to take such actions and to execute such documents, as may be necessary to provide for the implementation, administration, and enforcement of all such amendments to the above mentioned Contract with Line and Grade, LLC, as well as the Contract itself. Any such documents shall be approved as to form by the City Attorney.

CHRISTOPHER P. MORRILL
City Manager

Distribution: Council Appointed Officers
Sherman M. Stovall, Assistant City Manager for Operations
Barbara A. Dameron, Director of Finance
Robert K. Bengtson, P.E., Director of Public Works
Philip C. Schirmer, P.E., L.S., City Engineer

yl

7.a.4.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION authorizing the City Manager's issuance and execution of Amendment No. 1 to the City's Contract with Line and Grade, LLC ("Line and Grade") for additional engineering design services for the improvements to Colonial Avenue; and authorizing the City Manager to take certain other actions in connection with such Amendment.

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

1. The City Manager is authorized to issue and execute Amendment No. 1 as may be necessary to the City's Contract with Line and Grade, in an amount not to exceed an additional $299,900 for additional engineering design services for the improvements to Colonial Avenue, S.W., Roanoke, Virginia, from Overland Road, S.W., Roanoke, Virginia, to Winding Way Drive, S.W., Roanoke, Virginia, all as more fully set forth in the City Council Agenda Report dated November 21, 2016.

2. The form of such Amendment shall be approved by the City Attorney.

3. Such Amendment shall provide authorization for additions to the work, with an increase in the amount of the Contract, and provide that the total amount of such Amendment will not exceed an additional $299,900, all as set forth in the above mentioned City Council Agenda Report.

4. The City Manager is authorized to take such actions and to execute such documents as may be necessary to provide for the implementation, administration, and enforcement of Amendment No. 1 to the above mentioned Contract with Line and Grade, as well as the Contract itself. All such documents shall be approved as to form by the City Attorney.

ATTEST:

City Clerk.

7.a.5.

CITY COUNCIL AGENDA REPORT

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

Meeting: **November 21, 2016**

Subject: **Amendment No. 2 to Contract with AECOM Technical Services, Inc. for Franklin Road over Norfolk Southern Railway (NSRW) Bridge Replacement and Corridor Study - Engineering Design Services (CM16-00164)**

Background:

The City entered into a Contract with AECOM Technical Services, Inc. dated March 19, 2013 to perform multiple phases of engineering services for the replacement of the Franklin Road Bridge over NSRW. The initial phase of the Contract provided for the Conceptual Design Phase services of the Project with a fee of $390,446. Amendment No. 1 to the contract dated December 12, 2014 provided for Final Design Phase services with a fee of $760,880. Total contract amount to date is $1,151,326.

Considerations:

The City now desires to have AECOM Technical Services, Inc. provide services for the Construction Phase of the project.

Based on the scope of the construction project, AECOM Technical Services, Inc. has submitted a proposal for a Contract Amendment for the Construction Phase for an additional fee of $137,700. The Construction Phase will include, but will not necessarily be limited to, supporting the City with project coordination of utilities, rights of way, etc., site visits, attend monthly progress meetings, review shop drawings, samples, and submittals and other associated services or work deemed necessary.

In addition to the above fee, other project expenses connected with the project's construction phase may involve encountering unexpected conditions that may necessitate AECOM Technical Services, Inc. providing services over and above those stipulated above. Therefore, future amendments may be needed to the Contract with AECOM Technical Services, Inc. to perform additional services as the project develops. However, the total of such other amendments is not expected to exceed an additional $62,300 over and above the previously mentioned $137,700 for total Contract Amendments not to exceed $200,000. Funding is available in the project account 08-530-9965, Franklin Road over NSRW-Bridge Replacement.

Recommended Action:

Authorize the City Manager to execute additional amendments as mentioned above, approved as to form by the City Attorney, to the City's Contract with AECOM Technical Services, Inc. in an amount not to exceed $200,000 for additional professional services, including an Amendment for $137,700 as set forth above.

Authorize the City Manager to take such actions and to execute such documents, as may be necessary to provide for the implementation, administration, and enforcement of all such amendments to the above mentioned Contract with AECOM Technical Services, Inc., as well as the Contract itself. All such documents are to be approved as to form by the City Attorney.

CHRISTOPHER P. MORRILL
City Manager

Distribution: Council Appointed Officers
Sherman M. Stovall, Assistant City Manager for Operations
Barbara A. Dameron, Director of Finance
Robert K. Bengtson, P.E., Director of Public Works
Philip C. Schirmer, P.E., L.S., City Engineer

gc

7.a.5.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION authorizing the City Manager's issuance and execution of additional Amendments to the City's Contract with AECOM Technical Services, Inc., for additional professional services for the Construction Phase of the Franklin Road over Norfolk Southern Railway (NSRW) Bridge Replacement Project; and 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 Amendments to the above mentioned Contract, as well as the Contract itself.

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

1. The City Manager is hereby authorized, for and on behalf of the City, to issue and execute additional Amendments as may be necessary to the City's Contract with AECOM Technical Services, Inc., for additional professional services for the Construction Phase of the Franklin Road over NSRW Bridge Replacement Project, all as more fully set forth in the City Council Agenda Report dated November 21, 2016.

2. The form of such Amendments shall be approved by the City Attorney.

3. Such Amendments will provide authorization for additions to the work, with an increase in the amount of the Contract and provided the total amount of all such Amendments will not exceed an additional $200,000, which includes an Amendment No. 2 for $137,700, all as set forth in the above Agenda Report.

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 such Amendments to the above mentioned Contract, as well as the Contract. All such documents shall be approved as to form by the City Attorney.

ATTEST:

City Clerk.

8.a.

ROANOKE CITY
PUBLIC SCHOOLS
Strong Students. Strong Schools. Strong Cit

School Board

Annette Lewis
Chairman

Lori E. Vaught
Vice Chairman

Mark K. Cathey
William B. Hopkins, Jr.
Laura D. Rottenborn
Lutheria H. Smith
Dick Willis

Dr. Rita D. Bishop
Superintendent

Cindy H. Poulton
Clerk of the Board

November 21, 2016

The Honorable Sherman P. Lea, Sr., Mayor
and Members of Roanoke City Council
Roanoke, VA 24011

Dear Members of Council:

As a result of official School Board action on Tuesday, November 8, 2016, the Board respectfully requests that City Council approve the following appropriation request:

New Appropriation	Award
Foundation for Roanoke Valley 2016-17	$10,500.00

On behalf of the School Board, thank you for your consideration.

Sincerely,

Cindy H. Poulton
Clerk

pc: Dan Callaghan
Chris Morrill
Barbara Dameron
Annette Lewis
Rita D. Bishop
Kathleen Jackson
Lori Ramey (w/details)

www.rcps.info p: 540.853.2381 f: 540.853.2951 P.O. Box 13145 Roanoke VA 24031

8.a.

CITY COUNCIL AGENDA REPORT

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

Meeting: **November 21, 2016**

Subject: **School Board Appropriation Request**

Background:

As the result of official Roanoke City School Board action at its November 8, 2016 meeting, the Board respectfully requested that City Council appropriate funding as outlined in this report.

The Foundation for Roanoke Valley 2016-17 grant award of $10,500 aids in the purchase of portable automatic external defibrillators (AEDs) for the middle and high-school athletic programs.

Recommended Action:

We recommend that Council concur with this report of the School Board and adopt the attached budget ordinance to establish revenue estimates and to appropriate funding as outlined.

Barbara A. Dameron

Barbara A. Dameron
Director of Finance

Distribution: Council Appointed Officers
Rita D. Bishop, Superintendent, RCPS
P. Steve Barnett, Assistant Superintendent for Operations, RCPS
Kathleen M. Jackson, Chief Financial Officer, RCPS

8.a.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to appropriate funding from the Foundation for Roanoke Valley for various educational programs, amending and reordaining certain sections of the 2016-2017 School 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 2016-2017 School Grant Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Medical Supplies	302-232-0000-1000-751L-62220-46605-0-00	$ 10,500
Revenues		
Local/Other Revenue	302-000-0000-0000-751L-00000-33808-0-00	$ 10,500

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: November 21, 2016

Subject: Application by Ivy View, LLC, to repeal all conditions proffered as part of a previous rezoning and amend the Planned Unit Development Plan as it pertains to the properties located at 2207, 2203, 0, 2219, 0, and 2211 Franklin Road, S.W., bearing Official Tax Nos. 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113, respectively.

Recommendation

The Planning Commission held a public hearing on Monday, November 14, 2016. By a vote of 6 - 0, the Commission recommended approval of the rezoning request, finding that the Amended Application No.1 is consistent with the City's Comprehensive Plan, *Franklin Road/Colonial Avenue Neighborhood Plan*, and Zoning Ordinance as the subject property will be redeveloped for an active use appropriate to the surrounding area.

Application Information

Request:	Amendment of Planned Unit Development Plan and Repeal of Proffered Conditions
Owner:	Danny E. Broach, Ivy View, LLC
Applicant:	N/A
Authorized Agent:	Maryellen F. Goodlatte, Esq., Glenn Feldmann
City Staff Person:	Katharine Gray, Land Use and Urban Design Planner
Site Address/Location:	2207, 2203, 0, 2219, 0, and 2211 Franklin Road, S.W.
Official Tax Nos.:	1150102, 1150104, 1150106, 1150108, 1150112, and 1150113
Site Area:	3.4295 acres
Existing Zoning:	INPUD, Institutional Planned Unit Development
Proposed Zoning:	INPUD, Institutional Planned Unit Development
Existing Land Use:	Vacant
Proposed Land Use:	Mix of commercial and assembly uses including residential separately and as part of mixed use buildings as outlined further on the development plan

Neighborhood Plan:	*Franklin Road/Colonial Avenue Plan*
Specified Future Land Use:	Light Industrial and General Commercial
Filing Date:	Original Application: September 26, 2016 Amended Application No. 1: October 21, 2016

Background

In 2004, twelve properties and right-of-way at the intersection of Franklin Road and Wonju Street were rezoned from C-2, General Commercial District, and LM, Light Manufacturing District, to INPUD, Institutional Planned Unit Development, permitting the development of a mixed use retail/office development that was known as the Ivy Market development. A grocery store and drug store with associated site improvements were built on the westernmost properties. However, no development occurred on the properties subject to this request. The grocery store closed in 2009 and the building was vacant until the development plan for that portion of the properties was amended in early 2014 with an expanded list of uses. In the second half of 2014, the owner amended the development plan for the remainder of the properties to facilitate the continued development for uses including retail and restaurants.

In September of 2016, the applicant's authorized agent met with staff to discuss the possibility of amending the development plan for the vacant portion of the properties to permit a different configuration of buildings on the property.

The applicant subsequently filed an application to amend the planned unit development plan and repeal conditions for the properties at 2207, 2203, 0, 2219, 0, and 2211 Franklin Road, S.W., bearing Official Tax Nos. 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113, respectively. (Official Tax Nos. 1150106 and 1150112 both have a street address of "0 Franklin Road, S.W."). The conditions proposed for repeal that remain applicable to the proposed development have been incorporated as standards on the PUD development plan.

In October of 2016, the applicant filed an amended application clarifying the architectural detailing of and landscaping along the façade facing Franklin Road for building "A" on the development plan.

Proffered Conditions

The conditions proposed for repeal on the 3.4295 acre parcel (being Official Tax Nos. 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113), set forth on the INPUD Development Plan dated August 6, 2014 and adopted through enactment of Ordinance No. 40062-091514, require three (3) entrances to serve the site, one with a divider median and restricted traffic flows; require architectural compatibility of all buildings on the site through

materials and style; restrict the height of buildings; require transparency, primary entrances, and articulation to prevent blank walls on building façades facing Franklin Road; restrict the number, size, and location of freestanding signs, ground signs, and building signs; require illumination levels for parking and drives to be eight foot candles or less; require certain parking lot lighting design; require proffered conditions to bind any portion of parcels subdivided or re-combined; and limit the use of the property to particular uses.

The conditions proposed to be imposed, set forth in the INPUD Development Plan of Amended Application No.1, dated October 19, 2016, require particular placement of buildings, landscaped areas, and parking on the site; require three (3) entrances to serve the site, one with a divider median and restricted traffic flows; require architectural compatibility of all buildings on the site through materials and style; restrict the height of buildings; require transparency on Building "B" and a combination of particular types of articulation on Building "A" to prevent blank walls on building façades facing Franklin Road; require a primary entrance visible from and within a certain distance from Franklin Road; require foundation plantings along the Franklin Road façade of Building "A"; restrict the number, size, and location of freestanding signs, ground signs, and building signs; require illumination levels for parking and drives to be eight foot candles or less; require certain parking lot lighting design; require proffered conditions to bind any portion of parcels subdivided or re-combined; and limit the use of the property to particular uses.

All development must be in substantial conformance with the development plan and other applicable standards of the zoning ordinance (e.g., landscaping and screening).

Considerations

The property is part of a larger commercial development located at a commercial crossroads along Franklin Road. It is currently zoned INPUD and an amendment to the planned unit development plan has been requested that significantly changes the proposed development of the property. The proposed redevelopment proposal was evaluated based on market demand, design, site size, location, accessibility, and infrastructure to determine if the proposed redevelopment of the property fulfills the City vision for redevelopment of underutilized commercial sites.

Surrounding Zoning and Land Use:

	Zoning District	*Land Use*
North	Railroad and I-1, Light Industrial District	Railroad, Vacant and Warehouse
South	CG, Commercial-General District	Office, general or professional, and Vacant

	Zoning District	*Land Use*
East	CG, Commercial-General District	Gasoline station, Retail sales establishment, Personal service establishment, and Vacant
West	INPUD, Institutional Planned Unit Development	Medical Clinic, Laboratory (dental, medical, or optical), Laboratory (testing), Health and Fitness Center, Office, General or Professional and/or Hospital (Outpatient Facility Only); Eating and drinking establishment

Compliance with the Zoning Ordinance:

The purposes of the INPUD District are to encourage harmonious development of institutional uses and mixed-use campus developments, to provide flexibility for creative development, to minimize potential negative impacts of institutional uses on neighboring uses, and to recognize the special complexity and interrelationships of land uses and activities in these institutional complexes.

In a Planned Unit Development District, many of the dimensional regulations are defined by the PUD development plan. The proposed development plan displays the required information through graphics and text.

Signage is regulated in the INPUD district by what is specified on the development plan or is the same as CG when not specified by the development plan. The development standards in the proposed development plan limits the number of ground signs on the subject properties to conformance with the CG zoning district with a maximum of two ground signs for the entirety of the subject properties. Those ground signs located at vehicular entrances may serve as identification signs for the center development. The building mounted signage on Building "A" is limited to 1850 square feet of signage placed on the facades, and need not be proportionally allocated. All other development standards regarding signage listed on the proposed development plan remain the same as in the existing development plan.

An original traffic impact study was completed in 2002 and updated in 2004 in association with the original rezonings. The applicant submitted new trip generation analysis based on the proposed amendment to the INPUD that shows a reduction in peak hour vehicle trips. No traffic study is required at this time.

Conformity with the Comprehensive Plan and Neighborhood Plan:

Both *Vision 2001-2020* and the *Franklin Road/Colonial Avenue Plan* are based on the value of existing development in neighborhoods as guiding principles for new development and redevelopment of land. While change is expected as the City grows, new development must consider the character and development pattern of the surrounding area. The plans indicate that the subject properties

are located in an area denoted for commercial and industrial development. The previous creation of the INPUD reflects previous policy decisions that a mixed commercial development is appropriate in this area. The amendment of the planned unit development plan will allow for development of an unbuilt portion of a commercial center along Franklin Road to continue. Relevant policies and action items in the comprehensive plan include:

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.

ED A26. Identify underutilized commercial sites and promote revitalization.

ED A33. Explore redevelopment of areas identified for industrial, commercial, or mixed-use development or reuse such as:

- Franklin Road between SJRA (South Jefferson Redevelopment Area) and Wonju Street.

City Design: Local Commercial Centers

Site development should be maximized through reduced parking spaces, increased lot coverage, and parcels developed along street frontages (p.92).

The *Franklin Road/Colonial Avenue Plan* recognizes the need for the redevelopment of commercial sites along the Franklin Road Corridor. The site is part of a larger overall commercial development located at one of the major intersections of Franklin Road. Relevant policies and action items in the neighborhood plan include:

Community Design:

Design: Future commercial development should adhere to the design principles of Vision 2001-2020 for commercial corridors:

- Concentrations of higher-density, mixed use development and live/work space at key intersections.
- Minimal curb cuts, shared parking, increased lot coverage, signs collocated, no excessive lighting, and orientation of buildings close to the street.

Parking: Paved parking spaces should be minimized.

Franklin Road Area: Require new developments to incorporate urban amenities (e.g. sidewalks and curbs), and mixed-use (commercial and residential) where possible.

Economic Development:

Franklin Road: Maintain commercial zoning that will retain existing businesses and attract new establishments.

Commercial Centers: Identify or create nodes along Franklin Road for commercial centers; concentrations of small- to medium- sized commercial establishments.

Quality of Life:

Commercial/Industrial Development: Commercial and industrial development should be economically viable without threatening the environment and high quality of life of the area.

Infrastructure Policies:

Streetscapes: Streetscapes should be well maintained, attractive and functional for pedestrian, bicycle and motor traffic.

Curb, gutter and sidewalk Improvements: New developments and arterial and collector streets should have urban amenities such as sidewalks and curb and gutter and appropriate species of trees should also be planted along streetscapes.

Public Comment Summary

None

Planning Commission Work Session (October 7, 2016):

The following items were discussed in the Planning Commission Work Session for compliance with City policy and ordinances.

- Concern was expressed that the building design conditions for Building A do not provide enough detailing to prevent a nearly blank wall facing Franklin Road. Currently, the conditions require meeting one articulation element from List A and two or more articulation elements from List B. It would be preferable to see at least two of those articulation elements required from List A, with one of the articulation elements being offsets to the building façade with a minimum depth of

two feet, along with the two or more articulation elements required from List B.

- Concern was expressed about the buildings proximity to the public sidewalk. A condition requiring the building be set back farther than 3 feet would be preferred.

- Concern was also expressed about the lack of specificity in the language regarding shrubs and trees along the Franklin Road façade of Building A. Adding language regarding the number of shrubs along the façade and specifying that they will be along the entire façade would be preferred. Trees along that façade would be preferred as well.

The Applicant subsequently filed Amended Application No.1 addressing some of the comments, including the level of detailing of and the landscaping along the Franklin Road façade.

Conclusions and Recommendations:

In 2004, City Council approved an Institutional Planned Unit Development Plan (INPUD) for this area, including the subject properties, which proposed a 58,000sf grocery store, a 14,800sf retail sales establishment, and four mixed use buildings totaling 110,000sf with underground parking and parking garage. The grocery store and retail sales establishment were built. The grocery store closed in 2009 and the building was vacant until the development plan for that portion of the development was amended in early 2014 with an expanded list of uses.

In late 2014, City Council approved another INPUD for the remaining undeveloped parcels reducing the size and scope of the development to four mixed use buildings in building footprints of approximately 40,000sf visually open to Franklin Road with pedestrian and vehicular circulation systems linking the proposed development to the existing development and Franklin Road. The building located closest to Franklin Road and the existing development recently opened as a restaurant, but the remainder of the parcels remains undeveloped.

The City policy of orienting buildings close to the street clearly defines the streetscape and brings human activity to the forefront. The newly proposed plan for the remaining undeveloped sites enlarges the building at the northeastern most portion of the development to accommodate an approximately 24,000sf grocery store. The plan continues to define the streetscape and bring activity to the street with the placement of the store close to Franklin Road with an appropriately detailed façade in place of transparency. The maximum building height remains fifty feet.

The new development plan addresses other policy of the comprehensive plan and neighborhood plan through the maximized site development with shared parking areas, trees located along street frontages, greater land uses appropriate to a village center/commercial center area, and a circulation pattern for pedestrian as well as vehicular transportation.

The principal consideration is whether the proposed amendment to the planned unit development plan is consistent with Vision 2001-2020 and the Franklin Road/Colonial Avenue Plan. The proposed development enables the completion of an undeveloped portion of a commercial center, at a key intersection, while increasing the types of uses allowed. Staff finds that the plan, as proposed, is consistent with these plans as it redevelops an existing commercial site that is specifically targeted in each plan with uses and forms that are appropriate to the surrounding neighborhoods.

Planning Commission Public Hearing (November 14, 2016):

None

Kermit Hale /
Kermit Hale, Chair tmc
City Planning Commission

c: 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
Danny E. Broach, Ivy View, LLC
Maryellen F. Goodlatte, Esq., Glenn Feldmann

[redacted]

ROANOKE

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

Click Here to Print

Date: October 21, 2016

Submittal Number: Amended Application No. 1

[redacted]

- ☐ 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

[redacted]

Address: 2207, 2203, 0, 2219, 0, and 2211 Franklin Road, S.W., Roanoke, VA

Official Tax No(s).: 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113

Existing Base Zoning:
(If multiple zones, please manually enter all districts.): INPUD, Institutional Planned Unit Development

☒ With Conditions
☐ Without Conditions

Ordinance No(s). for Existing Conditions (If applicable): 40062-091514

Requested Zoning: INPUD, Institutional Planned U

☒ With Conditions
☐ Without Conditions

Proposed Land Use: SEE ATTACHED

[redacted]

Name: Ivy View, LLC, ATTN: Danny E. Broach, Manager

Phone Number: +1 (336) 905-8916

Address: 3980 Premier Drive, Suite 130, High Point, NC 27265

E-Mail: dbroach@bankofnc.com

Ivy View, LLC
By: D Broach, Manager
Property Owner's Signature:

[redacted]

Name:

Phone Number:

Address:

E-Mail:

Applicant's Signature:

[redacted]

Name: Maryellen F. Goodlatte, Esq.

Phone Number: +1 (540) 224-8018

Address: Glenn, Feldmann, et al., P. O. Box 2887, Roanoke, VA 24001-2887

E-Mail: mgoodlatte@glennfeldmann.com

Maryellen F. Goodlatte
Authorized Agent's Signature:

Proposed Land Use:

Financial Institution
Office, General or Professional
Business Service Establishment, not otherwise listed
Medical Clinic
Mixed Use Building
Bakery, Confectionary, or Similar Food Production, Retail
General Service Establishment, not otherwise listed
Personal Service Establishment, not otherwise listed
Pet Grooming
Retail Sales Establishment, not otherwise listed
Eating Establishment
Eating and Drinking Establishment, not abutting a residential district
Eating and Drinking Establishment, abutting a residential district
Entertainment Establishment, abutting a residential district
Entertainment Establishment, not abutting a residential district
Health and Fitness Center
Meeting Hall
Parking, Off-Site
Dwelling, Multifamily

Zoning Amendment

Application Checklist

ROANOKE

The following must be submitted with the application:

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

For a proffered conditional zoning request, the following must also be submitted:

- [ ] Concept plan meeting the Application Requirements of Item '2(c)' in Zoning Amendment Procedures.

For a conditional zoning request, 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 signage plan, 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 a proffered conditional zoning amendment, the following must also be submitted:

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

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

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

For a comprehensive signage plan 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.

GRAPHIC SCALE

(IN FEET)
1 inch = 50 ft.

PROJECT SIGNAGE

A. FREESTANDING SIGNS

(1) THE NUMBER OF GROUND SIGNS SHALL CONFORM TO THE REQUIREMENTS OF THE ROANOKE CITY ZONING ORDINANCE, TABLE 666-1 FOR THE "CG" ZONING DISTRICT. GROUND SIGNS SHALL NOT BE DEEMED TO INCLUDE DIRECTIONAL SIGNAGE. GROUND SIGNS SHALL BE LIMITED TO A TOTAL OF ONE HUNDRED FIFTY (150) SQUARE FEET OF SIGN SURFACE AREA ON EACH SIGN AND SHALL NOT EXCEED TWENTY (20) FEET IN HEIGHT.

(2) NO MORE THAN TWO (2) GROUND SIGNS SHALL BE LOCATED ON THE PROPERTY. GROUND SIGNS LOCATED AT VEHICULAR ENTRANCES MAY SERVE AS IDENTIFICATION SIGNS FOR THE CENTER DEVELOPMENT.

B. BUILDING SIGNS

(1) FOR BUILDING "B", BUILDING MOUNTED SIGNS SHALL BE LIMITED TO 1 SQUARE FOOT OF SIGNAGE AREA FOR EACH LINEAR FOOT OF A BUILDING FACADE OR STOREFRONT TO WHICH IT IS ATTACHED. NOTWITHSTANDING THE ABOVE LIMITATION, EACH STOREFRONT ON BUILDING "B" SHALL BE ENTITLED TO MINIMUM BUILDING MOUNTED SIGNAGE OF 30 SQUARE FEET. FOR BUILDING "A", BUILDING MOUNTED SIGNAGE, WHICH MAY INCLUDE MURALS, SHALL NOT COLLECTIVELY EXCEED 1,000 SQUARE FEET, WHICH SIGNAGE CAN BE PLACED ON ANY ONE OF THE BUILDING FACADES AND NEED NOT BE PROPORTIONATELY ALLOCATED.

(2) BUILDING MOUNTED SIGNS SHALL NOT BE DEEMED TO INCLUDE BLADE SIGNAGE (I.E. SIGNAGE PERPENDICULAR TO THE BUILDING FACADE TO WHICH IT IS ATTACHED) SO LONG AS SUCH BLADE SIGNAGE IS 10 SQUARE FEET OR LESS.

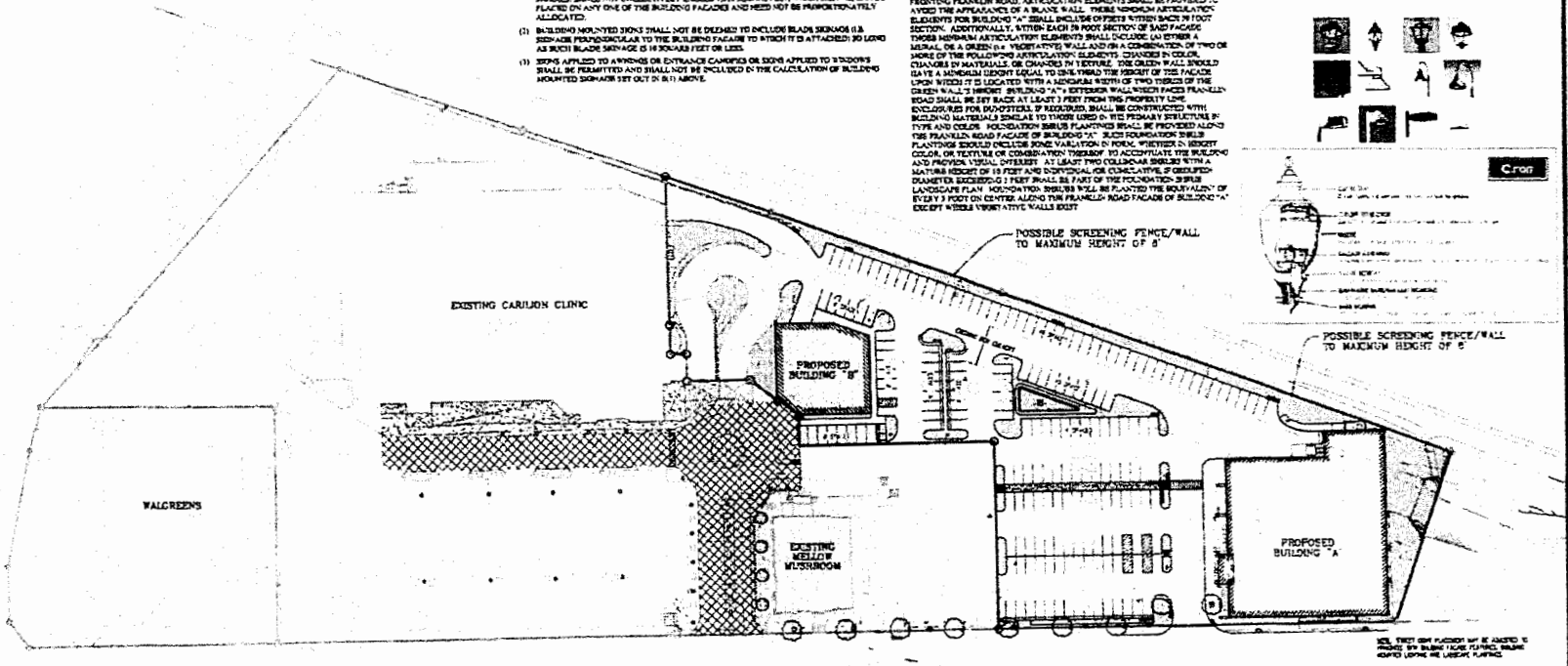
(3) SIGNS APPLIED TO AWNINGS OR ENTRANCE CANOPIES OR SIGNS APPLIED TO WINDOWS SHALL BE PERMITTED AND SHALL NOT BE INCLUDED IN THE CALCULATION OF BUILDING MOUNTED SIGNAGE SET OUT IN (B.1) ABOVE.

BUILDING DESIGN

THE DESIGN OF ALL BUILDINGS SHALL BE ARCHITECTURALLY COMPATIBLE THROUGH THE USE OF COMMON MATERIALS, STYLES OR FORMS WITH THE BUILDINGS ON TAX MAP PARCELS 1171204 (1172204) AND 1150101. THE EXTERIOR FINISH MATERIALS FOR ANY BUILDING ON THE PROPERTY SHALL BE LIMITED TO THE FOLLOWING: STUCCO OR EXTERIOR INSULATED FINISH SYSTEM (EIFS), STONE OR CAST STONE, BRICK, COMPOSITE, HARDIPLANK PANELS, GLASS, METAL, WOOD, STANDING METAL SEAM, FACE STONE, TRELLIS-LIKE STRUCTURE SUPPORTING VEGETATIVE FACADES, OR OTHER FINISH MATERIALS USED ON THE BUILDINGS LOCATED ON TAX MAP PARCEL 1171203 OR 1172204. BUILDING HEIGHT SHALL NOT EXCEED FIFTY (50) FEET. THE TWO FACADES ON BUILDING "B" AS SHOWN ON THE INFILL DEVELOPMENT PLAN WHICH FACE FRANKLIN ROAD AND THE INTERIOR OF THE DEVELOPMENT FACING BUILDING A SHALL HAVE A MINIMUM TRANSPARENCY OR GLAZING OF 30% FOR THE GROUND FLOOR, AND 20% FOR UPPER FLOORS, TO THE EXTENT THAT UPPER FLOORS ARE CONSTRUCTED. BUILDINGS LOCATED WITHIN 100 FEET OF FRANKLIN ROAD SHALL HAVE A PRIMARY ENTRANCE VISIBLE FROM FRANKLIN ROAD AND NO GREATER THAN 150 FEET FROM THE FRANKLIN ROAD RIGHT OF WAY AND SHALL PROVIDE PEDESTRIAN LINKAGE TO FRANKLIN ROAD. FOR ANY FACADE ON BUILDING "A" AS SHOWN ON THE INFILL DEVELOPMENT PLAN LONGER THAN 30 FEET AND FRONTING FRANKLIN ROAD, ARTICULATION ELEMENTS SHALL BE PROVIDED TO AVOID THE APPEARANCE OF A BLANK WALL. THESE MINIMUM ARTICULATION ELEMENTS FOR BUILDING "A" SHALL INCLUDE OFFSETS WITHIN EACH 30 FOOT SECTION. ADDITIONALLY, WITHIN EACH 30 FOOT SECTION OF SAID FACADE THOSE MINIMUM ARTICULATION ELEMENTS SHALL INCLUDE: (A) EITHER A MURAL, OR A GREEN (i.e. VEGETATIVE) WALL AND (B) A COMBINATION OF TWO OR MORE OF THE FOLLOWING ARTICULATION ELEMENTS: CHANGES IN COLOR, CHANGES IN MATERIALS, OR CHANGES IN TEXTURE. THE GREEN WALL SHOULD HAVE A MINIMUM HEIGHT EQUAL TO 15% OF THE HEIGHT OF THE FACADE UPON WHICH IT IS LOCATED WITH A MINIMUM WIDTH OF TWO THIRDS OF THE GREEN WALL'S HEIGHT. BUILDING "A"'S EXTERIOR WALL WHICH FACES FRANKLIN ROAD SHALL BE SET BACK AT LEAST 3 FEET FROM THE PROPERTY LINE. ENCLOSURES FOR DUMPSTERS, IF REQUIRED, SHALL BE CONSTRUCTED WITH BUILDING MATERIALS SIMILAR TO THOSE USED IN THE PRIMARY STRUCTURE IN TYPE AND COLOR. FOUNDATION SHRUB PLANTINGS SHALL BE PROVIDED ALONG THE FRANKLIN ROAD FACADE OF BUILDING "A". SUCH FOUNDATION SHRUB PLANTINGS SHOULD INCLUDE ZONE VARIATION IN FORM, WHETHER IN HEIGHT, COLOR, OR TEXTURE OR COMBINATION THEREOF TO ACCENTUATE THE BUILDING AND PROVIDE VISUAL INTEREST. AT LEAST TWO COLUMNAR SHRUBS WITH A MATURE HEIGHT OF 10 FEET AND INDIVIDUAL OR CUMULATIVE, IF GROUPED, DIAMETER EXCEEDING 3 FEET SHALL BE PART OF THE FOUNDATION SHRUB LANDSCAPE PLAN. FOUNDATION SHRUBS WILL BE PLANTED THE EQUIVALENT OF EVERY 3 FOOT ON CENTER ALONG THE FRANKLIN ROAD FACADE OF BUILDING "A" EXCEPT WHERE VEGETATIVE WALLS EXIST.

PARKING LOT LIGHTING DESIGN

WHILE PEDESTRIAN LIGHTING IS EXPECTED TO HAVE A PERIOD APPEARANCE, ALL PARKING LOT LIGHTING FIXTURES MOUNTED ON POLES TALLER THAN 18 FEET SHALL BE THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA) STANDARD FULL CUTOFF TYPE LUMINAIRES. ALL PARKING LOT LIGHTING FIXTURES MOUNTED ON POLES LOWER THAN 18 FEET SHALL BE THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA) STANDARD CUTOFF TYPE LUMINAIRES. IT IS ANTICIPATED THAT ONE OR MORE OF THE FOLLOWING GENERAL STYLES OF LUMINAIRE SHALL BE USED: A) VINTAGE POST TOP LANTERN STYLE, B) MODERN OR VINTAGE HANGING PENDANT OR BELL, C) STANDARD "SHOE BOX" STYLE AREA LIGHT. ILLUSTRATIVE EXAMPLES OF EACH STYLE ARE SHOWN BELOW AS WELL AS A DIAGRAM DETAILING THE DESIGN, WITH THE LIGHT SOURCE HIDDEN IN THE TOP. TYPICAL 6' POST TOP LUMINAIRES OF THE SPECIFIED CUTOFF VARIETY AVERAGE POST GARDLE ILLUMINATION LEVEL FOR PARKING AREAS AND DRIVES SHALL NOT EXCEED 4 FOOT CANDLES AS MEASURED AND DETERMINED BY THE ZONING ADMINISTRATOR. ILLUMINATION LEVELS AT THE PROPERTY LINE ALONG FRANKLIN ROAD SHALL NOT EXCEED 3 FOOT CANDLES.



LEGEND

- CROSS-ACCESS EASEMENT
- OPEN SPACE
- PEDESTRIAN CROSSING
- STREET LIGHT

SUBDIVISION

SHOULD THE PARCELS, WHICH COMPRISE THE PROPERTY, BE COMBINED OR SUBDIVIDED, THE CONDITIONS SHALL BIND EACH SUBDIVIDED OR RECOMBINED PARCELS, AS APPLICABLE. SUCH SUBDIVIDED OR COMBINED LOTS SHALL HAVE A LOT FRONTAGE ON FRANKLIN ROAD OF AT LEAST TEN (10) FEET.

SUBJECT PARCELS

TAX #1150102 - IVY VIEW L.L.C. (0.5260 AC - 22,910 SF)
TAX #1150104 - IVY VIEW L.L.C. (0.2242 AC - 9,835 SF)
TAX #1150106 - IVY VIEW L.L.C. (1.9899 AC - 82,297 SF)
TAX #1150108 - IVY VIEW L.L.C. (0.3930 AC - 17,120 SF)
TAX #1150112 - IVY VIEW L.L.C. (0.0523 AC - 2,276 SF)
TAX #1150113 - IVY VIEW L.L.C. (0.332 AC - 14,490 SF)

INSTITUTIONAL DEVELOPMENT PLAN
FOR IVY MARKET
for TAX PARCELS
1150102, 1150104, 1150106, 1150108,
1150112 AND 1150113
SITUATED ALONG FRANKLIN ROAD, S.W.
ROANOKE, VIRGINIA

PHONE (540) 774-4411
FAX (540) 772-9445
E-MAIL: MAIL@LUMSDENPC.COM

4604 BRAMILTON AVENUE, SW
P.O. BOX 20669
ROANOKE, VIRGINIA 24018

LUMSDEN ASSOCIATES, P.C.
ENGINEERS·SURVEYORS·PLANNERS
ROANOKE, VIRGINIA

DATE: AMENDED OCTOBER 19, 2016 SEPTEMBER 23, 2016
SCALE: 1" = 50'
SHEET 1 OF 1

NARRATIVE

In December 2004, twelve (12) tracts of land and right-of-way at the intersection of Wonju Street and Franklin Road were rezoned from C-2, General Commercial District and LM, Light Manufacturing District, to INPUD, Institutional Planned Unit Development District, subject to certain conditions proffered by the applicant. In August 2007, those conditions were amended with respect to one of the twelve tracts (i.e. tax map parcel 1150108) to permit the erection of a temporary freestanding sign. In April 2014, the conditions were amended with respect to tax map parcel 1272504 to permit that parcel's change of use from a grocery store to medical clinic and related uses to facilitate the redevelopment of that parcel by Carilion Clinic. In September, 2014 the conditions were further amended with respect to the balance of the site (i.e. 4.2869 acres) to facilitate the development of the Mellow Mushroom restaurant on what is now tax map parcel 1150109 (Ordinance Number 40062-091514). The six parcels which are the subject of this zoning amendment application (and which consist of tax map parcels 1150102, 1150104, 1150106, 1150108, 1150112 and 1150113) (collectively, the "Parcels") were part of the acreage included within the scope of the September, 2014 Ordinance.

While the September 2014 INPUD Development Plan anticipated the construction of the Mellow Mushroom restaurant, no other specific users had been identified at the time that ordinance was adopted. The September 2014 Ordinance recognized the importance of flexibility with respect to the design plan for the Parcels. Since the redevelopment of the former grocery store by Carilion Clinic and the construction of the Mellow Mushroom restaurant, Ivy View, LLC became better positioned to attract an additional first-class user.

With the efforts of Harbour Retail Partners, an organization with significant experience in the specialty grocer industry, a grocer is prepared to lease the 23,800+/- square foot building identified on the INPUD Development Plan dated September 23, 2016 and revised October 19, 2016 (the "2016 INPUD Plan") as "Building A". That grocer, with its focus on wellness and healthy foods derived from sustainable agricultural practices, has numerous locations in the Southeast and Midwestern United States. It expects to shortly make its announcement about this Roanoke location and is working towards a store opening in late 2017. The store's indoor seating will be designed to harmonize with outdoor seating planned for patrons. To complement its overall philosophy, the grocer has requested that Harbour Retail Partners help incorporate green initiatives, such as solar panels, skylights, cisterns, green (i.e. vegetative) wall panels, electric charging stations, and similar sustainable elements into the building design to the extent possible and to the extent economically feasible. The 2016 INPUD Plan provides for the development of one other building on the Parcels, users for which have not yet been established. Ivy View is filing this application in order to remove all the conditions currently attached to the Parcels and replace them with updated standards that will facilitate the development of the grocer parcel and encourage the final build-out of the site in a fashion which will complement the existing development.

The principals of Harbour Retail Partners involved in the development of the Parcels have significant experience in the specialty grocery industry including the acquisition and development of multiple specialty grocer-anchored shopping centers through the Southeast.

Their experience and intimate knowledge of the Roanoke market contributed to the decision of the grocer to locate a new store in our community.

As shown on the original INPUD development plans, two access points on Franklin Road and one access point on Wonju serve the Parcels. One access point on Franklin Road is situated near Building A. The reciprocal easement with Carilion Clinic (a copy of which is attached) also provides the Parcels access to the signalized intersection at Franklin Road as well as the Wonju Street entrance, which are located on the Carilion parcel. Truck traffic serving Building A will primarily use the Wonju Street access, which allows truck traffic to be routed along the rear of the center, much as delivery trucks serving the former grocery store did. It is estimated that two large trucks and four to five small trucks or vans will make deliveries to the grocer weekly.

The 2016 INPUD Plan shows two buildings which are sized and placed in order to meet the requirements of the grocer while providing developmental symmetry, meeting parking requirements, and meeting subdivision requirements. Ultimately, the 6 separate tax parcels which comprise the Parcels will be combined and resubdivided in order to create up to 2 separate tax map parcels. The INPUD Plan provides that the conditions noted thereon will apply to the Parcels however they may be combined or subdivided in the future.

No adverse impacts to the surrounding area are anticipated. Quite to the contrary, the proposed uses of the Parcels will promote and maximize the commercial development of the balance of the site, as encouraged by the City's Comprehensive Plan, including the Franklin Road/Colonial Avenue neighborhood plan.

In analyzing the impacts of the changes in use from those last proposed, the applicant's engineers consulted with the City's traffic engineers and concluded that there would be no adverse traffic impact on the area as a result of the change in use. Comparing the trips generated by the proposed uses of the Parcel in 2004 against the use list (which has remained unchanged from the uses allowed under the current Ordinance), the analysis shows a slight reduction in the number of anticipated trips. A summary of that analysis is attached. The applicant understands that the City's traffic engineers will require that the existing traffic signal (which had been installed after approval of the 2004 plan) remain unactivated until such time as the level of traffic justifies the activation of that signal.

In response to concerns expressed during the Planning Commission Work Session, the INPUD Development Plan has been revised. Minimum articulation standards for Building A's façade facing Franklin Road have been strengthened. Offsets will be required within each 30 foot section of that façade. In addition, each 50 foot section of that façade must include either a mural or a green wall, plus a combination of two or more changes in color, materials or texture. To help illustrate the proposed design of Building A, conceptual elevations are attached. Since the lease agreement with the grocer has not yet been executed, the elevations are not finalized and remain conceptual. But they help to illustrate the intended application of the articulation standards set out on the amended INPUD Development Plan.

Additional detail as to the foundation plantings has also been incorporated in the Standards. The revised INPUD Development Plan also includes an additional tree along Building A in order to

provide symmetry with the tree on the west (Mellow Mushroom) side of the entrance, carrying the "street tree" effect across the entrance.

These additional articulation and landscaping requirements will enhance the visual appeal of Building A to pedestrians and motorists along Franklin Road as well as to the customers/patients of all the Ivy View establishments.

SJG 9/11/14

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

The 15th day of September, 2014.

No. 40062-091514.

AN ORDINANCE to amend §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, by repealing Ordinance No. 36925-122004, adopted December 20, 2004 and Ordinance No. 37875-082007, adopted August 20, 2007, to the extent that they placed certain conditions on properties located at 2207, 2203, 2309, 2219, 2239, zero (0), and 2211 Franklin Road, S.W., bearing Official Tax Map Nos. 1150102, 1150104, 1150106, 1150108, 1150109, 1150112, and 1150113, respectively; to amend the applicable Planned Unit Development Plan pertaining to the aforementioned properties; and dispensing with the second reading of this Ordinance by title.

WHEREAS, Ivy View, LLC, has made application to the Council of the City of Roanoke, Virginia ("City Council"), to repeal Ordinance No. 36925-122004, adopted December 20, 2004, and Ordinance No. 37875-082007, adopted August 20, 2007, to the extent that they placed certain conditions on properties located at 2207, 2203, 2309, 2219, 2239, zero (0), and 2211 Franklin Road, S.W., bearing Official Tax Map Nos. 1150102, 1150104, 1150106, 1150108, 1150109, 1150112, and 1150113, respectively; and to amend the Planned Unit Development Plan pertaining to such properties, to permit use of the property for a financial institution; office, general or professional; business service establishment, not otherwise listed; medical clinic; mixed use building; bakery, confectionary, or similar food production, retail; general service establishment, not otherwise listed; personal service establishment, not otherwise listed; pet grooming; retail sales establishment, not otherwise listed; eating establishment; eating and drinking establishment, not abutting a residential district; eating and drinking establishment, abutting a residential district; entertainment establishment, abutting a residential district;

entertainment establishment, not abutting a residential district; health and fitness center; meeting hall; parking, off-site; dwelling, multifamily instead of a mixed use facility with retail, restaurant, office, underground parking, and parking garage previously permitted by the adoption of Ordinance No. 36925-122004, by City Council on December 20, 2004, and Ordinance No. 37875-082007, by City Council on August 20, 2007;

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 September 15, 2014, 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 rezoning as described herein; and

WHEREAS, City 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 actions sought and described in this ordinance and the Zoning Amendment Amended Application No. 1 dated August 27, 2014, as herein provided.

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

1. Ordinance No. 36925-122004, adopted December 20, 2004, and Ordinance No. 37875-082007, adopted August 20, 2007, to the extent they placed certain conditions on properties located at 2207, 2203, 2309, 2219, 2239, zero (0), and 2211 Franklin Road, S.W., bearing Official Tax Map Nos. 1150102, 1150104, 1150106, 1150108, 1150109, 1150112, and 1150113, respectively, are hereby REPEALED as set forth in the Zoning Amendment Amended

Application No. 1 dated August 27, 2014, and that §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 such action.

2. 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 not only the repeal of Ordinance No. 36925-122004, adopted December 20, 2004, and Ordinance No. 37875-082007, adopted August 20, 2007, as set forth herein, but also the amendment of the Planned Unit Development Plan proffered as a condition of the conditional rezoning, as it pertains to the properties bearing Official Tax Map Nos. 1150102, 1150104, 1150106, 1150108, 1150109, 1150112, and 1150113, as set forth in the Zoning Amendment Amended Application No. 1 dated August 27, 2014.

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:

Stephanie M. Moon Reynolds

City Clerk

140005080 PM 0109 MY 29 14

SHERYL - BCT

PREPARED BY AND
RETURN RECORDED DOCUMENT TO:

Williams Mullen
200 S. 10th Street, 16th Floor
Richmond, VA 23219
Attn: Mary Katherine McGetrick, Esq.

Tax Map Nos: 1272504, 1150106, 1150109, 1150108, 1150102, 1150104, 1150112, and 1150113

RECIPROCAL EASEMENTS, OPERATIONS AND MAINTENANCE AGREEMENT

THIS RECIPROCAL EASEMENTS, OPERATIONS AND MAINTENANCE AGREEMENT (the "*Agreement*") is made and entered into this 23rd day of May, 2014, by **IVY VIEW LLC**, a Virginia limited liability company ("*Ivy View*"), a grantor and grantee for purposes of indexing; and **CARILION CLINIC PROPERTIES, LLC**, a Virginia limited liability company ("*Carilion*"), a grantor and grantee for purposes of indexing.

RECITALS

A. Contemporaneously with the recordation of this Agreement, Carilion acquired fee title to certain real property situated in the City of Roanoke, Virginia, more particularly described on Exhibit A attached hereto (the "*Carilion Property*").

B. Ivy View is the owner of certain adjacent real property situated in the City of Roanoke, Virginia, more particularly described on Exhibit B attached hereto (the "*Ivy View Parcels*").

C. The Carilion Property and the Ivy View Parcels are identified as "Lot A-1A" and "Parcel C-1", respectively, on that certain plat entitled "Plat Showing the Combination & Re-Subdivision of Lot A-1 (5.3674 acres) M.B. 1, PG. 2956 and Parcel C (2.1050 acres) M.B. 1, PG. 1430 Property of Ivy View, LLC Instrument #110009569 Creating Hereon Lot A-1A (5.2179 acres) & Parcel C-1 (2.2545 acres), Situated at #2331 & #2309 Franklin Road, SW, City of Roanoke, Virginia" dated May 9, 2014 and prepared by Lumsden Associates, P.C. (the "*Subdivision Plat*"). The Ivy View Parcels also include Tax Map Parcels #1150109, 1150108, 1150102, 1150104, 1150112 and 1150113, each of which shall be subject to this Agreement.

D. Ivy View and Carilion desire to impose certain covenants and conditions herein with respect to the Ivy View Parcels and the Carilion Property, respectively, for the benefit and complement of both properties and the present and future owner(s) of the Ivy View Parcels and the Carilion Property and its or their respective Permittees (as hereinafter defined), all as hereinafter set forth.

NOW, THEREFORE, in consideration of the above recitals, other good and valuable consideration, and of the easements, covenants and conditions herein contained, and for the mutual complement and benefit of the Ivy View Parcels and the Carilion Property, Ivy View, as to the Ivy View Parcels, and Carilion, as to the Carilion Property, hereby declare, covenant and agree that the Ivy View Parcels and the Carilion Property and all parts thereof and all present and future owners and occupant's thereof, shall be and hereby are subjected to the easements, covenants and conditions and provisions hereinafter set forth in this Agreement, as follows:

AGREEMENTS

1. Definitions. For purposes hereof:

(a) "*Access Road Easement*" shall mean the easement granted in Section 2.1 below, and as shown on the Subdivision Plat.

(b) "*Building*" shall mean any single or multi-story structure existing or constructed by an Owner on a Parcel for medical, office, retail or parking purposes.

(c) "*Clerk's Office*" shall mean the Clerk's Office of the Circuit Court of the City of Roanoke, Virginia.

(d) "*Common Areas*" shall mean those portions of the Parcels which are not, from time to time, improved with Buildings or other structures and which are designated and/or intended for use as Driveways, pedestrian walkways (including the Mezzanine Terrace defined below), sidewalks, landscaped and grassed areas, access ways to and from dedicated public streets, erected or to be erected thereon, as the same may be modified in accordance with the terms of this Agreement.

(e) "*Driveways*" shall mean those drive aisles providing vehicular access across the Parking Areas to and from the abutting public streets and the Access Road, including the ramp into the Parking Garage on Parcel C-1 as shown on the Subdivision Plat.

(f) "*Existing Carilion Building*" shall mean that certain 58,000 square foot building, which currently exists on the Carilion Property.

(g) "*First Mortgagee*" shall mean the holder of the mortgage upon the fee interest in any Parcel that has priority on such fee interest.

(h) "*Mezzanine Terrace*" shall mean the existing pedestrian walkway over the ramp to the Parking Garage attached to the Existing Carilion Building on the eastern side, as shown on the drawing attached hereto as Exhibit C.

(i) "*Owner*" or "*Owners*" shall mean Ivy View and Carilion, individually and collectively, as the context may require, and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered or benefitted hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.

(j) "*Parcel*" or "*Parcels*" shall mean each separately identified parcel of real property now constituting the Ivy View Parcels and/or the Carilion Property and any future subdivisions thereof.

(k) "*Parking Areas*" shall mean the surface parking lot located on the Carilion Property on top of the Parking Garage, and any future parking areas located on the Ivy View Parcels.

(l) ***"Parking Easement"*** shall mean the parking easement granted in Section 2.4 below.

(m) ***"Parking Garage"*** shall mean the existing underground portion of the parking garage located on the Carilion Property.

(n) "***Permittees***" shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).

(o) "***Utility Easements***" shall mean the utility easements granted in Section 3.1 and 3.2 below.

(p) "***Utility Easement Areas***" shall mean those portions of the Commons Areas on the Ivy View Parcels and/or the Carilion Property where Utilities are located and relocated from time to time pursuant to the terms of this Agreement.

(q) "***Utilities***" shall mean sanitary sewer lines, water lines, storm water pipes, electric lines, natural gas lines, cable television and other telecommunications lines, conduits, hydrants, and other utility systems and facilities situated within the Access Road Easement or on the Common Areas and that are designed, intended and made available for the use and benefit of one or more of the Owners, including trunks and connections to any public facilities.

2. Access Easements.

2.1 Access Road Easement. Subject to any express conditions, limitations or reservations contained herein, the Owner of the Carilion Property hereby establishes, grants and conveys to the Owner of the Ivy View Parcels and its Permittees, for the benefit of the Ivy View Parcels, a non-exclusive, perpetual right and easement for vehicular ingress and egress over the existing 30' access road shown on the Subdivision Plat that serves as the primary access way onto U.S. Route 220, a public right-of-way.

2.2 Mezzanine Terrace Easement.

(a) Subject to any express conditions, limitations or reservations contained herein, the Owner of the Carilion Property hereby establishes, grants and conveys to the Owner of the Ivy View Parcels and its Permittees, for the benefit of the Ivy View Parcels, a non-exclusive, perpetual right and easement for pedestrian access over the Mezzanine Terrace. The parties hereto acknowledge and agree that it is the intent of the Owner of the Ivy View Parcels to develop additional retail and office uses on the Ivy View Parcels and to connect the Buildings constructed on Parcel C-1 (as shown on the Subdivision Plat) to the Existing Carilion Building by the Mezzanine Terrace, so as to provide pedestrian access from the Existing Carilion Building over the Parking Garage ramp to the Ivy View Parcels and from the Buildings to be constructed on Parcel C-1 over the Parking Garage ramp to the Existing Carilion Building. Upon request, Carilion hereby agrees to grant reasonable temporary construction easements to the Owner of the Ivy View Parcels in the future to allow for the construction of such future improvements.

(b) Notwithstanding any provision of Subsection 2.2(a) above, and in connection with the additional improvements to be constructed on the Ivy View Parcels adjacent to the Mezzanine Terrace, the Owner of the Ivy View Parcels hereby agrees, for itself and its successors and assigns, that it shall not construct any Building within less than forty-two (42) feet of the eastern face of the Existing Carilion Building (the "***Restricted Building Area***"). The Restricted Building Area shall be the area north of the line beginning at point R-21 and ending at point 5G on the Subdivision Plat, as more particularly shown on the drawing attached hereto as Exhibit D.

(c) In the event that the Owner of the Ivy View Parcels has not constructed a connection to the Mezzanine Terrace on or before December 31, 2016, then the Owner of the Carilion Property may elect to remove the Mezzanine Terrace upon sixty (60) days prior written notice to the Owner of the Ivy View Parcels. If the Owner of the Ivy View Parcels does not object in writing to the removal of the Mezzanine Terrace within such sixty (60) day period (the "***Objection Letter***"), then the Owner of the Carilion Property may remove the Mezzanine Terrace and record an instrument in the land records terminating the easement over the Mezzanine Terrace granted in Subsection 2.2(a) above. The Owner of the Ivy View Parcels may only object to the removal of the Mezzanine Terrace as follows: (i) if the removal of the Mezzanine Terrace would cause structural damage to any existing Buildings located on the Ivy View Parcels, as set forth in a written opinion from a professional engineer, or (ii) if the Owner of the Ivy View Parcels either (x) is currently constructing a connection to the Mezzanine Terrace or (y) has approved plans to construct a connection to the Mezzanine Terrace, with such construction to be completed within six (6) months after the date of the Objection Letter. If the Owner of the Ivy View Parcels does not send the Objection Letter within the sixty (60) day time period, then the Owner of the Ivy View Parcels hereby agrees to execute a document to be recorded terminating the easement over the Mezzanine Terrace, upon request of the Owner of the Carilion Property. The Owner of the Carilion Property shall perform any such removal of the Mezzanine Terrace in a good and workmanlike manner, in accordance with all applicable laws, regulations and ordinances and shall indemnify and hold harmless the Owner of the Ivy View Parcels from any claims, losses or damages suffered related to the removal of the Mezzanine Terrace.

2.3 Driveway Easements.

(a) Subject to any express conditions, limitations or reservations contained herein, the Owner of the Carilion Property hereby establishes, grants and conveys to the Owner of the Ivy View Parcels and its Permittees, for the benefit of the Ivy View Parcels, a non-exclusive right and easement for vehicular ingress and egress over, across and upon the Driveways.

(b) Subject to any express conditions, limitations or reservations contained herein, the Owner of the Ivy View Parcels hereby establishes, grants and conveys to the Owner of the Carilion Property and its Permittees, for the benefit of the Carilion Property, a non-exclusive right and easement for vehicular ingress and egress over, across and upon the Driveways.

2.4 Parking Easement.

(a) Subject to any express conditions, limitations or reservations contained herein, the Owner of the Carilion Property hereby establishes, grants and conveys to the Owner of the Ivy View Parcels and its Permittees, for the benefit of and as an appurtenance to the Ivy View Parcels, a non-exclusive easement for vehicular parking on, over and across the Parking Areas located on the Carilion Property, together with a non-exclusive easement for vehicular and pedestrian ingress and egress by Ivy View, its successors, assigns and Permittees, over the existing Driveways located on the Carilion Property, for providing ingress and egress to and from the Parking Areas to U.S. Route 220. The Parking Easement shall not include the use of the Parking Garage on the Carilion Property.

(b) The Parking Easement shall be used for ingress, egress and parking of passenger vehicles, by the Owner of the Ivy View Parcels and its Permittees.

(c) The use of the Parking Easement by the Owner of the Ivy View Parcels and its Permittees shall not be permitted between the hours of 8:00am and 7:00pm, Monday through Friday (the ***"Restricted Parking Hours"***), except for on state and federal holidays when the offices located on the Carilion Property are closed to patients. Ivy View agrees to provide signage, reasonably acceptable to Carilion, in the Parking Areas indicating the Restricted Parking Hours, at its sole cost and expense. Such signage shall comply with all applicable laws and regulations.

(d) Subsection 2.4(c) above shall not prohibit any Owner of any Parcel from entering into any separate parking easement agreement in the future with the Owner of any other Parcel; provided, however, each Owner shall maintain the appropriate number of parking spaces on their respective Parcels to meet or exceed the requirements of the City of Roanoke Zoning Ordinance.

(e) So long as (i) access to any other parking space within the Parking Areas is not materially interfered with; and (ii) the relocation of any parking space in the Parking Areas does not materially interfere with or require relocation, alteration or redirection of any connecting parking spaces from any other Parcel, then either Carilion or Ivy View may relocate any parking space on their respective Parcel.

2.5 Common Area Easements.

(a) Subject to any express conditions, limitations or reservations contained herein, the Owner of the Carilion Property hereby establishes, grants and conveys to each Owner of the Ivy View Parcels and its Permittees, for the benefit of the Ivy View Parcels, a non-exclusive right and easement to use and enjoy the Common Areas, together with a non-exclusive right and easement for pedestrian ingress and egress over, across and upon the Common Areas for the purpose of access to the Buildings and the Parking Areas.

(b) Subject to any express conditions, limitations or reservations contained herein, each Owner of the Ivy View Parcels hereby establishes, grants and conveys to the Owner of the Carilion Property and its Permittees, for the benefit of the Carilion Property, a non-exclusive right and easement to use and enjoy the Common Areas, together with a non-exclusive right and easement for pedestrian ingress and egress over, across and upon the Common Areas for the purpose of access to the Buildings and the Parking Areas.

3. Utility and Drainage Easements.

3.1 Utility Easements.

(a) Subject to any express conditions, limitations or reservations contained herein, the Owner of the Ivy View Parcels establishes, grants and conveys to the Owner of the Carilion Property, for the benefit of the Carilion Property, a non-exclusive perpetual easement in, under, upon, through and beneath the Common Areas on the Ivy View Parcels for the connection, construction, installation, reconstruction, maintenance and use of Utilities to serve the Carilion Property from time to time and the improvements now or hereafter constructed thereon. The Owner of the Carilion Property shall also have the right to install manholes, electrical transmission boxes or other necessary aboveground facilities in such Utility Easement Areas incident to such Utilities. Notwithstanding the foregoing, in no event shall any construction, installation or maintenance of the Utilities that serve the Carilion Property unreasonably impede the use of, or access to or from, any Parcel.

(b) Subject to any express conditions, limitations or reservations contained herein, the Owner of the Carilion Property establishes, grants and conveys to the Owner of the Ivy View Parcels, for the benefit of the Ivy View Parcels, a non-exclusive perpetual easement in, under, upon, through and beneath the Common Areas on the Carilion Property for the connection, construction, installation, reconstruction, maintenance and use of Utilities to serve the Ivy View Parcels from time to time and the improvements now or hereafter constructed thereon. The Owner of the Ivy View Parcels shall also have the right to install manholes, electrical transmission boxes or other necessary aboveground facilities in such Utility Easement Areas incident to such Utilities. Notwithstanding the foregoing, in no event shall any construction, installation or maintenance of the Utilities that serve the Ivy View Parcels unreasonably impede the use of, or access to or from, any Parcel.

3.2 Storm Water Drainage Easement.

(a) Subject to any express conditions, limitations or reservations contained herein, the Owner of the Carilion Property establishes, grants and conveys to the Owner of the Ivy View Parcels, for the benefit of the Ivy View Parcels, a perpetual, non-exclusive easement for storm water drainage and management over, upon, across and under the Common Areas for the purpose of discharge, drainage, transmission and collection of storm and ground water on, through and across the Carilion Property to the extent necessary to serve the Ivy View Parcels for surface drainage and for installation, maintenance, repair and replacement of the pipe and other apparatus under and across the easement area.

(b) Subject to any express conditions, limitations or reservations contained herein, the Owner of the Ivy View Parcels establishes, grants and conveys to the Owner of the Carilion Property, for the benefit of the Carilion Property, a perpetual, non-exclusive easement for storm water drainage and management over, upon, across and under the Common Areas for the purpose of discharge, drainage, transmission and collection of storm and ground water on, through and across the Ivy View Parcels to the extent necessary to serve the Carilion Property for surface drainage and for installation, maintenance, repair and replacement of the pipe and other apparatus under and across the easement area.

3.3 Barriers. No barriers, fences or other obstructions (other than customary traffic control devices and markers and temporary construction fencing) shall be erected at any time (including, but without limitation, during the completion of any repairs and/or maintenance required to be performed hereunder) so as to materially impede or interfere with the flow of vehicular and pedestrian traffic to and from any Parcel over the Access Road Easement and to and from any abutting streets or rights-of-way. The preceding sentence shall not prohibit the reasonable designation of traffic and pedestrian lanes, nor shall the preceding sentence be deemed to prohibit the development of any Parcel by an Owner of the Parcel, as may be necessary to accommodate said development so long as access between any Parcel and Route 220 remains open and passable at all times.

3.4 Maintenance of the Access Road, Common Areas and Utilities.

(a) The Owner of the Carilion Property shall be responsible for the general maintenance and repair of the Access Road and the ramp leading into the Parking Garage, including, without limitation, resealing and repaving the road surface from time to time, in order to keep such road and surrounding areas in good order, condition and repair, including the removal of ice, snow and other debris from the Access Road and ramp (collectively, the "***Access Road and Ramp Maintenance***"), at its sole cost and expense.

(b) The Owner of the Carilion Property shall also be responsible for the general maintenance and repair of the Mezzanine Terrace, except to the extent any of the Mezzanine Terrace is located on the Ivy View Parcels, including keeping such walkway structure in good order, condition and repair, including removal of ice, snow and other debris from the Mezzanine Terrace (the "***Mezzanine Terrace Maintenance***"). Carilion and Ivy View each acknowledge and agree that the Mezzanine Terrace was constructed to connect the Existing Carilion Building to future Buildings located on the Ivy View Parcels. The Owner of the Ivy View Parcels shall be responsible for the Mezzanine Terrace Maintenance for any portion of the Mezzanine Terrace which is located on the Ivy View Parcels, whether now existing or constructed in the future to connect to future Buildings.

(c) The Owner of each Parcel shall be responsible for maintaining the Driveways, Parking Areas, Common Areas, and Utilities located on its Parcel in good order, condition and repair; provided, however, that, in the event that any Utilities that cross a Parcel serve one, but not more of the Parcels, then in such event, the party that is served by such Utilities shall have the obligation to perform the maintenance on such Utilities and they shall have the right to enter onto any of the other Parcels in order to perform any repair and/or maintenance required from time to time on such Utilities in order to keep the same in good repair and condition, and any damage caused by such entry shall be promptly corrected upon the completion of such work. Following the construction of improvements thereon, maintenance of Common Areas and Parking Areas shall include, without limitation, maintaining and repairing all sidewalks and the surface of the parking and roadway areas, removing all papers, debris and other refuse from and periodically sweeping all parking and road areas to the extent necessary to maintain the same in a clean, safe and orderly condition, maintaining appropriate lighting fixtures for the parking areas and roadways, maintaining marking, directional signs, lines and striping as needed, maintaining landscaping, maintaining signage in good condition and repair, and performing any and all such other duties as are necessary to maintain such Common Areas

and Parking Areas in a clean, safe and orderly condition. Except as otherwise expressly provided in this Agreement, once constructed, in the event of any damage to or destruction of all or a portion of the Common Areas or any Parking Areas on any Parcel, the Owner of such Parcel shall, at no cost or expense to the other Owners, with due diligence, repair, restore and rebuild the same to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Agreement). Each Owner reserves the right to alter, modify, reconfigure, relocate and/or remove the Common Areas or building areas on its Parcel, subject to the following conditions: (i) the reciprocal easements between the Parcels pursuant to Paragraph 2.1, 2.2, 2.3 and 2.5 shall not be closed or materially impaired; and (ii) ingress and egress to and from the Parcels and adjacent streets and roads, including the Access Road Easement, shall not be so altered, modified, relocated, blocked and/or removed without the written consent of all Owners.

3.5 Relocation. Each Owner may relocate any portion of the Utilities located on such Owner's Parcel from time to time, provided that (i) such relocation shall be made at the sole cost and expense of said relocating Owner, (ii) the use of the Utilities for the intended use thereof is not unreasonably restricted or materially impaired by, during or after relocation, (iii) the quality of construction and the relocated facilities shall be substantially the same as the portion being relocated, (iv) the relocation shall be carried out in such a manner as not to interrupt the use of the Utilities by any Owner or Permittee, (v) the relocation is consistent with sound engineering and control practices, and (vi) the Owner of each of the Parcels consents to such relocation, which consent shall not be unreasonably withheld, delayed or conditioned by such Owners. Upon the relocation of any portion of the Utilities, any applicable easement areas established hereunder shall be automatically adjusted and relocated to accommodate the new location of such facilities, and the portion of the easement areas of the prior location of such facilities shall be *ipso facto* terminated, vacated and extinguished.

3.6 Notice; Construction. Except as otherwise expressly set forth herein, this Agreement shall not obligate either Owner to construct any improvements on any Parcel. Prior to an Owner constructing any new improvements on another Owner's Parcel (as such right is expressly granted herein), the Owner constructing such improvements shall submit a plan to the Owner of the Parcel upon which such improvements will be constructed, which the Owner of such Parcel shall approve or reject within ten (10) business days (which approval shall not be unreasonably withheld or conditioned), or said plan shall be deemed to have been approved. If the Owner of such Parcel rejects the plan, the Owner seeking to construct such improvements shall revise its plan and resubmit it to the Owner of the Parcel according to the terms of this subsection, until it has been approved or deemed to have been approved. Except as otherwise expressly set forth in this Agreement, neither Owner shall have the right to construct, install, maintain, repair and make replacements of any improvements upon the Parcel of another Owner without such Owner's prior written consent, which consent shall be in such Owner's sole and absolute discretion. Notwithstanding anything to the contrary above, no Owner shall be required to go through the above approval process if the construction being done by an Owner on another Owner's Parcel is related to the maintenance, repair and/or replacement of any existing improvements, pipes, drains, driveways or other existing facilities contained within the easements provided for in this Agreement for which an Owner has the right or obligation to maintain; however, any such construction project that may adversely impact the use, parking or access to or from any Parcel shall be reasonably coordinated with the affected Owner(s) to try to minimize any such impacts.

3.7 Insurance. Throughout the term of this Agreement, each Owner shall procure and maintain general and/or comprehensive public liability and property damage insurance against claims for personal injury, death, or property damage occurring upon such Owner's Parcel and any other Owner's Parcel upon which such Owner is performing construction or maintenance in sufficient types and amounts so as to meet such Owner's obligations hereunder.

3.8 Indemnification. Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold the Owner whose Parcel is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property to the extent such claims, liabilities and expenses arise from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.

4. Taxes and Assessments. Each Owner shall cause to be paid promptly when due all real estate taxes and assessments levied or made by any governmental body or agency with respect to its Parcel, or any payments in lieu of real estate taxes, subject only to the right of said Owner to defer payment in a manner provided by law in connection with a bona fide contest of the amount of such tax or assessment so long as the rights of the other Owners hereunder shall not be jeopardized by such deferring of payment.

5. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Parcels. No easements, except those expressly set forth in Sections 2 and 3 above, shall be implied by this Agreement.

6. Remedies and Enforcement.

6.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by any Owner or its Permittees of any of the terms, covenants, restrictions or conditions hereof, the Owner of the Ivy View Parcels and/or the Owner of the Carilion Property shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies against the defaulting Owner or Permittee from the consequences of such breach, including payment of any amounts due and/or specific performance, subject to the notice and cure provisions of Section 6.2 below for all breaches other than a breach of the terms, covenants, restrictions or conditions of Section 3.3, 3.5, 3.6 and 3.7 hereof.

6.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Agreement within thirty (30) days following written notice thereof by an Owner (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner commences such cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion and except for a breach of the rights created under Section 3.3, 3.5, 3.6 and 3.7 hereof, which shall not require notice and an opportunity to cure), any Owner shall have the right to perform all such obligations contained in this Agreement on behalf of such defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof, including, without limitation, reasonable attorneys' fees. All amounts due hereunder from any Owner shall bear interest at the prime rate set forth from time to time in the Wall Street Journal (or a similar type publication), plus two percent (2%) (not to exceed the maximum rate

of interest allowed by law) (the "*Default Rate*"), from the date that the expense was incurred until paid in full. Notwithstanding the foregoing, in the event of (i) an emergency, or (ii) a blockage or material impairment of the easement rights granted in Sections 2 and 3 above, the Owner of the Ivy View Parcels and/or the Owner of the Carilion Property may immediately cure the same on behalf of the defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable cost thereof, including, without limitation, attorneys' fees, together with interest accruing at the Default Rate, from the date such costs are incurred until the curing Owner is paid in full.

6.3 Limitation on Enforcement Rights. Notwithstanding anything contained herein to the contrary, only the Owner of the Ivy View Parcels and/or the Owner of the Carilion Property shall have the right to enforce the terms, covenants and conditions of Sections 2 and 3 or to otherwise complain of a violation thereof. The terms, covenants and conditions of Sections 2 and 3 are not intended for the benefit of any Owner, Permittee or any person other than as specifically provided in such Sections, and no other Owner, Permittee or any other person shall have the right to complain of a violation of, or to seek to enforce, the terms, covenants and conditions of Sections 2 and 3.

6.4 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

6.5 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Agreement. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Parcel made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Parcel covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

6.6 Attorneys' Fees. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

7. Term. The easements granted herein shall continue in perpetuity, unless this Agreement is modified, amended, canceled or terminated by the written consent of all then record Owners, and the First Mortgagee of both the Ivy View Parcels and the Carilion Property, if then applicable, pursuant to the terms of Section 11.1 below.

8. Eminent Domain.

8.1 Effect of Taking. In the event of a taking by any duly constituted authority for a public or quasi-public use of all or any part of any Parcel or sale in lieu of such taking (each a "*Taking*"), the provisions of this Agreement shall have no further applicability as to any portion of a Parcel so taken, but the perpetual easements created by this Agreement shall survive as to the remainder of such Parcel not taken. If the Access Road is damaged as a result of such Taking, then the Owner of the Carilion Property shall, to the extent reasonably practicable, repair and restore the remaining portion of the Access Road to a proper and usable condition.

8.2 Award. In the event of any Taking of the Access Road, the award attributable to any Parcel and the buildings and improvements thereon shall be payable to the Owner of the Carilion Property in order for the repair of Access Road to be completed as provided in Section 8.1 above, and no claim shall be made by the other Owners as to such award.

9. Sale, Conveyance or Subdivision of Parcels.

9.1 Sale or Conveyance of Parcel. At the time any sale, transfer or conveyance results in any kind of change in ownership of a Parcel or any portion thereof, any grantee, transferee, successor or assignee of an Owner shall take such ownership interest subject to this Agreement and shall be bound by the covenants, provisions, conditions and easements contained in this Agreement which are applicable to such ownership interest from and after the effective date of such sale, transfer or conveyance, and the prior Owner shall have no further liability for anything arising under this Agreement from and after the effective date of such sale, transfer or conveyance; provided, however, that such prior Owner shall not be released from any outstanding obligations or causes of action that arose prior to such sale, transfer or conveyance, which outstanding obligations shall continue to be a personal obligation of such prior Owner until satisfied.

9.2 Subdivision. If a Parcel is subdivided, the Owner of such Parcel shall record a supplement to this Agreement in the Clerk's Office that shall allocate to one or more of such subdivided parcels within the former Parcel the obligations (including, without limitation, payment/reimbursement obligations) of such Owner set forth in this Agreement. Such supplement to this Agreement shall not restrict or impair the easement rights of any other Owner created hereunder or impose upon any Owner of a Parcel or any Permittee thereof any greater maintenance or cost obligations than those created hereunder. Upon the recordation of the supplement to this Agreement (and the assumption of the obligations described above by the Owner of the subdivided Parcel to which the obligations are allocated), the Owner shall have no further rights or obligations with respect to the matters described herein (except to the extent the Owner is the owner of the Parcel to which the obligations set forth herein have been allocated). Thereafter, the resubdivided portion of the Parcel to which the obligations described herein have been allocated shall be subject and subordinate to and required to comply with those obligations set forth herein as are so allocated to such subdivided Parcel. The Owner of the subdivided Parcel shall provide a copy of such supplement to this Agreement to all other Owners promptly after recordation.

10. Liability.

10.1 Limitation of Liability. The liability of any Owner shall be limited to such Owner's interest in its Parcel and the Building and other improvements thereon and the rents, income and profits therefrom. If at any time any Owner shall fail to perform any covenant or obligation hereunder, and as a consequence, any other Owner shall recover a money judgment against such Owner, such judgment shall be enforced and satisfied (subject to the rights of any mortgagee or deed of trust holder whose lien predates the entry of such judgment), out of only (i) the proceeds of sale resulting from the execution of such judgment and levy thereon against the defaulting Owner's interest in its Parcel and the improvements thereon, (ii) rents or other income from such property receivable by the defaulting Owner and/or (iii) the consideration received by such defaulting Owner from the sale of all or any part of such Owner's interest in its Parcel made

after such failure of performance (which consideration shall be deemed to include any assets at any time held by such Owner to the extent that the value of same does not exceed the proceeds of such sale).

10.2 Effect of Liability Limitations. The provisions of Section 10.1 are not designed to relieve any Owner from the performance of any of such Owner's obligations under this Agreement, but rather to limit the Owner's liability in the case of the recovery of a judgment against such Owner as above provided. None of the provisions of Section 10.1 shall be deemed to limit or otherwise affect any Owner's right to avail itself of any other right or remedy which may be accorded to it by law or by this Agreement as against any Owner in breach of this Agreement except as specifically provided in Section 10.1.

11. Miscellaneous.

11.1 Amendment. The Owner of the Ivy View Parcels and the Owner of the Carilion Property agree that the provisions of this Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of all then record Owners of the Parcels and by the then existing First Mortgagee of each of the Parcels, evidenced by a document that has been fully executed and acknowledged by all such record Owners and First Mortgagees and recorded in the Clerk's Office. Notwithstanding anything to the contrary contained in this Agreement, either Ivy View or Carilion shall have the right to unilaterally assign its approval and enforcement rights arising under this Agreement to a successor Owner from time to time by recording an assignment of such rights in the Clerk's Office.

11.2 Consents. Any request for consent or approval under this Agreement shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon.

11.3 No Waiver. No waiver of any default of any obligation by any person or entity shall be implied from any omission by any other person or entity to take any action with respect to such default.

11.4 No Agency. Nothing in this Agreement shall be deemed or construed by any person or entity to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the Owners, any Permittees and any other person or entity.

11.5 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefitted thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives, subject to the limitations of Section 6.3.

11.6 Indemnity. If an Owner (the "*Responsible Owner*"), its employees or agents commits a negligent or wrongful act or omission or a breach of this Agreement, the Responsible Owner shall indemnify and hold every other Owner harmless (except for loss or damage

resulting from the tortious acts of such Owner) from and against any damages, liability, suits, actions, claims and expenses (including attorneys' fees in reasonable amount) in connection with the loss of life, personal injury and/or damage to property occasioned wholly or in part by such negligent or wrongful act or omission or breach.

11.7 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee. In no event shall the term "successors and assigns" as used herein include any tenant or occupant from time to time of any Parcel or any portion thereof, it being the intention of the Owners that no consent of any tenant or occupant shall be necessary for any amendment, modification, termination or release of the rights and obligations contained in this Agreement.

11.8 Separability. Each provision of this Agreement and the application thereof to the Parcels are hereby declared to be independent of and severable from the remainder of this Agreement. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Agreement. In the event the validity or enforceability of any provision of this Agreement is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of more than one or all of the Parcels by the same person or entity shall not terminate this Agreement nor in any manner affect or impair the validity or enforceability of this Agreement.

11.9 Time of Essence. Time is of the essence of all terms contained within this Agreement.

11.10 Entire Agreement. This Agreement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

11.11 Notices.

(a) Notices or other communication hereunder shall be in writing and shall be sent certified mail, return receipt requested, or by national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. The Owners may change from time to time their respective address for notice hereunder, or any additional Owner may add its address for notice hereunder, by like notice to the other Owners. The notice addresses of the Owners are as follows:

Ivy View: Ivy View LLC
c/o Valley Financial Corporation
Attention: Ellis L. Gutshall

	36 Church Avenue, SW Roanoke, VA 24011
With a copy to:	Calvin W. Fowler, Jr., Esq. Williams Mullen 200 S. 10th Street, 16th Floor Richmond, Virginia 23219
Carilion:	Carilion Clinic Properties, LLC 213 Jefferson Street Roanoke, VA 24011 Attn: Curtis E. Mills, Jr., Real Estate Dept.
With a copy to:	Thomas T. Palmer, Esq. Woods Rogers 10 S. Jefferson Street, Suite 1400 Roanoke, Virginia 24011

(b) Each Owner shall also send any other Owner's First Mortgagee a copy of any notice of default given hereunder if and so long as such First Mortgagee shall have first notified each Owner of its mailing address.

11.12 Governing Law. The laws of the Commonwealth of Virginia shall govern the interpretation, validity, performance, and enforcement of this Agreement.

11.13 Execution by Counterpart. This Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signature of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single document.

11.14 Estoppel Certificates. Each Owner shall, from time to time, upon not less than twenty (20) days' notice from any Owner, execute and deliver to such requesting Owner a certificate stating that this Agreement is unmodified and in full force and effect or, if modified, that this Agreement is in full force and effect, as modified, and stating the modifications; and stating whether or not, to the best of its knowledge, without investigation, any Owner or Permittee is in default under this Agreement, and, if in default, specifying such default.

11.15 No Third Party Beneficiary. Except as specifically provided in this Agreement, no rights, privileges or immunities of any Owner shall inure to the benefit of any Permittee of any Parcel or any other third party, nor shall any Permittee of any Parcel or any other third party be deemed to be a third party beneficiary of any of the provisions contained herein.

11.16 Notice to Lenders. Each Owner shall make commercially reasonable efforts to provide any lender with a first priority lien on the applicable Parcel with written notice of any default or breach by the Owner of such Parcel or claimed default or breach under this Agreement at the same time as it sends such notice to the defaulting Owner. Such lender shall have the same

PG 0123 MY 2914

opportunity to cure such default provided to the defaulting Owner in accordance with the terms of this Agreement. No action by such lender pursuant to this Agreement shall constitute or be deemed to be an assumption by such lender of any obligation under this Agreement, except as otherwise expressly provided herein.

[See following pages for counterpart signature page]

IN WITNESS WHEREOF, the undersigned has executed this Reciprocal Easements, Operation and Maintenance Agreement as of the date first set forth above.

IVY VIEW:

IVY VIEW, LLC, a
Virginia limited liability company

By: _____
Name: ELLIS L. GUTSHALL
Title: MANAGER

COMMONWEALTH OF VIRGINIA
CITY/~~COUNTY~~ OF Bedford, to-wit:

The foregoing instrument was acknowledged before me this 23rd day of May, 2014, by Ellis L. Gutshall, in his capacity as Manager of Ivy View, LLC, for and on behalf of the company. He is personally known to me or has produced a valid state-issued driver's license for identification.

_____
Notary Public

My Commission Expires: 6/30/2016

Notary Public Registration Number: 294849

[AFFIX REPRODUCIBLE SEAL]

ALBERTA G. RICHARDS
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #294849
My Commission Expires 6/30/16

[Signature Page to Reciprocal Easements, Operations and Maintenance Agreement]

CARILION:

CARILION CLINIC PROPERTIES, LLC, a Virginia limited liability company

By: G. Robert Vaughan, Jr.
Name: G. Robert Vaughan, Jr.
Title: Treasurer

COMMONWEALTH OF VIRGINIA
CITY/~~COUNTY~~ OF Roanoke, to-wit:

The foregoing instrument was acknowledged before me this 28th day of May, 2014, by G. Robert Vaughan Jr, in his capacity as Treasurer of Carilion Clinic Properties, LLC, for and on behalf of the company. He is personally known to me or has produced a valid state-issued driver's license for identification.

Lisa M. Neal
Notary Public

My Commission Expires: May 31, 2015

Notary Public Registration Number: 7090834

[AFFIX REPRODUCIBLE SEAL]

LISA M. NEAL
NOTARY PUBLIC
REG. #7090834
MY COMMISSION EXPIRES
5-31-2015
COMMONWEALTH OF VIRGINIA

EXHIBIT A

Legal Description of the Carilion Property

ALL that certain parcel of land shown as "LOT A-1A" and containing approximately 5.2179 acres as shown on the subdivision plat prepared by Lumsden Associates, P.C. dated May 9, 2014, a copy of which is to be recorded in the Clerk's Office, Circuit Court of the City of Roanoke, Virginia.

EXHIBIT B

Description of the Ivy View Parcels

ALL that certain parcel of land shown as "PARCEL C-1" and containing approximately 2.2545 acres as shown on the subdivision plat prepared by Lumsden Associates, P.C. dated May 9, 2014, a copy of which is attached hereto, and to be recorded in the Clerk's Office, Circuit Court of the City of Roanoke, Virginia (the "Subdivision Plat").

AND

Tax Map Parcel #1150109
Tax Map Parcel #1150108
Tax Map Parcel #1150102
Tax Map Parcel #1150104
Tax Map Parcel #1150113
Tax Map Parcel #1150106
Tax Map Parcel #1150112

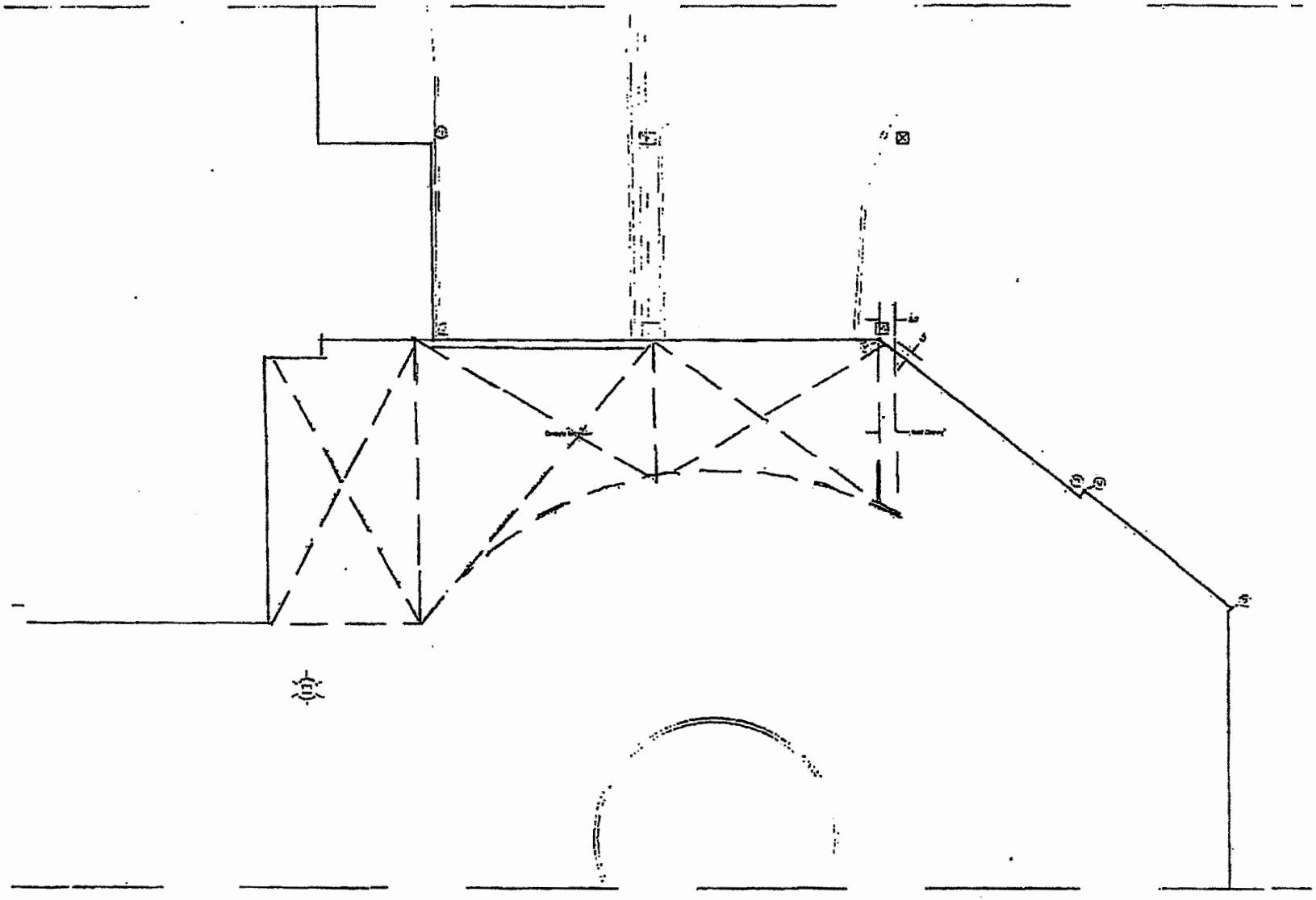
All as shown on the Subdivision Plat.

PG 0128 MY 29 14

EXHIBIT C

Mezzanine Terrace

Exhibit C to REA



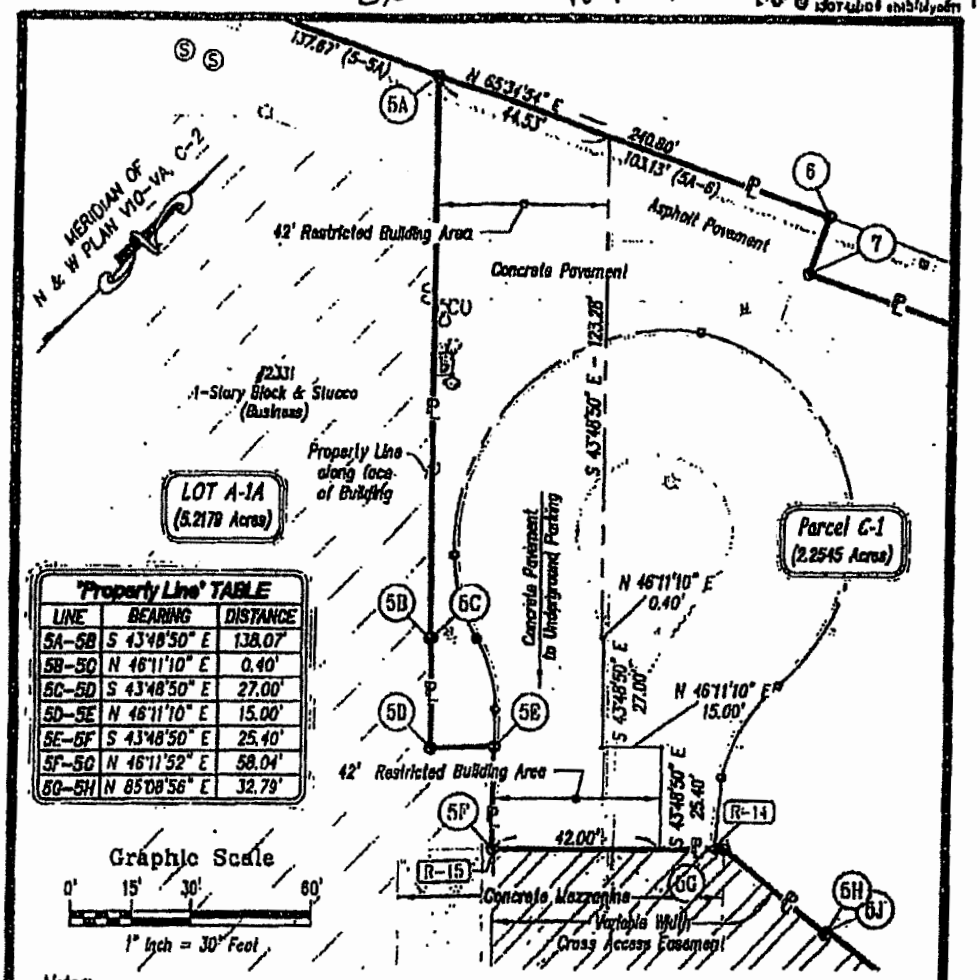
PM 1 2 9 MY 29 14

EXHIBIT D

Restricted Building Area

Exhibit D to REA

PG 0131 MY 29 14



"Property Line" TABLE		
LINE	BEARING	DISTANCE
5A–5B	S 43°48'50" E	138.07'
5B–5C	N 46°11'10" E	0.40'
5C–5D	S 43°48'50" E	27.00'
5D–5E	N 46°11'10" E	15.00'
5E–5F	S 43°48'50" E	25.40'
5F–5G	N 46°11'52" E	58.04'
5G–5H	N 85°08'56" E	32.79'

Notes:

1) THIS EXHIBIT IS BASED ON A CURRENT FIELD SURVEY.
2) THIS EXHIBIT IS FOR THE PURPOSE OF DELINEATING THE 42-FOOT RESTRICTED BUILDING AERA AND DOES NOT CONSTITUTE A BOUNDARY SURVEY.
3) THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THERE MAY EXIST ENCUMBRANCES WHICH EFFECT THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.
4) FOR COMPLETE BOUNDARY INFORMATION SEE PLAT PREPARED BY LUMSDEN ASSOCIATES, PC ENTITLED "PLAT SHOWING THE COMBINATION & RE-SUBDIVISION OF LOT A-1 (5.3874 ACRES) M.B. 1, PG. 2958 AND PARCEL C (2.1050 ACRES) M.B. 1, PG. 1430 PROPERTY OF IVY VIEW, LLC INSTRUMENT #100006589 CREATING HEREON LOT A-1A (5.2179 ACRES) & PARCEL C-1 (2.2545 ACRES) SITUATED AT #2331 & #2309 FRANKLIN ROAD, SW CITY OF ROANOKE, VIRGINIA, DATED MAY 9TH, 2014.

COMMONWEALTH OF VIRGINIA
TIMOTHY HOELZLE
Lic. No. 001764
LAND SURVEYOR

Exhibit Showing
42-foot Restricted Building Area
over and affecting
Parcel C-1 (2.2545 Acres)
property of
Ivy View, LLC

Situated at #2309 & 2331 Franklin Road, SW
Roanoke, Virginia

DATE:	May 15, 2014
SCALE:	1" = 30'
COMM. NO.:	2013-074

LUMSDEN ASSOCIATES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
ROANOKE, VIRGINIA

4664 BRAMPLETON AVENUE
P.O. BOX 20669
ROANOKE, VIRGINIA 24018

PHONE: (540) 774-4411
FAX: (540) 772-9445
E-MAIL: MAIL@LUMSDENPC.COM

w:\drawings\2013\13074\sur\13074ip01 4h15.dwg

PG 0132 MY 29 14

INSTRUMENT #140005080
RECORDED IN THE CLERK'S OFFICE OF
ROANOKE CITY ON
MAY 29, 2014 AT 01:13PM

BRENDA S. HAMILTON, CLERK
RECORDED BY: WRM

OFFICIAL RECEIPT
ROANOKE CITY CIRCUIT COURT
DEED RECEIPT

DATE: 05/29/14 TIME: 13:13:12 ACCOUNT: 770CLR140005080 RECEIPT: 14000012762
CASHIER: WRM REG: UC04 TYPE: AG PAYMENT: FULL PAYMENT
INSTRUMENT : 140005080 BOOK: PAGE: RECORDED: 05/29/14 AT 13:13
GRANTOR: IVY VIEW LLC EX: N LOC: CI
GRANTEE: CARILION CLINIC PROPERTIES LLC EX: N PCT: 100%
AND ADDRESS : 213 S JEFFERSON STREET ROANOKE, VA. 24011
RECEIVED OF : WOODS ROGERS PLC
CHECK: $35.00 2884
DESCRIPTION 1: 5.2179 ACRES PAGES: 24 OP 0
2: NAMES: 0
CONSIDERATION: .00 A/VAL: .00 MAP: 1272504
PIN: 1150106

301	DEEDS	28.50	145	VSLF	1.50
106	TECHNOLOGY TRST FND	5.00			

TENDERED : 35.00
AMOUNT PAID: 35.00
CHANGE AMT : .00

CLERK OF COURT: BRENDA S. HAMILTON

PAYOR'S COPY
RECEIPT COPY 1 OF 2

Original INPUD Development Plan uses:

Use Type	Vehicle Trips – P.M. Peak, per 1,000 sf
**Supermarket (two-story, approx 120,000 sf total)*	*8.37 x 120 = 1,004**
Specialty Retail (1st floor, approx. 75,000 sf total)	5.02 x 75 = 377
General Office (2nd floor, approx. 75,000 sf total)	1.49 x 75 = 112
Total Vehicle Trips	1,493

Amended INPUD Development Plan uses:

Use Type	Vehicle Trips – P.M. Peak, per 1,000 sf
**Medical Clinic (two-story, approx 120,000 sf total)*	*5.18 x 120 = 622**
Specialty Retail (1st floor, approx. 75,000 sf total)	5.02 x 75 = 377
General Office (2nd floor, approx. 75,000 sf total)	1.49 x 75 = 112
Total Vehicle Trips	1,111

2014 Amendment to INPUD Development Plan uses:

Use Type	Vehicle Trips – P.M. Peak, per 1,000 sf
**Medical Clinic (two-story, approx 120,000 sf total)*	*5.18 x 120 = 622**
Specialty Retail (1st floor, approx. 21,000 sf total)	5.02 x 21 = 105
General Office (2nd floor, approx. 21,000 sf total)	1.49 x 21 = 31
Restaurant (3 units, approx. 6,300 sf each, approx. 19,000 sf total)	9.02 x 19 = 171
Total Vehicle Trips	929

Proposed Amendment to INPUD Development Plan uses:

Use Type	Vehicle Trips – P.M. Peak, per 1,000 sf
**Medical Clinic (three-story, approx 180,000 sf total)*	*5.18 x 180 = 932**
Grocery (approx. 23,800 sf)	8.37 x 23.8 = 199
Quality Restaurant (1 units, approx. 6,800 sf)	9.02 x 6.8 = 61
Fast-Food Restaurant (1 unit, approx. 3,500 sf)	52.40 x 3.5 = 183
Specialty Retail (approx. 3,500 sf)	5.02 x 3.5 = 18
Total Vehicle Trips	1,393

***Notes:** Italicized uses and trip values are not part of this proposed INPUD amendment, but are provided for consideration of potential traffic volume for the INPUD district as a whole.

ITE Codes used – Supermarket (850), Clinic (630), Specialty Retail Center (826), General Office Building (710), Quality Restaurant (931), Fast Food Restaurant without Drive-through Window (933)

10.15.2018 RDLA 16073

IVY MARKET GROCERY STORE | ROANOKE, VIRGINIA | VIEW FROM FRANKLIN ROAD

HARBOUR RETAIL PARTNERS

RDL ARCHITECTS

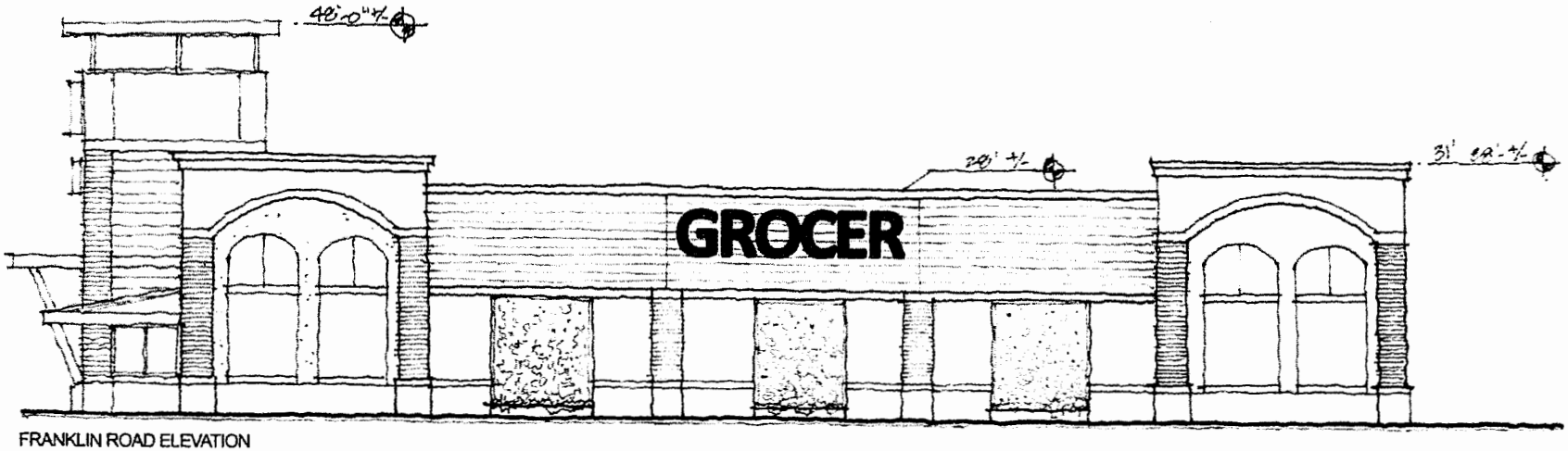
FRONT ELEVATION

10.19.2015 RDLA 16075

IVY MARKET GROCERY STORE | ROANOKE, VIRGINIA | CONCEPT ELEVATION

HARBOUR RETAIL PARTNERS

RDL ARCHITECTS



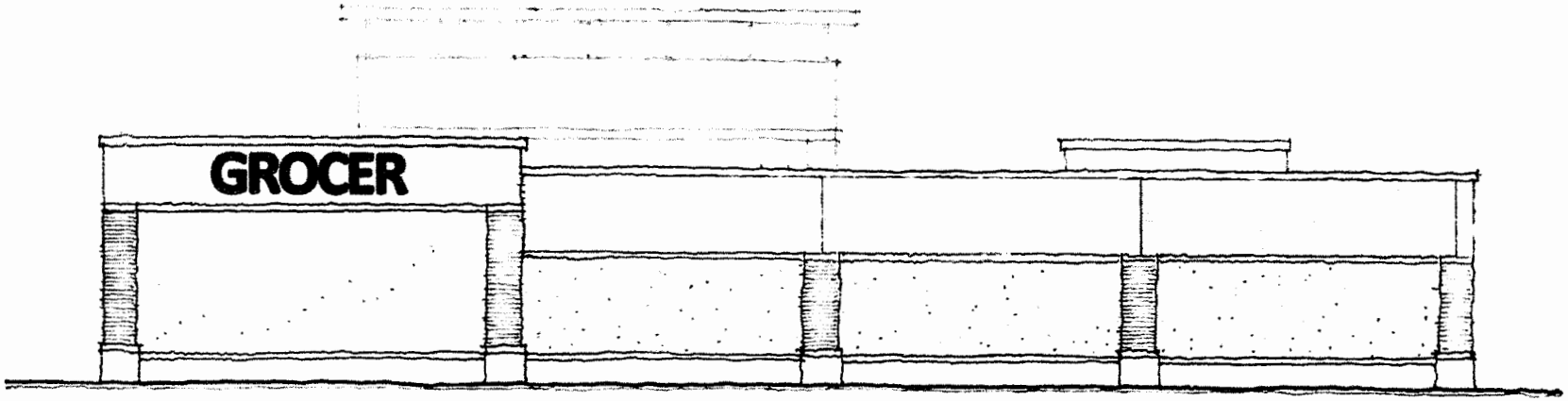
FRANKLIN ROAD ELEVATION

12.14.2018 RDLA 18073

IVY MARKET GROCERY STORE | ROANOKE, VIRGINIA | CONCEPT ELEVATION

HARBOUR RETAIL PARTNERS

RDL ARCHITECTS



REAR ELEVATION

10.13.2015 RDLA (707)

IVY MARKET GROCERY STORE | ROANOKE, VIRGINIA | CONCEPT ELEVATION

HARBOUR RETAIL PARTNERS

RDL ARCHITECTS

EXISTING CONDITIONS

The applicant and owner, Ivy View, LLC, hereby requests that all of the conditions enacted by Ordinance No. 40062-091514 (the "Ordinance") be repealed as they pertain to the 3.4295 acre parcel which is the subject of this application (being Official Tax Nos. 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113). Those conditions are as follows:

Conditions set forth on the INPUD Development Plan dated August 6, 2014

VEHICULAR ENTRANCES:

TWO ENTRANCES WILL SERVE THE SITE: THE EXISTING PRIMARY ENTRANCE ALONG FRANKLIN ROAD, S.W. BY VIRTUE OF THE EXISTING CROSS-ACCESS EASEMENT AND A SECOND FRANKLIN ROAD ENTRANCE TO THE EAST OF THE PRIMARY ENTRANCE. IN ADDITION, THE EXISTING ENTRANCE ALONG WONJU STREET, S.W. WHICH ALIGNS WITH BROADWAY AVE., S.W. AND HAS A DIVIDER MEDIAN THAT PERMITS "RIGHT TURN IN AND LEFT TURN IN" OFF OF WONJU STREET, S.W. AND "RIGHT TURN OUT" ONLY MOVEMENTS WILL BE ACCESSIBLE TO THE SITE BY VIRTUE OF THE CROSS-ACCESS EASEMENT.

BUILDING DESIGN:

THE DESIGN OF ANY BUILDING ON THE PROPERTY SHALL BE ARCHITECTURALLY COMPATIBLE THROUGH THE USE OF COMMON MATERIALS AND/OR STYLES WITH THE BUILDINGS ON TAX MAP PARCEL 1272505 AND 1272504. BUILDING HEIGHT SHALL NOT EXCEED FIFTY (50) FEET. BUILDING WALLS FACING FRANKLIN ROAD SHALL HAVE A MINIMUM TRANSPARENCY OR GLAZING OF 40% FOR THE GROUND FLOOR AND 25% FOR UPPER FLOORS. BUILDINGS LOCATED WITHIN 100 FEET OF FRANKLIN ROAD SHALL HAVE A PRIMARY ENTRANCE VISIBLE FROM AND ORIENTED TOWARDS FRANKLIN ROAD AND SHALL PROVIDE PEDESTRIAN LINKAGE TO FRANKLIN ROAD. FOR ANY BUILDING WALL LONGER THAN 50 FEET, ARTICULATION SHALL BE PROVIDED TO AVOID THE APPEARANCE OF A BLANK WALL. SUCH ARTICULATION MAY INCLUDE CHANGES IN COLOR, MATERIALS, OR OFFSET TO BUILDING LINES. DUMPSTER ENCLOSURES SHALL BE CONSTRUCTED WITH BUILDING MATERIALS SIMILAR TO THOSE USED IN THE PRIMARY STRUCTURE IN TYPE AND COLOR.

PROJECT SIGNAGE:

A. FREESTANDING SIGNS

(1) THE NUMBER OF GROUND SIGNS SHALL CONFORM TO THE REQUIREMENTS OF THE ROANOKE CITY ZONING ORDINANCE,

TABLE 668-1, FOR THE "CG" ZONING DISTRICT. GROUND SIGNS SHALL NOT BE DEEMED TO INCLUDE DIRECTIONAL SIGNAGE. GROUND SIGNS SHALL BE LIMITED TO A TOTAL OF ONE HUNDRED FIFTY (150) SQUARE FEET OF SIGN SURFACE AREA ON EACH SIDE AND SHALL NOT EXCEED TWENTY (20) FEET IN HEIGHT.

(2) NO MORE THAN FOUR (4) GROUND SIGNS SHALL BE LOCATED ON THE PROPERTY. GROUND SIGNS LOCATED AT VEHICULAR ENTRANCES MAY SERVE AS IDENTIFICATION SIGNS FOR THE CENTER DEVELOPMENT.

B. BUILDING SIGNS

(1) BUILDING MOUNTED SIGNS SHALL BE LIMITED TO ONE (1) SQUARE FOOT OF SIGNAGE AREA FOR EACH LINEAR FOOT OF THE BUILDING FACADE OR STOREFRONT TO WHICH IT IS ATTACHED, EXCEPT THAT EACH STOREFRONT SHALL BE ENTITLED TO MINIMUM BUILDING MOUNTED SIGNAGE OF 39 SQUARE FEET.

(2) BUILDING MOUNTED SIGNS SHALL NOT BE DEEMED TO INCLUDE BLADE SIGNAGE (I.E. SIGNAGE PERPENDICULAR TO THE BUILDING FACADE TO WHICH IT IS ATTACHED) SO LONG AS SUCH BLADE SIGNAGE IS 10 SQUARE FEET OR LESS.

(3) SIGNS APPLIED TO AWNINGS OR ENTRANCE CANOPIES OR SIGNS APPLIED TO WINDOWS SHALL BE PERMITTED AND SHALL NOT BE INCLUDED IN THE CALCULATION OF BUILDING MOUNTED SIGNAGE SET OUT IN B(1) ABOVE.

PARKING LOT LIGHTING DESIGN:

WHILE PEDESTRIAN LIGHTING IS EXPECTED TO HAVE A PERIOD APPEARANCE, ALL PARKING LOT LIGHTING FIXTURES MOUNTED ON POLES TALLER THAN 18 FEET SHALL BE THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA) STANDARD FULL CUTOFF TYPE LUMINAIRES. ALL PARKING LOT LIGHTING FIXTURES MOUNTED ON POLES LOWER THAN 18 FEET SHALL BE THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA) STANDARD CUTOFF TYPE LUMINAIRES. IT IS ANTICIPATED THAT ONE OR MORE OF THE FOLLOWING GENERAL STYLES OF LUMINAIRE SHALL BE USED: A) VINTAGE POST-TOP LANTERN STYLE; B) MODERN OR VINTAGE HANGING PENDANT OR BELL; C) STANDARD "SHOE-BOX" STYLE AREA LIGHT. ILLUSTRATIVE EXAMPLES OF EACH STYLE ARE SHOWN BELOW AS WELL AS A DIAGRAM DETAILING THE DESIGN, WITH THE LIGHT SOURCE HIDDEN IN THE TOP,

TYPICAL IN POST-TOP LUMINAIRES OF THE SHIELDED, CUTOFF VARIETY. AVERAGE FOOT CANDLE ILLUMINATION LEVEL FOR PARKING AREAS AND DRIVES SHALL NOT EXCEED 8 FOOT CANDLES AS MEASURED AND DETERMINED BY THE ZONING ADMINISTRATOR. ILLUMINATION LEVELS AT THE PROPERTY LINE ALONG FRANKLIN ROAD SHALL NOT EXCEED 3 FOOT-CANDLES.

[ILLUSTRATIONS ON INPUD DEVELOPMENT PLAN]

USES:

THE PROPERTY SHALL BE USED ONLY FOR THE FOLLOWING LAND USES:

FINANCIAL INSTITUTION
OFFICE, GENERAL OR PROFESSIONAL
BUSINESS SERVICE ESTABLISHMENT, NOT OTHERWISE LISTED
MEDICAL CLINIC
MIXED USE BUILDING
BAKERY, CONFECTIONARY, OR SIMILAR FOOD PRODUCTION, RETAIL
GENERAL SERVICE ESTABLISHMENT, NOT OTHERWISE LISTED
PERSONAL SERVICE ESTABLISHMENT, NOT OTHERWISE LISTED
PET GROOMING
RETAIL SALES ESTABLISHMENT, NOT OTHERWISE LISTED
EATING ESTABLISHMENT
EATING AND DRINKING ESTABLISHMENT, NOT ABUTTING A RESIDENTIAL DISTRICT
EATING AND DRINKING ESTABLISHMENT, ABUTTING A RESIDENTIAL DISTRICT
ENTERTAINMENT ESTABLISHMENT, ABUTTING A RESIDENTIAL DISTRICT
ENTERTAINMENT ESTABLISHMENT, NOT ABUTTING A RESIDENTIAL DISTRICT
HEALTH AND FITNESS CENTER
MEETING HALL
PARKING, OFF-SITE
DWELLING, MULTIFAMILY

SUBDIVISION:

SHOULD THE PARCELS, WHICH COMPRISE THE PROPERTY, BE COMBINED OR SUBDIVIDED, THE CONDITIONS SHALL BIND EACH SUBDIVIDED OR RECOMBINED PARCELS, AS APPLICABLE. SUCH SUBDIVIDED OR COMBINED LOTS SHALL HAVE A LOT FRONTAGE ON FRANKLIN ROAD OF AT LEAST TEN (10) FEET. NO MORE THAN ONE (1) GROUND SIGN SHALL BE LOCATED ON EACH SUCH SUBDIVIDED OR COMBINED PARCEL.

INPUD DEVELOPMENT PLAN STANDARDS

The applicant and owner, Ivy View, LLC, hereby requests that the development standards set forth on the INPUD Development Plan dated September 23, 2016 and amended October 19, 2016 be imposed on the 3.4295 acre parcel:

VEHICULAR ENTRANCES:

THREE ENTRANCES WILL SERVE THE SITE: THE EXISTING PRIMARY ENTRANCE ALONG FRANKLIN ROAD, S.W. BY VIRTUE OF THE EXISTING CROSS-ACCESS EASEMENT AND A SECOND FRANKLIN ROAD ENTRANCE TO THE EAST OF THE PRIMARY ENTRANCE. IN ADDITION, THE EXISTING ENTRANCE ALONG WONJU STREET, S.W. WHICH ALIGNS WITH BROADWAY AVE., S.W. AND HAS A DIVIDER MEDIAN THAT PERMITS "RIGHT TURN IN AND LEFT TURN IN" OFF OF WONJU STREET, S.W. AND "RIGHT TURN OUT" ONLY MOVEMENTS WILL BE ACCESSIBLE TO THE SITE BY VIRTUE OF THE CROSS-ACCESS EASEMENT.

BUILDING DESIGN:

THE DESIGN OF ALL BUILDINGS SHALL BE ARCHITECTURALLY COMPATIBLE THROUGH THE USE OF COMMON MATERIALS, STYLES OR FORMS WITH THE BUILDINGS ON TAX MAP PARCELS 1272504, 1272505 AND 1150109. THE EXTERIOR FINISH MATERIALS FOR ANY BUILDING ON THE PROPERTY SHALL BE LIMITED TO THE FOLLOWING: STUCCO OR EXTERIOR INSULATED FINISH SYSTEM (EIFS), STONE OR CAST STONE, BRICK, COMPOSITE, NICHIHA PANELS, GLASS, METAL, WOOD, STANDING METAL SEAM, FAUX STONE, TRELLIS-LIKE STRUCTURE SUPPORTING VEGETATIVE FACADES, OR OTHER FINISH MATERIALS USED ON THE BUILDINGS LOCATED ON TAX MAP PARCEL 1272505 OR 1272504. BUILDING HEIGHT SHALL NOT EXCEED FIFTY (50) FEET. THE TWO FACADES ON BUILDING "B" AS SHOWN ON THE INPUD DEVELOPMENT PLAN WHICH FACE FRANKLIN ROAD AND THE INTERIOR OF THE DEVELOPMENT FACING BUILDING A SHALL HAVE A MINIMUM TRANSPARENCY OR GLAZING OF 30% FOR THE GROUND FLOOR AND 20% FOR UPPER FLOORS, TO THE EXTENT THAT UPPER FLOORS ARE CONSTRUCTED. BUILDINGS LOCATED WITHIN 100 FEET OF FRANKLIN ROAD SHALL HAVE A PRIMARY ENTRANCE VISIBLE FROM FRANKLIN ROAD AND NO GREATER THAN 100 FEET FROM THE FRANKLIN ROAD RIGHT-OF-WAY AND SHALL PROVIDE PEDESTRIAN LINKAGE TO FRANKLIN ROAD. FOR ANY FAÇADE ON BUILDING "A" AS SHOWN ON THE INPUD DEVELOPMENT PLAN LONGER THAN 30 FEET AND FRONTING FRANKLIN ROAD, ARTICULATION ELEMENTS SHALL BE PROVIDED TO AVOID THE APPEARANCE OF A BLANK WALL. THOSE MINIMUM ARTICULATION ELEMENTS FOR BUILDING "A" SHALL INCLUDE OFFSETS WITHIN EACH 30 FOOT SECTION. ADDITIONALLY, WITHIN EACH 50 FOOT SECTION OF SAID FAÇADE THOSE MINIMUM ARTICULATION

ELEMENTS SHALL INCLUDE: (A) EITHER A MURAL, OR A GREEN (i.e. VEGETATIVE) WALL AND (B) A COMBINATION OF TWO OR MORE OF THE FOLLOWING ARTICULATION ELEMENTS: CHANGES IN COLOR, CHANGES IN MATERIALS, OR CHANGES IN TEXTURE. THE GREEN WALL SHOULD HAVE A MINIMUM HEIGHT EQUAL TO ONE-THIRD THE HEIGHT OF THE FAÇADE UPON WHICH IT IS LOCATED WITH A MINIMUM WIDTH OF TWO-THIRDS OF THE GREEN WALL'S HEIGHT. BUILDING "A"'s EXTERIOR WALLWHICH FACES FRANKLIN ROAD SHALL BE SET BACK AT LEAST 3 FEET FROM THE PROPERTY LINE. ENCLOSURES FOR DUMPSTERS, IF REQUIRED, SHALL BE CONSTRUCTED WITH BUILDING MATERIALS SIMILAR TO THOSE USED IN THE PRIMARY STRUCTURE IN TYPE AND COLOR. FOUNDATION SHRUB PLANTINGS SHALL BE PROVIDED ALONG THE FRANKLIN ROAD FAÇADE OF BUILDING "A". SUCH FOUNDATION SHRUB PLANTINGS SHOULD INCLUDE SOME VARIATION IN FORM, WHETHER IN HEIGHT, COLOR, OR TEXTURE OR COMBINATION THEREOF, TO ACCENTUATE THE BUILDING AND PROVIDE VISUAL INTEREST. AT LEAST TWO COLUMNAR SHRUBS WITH A MATURE HEIGHT OF 10 FEET AND INDIVIDUAL (OR CUMULATIVE, IF GROUPED) DIAMETER EXCEEDING 3 FEET SHALL BE PART OF THE FOUNDATION SHRUB LANDSCAPE PLAN. FOUNDATION SHRUBS WILL BE PLANTED THE EQUIVALENT OF EVERY 3 FOOT ON CENTER ALONG THE FRANKLIN ROAD FAÇADE OF BUILDING "A" EXCEPT WHERE VEGETATIVE WALLS EXIST.

PROJECT SIGNAGE:

A. FREESTANDING SIGNS

(1) THE NUMBER OF GROUND SIGNS SHALL CONFORM TO THE REQUIREMENTS OF THE ROANOKE CITY ZONING ORDINANCE, TABLE 668-1, FOR THE "CG" ZONING DISTRICT. GROUND SIGNS SHALL NOT BE DEEMED TO INCLUDE DIRECTIONAL SIGNAGE. GROUND SIGNS SHALL BE LIMITED TO A TOTAL OF ONE HUNDRED FIFTY (150) SQUARE FEET OF SIGN SURFACE AREA ON EACH SIDE AND SHALL NOT EXCEED TWENTY (20) FEET IN HEIGHT.

(2) NO MORE THAN TWO (2) GROUND SIGNS SHALL BE LOCATED ON THE PROPERTY. GROUND SIGNS LOCATED AT VEHICULAR ENTRANCES MAY SERVE AS IDENTIFICATION SIGNS FOR THE CENTER DEVELOPMENT.

B. BUILDING SIGNS

(1) FOR BUILDING "B", BUILDING MOUNTED SIGNS SHALL BE LIMITED TO 1 SQUARE FOOT OF SIGNAGE AREA FOR EACH LINEAR FOOT OF A BUILDING FAÇADE OR STOREFRONT TO WHICH IT IS ATTACHED. NOTWITHSTANDING THE ABOVE

LIMITATION, EACH STOREFRONT ON BUILDING "B" SHALL BE ENTITLED TO MINIMUM BUILDING MOUNTED SIGNAGE OF 39 SQUARE FEET. FOR BUILDING "A", BUILDING MOUNTED SIGNAGE, WHICH MAY INCLUDE MURALS, SHALL NOT COLLECTIVELY EXCEED 1,850 SQUARE FEET, WHICH SIGNAGE CAN BE PLACED ON ANY ONE OF THE BUILDING FACADES AND NEED NOT BE PROPORTIONATELY ALLOCATED.

(2) BUILDING MOUNTED SIGNS SHALL NOT BE DEEMED TO INCLUDE BLADE SIGNAGE (I.E. SIGNAGE PERPENDICULAR TO THE BUILDING FACADE TO WHICH IT IS ATTACHED) SO LONG AS SUCH BLADE SIGNAGE IS 10 SQUARE FEET OR LESS.

(3) SIGNS APPLIED TO AWNINGS OR ENTRANCE CANOPIES OR SIGNS APPLIED TO WINDOWS SHALL BE PERMITTED AND SHALL NOT BE INCLUDED IN THE CALCULATION OF BUILDING MOUNTED SIGNAGE SET OUT IN B(1) ABOVE.

PARKING LOT LIGHTING DESIGN:

WHILE PEDESTRIAN LIGHTING IS EXPECTED TO HAVE A PERIOD APPEARANCE, ALL PARKING LOT LIGHTING FIXTURES MOUNTED ON POLES TALLER THAN 18 FEET SHALL BE THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA) STANDARD FULL CUTOFF TYPE LUMINAIRES. ALL PARKING LOT LIGHTING FIXTURES MOUNTED ON POLES LOWER THAN 18 FEET SHALL BE THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA (IESNA) STANDARD CUTOFF TYPE LUMINAIRES. IT IS ANTICIPATED THAT ONE OR MORE OF THE FOLLOWING GENERAL STYLES OF LUMINAIRE SHALL BE USED: A) VINTAGE POST-TOP LANTERN STYLE; B) MODERN OR VINTAGE HANGING PENDANT OR BELL; C) STANDARD "SHOE-BOX" STYLE AREA LIGHT. ILLUSTRATIVE EXAMPLES OF EACH STYLE ARE SHOWN BELOW AS WELL AS A DIAGRAM DETAILING THE DESIGN, WITH THE LIGHT SOURCE HIDDEN IN THE TOP, TYPICAL IN POST-TOP LUMINAIRES OF THE SHIELDED, CUTOFF VARIETY. AVERAGE FOOT CANDLE ILLUMINATION LEVEL FOR PARKING AREAS AND DRIVES SHALL NOT EXCEED 8 FOOT CANDLES AS MEASURED AND DETERMINED BY THE ZONING ADMINISTRATOR. ILLUMINATION LEVELS AT THE PROPERTY LINE ALONG FRANKLIN ROAD SHALL NOT EXCEED 3 FOOT-CANDLES.

[ILLUSTRATIONS ON INPUD DEVELOPMENT PLAN]

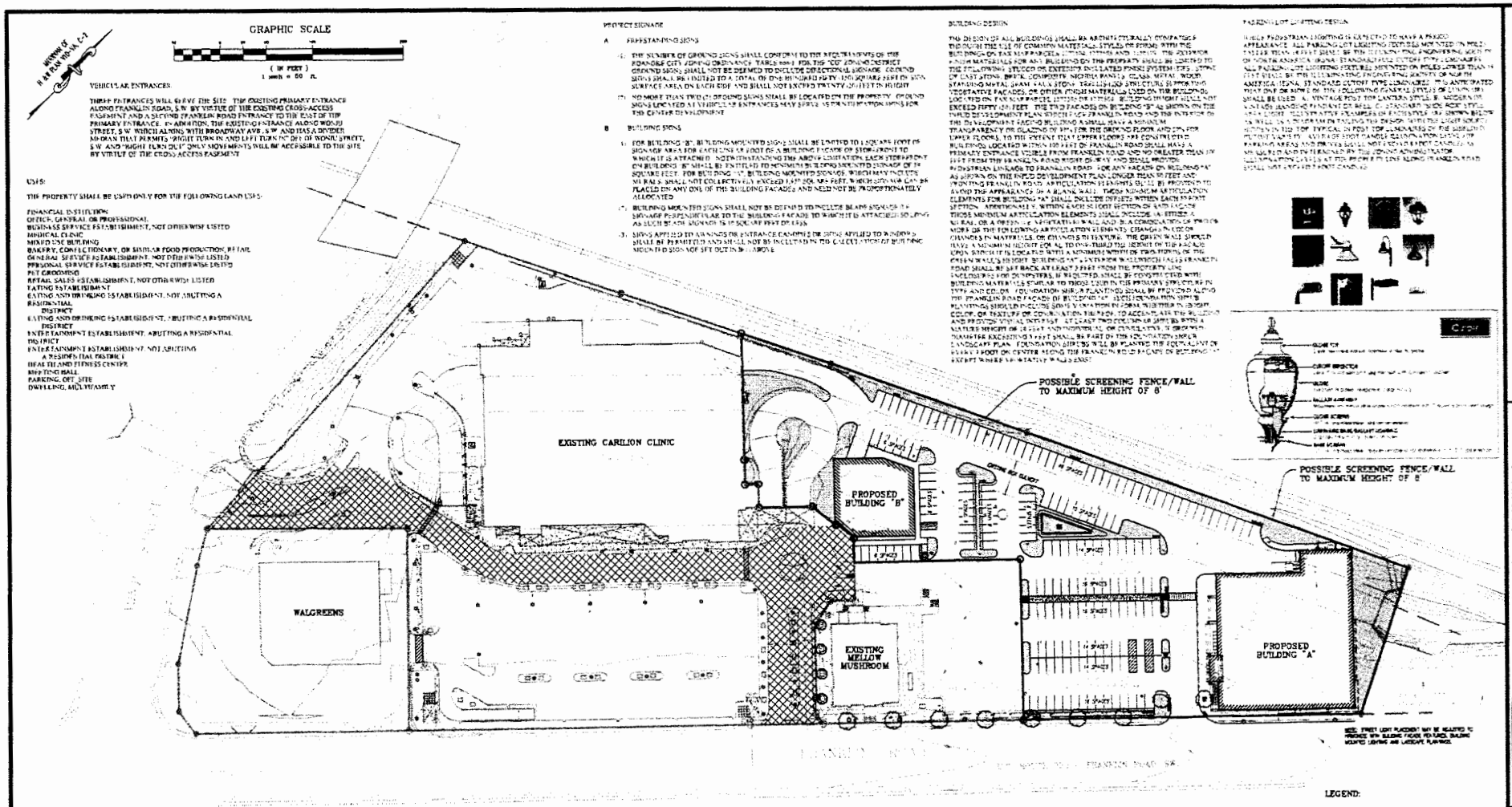
USES:

THE PROPERTY SHALL BE USED ONLY FOR THE FOLLOWING LAND USES:

FINANCIAL INSTITUTION
OFFICE, GENERAL OR PROFESSIONAL
BUSINESS SERVICE ESTABLISHMENT, NOT OTHERWISE LISTED
MEDICAL CLINIC
MIXED USE BUILDING
BAKERY, CONFECTIONARY, OR SIMILAR FOOD PRODUCTION, RETAIL
GENERAL SERVICE ESTABLISHMENT, NOT OTHERWISE LISTED
PERSONAL SERVICE ESTABLISHMENT, NOT OTHERWISE LISTED
PET GROOMING
RETAIL SALES ESTABLISHMENT, NOT OTHERWISE LISTED
EATING ESTABLISHMENT
EATING AND DRINKING ESTABLISHMENT, NOT ABUTTING A RESIDENTIAL DISTRICT
EATING AND DRINKING ESTABLISHMENT, ABUTTING A RESIDENTIAL DISTRICT
ENTERTAINMENT ESTABLISHMENT, ABUTTING A RESIDENTIAL DISTRICT
ENTERTAINMENT ESTABLISHMENT, NOT ABUTTING A RESIDENTIAL DISTRICT
HEALTH AND FITNESS CENTER
MEETING HALL
PARKING, OFF-SITE
DWELLING, MULTIFAMILY

SUBDIVISION:

SHOULD THE PARCELS, WHICH COMPRISE THE PROPERTY, BE COMBINED OR SUBDIVIDED, THE CONDITIONS SHALL BIND EACH SUBDIVIDED OR RECOMBINED PARCELS, AS APPLICABLE. SUCH SUBDIVIDED OR COMBINED LOTS SHALL HAVE A LOT FRONTAGE ON FRANKLIN ROAD OF AT LEAST TEN (10) FEET.



VEHICULAR ENTRANCES

THREE ENTRANCES WILL SERVE THE SITE. THE EXISTING PRIMARY ENTRANCE ALONG FRANKLIN ROAD, S.W. BY VIRTUE OF THE EXISTING CROSS-ACCESS EASEMENT AND A SECOND FRANKLIN ROAD ENTRANCE TO THE EAST OF THE PRIMARY ENTRANCE. IN ADDITION, THE EXISTING ENTRANCE ALONG WOOD STREET, S.W. WHICH ALONG WITH BROADWAY AVE., S.W. AND HAS A DIVIDER MEDIAN THAT PERMITS "RIGHT TURN IN AND LEFT TURN OUT" ONLY MOVEMENTS WILL BE ACCESSIBLE TO THE SITE BY VIRTUE OF THE CROSS ACCESS EASEMENT.

USES:

THE PROPERTY SHALL BE USED ONLY FOR THE FOLLOWING LAND USES:

FINANCIAL INSTITUTION
OFFICE, GENERAL OR PROFESSIONAL
BUSINESS SERVICE ESTABLISHMENT, NOT OTHERWISE LISTED
MEDICAL CLINIC
MIXED USE BUILDING
BAKERY, CONFECTIONARY, OR SIMILAR FOOD PRODUCTION, RETAIL
GENERAL SERVICE ESTABLISHMENT, NOT OTHERWISE LISTED
PERSONAL SERVICE ESTABLISHMENT, NOT OTHERWISE LISTED
PET GROOMING
RETAIL SALES ESTABLISHMENT, NOT OTHERWISE LISTED
EATING ESTABLISHMENT
EATING AND DRINKING ESTABLISHMENT, NOT ABUTTING A RESIDENTIAL DISTRICT
EATING AND DRINKING ESTABLISHMENT, ABUTTING A RESIDENTIAL DISTRICT
ENTERTAINMENT ESTABLISHMENT, ABUTTING A RESIDENTIAL DISTRICT
ENTERTAINMENT ESTABLISHMENT, NOT ABUTTING A RESIDENTIAL DISTRICT
HEALTH AND FITNESS CENTER
MEETING HALL
PARKING, OFF SITE
DWELLING, MULTIFAMILY

PROJECT SIGNAGE

A. FREESTANDING SIGNS

1. THE NUMBER OF GROUND SIGNS SHALL CONFORM TO THE REQUIREMENTS OF THE ROANOKE CITY ZONING ORDINANCE, TABLE 30-1 FOR THE "CD" ZONING DISTRICT. GROUND SIGNS SHALL NOT BE DEEMED TO INCLUDE DIRECTIONAL SIGNAGE. GROUND SIGNS SHALL BE LIMITED TO A TOTAL OF ONE HUNDRED FORTY (140) SQUARE FEET OF SIGN SURFACE AREA ON EACH SIDE AND SHALL NOT EXCEED TWENTY (20) FEET IN HEIGHT.
2. NO MORE THAN TWO (2) GROUND SIGNS SHALL BE LOCATED ON THE PROPERTY. GROUND SIGNS LOCATED AT VEHICULAR ENTRANCES MAY SERVE AS PRIMARY SIGNS FOR THE CENTER DEVELOPMENT.

B. BUILDING SIGNS

1. FOR BUILDING "B", BUILDING MOUNTED SIGNS SHALL BE LIMITED TO 1 SQUARE FOOT OF SIGNAGE AREA FOR EACH LINEAR FOOT OF A BUILDING FACADE OR STOREFRONT TO WHICH IT IS ATTACHED. NOTWITHSTANDING THE ABOVE LIMITATION, EACH STOREFRONT ON BUILDING "B" SHALL BE ENTITLED TO MINIMUM BUILDING MOUNTED SIGNAGE OF 24 SQUARE FEET. FOR BUILDING "A", BUILDING MOUNTED SIGNAGE, WHICH MAY INCLUDE MURALS, SHALL NOT COLLECTIVELY EXCEED 1,457.50 SQ. FT., WHICH SIGNAGE CAN BE PLACED ON ANY ONE OF THE BUILDING FACADES AND NEED NOT BE PROPORTIONATELY ALLOCATED.
2. BUILDING MOUNTED SIGNS SHALL NOT BE DEEMED TO INCLUDE BEAM SIGNAGE OR SIGNAGE PERPENDICULAR TO THE BUILDING FACADE TO WHICH IT ATTACHED, BUT BOTH AS SUCH BEAM SIGNAGE IS 10 SQUARE FEET OR LESS.
3. SIGNS APPLIED TO AWNINGS OR ENTRANCE CANOPIES OR SIGNS APPLIED TO WINDOWS SHALL BE PERMITTED AND SHALL NOT BE INCLUDED IN THE CALCULATION OF BUILDING MOUNTED SIGNAGE SET OUT IN 1. ABOVE.

BUILDING DESIGN

THE DESIGN OF ALL BUILDINGS SHALL BE ARCHITECTURALLY COMPATIBLE THROUGH THE USE OF COMMON MATERIALS, STYLES OR FORM WITH THE BUILDINGS ON TAX MAP PARCELS 1150102 AND 1150113. THE EXTERIOR FINISH MATERIALS FOR ANY BUILDING ON THE PROPERTY SHALL BE LIMITED TO THE FOLLOWING: STUCCO OR EXTERIOR INSULATED FINISH SYSTEM (EFS), STONE OR CASTSTONE, BRICK, COMPOSITE, NORDIC PANELS, GLASS, METAL, WOOD, STANDING METAL SEAM, CAULK STONE, TRELLIS/LOUVER STRUCTURE SUPPORTING VEGETATIVE FACADES, OR OTHER FORM MATERIALS USED ON THE BUILDINGS LOCATED ON TAX MAP PARCEL 1150102 IN ITEMS 1 AND 2. BUILDING HEIGHT SHALL NOT EXCEED FIFTY (50) FEET. THE TWO FACADES ON BUILDING "B" AS SHOWN ON THE INSTITUTIONAL DEVELOPMENT PLAN SUBMITTED FOR FRANKLIN ROAD AND THE INTERIOR ON THE DEVELOPMENT FACING BUILDING A SHALL HAVE A MINIMUM TRANSPARENCY OR GLAZING OF 10% FOR THE GROUND FLOOR AND 5% FOR UPPER FLOORS. TO THE EXTENT THAT UPPER FLOORS ARE CONTAINED IN BUILDINGS LOCATED WITHIN 100 FEET OF FRANKLIN ROAD SHALL HAVE A PRIMARY ENTRANCE VISIBLE FROM FRANKLIN ROAD AND NO GREATER THAN 100 FEET FROM THE FRANKLIN ROAD RIGHT OF WAY AND SHALL PROVIDE PEDESTRIAN LINKAGE TO FRANKLIN ROAD. FOR ANY FACADE ON BUILDING "A" AS SHOWN ON THE INFILL DEVELOPMENT PLAN LONGER THAN 50 FEET AND FRONTING FRANKLIN ROAD, ARTICULATION ELEMENTS SHALL BE PROVIDED TO AVOID THE APPEARANCE OF A BLANK WALL. THESE MINIMUM ARTICULATION ELEMENTS FOR BUILDING "A" SHALL INCLUDE OFFSETS WITHIN EACH 50 FOOT SECTION. ADDITIONALLY, WITHIN EACH 50 FOOT SECTION OF WHICH CONTAINS THESE MINIMUM ARTICULATION ELEMENTS SHALL INCLUDE: (A) EITHER A MURAL OR A GREEN WALL VEGETATED WALL AND (B) A COMBINATION OF TWO OR MORE OF THE FOLLOWING ARTICULATION ELEMENTS: CHANGES IN COLOR, CHANGES IN MATERIALS, OR CHANGES IN TEXTURE. THE GREEN WALL SHOULD HAVE A MINIMUM HEIGHT FOR ALL TO ONE-THIRD THE HEIGHT OF THE FACADE UPON WHICH IT IS LOCATED WITH A MINIMUM WIDTH OF TWO-THIRDS OF THE GREEN WALL'S HEIGHT. BUILDING "A" LANDSCAPE ALLEGHENY PLACE FRANKLIN ROAD SHALL BE SET BACK AT LEAST 3 FEET FROM THE PROPERTY LINE. ENCLOSURES FOR DUMPSTERS, IF REQUIRED, SHALL BE CONSTRUCTED WITH BUILDING MATERIALS SIMILAR TO THOSE USED IN THE PRIMARY STRUCTURE IN TYPE AND COLOR. FOUNDATION SHRUB PLANTING SHALL BE PROVIDED ALONG THE FRANKLIN ROAD FACADE OF BUILDING "A". FOUNDATION SHRUB PLANTINGS SHOULD INCLUDE SHRUBS VARIETIES FORM, HEIGHT, COLOR, OR TEXTURE OF CONSTRUCTION TO ACCENTUATE THE BUILDING AND PROVIDE VISUAL INTEREST. AT LEAST TWO COLOR OF SHRUBS WITH A MATURE HEIGHT OF 18 FEET AND FOUNDATION, OR CONCEALING, SHRUBS WITH DIAMETER EXCEEDING 3 FEET SHALL BE PART OF THE FOUNDATION SHRUB LANDSCAPE PLAN. FOUNDATION SHRUBS WILL BE PLANTED THE EQUIVALENT OF EVERY 3 FOOT ON CENTER ALONG THE FRANKLIN ROAD FACADE OF BUILDING "A" EXCEPT WHERE VEGETATIVE WALLS EXIST.

PARKING LOT LIGHTING DESIGN

WHERE PEDESTRIAN LIGHTING IS EXPECTED TO HAVE A PREMIUM APPEARANCE, ALL PARKING LOT LIGHTING FIXTURES MOUNTED ON POLES TALLER THAN 16 FEET SHALL BE THE FOLLOWING: ENGINEERING SERVICE OF NORTH AMERICA (ESNA) STANDARD CUTOFF TYPE LUMINAIRES. ALL PARKING LOT LIGHTING FIXTURES MOUNTED ON POLES LOWER THAN 16 FEET SHALL BE THE FOLLOWING: ENGINEERING SERVICE OF NORTH AMERICA (ESNA) STANDARD CUTOFF TYPE LUMINAIRES. IN ANTICIPATED THAT ONE OF ONE OF THE FOLLOWING PARKING STYLES OF FIXTURE (S) SHALL BE USED: A. VINTAGE POST TOP LANTERN STYLE B. MODERN DAY VINTAGE HANGING PENDANT OR BELL CLASSICALLY SHORT POST STYLE WALL LIGHT. THE APPROPRIATE EXAMPLES OF EACH STYLE ARE SHOWN BELOW. IN WELL AS A PROGRAM IN TAILING THE DESIGN WITH THE LIGHT SOURCE HIDDEN IN THE TOP. TYPICAL IN POST TOP LUMINAIRES OF THE SIMILAR IN POST TOP SIMILARITY. AVOID FOR SHOT HANDLE RESERVATION LISTING FOR PARKING AREAS AND DRIVES SHOULD NOT EXCEED EIGHT CANDLES AS MEASURED AND IN PERMANENT BY THE ZONING ADMINISTRATOR. ILLUMINATION LEVELS AT THE PROPERTY LINE ALONG FRANKLIN ROAD SHALL NOT EXCEED EIGHT CANDLES.

FLOOR AREA RATIO CALCULATION:

TOTAL LAND AREA: ~3.4295 AC (149,396 S.F.)
NEW MIXED USE BUILDINGS: 30,000 S.F.
FLOOR AREA RATIO = 0.21

PROPOSED OPEN SPACE: 9.64 AC (420,060 S.F.)
PERCENTAGE OF OPEN SPACE: 14.0%

PARKING:

196 NEW PARKING SPACES SHOWN

PARKING LOT CONFIGURATION WILL BE ADJUSTED AS NECESSARY DURING DEVELOPMENT PLAN REVIEW TO MEET ALL APPLICABLE CIRCULATION AND LANDSCAPING STANDARDS AND REQUIREMENTS. COMPACT PARKING SPACES MAY BE UTILIZED FOR ALTERNATIVE FUELS SUCH AS ELECTRIC VEHICLE CHARGING STATIONS OR STORMWATER RECLAMATION.

SUBDIVISION:

SHOULD THE PARCELS, WHICH COMPRISE THE PROPERTY, BE COMBINED OR SUBDIVIDED, THE CONDITIONS SHALL BIND EACH SUBDIVIDED OR RECOMBINED PARCELS, AS APPLICABLE. SUCH SUBDIVIDED OR COMBINED LOTS SHALL HAVE A LOT FRONTAGE ON FRANKLIN ROAD OF AT LEAST TEN (10) FEET.

SUBJECT PARCELS:

TAX #1150102 - IVY VIEW L.L.C. (0.5340 AC - 23,260 SF)
TAX #1150104 - IVY VIEW L.L.C. (0.2262 AC - 9,855 SF)
TAX #1150106 - IVY VIEW L.L.C. (1.8995 AC - 82,807 SF)
TAX #1150108 - IVY VIEW L.L.C. (0.5030 AC - 17,120 SF)
TAX #1150112 - IVY VIEW L.L.C. (0.0525 AC - 2,276 SF)
TAX #1150113 - IVY VIEW L.L.C. (0.332 AC - 14,490 SF)

INSTITUTIONAL DEVELOPMENT PLAN
FOR IVY MARKET
for TAX PARCELS
1150102, 1150104, 1150106, 1150108,
1150112 AND 1150113
SITUATED ALONG FRANKLIN ROAD, S.W.
ROANOKE, VIRGINIA

LUMSDEN ASSOCIATES, P.C.
ENGINEERS SURVEYORS PLANNERS
ROANOKE, VIRGINIA

DATE: AMENDED OCTOBER 19, 2016 SEPTEMBER 14, 2016
DRAWN BY: DRC SCALE: 1" = 50'
CHECKED BY: DRC
SHEET 1 OF 1

ZONING DISTRICT MAP

2207, 2203, 0, 2219, 0, and 2211 Franklin Road SW
Official Tax Parcels: 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113, respectively

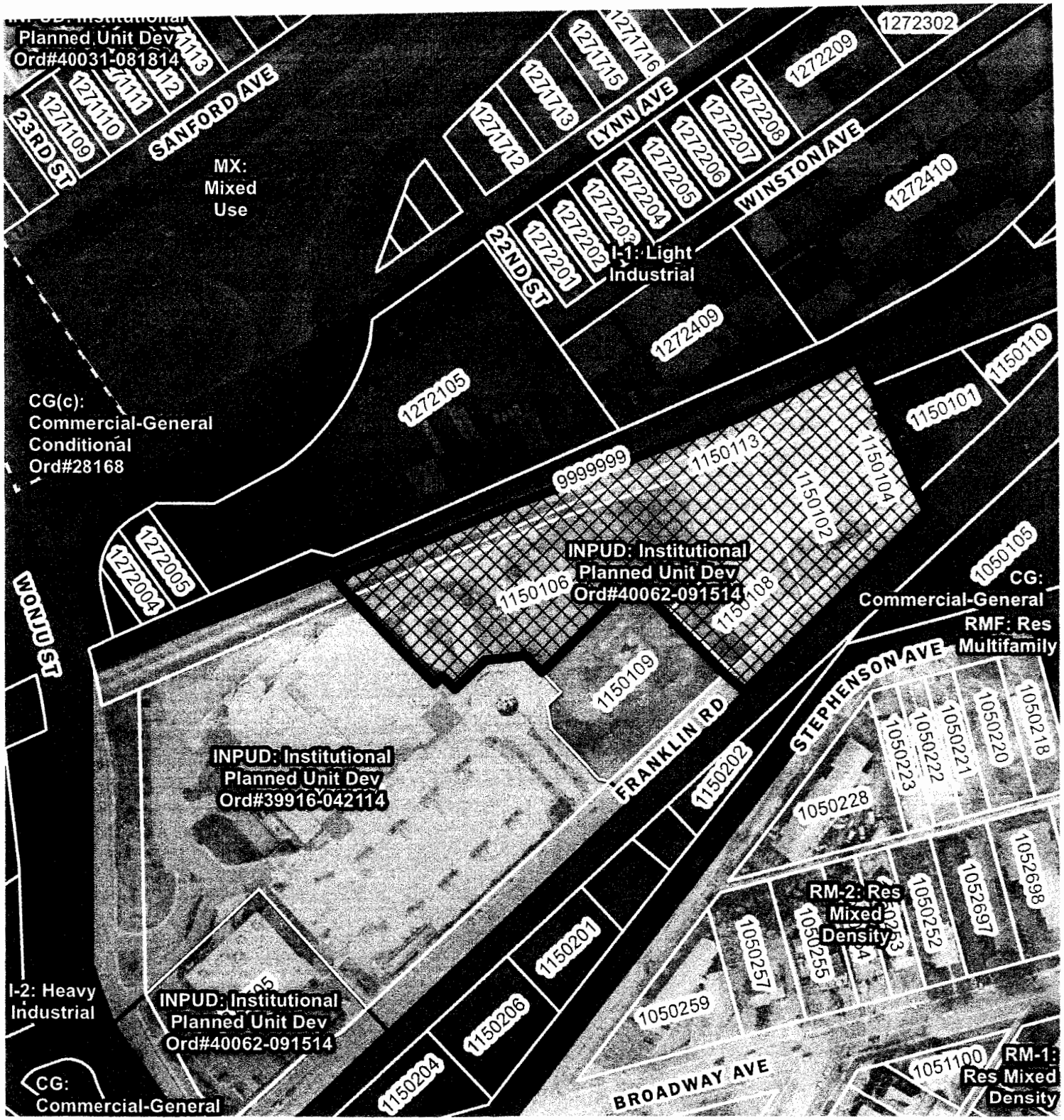
Area to be Rezoned

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



SJT 11/21/16

B.1.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to amend a Planned Unit Development Plan and repeal all conditions proffered as part of a previous rezoning of certain properties located at 2207, 2203, 0 (zero), 2219, 0 (zero), and 2211 Franklin Road, S.W., bearing Official Tax Map Nos. 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113, respectively; and dispensing with the second reading of this ordinance by title.

WHEREAS, Danny E. Broach, Manager, on behalf of Ivy View, LLC., has made application to the Council of the City of Roanoke, Virginia ("City Council"), to amend a Planned Unit Development Plan and certain conditions presently binding upon a tract of land located at 2207, 2203, 0 (zero), 2219, 0 (zero), and 2211 Franklin Road, S.W., being designated as Official Tax Map Nos. 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113, respectively, which properties are zoned INPUD, Institutional Planned Unit Development District, with proffers, such proffers being accepted by the adoption of Ordinance No. 40062-091514, on September 15, 2014;

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 City Council;

WHEREAS, a public hearing was held by City Council on such application at its meeting on November 21, 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 amendment of the Planned Unit Development Plan

and certain conditions presently binding upon a tract of land located at 2207, 2203, 0 (zero), 2219, 0 (zero), and 2211 Franklin Road, S.W., being designated as Official Tax Map Nos. 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113, respectively, which property is zoned INPUD, Institutional Planned Unit Development District, with conditions, such conditions being accepted by the adoption of Ordinance No. 40062-091514, on September 15, 2014;

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, finds that the public necessity, convenience, general welfare and good zoning practice, require the amendment of the Planned Unit Development Plan and proffers applicable to the subject property, and is of the opinion that the conditions now binding upon a tract of land located at 2207, 2203, 0 (zero), 2219, 0 (zero), and 2211 Franklin Road, S.W., being designated as Official Tax Map Nos. 1150102, 1150104, 1150106, 1150108, 1150112, and 1150113, respectively, should be repealed as requested, and that such property be zoned INPUD, Institutional Planned Unit Development District, without proffers, as set forth in the Zoning Amendment Amended Application No. 1 dated October 21, 2016, as herein provided.

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 repeal of the proffered conditions as requested in the Zoning Amendment Amended Application No. 1 dated October 21, 2016, so that the subject property is zoned INPUD, Institutional Planned Unit Development District, with no conditions.

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.

B.2.

CITY COUNCIL AGENDA REPORT

To: Honorable Mayor and Members of City Council

Meeting: November 21, 2016

Subject: Application by the City of Roanoke to rezone and repeal all conditions proffered as part of a previous rezoning on property located at 2002 Blue Hills Drive, N.E., bearing Official Tax Map No. 7230101, from I-1, Light Industrial District, with conditions, and ROS, Recreation and Open Space District, to I-1, Light Industrial District.

Recommendation

The Planning Commission held a public hearing on Monday, November 14, 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, *Hollins/Wildwood Area Plan*, and Zoning Ordinance as the subject property will be redeveloped for an active use appropriate to the surrounding area.

Application Information

Request:	Rezoning and Repeal of Proffered Conditions
Owner:	City of Roanoke
Applicant:	City of Roanoke Planning Commission
Authorized Agent:	Ian D. Shaw, Planning Commission Agent
City Staff Person:	Katharine Gray, Land Use and Urban Design Planner
Site Address/Location:	2002 Blue Hills Drive NE
Official Tax Nos.:	7230101
Site Area:	Approximately 49.417 acres
Existing Zoning:	I-1, Light Industrial District, with conditions, and ROS, Recreation and Open Space District
Proposed Zoning:	I-1, Light Industrial District
Existing Land Use:	Vacant
Proposed Land Use:	Manufacturing
Neighborhood Plan:	*Hollins/Wildwood Area Plan*
Specified Future Land Use:	Light Industrial and Recreation/Open Space

Filing Date:	Motion at Planning Commission Public Hearing: October 10, 2016 Original Application: October 10, 2016

Background

The use of the property in this portion of the City of Roanoke has long been one of a mixture of industrial and residential uses. The area once had a large five-story roller and saw mill, last known as Mason's Mill, which served as an industrial service and gathering spot from the early 1800's until it burned in 1924. A number of mill worker houses built in the early 1900's still surround the area.

In 1989, several parcels of land were rezoned from RS-3, Residential Single Family District, and RA, Residential Agricultural District, to LM, Light Manufacturing District, with conditions. The purpose of the rezoning was to expand the Roanoke Centre for Industry and Technology to accommodate future industrial development. That land is currently zoned I-1, Light Industrial District, with conditions with the exception of a 0.56 acre area that is currently zoned ROS, Recreation and Open Space District.

The subject property of this request straddles a former boundary line of the city that led to irregularities in the tax map/zoning map for this area at the time of the rezoning (the 0.56 area was annexed in 1949 with the bulk of the property annexed in 1976). This situation gave the appearance that the 0.56 acre area, referenced above, remained in a RM-2, Residential Mixed Density District. In the 2005 Comprehensive Rezoning, the bulk of the property was rezoned to I-1, Light Industrial District, while the 0.56 acre area that appeared to be zoned RM-2 was rezoned to ROS, Recreation and Open Space District. The conditions remained on the entire tract.

Proffered Conditions

The conditions proposed for repeal on the parcel, adopted through enactment of Ordinance No. 29660, require the reversion of zoning designations if the City did not buy the property and require the imposition of restrictive covenants.

The condition related to the sale of the property is no longer needed because the City of Roanoke purchased the property. The condition related to the imposition of restrictive covenants is no longer needed because the restrictive covenants were imposed by the recording of a document entitled, "Deed of Restriction Addition to the Roanoke Center for Industry and Technology," dated April 2, 1992.

Considerations

The property is part of a large industrial development located at the western end of Blue Hills Drive. The proposed change will further the development of the property for industrial uses in keeping with the long term vision for the site.

Surrounding Zoning and Land Use:

	Zoning District	*Land Use*
North	RA, Residential -Agriculture and I-1, Light Industrial District, with conditions	Single Family Detached Dwelling, Agricultural Operations, and General Manufacturing
South	R-5, Residential Single Family and I-1, Light Industrial District	Single Family Detached Dwelling, Vacant, and Warehouse
East	I-1, Light Industrial District	Vacant
West	ROS, Recreation and Open Space	Park

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 change from I-1, with conditions, to I-1 does not remove any of the development standards within the zoning ordinance that protect residential zoning districts adjacent to the property.

Conformity with the Comprehensive Plan and Neighborhood Plan:

Both *Vision 2001-2020* and the *Hollins/Wildwood Area Plan* identify the need for development of existing industrial properties within existing industrial zoning districts. The correction of a zoning district error on a small corner of the industrial property will return the property to a fully industrial zoning district 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 *Hollins/Wildwood Area Plan* Policies:

Economic Development Policies

Industrial Districts: Industrial uses should have sufficient land to operate, and have a minimal impact on adjoining properties.

Public Comment Summary

None

Planning Commission Work Session (October 7, 2016):

The item was discussed in the Planning Commission Work Session for compliance with City policy and ordinances. No comments for the applicant resulted from the review of the proposed rezoning.

Conclusions and Recommendations:

The principal consideration is whether the proposed zoning amendment is consistent with *Vision 2001-2020* and the *Hollins/Wildwood Area Plan*. The proposed zoning amendment clears up an error from long ago and designates the entire property as an I-1 District. It also repeals proffered conditions on the property that are no longer relevant. The proposed change will allow the entire parcel to be used for industrial development in an undeveloped portion of the City's largest industrial business park. Staff finds that the zoning amendment, as proposed, is consistent with these plans as it makes the entirety of the property I-1in the general area that is targeted in each plan for industrial use.

Planning Commission Public Hearing (November 14, 2016):

None

Kermit Hale / tme

Kermit Hale, Chair
City Planning Commission

c: 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

Zoning Amendment Application

RECEIVED
OCT 10 2016
CITY OF ROANOKE
PLANNING BUILDING & DEVELOPMENT

ROANOKE

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

Click Here to Print

Date: Aug 23, 2016

Submittal Number: Original Application

Request (select all that apply):

- [x] 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: 2002 Blue Hills Drive NE

Official Tax No(s).: 7230101

Existing Base Zoning:
(If multiple zones, please manually enter all districts.)
I-1(c) and ROS (no conditions)
- [x] With Conditions
- [ ] Without Conditions

Ordinance No(s). for Existing Conditions (If applicable): 29660

Requested Zoning: I-1
- [ ] With Conditions
- [x] Without Conditions

Proposed Land Use: Manufacturing

Property Owner Information:

Name: City of Roanoke

Phone Number: +1 (540) 853-2333

Address: 215 Church Ave. SW, Roanoke, VA 24011

E-Mail:

Property Owner's Signature:

Applicant Information (If different from owner):

Name: City of Roanoke Planning Commission, Kermit Hale, Chair

Phone Number: +1 (540) 853-1730

Address: 215 Church Ave. SW, Roanoke, VA 24011

E-Mail: planning@roanokeva.gov

Applicant's Signature:

Authorized Agent Information (If applicable):

Name: Ian D. Shaw, Agent to the Planning Commission

Phone Number: +1 (540) 853-5808

Address: 215 Church Ave. SW, Roanoke, VA 24011

E-Mail: ian.shaw@roanokeva.gov

Authorized Agent's Signature:

Zoning Amendment
Application Checklist

ROANOKE

The following must be submitted for all applications:

- [x] *Completed* application form and checklist.
- [x] Written narrative explaining the reason for the request.
- [x] Metes and bounds description, if applicable. Not needed. Proposed zoning line follows existing property line.
- [x] Filing fee. n/a

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

- [x] 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:

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

The subject parcel is located approximately 8,000 feet from a non-limited access state controlled highway or a connection to a state limited access highway (measured along public streets). Therefore, it is not subject to Chapter 527 requirements.

*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.

Zoning Map Amendment Narrative

Subject property: 49.417 acre parcel located at 2002 Blue Hills Drive, NE, identified as TM#7230101

Owner: City of Roanoke

Proposed change: From ROS and I-1(c) to I-1

The subject parcel was rezoned from RA, Residential-Agricultural to LM, Light Manufacturing, with conditions, by Ordinance No. 29660, on July 24, 1989. In examining the map filed with the application, it appears a former corporate limit line was mistaken for a property line. That error resulted in a small area not being included in the rezoning. That portion remained RS-3 and was later rezoned to ROS, Recreation and Open Space, as part of a comprehensive rezoning of the City in December 2005.

Approximately 48.86 acres are currently zoned I-1, with conditions. Approximately 0.56 acres are zoned ROS, with no conditions. Since the proposed zoning line will follow an existing property line, no survey is necessary.

The intent of the proposed rezoning is to correct the map and extend the I-1 zoning district over the entire parcel identified as Tax Map No. 7230101. In addition, the proposed amendment will repeal the conditions that were applied to the property. These conditions were included in Section 6 of the Petition to Rezone:

> *6. Petitioners hereby proffer and agree that if the Property is rezoned as requested, the rezoning will be subject to, and that the Petitioners will abide by, the following conditions:*
>
> *a. If the City does not purchase the Property, the zoning shall revert to the zoning designations existing at the time of the filing of this Petition to Rezone, without further action by City Council.*
>
> *b. The City agrees, upon purchasing the Property, to impose restrictive covenants upon any and all sites and lots located within the Property similar to those contained in the document entitled, "Deed of Restriction" which is attached as Exhibit "D"*

Condition 6(a) is no longer needed because the City ultimately purchased the property. Moreover, such a reversion clause has been deemed unenforceable.

Condition 6(b) is no longer needed because the referenced restrictive covenants were imposed by the "Deed of Restriction Addition to the Roanoke Center for Industry and Technology," dated April 2, 1992.

This map amendment was initiated by motion of the Planning Commission on October 10, 2016, as provided for in Sec. 36.2-540(b) of the City of Roanoke Zoning Ordinance.

Attachments:

Exhibit 1. Subject Property

Exhibit 2. Areas to be rezoned

Exhibit 3. Concept Plan

Exhibit 1. Subject Property

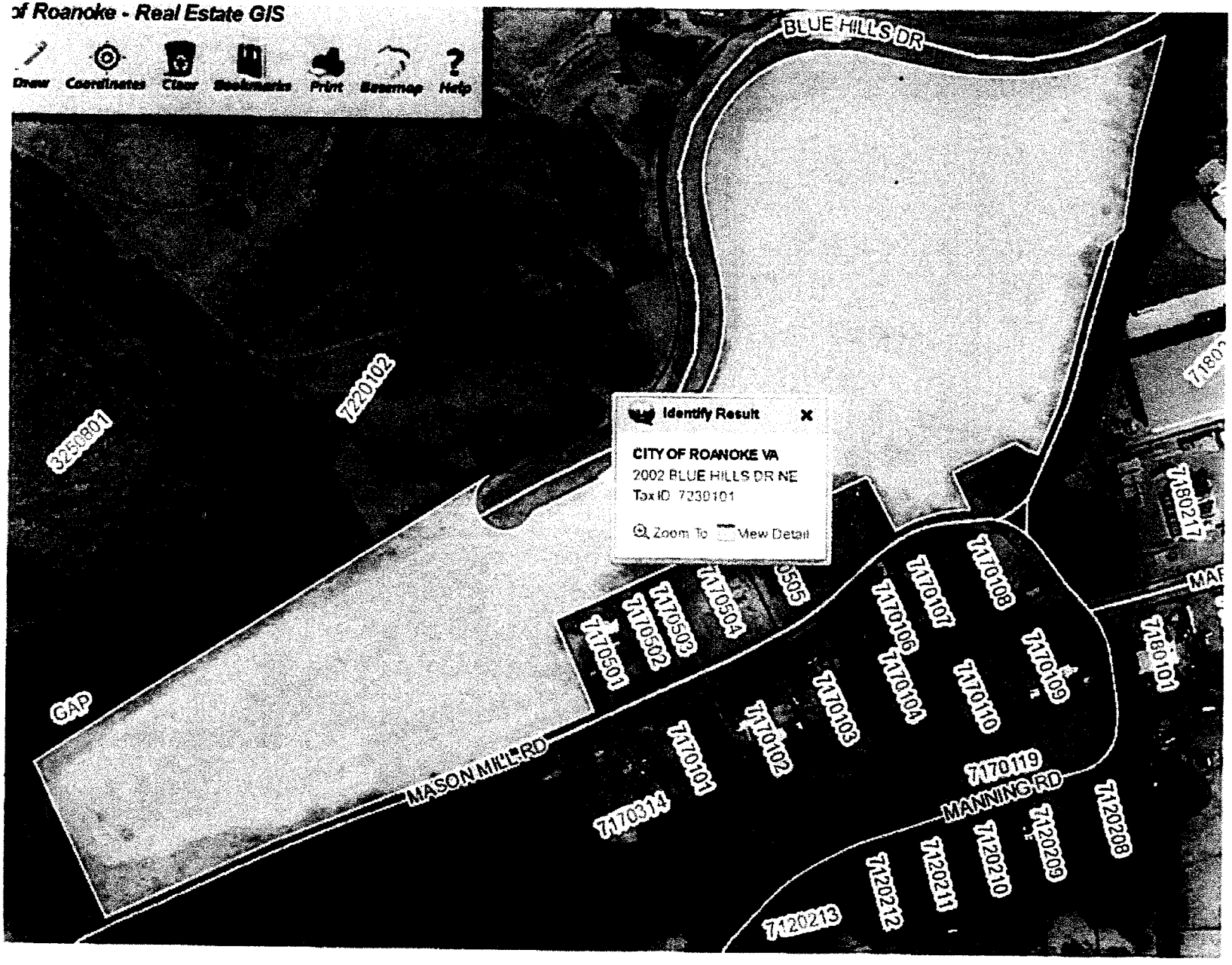


Exhibit 2. Areas to be rezoned

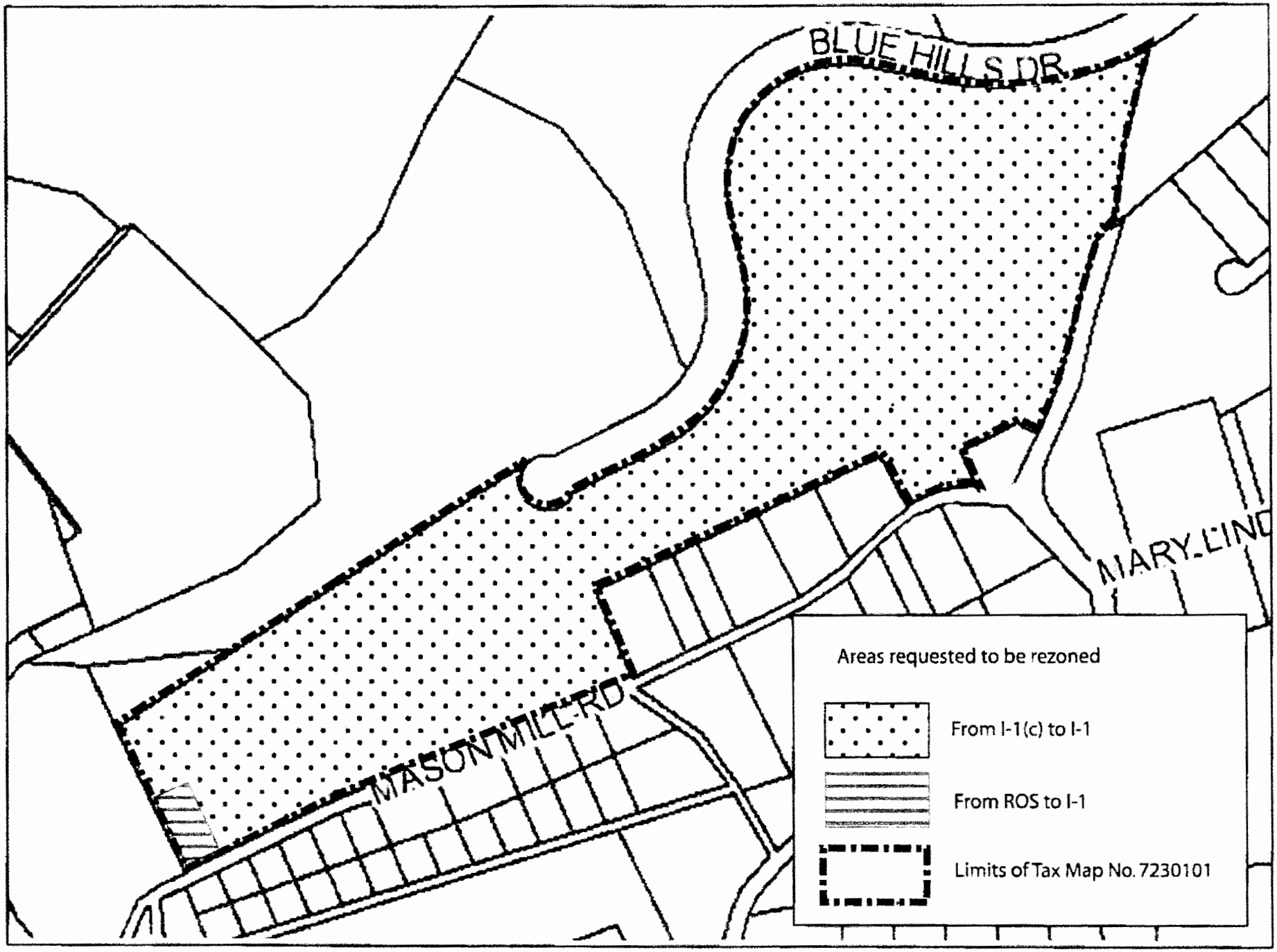


Exhibit 3. Concept Plan

ZONING DISTRICT MAP

2002 Blue Hills Drive NE
Official Tax Parcels: 7230101

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

0 250 500 Feet

N W E S

SST
11/17/16

B.2.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE repealing Ordinance No. 29660, adopted July 24, 1989, to the extent that it placed certain conditions on property located at 2002 Blue Hills Drive, N.E., and to rezone the subject property from I-1, Light Industrial District, with conditions, and ROS, Recreation and Open Space District, to I-1, Light Industrial District, without conditions; and dispensing with the second reading of this ordinance by title.

WHEREAS, the City of Roanoke has made application to the Council of the City of Roanoke, Virginia ("City Council"), to have the property located at 2002 Blue Hills Drive, N.E., bearing Official Tax Map No. 7230101, rezoned from I-1, Light Industrial District, with conditions, and ROS, Recreation and Open Space District, to I-1, Light Industrial District, without conditions, and to repeal Ordinance No. 29660, adopted July 24, 1989, to the extent that it placed conditions on the subject property;

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 City Council;

WHEREAS, a public hearing was held by City Council on such application at its meeting on November 21, 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 rezoning; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to City 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 rezoning of the subject property, and for those reasons, 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:

1. Ordinance No. 29660, adopted July 24, 1989, to the extent that it placed certain conditions on property located at 2002 Blue Hills Drive, N.E., bearing Official Tax Map No. 7230101, is hereby REPEALED, and that 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 such action.

2. 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 that Official Tax Map No. 7230101 located at 2002 Blue Hills Drive, N.E., be, and is hereby rezoned from I-1, Light Industrial District, with conditions, and ROS, Recreation and Open Space District, to I-1, Light Industrial District, without conditions, as set forth in the Zoning Amendment Application No. 1 dated August 23, 2016.

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.3.

CITY COUNCIL AGENDA REPORT

To: Honorable Mayor and Members of City Council

Meeting: November 21, 2016

Subject: Proposed amendments to Chapter 36.2, Zoning, of the Code of the City of Roanoke (1979), as amended, by amending and reordaining, adding or deleting code sections to update, clarify and make the City's zoning ordinance easier to use for its citizens, and to make the City's zoning ordinance consistent with state code, such amendments not constituting a comprehensive rezoning or change of any densities that would decrease permitted density in any district, unless otherwise noted.

Recommendation

The Planning Commission held a public hearing on Monday, November 14, 2016. By a vote of 6 - 0, the Commission recommended approval of the proposed amendments to Chapter 36.2, Zoning, of the Code of the City of Roanoke (1970), as amended.

Background

Roanoke adopted the current zoning ordinance in December, 2005. Since adoption, Planning staff has developed periodic amendments to ensure the ordinance remains a relevant tool for implementing the City's comprehensive plan. Significant amendments were made in 2010, 2011, 2012, 2014, and 2015.

Considerations

The proposed amendments will help address issues that arise with experience in applying zoning regulations to actual development scenarios and uses to ensure the ordinance produces intended outcomes in development. The amendments also respond to changes in state enabling legislation. Indeed, most of the content with this package consists of amendments to the Floodplain Overlay District mandated by the Virginia Department of Conservation and Recreation.

The attached *Summary of Proposed Code Amendments* provides detail on each proposed change.

Public Comment Summary

Mr. E. Duane Howard, Roanoke, commented by email concerning the amendment to the RM-1District, such amendment having been removed for consideration at this time. In the email, Mr. Howard asked that the Commission postpone this matter until January or February in order to give the neighborhood organizations more time to meet and learn about the proposed change. A copy of Mr. Howard's email was forwarded to the Commissioners.

G. Stephen Harkrader, Roanoke, commented by email concerning the amendment to the RM-1 District, such amendment having been removed for consideration at this time. In the email, Mr. Harkrader described himself as "a neighborhood advocate who is interested in 'all' of Roanoke's neighborhoods." He stated that "[c]ode enforcement (during and after) will be Roanoke City's challenge." A copy of Mr. Harkrader's email was forwarded to the Commissioners.

Planning Commission Work Session (October 7, 2016):

The item was discussed in the Planning Commission Work Session for compliance with City policy and ordinances.

Conclusions and Recommendations:

Staff recommended approval of the proposed amendments to the Zoning Ordinance.

Planning Commission Public Hearing (November 14, 2016):

None

Kermit Hale / tme
Kermit Hale, Chair
City Planning Commission

Attachment—*Summary of Proposed Code Amendments*

c: Chris Morrill, City Manager
R. Brian Townsend, Assistant City Manager
Chris Chittum, Director of Planning Building & Development
Daniel J. Callaghan, City Attorney
Steven J. Talevi, Assistant City Attorney

Summary of Proposed Code Amendments

Schedule:	Planning Commission Public Hearing November 14, 2016 City Council public hearing November 21, 2016	
Chapter 31.1. Subdivisions		
Section	**Proposed amendment**	**Comments**
405 Standards for floodplain overlay district.	Add regulations for subdivisions of land that is located in a flood zone.	State-mandated.
604 Review Fees	Amend to create a reference to the fee compendium.	Moving subdivision fees from code to the fee compendium.
	End of subdivision amendments	
Chapter 36.2. Zoning		
Section	**Proposed amendment**	**Comments**
202 Zoning map	Rezone a +/-49 acre parcel identified as 2002 Blue Hills Drive, NE, identified as Tax Map No. 7230101, from ROS and I-1, conditional, to I-1, conditional.	The property is proposed for sale to Deschutes Brewery. The amendment will create a consistent zoning of the entire property and delete proffered conditions that are no longer relevant to the property.
205-1 Permitted Yard Encroachments	Clarify that a front porch encroachment of up to 7' should be measured from the building front, or the porch face, if a porch is present.	
205 (f)(1) Dimensional regulations for front yards	For purposes of the infill rule, clarify language to line up the main mass of the house.	Infill rules are in Section 313. They have the intent of aligning residential structures based on the setbacks of existing structures.
311 Use table for residential districts	Add *Day care home, adult* by special exception in all residential districts	Day care homes for children are similarly permitted by special exception in all residential districts. The number of adults served is capped at three.
312 Dimensional regulations for residential districts.	Remove application of infill rule in RMF District.	RMF districts are not typically mapped in neighborhood settings where building alignment is crucial.
313 Front yard dimensions for infill development.	Amending infill rules to clarify application.	
315 Use Table for Multiple Purpose Districts	Add Kennel with outdoor pens or runs as a special exception use in the CG district.	
315 Use Table for Multiple Purpose Districts	Add **Short term rental** to use table as a permitted use wherever hotels and motels are permitted.	A definition of this activity is added to definitions. Distinguished from a homestay.
315 Use Table for Multiple Purpose Districts	Add **Self-storage building** as a special exception use in CG, CLS, D and UF districts.	See new definition; this type of storage has units accessed from inside the building.

Summary of Proposed Code Amendments

315 Use Table for Multiple Purpose Districts	Adding **eating and drinking establishments** as special exception uses in the MX, Mixed Use district.	Permit small scale neighborhood oriented establishments if it meets standards for special exception.
315 Use Table for Multiple Purpose Districts	Change **Meeting Hall** to a special exception in commercial districts when they abut a residential district.	Meeting hall can have the same impacts as an eating and drinking establishment.
315 Use Table for Multiple Purpose Districts	Make **Day care home, adult** a special exception use in MX, CN, D and UF districts.	
315 Use Table for Multiple Purpose Districts	Permit **Supply pantry** where retails sales use is permitted.	Consistency with where goods can be sold.
316 Dimensional regulations for multiple purpose districts.	Add **pedestrian access requirements** in D and MX districts.	Good results and experience in other districts since 2005.
36.2-319 (d) Building placement and façade transparency standards for multiple purpose districts.	Specify that **front entrance** of a building needs to be located within limits of the min/max yard.	Close loophole in language that allows locating an entrance at the back of building.
322 Use table for industrial districts	Add **Self-storage building** as a permitted use in all industrial districts.	
322 Use table for industrial districts	Delete **Mini-warehouse** and replace with **Self-storage facility** as a permitted use in all industrial districts.	Self-storage facility will replace Mini-warehouse. Also see that supplemental regulations for Mini-warehouses are being deleted and are not proposed for application to Self-storage facility. The use is permitted only in industrial districts.
322 Use table for industrial districts	Make **Sports facility lighting** a special exception in industrial districts.	Needs to be evaluated through SE process.
333 Flood plain overlay district	Complete amendment of **floodplain overlay** district required for compliance with FEMA and VDCR regulations.	State-mandated compliance of local ordinance.
335 River and Creek Corridors Overlay District (RCC).	Amend to permit private streets **as buffer impacts.**	Public streets already permitted.
336 Comprehensive Sign Overlay District.	Allow a **sign overlay** to be adopted in a residential multifamily district. Remove caps on sign area and height to allow more flexibility in the overlay.	Requires zoning amendment public hearing process.
406 Car wash.	Add **landscaping strip** (trees and shrubs) along street.	
408 Day care centers, child	Remove exclusion for **playground equipment** in front yard and prohibition on crossing a right-of-way for	

Summary of Proposed Code Amendments

	access.	
411 Gasoline stations	Add landscaping strip (trees and shrubs) along street.	
415 Mini warehouses	Delete. Replacing with **self-storage facility** term	Supplemental regulations no longer needed since the use is permitted only in industrial districts.
429 Temporary uses.	Amend **public events**	Permit block parties in residential areas. Reflects current practice.
540 Zoning amendments	Amend to use 'zoning amendment" terminology and reference fee compendium.	Coordinating with amendments to fee compendium to establish a single fee.
622.Exempt lighting.	Amend references to other sections of code.	Correcting scrivener's error. Note: this type of lighting is exempted from this section because it is regulated as a separate use requiring a special exception.
647 Buffering and screening.	Amend language and table to clarify where **buffering and screening** are to be located for various activities or uses. Adding a provision for buffering athletic sports facilities from residential areas.	
648 Parking area landscaping.	Permit **river rock** as an acceptable ground cover Define **interior planting areas** for interior parking area landscaping.	Pervious ground cover. Newly-defined term. Providing guidance.
649 Standards for buffering, screening, and parking area landscaping materials.	Add 8' spacing for **evergreen tree screen**.	No spacing was specified.
651 Applicability (of parking standards)	Specify that the **repeated parking of vehicle** in an area denuding landscaped area constitute establishment of parking area.	To address long-standing neighborhood issue of front yard parking. Because the activity is based on physical conditions, this approach will permit periodic parking in front yard under special circumstances (such as loading) and does not require that a vehicle be witnessed parking on lawn.
652-2 Required parking spaces	Max parking for car washes (automated and self-service)	Need to distinguish between uses.
705 Nonconforming uses	Where the use of a structure is deemed nonconforming with respect to number of dwelling units or the residential use designation, unoccupied spaces such as porches, decks, accessory buildings may be constructed or expanded.	Allows improvement of nonconforming buildings so long as occupied space is not expanded.
709 Certain uses deemed not nonconforming	Add "amendment"	Clarification

Summary of Proposed Code Amendments

Definitions.		
Day care home, adult	Add definition	Comparable to **Day care home, child.**
Day care home, Child	Change from 1-5 to 1-4 children	Reflects a change in state legislation.
Family Day Home	Change from 6-12 to 5-12 children	Reflects a change in state legislation.
Mini-warehouse	Delete entirely	Replacing with **Self-storage facility**
Mobile food vending	Define	Need to define activity because it is permitted as a temporary use.
Permeable paver system	Update definition	
Self-storage building	Define	Units accessed from inside the building
Self-storage facility	Define	Units accessed from outside the buildings. Outdoor storage permitted.
Short-term Rental	New definition	Distinguish from a **homestay**.
Transient guest	New definition	Coordinate with defining **short-term rental**
B-1 Basic development plan requirements	Digital plan submission	Implementing digital plan review capabilities.
B-1 Basic development plan requirements	Simplify item (7) to provide measurement to building line; make sure this aligns with current infill rule requirements. Fix reference to sections which no longer exist.	Drafted
B-2. - Comprehensive Development Plan	Digital plan submission	Implementing digital plan review capabilities.
End of zoning amendments		

Fee Compendium Amendments

Type of Application	**Proposed amendment**	**Comments**
Minor Subdivision Plat or Vacation of a Plat	Proposing increase of $50 to $150 for a minor subdivision plat. The fee for a vacation of a plat will remain the same and is only being relocated from the code to the fee compendium.	Reflects city's cost of review. Moving fees from code to fee compendium. This fee was established in 2002.
Major Subdivision Plat	Major Subdivision Review $220 + $50 per lot created	No change in fee proposed. Relocating fees from code to fee compendium. This fee was established in 2002.
Subdivision Site Plan	$500+$75 per developed acre or portion thereof	No change in fee proposed. Moving fees from code to fee compendium. This fee was established in 2002 and amended in 2007.
Zoning Amendment	Proposing $1,000 fee for any type of application and	All zoning map amendments involve the same

Summary of Proposed Code Amendments

	deleting the schedule below. Rezoning to Residential Districts — $600.00 plus $25.00 per acre, or any portion thereof Rezoning to Commercial Districts — $900.00 plus $25.00 per acre, or any portion thereof Rezoning to Industrial Districts — $900.00 plus $25.00 per acre, or any portion thereof Rezoning to Special Purpose Districts — $900.00 plus $25.00 per acre, or any portion thereof Rezoning to Planned Unit Developments Districts — $1,000.00 plus $25.00 per acre or any portion thereof Rezoning to Overlay Districts — $250.00 Amendment to Proffered Conditions — $500.00	process and staff time. This fee schedule was established in 2002 and was amended in 2006.
Zoning Administrator Modification	$150	Currently, there is no fee associated with this type of application. An amendment of the zoning ordinance required to create a reference to fee compendium.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE amending and reordaining Section 36.2-205, Dimensional regulations, Table 205-1, Permitted Yard Encroachments; Section 36.2-311, Use table for residential districts; Section 36.2-312, Dimensional regulations for residential districts; Section 36.2-313, Front yard dimensions for infill development; Section 36.2-315, Use table for multiple purpose districts; Section 36.2-316, Dimensional regulations for multiple purpose districts; Section 36.2-318, Pedestrian access; Section 36.2-319, Building placement and façade transparency standards for multiple purpose districts; Section 36.2-322, Use table for industrial districts; Section 36.2-327, Use table for planned unit development districts; repealing Section 36.2-333, Floodplain Overlay District (F) and replacing with a new Section 36.2-333, Floodplain Overlay District (F); amending and reordaining Section 36.2-335, River and Creek Corridors Overlay District (RCC); Section 36.2-336, Comprehensive Sign Overlay District; Section 36.2-406, Car wash; Section 36.2-408, Day care centers, child; Section 36.2-411, Gasoline stations; repealing Section 36.2-415, Mini-warehouses; amending and reordaining Section 36.2-429, Temporary uses, Table 429-1, Temporary Uses; Section 36.2-540, Zoning amendments; Section 36.2-622, Exempt lighting; Section 36.2-647, Buffering and screening; Section 36.2-647, Buffering and screening, Table 647-1, Buffering and Screening of Certain Uses and Activities; Section 36.2-648, Parking area landscaping; Section 36.2-649, Standards for buffering and screening, and parking area landscaping materials, Table 649-1, Buffering, Screening and Landscaping Materials; Section 36.2-651, Applicability; Section 36.2-652, Minimum parking, Table 652-2, Required Parking Spaces; Section 36.2-653, Maximum parking; Section 36.2-654, Parking and loading area standards; Section 36.2-705, Nonconforming uses; Section 36.2-709, Certain uses deemed not

nonconforming; Section 36.2-841, Powers and duties; Appendix A, Definitions; Appendix B, Submittal Requirements, B-1, Basic Development Plan; B-2, Comprehensive Development Plan; of Chapter 36.2, Zoning, of the Code of the City of Roanoke (1979), as amended; for the purposes of updating, clarifying, and making consistent with state law, the City's zoning ordinance; providing for an effective date; and dispensing with the second reading of this ordinance by title.

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

1. Chapter 36.2, Zoning, of the Code of the City of Roanoke (1979), as amended, is hereby amended and reordained, to read and provide as follows:

* * *

Sec. 36.2-205. Dimensional regulations.

* * *

Table 205-1. Permitted Yard Encroachments

Feature	Front	Side	Rear
	* * *		
Handicap ramps associated with a residential use	Yes 7 feet, as measured from the front of the building or the front line of an existing porch, if one is present.	Yes 4 feet	Yes 10 feet

* * *

(f) *Front yards.*

(1) The depth of a front yard shall be measured at a right angle to the street line to the front building line of the building, excluding the front porch or any other encroachment into the front yard. In the case of a curved street line, the depth shall be measured on the radial line.

* * *

Sec. 36.2-311. Use table for residential districts

District	RA	R-12	R-7	R-5	R-3	RM-1	RM-2	RMF	Supplemental Regulation Section
* * *									
Commercial Uses:									
Day care home, adult	S	S	S	S	S	S	S	S	

* * *

Sec. 36.2-312. Dimensional regulations for residential districts.

Section 36.2-313 Front yard requirements for infill development apply	No	No	Yes	Yes	Yes	Yes	Yes	~~Yes~~ No

* * *

Sec. 36.2-313. Front yard dimensions for infill development.

To determine the established front yard in the table below, the ~~zoning~~ Zoning ~~administrator~~ Administrator shall consider only the following lot or lots: (1) a lot or lots on which there is a principal structure on the same block face, and (2) up to one (1) lot on each side of a subject property which is closest to the subject property. However, no lot being used to determine the established front yard shall be an outlier. An outlier shall be any yard depth that deviates by more than twenty (20) percent from the average yard depth on the block face, not including the outlier or outliers. In such instances, the ~~zoning~~ Zoning ~~administrator~~ Administrator shall determine the most shallow established front yard to be equal to such average depth.

Where the most shallow established front yard is between the minimum and maximum front yards of the district	Minimum yard: depth of the most shallow established front yard Maximum yard: depth of the most shallow established front yard, plus 5 feet
Where the most shallow established front yard is deeper than the district's maximum front yard	Minimum yard: ~~same as district~~ depth of most shallow established front yard. Maximum yard: average between the depth of most shallow established front yard and deepest established front yard, excluding outliers as defined above.

* * *

Sec. 36.2-315. Use table for multiple purpose districts

District	MX	CN	CG	CLS	D	IN	ROS	UF	Supplemental Regulation Section
* * *									
Accommodations and Group Living:									
* * *									
Short-term rental		P	P	P	P			P	
* * *									
Commercial Uses: Miscellaneous									
* * *									
Animal hospital or veterinary clinic, outdoor pens or runs		S	S	S	S			S	
* * *									
Kennel, outdoor pens or runs			S	S				S	
* * *									
Warehousing and Distribution Uses:									
* * *									
Self-storage building			S	S	S			P	
* * *									
Assembly and Entertainment Uses:									
* * *									
Eating establishment	S	P	P	P	P			P	
Eating and drinking establishment, not abutting a residential district	S	P	P	P	P			P	
Eating and drinking establishment, abutting a residential district	S	S	S	S	S			S	
* * *									
Meeting hall, abutting a residential district		S	S	S	S	P	P	S	
Meeting hall, not abutting a residential district		P	P	P	P	P	P	P	
* * *									
Public, Institutional, and Community Facilities:									

Day care home, adult	S	S			S			S		
* * *										
Supply pantry		P	P	P	P	P		P		

Sec. 36.2-316. Dimensional regulations for multiple purpose districts

	MX	CN	CG	CLS	D	IN	ROS	UF
* * *								
Section 36.2-318 Pedestrian access requirement applies	~~No~~ Yes	Yes	Yes	Yes	~~No~~ Yes	Yes	No	Yes

* * *

Sec. 36.2-318. Pedestrian access.

In districts where indicated as applicable in Section 36.2-316, designated pedestrian pathways of a minimum unobstructed width of five (5) feet shall be provided and clearly defined from the public sidewalk, or the public right-of-way where there is no public sidewalk, to the public entrance of any principal building. Such pedestrian pathways shall be handicapped accessible, surfaced with concrete, asphalt, bituminous pavement, brick or stone pavers, or a permeable ~~paver~~ pavement system, and shall be distinguished and separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic. Where any such walkway crosses a motor vehicle travel lane, raised crosswalks shall be provided.

Sec. 36.2-319. Building placement and façade transparency standards for multiple purpose districts.

* * *

~~(d) The façade facing a primary street frontage shall contain a primary entrance with the threshold located at the grade of the adjacent sidewalk or at the adjacent grade when not abutting a sidewalk, except as follows. The primary entrance in the MX or IN District may be above the finished grade of the adjacent sidewalk or adjacent grade of the site. The entrance shall be accessible during normal business hours to employees and customers/patrons of the building occupant.~~

(d) A primary entrance shall be located within the required minimum and maximum front yards, with the threshold located at the grade of the adjacent sidewalk or at the adjacent grade when not abutting a sidewalk. Such primary entrance shall be accessible during normal business hours to employees and customers/patrons of the building occupant.

Exceptions:

(1) Where building placement is established according to the civic space yard option, a primary entrance shall abut the civic space yard with

the entrance threshold located at the grade of the abutting civic space yard.

(2) The primary entrance in the MX or IN District may be above the finished grade of the adjacent sidewalk or adjacent grade of the site.

* * *

Sec. 36.2-322. Use table for industrial districts

District	I-1	I-2	AD	Supplemental Regulation Section
* * *				
Commercial Uses: Miscellaneous				
Kennel, outdoor pens or runs	S			
* * *				
Warehousing and Distribution Uses:				
Distribution center, not otherwise listed	P	P	P	
~~Mini-warehouse~~	~~P~~	~~P~~	~~P~~	~~36.2-415~~
Self-storage building	P	P	P	
Self-storage facility	P	P	P	
* * *				
Accessory Uses:				
Accessory uses, not otherwise listed in this Table	P	P	P	36.2-403
Outdoor recreation facility lighting or sports stadium lighting	~~P~~S	~~P~~S	~~P~~S	36.2-403
* * *				

* * *

Sec. 36.2-327. Use table for planned unit development districts

	MXPUD	INPUD	IPUD	Supplemental Regulation Section
* * *				
Commercial Uses: Miscellaneous				
Animal hospital or veterinary clinic, outdoor pens or runs			P	
Warehousing and Distribution Uses:				
* * *				

Self-storage building	P				

* * *

~~Sec. 36.2-333. Floodplain Overlay District (F).~~

~~This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2-2280.~~

~~(a) *Purpose.* The purpose of the Floodplain Overlay District (F) is to provide mandatory floodplain restrictions for FEMA compliance. The intent of the regulations in this section is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:~~

~~(1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, if unregulated, will cause unacceptable increases in flood heights, velocities, and frequencies;~~

~~(2) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding;~~

~~(3) Requiring all those uses, activities, and developments that do occur in floodprone areas to be protected or floodproofed against flooding and flood damage; and~~

~~(4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.~~

~~(b) *Establishment of floodplain areas.* For the purpose of the regulations prescribed in this section, there are hereby created various floodplain areas subject to inundation by waters of the 100-year flood. The basis for the delineation of the floodway, the flood-fringe, and the approximated floodplain, shall be the flood insurance study for the City of Roanoke prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007. A copy of the flood insurance study, and the flood insurance rate map shall be filed in the offices of the City Clerk and the city engineer and are hereby declared to be a part of these regulations. The floodplain areas shall consist of the following:~~

~~(1) The floodway is delineated, for purposes of these regulations, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. These floodways are specifically defined in Table 4 of the flood insurance study and as generally shown on the accompanying flood insurance rate map.~~

~~(2) The flood-fringe shall be that area of the 100-year floodplain not included in the floodway. The basis for the outermost boundary of the flood-fringe shall specifically be the 100-year flood elevations contained in the flood~~

~~profiles of Table 4 of the flood insurance study and as generally shown on the accompanying flood insurance rate map.~~

~~(3) The approximated floodplain shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a 100-year floodplain boundary has been approximated. Such areas are shown as Zone A and AO on the flood insurance rate map. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports or the U.S. Geological Survey Flood-Prone Quadrangles, then the applicant for the proposed use, development, or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. When a Zone A or Zone AO area is located between two (2) numbered zones, 100-year flood elevations shall be linearly interpolated between known elevations, along the centerline of the channel. Hydrologic and hydraulic analyses shall be undertaken only by the applicant's professional engineers who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, and computations shall be submitted in sufficient detail to allow a thorough review by the City Engineer.~~

~~(c) *Applicability.*~~

~~(1) The floodplain areas described above shall be overlays to the existing underlying base zoning districts as shown on the Official Zoning Map. As such, the provisions of the Floodplain Overlay District (F) shall serve as a supplement to the underlying base zoning district provisions. With any conflict between the provisions or requirements of the Floodplain Overlay District (F) and those of the underlying base zoning district, the more restrictive provisions shall apply.~~

~~(2) The boundaries of the floodplain areas previously described in subsection (b), above, shall be established as shown on the flood insurance rate map and flood study.~~

~~(3) The delineation of any of the floodplain areas described in subsection (b), above, may be revised by the City Council where natural or manmade changes have occurred or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents to the satisfaction of the Zoning Administrator and City Engineer the need for such change. However, prior to any such change, approval shall be obtained from the Federal Emergency Management Administration, Region 3.~~

~~(4) Interpretations of the boundaries of the floodplain areas described in subsection (b), above, shall be made by the Zoning Administrator in consultation with the City's Floodplain Manager.~~

~~(5) No land or use shall be developed within the established floodplain areas, and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered, except in full compliance with the terms~~

~~and provisions of the regulations of this section and any other applicable ordinances and regulations which apply to uses within the City.~~

~~(d) *Compliance.* No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.~~

~~(e) *Abrogation and greater restrictions.*~~

~~(1) These regulations supersede any regulations in effect in floodplain areas. However, any underlying regulations or restrictions shall remain in full force and effect to the extent that their provisions are more restrictive than the regulations as set forth in this section.~~

~~(2) Wherever any regulation in this section imposes higher or more restrictive standards than are required in any other statute, ordinance, or regulation, the provisions of this section shall govern. Whenever the provisions of any other statute, ordinance, or regulation impose higher or more restrictive standards than are required in this section, the provisions of such other statute, ordinance, or regulation shall govern.~~

~~(f) *Severability.* If any section, subsection, paragraph, sentence, clause, or phrase of this section shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this section or chapter. The remaining portions shall remain in full force and effect, and for this purpose, the provisions of this section and chapter are hereby declared to be severable.~~

~~(g) *Submitting technical data.* A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.~~

~~(h) *Definitions.* Certain terms and words used in this section shall be defined as set forth below. Where any conflict exists between the definitions below and those set forth in Appendix A, the definitions of this subsection shall govern for the purposes of the regulations of this section.~~

~~*Base flood/100-year flood:* A flood that, on the average, is likely to occur once every one hundred (100) years (that has a one (1) percent chance of occurring each year, although the flood may occur in any year).~~

~~*Base flood elevation:* The Federal Emergency Management Agency designated 100-year water surface elevation.~~

~~*Basement:* Any area of the building having its floor subgrade (below ground level) on all sides.~~

~~*Channel:* A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.~~

~~*Conditional letter of map revision (CLOMR):* A letter from FEMA commenting on whether a proposed project, if built as proposed, would justify a National Flood Insurance Program (NFIP) map revision to modify the existing regulatory floodway or effective base flood elevation.~~

~~*Development:* Any manmade change to improved or unimproved real estate including, but not limited to, structures, the placement of manufactured homes, paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or the storage of equipment or materials.~~

~~*FEMA:* Federal Emergency Management Agency.~~

~~*Flood:* A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland waters, or (2) the unusual and rapid accumulation of run-off of surface waters from any source.~~

~~*Flood elevation:* A determination by the Federal Insurance Administration of the water surface elevations of the base flood, that is the flood level that has a one (1) percent or greater chance of occurrence in any given year.~~

~~*Flood insurance rate map:* An official map of the City of Roanoke, on which the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the City of Roanoke.~~

~~*Floodplain:* Any land area susceptible to being inundated by water from any source.~~

~~*Floodproofing:* Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.~~

~~*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the base flood elevation more than one (1) foot.~~

~~*Freeboard:* A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.~~

~~*Historic structure:* For the purpose of this section only, any structure that is:~~

~~(1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~

~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;~~

~~(3) Individually listed on the Virginia Landmarks Register or determined eligible by the Virginia Department of Historic Resources for such register; or~~

~~(4) Individually listed on the City inventory of historic places or as determined eligible for such inventory by the Roanoke City Architectural Review Board.~~

~~*Letter of map revision (LOMR):* A letter from FEMA officially revising the current National Flood Insurance Program (NFIP) map to show changes to floodplains, floodways, or flood elevations.~~

~~*Lowest floor:* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section.~~

~~*Manufactured home:* A structure, transportable in one (1) or more section(s), which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle." For floodplain management purposes, the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days, but does not include a recreational vehicle.~~

~~*Recreational vehicle:* A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.~~

~~*Repetitive loss:* Flood-related damage sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred.~~

~~*Start of construction:* For a "substantial improvement," start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

~~*Structure:* For purposes of this section only, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.~~

~~*Substantial damage:* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.~~

~~*Substantial improvement:* Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a period of five (5) years, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This~~

~~term includes structures which have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:~~

~~(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~

~~(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."~~

~~*Watercourse:* A natural or artificial channel for passage of running water fed from natural sources in a definite channel and discharging into some stream or body of water.~~

~~(i) *Floodplain development regulations.*~~

~~(1) *Permit requirement*: All uses, activities, and development occurring within any floodplain areas shall be undertaken only upon the issuance of a zoning permit by the Zoning Administrator. Such development shall be undertaken only in strict compliance with these regulations and with all other applicable codes and ordinances. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include documentation certifying compliance with all applicable state and federal laws and shall review all sites to ensure they are reasonably safe from flooding. Under no circumstances shall any use, activity, or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system. Permit review shall ensure reasonable construction safety from flooding, proper anchoring, use of flood resistant materials, and construction practices that minimize flood damage. Review shall ensure certification that the engineer has met the requirements of the most recent applicable FEMA technical bulletins in effect at the time of application for such permit.~~

~~(2) *Alteration or relocation of watercourse*: Prior to any proposed alteration or relocation of any channel with a regulatory floodplain, within the City, a permit shall be obtained from the U.S. Army Corp of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions and the Dam Safety and Floodplain Management Division of the Virginia Department of Conservation and Recreation. If the channel to be altered or relocated contains a regulatory floodplain, a conditional letter of map revision shall be secured from FEMA, prior to construction.~~

~~(3) *Zoning permits*: All applications for zoning permits for structures in the floodplain as defined for purposes of this section shall include a standard FEMA elevation certificate completed by a licensed surveyor or engineer. Such certificate shall be based on the most recent flood insurance rate map and flood study in effect at the time of application for such permit. For all~~

~~such permits, the Zoning Administrator shall obtain and maintain a record of the following information:~~

~~(A) The elevation of the 100-year flood;~~

~~(B) Topographic information showing existing and proposed ground elevation;~~

~~(C) For structures to be elevated, the elevation (in relation to mean sea level) of the lowest floor (including basement) of any proposed new or substantially improved structures;~~

~~(D) For nonresidential structures to be floodproofed, the elevation (in relation to mean sea level) to which the structure will be floodproofed, and any FEMA floodproofing certificate, when applicable;~~

~~(E) Where a nonresidential structure is intended to be made watertight below the base flood level, a registered professional engineer or architect shall develop and review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of the Virginia Uniform Statewide Building Code; and~~

~~(F) Prior to the issuance of a certificate of occupancy, the applicant shall provide a final elevation certificate of the as-built construction.~~

~~(4) *Manufactured or mobile homes*: All manufactured homes or mobile homes to be placed or substantially improved within the flood-fringe shall be placed on a permanent foundation and anchored in accordance with the Virginia Uniform Statewide Building Code. In the floodway, the placement of manufactured homes or mobile homes is prohibited.~~

~~(5) *Floodway*: In the floodway, no encroachments, including fill, new construction, substantial improvements, rehabilitation of substantially damaged structures, and other development, shall be permitted except as listed in subsections (j), (k) and (m), below. Encroachments associated with the expansion of an existing use or establishment of a new permitted use shall allow an encroachment only if the applicant's professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in the 100-year flood elevation, or a conditional letter of map revision is approved. The requirements of subsection (i)(4) and (6) shall apply to encroachments permitted by this section.~~

~~(6) *Flood-fringe and approximated floodplain*: In the flood-fringe and approximated floodplain, the development or use of land shall be permitted in accordance with the regulations of the underlying base zoning district, provided that all such uses, activities, or development shall be~~

~~undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances; and provided further that the lowest floor of any structure shall be elevated to a minimum of two (2) feet above the base flood elevation, or, when allowed in the Virginia Uniform Statewide Building Code, shall be floodproofed to two (2) feet above the base flood elevation. In addition, all electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including ductwork, for new construction or substantial improvement shall be elevated or floodproofed to two (2) feet above the base flood elevation.~~

~~(7) *Approximated floodplain:* Within the approximated floodplain, all proposed developments shall include within such proposals base flood elevation data. The applicant's professional engineer shall also delineate a floodway area based on the requirement that all existing and future development not increase the 100-year flood elevation more than one (1) foot at any one (1) point. The engineering principle identified as equal reduction of conveyance shall be used to make the determination of increased flood heights. Within the floodway area delineated by the applicant's professional engineer, the provisions of subsection (i)(5), above, and subsections (j) and (k), below, shall apply.~~

~~(8) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.~~

~~(9) In the floodway, the placement or storage of recreational vehicles is prohibited, unless approved by special exception as provided for in subsection (k), below.~~

~~(j) *Permitted uses in floodway.* The following uses shall be permitted as of right in the floodway to the extent that they are otherwise permitted in the underlying base zoning district and are not prohibited by any other ordinance, and provided they do not employ structures, fill, or storage of materials and equipment within the floodway which may cause any increase in 100-year flood height and velocity:~~

~~(1) Agricultural operations, such as farming, pasture, grazing, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting;~~

~~(2) Public and private recreational uses such as parks, picnic grounds, golf courses, boat launching or swimming areas, hiking or horseback riding trails, wildlife and nature preserves, fishing areas, and trap and skeet game ranges;~~

~~(3) Botanical gardens; and~~

~~(4) Accessory residential uses such as yard areas, gardens, and play areas.~~

~~(k) *Special exception uses in floodway.* The following uses shall be permitted in the floodway by special exception granted by the Board of Zoning Appeals provided such uses are permitted in the underlying base zoning district:~~

~~(1) Structures accessory to the uses set forth in subsections (j)(1) through (j)(3), above.~~

~~(2) Utilities distribution: gas/electric compressor station or substation, or water pump/lift station.~~

~~(3) Sewage treatment facility or water treatment facility.~~

~~(4) Quarry and mining operations, including excavation of sand, gravel, or clay, provided no increase in the level of flooding or velocity is caused.~~

~~(5) Storage of materials and equipment provided that they are not buoyant, flammable, toxic, hazardous, or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, or can be readily removed from the area within the time available after flood warning.~~

~~(6) Placement or storage of a recreational vehicle, provided such recreational vehicle is on the site for fewer than one hundred eighty (180) consecutive days, is fully licensed and ready for highway use. For purposes of this section, a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and if it has no permanently attached additions.~~

~~(l) *Design criteria for public utilities and facilities.*~~

~~(1) All new or replacement sanitary sewer facilities and private sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they must be located and constructed to minimize flood damage and impairment.~~

~~(2) All new or replacement potable water facilities shall be designed to eliminate infiltration of flood waters into the system and shall be located and constructed to minimize flood damages.~~

~~(3) All storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner, without damage to persons or property. The systems shall ensure proper drainage along streets, and provide positive drainage away from buildings and on-site waste disposal sites. The City may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.~~

~~(4) All other utilities, such as gas lines and electrical, telephone, and cable television systems, being placed in flood-prone areas shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flood occurrence.~~

(5) Streets, drainage improvements, and sidewalks shall be designed to prevent increasing flood levels by more than one (1) foot. Any new structure encroaching in a floodway shall receive a conditional letter of map revision (CLOMR) prior to construction and a letter of map revision (LOMR) following completion.

(m) *Existing structures in the floodplain.* A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

(1) Existing structures or uses located in the floodway shall not be expanded or enlarged, unless the effect of the proposed expansion or enlargement on 100-year flood heights is fully offset by accompanying stream or channel improvements.

(2) Any modification, alteration, repair, reconstruction, or improvement of any kind, or any combination thereof, to a structure or use located in a floodplain, that does not constitute a substantial improvement shall be elevated or floodproofed in accordance with Chapter 36.2, Zoning, the Virginia Uniform Statewide Building Code, and the most recent FEMA regulations in effect at the time of application. This subsection (m)(2) applies only to such modification, alteration, repair, reconstruction, improvement or combination thereof.

(3) Any modification, alteration, repair, reconstruction, improvement of any kind, or any combination thereof, to a structure or use located in a floodplain that constitutes a substantial improvement shall be undertaken only in full compliance with the provisions of Chapter 36.2, Zoning, the Virginia Uniform Statewide Building Code, and the most recent FEMA regulations in effect at the time of application. This subsection (m)(3) applies to the entire structure which has been modified, altered, repaired, reconstructed or improved.

(4) Any modification, alteration, repair, reconstruction, or improvement, or any combination thereof, of any kind to a historic structure located in a floodplain that is seeking an exemption from the definition of substantial improvement as defined in subsection (h) of this section shall be flood proofed to the extent practical in accordance with the Virginia Uniform Statewide Building Code and FEMA Floodplain Management Bulletin Historic Structures, FEMA P-467-2.

(n) *Variances.*

(1) When an application for a variance from the regulations of this section has been made, the procedure for processing the variance request shall be as set forth in Section 36.2-561.

(2) In considering an application for a variance from the terms of this section, the Board of Zoning Appeals shall satisfy all standards and findings set forth in Section 36.2-561(c) and (d) and shall consider the following additional factors:

~~(A) The danger to life and property due to increased flood heights or velocities caused by encroachment. No variance shall be granted for any proposed use, development, or activity within any floodway that will cause any increase in the 100-year flood elevation without approval of a conditional letter of map revision (CLOMR);~~

~~(B) The danger that materials may be swept onto other lands or downstream to the injury of others;~~

~~(C) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;~~

~~(D) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;~~

~~(E) The importance of the services provided by the proposed facility to the community;~~

~~(F) The requirements of the facility for a waterfront location;~~

~~(G) The availability of alternative locations not subject to flooding for the proposed use;~~

~~(H) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;~~

~~(I) The relationship of the proposed use to the City's Comprehensive Plan and floodplain management program for the City;~~

~~(J) The safety of access by ordinary and emergency vehicles to the property in time of flood;~~

~~(K) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site;~~

~~(L) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure; and~~

~~(M) Such other factors which are relevant to the purposes of Section 36.2-333.~~

~~(3) The Board of Zoning Appeals may forward any application and accompanying documentation pertaining to any request for a variance to the City Engineer or other qualified person or state or federal agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.~~

~~(4) Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such variance will not result in prohibited~~

~~increases in flood heights, additional threats to public safety, or extraordinary public expense, and will not create nuisances, cause victimization of the public, or conflict with City laws or ordinances.~~

~~(5) The Board of Zoning Appeals shall notify the applicant for a variance, in writing, within ten (10) business days of the public hearing, that the issuance of a variance to construct a structure below the 100-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.~~

~~(6) A record of the above notification as well as all variance actions, including justification for their issuance, shall be maintained by the Zoning Administrator. Any variances which are issued shall be noted in the annual or biennial report of the City submitted to the Federal Insurance Administrator.~~

~~(o) *Application requirements for variances and special exception uses in floodways.* All applications for a variance or a special exception use in any floodway, as defined herein, shall include the following:~~

~~(1) Plans in triplicate, drawn to scale not less than one (1) inch to one hundred (100) feet horizontally, showing the location, dimensions, and contours (at two-foot intervals) of the lot, existing and proposed structures, fill, storage areas, water supply, sanitary facilities, and relationship of the floodway to the proposal;~~

~~(2) A typical valley cross-section as necessary to adequately show the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, floodway limits, and 100-year flood elevation;~~

~~(3) A profile showing the slope of the bottom of the channel or flow line of the stream;~~

~~(4) A summary report, prepared by professional engineers or others of demonstrated qualifications, evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, and other pertinent technical matters;~~

~~(5) A list of names, addresses, and official tax numbers of adjoining property owners and owners of property within three hundred (300) feet of the subject property; and~~

~~(6) A conditional letter of map revision (CLOMR) prior to the issuance of any such variance or special exception in the floodway.~~

Sec. 36.2-333. Floodplain Overlay District (F).

(a) **General Provisions**

(1) **Statutory Authorization and Purpose.** This section is adopted pursuant to the authority granted to localities by Section 15.2 – 2280 of the Virginia Code (1950), as amended. The purpose of these

provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies; restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding; requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(2) **Applicability**. These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the City and identified as areas of special flood hazard determined by the City or shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to the City by Federal Emergency Management Agency (FEMA).

(3) **Compliance and Liability**. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this section and any other applicable sections and regulations which apply to uses within the jurisdiction of this section.

The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

This section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

(4) **Records**. Records of actions associated with administering this section shall be kept on file and maintained by or under the direction of the Zoning Administrator in perpetuity.

(5) **Abrogation and Greater Restrictions**. To the extent that the provisions are more restrictive, this section supersedes any section currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict with this section, it shall remain in full force and effect.

These regulations are not intended to repeal or abrogate any existing sections including subdivision regulations, zoning ordinances or building codes. In the event of a conflict between these regulations and any other ordinance or section, the more restrictive shall govern.

(6) **Severability**. If any section, subsection, paragraph, sentence, clause, or phrase of this section shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this section. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this section are hereby declared to be severable.

(7) **Penalty for Violations**. Section 36.2-571 of the City Code contains the provisions for enforcement of this section and penalties that apply for violations.

(b) **Definitions**. Certain terms and words used in this section shall be defined as set forth below. Where any conflict exists between the definitions below and those set forth in Appendix A, the definitions of this subsection shall govern for the purposes of the regulations of this section.

Appurtenant or accessory structure: Accessory structures not to exceed two hundred (200) square feet.

Areas of shallow flooding: A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base flood elevation: The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this section, the base flood is the one percent (1%) annual chance flood.

Basement: Any area of the building having its floor sub-grade (below ground level) on all sides.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Encroachment: The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

FEMA: Federal Emergency Management Agency.

Flood or flooding:

1. A general or temporary condition of partial or complete inundation of normally dry land areas from
   a. the overflow of inland or tidal waters;
   b. the unusual and rapid accumulation or runoff of surface waters from any source; or
   c. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 of this definition.

Flood Insurance Rate Map (FIRM): An official map of a community, on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map.

Flood Insurance Study (FIS): A report by FEMA that examines,

evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain: Any land area susceptible to being inundated by water from any source.

Flood proof: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. The City requires Base Flood Elevation plus twenty-four (24) inches freeboard.

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. individually listed on a state inventory of historic

places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior; or, directly by the Secretary of the Interior in states without approved programs.

Hydrologic and Hydraulic Analysis: Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by metes and bounds or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Code of Federal Regulations 44 (C.F.R.) 60.3.

Manufactured home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a

site for greater than one hundred eighty (180) consecutive days.

Mean Sea Level: Is an elevation point that represents the average height of the ocean's surface (such as the halfway point between the mean high tide and the mean low tide) which is used as a standard in determining land elevation.

New construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after November 4, 1981, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Such structure is also referred to as "post-FIRM."

Recreational vehicle: A vehicle which is

1. built on a single chassis;
2. four hundred (400) square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Special flood hazard area: The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in subsection (d)(1) of this Section.

Start of construction: For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor,

or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all section requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific section requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from section requirements will be the minimum necessary to preserve the historic character and design of the structure.

Violation: The failure of a structure or other development to be fully compliant with the City's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this section is presumed to be in violation until such time as that documentation is provided.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(c) **Administration**

(1) **Designation of the Zoning Administrator**. The Zoning Administrator is hereby appointed to administer and implement these regulations. The Zoning Administrator may delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

(2) **Duties and Responsibilities of the Zoning Administrator**. The duties and responsibilities of the Zoning Administrator shall include but are not limited to:

(A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

(B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

(D) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

(E) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (Virginia Department of Environmental

Quality, United States Army Corps of Engineers) and have submitted copies of such notifications to FEMA.

(F) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.

(G) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.

(H) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(I) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the City, within six (6) months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(J) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

(i) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

(ii) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(K) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(L) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(M) Administer the requirements related to proposed work on existing buildings:

(i) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.

(ii) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(N) Notify FEMA when the corporate boundaries of the City have been modified and:

(i) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

(ii) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(3) **Use and Interpretation of Flood Insurance Rate Maps.** The Zoning Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

(A) Where field surveyed topography indicates that adjacent ground elevations:

(i) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations; or

(ii) Are above the base flood elevation and the area is labelled as a SFHA on the FIRM, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

(B) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.

(C) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.

(D) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

(E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

(i) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

(ii) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section (d)(2)(C)(i) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(iii) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood

elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(4) **Jurisdictional Boundary Changes**. The floodplain ordinance in effect in any adjoining locality on the date of annexation of any area previously within the adjoining locality shall remain in effect and shall be enforced by the City for all annexed areas until the City adopts and enforces a section which meets the requirements for participation in the National Flood Insurance Program.

The City will notify FEMA when the corporate boundaries of the City have been modified and provide a map that clearly delineates the new corporate boundaries of the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation. If the FIRM for any annexed area includes special flood hazard areas which have flood zones that have regulatory requirements not set forth in these regulations, the City shall adopt amendments to these regulations to amend the FIRM and appropriate requirements. Such adoption shall take place at the same time as, or prior to, the date of annexation, and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(5) **District Boundary Changes**

The delineation of any of the Floodplain Districts may be revised by the City where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA. A completed LOMR is a record of this approval.

(6) **Interpretation of District Boundaries**. Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

(7) **Submitting Model Backed Technical Data.** A City's base flood elevations may increase or decrease resulting from physical changes

affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

(8) **Letters of Map Revision**. When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) and then receiving a LOMR.

(d) **Establishment of Floodplain Overlay District and flood zones.**

(1) **Description of Special Flood Hazard Districts (SFHA).** The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for the City prepared by FEMA, Federal Insurance Administration, dated September 28, 2007, and any subsequent revisions or amendments thereto.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this section and which shall be kept on file in the Department of Planning, Building, and Development.

All development within the Floodplain Overlay District is subject to the development provisions found in subsection (e) of this section.

(2) **Additional requirements in specific Special Flood Hazard Areas.**

(A) Floodway. The floodway is the portion of an AE Zone that is delineated, for purposes of this section, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent (1%) annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 5 of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the floodway of an AE zone:

(i) Within any floodway area, no encroachments, including fill, new construction, substantial

improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies for a (CLOMR), and receives the approval of FEMA. Such application shall be accompanied by a resolution adopted by the City Council for the City, endorsing such application.

If the above items in this part are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of part d of this section.

(ii) Permitted uses in floodway. The following uses shall be permitted as of right in the floodway to the extent that they are otherwise permitted in the underlying base zoning district and are not prohibited by any other section, and provided they do not employ structures, fill, or storage of materials and equipment within the floodway which may cause any increase in 100-year flood height and velocity:

(1) Agricultural operations, such as farming, pasture, grazing, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting;

(2) Public and private recreational uses such as parks, picnic grounds, golf courses, boat launching or swimming areas, hiking or horseback riding trails, wildlife and nature

preserves, fishing areas, and trap and skeet game ranges;

(3) Botanical gardens; and

(4) Accessory residential uses such as yard areas, gardens, and play areas.

(iii) Special exception uses in floodway. The following uses shall be permitted in the floodway by special exception granted by the Board of Zoning Appeals provided such uses are permitted in the underlying base zoning district:

(A) Accessory structures related to the uses set forth in subsections (ii)(A) through (ii)(D), above.

(B) Utilities distribution: gas/electric compressor station or substation, or water pump/lift station.

(C) Sewage treatment facility or water treatment facility.

(D) Quarry and mining operations, including excavation of sand, gravel, or clay, provided no increase in the level of flooding or velocity is caused.

(E) Storage of materials and equipment provided that they are not buoyant, flammable, toxic, hazardous, or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, or can be readily removed from the area within the time available after flood warning.

(F) Placement or storage of a recreational vehicle, provided such recreational vehicle is on the site for fewer than one hundred eighty (180) consecutive days, is fully licensed and ready for highway use. For purposes of this section, a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and if it has no permanently attached additions.

(B) AE zones with no floodway delineated. AE zones on the FIRM are those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated.

The following provisions shall apply within an AE Zone where FEMA has provided base flood elevations but has not delineated a floodway:

(i) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30, AE, or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City.

(ii) Development activities in Zones Al-30, AE, or AH on the City's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies for a CLOMR, and receives the approval of FEMA. Such application shall be accompanied by a resolution adopted by the City Council for the City, endorsing such application.

(C) A Zones: A Zones are those areas for which no detailed flood profiles or elevations are provided, but the one percent (1%) annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

(i) The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one percent annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-

Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

The Zoning Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level plus eighteen (18) inches.

During the permitting process, the Zoning Administrator shall obtain:

(1) The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,

(2) If the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.

(D) AO Zones. AO Zones are those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:

(i) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM. Such elevation shall be

established by identifying the highest adjacent grad and adding the flood depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(ii) All new construction and substantial improvements of non-residential structures shall:

(1) Have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM. Such elevation shall be the highest adjacent grade and adding the flood depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,

(2) Together with attendant utility and sanitary facilities, be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iii) Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

(2) Overlay Concept. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the Floodplain Districts shall serve as a supplement to the underlying district provisions. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions shall apply. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, all remaining provisions shall remain applicable and in effect.

(e) **District Provisions**

(1) Permit and Application Requirements

(A) Permit Requirement. All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this section and with all other applicable codes and ordinances or sections, as amended, such as the Virginia Uniform Statewide Building Code and the City's subdivision regulations set forth in Chapter 31.1, Subdivisions, of the City Code. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to ensure that they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

(B) Site Plans and Permit Applications. All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

(i) The elevation of the Base Flood at the site.

(ii) The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.

(iii) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

(iv) Topographic information showing existing and proposed ground elevations.

(C) Elevation certificates and floodproofing certificates.

(i) All applications for zoning permits for structures shall include a standard FEMA elevation certificate completed by a licensed surveyor or engineer.

(ii) All applications for nonresidential structures to be floodproofed shall include a FEMA floodproofing certificate, when applicable.

(iii) Prior to issuance of a Certificate of Occupancy, the applicant shall provide a final FEMA elevation certificate of the as-built construction.

(2) General Standards. The following provisions shall apply to all permits:

(A) New construction and substantial improvements shall be built according to this section and the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure.

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(D) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) New electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(I) In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

(J) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riparian areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.

(K) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(3) Elevation and Construction Standards. In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with subsection (d)(2)C of this section, the following provisions shall apply:

(A) Residential Construction. New construction or substantial improvement of any residential structure in Zones A1-30, AE, AH and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus twenty-four (24) inches of freeboard. In addition, all electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including ductwork, for new construction or substantial improvement shall be elevated or floodproofed to two (2) feet above the base flood elevation, also known as two (2) feet of freeboard.

(B) Non-Residential Construction.

(i) New construction or substantial improvement of any commercial, industrial, or non-residential building

shall have the lowest floor, including basement, elevated to or above the base flood level plus twenty-four (24) inches of freeboard. In addition, all electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including ductwork, for new construction or substantial improvement shall be elevated or floodproofed to two (2) feet above the base flood elevation, also known as two (2) feet of freeboard.

(ii) Non-residential buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus twenty-four (24) inches of freeboard are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Zoning Administrator.

(C) Space Below the Lowest Floor. In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

(i) not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).

(ii) be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(iii) include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by

a professional engineer or architect or meet the following minimum design criteria:

(1) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

(2) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.

(3) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

(4) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

(5) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

(6) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(D) Standards for Manufactured Homes and Recreational Vehicles

(i) In all designated special flood hazard areas, all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for the zone in which they are located for new construction, including the elevation and anchoring requirements in this section.

(ii) All recreational vehicles placed on sites must either

(1) be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or

(2) meet all the requirements for manufactured homes in subsection (e)(3)(D)(i)

(f) Existing Structures in Floodplain Areas. Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved, unless one of the following exceptions is established before the change is made:

(1) The Zoning Administrator has determined that

(A) A proposed change is not a substantial repair or substantial improvement,

(B) No new square footage is being built in the floodplain that is not compliant,

(C) No new square footage is being built in the floodway, and

(D) The change complies with this section and the Virginia Uniform Statewide Building Code.

(2) The changes are required to comply with a citation for a health or safety violation.

(3) The structure is a historic structure and the change required would impair the historic nature of the structure. The historic structure shall be flood proofed to the extent practical in accordance with the Virginia Uniform Statewide Building Code and FEMA Floodplain Management Bulletin Historic Structures, FEMA P-467-2, as the same may be amended or updated from time to time.

(g) Variances. Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the one percent (1%) chance flood elevation.

(2) The danger that materials may be swept on to other lands or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(13) Such other factors which are relevant to the purposes of this section.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Sec. 36.2-335. River and Creek Corridors Overlay District (RCC).

* * *

(f) *Permitted buffer impacts.* The following development activities shall be permitted within the required riparian buffer area of the RCC Overlay District, provided no more land is disturbed than is necessary to provide for the desired installation or construction, all required permits have been issued, and any land disturbance activity complies with all erosion and sediment control requirements of Chapter 11.1 of this Code for the stabilization of disturbed areas to minimize negative effects on the quality of surface waters:

* * *

(3) Linear utility lines, railroad tracks, ~~and~~ public streets~~,~~ or other public infrastructure improvements, and private streets;

* * *

Sec. 36.2-336. Comprehensive Sign Overlay District.

* * *

(c) Standards. All applications for review and approval of a Comprehensive Sign Overlay District shall comply with the following standards:

(1) A Comprehensive Sign Overlay District shall be applied as an overlay only to lots located within a residential multifamily district, multiple purpose district, industrial district, or planned unit development district;

* * *

~~(4) The overall sign area in the Comprehensive Sign Overlay District shall not exceed the combined total of freestanding and building-mounted sign allocation of the otherwise applicable zoning district sign regulations; and~~

(4) The maximum sign area and dimensions, sign types, and permitted sign characteristics shall be as established by adoption of a Comprehensive Sign Overlay District.

~~(5) The height limits of the applicable zoning district sign regulations shall not be exceeded.~~

* * *

Sec. 36.2-406. Car wash.

* * *

(b) *Standards.*

* * *

(3) A landscaping strip consisting of evergreen shrubs and deciduous trees as defined further in Section 36.2-649 shall be placed along any street frontage of the lot or portion of the lot housing the car wash. The trees and shrubs shall meet the minimum planting size as listed in Section 36.2-642.

* * *

Sec. 36.2-408. Day care centers, child.

* * *

(b) Standards. The following standards shall apply to any day care not licensed by the Virginia Department of Social Services:

(2) Outdoor play area: When an outdoor play area is provided, such ~~areas shall comply with the following standards:~~

~~(A) The outdoor play area shall be located on the same lot as the day care center and shall be located no closer to any street than the main building occupied by the day care center; and~~

~~(B) The outdoor~~ play area shall be fenced to provide a safe enclosure~~, and pedestrian access to such outdoor play area shall not require the crossing of any vehicular right-of-way~~.

* * *

Sec. 36.2-411. Gasoline stations.

* * *

(c) *Standards in the CG, CLS, and I-1 Districts.* Any gasoline station located in the Commercial-General District (CG), Commercial-Large Site District (CLS), or Light Industrial District (I-1), shall be subject to the following standards for any canopy over a gas pump island:

* * *

(6) A landscaping strip consisting of evergreen shrubs and deciduous trees as defined further in Section 36.2-649 shall be placed along any street frontage of the lot or portion of the lot housing the gasoline station. The trees and shrubs shall meet the minimum planting size as listed in Section 36.2-642.

(d) *Standards in the CN and D Districts.* Any gasoline station located in the Commercial-Neighborhood District (CN) or Downtown District (D), shall be subject to the following standards:

* * *

(4) A landscaping strip consisting of evergreen shrubs and deciduous trees as defined further in Section 36.2-649 shall be placed along the street frontage of the lot or portion of the lot housing the gasoline station. The trees and shrubs shall meet the minimum planting size as listed in Section 36.2-642.

* * *

~~Sec. 36.2-415. Mini-warehouses.~~

~~(a) Purpose. The purpose of this section is to establish screening, landscaping, layout, height, and bulk standards for mini-warehouses.~~

~~(b) Standards. Where permitted by this chapter, mini-warehouses shall comply with the following standards:~~

~~(1) A development plan shall be submitted to the Zoning Administrator indicating the location, orientation, and size of buildings, lot area, number and size of storage units, type and size of signs, height of buildings, parking layout with points of ingress and egress, and location and type of visual screening and landscaping.~~

~~(2) The floor area of any storage unit or cubicle shall not exceed four hundred (400) square feet.~~

~~(3) The maximum length of any single building housing such individual storage units or cubicles shall be two hundred (200) feet.~~

~~(4) All storage shall be within a completely enclosed building. The outdoor storage of inventory, materials, vehicles, or merchandise shall be prohibited.~~

~~(5) The distance between mini-warehouse structures shall be a minimum of twenty (20) feet. Where vehicular circulation lanes and parking and loading spaces are to be provided between structures, the minimum separation distance shall be increased accordingly in order to ensure vehicular and pedestrian safety and adequate emergency access.~~

~~(6) No activities such as the sale, repair, fabrication, or servicing of goods, motor vehicles, appliances, equipment, or materials shall be conducted from mini-warehouse units.~~

~~(7) The storage of explosive, flammable, or hazardous materials shall be prohibited.~~

Sec. 36.2-429. Temporary uses.

(a) *Applicability.* Authorized temporary uses, including permitted locations, duration, and maximum number per calendar year, and whether or not a zoning permit is required, shall be as set forth in Table 429-1:

Table 429-1. Temporary Uses

Activity	Zoning Districts Where Permitted	Maximum Duration	Maximum Number per Calendar Year for Lot	Zoning Permit Required?
		* * *		
Public events, subject to subsection (e), below	CN, CG, CLS, D, IN, ROS, I-1, I-2, IPUD, INPUD, UF	14 calendar days	Not applicable	Yes
Public events, exempt from subsection (e) below	Any district	Two calendar days	Two, with an interval of at least three months between events	No
		* * *		

* * *

Sec. 36.2-540. Zoning amendments.

* * *

(c) *Procedures; filing of application.*

* * *

(2) An application for a zoning amendment ~~to rezone property~~ shall be in writing on forms provided by the City, and filed with the Secretary to the Commission, accompanied by payment of all fees as set forth in the City of Roanoke's Fee Compendium as adopted by City Council in accordance with Section 15.2-107 of the Code of Virginia (1950), as amended. ~~and charges established by the City Council.~~

* * *

Sec. 36.2-622. Exempt lighting.

The following outdoor lighting shall be exempt from the requirements of this division:

* * *

(e) Outdoor recreation facility or sports stadium lighting subject to Sections ~~36.2-340 and 36.2-403(g);~~ 36.2-315, 36.2-322, 36.2-327, and 36.2-403(f);

* * *

Sec. 36.2-647. Buffering and screening.

* * *

~~(b) Except where specified otherwise, buffering and screening shall be installed in side and rear yards behind the building line of the lot being developed such that it reduces the visual impact of the structures, activities, or uses on abutting properties and public rights-of-way, as applicable, considering sight lines from those abutting properties and public rights-of-way, as applicable.~~

~~(c) For purposes of this section, abutting lots shall not include lots separated by a right-of-way containing a street, river or creek, or railroad line. Lots that would abut if not for their separation by an alley shall be considered abutting lots for purposes of this section and shall be subject to these buffering and screening requirements.~~

(b) Buffering and screening shall be located in such a manner that it reduces or eliminates visual impact of the activity or use to adjacent properties and streets.

(c) Where Table 647-1 below specifies the location of buffering or screening between an activity or use and an abutting zoning district, the specified zoning district shall mean any abutting lot or any lot

directly across a street which lies within the specified zoning district, regardless of the zoning of the property on which the activity or use is to be conducted.

Table 647-1. Buffering and Screening of Certain Uses and Activities

Activity or Use	Location	Buffering or Screening Materials	Minimum Height
Wall of a principal building that contains less than 15% transparency	Between the wall and an abutting residential district or ~~multiple purpose district, or PUD district~~ MXPUD district.	Buffer: Deciduous trees and evergreen shrubs	None
	* * *		
Any commercial or industrial process or activity occurring outside of a wholly enclosed building	Between the location of the activity and any abutting residential district, multiple purpose district, or PUD district, located within 15 feet of property line of the abutting lot or lots.	Screen: Solid fence or wall	~~6~~8 feet
Ground-mounted m~~M~~echanical equipment ~~on ground~~, more than 36 inches in height	Perimeter of the mechanical equipment that would otherwise be visible from any street frontage or adjacent property Exception: Not required where the use is a single-family detached dwelling	Screen: Fence or wall with 60% or greater opacity	6" above the height of the tallest unit
Ground-mounted mechanical equipment up to 36 inches in height	Perimeter of the mechanical equipment that would otherwise be visible from any street frontage or adjacent property	Option 1 Fence or wall with 60% or greater opacity Option 2 Evergreen shrubs	Option 1 6" above the height of the tallest unit or Option 2 18 inches at planting
	* * *		
~~Mini-warehouse~~	~~Between the facility and any abutting residential or multiple purpose district~~	~~Screen: Solid fence, solid wall, or evergreen tree screen~~	~~6 feet~~
	* * *		
Outdoor sports facility	Between the facility and any abutting residential district.	Buffer: Deciduous trees	None
Outdoor storage or self-storage facility	Between the storage area and any abutting residential district, multiple	Screen: Solid fence, solid wall,	6 feet

purpose district, or PUD district. Between the storage area and any residential district, multiple purpose district, or PUD district across a street	or evergreen tree screen	

* * *

Sec. 36.2-648. Parking area landscaping.

(a) Parking areas shall be subject to the following buffering and screening standards:

* * *

(2) Interior planting areas shall be at least eight (8) feet by eighteen (18) feet, with a minimum soil depth of two (2) feet, and shall include surface landscaping, mulch, grass or other vegetative ground cover, or river rock. Interior planting areas shall be located in one or more of the following locations:

(A) Within an otherwise continuous row of parking spaces so as to provide separation between groups of parking spaces within a row;

(B) At the end of a row of parking spaces so as to provide separation between parking spaces and an access aisle, driveway, street, alley or other paved area;

(C) At the end of a row of parking spaces so as to provide a corner between rows of parking spaces that are arranged at an angle to one another; or

(D) Between opposing rows of parking spaces or between a row of parking spaces and an access aisle, driveway, street, alley or other paved area.

* * *

Sec. 36.2-649. Standards for buffering, screening, and parking area landscaping materials.

Materials used to meet requirements of Sections 36.2-647 and 36.2-648 shall meet the standards of Table 649-1.

Table 649-1. Buffering, Screening and Landscaping Materials

Materials	Standards
* * *	
Evergreen trees	Maximum spacing 8 feet on center

* * *

Sec. 36.2-651. Applicability.

The off-street parking and loading requirements of this division shall apply to any new structure or use, any increase in intensity of use, including an addition to or enlargement of an existing structure, or a change of existing use. No Certificate of Occupancy shall be issued until required off-street parking and loading spaces have been established in accordance with the requirements of this division. The repetitive parking of a vehicle or vehicles in a turf grass area or landscaped area that results in denuded or partially denuded soil shall constitute the establishment of a parking area that does not meet the construction standards of this section.

* * *

Sec. 36.2-652. Minimum parking.

* * *

Table 652-2. Required Parking Spaces

Use	Minimum Number of Parking Spaces Required Calculated as 1 Space for Each Specified Unit	Maximum Parking
	* * *	
Commercial Uses: Retail Sales and Service		
	* * *	
Car wash	1.5 self-service bay 0.25 automated service bay	Y

* * *

Sec. 36.2-653. Maximum parking.

* * *

(c) The maximum number of off-street parking spaces permitted, as established in Section 36.2-653(a), shall not apply to parking areas utilizing permeable ~~paver~~ pavement systems or to parking structures.

* * *

Sec. 36.2-654. Parking and loading area standards.

* * *

(b) *Construction and location standards.* Parking and loading areas shall comply with the construction standards listed below and as shown in Table 654.1:

(1) All parking areas and loading areas shall be graded for drainage and have an improved surface, except where an alternative surface is permitted in Table 654-1. Improved surface shall mean concrete, asphalt, bituminous pavement, brick or stone pavers, or a permeable ~~paver~~ pavement system.

(2) Where gravel or a similar surface is permitted in Table 654-1, the Zoning Administrator may require a development plan including satisfactory specifications for a sub-base and the size, tamping, and containment of gravel and documentation that dust will not be generated in an amount in excess of that which would be generated by a paved surface or permeable ~~paver~~ pavement system prior to approval.

* * *

(c) *Pedestrian access.* In the CG and CLS Districts, designated, clearly identified pedestrian access shall be provided between off-street parking areas and public entrances of a building or use which is required to provide fifty (50) or more parking spaces, as set forth in Table 652-2, or which provides fifty (50) or more parking spaces. Such pedestrian access shall consist of sidewalks or other walkways of a minimum unobstructed width of five (5) feet which are surfaced with concrete, asphalt, bituminous pavement, brick or stone pavers, or a permeable ~~paver~~ pavement system, are handicapped accessible, and are separated from vehicular traffic by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic. At all points where such pedestrian access crosses the lane of motor vehicle travel, raised crosswalks shall be provided.

* * *

Sec. 36.2-705. Nonconforming uses.

* * *

(g) Where the use of a structure is deemed nonconforming with respect to the number of dwelling units or the residential use designation, unoccupied spaces such as porches, decks, or accessory buildings may be constructed or expanded.

* * *

Sec. 36.2-709. Certain uses deemed not nonconforming.

Uses in existence in a district at the time of adoption or amendment of this chapter, for which a special exception permit would be required if they were new uses, shall be deemed conforming uses so long as they continue in existence on the same lot. Once such use is abandoned for any continuous period longer than two (2) years, any new use of the premises must conform to the applicable district regulations.

* * *

Sec. 36.2-841. - Powers and duties.

* * *

(c) *Modifications*. The Zoning Administrator shall have the authority to grant a modification from any provision of this chapter with respect to physical requirements on a lot, including but not limited to size, height, location, or features of or related to any building, structure, or improvements, pursuant to the procedures and standards set forth below.

* * *

(4) The application fee for such modification shall be as set forth in the City of Roanoke's Fee Compendium and as adopted by City Council in accordance with Section 15.2-107 of the Code of Virginia (1950), as amended.

* * *

APPENDIX A. DEFINITIONS

* * *

Day care home, Adult: An adult day program offered in the residence of the provider for up to three (3) aged, infirm, or disabled adults who reside elsewhere. Such day care home shall provide services during only a part of a twenty-four (24) hour day and such home shall not include any overnight stays or overnight sleeping facilities. Services may include aid in personal hygiene, eating and drinking, ambulation, or recreation. The maximum number of adults permitted by this definition shall not include the provider or anyone related to the provider by blood, marriage, or adoption.

Day care home, Child: A child day program offered in the residence of the provider, serving one (1) through ~~five (5)~~ four (4) children at any one (1) time, exclusive of any children related to the provider by blood, marriage, or adoption. A child day program means a regularly operating service arrangement for children where, during the absence of a parent or guardian,

a person has agreed to assume responsibility for the supervision, protection, and well-being of children under the age of thirteen (13) for less than a twenty-four-hour period.

* * *

Family day home: a child day program offered in the residence of the provider or the home of any of the children in care for ~~six (6)~~ five (5) through twelve (12) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, when at least one (1) child receives care for compensation.

* * *

Mixed-use building: A single building containing more than one (1) type of land use permitted within a zoning district, including residential, commercial, and office.

~~*Mini-warehouse*: An enclosed storage facility containing cubicles designed to provide independent, individual, fully enclosed storage space, for lease to individuals for long-term storage of their household goods or personal property, where each cubicle is enclosed by walls and ceiling, and where each cubicle has a separate entrance for the loading and unloading of stored goods. Such facilities are also called self-service storage facilities.~~

* * *

Mobile food vending: the preparation or sale of food or beverage from a motor vehicle, trailer or cart capable of being readily moved.

* * *

Permeable ~~paver~~ pavement system: ~~A grid system utilizing plastic or concrete pavers with surface voids within or between the pavers, arranged over a sand setting bed and a coarse base, and where the surface voids are filled with grass, sand, or gravel. Such a system allows water to filter through the surface voids and reach the underlying soils. For purposes of this definition, a permeable paver system shall have permeable voids which represent at least a forty (40) percent pervious surface.~~ A system consisting of a surface pavement layer that allows water to pass through it into an underlying reservoir layer specifically designed to temporarily store runoff and either release it slowly or allow it to infiltrate into the subsoil. Such a system may include pervious concrete, porous asphalt, permeable grid pavers, or concrete pavers.

* * *

River rock: Stone intended for decorative ground cover, characterized by a rounded grain shape and having a grain diameter of no less than 3/16 of an inch.

* * *

Self-storage building: A building that contains enclosed storage units leased for long-term storage of personal property, where access to each unit is provided from the interior of the building.

Self-storage facility: A facility designed to provide enclosed storage units for long-term storage of personal property, where each unit has exterior access, and which may include outdoor storage.

* * *

Short-term rental: An accommodation for transient guests where, in exchange for compensation, a dwelling unit is provided for lodging for thirty (30) days or less and which is not a "boarding house" or "group care facility" as defined in this chapter. Such use may or may not include an on-site manager. For the purposes of this definition, a dwelling unit shall include only dwelling, single family, attached; dwelling single-family detached; dwelling, two-family; dwelling multifamily; dwelling townhouse or rowhouse; and accessory apartment, and shall exclude other group living or other lodging uses specifically listed or defined in this chapter.

* * *

Transient guest: Any person who, for thirty (30) days or fewer, either at his or her own expense or at the expense of another, obtains lodging in a dwelling unit or hotel or motel as defined in this chapter.

* * *

APPENDIX B. SUBMITTAL REQUIREMENTS

B-1. Basic Development Plan

* * *

(b) A basic development plan submitted for approval shall include a completed application form, accompanied by payment of the required fees.~~, and three (3) copies of a survey plot plan or a basic site plan drawing outlining the following information:~~ One copy of the basic development plan, whether digital or paper, shall be submitted for any review by the Zoning Administrator.

(c) A basic development plan shall include the following information, although the agent to the planning commission may waive any of the following required information, if it is not needed to determine compliance with a specific section of this chapter and if the agent identifies such code section pursuant to Sections 36.2-552(c) and 36.2-553(c)(1)(B) of the City Code:

* * *

(7) Setback measurements for all existing or proposed structures on the lot from all adjoining property lines~~;~~. If the development is subject to the front yard dimensions for infill development in Section 36.2-313, ~~delineation of~~ the shallowest established front yard shall be delineated as required by that section ~~on the adjoining lot if minimum or maximum front yard is subject to Section 36.2-205(f)(2)(A) and (B)~~.. Setback measurements shall be based on the distance from adjoining property lines to the line parallel to the street right-of-way that passes nearest that street right-of-way, with such point being thirty (30) inches or greater above the graded ground level. (If a structure has overhangs or eaves, setbacks should be measured from the furthest projection of the overhang to the street right-of-way on a line that is parallel to that street right-of-way.)

* * *

~~(c)~~(d) If the application for basic development plan approval proposes construction that will require a land disturbing activity in or upon critical terrain that slopes towards adjacent properties, streets, alleys, streams, or creeks, or if the proposed land disturbing activity is found by the Zoning Administrator to involve site-specific features which warrant a review of erosion and sediment control or if such proposed activities are applicable under Chapter 11.1 Erosion and Sediment Control, of this Code, a grading and erosion and sediment control plan, prepared by a licensed professional engineer, surveyor, or architect, shall be required. Where application is made for a permit for the purpose of preparation for the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan.

* * *

B-2. - Comprehensive Development Plan

* * *

(c) ~~Ten (10) copies of the comprehensive development plan~~ One copy of the basic development plan, whether digital or paper, shall be submitted for any review by the Zoning Administrator. The comprehensive development plan shall be submitted for review, accompanied by payment of the required fees.

(d) A comprehensive development plan shall include the following information, although the agent to the planning commission may waive any of the following required information, if it is not needed to determine compliance with a specific section of this chapter and if the agent

identifies such code section pursuant to Sections 36.2-552(c) and 36.2-553(c)(1)(B) of the Code of the City of Roanoke (1979), as amended:

* * *

(4) Parking, loading, and driveway requirements:

* * *

(K) If applicable, details of a permeable ~~paver~~ pavement system to be utilized to exceed maximum permitted off-street parking pursuant to Section 36.2-653(c).

* * *

2. This ordinance will become effective immediately upon adoption.

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

SJT 11/15/16

B.3.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE amending and reordaining Section 36.2-205, Dimensional regulations, Table 205-1, Permitted Yard Encroachments; Section 36.2-311, Use table for residential districts; Section 36.2-312, Dimensional regulations for residential districts; Section 36.2-313, Front yard dimensions for infill development; Section 36.2-315, Use table for multiple purpose districts; Section 36.2-316, Dimensional regulations for multiple purpose districts; Section 36.2-318, Pedestrian access; Section 36.2-319, Building placement and façade transparency standards for multiple purpose districts; Section 36.2-322, Use table for industrial districts; Section 36.2-327, Use table for planned unit development districts; repealing Section 36.2-333, Floodplain Overlay District (F) and replacing with a new Section 36.2-333, Floodplain Overlay District (F); amending and reordaining Section 36.2-335, River and Creek Corridors Overlay District (RCC); Section 36.2-336, Comprehensive Sign Overlay District; Section 36.2-406, Car wash; Section 36.2-408, Day care centers, child; Section 36.2-411, Gasoline stations; repealing Section 36.2-415, Mini-warehouses; amending and reordaining Section 36.2-429, Temporary uses, Table 429-1, Temporary Uses; Section 36.2-540, Zoning amendments; Section 36.2-622, Exempt lighting; Section 36.2-647, Buffering and screening; Section 36.2-647, Buffering and screening, Table 647-1, Buffering and Screening of Certain Uses and Activities; Section 36.2-648, Parking area landscaping; Section 36.2-649, Standards for buffering and screening, and parking area landscaping materials, Table 649-1, Buffering, Screening and Landscaping Materials; Section 36.2-651, Applicability; Section 36.2-652, Minimum parking, Table 652-2, Required Parking Spaces; Section 36.2-653, Maximum parking; Section 36.2-654, Parking and loading area standards; Section 36.2-705, Nonconforming uses; Section 36.2-709, Certain uses deemed not

nonconforming; Section 36.2-841, Powers and duties; Appendix A, Definitions; Appendix B, Submittal Requirements, B-1, Basic Development Plan; B-2, Comprehensive Development Plan; of Chapter 36.2, Zoning, of the Code of the City of Roanoke (1979), as amended; for the purposes of updating, clarifying, and making consistent with state law, the City's zoning ordinance; providing for an effective date; and dispensing with the second reading of this ordinance by title.

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

1. Chapter 36.2, Zoning, of the Code of the City of Roanoke (1979), as amended, is hereby amended and reordained, to read and provide as follows:

* * *

Sec. 36.2-205. Dimensional regulations.

* * *

Table 205-1. Permitted Yard Encroachments

Feature	Front	Side	Rear
* * *			
Handicap ramps associated with a residential use	Yes 7 feet, as measured from the front of the building or the front line of an existing porch, if one is present.	Yes 4 feet	Yes 10 feet

* * *

(f) *Front yards.*

(1) The depth of a front yard shall be measured at a right angle to the street line to the front building line of the building, excluding the front porch or any other encroachment into the front yard. In the case of a curved street line, the depth shall be measured on the radial line.

* * *

Sec. 36.2-311. Use table for residential districts

District	RA	R-12	R-7	R-5	R-3	RM-1	RM-2	RMF	Supplemental Regulation Section
* * *									
Commercial Uses:									
Day care home, adult	S	S	S	S	S	S	S	S	

* * *

Sec. 36.2-312. Dimensional regulations for residential districts.

Section 36.2-313 Front yard requirements for infill development apply	No	No	Yes	Yes	Yes	Yes	Yes	~~Yes~~ No

* * *

Sec. 36.2-313. Front yard dimensions for infill development.

To determine the established front yard in the table below, the ~~zoning~~ Zoning ~~administrator~~ Administrator shall consider only the following lot or lots: (1) a lot or lots on which there is a principal structure on the same block face, and (2) up to one (1) lot on each side of a subject property which is closest to the subject property. However, no lot being used to determine the established front yard shall be an outlier. An outlier shall be any yard depth that deviates by more than twenty (20) percent from the average yard depth on the block face, not including the outlier or outliers. In such instances, the ~~zoning~~ Zoning ~~administrator~~ Administrator shall determine the most shallow established front yard to be equal to such average depth.

Where the most shallow established front yard is between the minimum and maximum front yards of the district	Minimum yard: depth of the most shallow established front yard Maximum yard: depth of the most shallow established front yard, plus 5 feet
Where the most shallow established front yard is deeper than the district's maximum front yard	Minimum yard: ~~same as district~~ depth of most shallow established front yard. Maximum yard: average between the depth of most shallow established front yard and deepest established front yard, excluding outliers as defined above.
* * *	

Sec. 36.2-315. Use table for multiple purpose districts

District	MX	CN	CG	CLS	D	IN	ROS	UF	Supplemental Regulation Section
* * *									
Accommodations and Group Living:									
* * *									
Short-term rental		P	P	P	P			P	
* * *									
Commercial Uses: Miscellaneous									
* * *									
Animal hospital or veterinary clinic, outdoor pens or runs		S	S	S	S			S	
* * *									
Kennel, outdoor pens or runs			S	S				S	
* * *									
Warehousing and Distribution Uses:									
* * *									
Self-storage building			S	S	S			P	
* * *									
Assembly and Entertainment Uses:									
* * *									
Eating establishment	S	P	P	P	P			P	
Eating and drinking establishment, not abutting a residential district	S	P	P	P	P			P	
Eating and drinking establishment, abutting a residential district	S	S	S	S	S			S	
* * *									
Meeting hall, abutting a residential district		S	S	S	S	P	P	S	
Meeting hall, not abutting a residential district		P	P	P	P	P	P	P	
* * *									
Public, Institutional, and Community Facilities:									

Day care home, adult	S	S			S			S	
* * *									
Supply pantry		P	P	P	P	P		P	

Sec. 36.2-316. Dimensional regulations for multiple purpose districts

	MX	CN	CG	CLS	D	IN	ROS	UF
* * *								
Section 36.2-318 Pedestrian access requirement applies	~~No~~ Yes	Yes	Yes	Yes	~~No~~ Yes	Yes	No	Yes

* * *

Sec. 36.2-318. Pedestrian access.

In districts where indicated as applicable in Section 36.2-316, designated pedestrian pathways of a minimum unobstructed width of five (5) feet shall be provided and clearly defined from the public sidewalk, or the public right-of-way where there is no public sidewalk, to the public entrance of any principal building. Such pedestrian pathways shall be handicapped accessible, surfaced with concrete, asphalt, bituminous pavement, brick or stone pavers, or a permeable ~~paver~~ pavement system, and shall be distinguished and separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic. Where any such walkway crosses a motor vehicle travel lane, raised crosswalks shall be provided.

Sec. 36.2-319. Building placement and façade transparency standards for multiple purpose districts.

* * *

~~(d) The façade facing a primary street frontage shall contain a primary entrance with the threshold located at the grade of the adjacent sidewalk or at the adjacent grade when not abutting a sidewalk, except as follows. The primary entrance in the MX or IN District may be above the finished grade of the adjacent sidewalk or adjacent grade of the site. The entrance shall be accessible during normal business hours to employees and customers/patrons of the building occupant.~~

(d) A primary entrance shall be located within the required minimum and maximum front yards, with the threshold located at the grade of the adjacent sidewalk or at the adjacent grade when not abutting a sidewalk. Such primary entrance shall be accessible during normal business hours to employees and customers/patrons of the building occupant.

Exceptions:

(1) Where building placement is established according to the civic space yard option, a primary entrance shall abut the civic space yard with

the entrance threshold located at the grade of the abutting civic space yard.

(2) The primary entrance in the MX or IN District may be above the finished grade of the adjacent sidewalk or adjacent grade of the site.

* * *

Sec. 36.2-322. Use table for industrial districts

District	I-1	I-2	AD	Supplemental Regulation Section
* * *				
Commercial Uses: Miscellaneous				
Kennel, outdoor pens or runs	S			
* * *				
Warehousing and Distribution Uses:				
Distribution center, not otherwise listed	P	P	P	
~~Mini-warehouse~~	~~P~~	~~P~~	~~P~~	~~36.2-415~~
Self-storage building	P	P	P	
Self-storage facility	P	P	P	
* * *				
Accessory Uses:				
Accessory uses, not otherwise listed in this Table	P	P	P	36.2-403
Outdoor recreation facility lighting or sports stadium lighting	~~P~~S	~~P~~S	~~P~~S	36.2-403
* * *				

* * *

Sec. 36.2-327. Use table for planned unit development districts

	MXPUD	INPUD	IPUD	Supplemental Regulation Section
* * *				
Commercial Uses: Miscellaneous				
Animal hospital or veterinary clinic, outdoor pens or runs			P	
Warehousing and Distribution Uses:				
* * *				

Self-storage building	P			

* * *

~~Sec. 36.2-333. Floodplain Overlay District (F).~~

~~This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2-2280.~~

~~(a) *Purpose.* The purpose of the Floodplain Overlay District (F) is to provide mandatory floodplain restrictions for FEMA compliance. The intent of the regulations in this section is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:~~

~~(1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, if unregulated, will cause unacceptable increases in flood heights, velocities, and frequencies;~~

~~(2) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding;~~

~~(3) Requiring all those uses, activities, and developments that do occur in floodprone areas to be protected or floodproofed against flooding and flood damage; and~~

~~(4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.~~

~~(b) *Establishment of floodplain areas.* For the purpose of the regulations prescribed in this section, there are hereby created various floodplain areas subject to inundation by waters of the 100-year flood. The basis for the delineation of the floodway, the flood-fringe, and the approximated floodplain, shall be the flood insurance study for the City of Roanoke prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007. A copy of the flood insurance study, and the flood insurance rate map shall be filed in the offices of the City Clerk and the city engineer and are hereby declared to be a part of these regulations. The floodplain areas shall consist of the following:~~

~~(1) The floodway is delineated, for purposes of these regulations, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. These floodways are specifically defined in Table 4 of the flood insurance study and as generally shown on the accompanying flood insurance rate map.~~

~~(2) The flood-fringe shall be that area of the 100-year floodplain not included in the floodway. The basis for the outermost boundary of the flood-fringe shall specifically be the 100-year flood elevations contained in the flood~~

~~profiles of Table 4 of the flood insurance study and as generally shown on the accompanying flood insurance rate map.~~

~~(3) The approximated floodplain shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a 100-year floodplain boundary has been approximated. Such areas are shown as Zone A and AO on the flood insurance rate map. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports or the U.S. Geological Survey Flood-Prone Quadrangles, then the applicant for the proposed use, development, or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. When a Zone A or Zone AO area is located between two (2) numbered zones, 100-year flood elevations shall be linearly interpolated between known elevations, along the centerline of the channel. Hydrologic and hydraulic analyses shall be undertaken only by the applicant's professional engineers who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, and computations shall be submitted in sufficient detail to allow a thorough review by the City Engineer.~~

~~(c) *Applicability.*~~

~~(1) The floodplain areas described above shall be overlays to the existing underlying base zoning districts as shown on the Official Zoning Map. As such, the provisions of the Floodplain Overlay District (F) shall serve as a supplement to the underlying base zoning district provisions. With any conflict between the provisions or requirements of the Floodplain Overlay District (F) and those of the underlying base zoning district, the more restrictive provisions shall apply.~~

~~(2) The boundaries of the floodplain areas previously described in subsection (b), above, shall be established as shown on the flood insurance rate map and flood study.~~

~~(3) The delineation of any of the floodplain areas described in subsection (b), above, may be revised by the City Council where natural or manmade changes have occurred or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents to the satisfaction of the Zoning Administrator and City Engineer the need for such change. However, prior to any such change, approval shall be obtained from the Federal Emergency Management Administration, Region 3.~~

~~(4) Interpretations of the boundaries of the floodplain areas described in subsection (b), above, shall be made by the Zoning Administrator in consultation with the City's Floodplain Manager.~~

~~(5) No land or use shall be developed within the established floodplain areas, and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered, except in full compliance with the terms~~

~~and provisions of the regulations of this section and any other applicable ordinances and regulations which apply to uses within the City.~~

~~(d) *Compliance*. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.~~

~~(e) *Abrogation and greater restrictions.*~~

~~(1) These regulations supersede any regulations in effect in floodplain areas. However, any underlying regulations or restrictions shall remain in full force and effect to the extent that their provisions are more restrictive than the regulations as set forth in this section.~~

~~(2) Wherever any regulation in this section imposes higher or more restrictive standards than are required in any other statute, ordinance, or regulation, the provisions of this section shall govern. Whenever the provisions of any other statute, ordinance, or regulation impose higher or more restrictive standards than are required in this section, the provisions of such other statute, ordinance, or regulation shall govern.~~

~~(f) *Severability*. If any section, subsection, paragraph, sentence, clause, or phrase of this section shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this section or chapter. The remaining portions shall remain in full force and effect, and for this purpose, the provisions of this section and chapter are hereby declared to be severable.~~

~~(g) *Submitting technical data*. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.~~

~~(h) *Definitions*. Certain terms and words used in this section shall be defined as set forth below. Where any conflict exists between the definitions below and those set forth in Appendix A, the definitions of this subsection shall govern for the purposes of the regulations of this section.~~

~~*Base flood/100-year flood:* A flood that, on the average, is likely to occur once every one hundred (100) years (that has a one (1) percent chance of occurring each year, although the flood may occur in any year).~~

~~*Base flood elevation:* The Federal Emergency Management Agency designated 100-year water surface elevation.~~

~~*Basement:* Any area of the building having its floor subgrade (below ground level) on all sides.~~

~~*Channel:* A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.~~

~~*Conditional letter of map revision (CLOMR):* A letter from FEMA commenting on whether a proposed project, if built as proposed, would justify a National Flood Insurance Program (NFIP) map revision to modify the existing regulatory floodway or effective base flood elevation.~~

~~*Development:* Any manmade change to improved or unimproved real estate including, but not limited to, structures, the placement of manufactured homes, paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or the storage of equipment or materials.~~

~~*FEMA:* Federal Emergency Management Agency.~~

~~*Flood:* A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland waters, or (2) the unusual and rapid accumulation of run-off of surface waters from any source.~~

~~*Flood elevation:* A determination by the Federal Insurance Administration of the water surface elevations of the base flood, that is the flood level that has a one (1) percent or greater chance of occurrence in any given year.~~

~~*Flood insurance rate map:* An official map of the City of Roanoke, on which the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the City of Roanoke.~~

~~*Floodplain:* Any land area susceptible to being inundated by water from any source.~~

~~*Floodproofing:* Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.~~

~~*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the base flood elevation more than one (1) foot.~~

~~*Freeboard:* A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.~~

~~*Historic structure:* For the purpose of this section only, any structure that is:~~

~~(1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~

~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;~~

~~(3) Individually listed on the Virginia Landmarks Register or determined eligible by the Virginia Department of Historic Resources for such register; or~~

~~(4) Individually listed on the City inventory of historic places or as determined eligible for such inventory by the Roanoke City Architectural Review Board.~~

~~*Letter of map revision (LOMR):* A letter from FEMA officially revising the current National Flood Insurance Program (NFIP) map to show changes to floodplains, floodways, or flood elevations.~~

~~*Lowest floor:* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section.~~

~~*Manufactured home:* A structure, transportable in one (1) or more section(s), which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle." For floodplain management purposes, the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days, but does not include a recreational vehicle.~~

~~*Recreational vehicle:* A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.~~

~~*Repetitive loss:* Flood-related damage sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred.~~

~~*Start of construction:* For a "substantial improvement," start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

~~*Structure:* For purposes of this section only, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.~~

~~*Substantial damage:* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.~~

~~*Substantial improvement:* Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a period of five (5) years, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This~~

~~term includes structures which have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:~~

~~(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~

~~(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."~~

~~*Watercourse:* A natural or artificial channel for passage of running water fed from natural sources in a definite channel and discharging into some stream or body of water.~~

~~(i) *Floodplain development regulations.*~~

~~(1) *Permit requirement*: All uses, activities, and development occurring within any floodplain areas shall be undertaken only upon the issuance of a zoning permit by the Zoning Administrator. Such development shall be undertaken only in strict compliance with these regulations and with all other applicable codes and ordinances. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include documentation certifying compliance with all applicable state and federal laws and shall review all sites to ensure they are reasonably safe from flooding. Under no circumstances shall any use, activity, or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system. Permit review shall ensure reasonable construction safety from flooding, proper anchoring, use of flood resistant materials, and construction practices that minimize flood damage. Review shall ensure certification that the engineer has met the requirements of the most recent applicable FEMA technical bulletins in effect at the time of application for such permit.~~

~~(2) *Alteration or relocation of watercourse*: Prior to any proposed alteration or relocation of any channel with a regulatory floodplain, within the City, a permit shall be obtained from the U.S. Army Corp of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions and the Dam Safety and Floodplain Management Division of the Virginia Department of Conservation and Recreation. If the channel to be altered or relocated contains a regulatory floodplain, a conditional letter of map revision shall be secured from FEMA, prior to construction.~~

~~(3) *Zoning permits*: All applications for zoning permits for structures in the floodplain as defined for purposes of this section shall include a standard FEMA elevation certificate completed by a licensed surveyor or engineer. Such certificate shall be based on the most recent flood insurance rate map and flood study in effect at the time of application for such permit. For all~~

~~such permits, the Zoning Administrator shall obtain and maintain a record of the following information:~~

~~(A) The elevation of the 100-year flood;~~

~~(B) Topographic information showing existing and proposed ground elevation;~~

~~(C) For structures to be elevated, the elevation (in relation to mean sea level) of the lowest floor (including basement) of any proposed new or substantially improved structures;~~

~~(D) For nonresidential structures to be floodproofed, the elevation (in relation to mean sea level) to which the structure will be floodproofed, and any FEMA floodproofing certificate, when applicable;~~

~~(E) Where a nonresidential structure is intended to be made watertight below the base flood level, a registered professional engineer or architect shall develop and review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of the Virginia Uniform Statewide Building Code; and~~

~~(F) Prior to the issuance of a certificate of occupancy, the applicant shall provide a final elevation certificate of the as-built construction.~~

~~(4) *Manufactured or mobile homes*: All manufactured homes or mobile homes to be placed or substantially improved within the flood fringe shall be placed on a permanent foundation and anchored in accordance with the Virginia Uniform Statewide Building Code. In the floodway, the placement of manufactured homes or mobile homes is prohibited.~~

~~(5) *Floodway*: In the floodway, no encroachments, including fill, new construction, substantial improvements, rehabilitation of substantially damaged structures, and other development, shall be permitted except as listed in subsections (j), (k) and (m), below. Encroachments associated with the expansion of an existing use or establishment of a new permitted use shall allow an encroachment only if the applicant's professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in the 100-year flood elevation, or a conditional letter of map revision is approved. The requirements of subsection (i)(4) and (6) shall apply to encroachments permitted by this section.~~

~~(6) *Flood fringe and approximated floodplain*: In the flood fringe and approximated floodplain, the development or use of land shall be permitted in accordance with the regulations of the underlying base zoning district, provided that all such uses, activities, or development shall be undertaken in strict compliance with the floodproofing and related~~

~~provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances; and provided further that the lowest floor of any structure shall be elevated to a minimum of two (2) feet above the base flood elevation, or, when allowed in the Virginia Uniform Statewide Building Code, shall be floodproofed to two (2) feet above the base flood elevation. In addition, all electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including ductwork, for new construction or substantial improvement shall be elevated or floodproofed to two (2) feet above the base flood elevation.~~

~~(7) *Approximated floodplain*: Within the approximated floodplain, all proposed developments shall include within such proposals base flood elevation data. The applicant's professional engineer shall also delineate a floodway area based on the requirement that all existing and future development not increase the 100-year flood elevation more than one (1) foot at any one (1) point. The engineering principle identified as equal reduction of conveyance shall be used to make the determination of increased flood heights. Within the floodway area delineated by the applicant's professional engineer, the provisions of subsection (i)(5), above, and subsections (j) and (k), below, shall apply.~~

~~(8) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.~~

~~(9) In the floodway, the placement or storage of recreational vehicles is prohibited, unless approved by special exception as provided for in subsection (k), below.~~

~~(j) *Permitted uses in floodway*. The following uses shall be permitted as of right in the floodway to the extent that they are otherwise permitted in the underlying base zoning district and are not prohibited by any other ordinance, and provided they do not employ structures, fill, or storage of materials and equipment within the floodway which may cause any increase in 100-year flood height and velocity:~~

~~(1) Agricultural operations, such as farming, pasture, grazing, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting;~~

~~(2) Public and private recreational uses such as parks, picnic grounds, golf courses, boat launching or swimming areas, hiking or horseback riding trails, wildlife and nature preserves, fishing areas, and trap and skeet game ranges;~~

~~(3) Botanical gardens; and~~

~~(4) Accessory residential uses such as yard areas, gardens, and play areas.~~

~~(k) *Special exception uses in floodway*. The following uses shall be permitted in the floodway by special exception granted by the Board of Zoning Appeals provided such uses are permitted in the underlying base zoning district:~~

~~(1) Structures accessory to the uses set forth in subsections (j)(1) through (j)(3), above.~~

~~(2) Utilities distribution: gas/electric compressor station or substation, or water pump/lift station.~~

~~(3) Sewage treatment facility or water treatment facility.~~

~~(4) Quarry and mining operations, including excavation of sand, gravel, or clay, provided no increase in the level of flooding or velocity is caused.~~

~~(5) Storage of materials and equipment provided that they are not buoyant, flammable, toxic, hazardous, or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, or can be readily removed from the area within the time available after flood warning.~~

~~(6) Placement or storage of a recreational vehicle, provided such recreational vehicle is on the site for fewer than one hundred eighty (180) consecutive days, is fully licensed and ready for highway use. For purposes of this section, a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and if it has no permanently attached additions.~~

~~(l) *Design criteria for public utilities and facilities.*~~

~~(1) All new or replacement sanitary sewer facilities and private sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they must be located and constructed to minimize flood damage and impairment.~~

~~(2) All new or replacement potable water facilities shall be designed to eliminate infiltration of flood waters into the system and shall be located and constructed to minimize flood damages.~~

~~(3) All storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner, without damage to persons or property. The systems shall ensure proper drainage along streets, and provide positive drainage away from buildings and on-site waste disposal sites. The City may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.~~

~~(4) All other utilities, such as gas lines and electrical, telephone, and cable television systems, being placed in flood-prone areas shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flood occurrence.~~

~~(5) Streets, drainage improvements, and sidewalks shall be designed to prevent increasing flood levels by more than one (1) foot. Any new structure encroaching in a floodway shall receive a conditional letter of map revision (CLOMR) prior to construction and a letter of map revision (LOMR) following completion.~~

~~(m) *Existing structures in the floodplain.* A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:~~

~~(1) Existing structures or uses located in the floodway shall not be expanded or enlarged, unless the effect of the proposed expansion or enlargement on 100-year flood heights is fully offset by accompanying stream or channel improvements.~~

~~(2) Any modification, alteration, repair, reconstruction, or improvement of any kind, or any combination thereof, to a structure or use located in a floodplain, that does not constitute a substantial improvement shall be elevated or floodproofed in accordance with Chapter 36.2, Zoning, the Virginia Uniform Statewide Building Code, and the most recent FEMA regulations in effect at the time of application. This subsection (m)(2) applies only to such modification, alteration, repair, reconstruction, improvement or combination thereof.~~

~~(3) Any modification, alteration, repair, reconstruction, improvement of any kind, or any combination thereof, to a structure or use located in a floodplain that constitutes a substantial improvement shall be undertaken only in full compliance with the provisions of Chapter 36.2, Zoning, the Virginia Uniform Statewide Building Code, and the most recent FEMA regulations in effect at the time of application. This subsection (m)(3) applies to the entire structure which has been modified, altered, repaired, reconstructed or improved.~~

~~(4) Any modification, alteration, repair, reconstruction, or improvement, or any combination thereof, of any kind to a historic structure located in a floodplain that is seeking an exemption from the definition of substantial improvement as defined in subsection (h) of this section shall be flood proofed to the extent practical in accordance with the Virginia Uniform Statewide Building Code and FEMA Floodplain Management Bulletin Historic Structures, FEMA P-467-2.~~

~~(n) *Variances.*~~

~~(1) When an application for a variance from the regulations of this section has been made, the procedure for processing the variance request shall be as set forth in Section 36.2-561.~~

~~(2) In considering an application for a variance from the terms of this section, the Board of Zoning Appeals shall satisfy all standards and findings set forth in Section 36.2-561(c) and (d) and shall consider the following additional factors:~~

~~(A) The danger to life and property due to increased flood heights or velocities caused by encroachment. No variance shall be granted for any proposed use, development, or activity within any floodway that will cause any increase in the 100-year flood elevation without approval of a conditional letter of map revision (CLOMR);~~

~~(B) The danger that materials may be swept onto other lands or downstream to the injury of others;~~

~~(C) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;~~

~~(D) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;~~

~~(E) The importance of the services provided by the proposed facility to the community;~~

~~(F) The requirements of the facility for a waterfront location;~~

~~(G) The availability of alternative locations not subject to flooding for the proposed use;~~

~~(H) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;~~

~~(I) The relationship of the proposed use to the City's Comprehensive Plan and floodplain management program for the City;~~

~~(J) The safety of access by ordinary and emergency vehicles to the property in time of flood;~~

~~(K) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site;~~

~~(L) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure; and~~

~~(M) Such other factors which are relevant to the purposes of Section 36.2-333.~~

~~(3) The Board of Zoning Appeals may forward any application and accompanying documentation pertaining to any request for a variance to the City Engineer or other qualified person or state or federal agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.~~

~~(4) Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such variance will not result in prohibited~~

~~increases in flood heights, additional threats to public safety, or extraordinary public expense, and will not create nuisances, cause victimization of the public, or conflict with City laws or ordinances.~~

~~(5) The Board of Zoning Appeals shall notify the applicant for a variance, in writing, within ten (10) business days of the public hearing, that the issuance of a variance to construct a structure below the 100-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.~~

~~(6) A record of the above notification as well as all variance actions, including justification for their issuance, shall be maintained by the Zoning Administrator. Any variances which are issued shall be noted in the annual or biennial report of the City submitted to the Federal Insurance Administrator.~~

~~(o) *Application requirements for variances and special exception uses in floodways.* All applications for a variance or a special exception use in any floodway, as defined herein, shall include the following:~~

~~(1) Plans in triplicate, drawn to scale not less than one (1) inch to one hundred (100) feet horizontally, showing the location, dimensions, and contours (at two-foot intervals) of the lot, existing and proposed structures, fill, storage areas, water supply, sanitary facilities, and relationship of the floodway to the proposal;~~

~~(2) A typical valley cross-section as necessary to adequately show the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, floodway limits, and 100-year flood elevation;~~

~~(3) A profile showing the slope of the bottom of the channel or flow line of the stream;~~

~~(4) A summary report, prepared by professional engineers or others of demonstrated qualifications, evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, and other pertinent technical matters;~~

~~(5) A list of names, addresses, and official tax numbers of adjoining property owners and owners of property within three hundred (300) feet of the subject property; and~~

~~(6) A conditional letter of map revision (CLOMR) prior to the issuance of any such variance or special exception in the floodway.~~

Sec. 36.2-333. Floodplain Overlay District (F).

(a) **General Provisions**

(1) **Statutory Authorization and Purpose.** This section is adopted pursuant to the authority granted to localities by Section 15.2 – 2280 of the Virginia Code (1950), as amended. The purpose of these

provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies; restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding; requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(2) **Applicability**. These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the City and identified as areas of special flood hazard determined by the City or shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to the City by Federal Emergency Management Agency (FEMA).

(3) **Compliance and Liability**. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this section and any other applicable sections and regulations which apply to uses within the jurisdiction of this section.

The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

This section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

(4) **Records**. Records of actions associated with administering this section shall be kept on file and maintained by or under the direction of the Zoning Administrator in perpetuity.

(5) **Abrogation and Greater Restrictions**. To the extent that the provisions are more restrictive, this section supersedes any section currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict with this section, it shall remain in full force and effect.

These regulations are not intended to repeal or abrogate any existing sections including subdivision regulations, zoning ordinances or building codes. In the event of a conflict between these regulations and any other ordinance or section, the more restrictive shall govern.

(6) **Severability**. If any section, subsection, paragraph, sentence, clause, or phrase of this section shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this section. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this section are hereby declared to be severable.

(7) **Penalty for Violations**. Section 36.2-571 of the City Code contains the provisions for enforcement of this section and penalties that apply for violations.

(b) **Definitions**. Certain terms and words used in this section shall be defined as set forth below. Where any conflict exists between the definitions below and those set forth in Appendix A, the definitions of this subsection shall govern for the purposes of the regulations of this section.

Appurtenant or accessory structure: Accessory structures not to exceed two hundred (200) square feet.

Areas of shallow flooding: A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base flood elevation: The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this section, the base flood is the one percent (1%) annual chance flood.

Basement: Any area of the building having its floor sub-grade (below ground level) on all sides.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Encroachment: The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

FEMA: Federal Emergency Management Agency.

Flood or flooding:

1. A general or temporary condition of partial or complete inundation of normally dry land areas from
   a. the overflow of inland or tidal waters;
   b. the unusual and rapid accumulation or runoff of surface waters from any source; or
   c. mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 of this definition.

Flood Insurance Rate Map (FIRM): An official map of a community, on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map.

Flood Insurance Study (FIS): A report by FEMA that examines,

evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain: Any land area susceptible to being inundated by water from any source.

Flood proof: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. The City requires Base Flood Elevation plus twenty-four (24) inches freeboard.

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in states with historic preservation programs

which have been approved by the Secretary of the Interior; or

4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior; or, directly by the Secretary of the Interior in states without approved programs.

Hydrologic and Hydraulic Analysis: Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by metes and bounds or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Code of Federal Regulations 44 (C.F.R.) 60.3.

Manufactured home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

Mean Sea Level: Is an elevation point that represents the average height of the ocean's surface (such as the halfway point between the mean high tide and the mean low tide) which is used as a standard in determining land elevation.

New construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after November 4, 1981, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Such structure is also referred to as "post-FIRM."

Recreational vehicle: A vehicle which is

1. built on a single chassis;
2. four hundred (400) square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Special flood hazard area: The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in subsection (d)(1) of this Section.

Start of construction: For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all section requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific section requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from section requirements will be the minimum necessary to preserve the historic character and design of the structure.

Violation: The failure of a structure or other development to be fully compliant with the City's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this section is presumed to be in violation until such time as that documentation is provided.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(c) **Administration**

(1) **Designation of the Zoning Administrator**. The Zoning Administrator is hereby appointed to administer and implement these regulations. The Zoning Administrator may delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

(2) **Duties and Responsibilities of the Zoning Administrator**. The duties and responsibilities of the Zoning Administrator shall include but are not limited to:

(A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

(B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

(D) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

(E) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (Virginia Department of Environmental Quality, United States Army Corps of Engineers) and have submitted copies of such notifications to FEMA.

(F) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been

met, or disapprove applications if the provisions of these regulations have not been met.

(G) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.

(H) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(I) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the City, within six (6) months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(J) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

(i) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

(ii) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(K) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(L) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(M) Administer the requirements related to proposed work on existing buildings:

(i) Make determinations as to whether buildings and structures that are located in flood hazard areas and

that are damaged by any cause have been substantially damaged.

(ii) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(N) Notify FEMA when the corporate boundaries of the City have been modified and:

(i) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

(ii) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(3) **Use and Interpretation of Flood Insurance Rate Maps**. The Zoning Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

(A) Where field surveyed topography indicates that adjacent ground elevations:

(i) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations; or

(ii) Are above the base flood elevation and the area is labelled as a SFHA on the FIRM, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

(B) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.

(C) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.

(D) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

(E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

(i) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

(ii) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section (d)(2)(C)(i) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(iii) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(4) **Jurisdictional Boundary Changes**. The floodplain ordinance in effect in any adjoining locality on the date of annexation of any area previously within the adjoining locality shall remain in effect and shall be enforced by the City for all annexed areas until the City adopts and enforces a section which meets the requirements for participation in the National Flood Insurance Program.

The City will notify FEMA when the corporate boundaries of the City have been modified and provide a map that clearly delineates the new corporate boundaries of the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation. If the FIRM for any annexed area includes special flood hazard areas which have flood zones that have regulatory requirements not set forth in these regulations, the City shall adopt amendments to these regulations to amend the FIRM and appropriate requirements. Such adoption shall take place at the same time as, or prior to, the date of annexation, and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(5) **District Boundary Changes**

The delineation of any of the Floodplain Districts may be revised by the City where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA. A completed LOMR is a record of this approval.

(6) **Interpretation of District Boundaries**. Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

(7) **Submitting Model Backed Technical Data.** A City's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk

premium rates and flood plain management requirements will be based upon current data.

(8) **Letters of Map Revision**. When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) and then receiving a LOMR.

(d) **Establishment of Floodplain Overlay District and flood zones.**

(1) **Description of Special Flood Hazard Districts (SFHA)**. The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for the City prepared by FEMA, Federal Insurance Administration, dated September 28, 2007, and any subsequent revisions or amendments thereto.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this section and which shall be kept on file in the Department of Planning, Building, and Development.

All development within the Floodplain Overlay District is subject to the development provisions found in subsection (e) of this section.

(2) **Additional requirements in specific Special Flood Hazard Areas.**

(A) Floodway. The floodway is the portion of an AE Zone that is delineated, for purposes of this section, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent (1%) annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 5 of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the floodway of an AE zone:

(i) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during

the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies for a (CLOMR), and receives the approval of FEMA. Such application shall be accompanied by a resolution adopted by the City Council for the City, endorsing such application.

If the above items in this part are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of part d of this section.

(ii) Permitted uses in floodway. The following uses shall be permitted as of right in the floodway to the extent that they are otherwise permitted in the underlying base zoning district and are not prohibited by any other section, and provided they do not employ structures, fill, or storage of materials and equipment within the floodway which may cause any increase in 100-year flood height and velocity:

(1) Agricultural operations, such as farming, pasture, grazing, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting;

(2) Public and private recreational uses such as parks, picnic grounds, golf courses, boat launching or swimming areas, hiking or horseback riding trails, wildlife and nature preserves, fishing areas, and trap and skeet game ranges;

(3) Botanical gardens; and

(4) Accessory residential uses such as yard areas, gardens, and play areas.

(iii) Special exception uses in floodway. The following uses shall be permitted in the floodway by special exception granted by the Board of Zoning Appeals provided such uses are permitted in the underlying base zoning district:

(A) Accessory structures related to the uses set forth in subsections (ii)(A) through (ii)(D), above.

(B) Utilities distribution: gas/electric compressor station or substation, or water pump/lift station.

(C) Sewage treatment facility or water treatment facility.

(D) Quarry and mining operations, including excavation of sand, gravel, or clay, provided no increase in the level of flooding or velocity is caused.

(E) Storage of materials and equipment provided that they are not buoyant, flammable, toxic, hazardous, or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, or can be readily removed from the area within the time available after flood warning.

(F) Placement or storage of a recreational vehicle, provided such recreational vehicle is on the site for fewer than one hundred eighty (180) consecutive days, is fully licensed and ready for highway use. For purposes of this section, a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and if it has no permanently attached additions.

(B) AE zones with no floodway delineated. AE zones on the FIRM are those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated.

The following provisions shall apply within an AE Zone where FEMA has provided base flood elevations but has not delineated a floodway:

(i) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30, AE, or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City.

(ii) Development activities in Zones Al-30, AE, or AH on the City's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies for a CLOMR, and receives the approval of FEMA. Such application shall be accompanied by a resolution adopted by the City Council for the City, endorsing such application.

(C) A Zones: A Zones are those areas for which no detailed flood profiles or elevations are provided, but the one percent (1%) annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

(i) The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one percent annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect

currently accepted practices, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Zoning Administrator.

The Zoning Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level plus eighteen (18) inches.

During the permitting process, the Zoning Administrator shall obtain:

(1) The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,

(2) If the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.

(D) AO Zones. AO Zones are those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:

(i) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM. Such elevation shall be established by identifying the highest adjacent grad and adding the flood depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be

elevated no less than two feet above the highest adjacent grade.

(ii) All new construction and substantial improvements of non-residential structures shall:

(1) Have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM. Such elevation shall be the highest adjacent grade and adding the flood depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,

(2) Together with attendant utility and sanitary facilities, be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iii) Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

(2) Overlay Concept. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the Floodplain Districts shall serve as a supplement to the underlying district provisions. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions shall apply. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, all remaining provisions shall remain applicable and in effect.

(e) **District Provisions**

(1) Permit and Application Requirements

(A) Permit Requirement. All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be

undertaken only in strict compliance with the provisions of this section and with all other applicable codes and ordinances or sections, as amended, such as the Virginia Uniform Statewide Building Code and the City's subdivision regulations set forth in Chapter 31.1, Subdivisions, of the City Code. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to ensure that they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

(B) Site Plans and Permit Applications. All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

(i) The elevation of the Base Flood at the site.

(ii) The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.

(iii) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

(iv) Topographic information showing existing and proposed ground elevations.

(C) Elevation certificates and floodproofing certificates.

(i) All applications for zoning permits for structures shall include a standard FEMA elevation certificate completed by a licensed surveyor or engineer.

(ii) All applications for nonresidential structures to be floodproofed shall include a FEMA floodproofing certificate, when applicable.

(iii) Prior to issuance of a Certificate of Occupancy, the applicant shall provide a final FEMA elevation certificate of the as-built construction.

(2) General Standards. The following provisions shall apply to all permits:

(A) New construction and substantial improvements shall be built according to this section and the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure.

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(D) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) New electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(I) In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

(J) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riparian areas, notification of the proposal

shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.

(K) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(3) Elevation and Construction Standards. In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with subsection (d)(2)C of this section, the following provisions shall apply:

(A) Residential Construction. New construction or substantial improvement of any residential structure in Zones A1-30, AE, AH and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus twenty-four (24) inches of freeboard. In addition, all electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including ductwork, for new construction or substantial improvement shall be elevated or floodproofed to two (2) feet above the base flood elevation, also known as two (2) feet of freeboard.

(B) Non-Residential Construction.

(i) New construction or substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated to or above the base flood level plus twenty-four (24) inches of freeboard. In addition, all electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including ductwork, for new construction or substantial improvement shall be elevated or floodproofed to two (2) feet above the base flood elevation, also known as two (2) feet of freeboard.

(ii) Non-residential buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus twenty-four (24) inches of freeboard are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A

registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Zoning Administrator.

(C) Space Below the Lowest Floor. In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

(i) not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).

(ii) be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(iii) include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

(1) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

(2) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.

(3) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

(4) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

(5) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

(6) Foundation enclosures made of flexible

skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(D) Standards for Manufactured Homes and Recreational Vehicles

(i) In all designated special flood hazard areas, all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for the zone in which they are located for new construction, including the elevation and anchoring requirements in this section.

(ii) All recreational vehicles placed on sites must either

(1) be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or

(2) meet all the requirements for manufactured homes in subsection (e)(3)(D)(i)

(f) Existing Structures in Floodplain Areas. Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved, unless one of the following exceptions is established before the change is made:

(1) The Zoning Administrator has determined that

(A) A proposed change is not a substantial repair or substantial improvement,

(B) No new square footage is being built in the floodplain that is not compliant,

(C) No new square footage is being built in the floodway, and

(D) The change complies with this section and the Virginia Uniform Statewide Building Code.

(2) The changes are required to comply with a citation for a health or safety violation.

(3) The structure is a historic structure and the change required would impair the historic nature of the structure. The historic structure shall be flood proofed to the extent practical in accordance with the Virginia Uniform Statewide Building Code and FEMA Floodplain Management Bulletin Historic Structures, FEMA P-467-2, as the same may be amended or updated from time to time.

(g) Variances. Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the one percent (1%) chance flood elevation.

(2) The danger that materials may be swept on to other lands or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(13) Such other factors which are relevant to the purposes of this section.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Sec. 36.2-335. River and Creek Corridors Overlay District (RCC).

* * *

(f) *Permitted buffer impacts.* The following development activities shall be permitted within the required riparian buffer area of the RCC Overlay District, provided no more land is disturbed than is necessary to provide for the desired installation or construction, all required permits have been issued, and any land disturbance activity complies with all erosion and sediment control requirements of Chapter 11.1 of this Code for the stabilization of disturbed areas to minimize negative effects on the quality of surface waters:

* * *

(3) Linear utility lines, railroad tracks, ~~and~~ public streets~~,~~ or other public infrastructure improvements, and private streets;

* * *

Sec. 36.2-336. Comprehensive Sign Overlay District.

* * *

(c) Standards. All applications for review and approval of a Comprehensive Sign Overlay District shall comply with the following standards:

(1) A Comprehensive Sign Overlay District shall be applied as an overlay only to lots located within a residential multifamily district, multiple purpose district, industrial district, or planned unit development district;

* * *

~~(4) The overall sign area in the Comprehensive Sign Overlay District shall not exceed the combined total of freestanding and building-mounted sign allocation of the otherwise applicable zoning district sign regulations; and~~

(4) The maximum sign area and dimensions, sign types, and permitted sign characteristics shall be as established by adoption of a Comprehensive Sign Overlay District.

~~(5) The height limits of the applicable zoning district sign regulations shall not be exceeded.~~

* * *

Sec. 36.2-406. Car wash.

* * *

(b) *Standards.*

* * *

(3) A landscaping strip consisting of evergreen shrubs and deciduous trees as defined further in Section 36.2-649 shall be placed along any street frontage of the lot or portion of the lot housing the car wash. The trees and shrubs shall meet the minimum planting size as listed in Section 36.2-642.

* * *

Sec. 36.2-408. Day care centers, child.

* * *

(b) Standards. The following standards shall apply to any day care not licensed by the Virginia Department of Social Services:

(2) Outdoor play area: When an outdoor play area is provided, such ~~areas shall comply with the following standards:~~

~~(A) The outdoor play area shall be located on the same lot as the day care center and shall be located no closer to any street than the main building occupied by the day care center; and~~

~~(B) The outdoor~~ play area shall be fenced to provide a safe enclosure~~, and pedestrian access to such outdoor play area shall not require the crossing of any vehicular right-of-way~~.

* * *

Sec. 36.2-411. Gasoline stations.

* * *

(c) *Standards in the CG, CLS, and I-1 Districts.* Any gasoline station located in the Commercial-General District (CG), Commercial-Large Site District (CLS), or Light Industrial District (I-1), shall be subject to the following standards for any canopy over a gas pump island:

* * *

(6) A landscaping strip consisting of evergreen shrubs and deciduous trees as defined further in Section 36.2-649 shall be placed along any street frontage of the lot or portion of

the lot housing the gasoline station. The trees and shrubs shall meet the minimum planting size as listed in Section 36.2-642.

(d) *Standards in the CN and D Districts*. Any gasoline station located in the Commercial-Neighborhood District (CN) or Downtown District (D), shall be subject to the following standards:

* * *

(4) A landscaping strip consisting of evergreen shrubs and deciduous trees as defined further in Section 36.2-649 shall be placed along the street frontage of the lot or portion of the lot housing the gasoline station. The trees and shrubs shall meet the minimum planting size as listed in Section 36.2-642.

* * *

~~Sec. 36.2-415. Mini-warehouses.~~

~~(a) Purpose. The purpose of this section is to establish screening, landscaping, layout, height, and bulk standards for mini-warehouses.~~

~~(b) Standards. Where permitted by this chapter, mini-warehouses shall comply with the following standards:~~

~~(1) A development plan shall be submitted to the Zoning Administrator indicating the location, orientation, and size of buildings, lot area, number and size of storage units, type and size of signs, height of buildings, parking layout with points of ingress and egress, and location and type of visual screening and landscaping.~~

~~(2) The floor area of any storage unit or cubicle shall not exceed four hundred (400) square feet.~~

~~(3) The maximum length of any single building housing such individual storage units or cubicles shall be two hundred (200) feet.~~

~~(4) All storage shall be within a completely enclosed building. The outdoor storage of inventory, materials, vehicles, or merchandise shall be prohibited.~~

~~(5) The distance between mini-warehouse structures shall be a minimum of twenty (20) feet. Where vehicular circulation lanes and parking and loading spaces are to be provided between structures, the minimum separation distance shall be increased accordingly in order to ensure vehicular and pedestrian safety and adequate emergency access.~~

~~(6) No activities such as the sale, repair, fabrication, or servicing of goods, motor vehicles, appliances, equipment, or materials shall be conducted from mini-warehouse units.~~

~~(7) The storage of explosive, flammable, or hazardous materials shall be prohibited.~~

Sec. 36.2-429. Temporary uses.

(a) *Applicability.* Authorized temporary uses, including permitted locations, duration, and maximum number per calendar year, and whether or not a zoning permit is required, shall be as set forth in Table 429-1:

Table 429-1. Temporary Uses

Activity	Zoning Districts Where Permitted	Maximum Duration	Maximum Number per Calendar Year for Lot	Zoning Permit Required?
* * *				
Public events, subject to subsection (e), below	CN, CG, CLS, D, IN, ROS, I-1, I-2, IPUD, INPUD, UF	14 calendar days	Not applicable	Yes
Public events, exempt from subsection (e) below	Any district	Two calendar days	Two, with an interval of at least three months between events	No
* * *				

* * *

Sec. 36.2-540. Zoning amendments.

* * *

(c) *Procedures; filing of application.*

* * *

(2) An application for a zoning amendment ~~to rezone property~~ shall be in writing on forms provided by the City, and filed with the Secretary to the Commission, accompanied by payment of all fees as set forth in the City of Roanoke's Fee Compendium as adopted by City Council in accordance with Section 15.2-107 of the Code of Virginia (1950), as amended. ~~and charges established by the City Council.~~

* * *

Sec. 36.2-622. Exempt lighting.

The following outdoor lighting shall be exempt from the requirements of this division:

* * *

(e) Outdoor recreation facility or sports stadium lighting subject to Sections ~~36.2-340 and 36.2-403(g);~~ 36.2-315, 36.2-322, 36.2-327, and 36.2-403(f);

* * *

Sec. 36.2-647. Buffering and screening.

* * *

~~(b) Except where specified otherwise, buffering and screening shall be installed in side and rear yards behind the building line of the lot being developed such that it reduces the visual impact of the structures, activities, or uses on abutting properties and public rights-of-way, as applicable, considering sight lines from those abutting properties and public rights-of-way, as applicable.~~

~~(c) For purposes of this section, abutting lots shall not include lots separated by a right-of-way containing a street, river or creek, or railroad line. Lots that would abut if not for their separation by an alley shall be considered abutting lots for purposes of this section and shall be subject to these buffering and screening requirements.~~

(b) Buffering and screening shall be located in such a manner that it reduces or eliminates visual impact of the activity or use to adjacent properties and streets.

(c) Where Table 647-1 below specifies the location of buffering or screening between an activity or use and an abutting zoning district, the specified zoning district shall mean any abutting lot or any lot directly across a street which lies within the specified zoning district, regardless of the zoning of the property on which the activity or use is to be conducted.

Table 647-1. Buffering and Screening of Certain Uses and Activities

Activity or Use	Location	Buffering or Screening Materials	Minimum Height
Wall of a principal building that contains less than 15% transparency	Between the wall and an abutting residential district or ~~multiple purpose district, or PUD district~~ MXPUD district.	Buffer: Deciduous trees and evergreen shrubs	None

* * *			
Any commercial or industrial process or activity occurring outside of a wholly enclosed building	Between the location of the activity and any abutting residential district, multiple purpose district, or PUD district, located within 15 feet of property line of the abutting lot or lots.	Screen: Solid fence or wall	~~6~~8 feet
Ground-mounted m~~M~~echanical equipment ~~on ground~~, more than 36 inches in height	Perimeter of the mechanical equipment that would otherwise be visible from any street frontage or adjacent property Exception: Not required where the use is a single-family detached dwelling	Screen: Fence or wall with 60% or greater opacity	6" above the height of the tallest unit
Ground-mounted mechanical equipment up to 36 inches in height	Perimeter of the mechanical equipment that would otherwise be visible from any street frontage or adjacent property	Option 1 Fence or wall with 60% or greater opacity Option 2 Evergreen shrubs	Option 1 6" above the height of the tallest unit or Option 2 18 inches at planting
* * *			
~~Mini-warehouse~~	~~Between the facility and any abutting residential or multiple purpose district~~	~~Screen: Solid fence, solid wall, or evergreen tree screen~~	~~6 feet~~
* * *			
Outdoor sports facility	Between the facility and any abutting residential district.	Buffer: Deciduous trees	None
Outdoor storage or self-storage facility	Between the storage area and any abutting residential district, multiple purpose district, or PUD district. Between the storage area and any residential district, multiple purpose district, or PUD district across a street	Screen: Solid fence, solid wall, or evergreen tree screen	6 feet

* * *

Sec. 36.2-648. Parking area landscaping.

(a) Parking areas shall be subject to the following buffering and screening standards:

* * *

(2) Interior planting areas shall be at least eight (8) feet by eighteen (18) feet, with a minimum soil depth of two (2) feet, and shall include surface landscaping, mulch, grass or other vegetative ground cover, or river rock. Interior planting areas shall be located in one or more of the following locations:

(A) Within an otherwise continuous row of parking spaces so as to provide separation between groups of parking spaces within a row;

(B) At the end of a row of parking spaces so as to provide separation between parking spaces and an access aisle, driveway, street, alley or other paved area;

(C) At the end of a row of parking spaces so as to provide a corner between rows of parking spaces that are arranged at an angle to one another; or

(D) Between opposing rows of parking spaces or between a row of parking spaces and an access aisle, driveway, street, alley or other paved area.

* * *

Sec. 36.2-649. Standards for buffering, screening, and parking area landscaping materials.

Materials used to meet requirements of Sections 36.2-647 and 36.2-648 shall meet the standards of Table 649-1.

Table 649-1. Buffering, Screening and Landscaping Materials

Materials	Standards
* * *	
Evergreen trees	Maximum spacing 8 feet on center

* * *

Sec. 36.2-651. Applicability.

The off-street parking and loading requirements of this division shall apply to any new structure or use, any increase in intensity of use, including an addition to or enlargement of an existing structure, or a change of existing use. No Certificate of Occupancy shall be issued until required off-street parking and loading spaces have been established in accordance with the requirements of this division. The repetitive parking of a vehicle or vehicles in a turf grass area or landscaped area that results in denuded or partially denuded soil shall constitute the establishment of a parking area that does not meet the construction standards of this section.

* * *

Sec. 36.2-652. Minimum parking.

* * *

Table 652-2. Required Parking Spaces

Use	Minimum Number of Parking Spaces Required Calculated as 1 Space for Each Specified Unit	Maximum Parking
	* * *	
Commercial Uses: Retail Sales and Service		
	* * *	
Car wash	1.5 self-service bay 0.25 automated service bay	Y

* * *

Sec. 36.2-653. Maximum parking.

* * *

(c) The maximum number of off-street parking spaces permitted, as established in Section 36.2-653(a), shall not apply to parking areas utilizing permeable ~~paver~~ pavement systems or to parking structures.

* * *

Sec. 36.2-654. Parking and loading area standards.

* * *

(b) *Construction and location standards.* Parking and loading areas shall comply with the construction standards listed below and as shown in Table 654.1:

(1) All parking areas and loading areas shall be graded for drainage and have an improved surface, except where an alternative surface is permitted in Table 654-1. Improved surface shall mean concrete, asphalt, bituminous pavement, brick or stone pavers, or a permeable ~~paver~~ pavement system.

(2) Where gravel or a similar surface is permitted in Table 654-1, the Zoning Administrator may require a development plan including satisfactory specifications for a sub-base and the size, tamping, and containment of gravel and documentation that dust will not be generated in an amount in excess of that

which would be generated by a paved surface or permeable ~~paver~~ pavement system prior to approval.

* * *

(c) *Pedestrian access.* In the CG and CLS Districts, designated, clearly identified pedestrian access shall be provided between off-street parking areas and public entrances of a building or use which is required to provide fifty (50) or more parking spaces, as set forth in Table 652-2, or which provides fifty (50) or more parking spaces. Such pedestrian access shall consist of sidewalks or other walkways of a minimum unobstructed width of five (5) feet which are surfaced with concrete, asphalt, bituminous pavement, brick or stone pavers, or a permeable ~~paver~~ pavement system, are handicapped accessible, and are separated from vehicular traffic by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic. At all points where such pedestrian access crosses the lane of motor vehicle travel, raised crosswalks shall be provided.

* * *

Sec. 36.2-705. Nonconforming uses.

* * *

(g) Where the use of a structure is deemed nonconforming with respect to the number of dwelling units or the residential use designation, unoccupied spaces such as porches, decks, or accessory buildings may be constructed or expanded.

* * *

Sec. 36.2-709. Certain uses deemed not nonconforming.

Uses in existence in a district at the time of adoption or amendment of this chapter, for which a special exception permit would be required if they were new uses, shall be deemed conforming uses so long as they continue in existence on the same lot. Once such use is abandoned for any continuous period longer than two (2) years, any new use of the premises must conform to the applicable district regulations.

* * *

Sec. 36.2-841. - Powers and duties.

* * *

(c) *Modifications.* The Zoning Administrator shall have the authority to grant a modification from any provision of this chapter with respect

to physical requirements on a lot, including but not limited to size, height, location, or features of or related to any building, structure, or improvements, pursuant to the procedures and standards set forth below.

* * *

(4) The application fee for such modification shall be as set forth in the City of Roanoke's Fee Compendium and as adopted by City Council in accordance with Section 15.2-107 of the Code of Virginia (1950), as amended.

* * *

APPENDIX A. DEFINITIONS

* * *

Day care home, Adult: An adult day program offered in the residence of the provider for up to three (3) aged, infirm, or disabled adults who reside elsewhere. Such day care home shall provide services during only a part of a twenty-four (24) hour day and such home shall not include any overnight stays or overnight sleeping facilities. Services may include aid in personal hygiene, eating and drinking, ambulation, or recreation. The maximum number of adults permitted by this definition shall not include the provider or anyone related to the provider by blood, marriage, or adoption.

Day care home, Child: A child day program offered in the residence of the provider, serving one (1) through ~~five (5)~~ four (4) children at any one (1) time, exclusive of any children related to the provider by blood, marriage, or adoption. A child day program means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person has agreed to assume responsibility for the supervision, protection, and well-being of children under the age of thirteen (13) for less than a twenty-four-hour period.

* * *

Family day home: a child day program offered in the residence of the provider or the home of any of the children in care for ~~six (6)~~ five (5) through twelve (12) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, when at least one (1) child receives care for compensation.

* * *

Mixed-use building: A single building containing more than one (1) type of land use permitted within a zoning district, including residential, commercial, and office.

~~*Mini-warehouse*: An enclosed storage facility containing cubicles designed to provide independent, individual, fully enclosed storage space, for lease to individuals for long-term storage of their household goods or personal property, where each cubicle is enclosed by walls and ceiling, and where each cubicle has a separate entrance for the loading and unloading of stored goods. Such facilities are also called self-service storage facilities.~~

* * *

Mobile food vending: the preparation or sale of food or beverage from a motor vehicle, trailer or cart capable of being readily moved.

* * *

Permeable ~~paver~~ pavement system: ~~A grid system utilizing plastic or concrete pavers with surface voids within or between the pavers, arranged over a sand setting bed and a coarse base, and where the surface voids are filled with grass, sand, or gravel. Such a system allows water to filter through the surface voids and reach the underlying soils. For purposes of this definition, a permeable paver system shall have permeable voids which represent at least a forty (40) percent pervious surface.~~ A system consisting of a surface pavement layer that allows water to pass through it into an underlying reservoir layer specifically designed to temporarily store runoff and either release it slowly or allow it to infiltrate into the subsoil. Such a system may include pervious concrete, porous asphalt, permeable grid pavers, or concrete pavers.

* * *

River rock: Stone intended for decorative ground cover, characterized by a rounded grain shape and having a grain diameter of no less than 3/16 of an inch.

* * *

Self-storage building: A building that contains enclosed storage units leased for long-term storage of personal property, where access to each unit is provided from the interior of the building.

Self-storage facility: A facility designed to provide enclosed storage units for long-term storage of personal property, where each unit has exterior access, and which may include outdoor storage.

* * *

Short-term rental: An accommodation for transient guests where, in exchange for compensation, a dwelling unit is provided for lodging for thirty (30) days or less and which is not a "boarding house" or "group care facility" as defined in this chapter. Such use may or may not include an on-site manager. For the purposes of this definition, a dwelling unit shall include only dwelling, single family, attached; dwelling single-family detached; dwelling, two-family; dwelling multifamily; dwelling townhouse

or rowhouse; and accessory apartment, and shall exclude other group living or other lodging uses specifically listed or defined in this chapter.

* * *

Transient guest: Any person who, for thirty (30) days or fewer, either at his or her own expense or at the expense of another, obtains lodging in a dwelling unit or hotel or motel as defined in this chapter.

* * *

APPENDIX B. SUBMITTAL REQUIREMENTS

B-1. Basic Development Plan

* * *

(b) A basic development plan submitted for approval shall include a completed application form, accompanied by payment of the required fees.~~, and three (3) copies of a survey plot plan or a basic site plan drawing outlining the following information:~~ One copy of the basic development plan, whether digital or paper, shall be submitted for any review by the Zoning Administrator.

(c) A basic development plan shall include the following information, although the agent to the planning commission may waive any of the following required information, if it is not needed to determine compliance with a specific section of this chapter and if the agent identifies such code section pursuant to Sections 36.2-552(c) and 36.2-553(c)(1)(B) of the City Code:

* * *

(7) Setback measurements for all existing or proposed structures on the lot from all adjoining property lines~~;~~. If the development is subject to the front yard dimensions for infill development in Section 36.2-313, ~~delineation of~~ the shallowest established front yard shall be delineated as required by that section ~~on the adjoining lot if minimum or maximum front yard is subject to Section 36.2-205(f)(2)(A) and (B).~~. Setback measurements shall be based on the distance from adjoining property lines to the line parallel to the street right-of-way that passes nearest that street right-of-way, with such point being thirty (30) inches or greater above the graded ground level. (If a structure has overhangs or eaves, setbacks should be measured from the furthest projection of the overhang to the street right-of-way on a line that is parallel to that street right-of-way.)

* * *

~~(c)~~(d) If the application for basic development plan approval proposes construction that will require a land disturbing activity in or upon critical terrain that slopes towards adjacent properties, streets, alleys, streams, or creeks, or if the proposed land disturbing activity is found by the Zoning Administrator to involve site-specific features which warrant a review of erosion and sediment control or if such proposed activities are applicable under Chapter 11.1 Erosion and Sediment Control, of this Code, a grading and erosion and sediment control plan, prepared by a licensed professional engineer, surveyor, or architect, shall be required. Where application is made for a permit for the purpose of preparation for the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan.

* * *

B-2. - Comprehensive Development Plan

* * *

(c) ~~Ten (10) copies of the comprehensive development plan~~ One copy of the basic development plan, whether digital or paper, shall be submitted for any review by the Zoning Administrator. The comprehensive development plan shall be submitted for review, accompanied by payment of the required fees.

(d) A comprehensive development plan shall include the following information, although the agent to the planning commission may waive any of the following required information, if it is not needed to determine compliance with a specific section of this chapter and if the agent identifies such code section pursuant to Sections 36.2-552(c) and 36.2-553(c)(1)(B) of the Code of the City of Roanoke (1979), as amended:

* * *

(4) Parking, loading, and driveway requirements:

* * *

(K) If applicable, details of a permeable ~~paver~~ pavement system to be utilized to exceed maximum permitted off-street parking pursuant to Section 36.2-653(c).

* * *

2. This ordinance will become effective immediately upon adoption.

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: November 21, 2016

Subject: Proposed amendments to Chapter 31.1, Subdivisions, of the Code of the City of Roanoke (1979), as amended.

Recommendation

The Planning Commission held a public hearing on Monday, November 14, 2016. By a vote of 6 - 0, the Commission recommended approval of the proposed amendments to Chapter 31.1, Subdivisions, of the Code of the City of Roanoke (1970), as amended.

Background

Roanoke adopted the current subdivision ordinance in 2007. Inclusion of regulations regarding development in a floodplain is being mandated by the Virginia Department of Conservation and Recreation.

Staff reviewed the fees for various subdivision reviews and determined the fee for a minor subdivision plat was significantly less than the actual staff cost of review.

Considerations

The addition of a section related to subdivision development in the floodplain overlay will ensure the city is compliant with state and federal mandates for floodplain management, which are designed to protect people and property from flood hazards.

The fee for a minor subdivision plat review is proposed to be increased from $50 to $150. For consistency, all fees for subdivision reviews are being removed from the City Code and are to be adopted as part of the Fee Compendium. A reference to the Fee Compendium is substituted for the fee schedule in the City Code.

The attached *Summary of Proposed Code Amendments* provides detail on each proposed change.

Public Comment Summary

None

Planning Commission Work Session (October 7, 2016):

The item was discussed in the Planning Commission Work Session for compliance with City policy and ordinances.

Conclusions and Recommendations:

Staff recommended approval of the proposed amendments to Chapter 31.1, Subdivisions.

Planning Commission Public Hearing (November 14, 2016):

None

Kermit Hale / tmc

Kermit Hale, Chair
City Planning Commission

Attachment—*Summary of Proposed Code Amendments*

c: Chris Morrill, City Manager
R. Brian Townsend, Assistant City Manager
Chris Chittum, Director of Planning Building & Development
Daniel J. Callaghan, City Attorney
Steven J. Talevi, Assistant City Attorney

Summary of Proposed Code Amendments

Schedule:	Planning Commission Public Hearing November 14, 2016 City Council public hearing November 21, 2016	

Chapter 31.1. Subdivisions

Section	Proposed amendment	Comments
405 Standards for floodplain overlay district.	Add regulations for subdivisions of land that is located in a flood zone.	State-mandated.
604 Review Fees	Amend to create a reference to the fee compendium.	Moving subdivision fees from code to the fee compendium.
	End of subdivision amendments	

Chapter 36.2. Zoning

Section	Proposed amendment	Comments
202 Zoning map	Rezone a +/-49 acre parcel identified as 2002 Blue Hills Drive, NE, identified as Tax Map No. 7230101, from ROS and I-1, conditional, to I-1, conditional.	The property is proposed for sale to Deschutes Brewery. The amendment will create a consistent zoning of the entire property and delete proffered conditions that are no longer relevant to the property.
205-1 Permitted Yard Encroachments	Clarify that a front porch encroachment of up to 7' should be measured from the building front, or the porch face, if a porch is present.	
205 (f)(1) Dimensional regulations for front yards	For purposes of the infill rule, clarify language to line up the main mass of the house.	Infill rules are in Section 313. They have the intent of aligning residential structures based on the setbacks of existing structures.
311 Use table for residential districts	Add *Day care home, adult* by special exception in all residential districts	Day care homes for children are similarly permitted by special exception in all residential districts. The number of adults served is capped at three.
312 Dimensional regulations for residential districts.	Remove application of infill rule in RMF District.	RMF districts are not typically mapped in neighborhood settings where building alignment is crucial.
313 Front yard dimensions for infill development.	Amending infill rules to clarify application.	
315 Use Table for Multiple Purpose Districts	Add Kennel with outdoor pens or runs as a special exception use in the CG district.	
315 Use Table for Multiple Purpose Districts	Add **Short term rental** to use table as a permitted use wherever hotels and motels are permitted.	A definition of this activity is added to definitions. Distinguished from a homestay.
315 Use Table for Multiple Purpose Districts	Add **Self-storage building** as a special exception use in CG, CLS, D and UF districts.	See new definition; this type of storage has units accessed from inside the building.

Summary of Proposed Code Amendments

315 Use Table for Multiple Purpose Districts	Adding **eating and drinking establishments** as special exception uses in the MX, Mixed Use district.	Permit small scale neighborhood oriented establishments if it meets standards for special exception.
315 Use Table for Multiple Purpose Districts	Change **Meeting Hall** to a special exception in commercial districts when they abut a residential district.	Meeting hall can have the same impacts as an eating and drinking establishment.
315 Use Table for Multiple Purpose Districts	Make **Day care home, adult** a special exception use in MX, CN, D and UF districts.	
315 Use Table for Multiple Purpose Districts	Permit **Supply pantry** where retails sales use is permitted.	Consistency with where goods can be sold.
316 Dimensional regulations for multiple purpose districts.	Add **pedestrian access requirements** in D and MX districts.	Good results and experience in other districts since 2005.
36.2-319 (d) Building placement and façade transparency standards for multiple purpose districts.	Specify that **front entrance** of a building needs to be located within limits of the min/max yard.	Close loophole in language that allows locating an entrance at the back of building.
322 Use table for industrial districts	Add **Self-storage building** as a permitted use in all industrial districts.	
322 Use table for industrial districts	Delete **Mini-warehouse** and replace with **Self-storage facility** as a permitted use in all industrial districts.	Self-storage facility will replace Mini-warehouse. Also see that supplemental regulations for Mini-warehouses are being deleted and are not proposed for application to Self-storage facility. The use is permitted only in industrial districts.
322 Use table for industrial districts	Make **Sports facility lighting** a special exception in industrial districts.	Needs to be evaluated through SE process.
333 Flood plain overlay district	Complete amendment of **floodplain overlay** district required for compliance with FEMA and VDCR regulations.	State-mandated compliance of local ordinance.
335 River and Creek Corridors Overlay District (RCC).	Amend to permit private streets **as buffer impacts.**	Public streets already permitted.
336 Comprehensive Sign Overlay District.	Allow a **sign overlay** to be adopted in a residential multifamily district. Remove caps on sign area and height to allow more flexibility in the overlay.	Requires zoning amendment public hearing process.
406 Car wash.	Add **landscaping strip** (trees and shrubs) along street.	
408 Day care centers, child	Remove exclusion for **playground equipment** in front yard and prohibition on crossing a right-of-way for	

Summary of Proposed Code Amendments

	access.	
411 Gasoline stations	Add landscaping strip (trees and shrubs) along street.	
415 Mini warehouses	Delete. Replacing with **self-storage facility** term	Supplemental regulations no longer needed since the use is permitted only in industrial districts.
429 Temporary uses.	Amend **public events**	Permit block parties in residential areas. Reflects current practice.
540 Zoning amendments	Amend to use 'zoning amendment" terminology and reference fee compendium.	Coordinating with amendments to fee compendium to establish a single fee.
622.Exempt lighting.	Amend references to other sections of code.	Correcting scrivener's error. Note: this type of lighting is exempted from this section because it is regulated as a separate use requiring a special exception.
647 Buffering and screening.	Amend language and table to clarify where **buffering and screening** are to be located for various activities or uses. Adding a provision for buffering athletic sports facilities from residential areas.	
648 Parking area landscaping.	Permit **river rock** as an acceptable ground cover Define **interior planting areas** for interior parking area landscaping.	Pervious ground cover. Newly-defined term. Providing guidance.
649 Standards for buffering, screening, and parking area landscaping materials.	Add 8' spacing for **evergreen tree screen**.	No spacing was specified.
651 Applicability (of parking standards)	Specify that the **repeated parking of vehicle** in an area denuding landscaped area constitute establishment of parking area.	To address long-standing neighborhood issue of front yard parking. Because the activity is based on physical conditions, this approach will permit periodic parking in front yard under special circumstances (such as loading) and does not require that a vehicle be witnessed parking on lawn.
652-2 Required parking spaces	Max parking for car washes (automated and self-service)	Need to distinguish between uses.
705 Nonconforming uses	Where the use of a structure is deemed nonconforming with respect to number of dwelling units or the residential use designation, unoccupied spaces such as porches, decks, accessory buildings may be constructed or expanded.	Allows improvement of nonconforming buildings so long as occupied space is not expanded.
709 Certain uses deemed not nonconforming	Add "amendment"	Clarification

Summary of Proposed Code Amendments

Definitions.		
Day care home, adult	Add definition	Comparable to **Day care home, child.**
Day care home, Child	Change from 1-5 to 1-4 children	Reflects a change in state legislation.
Family Day Home	Change from 6-12 to 5-12 children	Reflects a change in state legislation.
Mini-warehouse	Delete entirely	Replacing with **Self-storage facility**
Mobile food vending	Define	Need to define activity because it is permitted as a temporary use.
Permeable paver system	Update definition	
Self-storage building	Define	Units accessed from inside the building
Self-storage facility	Define	Units accessed from outside the buildings. Outdoor storage permitted.
Short-term Rental	New definition	Distinguish from a **homestay**.
Transient guest	New definition	Coordinate with defining **short-term rental**
B-1 Basic development plan requirements	Digital plan submission	Implementing digital plan review capabilities.
B-1 Basic development plan requirements	Simplify item (7) to provide measurement to building line; make sure this aligns with current infill rule requirements. Fix reference to sections which no longer exist.	Drafted
B-2. - Comprehensive Development Plan	Digital plan submission	Implementing digital plan review capabilities.
End of zoning amendments		

Fee Compendium Amendments

Type of Application	**Proposed amendment**	**Comments**
Minor Subdivision Plat or Vacation of a Plat	Proposing increase of $50 to $150 for a minor subdivision plat. The fee for a vacation of a plat will remain the same and is only being relocated from the code to the fee compendium.	Reflects city's cost of review. Moving fees from code to fee compendium. This fee was established in 2002.
Major Subdivision Plat	Major Subdivision Review $220 + $50 per lot created	No change in fee proposed. Relocating fees from code to fee compendium. This fee was established in 2002.
Subdivision Site Plan	$500+$75 per developed acre or portion thereof	No change in fee proposed. Moving fees from code to fee compendium. This fee was established in 2002 and amended in 2007.
Zoning Amendment	Proposing $1,000 fee for any type of application and	All zoning map amendments involve the same

Summary of Proposed Code Amendments

	deleting the schedule below. Rezoning to Residential Districts — $600.00 plus $25.00 per acre, or any portion thereof Rezoning to Commercial Districts — $900.00 plus $25.00 per acre, or any portion thereof Rezoning to Industrial Districts — $900.00 plus $25.00 per acre, or any portion thereof Rezoning to Special Purpose Districts — $900.00 plus $25.00 per acre, or any portion thereof Rezoning to Planned Unit Developments Districts — $1,000.00 plus $25.00 per acre or any portion thereof Rezoning to Overlay Districts — $250.00 Amendment to Proffered Conditions — $500.00	process and staff time. This fee schedule was established in 2002 and was amended in 2006.
Zoning Administrator Modification	$150	Currently, there is no fee associated with this type of application. An amendment of the zoning ordinance required to create a reference to fee compendium.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE adding Section 31.1-303, Additional Requirements for Subdivisions in the Floodplain or in Riparian Buffer Areas; and amending and reordaining Section 31.1-604, Review fees; and Appendix B, Submittal Requirements; of Chapter 31.1, Subdivisions, of the Code of the City of Roanoke (1979), as amended, providing for an effective date, and dispensing with the second reading of this Ordinance by title.

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

1. Chapter 31.1, Subdivisions, of the Code of the City of Roanoke (1979), as amended, is hereby amended and reordained to read and provide as follows:

Sec. 31.1-303. Additional Requirements for Subdivisions in the Floodplain or in Riparian Buffer Areas.

(a) Proposed buildings and structures shall be elevated or floodproofed in accordance with Chapter 36.2, Zoning, of the City Code.

(b) All proposed grading, fill and related earthwork shall be in accordance with all applicable regulations set forth in Section 36.2-333 and Section 36.2-335 of the Chapter 36.2, Zoning, of the City Code.

(c) The layout of a subdivision shall be consistent with the need to minimize flood damage, including locating structures and streets such that evacuation during a flood event can occur.

(d) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed to minimize flood damage.

(e) Adequate drainage shall be provided to reduce exposure to flood hazards.

(f) Base flood elevation data for all major subdivisions and any subdivision involving more than five (5) acres shall be provided, and base flood information from the Flood Insurance Rate Map (FIRM) when water surface elevation data is available shall be provided. When such information is not available, base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analyses, comparable to those contained in a Flood Insurance Study.

Sec. 31.1-604. Review fees.

~~(a) .Fees for a minor subdivision plat or vacation of a plat,shall be fifty dollars ($50.00).~~

~~(b) Fees for a major subdivision plat, whether preliminary or final, shall be two hundred twenty dollars ($220.00) plus fifty dollars ($50.00) per lot.~~

~~(c) Fees for review of a subdivision site plan, whether for a preliminary or final subdivision, shall be five hundred dollars ($500.00) plus seventy-five dollars ($75.00) per acre or portion thereof.~~

Fees for a minor subdivision plat, a major subdivision plat, vacation of a plat or a portion of a plat, and a subdivision site plan, whether preliminary or final, shall be as set forth in the City of Roanoke's Fee Compendium and as adopted by City Council in accordance with Section 15.2-107 of the Code of Virginia (1950), as amended.

Appendix B. Submittal Requirements

* * *

B-2. Requirements for preliminary subdivision plans.

(b) *Information required.* A preliminary subdivision site plan shall be prepared on the separate component sheets as listed below. However, any one (1) or more of the sheets may be combined, provided legibility and clarity can be maintained.

* * *

(2) *Dimensional layout plan.* The dimensional layout plan sheet should show the development project as it would look upon completion of all construction activities. The plan sheet should include the following:

* * *

(D) Delineation of Special Flood Hazard Area (100-year Floodplain), Floodway, and Riparian Buffer, as applicable.

(3) *Grading plan*:

* * *

(D) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, and Riparian Buffer, as applicable.

(4) *Stormwater management plan*:

* * *

(C) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, and Riparian Buffer, as applicable.

(5) *Utilities plan*:

* * *

(C) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, and Riparian Buffer, as applicable.

(6) *Street plan*:

* * *

(C) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, and Riparian Buffer, as applicable.

* * *

B-4. Requirements for final subdivision site plan.

* * *

(b) *Contents.* A subdivision site plan shall be prepared on the separate component sheets as listed below. However, any one (1) or more of the sheets may be combined, provided legibility and clarity can be maintained.

* * *

(2) *Dimensional layout plan.* The dimensional layout plan sheet should show the subdivision as it would look upon completion of all construction activities. The plan sheet should include the following:

(A) Existing and proposed structures, and ~~including paved areas, including parking lots, parking areas, driveways, and related curbing~~.

(B) Paved areas, including parking lots, parking areas, driveways, and related curbing.

(~~B~~C) Zoning information:

(1) Current zoning classification of the property proposed for development. The zoning classification shall include a listing of any conditions to which the property is subject by reason of a zoning amendment or order of the board of zoning appeals, including the ordinance number and case number with effective dates.

* * *

(D) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

(3) *Erosion and sediment control plan (grading plan).*

* * *

(E) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

(4) *Stormwater management plan.*

* * *

(C) Calculations as required in ~~Chapter 11.4,~~ Chapter 11.6, Stormwater Management, of this code and the Stormwater Management Design Manual.

(D) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

(5) *Utilities plan.*

* * *

(C) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

(6) *Street plan.*

* * *

(D) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

* * *

2. The provisions of this ordinance shall be in full force and effect upon passage.

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

SJT 4/15/16

B.4.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE adding Section 31.1-303, Additional Requirements for Subdivisions in the Floodplain or in Riparian Buffer Areas; and amending and reordaining Section 31.1-604, Review fees; and Appendix B, Submittal Requirements; of Chapter 31.1, Subdivisions, of the Code of the City of Roanoke (1979), as amended, providing for an effective date, and dispensing with the second reading of this Ordinance by title.

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

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Sec. 31.1-303. Additional Requirements for Subdivisions in the Floodplain or in Riparian Buffer Areas.

(a) Proposed buildings and structures shall be elevated or floodproofed in accordance with Chapter 36.2, Zoning, of the City Code.

(b) All proposed grading, fill and related earthwork shall be in accordance with all applicable regulations set forth in Section 36.2-333 and Section 36.2-335 of the Chapter 36.2, Zoning, of the City Code.

(c) The layout of a subdivision shall be consistent with the need to minimize flood damage, including locating structures and streets such that evacuation during a flood event can occur.

(d) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed to minimize flood damage.

(e) Adequate drainage shall be provided to reduce exposure to flood hazards.

(f) Base flood elevation data for all major subdivisions and any subdivision involving more than five (5) acres shall be provided, and base flood information from the Flood Insurance Rate Map (FIRM) when water surface elevation data is available shall be provided. When such information is not available, base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analyses, comparable to those contained in a Flood Insurance Study.

Sec. 31.1-604. Review fees.

~~(a) Fees for a minor subdivision plat or vacation of a plat shall be fifty dollars ($50.00).~~

~~(b) Fees for a major subdivision plat, whether preliminary or final, shall be two hundred twenty dollars ($220.00) plus fifty dollars ($50.00) per lot.~~

~~(c) Fees for review of a subdivision site plan, whether for a preliminary or final subdivision, shall be five hundred dollars ($500.00) plus seventy-five dollars ($75.00) per acre or portion thereof.~~

Fees for a minor subdivision plat, a major subdivision plat, vacation of a plat or a portion of a plat, and a subdivision site plan, whether preliminary or final, shall be as set forth in the City of Roanoke's Fee Compendium and as adopted by City Council in accordance with Section 15.2-107 of the Code of Virginia (1950), as amended.

Appendix B. Submittal Requirements

* * *

B-2. Requirements for preliminary subdivision plans.

(b) *Information required.* A preliminary subdivision site plan shall be prepared on the separate component sheets as listed below. However, any one (1) or more of the sheets may be combined, provided legibility and clarity can be maintained.

* * *

(2) *Dimensional layout plan.* The dimensional layout plan sheet should show the development project as it would look upon completion of all construction activities. The plan sheet should include the following:

* * *

(D) Delineation of Special Flood Hazard Area (100-year Floodplain), Floodway, and Riparian Buffer, as applicable.

(3) *Grading plan*:

* * *

(D) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, and Riparian Buffer, as applicable.

(4) *Stormwater management plan*:

* * *

(C) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, and Riparian Buffer, as applicable.

(5) *Utilities plan*:

* * *

(C) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, and Riparian Buffer, as applicable.

(6) *Street plan*:

* * *

(C) Delineation of Spccial Flood Hazard Area (100-year Floodplain) and Floodway, and Riparian Buffer, as applicable.

* * *

B-4. Requirements for final subdivision site plan.

* * *

(b) *Contents.* A subdivision site plan shall be prepared on the separate component sheets as listed below. However, any one (1) or more of the sheets may be combined, provided legibility and clarity can be maintained.

* * *

(2) *Dimensional layout plan.* The dimensional layout plan sheet should show the subdivision as it would look upon completion of all construction activities. The plan sheet should include the following:

(A) Existing and proposed structures, and ~~including paved areas, including parking lots, parking areas, driveways, and related curbing.~~

(B) Paved areas, including parking lots, parking areas, driveways, and related curbing.

(~~B~~C) Zoning information:

(1) Current zoning classification of the property proposed for development. The zoning classification shall include a listing of any conditions to which the property is subject by reason of a zoning amendment or order of the board of zoning appeals, including the ordinance number and case number with effective dates.

* * *

(D) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

(3) *Erosion and sediment control plan (grading plan).*

* * *

(E) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

(4) *Stormwater management plan.*

* * *

(C) Calculations as required in ~~Chapter 11.4,~~ Chapter 11.6, Stormwater Management, of this code and the Stormwater Management Design Manual.

(D) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

(5) *Utilities plan.*

* * *

(C) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

(6) *Street plan.*

* * *

(D) Delineation of Special Flood Hazard Area (100-year Floodplain) and Floodway, as applicable.

* * *

2. The provisions of this ordinance shall be in full force and effect upon passage.

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

CITY COUNCIL AGENDA REPORT

To: Honorable Mayor and Members of City Council

Meeting: November 21, 2016

Subject: Proposed amendments to the Fee Compendium of the City of Roanoke pursuant to the authority set forth in Section 15.2-2286(6) and Section15.2-2241(9) of the Code of Virginia (1950), as amended.

Recommendation

The Planning Commission held a public hearing on Monday, November 14, 2016. By a vote of 6 - 0, the Commission recommended approval of the proposed amendments to the Fee Compendium of the City of Roanoke.

Background

Staff reviewed fees associated with various land use reviews under the zoning ordinance and subdivision ordinance and found three fees that should be adjusted or added.

Considerations

Fees for subdivision reviews are currently located in the subdivision ordinance and should be relocated to the Fee Compendium. An amendment to the subdivision ordinance creating a reference to the Fee Compendium is proposed as a concurrent action. The review fee for a minor subdivision plat was found to be significantly less than the actual staff cost for the review, which is estimated to be $209. The proposed amendment will increase the fee from $50 to $150. Our records show the fee has remained unchanged since 2002. Other fees for vacation of a plat, major subdivision plat, and a subdivision site plan are to be established in the Fee Compendium and will remain unchanged from their current costs.

Fees for zoning map amendments are per a complex schedule based on the district requested, while the process and staff time for any map amendment is roughly the same for any rezoning. A simple fee of $1,000 is proposed. Actual staff cost for a map amendment is estimated to be $1,654.

The zoning administrator modification was added to the zoning ordinance in 2009, but no fee for the process was established at that time. A fee of $150 is proposed. The staff cost for the service is estimated to be $300.

The attached *Summary of Proposed Code Amendments* provides detail on each proposed change.

Public Comment Summary

None

Planning Commission Work Session (October 7, 2016):

The item was discussed in the Planning Commission Work Session for compliance with City policy and ordinances.

Conclusions and Recommendations:

Staff recommended approval of the proposed amendments to the Fee Compendium.

Planning Commission Public Hearing (November 14, 2016):

None

Kermit Hale /
Kermit Hale, Chair tmc
City Planning Commission

Attachment—*Summary of Proposed Code Amendments*

c: Chris Morrill, City Manager
R. Brian Townsend, Assistant City Manager
Chris Chittum, Director of Planning Building & Development
Daniel J. Callaghan, City Attorney
Steven J. Talevi, Assistant City Attorney

Summary of Proposed Code Amendments

Schedule:	Planning Commission Public Hearing November 14, 2016 City Council public hearing November 21, 2016	
Chapter 31.1. Subdivisions		
Section	**Proposed amendment**	**Comments**
405 Standards for floodplain overlay district.	Add regulations for subdivisions of land that is located in a flood zone.	State-mandated.
604 Review Fees	Amend to create a reference to the fee compendium.	Moving subdivision fees from code to the fee compendium.
End of subdivision amendments		
Chapter 36.2. Zoning		
Section	**Proposed amendment**	**Comments**
202 Zoning map	Rezone a +/-49 acre parcel identified as 2002 Blue Hills Drive, NE, identified as Tax Map No. 7230101, from ROS and I-1, conditional, to I-1, conditional.	The property is proposed for sale to Deschutes Brewery. The amendment will create a consistent zoning of the entire property and delete proffered conditions that are no longer relevant to the property.
205-1 Permitted Yard Encroachments	Clarify that a front porch encroachment of up to 7' should be measured from the building front, or the porch face, if a porch is present.	
205 (f)(1) Dimensional regulations for front yards	For purposes of the infill rule, clarify language to line up the main mass of the house.	Infill rules are in Section 313. They have the intent of aligning residential structures based on the setbacks of existing structures.
311 Use table for residential districts	Add *Day care home, adult* by special exception in all residential districts	Day care homes for children are similarly permitted by special exception in all residential districts. The number of adults served is capped at three.
312 Dimensional regulations for residential districts.	Remove application of infill rule in RMF District.	RMF districts are not typically mapped in neighborhood settings where building alignment is crucial.
313 Front yard dimensions for infill development.	Amending infill rules to clarify application.	
315 Use Table for Multiple Purpose Districts	Add Kennel with outdoor pens or runs as a special exception use in the CG district.	
315 Use Table for Multiple Purpose Districts	Add **Short term rental** to use table as a permitted use wherever hotels and motels are permitted.	A definition of this activity is added to definitions. Distinguished from a homestay.
315 Use Table for Multiple Purpose Districts	Add **Self-storage building** as a special exception use in CG, CLS, D and UF districts.	See new definition; this type of storage has units accessed from inside the building.

Summary of Proposed Code Amendments

315 Use Table for Multiple Purpose Districts	Adding **eating and drinking establishments** as special exception uses in the MX, Mixed Use district.	Permit small scale neighborhood oriented establishments if it meets standards for special exception.
315 Use Table for Multiple Purpose Districts	Change **Meeting Hall** to a special exception in commercial districts when they abut a residential district.	Meeting hall can have the same impacts as an eating and drinking establishment.
315 Use Table for Multiple Purpose Districts	Make **Day care home, adult** a special exception use in MX, CN, D and UF districts.	
315 Use Table for Multiple Purpose Districts	Permit **Supply pantry** where retails sales use is permitted.	Consistency with where goods can be sold.
316 Dimensional regulations for multiple purpose districts.	Add **pedestrian access requirements** in D and MX districts.	Good results and experience in other districts since 2005.
36.2-319 (d) Building placement and façade transparency standards for multiple purpose districts.	Specify that **front entrance** of a building needs to be located within limits of the min/max yard.	Close loophole in language that allows locating an entrance at the back of building.
322 Use table for industrial districts	Add **Self-storage building** as a permitted use in all industrial districts.	
322 Use table for industrial districts	Delete **Mini-warehouse** and replace with **Self-storage facility** as a permitted use in all industrial districts.	Self-storage facility will replace Mini-warehouse. Also see that supplemental regulations for Mini-warehouses are being deleted and are not proposed for application to Self-storage facility. The use is permitted only in industrial districts.
322 Use table for industrial districts	Make **Sports facility lighting** a special exception in industrial districts.	Needs to be evaluated through SE process.
333 Flood plain overlay district	Complete amendment of **floodplain overlay** district required for compliance with FEMA and VDCR regulations.	State-mandated compliance of local ordinance.
335 River and Creek Corridors Overlay District (RCC).	Amend to permit private streets **as buffer impacts.**	Public streets already permitted.
336 Comprehensive Sign Overlay District.	Allow a **sign overlay** to be adopted in a residential multifamily district. Remove caps on sign area and height to allow more flexibility in the overlay.	Requires zoning amendment public hearing process.
406 Car wash.	Add **landscaping strip** (trees and shrubs) along street.	
408 Day care centers, child	Remove exclusion for **playground equipment** in front yard and prohibition on crossing a right-of-way for	

Summary of Proposed Code Amendments

	access.	
411 Gasoline stations	Add landscaping strip (trees and shrubs) along street.	
415 Mini warehouses	Delete. Replacing with **self-storage facility** term	Supplemental regulations no longer needed since the use is permitted only in industrial districts.
429 Temporary uses.	Amend **public events**	Permit block parties in residential areas. Reflects current practice.
540 Zoning amendments	Amend to use 'zoning amendment" terminology and reference fee compendium.	Coordinating with amendments to fee compendium to establish a single fee.
622.Exempt lighting.	Amend references to other sections of code.	Correcting scrivener's error. Note: this type of lighting is exempted from this section because it is regulated as a separate use requiring a special exception.
647 Buffering and screening.	Amend language and table to clarify where **buffering and screening** are to be located for various activities or uses. Adding a provision for buffering athletic sports facilities from residential areas.	
648 Parking area landscaping.	Permit **river rock** as an acceptable ground cover Define **interior planting areas** for interior parking area landscaping.	Pervious ground cover. Newly-defined term. Providing guidance.
649 Standards for buffering, screening, and parking area landscaping materials.	Add 8' spacing for **evergreen tree screen**.	No spacing was specified.
651 Applicability (of parking standards)	Specify that the **repeated parking of vehicle** in an area denuding landscaped area constitute establishment of parking area.	To address long-standing neighborhood issue of front yard parking. Because the activity is based on physical conditions, this approach will permit periodic parking in front yard under special circumstances (such as loading) and does not require that a vehicle be witnessed parking on lawn.
652-2 Required parking spaces	Max parking for car washes (automated and self-service)	Need to distinguish between uses.
705 Nonconforming uses	Where the use of a structure is deemed nonconforming with respect to number of dwelling units or the residential use designation, unoccupied spaces such as porches, decks, accessory buildings may be constructed or expanded.	Allows improvement of nonconforming buildings so long as occupied space is not expanded.
709 Certain uses deemed not nonconforming	Add "amendment"	Clarification

Summary of Proposed Code Amendments

Definitions.		
Day care home, adult	Add definition	Comparable to **Day care home, child.**
Day care home, Child	Change from 1-5 to 1-4 children	Reflects a change in state legislation.
Family Day Home	Change from 6-12 to 5-12 children	Reflects a change in state legislation.
Mini-warehouse	Delete entirely	Replacing with **Self-storage facility**
Mobile food vending	Define	Need to define activity because it is permitted as a temporary use.
Permeable paver system	Update definition	
Self-storage building	Define	Units accessed from inside the building
Self-storage facility	Define	Units accessed from outside the buildings. Outdoor storage permitted.
Short-term Rental	New definition	Distinguish from a **homestay**.
Transient guest	New definition	Coordinate with defining **short-term rental**
B-1 Basic development plan requirements	Digital plan submission	Implementing digital plan review capabilities.
B-1 Basic development plan requirements	Simplify item (7) to provide measurement to building line; make sure this aligns with current infill rule requirements. Fix reference to sections which no longer exist.	Drafted
B-2. - Comprehensive Development Plan	Digital plan submission	Implementing digital plan review capabilities.
End of zoning amendments		

Fee Compendium Amendments

Type of Application	**Proposed amendment**	**Comments**
Minor Subdivision Plat or Vacation of a Plat	Proposing increase of $50 to $150 for a minor subdivision plat. The fee for a vacation of a plat will remain the same and is only being relocated from the code to the fee compendium.	Reflects city's cost of review. Moving fees from code to fee compendium. This fee was established in 2002.
Major Subdivision Plat	Major Subdivision Review $220 + $50 per lot created	No change in fee proposed. Relocating fees from code to fee compendium. This fee was established in 2002.
Subdivision Site Plan	$500+$75 per developed acre or portion thereof	No change in fee proposed. Moving fees from code to fee compendium. This fee was established in 2002 and amended in 2007.
Zoning Amendment	Proposing $1,000 fee for any type of application and	All zoning map amendments involve the same

Summary of Proposed Code Amendments

	deleting the schedule below. Rezoning to Residential Districts — $600.00 plus $25.00 per acre, or any portion thereof Rezoning to Commercial Districts — $900.00 plus $25.00 per acre, or any portion thereof Rezoning to Industrial Districts — $900.00 plus $25.00 per acre, or any portion thereof Rezoning to Special Purpose Districts — $900.00 plus $25.00 per acre, or any portion thereof Rezoning to Planned Unit Developments Districts — $1,000.00 plus $25.00 per acre or any portion thereof Rezoning to Overlay Districts — $250.00 Amendment to Proffered Conditions — $500.00	process and staff time. This fee schedule was established in 2002 and was amended in 2006.
Zoning Administrator Modification	$150	Currently, there is no fee associated with this type of application. An amendment of the zoning ordinance required to create a reference to fee compendium.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE amending the Fee Compendium to include a new fee for certain zoning modifications, to amend the fees for review of a minor subdivision plat and for all zoning map amendments and to include in the Fee Compendium existing fees for reviews of major subdivision plats and subdivision site plans; providing for an effective date; and dispensing with the second reading of this ordinance by title.

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

1. The Fee Compendium of the City, maintained by the Director of Finance and authorized and approved by City Council by Resolution No. 32412-032795, adopted March 27, 1995, effective as of that date, as amended, shall be amended to reflect the following fees:

Modification granted by the Zoning Administrator from any provision contained in the zoning ordinance with respect to physical requirements in a lot, including size, height, location or features of or related to any building, structure or improvements:	$150
Review of a minor subdivision plat:	$150
Review of a major subdivision plat, whether for a preliminary or final subdivision:	$220, plus $50 per lot
Review of a subdivision site plan, whether for a preliminary or final subdivision:	$500, plus $75 per acre or portion thereof

2. Fees to process applications for amendments to the zoning map shall be as follows:

Rezoning to Residential Districts:	$1,000
Rezoning to Commercial Districts:	$1,000
Rezoning to Industrial Districts:	$1,000
Rezoning to Special Purpose Districts:	$1,000
Rezoning to Planned Unit Developments Districts:	$1,000

Rezoning to Overlay Districts:	$1,000
Amendment to Proffered Conditions:	$1,000

3. Resolution No. 32412-032795 is hereby amended to the extent and only to the extent of any inconsistency with this Ordinance.

4. The fees established by this Ordinance will become effective immediately upon its passage, and shall remain in effect until amended by this Council.

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

ATTEST:

City Clerk.

SJT
11/27/16

B.5.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE amending the Fee Compendium to include a new fee for certain zoning modifications, to amend the fees for review of a minor subdivision plat and for all zoning map amendments and to include in the Fee Compendium existing fees for reviews of major subdivision plats and subdivision site plans; providing for an effective date; and dispensing with the second reading of this ordinance by title.

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

1. The Fee Compendium of the City, maintained by the Director of Finance and authorized and approved by City Council by Resolution No. 32412-032795, adopted March 27, 1995, effective as of that date, as amended, shall be amended to reflect the following fees:

Modification granted by the Zoning Administrator from any provision contained in the zoning ordinance with respect to physical requirements in a lot, including size, height, location or features of or related to any building, structure or improvements:	$150
Review of a minor subdivision plat:	$150
Review of a major subdivision plat, whether for a preliminary or final subdivision:	$220, plus $50 per lot
Review of a subdivision site plan, whether for a preliminary or final subdivision:	$500, plus $75 per acre or portion thereof

2. Fees to process applications for amendments to the zoning map shall be as follows:

Rezoning to Residential Districts:	$1,000
Rezoning to Commercial Districts:	$1,000
Rezoning to Industrial Districts:	$1,000
Rezoning to Special Purpose Districts:	$1,000
Rezoning to Planned Unit Developments Districts:	$1,000

Rezoning to Overlay Districts:	$1,000
Amendment to Proffered Conditions:	$1,000

3. Resolution No. 32412-032795 is hereby amended to the extent and only to the extent of any inconsistency with this Ordinance.

4. The fees established by this Ordinance will become effective immediately upon its passage, and shall remain in effect until amended by this Council.

5. Pursuant to Section 12 of the Roanoke 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: **November 21, 2016**

Subject: **Encroachment Request from South Commonwealth Partners, LLC for a Connection to an Electrical Box into Public Right of Way Located Adjacent to Official Tax Map Number 4015003 (CM16-00163)**

Background:

South Commonwealth Partners, LLC is requesting an encroachment for a connection to an electrical box into the public right-of-way of the City of Roanoke located on Church Avenue, S.E., Roanoke, Virginia, in connection with the development of the downtown Hampton Inn, adjacent to real property located at Official Tax Map No. 4015003.

The encroachment request allows the electrical box to provide electrical service to the improvements on the real property designated as Official Tax Map Nos. 4015006, 4015007, and 4015008. The area of the encroachment shall be approximately 7 feet by 10 feet into the public right-of-way, more particularly bounded and described on the attached survey entitles "Plat Showing New Easement to be Located on Roanoke City T.M. #4015003 and T.M. #4015004 10'Easement (A-3-b(i))."

Recommended Action:

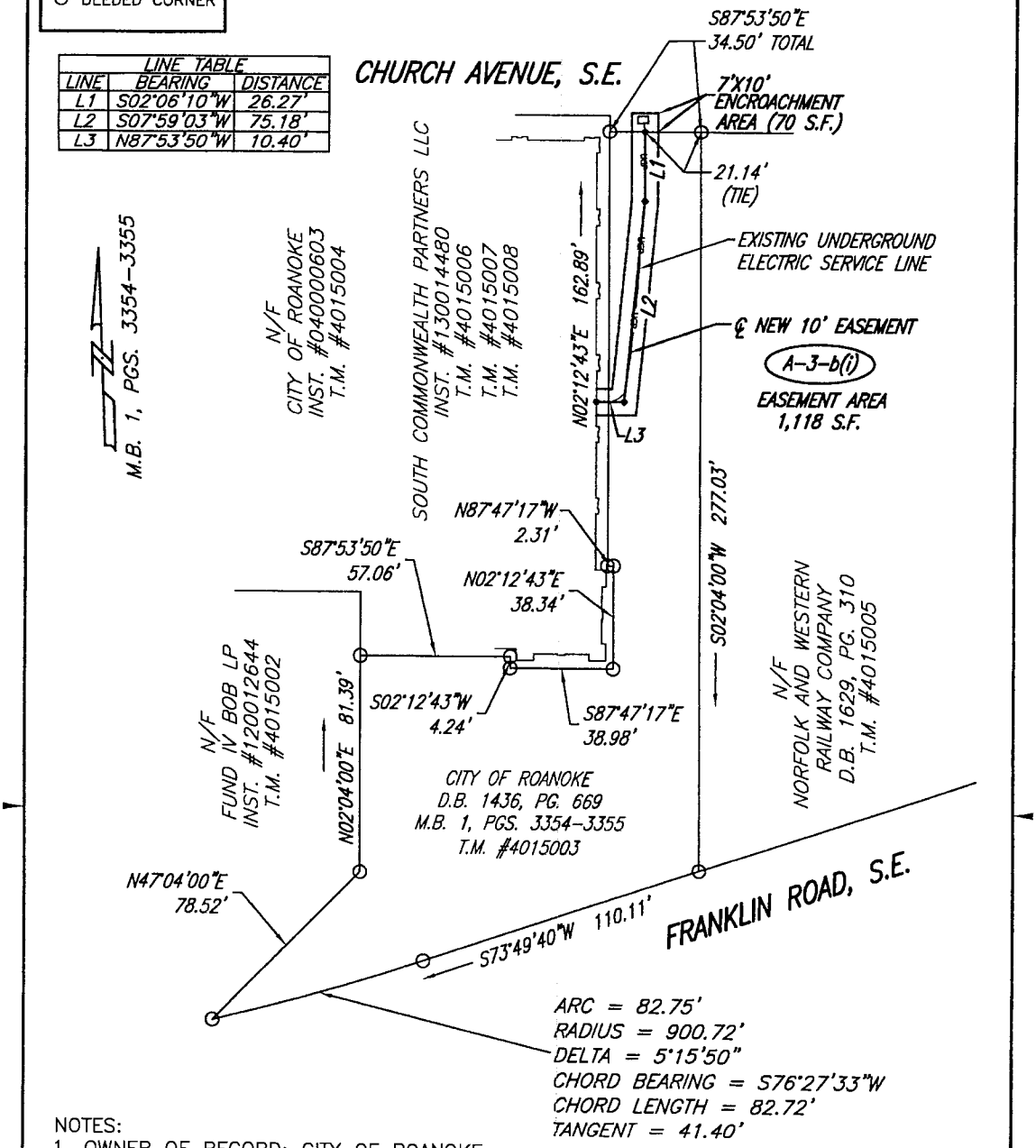
Approve the proposed Ordinance authorizing the encroachment of the connection to the electrical box described on the plat attached to this letter. All necessary documents required for this encroachment are to be approved as to form by the City Attorney.

Christopher P. Morrill
City Manager

Distribution: Council Appointed Officers
R. Brian Townsend, Asst. City Mgr. for Community Dev.
Barbara A. Dameron, Director of Finance
Wayne F. Bowers, Director Economic Development
Debbie Moses, Parking Administrator
Philip C. Schirmer, P.E., City Engineer
Marc B. Nelson, Special Projects Coordinator
Cassandra L. Turner, Economic Development Specialist

LEGEND
O DEEDED CORNER

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S02°06'10"W	26.27'
L2	S07°59'03"W	75.18'
L3	N87°53'50"W	10.40'



NOTES:

1. OWNER OF RECORD: CITY OF ROANOKE
   LEGAL REFERENCE: D.B 1436, PG. 669
   M.B. 1, PGS. 3354-3355
   TAX MAP NUMBER: 4015003
2. OWNER OF RECORD: CITY OF ROANOKE
   LEGAL REFERENCE: INST. #040000603
   TAX MAP NUMBER: 4015004

COMMONWEALTH OF VIRGINIA
10-14-16
JOHN R. McADEN
Lic. No.002002
John R. McAden
LAND SURVEYOR

PLAT SHOWING NEW EASEMENT
TO BE LOCATED ON ROANOKE CITY T.M. #4015003
AND T.M. #4015004
10' EASEMENT (A-3-b(i))
INSTRUMENT #130014356
CITY OF ROANOKE, VIRGINIA
DATED OCTOBER 12, 2016
REVISED OCTOBER 14, 2016
JOB #R1300045.00 - ESM'T 3
SCALE: 1" = 50'

BALZER AND ASSOCIATES INC.
REFLECTING TOMORROW
• PLANNERS • ARCHITECTS
• ENGINEERS • SURVEYORS

TEL: 540-772-9580 FAX: 540-772-8050
PLANNERS ARCHITECTS ENGINEERS SURVEYORS
Balzer & Associates, Inc. 1208 Corporate Circle Roanoke Va. 24018

DRN: SCB
CHK: JRM

YL

C.1.

PUBLIC RIGHT OF WAY LOCATED
ADJACENT TO OFFICIAL TAX MAP NO: 4015003

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing an encroachment, at the request of South Commonwealth Partners, LLC, a South Carolina limited liability company, into the public right-of-way of the City of Roanoke, located on Church Avenue, S.E., Roanoke, Virginia, in connection with the development of the downtown Hampton Inn, adjacent to real property located at Official Tax Map No. 4015003; upon certain terms and conditions, and dispensing with the second reading of this Ordinance by title.

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

1. Authorization is hereby granted to South Commonwealth Partners, LLC, a South Carolina limited liability company, pursuant to Section 15.2-2010, Code of Virginia (1950) as amended, for the encroachment of a connection to an electrical box owned by Appalachian Electric Power into the City's public right-of-way located at Church Avenue, S.E., Roanoke, Virginia, in front of the new Hampton Inn, adjacent to property located at Official Tax Map No. 4015003, for the purpose of providing electrical service to the improvements on the real property designated as Official Tax Map Nos. 4015006, 4015007, and 4015008. The area of the encroachment shall be approximately 7 feet by 10 feet into the public right-of-way, more particularly bounded and described on the survey entitled "Plat Showing New Easement to be Located on Roanoke City T.M. #4015003 and T.M. #4015004 10' Easement (A-3-b(i))," dated October 12, 2106, and Revised October 14, 2016, and as more particularly set forth and described in the City Council Agenda Report dated November 21, 2016. No additional property may be placed into the public right- of-way by Appalachian Electric Power pursuant to this Ordinance.

2. It is agreed by South Commonwealth Partners, LLC that in maintaining such encroachment, South Commonwealth Partners, LLC and its grantees, assignees, or successors in interest agree to indemnify and save harmless the City of Roanoke, its officers, agents, and employees from any and all claims for injuries or damages to persons or property, including attorney's fees, that may arise by reason of the above-described encroachment. South Commonwealth Partners, LLC agrees that the encroachment shall be removed at any time from the public right-of-way upon written demand of the City of Roanoke, and that such placement and removal of the encroachment shall be at the sole cost and expense of South Commonwealth Partners, LLC. South Commonwealth Partners, LLC agrees that it shall be solely responsible for the installation, maintenance, operation, cleaning, repair, restoration, of the encroachment, and it shall replace any damage to the building, and any damage to the land, caused by the placement and removal of the encroachment, at South Commonwealth Partners, LLC's sole cost and expense. South Commonwealth Partners, LLC, further agrees that the City of Roanoke has no liability to South Commonwealth Partners for any vandalism or theft of such electrical box.

3. South Commonwealth Partners, LLC, its grantees, assigns, or successors in interest, shall, for the duration of this permit, maintain on file with the City Clerk's Office evidence of insurance coverage for such encroachment in an amount not less than $2,000,000 of general liability insurance. The certificate of insurance must list the City of Roanoke, its officers, agents, and employees as additional insureds, and an endorsement by the insurance company naming these parties as additional insureds must be received within thirty (30) days of passage of this Ordinance. The certificate of insurance shall state that such insurance may not be canceled or materially altered

without thirty (30) days written advance notice of such cancellation or alteration being provided to the Risk Management Officer for the City of Roanoke.

4. The City Clerk shall transmit an attested copy of this Ordinance to South Commonwealth Partners, LLC, c/o Windsor/Aughtry Company, Inc., Suite 500, 40 West Broad Street, Greenville, SC 29601.

5. This Ordinance shall be in full force and effect at such time as a copy, duly signed, sealed, and acknowledged by South Commonwealth Partners, LLC has been admitted to record, at the cost of South Commonwealth Partners, LLC, in the Clerk's Office of the Circuit Court for the City of Roanoke and shall remain in effect only so long as a valid, current certificate evidencing the insurance required in Paragraph 3 above is on file in the Office of the City Clerk, or until the City requires the removal of such encroachment, which may be done in the sole discretion of the City by sending written notice to South Commonwealth Partners, LLC to remove the encroachment authorized herein. In the event this Ordinance is not signed by South Commonwealth Partners, LLC and recorded in the Circuit Court Clerk's Office for the City of Roanoke within ninety (90) days from the adoption of this Ordinance, this Ordinance shall terminate and be of no further force and effect.

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

ATTEST:

City Clerk.

The undersigned acknowledges that it has read and understands the terms and conditions stated above and agrees to comply with those terms and conditions.

SOUTH COMMONWEALTH PARTNERS, LLC,
a South Carolina limited liability company

By:_____
Paul C. Aughtry, III, Manager

STATE OF SOUTH CAROLINA)
) To-wit:
COUNTY OF _____)

I, a Notary Public in and for the State and City aforesaid, do certify that the foregoing instrument was acknowledged before me this _____ day of _____, 2016, by Paul C. Aughtry, III, Manager of South Commonwealth Partners, LLC, a South Carolina limited liability company, for and on behalf of South Commonwealth Partners, LLC, a South Carolina limited liability company.

My Commission expires:_____.

_____
Notary Public

Registration No._____

C.2.

CITY COUNCIL AGENDA REPORT

To: Honorable Mayor and Members of City Council

Meeting: November 21, 2016

Subject: Performance Agreement Among the City of Roanoke, City of Roanoke Economic Development Authority, and HRP Ivy Market, LLC for the Continued Development of the Ivy Market Project (CM16-00167)

Background:

On June 20, 2016, the City Council adopted Ordinance No. 40569-062016 approving a performance agreement among the City of Roanoke, City of Roanoke Economic Development Authority (EDA), and HRP Ivy View, LLC for the continued development of the Ivy Market Project located at the corner of Franklin Road and Wonju Street. Ivy View, LLC and Harbour Retail Partners Management, LLC entered into an agreement for the sale of the Ivy View parcels. Harbour Retail Partners Management, LLC intended to assign its rights under this agreement to HRP Ivy View, LLC and requested the Performance Agreement authorized by Council on June 20, 2016. Harbour Retail Partners Management, LLC has decided to assign its rights to another special purpose entity, created by Harbour Retail Partners Management, LLC, HRP Ivy Market, LLC, a Delaware limited liability company. The attached Performance Agreement is substantially similar to the Performance Agreement approved in June (the changes are identifying the new Developer in the Performance Agreement and Exhibit 3 to the Performance Agreement, and Exhibit 2 is a copy of the executed Amendment No. 2 to the performance agreement with the current owner of the Ivy View Parcels).

Considerations:

The substantive terms of the Performance Agreement, other than the developer, are the same as approved by the City Council in June.

Recommended Action:

Adopt the attached ordinance approving a Performance Agreement among the City of Roanoke, City of Roanoke Economic Development Authority, and HRP Ivy Market, LLC. The ordinance provides that this Performance Agreement with HRP Ivy Market, LLC revises the Performance Agreement with HRP Ivy View, LLC approved in June. The EDA approved the revised Performance Agreement on November 16, 2016.

Brian Townsend

for Christopher P. Morrill
City Manager

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

PERFORMANCE AGREEMENT

This Performance Agreement (Agreement) is dated July 1, 2016, by and among the City of Roanoke, Virginia, a municipal corporation (City), HRP Ivy Market, LLC, a Delaware Limited Liability Company qualified to transact business within the Commonwealth of Virginia (DEVELOPER), 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, DEVELOPER is the successor developer of a retail project known as "Ivy Market," which is comprised of certain properties located at the northwest corner of Wonju Street and Franklin Road, S.W. consisting of tax map numbers 1272505 (currently containing a Walgreens Drug Store); 1272504 (currently containing a medical office facility and parking structure); and tax map numbers 1150106, 1150108, 1150113, 1150112, 1150102, and 1150104, which are vacant; and 1150109 which contains a restaurant facility currently under construction, as more particularly described in Exhibit 1 which is attached hereto and made a part hereof and is referred to as the "Project";

WHEREAS, Harbour Retail Partners Management, LLC, a Delaware limited liability company ("Purchaser") has entered into an agreement to acquire a portion of the Project, specifically tax map numbers 1150106, 1150108, 1150113, 1150112, 1150102, 1150104, and 1150109 (collectively, the "Property") from Ivy View, LLC, a Virginia limited liability company ("Ivy View") and Purchaser has formed DEVELOPER as a special purpose entity of Purchaser to acquire the Property;

WHEREAS, Ivy View, the City, and EDA entered into a Performance Agreement dated July 1, 2012, as amended (the "Ivy View Performance Agreement");

WHEREAS, DEVELOPER has advised the City and the EDA that DEVELOPER will complete the Project with the construction of certain actively operating retail facilities and structures open to the public on currently vacant parcels, referred to as the "Facilities;"

WHEREAS, the City recognizes that the previous phases of the Project required private investment in site development and stormwater infrastructure of over $6,000,000, and completion of the Project will require additional costs for site development infrastructure in order to maximize the Project's development potential and tax base generation;

WHEREAS, DEVELOPER has requested an annual economic development grant through the EDA to assist in the unusual site development expenses that have already been incurred, or will be incurred, by DEVELOPER as the successor developer of the Project;

WHEREAS, the City and the EDA desire that the Project proceed to completion, and have determined that such Project will promote economic development within the City and within the Roanoke Valley. Such Project will provide additional tax revenue, jobs, and services that will be available to and will benefit the citizens of the City and the Roanoke Valley;

WHEREAS, DEVELOPER agrees that (i) the Ivy View Performance Agreement has been or will be terminated as described in this Agreement; and (ii) DEVELOPER shall have no rights, interest, title, or benefits under the Ivy View Performance Agreement;

WHEREAS, the EDA, based on the proposed undertakings of DEVELOPER, has determined to make annual economic development grants to DEVELOPER until the a specific maximum aggregate amount of grant funds are distributed to Developer from funds to be provided to the EDA by the City, all in accordance with the terms of this Agreement; and,

WHEREAS, the parties wish to reduce to writing the understanding of the parties concerning this matter.

THEREFORE, the parties agree that the above Recitals are hereby incorporated into and made a part of this Agreement and also in consideration of the promises and obligations contained herein, the sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

SECTION 1. EDA ECONOMIC DEVELOPMENT GRANT.

Subject to the terms of this Agreement, the EDA will make annual Economic Development Grants (each a "Grant") to DEVELOPER, up to the maximum amount of Grants distributed to DEVELOPER under this Performance Agreement equals $3,000,000.00, in order to assist with the development and completion of the Project for the purposes of promoting economic development in the City and the Roanoke Valley. DEVELOPER acknowledges and agrees that the maximum aggregate amount of Grants received pursuant to this Performance Agreement shall be limited to $3,000,000.00 (the "Grant Cap"). 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 DEVELOPER.

DEVELOPER agrees and promises that in order to qualify to receive and to continue to receive the Grant for each grant year (as defined in this Agreement), DEVELOPER shall do or provide each of the following:

A. On or before December 30, 2016, DEVELOPER shall close on the acquisition of the Property and acquire the Property from Ivy View and the transfer documents, including all deeds transferring all rights, title and interests of Ivy View in the Property are recorded in the Clerk's Office of the Circuit Court of the City of Roanoke, Virginia.

B. Within 9 months after the date of this Agreement, and not later than April 1, 2017; the restaurant facility currently under construction on Official Tax Map No. 1150109 shall be actively operating and open to the public for business.

C. Within 30 months after the date of this Agreement, and not later than January 1, 2019, the property currently vacant comprised of tax map nos. 1150106, 1150113, 1150112, 1150102, 1150104, 1150108, shall be developed so as to contain at least one building of a minimum of 20,000 sq. ft. open to the public for business and shall be for each year for which a Grant is requested. Such building shall contain a specialty retail grocery (including Earth Fare, Whole Foods, Sprouts or other similar natural foods store) which is not as of the date of this Agreement or at the date of its opening otherwise located or operating within the Roanoke Metropolitan Statistical Area (MSA) as defined by the United States Office of Management and Budget.

D. DEVELOPER shall file all appropriate and applicable real estate tax and other tax forms or notices with the City and ensure that DEVELOPER has received assessments from the City for such taxes, and shall have paid such taxes in full to the City on time and no such taxes shall be in default at any time. Furthermore, DEVELOPER shall not claim any exemptions from real estate taxes or other taxes for any periods of time for which Grant funds are requested. DEVELOPER shall also ensure that the owner of the Property or the Project or any part thereof and any entity that may operate and/or manage the Facilities, the Property or Project, if different than DEVELOPER, also complies with all the obligations of this Section 2(D) and any other applicable provisions of this Agreement. In the event that the owner of the Property or Project or any part thereof or any entity that may manage and/or operate the Facilities, the Property or Project fails to comply with this Section 2(D), DEVELOPER acknowledges and agrees that such noncompliance may result in the reduction in the amount of the Grant in a grant year to the extent that Taxes are not actually received by the City as set forth in Section 3(C) of this Agreement, based upon the documentation that DEVELOPER must provide to EDA and the City pursuant to Section 5(B) of this Agreement. Should any subsequent owner of the Property or Project or any portion thereof, or any entity that may occupy, operate and/or manage a Facility, the Property or Project, or any part thereof, violate the obligations of this Section 2(D) by seeking, claiming, and being granted any real estate tax

exemption, in whole or in part, DEVELOPER agrees that DEVELOPER shall be responsible for paying, and shall pay, to the City an annual fee equal to the actual real estate taxes that otherwise would be due and owed if such portion of the Project or Property or Facility had not been granted a tax exemption. Such fee shall be due and payable at the same time that the actual real estate taxes would be due and payable to the City. The City shall be entitled to exercise all remedies available to the City if any such fee is not paid in full within thirty (30) days of becoming due. Nothing in this Section 2(D) shall prevent, deter, encourage, or otherwise affect the City in granting or denying an application for exemption, in its absolute discretion.

E. DEVELOPER shall make all Grant requests as set forth in this Agreement.

F. Upon execution of this Agreement, DEVELOPER shall deliver to EDA and the City the fully executed Amendment No. 2, defined and described in Section 4 of this Agreement.

SECTION 3. ECONOMIC DEVELOPMENT GRANT.

Subject to the conditions set forth in this Agreement, the EDA shall provide certain Grant funds, limited to those funds which are received by the EDA from the City, as set forth below, to DEVELOPER, in order to assist with the completion of the Project as follows:

A. For the purposes of this Agreement, a "grant year" means July 1 through June 30 (for example, July 1, 2016-June 30, 2017) which corresponds to the Fiscal Year of the City of Roanoke. The first grant year pursuant to this Agreement shall commence on July 1, 2016.

B. Such Grants may be requested only until the Grant Cap is reached. All Grant requests shall be submitted to the EDA between the period of September 1 and December 1, for the preceding grant year or no Grant will be considered or given for that particular grant year and there shall be no carryover of that grant year. The City will cooperate with DEVELOPER by providing, upon written request from DEVELOPER, public information relevant to tax revenue received from the Property and Project.

C. The amount of each Grant request for each grant year shall be for an amount equal to 50% of the revenue amount actually received by the City during the preceding grant year that directly resulted from the Property or Project and that came only from real estate taxes, the City's portion of general retail sales tax (currently at 1%), professional and occupational license tax, tangible personal property tax (inclusive of tangible personal property used in business), and prepared food and beverage tax

(collectively, the "Taxes"). The amount of a Grant request shall be limited to the lesser of (i) 50% of the revenue amount actually received by the City during the preceding grant year that came from the Taxes; or (ii) the difference between (a) the Grant Cap and (b) the aggregate amount of Grants received by DEVELOPER at the time of each Grant request. Any new state or local tax that expressly replaces, is a substitute for, or is in lieu of any of the Taxes ("Replacement Tax") shall be included in the tax revenue directly resulting from the Property or Project, only to the extent that the City actually receives revenues from any such Replacement Tax. Provided, however, any new or existing local tax or increase in the rate of any of the Taxes 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. Furthermore, there shall be no carryover of any type from one grant year to the next for any tax revenues received and/or funds from the prior year or years or for purposes of determining the amount of revenue for any grant year. Subject to the limitation on the amount of any Grant request as set forth in this Section 3 (C), each grant year shall be looked at separately to see if the requirements for a Grant request have been met.

SECTION 4. TERMINATION OF PREVIOUS PERFORMANCE AGREEMENT.

DEVELOPER acknowledges and agrees that DEVELOPER has no rights, interest, title, or benefit under the Ivy View Performance Agreement and is not an assignee of the Ivy View Performance Agreement. DEVELOPER further acknowledges and agrees to deliver to the City and EDA the written agreement from Ivy View that amends the Ivy View Performance Agreement to (i) limit Ivy View's right to make grant requests under the Ivy View Performance Agreement to one grant request for the July 1, 2015 through June 30, 2016 grant year, as defined in the Ivy View Agreement, not later than December 1, 2016, for the amounts and limits set forth in the Ivy View Performance Agreement for such grant year; and (ii) except for this one grant request, terminate the Ivy View Performance Agreement ("Amendment No. 2"). The form of Amendment No.2 is attached hereto and made a part hereof as Exhibit 2.

SECTION 5. DISTRIBUTION OF GRANT FUNDS.

A. On or before December 30, 2016, DEVELOPER shall provide to the City and EDA certified copies of the executed and recorded deed(s) from Ivy View to DEVELOPER transferring the Property to DEVELOPER. The deeds shall be certified by the Clerk of the Circuit Court of the City of Roanoke, Virginia.

B. Following the end of each grant year, upon DEVELOPER's compliance with the obligations set forth in this Agreement, DEVELOPER may request in writing that the EDA obtain and provide the Grant funds mentioned above in accordance with the terms of this Agreement. Such request

must be accompanied by sufficient documentation to establish to the reasonable satisfaction of the EDA and the City DEVELOPER's compliance with the obligations set forth in this Agreement. Upon receipt of such request, and approval by the EDA (approved request), the EDA shall forward the approved request to the City Manager and Economic Development Director. The written Grant request(s) from DEVELOPER to the EDA will be on a form approved by the EDA's counsel, attached hereto as Exhibit 3. 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 a Grant request or require that DEVELOPER submit a revised request, the EDA shall provide written notice to DEVELOPER stating the basis for disapproval and any defect in the Grant request and specifying the required additional information. DEVELOPER shall submit the revised and 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 and Economic Development Director. The City will process such approved requests within 45 days of receipt thereof, subject to such funds being appropriated. The EDA will make any approved payment to DEVELOPER within ten (10) working 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 Grant requests may be made by DEVELOPER or considered by the EDA after December 1 once the Grant Cap is met. The EDA agrees that the Grants funds will be delivered to a lock box or a joint check will be issued if requested in writing by DEVELOPER's lender. DEVELOPER authorizes the EDA to make payment as requested by its lender. DEVELOPER shall provide written notification to EDA and the City that identifies DEVELOPER'S lender. Such notification shall identify the name, telephone number, address, and email address of the lender's loan officer responsible for DEVELOPER'S account with respect to the Project and shall authorize the EDA and the City to discuss this Agreement and matters related to this Agreement with such lender.

SECTION 6. PAYMENT OF EDA'S FEES.

DEVELOPER promises and agrees it will pay all reasonable fees, costs, and expenses of the EDA in connection with this matter, including any action necessary to collect reimbursement hereunder or litigation of any type, all of which includes the reasonable fees of the EDA's counsel. Payment of such items shall not be made from any Grant funds. The EDA will submit statements to DEVELOPER for such items and DEVELOPER shall pay such statements within 30 days after receipt.

SECTION 7. REPORTS TO THE EDA AND THE CITY.

During the term of this Agreement, DEVELOPER 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 DEVELOPER's compliance with the conditions of this Agreement and to provide appropriate documentation to support such compliance. DEVELOPER also agrees to allow the EDA, the City, and/or its representative to inspect, audit, copy, or examine any of DEVELOPER's books, documents, or other relevant materials in connection therewith upon written request by the EDA or the City. 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.

SECTION 8. COMPLIANCE WITH LAWS.

DEVELOPER agrees to comply with all applicable federal, state, and local laws, rules, and regulations in the performance of this Agreement, including, but not limited to, obtaining and maintaining a City Business License.

SECTION 9. COOPERATION.

Each party agrees to cooperate with the other in a reasonable manner to carry out the intent and purpose of this Agreement.

SECTION 10. SEVERABILITY.

If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which will continue in full force and effect. The parties intend the remaining provisions of the Agreement be enforced to the fullest extent permitted by applicable law.

SECTION 11. AUTHORITY TO SIGN.

The persons who have executed this Agreement on behalf of the parties represent and warrant they are duly authorized to execute this Agreement on behalf of their respective entity.

SECTION 12. COUNTERPART COPIES.

This 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 13. SUCCESSORS.

The terms, conditions, provisions, and undertakings of this Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

SECTION 14. NONDISCRIMINATION.

A. During the performance or term of this Agreement, DEVELOPER agrees as follows:

   I. DEVELOPER 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 DEVELOPER. DEVELOPER agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

   II. DEVELOPER in all solicitations or advertisements for employees placed by or on behalf of DEVELOPER will state DEVELOPER is an equal opportunity employer.

   III. 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.

B. DEVELOPER will include the provisions of the foregoing Section A (I, II, and III) in every subcontract or purchase order over $10,000 that is entered into after the date that this Agreement receives final approval from the City and the EDA so that the provisions hereof will be binding upon each such subcontractor or vendor.

SECTION 15. ASSIGNMENT.

DEVELOPER agrees not to assign or transfer any part of this Agreement without the prior written consent of the City and the EDA, which will not be unreasonably withheld, delayed, or conditioned, and any such assignment shall not relieve DEVELOPER from any of its obligations under this Agreement, unless, upon request by DEVELOPER, the City and the EDA agree to relieve DEVELOPER of its obligations under this Agreement. Any such request by DEVELOPER shall be given due and fair consideration by the City and the EDA.. Notwithstanding the foregoing, the City and the EDA agree that DEVELOPER may assign and transfer this Agreement without the prior written consent of the City and the EDA in accordance with the following

provisions: (a) DEVELOPER may assign, pledge, or grant a security interest in this Agreement and DEVELOPER'S rights herein (the "Permitted Collateral"), as collateral security, pursuant to a security agreement or other security instrument ("Security Agreement"), to any lender providing financing to DEVELOPER with respect to the purchase of all or any part of the Property (even if such lender does not hold a deed of trust encumbering any of the Property) or to any lender providing financing to DEVELOPER for the Project and the Property (collectively, a "Secured Party"), (b) DEVELOPER or the Secured Party shall provide written notice to the City and the EDA of the execution of the Security Agreement with the name and address of the Secured Party, within ten (10) days after the effective date thereof, (c) upon default under the Security Agreement and the obligations secured thereby, the Secured Party may foreclose under the Security Agreement and exercise all rights and remedies available under applicable Virginia law including, without limitation, a sale or other disposition of the Permitted Collateral under the Virginia Uniform Commercial Code (collectively, a "Disposition"), (d) the Secured Party shall provide the EDA and the City with ten (10) days' prior written notice of any proposed Disposition, (e) the purchaser or assignee of the Permitted Collateral pursuant to any Disposition (the "Purchaser") shall succeed to DEVELOPER'S rights under this Agreement and receive the cooperation of the City and the EDA under this Agreement provided that the Purchaser agrees in writing, on terms and conditions acceptable to the City and EDA, to assume all of the obligations of DEVELOPER under this Agreement, without relieving DEVELOPER of such obligations unless the EDA and the City expressly agree in writing thereto, (f) the Secured Party shall provide the EDA and the City with written notice of any Disposition with the name and address of the Purchaser (which may be the Secured Party or affiliate thereof) within ten (10) days after the effective date of such Disposition, and the proposed written agreement of Purchaser to assume all obligations of DEVELOPER under this Agreement, and the City and EDA shall have thirty (30) days after receipt of such proposed agreement to accept or reject such agreement, provided that such acceptance shall not be unreasonably withheld or conditioned within such time period; and, in the event that such proposed agreement is not accepted by the City and EDA, the proposed transfer of this Agreement to Purchaser shall be of no force or effect; (g) in the event that the Secured Party gives written notice to the City and the EDA regarding payment of all Grant funds to a specified lockbox controlled by the Secured Party or the payment of all Grant funds pursuant to joint checks made payable to the Secured Party and DEVELOPER and mailed to an address specified by the Secured Party, the City and EDA thereafter will comply with such instructions until revoked or modified in writing by the Secured Party, and (h) once the City and the EDA have been notified of the name and address of the Secured Party in accordance with this section, all written notices given to DEVELOPER under Section 17 of this Agreement or otherwise shall also be given to the Secured Party, and the Secured Party shall have the same opportunity as DEVELOPER, if any, to cure any default under this Agreement.

SECTION 16. INDEMNITY.

DEVELOPER 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 DEVELOPER or its agents, employees, or representatives arising out of or connected in any way to any of the matters involved in this 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 17. OPPORTUNITY TO CURE.

A. Except for the requirements and provisions contained in Sections 2, 3, 4, and 5 above, DEVELOPER shall not be deemed to have failed to perform or discharge any of DEVELOPER's duties or obligations in the other sections of this Agreement until such time as DEVELOPER 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 DEVELOPER does, within said thirty (30) day period, commence 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 sixty (60) days from the date of such notice. TIME IS OF THE ESSENCE WITH RESPECT TO THE REQUIREMENTS AND PROVISIONS CONTAINED IN SECTIONS 2, 3, 4, AND 5 OF THIS AGREEMENT.

B. The City and/or the EDA shall not be deemed to have failed to perform or discharge any of their duties or obligations under this Agreement until such time as both of them receive written notice thereof from DEVELOPER 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 the City and/or the EDA does, within said thirty (30) day period, commence 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 sixty (60) days from the date of such notice.

SECTION 18. CHOICE OF LAW AND FORUM SELECTION.

This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia without application of Virginia's conflict of law

provisions. Venue for any litigation, suits, and claims arising from or connected with this Agreement shall only be proper in the Roanoke City Circuit Court, or in the Roanoke City General District Court if the amount in controversy is within the jurisdictional limit of such court, and all parties to this Agreement voluntarily submit themselves to the jurisdiction and venue of such courts, regardless of the actual location of such parties. The provisions of this Agreement shall not be construed in favor of or against either party, but shall be construed according to their fair meaning as if both parties jointly prepared this Agreement.

SECTION 19. NONWAIVER.

Each party agrees any party's waiver or failure to enforce or require performance of any term or condition of this Agreement or any party's waiver of any breach of this 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 Agreement or a waiver of any other breaches of the Agreement 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 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 20. 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 Agreement.

SECTION 21. APPROPRIATION OF FUNDS.

All obligations or funding undertaken by the City or the EDA in connection with the Property, the Project, or this Agreement 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.

SECTION 22. PERFORMANCE.

If DEVELOPER fails to comply with any of DEVELOPER's obligations under this Agreement, except as otherwise provided in Section 17 above, as determined by the City in the City's reasonable discretion, DEVELOPER will not be entitled to be eligible for and/or receive and/or continue to be eligible for and/or receive any such Grants or Grant funds as referred to above or in this Agreement.

SECTION 23. NOTICES.

All notices hereunder must be in writing and shall be deemed validly given if delivered in person, or 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 Attn: City Manager 364 Noel C. Taylor Municipal Building 215 Church Avenue, S.W. Roanoke, Virginia 24011 Fax No. 540-853-1138
With a copy to:	City of Roanoke Attn: Economic Development Director 117 Church Avenue, S.W. Roanoke, Virginia 24011 Fax No. 540-853-1213
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 37 Campbell Avenue, S.W. Roanoke, Virginia 24011 Fax No. 540-224-8050
If to DEVELOPER, to:	HRP Ivy Market, LLC c/o Harbour Retail Partners Attn: Randy Kelley 3 Keel Street, Unit #2 Wrightsville Beach, NC 28480
With a copy, to:	Whitlow & Youell, PLC Attn: C. Cooper Youell, IV 28A Kirk Avenue Roanoke, VA 24011 Fax No. 866-684-7836

Notice shall be deemed delivered upon the date of personal service, two days after deposit in the United States mail, or the day after delivery to a nationally recognized overnight courier.

SECTION 24. FAITH BASED ORGANIZATIONS.

Pursuant to Virginia Code Section 2.2-4343.1, be advised the City does not discriminate against faith based organizations.

SECTION 25. COMPLIANCE WITH STATE LAW, FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA.

DEVELOPER shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that an entity organized as a stock or non-stock 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. DEVELOPER 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 this Agreement. The EDA and/or the City may void this Agreement if DEVELOPER fails to remain in compliance with the provisions of this section.

SECTION 26. FORCE MAJEURE.

A delay in, or failure of, performance by any party, shall not constitute a default, nor shall DEVELOPER, the City or the EDA be held liable for loss or damage, or be in breach of this 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 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. For purposes of this Agreement any one 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 parties written notice of the same within 30 days after the date such claiming party learns of or reasonably should have known of such occurrence. Notwithstanding anything else set forth above, after a total of nine (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 an/or being an excusable delay.

SECTION 27. ADDITIONS TO THE PROJECT.

A. The City and the EDA agree that in the event DEVELOPER acquires one or more parcels of real property contiguous to the Project (singly "Additional Parcel" and collectively "Additional Parcels") on or before December 31, 2018, such Additional Parcels shall be deemed part of, and

included in the definition of, the Project as set forth herein. All Taxes generated from the Additional Parcels and actually paid to the City may be included as part of any given Grant request made by the DEVELOPER, provided that the DEVELOPER shall have either (i) closed the business operated on such Additional Parcel or (ii) changed the use of such Additional Parcel that existed when the parcel was acquired by the DEVELOPER. The inclusion of the Additional Parcels as a part of the Project shall not operate to increase the amount of the Grant Cap.

B. For purposes of this Agreement, a parcel qualifies as being contiguous to the Project if such parcel either (i) shares a common property boundary with the Project, and not separated by a public street or public right-of-way; or (ii) shares a common boundary with an Additional Parcel, and not separated by a public street or public right-of-way. In addition, the aggregate area of all Additional Parcels, collectively, shall not exceed 0.75 acres.

C. DEVELOPER shall provide written notice to the City and EDA of DEVELOPER'S acquisition of an Additional Parcel, together with a certified copy of the deed transferring title to such parcel to DEVELOPER.

D. At the time DEVELOPER makes a request for a Grant pursuant to Section 3 of this Agreement, and such request includes Taxes generated from an Additional Parcel and actually paid to the City, DEVELOPER shall provide written confirmation to the City and EDA that the conditions of Section 27 (A) have been satisfied.

SECTION 28. ENTIRE AGREEMENT.

This Agreement, together with any exhibits or attachments, constitutes the entire agreement of the parties and supersedes all prior agreements between the parties. No amendment to this Agreement shall be valid unless made in writing and signed by the appropriate parties.

IN WITNESS WHEREOF, the parties have executed this Performance Agreement by their authorized representatives.

WITNESS:

_____

_____
Printed Name and Title
(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

WITNESS:

_____

_____
Printed Name and Title

HRP IVY MARKET, LLC
By its sole manager
HARBOUR RETAIL PARTNERS FUND
POOLER, LLC
a Delaware limited liability
company

By_____
Randy Kelley, a Manager

Approved as to Form:

_____

City Attorney

Approved as to Execution:

_____

City Attorney

Approved as to Form

_____

Counsel for EDA

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. _____

Exhibit 1

Description of Project

Exhibit 2

Amendment No. 2

Exhibit 3

Grant Request Form

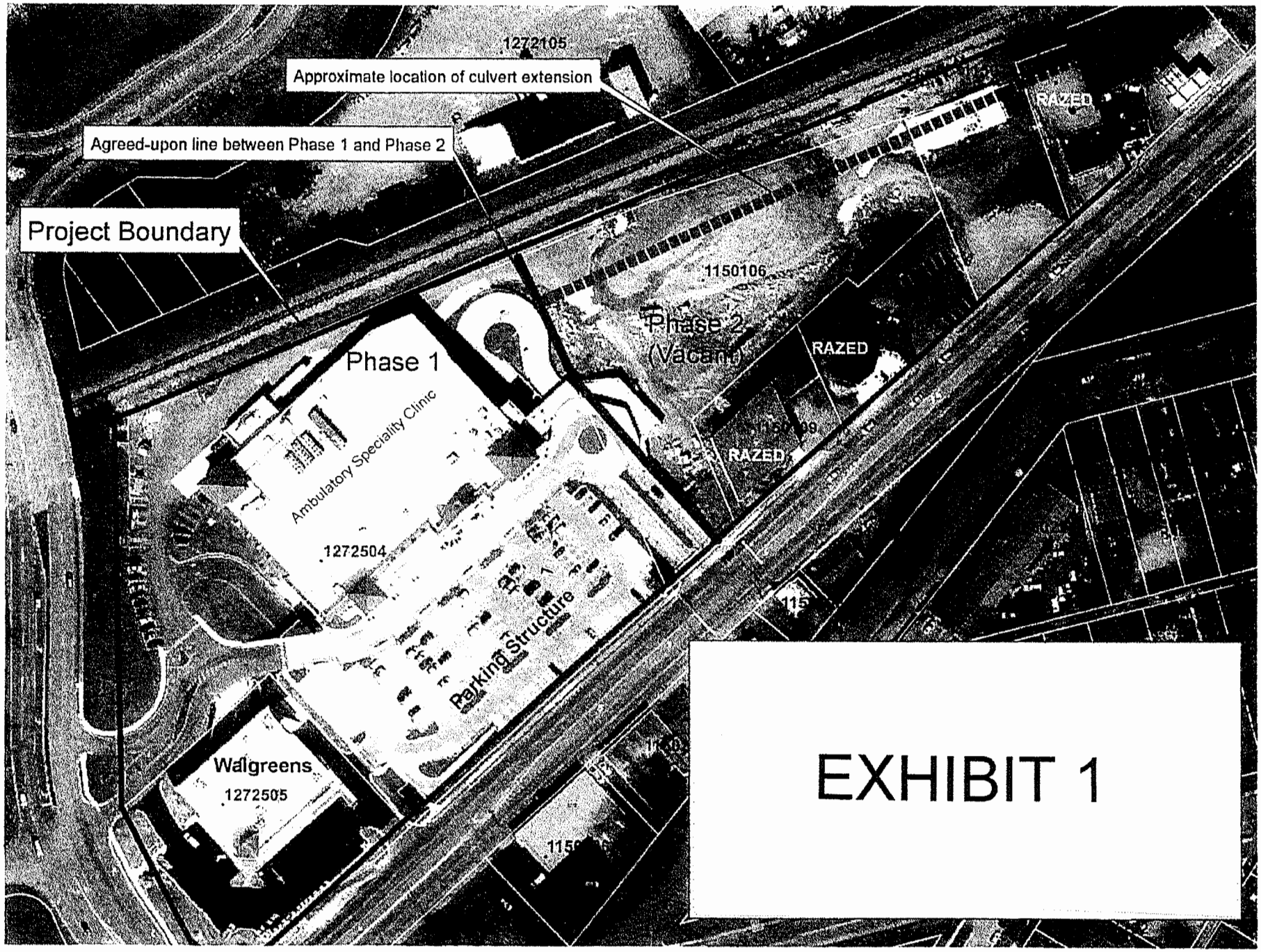

1272105
Approximate location of culvert extension
Agreed-upon line between Phase 1 and Phase 2
Project Boundary
RAZED
1150106
Phase 2
(Vacant)
RAZED
Phase 1
Ambulatory Specialty Clinic
1272504
RAZED
Parking Structure
Walgreens
1272505

EXHIBIT 1

AMENDMENT NO.2 TO PERFORMANCE AGREEMENT
DATED JULY 1, 2012 BY AND AMONG
THE CITY OF ROANOKE, VIRGINIA,
IVY VIEW, LLC, AND
THE ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF ROANOKE, VIRGINIA

This Amendment No. 2 to the Performance Agreement is made this 22nd day of June, 2016, by and among the City of Roanoke, Virginia, a municipal corporation organized and existing under the laws of the Commonwealth of Virginia ("City"), Ivy View, LLC, a limited liability company organized and existing under the laws of the Commonwealth of Virginia ("Ivy View"), 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, Ivy View, the City, and the EDA entered into a Performance Agreement dated July 1, 2012, ("Performance Agreement") pursuant to which Ivy View agreed to construct certain improvements and undertake and perform certain obligations with respect to a retail development project originally known as "Ivy Market" and which project is comprised of several parcels of real property located at the northwest corner of Wonju Street and Franklin Road, S.W., in Roanoke, Virginia and identified as Official Tax Map No. 1272505 (currently used and occupied as a Walgreens Drug Store); Official Tax Map No. 1272504 (currently an Ambulatory Specialty Clinic owned by Carilion Health Services or an affiliate)); Official Tax Map No. 1150109 (currently owned and occupied for the construction and development of a Mellow Mushroom restaurant) (collectively, the "Developed Parcels"); and Official Tax Map Nos. 1150106, 1150113, 1150112, 1150102, 1150104, and 1150108 (each of which parcels are vacant and are referred to as the "Property"), (the Developed Parcels and the Property are collectively referred to as the "Project" or "Project Site");

WHEREAS, Ivy View, the City, and the EDA amended the Performance Agreement pursuant to Amendment No. 1 dated February 26, 2014 to accommodate the request of Ivy View to amend the development plans for Phase I of the Project Site; reduce the total amount of the Grants available to Ivy View to an amount not to exceed $2,000,000.00 (Ivy View acknowledged that the actual total amount of the Grants available to Ivy View under the Performance Agreement, as amended, would be less than $2,000,000.00 because Ivy View had received the Grant in the amount of approximately $111,744.00 for the first grant year); and establish additional performance standards and conditions upon Ivy View; all in accordance with the terms, conditions, and obligations of this Amendment No. 1 to Performance Agreement dated July 1, 2012, by and among the City of Roanoke, Virginia, Ivy View, LLC, and the Economic Development Authority of the City of Roanoke, Virginia, (Amendment No. 1);

WHEREAS, pursuant to the terms of the Performance Agreement, as amended, Ivy View was required, (i) on or before December 31, 2015, to have the Ambulatory Specialty Clinic, as

defined and described in the Performance Agreement, as amended, open to the public for business; and (ii) on or before July 1, 2016, to (a) develop or cause to be developed a restaurant or other commercial development containing at least 25,000 square feet of space; and (b) expend at least $3,000,000 in infrastructure improvements for Phase 2;

WHEREAS, Ivy View has satisfied the requirements to have the Ambulatory Specialty Clinic open for business by December 31, 2015, and expend the sum of at least $3,000,000 for infrastructure improvements in Phase 2, but has not satisfied the requirement to have at least 25,000 square feet of space for restaurant or other commercial use available by July 1, 2016 (the restaurant under construction in Phase 2 contains approximately 6,100 square feet of space and will not be completed and open for business by July 1, 2016);

WHEREAS, Ivy View has determined that Ivy View should market and sell the Property to another developer and Ivy View has entered into an agreement to sell the Property and rights in the Project to Harbour Retail Partners Management, LLC, a Delaware limited liability company qualified to transact business in the Commonwealth of Virginia ("Purchaser"); and

WHEREAS, based upon the substantial infrastructure improvements made in Phase 2, together with the development and operation of the Ambulatory Specialty Clinic and the construction of the restaurant, Ivy View has requested the City and EDA to waive the condition of Section 2 (C) of the Performance Agreement, as amended, to allow Ivy View to apply for one additional grant for the Grant Year of July 1, 2015, through June 30, 2016 and terminate the Performance Agreement, as amended, effective on June 30, 2016, and the City and the EDA are willing to allow Ivy View to seek one (1) additional Grant for the Grant Year of July 1, 2015 through June 30, 2016 in accordance with this Amendment No. 2.

THEREFORE, Ivy View, the City and the EDA agree that the above Recitals are hereby incorporated and made a part of this Amendment No. 2 and also in consideration of the promises and obligations contained herein, the sufficiency of which are hereby acknowledged, Ivy View, the City, and the EDA mutually agree to amend the Performance Agreement in accordance with the Amendment No. 2 as follows:

SECTION 1. TERMINATION OF PERFORMANCE AGREEMENT.

The Performance Agreement, as amended, shall terminate effective on June 30, 2016, at 11:59 p.m. and shall be of no further force or effect except as provided in this Amendment No. 2. This termination includes, without limitation, termination of any and all rights of Ivy View to seek, apply, request or receive any Grant Funds for any Grant Year after the Grant Year of July 1, 2015 through June 30, 2016 (Final Grant Year). Ivy View acknowledges, agrees, and confirms that, except for the right to request a Grant for the Final Grant Year, Ivy View has no further rights under the Performance Agreement, as amended. Ivy View acknowledges, agrees, and confirms that, upon termination of the Performance Agreement, as amended, Ivy View has no right, interest, or benefit other than to apply for a grant for the Final Grant Year in accordance with this Amendment No. 2.

SECTION 2. GRANT REQUEST FOR FINAL GRANT YEAR; WAIVER OF CONDITION.

The City and EDA hereby waive satisfaction of the condition set forth in Section 2 (C) of the Performance Agreement, as amended, based upon the satisfaction of the other conditions set forth in Section 2 of the Performance Agreement, as amended, and the termination of the Performance Agreement, as amended. Based upon this waiver, Ivy View may request a Grant for the Final Grant Year on or before December 1, 2016, TIME BEING OF THE ESSENCE, limited to the amount and conditions set forth in the Performance Agreement, as amended by Amendment No. 1, other than the condition set forth in Section 2 (C). The City and EDA also waive the requirement of Ivy View to provide the report and documentation of compliance with the conditions of the Performance Agreement set forth in Section 7 of the Performance Agreement, as amended, that is due on June 30, 2016, other than written confirmation that Ivy View satisfied the requirement that at least $3,000,000 has been expended on infrastructure improvements in accordance with Section 2 (D) of the Performance Agreement, as amended. Ivy View acknowledges, agrees and confirms that the rights of the City and EDA to audit and inspect the books and records of Ivy View survive the termination of the Performance Agreement, as amended.

SECTION 3. SURVIVAL OF INDEMNITY OBLIGATIONS.

The indemnity obligations of Ivy View as set forth in Section 16 of the Performance Agreement, as amended, shall survive the termination of the Performance Agreement, as amended.

SECTION 4. REPRESENTATIONS OF IVY VIEW.

Ivy View warrants and represents to the City and EDA that (i) Ivy View is the sole holder of the Performance Agreement, as amended; (ii) except for the agreement with the Purchaser, Ivy View has not assigned, transferred, pledged, or sold any right, title or interest of Ivy View in the Performance Agreement, as amended, to any other party; and (iii) Ivy View has the full right, power, and authority to execute, deliver, and perform this Amendment No. 2. Ivy View shall, at its sole cost and expense, obtain the acknowledgement and consent of Purchaser that the Performance Agreement, as amended, is terminated and Purchaser has no right, title, or interest in the Performance Agreement, as amended.

SECTION 5. BINDING EFFECT.

This Amendment No. 2 is made pursuant to, and in accordance with, Section 27 of the Performance Agreement, as amended, and is binding upon the parties hereto in accordance with its terms. In the event of a conflict between this Amendment No. 2 and the Performance Agreement, as amended, the terms of this Amendment No. 2 shall control.

SECTION 6. APPLICABLE LAW.

This Amendment No. 2 shall be construed and interpreted in accordance with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, Ivy View, the City, and the EDA have executed this Amendment No. 2 by their authorized representatives.

WITNESS:

Stephanie M. Moon Reynolds
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

WITNESS:

_____

_____
Printed Name and Title

IVY VIEW, LLC

By:_____
Andrew B. Agee, Member

IN WITNESS WHEREOF, Ivy View, the City, and the EDA have executed this Amendment No. 2 by their authorized representatives.

WITNESS:

_____
Stephanie M. Moon Reynolds
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

WITNESS:

Tamara K. Hartson
Tamara K. Hartson, Administrative Assistant
Printed Name and Title

IVY VIEW, LLC

By:_____
Andrew B. Agee, ~~Member~~ Manager
ABA

Acknowledgement and Consent of Harbour Retail Partners Management, LLC.

Harbour Retail Partners Management, LLC, a Delaware limited liability company, acknowledges, confirms and agrees that the Performance Agreement, as amended, is terminated pursuant to the provisions of this Amendment No. 2. Harbour Retail Partners Management, LLC, further acknowledges, confirms, and agrees that it, and its successors and assigns, have no right, title or interest in the Performance Agreement, as amended.

HARBOUR RETAIL PARTNERS MANAGEMENT, LLC

Witness

By: _____

Name: Randy Kelley

Print Name: Dave Mendows

Title: Manager

Approved as to Form:

6-22-16

A. City Attorney

Approved as to Execution:

6-30-16

A. City Attorney

Approved as to Form

Counsel for EDA

Approved as to Execution

Counsel for EDA

Appropriation and funds required for this Agreement are subject to future appropriation.

Director of Finance

6/29/16

Date Acct#

Amendment No. 2 authorized by Ordinance No. 40568-062016

Exhibit 3 to Performance Agreement Among the City of Roanoke, HRP Ivy Market, LLC, and the EDA

Grant Request Form

This Grant Request is submitted pursuant to a certain Performance Agreement dated July 1, 2016, (the "Performance Agreement"), by and among the City of Roanoke, Virginia, ("City"), HRP Ivy Market, LLC, ("Developer"), 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 Performance Agreement.

The Performance Agreement provides that Developer shall perform and comply with certain obligations as set forth in the Performance Agreement in order to qualify to receive and to continue to receive an Economic Development Grant for each Grant Year as set forth in such Performance Agreement. Upon compliance with the provisions of the Performance Agreement, Developer may make a request to the EDA for an Economic Development Grant in accordance with the procedures set forth in the Performance Agreement and subject to the terms and limitations on the amount of such Grant as further set forth in the Performance Agreement. Furthermore, Developer must supply sufficient documentation as required by the Performance Agreement in order to document Developer's request and Developer's compliance with the Performance Agreement. Each Grant Year is to be considered separately for compliance with the requirements for a Grant Request.

Developer warrants and represents that it has complied with all the terms and conditions of the Performance Agreement necessary for Developer to obtain Grant Funds from the EDA, including, but not limited to, the applicable provisions of Section 2 of the Performance Agreement.

Attached to this Grant Request form is the information Developer 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 Performance Agreement from the Project for the prior Grant Year of July 1, _____, through June 30, _____. Accordingly, Developer hereby requests from the EDA an Economic Development Grant, as provided for in the Performance Agreement, in the amount of $_____, which is an amount that is allowed by the terms of such Performance Agreement and which is supported by the attached documentation as Attachment A to this Grant Request.

Amounts previously paid by the EDA to Developer in Economic Development Grants total $_____. Since the total amount of all Grants that may be requested and/or provided for under the Performance Agreement is $3,000,000.00 (US), the total remaining amount that Developer may request by future Grant Requests is $_____.

In the event of a conflict or difference between the terms of the Performance Agreement and those contained in this Grant Request form, the terms and provisions of the Performance Agreement shall control.

Developer respectfully requests that the EDA process this 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 Performance Agreement.

This Grant Request is dated _____.

WITNESS:

HRP Ivy Market, LLC
By its sole manager
Harbour Retail Partners Fund Pooler, LLC

_____

By: _____

_____
Printed Name and Title

_____
Printed Name and Title

Attachment A to Grant Request Form

Supporting Documentation

C.2.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the proper City officials to execute a Performance Agreement among the City of Roanoke (City), the Economic Development Authority of the City of Roanoke, Virginia, (EDA), and HRP Ivy Market, LLC, (HRP Ivy Market), a special purpose entity formed by Harbour Retail Partners Management, LLC that provides for certain undertakings by the parties in connection with the continued development of certain property located at the northwest corner of Franklin Road and Wonju Street, SW, in the City of Roanoke (Project); 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, on June 20, 2016, City Council adopted Ordinance No. 40569-062016 approving a performance agreement among the City, the EDA, and HRP Ivy View, LLC for the continued development of the Ivy Market Project located at the corner of Franklin Road and Wonju Street;

WHEREAS, HRP Ivy View, LLC and Harbour Retail Partners Management, LLC entered into an agreement for the sale of the Ivy View parcels. Harbour Retail Partners Management, LLC intended to assign its rights under this agreement to HRP Ivy View, LLC and requested the Performance Agreement authorized by Council on June 20, 2016;

WHEREAS, Harbour Retail Partners Management, LLC has decided to assign its rights to another special purpose entity created by Harbour Retail Partners Management, LLC, HRP Ivy Market, LLC, a Delaware limited liability company;

WHEREAS, this decision required a revision to the Performance Agreement with the City and EDA;

WHEREAS, the revised Performance Agreement is substantially similar to the Performance Agreement approved in June, with changes as set forth in the City Council Agenda Report dated November 21, 2016;

WHEREAS, such continued development of the site will require significant infrastructure cost and other costs for the continued development of the Project in order to attract high quality retail activity;

WHEREAS, Harbour Retail Partners Management LLC has requested an annual economic development grant through the EDA to assist in the unusual expense for continued development of the Project for HRP Ivy Market;

WHEREAS, City staff has advised Council that such project will benefit economic development within the City and the Roanoke Region; and

WHEREAS, the City and the EDA wish to encourage HRP Ivy Market 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 revised Performance Agreement among the City, the EDA, and HRP Ivy Market, as set forth in the City Council Agenda Report dated November 21, 2016, and its attachments, which provides for certain undertakings and obligations by HRP Ivy Market, as well as certain undertakings by the City and the EDA. City Council further finds that the annual 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 a Performance Agreement among the City, the EDA, and HRP Ivy Market, upon certain terms and

conditions as set forth in the above referenced 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.

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 such Performance Agreement.

4. This Ordinance supersedes and controls over Ordinance No. 40569-062016 to the extent Ordinance No. 40569-062016 is inconsistent or conflicts with the provisions of this Ordinance.

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

ATTEST:

City Clerk.