

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND STANDARDS

4624

THIS DECLARATION (the "Declaration") made this 24th day of May, 2004, by and between ZION CROSSROADS INVESTMENTS, LLC, a Virginia limited liability company, who is the "Declarant" and VA PROPERTIES LLC, a Virginia limited liability company, "Co-Declarant", party of the second part;

WITNESSETH:

WHEREAS, Declarant is the property owner of 38.56 acres of real property ("the Property") known Tax Map 5, Section 7, Parcel 8, located in Fluvanna County, Virginia, which may be developed as Cardinal Point Industrial Park (the "Park"); and

WHEREAS, Co-Declarant owns property adjacent to the Property and is the successor Declarant to Gambit, LLC and Thomas A. Dingledine, Declarants under the original Declaration of Protective Covenants, Conditions and Standards for the Zion Crossroads Business Park recorded on the 19th day of December, 2000, in Deed Book 404, page 698, in the Clerks's Office of the Circuit Court of Fluvanna County; and

WHEREAS, Declarant and Co-Declarant wish to extinguish the existing Declaration of Protective Covenants, Conditions and Standards previously recorded in said Clerk's Office in Deed Book 404, page 698, insofar as it relates to the Property as set forth in this Declaration and acknowledge their consent to the Covenants contained herein as the only Declaration of Covenants, Conditions and Standards (the "Covenants") that are in effect for the Property from this time forward; and

WHEREAS, the Declarant and Co-Declarant shall have the right upon the recordation of a plat or plats of portions of the Property and other adjacent properties, together with this Declaration or a Supplementary Declaration, to subject said properties to this Declaration. Said portions of the Properties may be herein referred to individually as a "Lot" or "Lots" and collectively as the "Park"; and

WHEREAS, the Declarant, incorporates the subdivision plat of Rivanna Engineering & Surveying, PC, dated April 15, 2004, attached hereto and recorded herewith, all of which Lots, 1-9, are subject to these Covenants,

NOW, THEREFORE, in consideration of the premises, the Declarant and Co-Declarant hereby declare and provide that the Park and each Lot shall be conveyed subject to the following covenants which shall run with the land, including each and every parcel, whether sold or leased,

RETURN TO: Boyle, Bain, Reback & Slayton
420 Park Street
Charlottesville, VA 22902

Plat Book 2, Pages 115-116.

in whole or in part, and shall be binding upon the grantee, and the grantee's heirs, successors or assigns:

I. GENERAL

- (a) The Park and its improvements located thereon shall not be used for residential purposes, except for a limited number of residences as may be approved by Declarant and Co-Declarant in writing for resident managers, caretakers, etc., provided such residences are established in conjunction with the business or industries located at the Park and the design and location of the residences are approved in conjunction with the Development Plan hereinafter defined.
- (b) The Declarant has the right, but not the obligation, to contribute or donate portions of its land for public or community purposes, including but not limited to fire stations, rescue squads, and public water or sewer facilities.
- (c) As used herein, "owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any portion of the Park, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The owner (or owners, collectively, in the case of joint or co-owners) of each Lot shall be entitled to one vote for each Lot owned in the Park by such owner (or joint or co-owners) with regard to any matters on which a vote of Lot owners is permitted under this Declaration.

II. REQUIRED DEVELOPMENT PLAN; APPROVAL

- (a) Prior to the construction, placement, modification or alteration of any improvements (including, but not limited to buildings, structures, improvements, signs, outdoor lighting, fencing, walls, screening, paving or public utility structures) on any part of the Park a development plan ("Development Plan") including a site plan and exterior architectural detail showing the improvements, along with samples of all exterior colors and materials shall be submitted to and approved by the Declarant and Co-Declarant, in their sole discretion. All Development Plans shall comply with all applicable federal, state and local laws, ordinances, rules and regulations. To the extent relevant, Development Plans shall be in conformity with both the Building Design Standards and the Site and Landscaping Standards set forth below.
- (b) Declarant and Co-Declarant shall act to approve, partially approve, partially disapprove, disapprove or reject as incomplete, in writing, submitted Development Plans within 45 days after receipt from Lot owner(s). If the Declarant and Co-Declarant take no action with respect to the submitted Development Plans (including samples) within 45 days of receipt of same, they shall be deemed to have

been approved. Delivery shall be by certified mail, return receipt requested, and delivery will be deemed to have been made upon the mailing of the letter.

- (c) The Declarant and Co-Declarant, by recorded instrument, may appoint a person, persons, or entity to exercise the approval powers and other functions reserved to the Declarant and Co-Declarant herein.
- (d) After the Declarant and Co-Declarant no longer own any portion of the Park, if judicial action, together with the filing of a *lis pendens*, has not been commenced within 180 days after the completion of any construction, placement, modification or alteration requiring approval herein, it shall be conclusively presumed that such construction, placement, modification, or alteration has received full and final approval by the Declarant and Co-Declarant.

III. BUILDING DESIGN STANDARDS

The following standards are applicable to all Lots which are a portion of the Park and should be consulted in conjunction with preparation of Development Plans.

- a) No temporary buildings, travel trailers, mobile homes or modular buildings shall be located or stored on Park land except (i) temporary parking of travel trailers or recreational vehicles, by overnight guests of any hotel or motel at the Park, during the period of such stay; (ii) storage of currently licensed or unlicensed motor vehicles, trailers, boats, and recreational vehicles in a screened area approved by Declarant and Co-Declarant or (iii) such temporary buildings, trailers, homes or facilities which may be necessary during construction periods. Prefabricated tool or utility sheds are also prohibited unless screened from all State Routes and internal Park roads (collectively, "Roads").
- (b) HVAC, mechanical and manufacturing equipment whether roof top or pad mounted shall be screened or landscaped so as not to detract from the building or Park in general.
- (c) Silos and aboveground storage tanks shall be of such size and so located as to be consistent with the massing of the main building, the overall Development Plan and the use of the Lot.
- (d) It is desirable that loading areas and loading doors be oriented away from the Roads and generally to the rear of buildings. Where front or side loading is approved, the total dock and loading area shall be screened from view from all Roads by a wall of similar architectural material as the primary building or by landscaping or similar treatment.

- (e) All dumpsters and other trash or refuse containers shall be oriented away from the Roads and generally to the rear of buildings. If located other than at the rear of the building the dumpsters/trash/refuse area shall be screened from view from all Roads by way of similar architectural material as the primary building or landscaping or similar treatment.
- (f) Plain, unpainted concrete block for exterior walls facing the Roads is discouraged, but may be approved by the Declarant and Co-Declarant in their sole discretion.
- (g) Additions and replacements for all buildings and structures shall equal or exceed the quality of the initial structure. When an addition is planned to one side of an existing building, conditional approval may be granted for a wall of temporary material to be erected, provided such expansion is formed within the time period prescribed on the approved plans. If said expansion is not accomplished within the approved time, the conditional approval shall expire and a permanent wall of suitable materials shall be erected immediately upon the expiration of the approved time.

IV. SITE AND LANDSCAPING DESIGN STANDARDS

All areas on each Lot in the Park not occupied by buildings and paved areas shall be suitably graded and drained and landscaped with lawns, trees and shrubs. It is encouraged that existing trees and natural vegetation be preserved where possible or practical. All parking areas, driveways, loading areas, fences, signs and utilities shall be designed and placed so as not to detract from the quality and appearance of the primary building(s). In addition:

- (a) All parking driveway and loading areas in the Park shall be paved with concrete, asphalt, or bituminous concrete, except that the Declarant and Co-Declarant may, in their sole discretion, approve prime and double seal for parking and/or loading areas. All parking area(s) located within a future building expansion site may be granted conditional approval to be constructed of gravel or other approved non-bituminous or non-concrete surface. In the event such expansion does not occur within the period prescribed on the approved Development Plans, such conditional approval shall expire and the parking area(s) must be paved as required above.

Concrete curb and gutter may be required by the Declarant and Co-Declarant where applicable. No parking, loading or unloading shall be permitted on any Road in the Park, including the right-of-way for said Road. Off-street parking at least meeting zoning requirements shall be a part of any Development Plan.

- (b) Storage areas on a limited area basis generally located in rear yards of Lots shall require fences and screening and specific written approval of the Declarant and Co-Declarant.

- (c) Signs as allowed by the County's ordinances and approved by the Declarant and Co-Declarant in writing shall reflect a design and location compatible with the overall building design. The Declarant and Co-Declarant may promulgate Park sign regulations in the future to affect all Lots and may require consistency in the signs for each business in the Park, except that existing signs previously approved by the Declarant and Co-Declarant shall be "grandfathered".
- (d) All permanent service utilities, including but not limited to electrical, telephone, and TV cable, sewer and gas line installations to buildings, shall be underground to the extent possible from the nearest available distribution source. No transformer, electric, gas or other meter or any other kind of apparatus shall be located on any power pole or be located on the outside of any building in a location visible from any Road, except within a screened area as approved by Declarant and Co-Declarant.
- (e) Lighting of exterior surfaces shall be limited to levels consistent with other similar industrial/business parks. Luminaries shall be selected to adequately light the site, but to provide sharp cutoffs of illumination at the Lot property boundaries and shall have minimum uplight components.
- (f) Within the setback area of any parking or entrance way or building from any Road each Lot owner shall provide and maintain trees of a minimum caliper of a type, location and number approved by the Declarant and Co-Declarant. Low hedges and shrubbery shall be planted and intermixed with the trees around the parking areas and buildings.
- (g) Each owner of any Lot or parcel within the Park shall provide in such owner's site plan and Development Plan and shall construct and maintain properly sized facilities to handle run-off and storm water as imposed by any governmental authorities as a condition for approval by such authorities of development on such Lot. Such facilities and maintenance activities may include: storm water detention basins, maintaining grass in and around said basins to prevent erosion, desilting and maintaining, repairing and replacing overflow pipes and valves.

V. PERMITTED AND PROHIBITED USES

- (a) No operations or uses will be permitted which in the opinion of the Declarant and Co-Declarant create objectionable noise, smoke, odor, or in any other way constitute a nuisance or degrade the value of the real property within the Park.
- (b) No rubbish or debris or waste material of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or site in the Park, except in approved

waste containers within screened areas. No unlicensed motor vehicles or trailers shall be kept or stored outside of any building, unless in a screened area approved by the Declarant and Co-Declarant for this purpose.

- (c) No outside storage of any type shall be allowed unless specifically approved by the Declarant and Co-Declarant. The storage area must have screening from public view as approved by the Declarant and Co-Declarant.
- (d) All grass, trees and shrubbery shall be cut and trimmed as necessary in a manner consistent with good landscaping practices to maintain a neat appearance.
- (e) The exteriors of all buildings and paved surfaces on Lots shall be maintained in good repair and neat appearance.
- (f) The Property, all Lots within the Park, and any portion of the Property or of such Lots are restricted until November 15, 2010, from being used as a commercial self storage business for mini-storage units of 500 or fewer square feet.

VI. EASEMENTS AND UTILITY REQUIREMENTS

- (a) 1) A nonexclusive and alienable easement twenty (20) feet in width along each front, street- or Road-side and rear Lot boundary and ten (10) feet in width along each side Lot boundary for locating, constructing, installing, maintaining repairing and replacing utilities (including but not limited to electric, telephone, TV, cable, sewer and gas), drainage facilities, sight distance, slopes, walkways and trails in the Park is hereby reserved to the Declarant and Co-Declarant. The Declarant and Co-Declarant may, in their sole discretion, conclusively determine which of the boundaries of Lots are front, rear and side. In addition thereto, the Declarant and Co-Declarant hereby reserve a 50' utility easement at the rear of each Lot to be used in the event that three phase electric power shall be provided. These easements shall be in addition to such easements as may be recorded on subdivision plats of the Park.
- 2) In the event a waste treatment facility is constructed on the property in the Park, or on the adjoining property to the north owned by Co-Declarant, and if the County of Fluvanna requires all of the Lot owners to connect to the waste treatment facility, all Lot owners will make the connection to the waste treatment facility and will pay the normal and usual tap fees and usage fees with an equitable formula that takes into account actual usage by different categories of users on each particular Lot. The Declarant reserves an easement on the Route 631 side of Hunters Branch for up to one hundred feet (100') for the installation of the sewage lines and related facilities along Hunters Branch, which Hunters Branch runs across Lots 2, 3, 4, 5 and 6 in the Park. This easement for the one hundred feet (100') along the west

side of Hunters Branch is specifically reserved across Lots 2, 3, 4, 5 and 6, Cardinal Point, inclusively.

- (b) In the event a waste treatment facility is installed the costs of the sewer mains and lines serving the nine (9) Lots in the Park up to the property boundary of each Lot will be shared equally by the 9 Lot owners. The cost of installing the sewer lines serving the Lot owners from the Lot owner's property boundary to the Lot owner's building will be at the expense of such Lot owner.
- (c) A 20' nonexclusive and alienable drainage easement shall be entered on all streams.
- (d) Whenever it is necessary to excavate earth within an easement, the user of the easement agrees to backfill such excavation in a proper and workmanlike manner so as to restore surface conditions as nearly as practical to the same condition as prior to the excavation.
- (e) Property within any easement described hereinabove may be used by the Owner thereof for signage, walks, driveways, landscaping, and other uses approved by the Declarant and Co-Declarant, so long as such uses do not interfere with the rights included in such easement.

VII. SHARED SERVICES

- (a) Each Lot in the Park shall share equally in the cost of maintaining and lighting the Park entrance and Park entrance signs. Each Lot owner shall pay such share within thirty (30) days of billing.
- (b) If the owner(s) of any Lot or parcel in the Park fails to pay his share (as defined herein) of the lighting or maintenance or repair costs then any party not in default of payment, or the Association (as herein defined) may, after 30 days written notice, bring an action at law against the defaulting Lot owner or may record in the Clerk's Office of the Circuit Court for the County of Fluvanna, a Notice of Lien against the defaulting Lot owner for said Lot's share of cost. Court costs, interest at 18% per annum, and reasonable attorney's fees shall be added to such amount for which said defaulting owner is liable. The owner against whose Lot a Notice of Lien is placed may bring an action in the aforesaid court to quash said Notice and said Lien or the lien may be bonded off as set forth in Virginia Code Annotated Section 43-70 et seq.

VIII. APPLICABILITY

- (a) So long as the Declarant owns any of the Property, the right is hereby expressly reserved by the Declarant and Co-Declarant to waive, modify, or amend all or any

part of these Covenants, from time to time as circumstances justify or require, so long as the waiver, modification, or amendment does not reduce the overall quality of the property affected, provided that any Lot in compliance with the Covenants at the time of any amendment cannot become out of compliance with the Covenants by any such amendment (i.e. such Lot shall be "grandfathered"). Owners of Lots in the Park shall be given notice prior to any such waiver, modification, or amendment.

- (b) The enforcement of the Covenants contained within this Declaration shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, to restrain violation, to compel compliance or to recover damages. Such proceedings may be commenced by any owner or owners of Lots in said Park, or by the Declarant or Co-Declarant. The party determined to be in default shall be required to pay the non-defaulting party's attorney's fees and court costs.
- (c) Invalidation of any one provision contained in these Covenants by judgment or court order shall in no way affect any of the other provisions hereby which shall remain in full force and effect.
- (d) Any approval or consent given by the Declarant and Co-Declarant pursuant to the requirements herein or otherwise shall not be construed as a warranty or guarantee that such approval or consent is not in violation of any applicable laws, rules, or regulations. The sole responsibility for compliance with all applicable laws, rules, or regulations is upon the grantee and the grantor is hereby expressly released from and relieved of any and all liability relating to its approval or consent.
- (e) At such time as the Declarant, or its successors named as Declarant pursuant to a signed and recorded instrument, owns none of the Property, the rights and responsibilities accorded to the Declarant and Co-Declarant herein shall then become vested in an unincorporated association, the Cardinal Point Industrial Park Association (the "Association"), consisting of all the owners of Lots in the Park, with a majority vote of the Lot owners required for any action reserved herein to the Declarant and Co-Declarant. At such time as Declarant or its successor as Declarant owns none of the Property, the Lot owners by a more than two-thirds majority vote shall be able to amend or terminate this Declaration. The Association may delegate its functions to an executive committee of the Association, made up of representatives of three (3) Lot owners. The Association may incorporate as a Virginia non-stock corporation upon agreement of a majority of the Lot owners.
- (f) These Covenants shall be in full force and effect immediately upon execution by the Declarant and Co-Declarant. The Declaration shall be in effect for a period of

twenty (20) years and shall be automatically renewable for successive periods of ten (10) years each thereafter.

VA Properties LLC, the successor Declarant to Gambit, LLC and Thomas A. Dingedine, Declarants under the original Declaration of Protective Covenants, Conditions and Standards for the Zion Crossroads Business Park recorded on December 19, 2000, in Deed Book 404, page 698, in the Clerks's Office of the Circuit Court of Fluvanna County, and Co-Declarant herein, unites in this instrument to extinguish the existing Declaration of Protective Covenants, Conditions and Standards previously recorded in said Clerk's Office in Deed Book 404, page 698, insofar as it relates to the Property as set forth in this Declaration and acknowledge their consent to the Covenants contained herein as the only declaration of Covenants, Conditions and Standards that are in effect for the Property from this time forward.

Witness the following signatures and seals:

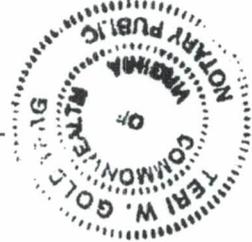
ZION CROSSROADS INVESTMENTS LLC

By: Frank T. Ballif
Frank T. Ballif, Manager



VA PROPERTIES LLC

By: John G. Nunley
John G. Nunley, Manager



COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF CHARLOTTESVILLE, to-wit:

The foregoing instrument was acknowledged before me this 2 day of July, 2004, by Frank T. Ballif, Manager of Zion Crossroads Investments LLC.

My Commission Expires: 3/31/07
[Signature]
Notary Public

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Albemarle, to-wit:

The foregoing instrument was acknowledged before me this 1st day of July, 2004, by John G. Nunley, Manager of VA Properties LLC.

My Commission Expires: 3/31/06
[Signature]
Notary Public

VIRGINIA: CLERK'S OFFICE OF THE CIRCUIT COURT OF FLUVANNA COUNTY

COVENANTS.DOC
7/1/04 12:43 PM

St. R. Tax	_____	The foregoing instrument with acknowledgment was admitted to record on <u>July 14</u> , 20 <u>04</u> at <u>11:45 A</u> M. In D.B. <u>589</u> Page(s) <u>592-601</u> .
Co. R. Tax	_____	
Transfer	_____	
Clerk	<u>21 00</u>	
Grantor Tax	_____	
Plats	<u>40 00</u>	Recording costs paid as shown.
Total \$	<u>61 00</u>	Teste: <u>Sandra A. Pariseh</u> , Deputy Clerk Bouson E. Peterson, Jr., Clerk