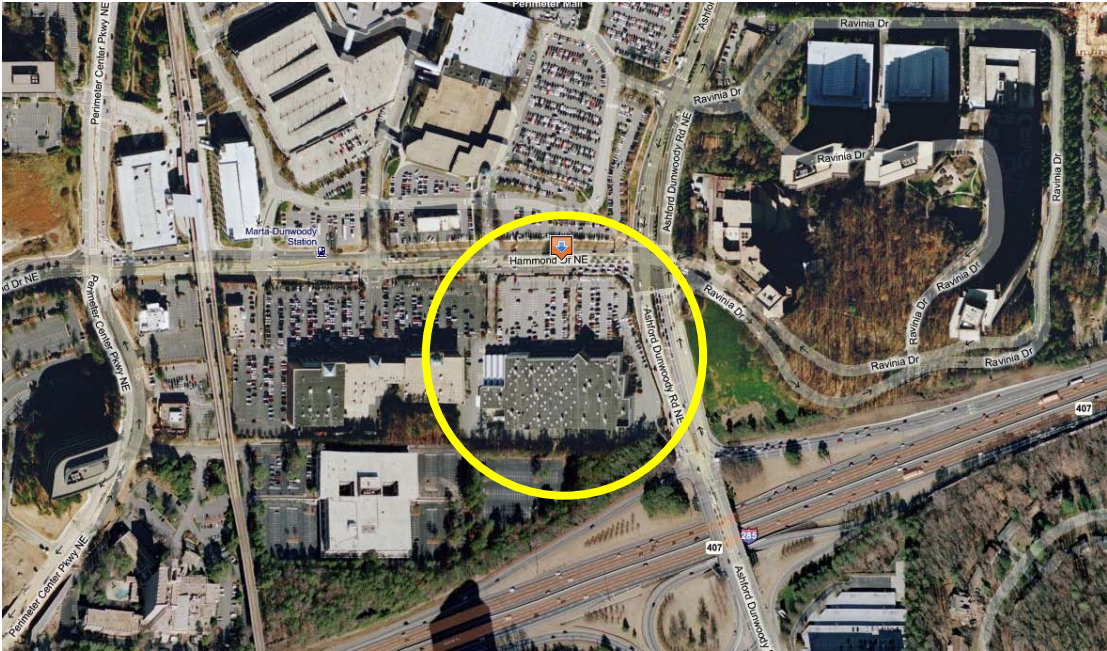


Property Location: SW corner of Ashford Dunwoody Road and Hammond Drive (LL 347/348)

Petitioner: Seaman Development Corporation
Represented by Carl Westmoreland, Jr., of Seyfarth Shaw, LLP
1545 Peachtree Street, Suite 700
Atlanta, Georgia 30309

Variance Request: Two (2) sign variances at the proposed adaptive re-use of an existing planned commercial center

Vicinity Map



The site is the former location of Home Depot’s Expo Design Center, located on the southwest corner of the intersection of Ashford Dunwoody Road and Hammond Drive. The property is currently zoned C-1 (Local Commercial District). The applicant’s request is for two sign variances for an existing 115,000 square foot building: one variance to allow multiple tenants in single structure to have individual signage, and one request to allow additional tenant signage on the “non-façade” side of a building.

Site Plan Analysis

The site is square in shape, at its widest approximately 625 feet wide and 560 feet deep, comprising 365,468 square feet (8.39 acres). The site is a corner lot, with frontages on both Hammond Drive and Ashford Dunwoody, but only takes direct vehicular ingress/egress from Hammond Drive.

Therefore, by the Dunwoody Sign Ordinance definition, the existing structure has only one façade, a façade being defined as “the exterior wall of a building facing any street which provides direct ingress and egress to the lot.” The building sits approximately 280 feet south of the Hammond Drive edge of pavement, and 100 feet west of the Ashford Dunwoody edge of pavement, totaling 115,000 square feet. The applicant, upon acquisition of the property, proposes to expand the footprint on the northwest corner of the one existing building by 6,710 square feet, which will have no appreciable impact on the building’s proximity to the right-of-way. After expansion, the new building will house three retail stores: a “Rooms To Go” furniture store, and two as yet un-named retail tenants.

Requested Variances

The following variances are requested by the developer, in furtherance of the retail use of the site.

- (1) Variance from Chapter 21, Section 12(b) to permit a 150 square foot wall sign on the Ashford Dunwoody Road side of the existing retail building; **Staff does not support this request**, as it confers to this applicant a privilege not extended to other corner lot tenants in the city limits. Additionally, the request is discretionary in nature, because not granting the request does not preclude the use of the site for a retail center as planned.
- (2) Variance from Chapter 21, Section 12(b) to permit two additional wall signs on the Hammond Drive façade of the existing building to permit each tenant in the building to have its own sign identifying the main entrance of each store; **Staff supports this variance**, for two reasons: current multi-tenant sites throughout the city already have individual signage associated with their tenant space, so no special privilege is being conveyed to the applicant, and in a larger context, it is a usual and customary practice regionally to have each tenant in a multi-tenant single structure split the allowable aggregate square footage between the tenants over multiple signs. Staff will most likely address this issue in future updates and amendments to the sign code.

Conditions of the Sign Ordinance

Article 3, §18 of the City of Dunwoody Sign Ordinance identifies the following criteria for evaluation that should be examined when determining the appropriateness of a variance:

- (1) Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other lands or structures in the area; *Related to item #1 above, there is no access to the site from the east, so east-facing signage is for advertising purposes only and serves no purpose to identify the businesses therein. In regards to item #2 above: The distance between Hammond Drive and the buildings only façade make multiple signage acceptable. Additionally, when the existing structure housed only a single-tenant, one sign for the entire façade was acceptable. The plan indicated by the applicant is to split the structure into three tenant spaces. Each tenant should be allowed individually advertise their business, consistent with other businesses regionally.*
- (2) Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated; *For item #1, granting the variance would –without question– confer on the applicant significant privileges which are denied to others similarly situated, and yet for item #2 the exact opposite is the case.*

- (3) The exceptional circumstances are not the result of action by the applicant; *The applicant did not self-create any site specific aspect related to this request.*
- (4) The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated; For item #1, this is not the case, for item #2 it is the exact case.
- (5) Granting of the variance would not violate more than one (1) standard of this Article; and *Granting request #2 above could be construed as granting two variances: one to allow the more than one sign on a primary façade, and the other allowing more than 150 total square feet of signage for wall sign(s). The applicant assumes that granting a variance to the number of signs allows each sign to comprise 150 square feet, which in practice is acceptable in the context of the size of the site being developed. Item #1 above is a request for one additional sign of only 150 square feet, therefore it does not impact this requirement.*
- (6) Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic. *Granting one or both variances would not violate this requirement.*

Attachments

- Application packet
- Sign plan prepared by Integrated Sign Engineering & Design, dated 06/04/09.









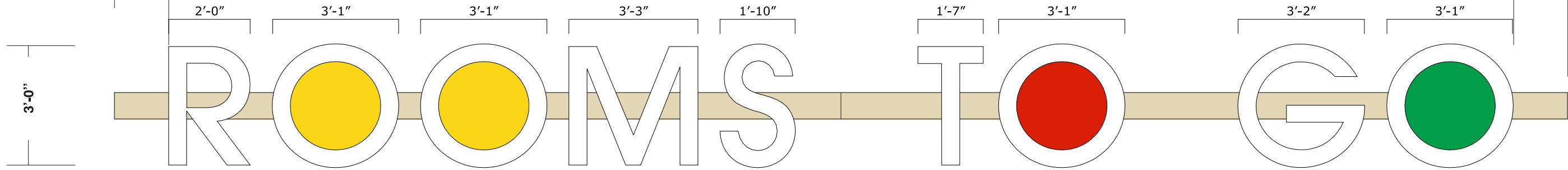


PHASE A

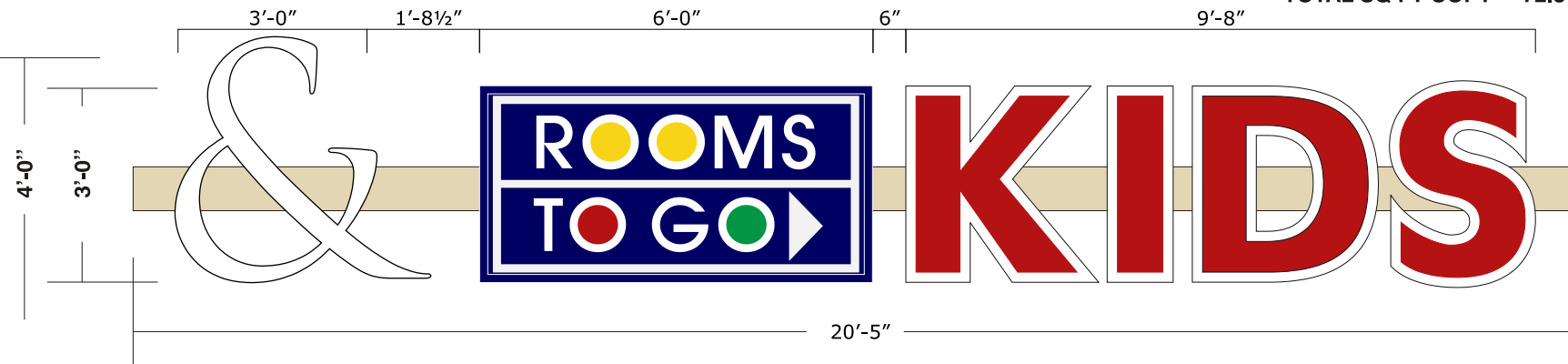
PROJECTED LENGTH OF 8" CURVED CHANNEL

36'-0"

33'-4"



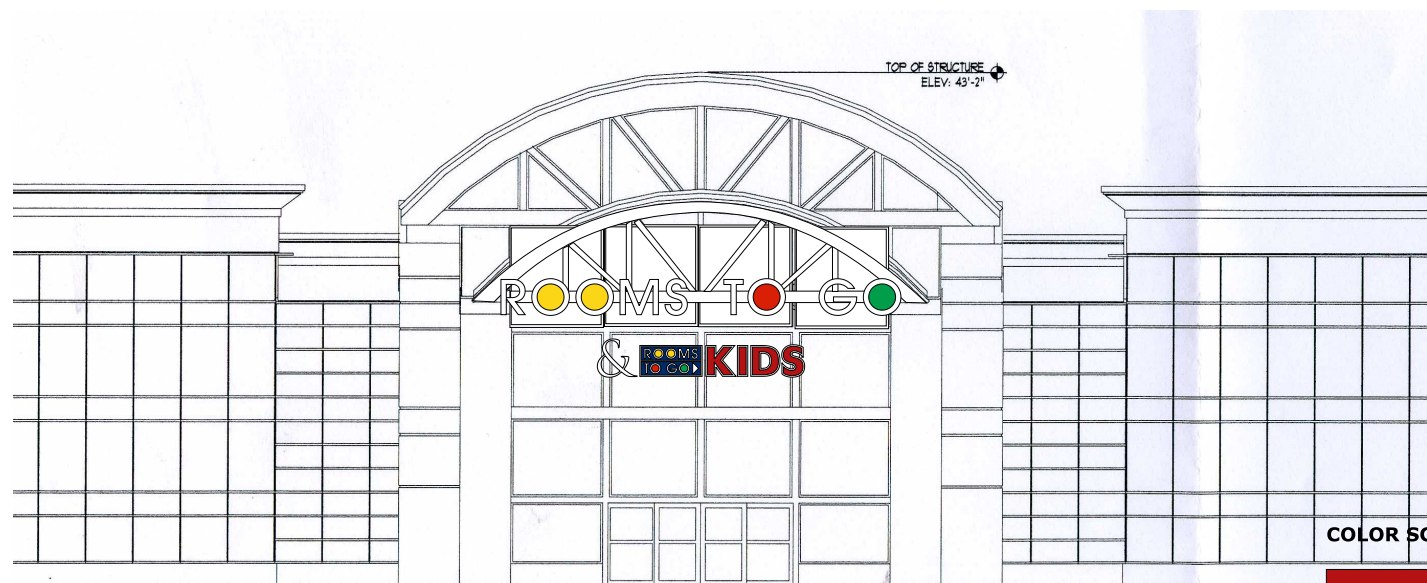
SCALE: 3/8" = 1'-0"
TOTAL SQ FT COPY = 72.3



MANUFACTURE & INSTALL ONE (1) SET OF ILLUMINATED SELF CONTAINED CHANNEL LETTERS TO BE MOUNTED TO 8" CURVED STEEL CHANNEL ON SOUTH ELEVATION.

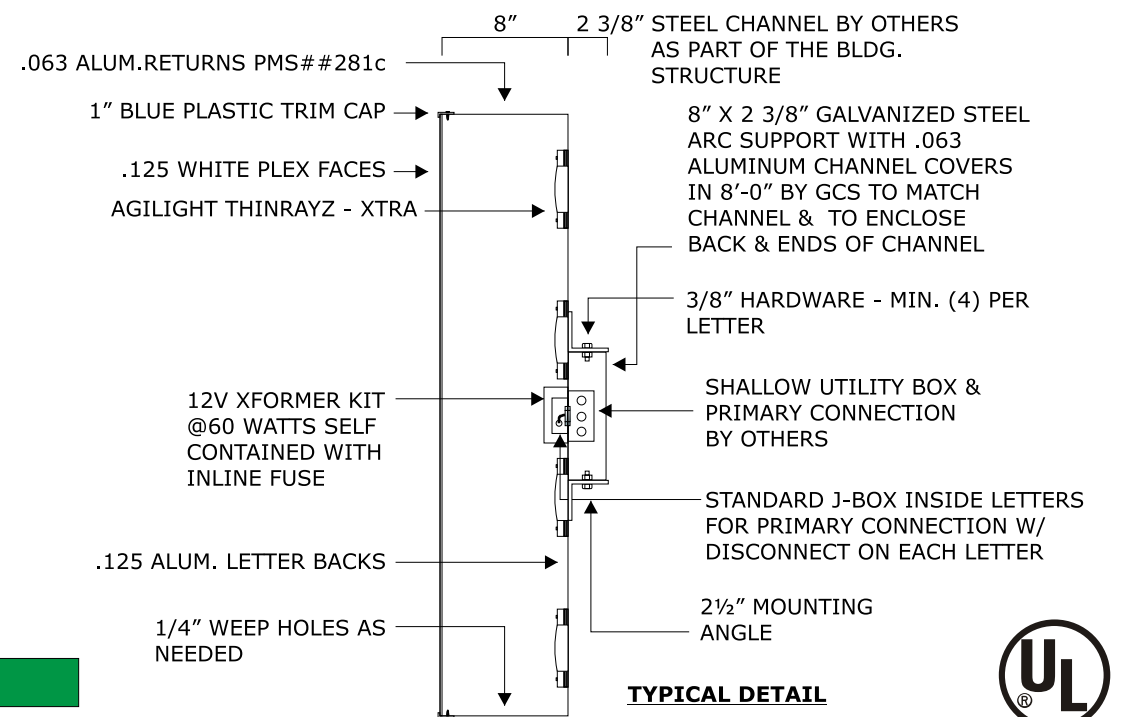
ELECTRICAL REQUIREMENTS

211 MODULES AGILIGHT THINRAYZ - XTRA (WHITE) LED's
9 12V TRANSFORMER KIT @ 60 WATTS - SELF CONTAINED WITH INLINE FUSE
1.0 AMP EACH TOTAL AMPS - 9.0 +25% CONTINUOUS SERVICE - 11.25 AMPS
AT 120 VOLTS A/C. REQUIREMENTS ARE PER SET.



FRONT ELEVATION
SCALE: 1/16" = 1'-0"

COLOR SCHEDULE:



INTEGRATED



INTEGRATED SIGN ENGINEERING & DESIGN
7007 Webber Road Sarasota, FL 34240
Phone: 941.379.5911 Cell: 941.302.1745
Fax: 941.379.5919 Email: JLeeISED@aol.com

DESIGN #09C096-R2-1/3 DATE: 6/4/09

SCALE: 3/8" = 1' 0"

DRAWN BY: MB

JOB NAME: ROOMS TO GO

ADDRESS: HAMMOND DR. @ ASHFORD DUNWOODY RD.

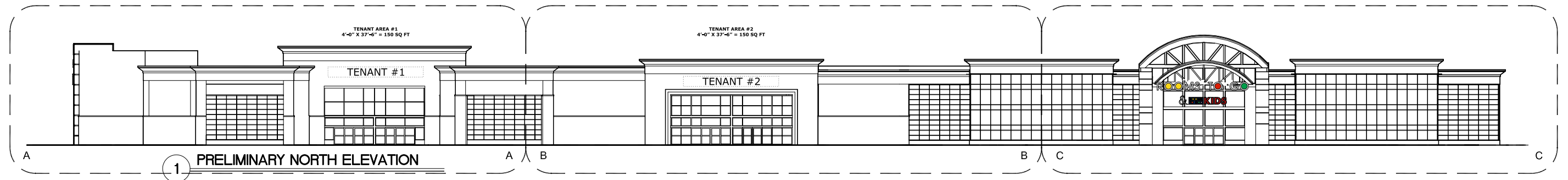
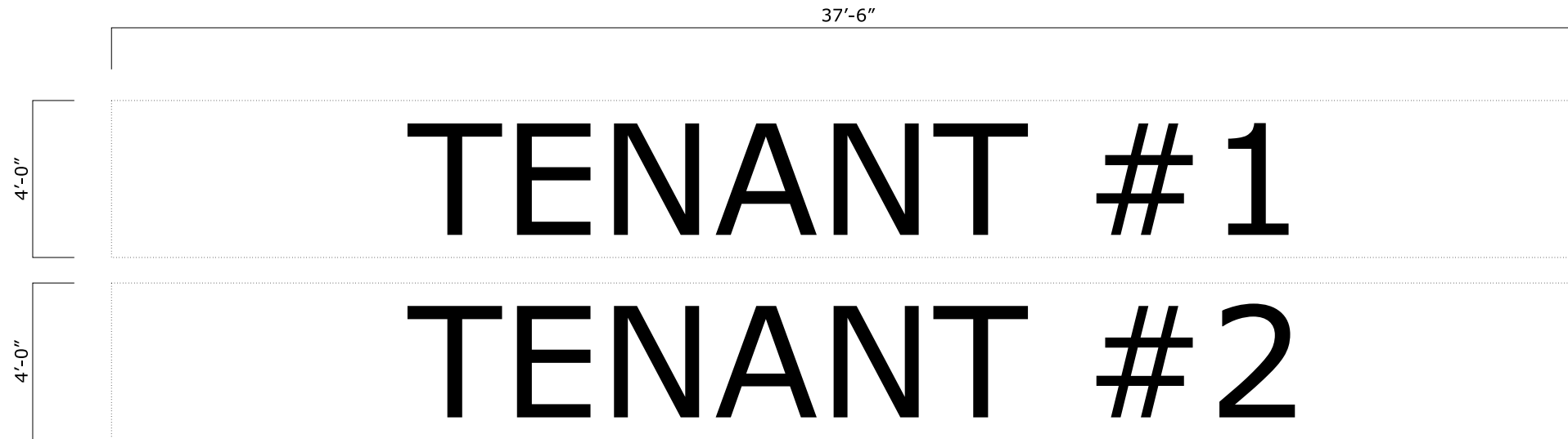
CITY: ATLANTA STATE: GA ZIP:

CUSTOMER APPROVAL

APPROVED **APPROVED AS NOTED**
DATE: / /
BY: _____

THIS DESIGN (EXCEPT REGISTERED OR EXISTING TRADEMARKS) IS THE PROPERTY OF INTEGRATED SIGN ENGINEERING & DESIGN AND SHALL NOT BE USED, REPRODUCED OR COPIED IN WHOLE OR IN PART WITHOUT WRITTEN PERMISSION.

PHASE A



INTEGRATED



INTEGRATED SIGN ENGINEERING & DESIGN
 7007 Webber Road Sarasota, FL 34240
 Phone: 941.379.5911 Cell: 941.302.1745
 Fax: 941.379.5919 Email: JLee@ISED@aol.com

DESIGN #09C096-R2-2/3 DATE: 6/4/09

SCALE: 1/4" = 1' 0"

DRAWN BY: MB

JOB NAME: ROOMS TO GO

ADDRESS: HAMMOND DR. @ ASHFORD DUNWOODY RD.

CITY: ATLANTA STATE: GA ZIP:

CUSTOMER APPROVAL

APPROVED APPROVED AS NOTED

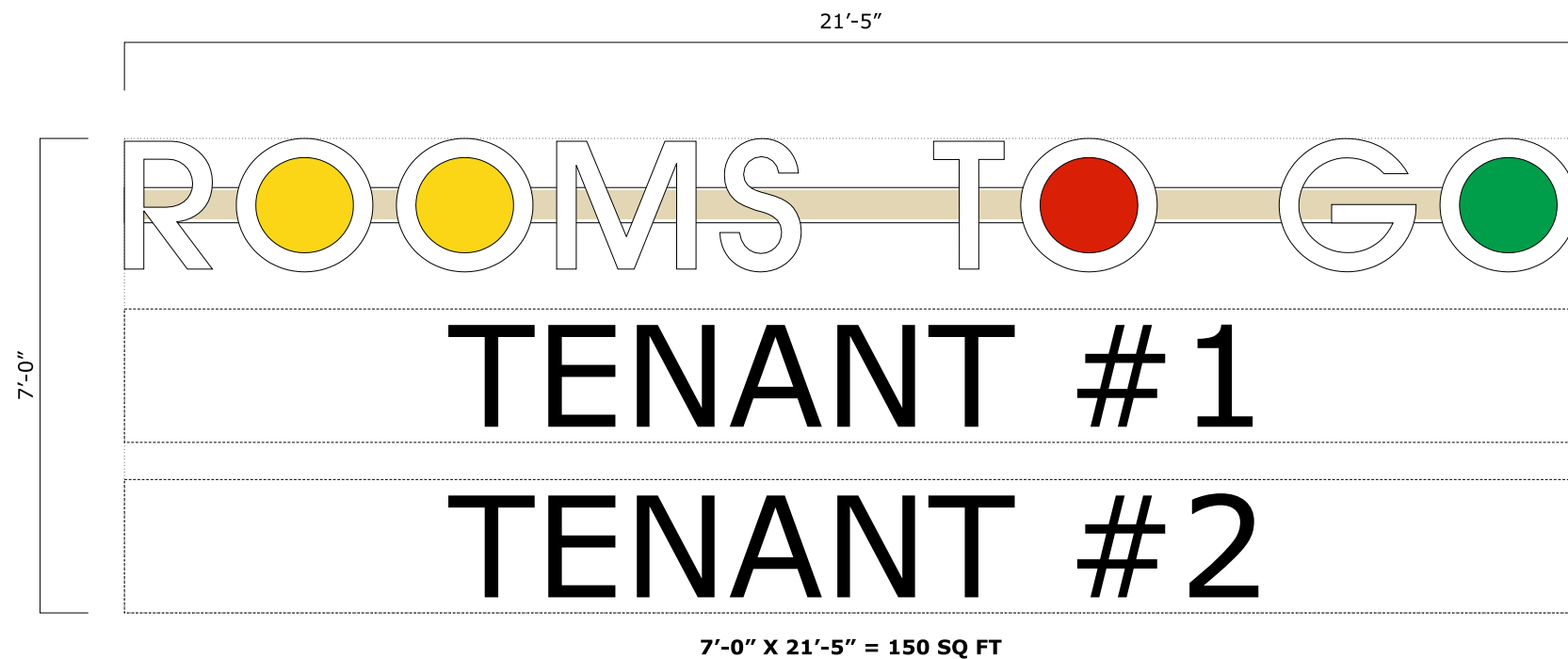
DATE: / /

BY: _____

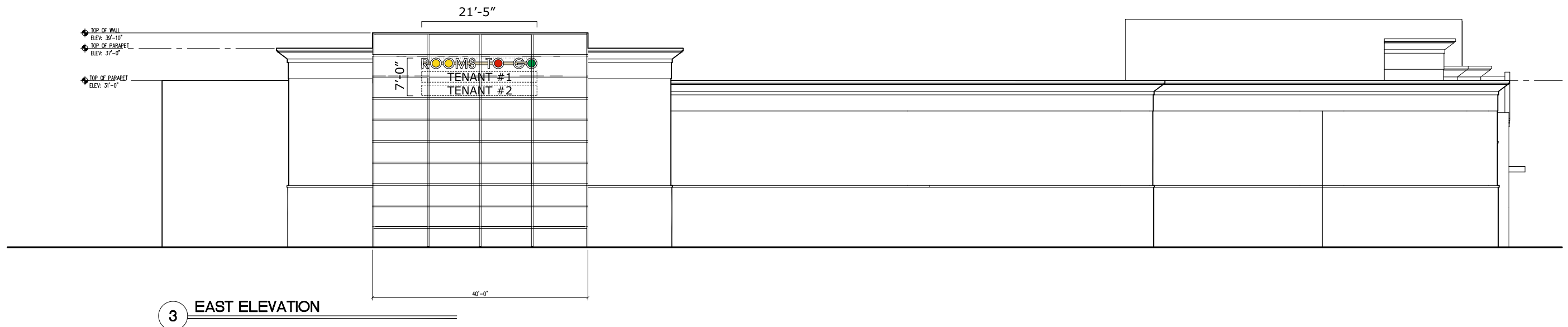
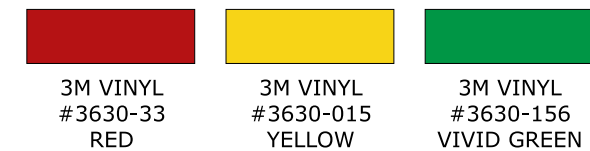
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This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign

PHASE B



MANUFACTURE & INSTALL ONE (1) SET OF ILLUMINATED CHANNEL LETTERS ON RACEWAY TO MOUNT ON PROVIDED BRACKETS AT EAST ELEVATION.



INTEGRATED



INTEGRATED SIGN ENGINEERING & DESIGN
 7007 Webber Road Sarasota, FL 34240
 Phone: 941.379.5911 Cell: 941.302.1745
 Fax: 941.379.5919 Email: JLeeISED@aol.com

DESIGN #09C096-R2-3/3 DATE: 6/4/09

SCALE: 3/8" = 1' 0"

DRAWN BY: MB

JOB NAME: ROOMS TO GO

ADDRESS: HAMMOND DR. @ ASHFORD DUNWOODY RD.

CITY: ATLANTA STATE: GA ZIP:

CUSTOMER APPROVAL

APPROVED APPROVED AS NOTED
 DATE: / /
 BY: _____

THIS DESIGN (EXCEPT REGISTERED OR EXISTING TRADEMARKS) IS THE PROPERTY OF INTEGRATED SIGN ENGINEERING & DESIGN AND SHALL NOT BE USED, REPRODUCED OR COPIED IN WHOLE OR IN PART WITHOUT WRITTEN PERMISSION.

This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign

LETTER OF INTENT

Pursuant to this application, the applicant seeks the following variances and special exceptions:

- (1) Variance from Chapter 21, Section 12(b) to permit a 150 square foot wall sign on the Ashford Dunwoody Road side of the existing retail building;
- (2) Variance from Chapter 21, Section 12(b) to permit two additional wall signs on the Hammond Drive façade of the existing building to permit each tenant in the building to have its own sign identifying the main entrance of each store;
- (3) Variance from Chapter 27, Section 2Y-10 to increase the lot coverage permitted from eighty percent (80%) to ninety-one percent (91 %);
- (4) Variance from Chapter 27, Section 4-21 to eliminate the landscaping requirements for parking lots and permit the existing landscaping as shown on the site plan included in this application;
- (5) Variance from Chapter 27, Section 2Y-7 to eliminate the 50 foot transitional buffer along the west property line where the site abuts the R-150 zoned cemetery property to permit existing conditions to remain.
- (6) Variance from Chapter 27, Section 2Y-6(c)(2) to eliminate the five foot landscape strip required within the west interior side yard setback;
- (7) Special exception from Chapter 27, Section 2Y-9 to reduce the required parking from 4.5 spaces per 1,000 square feet of retail as granted through a previous variance to 4.15 spaces per 1,000 square feet;
- (8) Special exception from Chapter 27, Section 4-23(b)(1) to reduce the required loading spaces from seven 12'x35' spaces to zero 12'x35 spaces; and
- (9) Variance from Chapter 14, Section 14 to permit the existing grandfathered water quality measures to remain in lieu of implementing the current City of Dunwoody requirements.

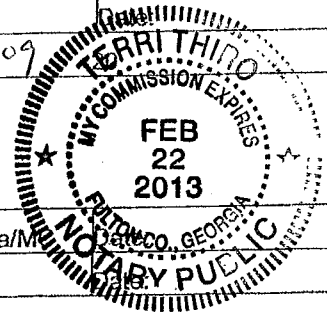
The variances and special exceptions sought by the applicant are necessary to renovate the existing Home Depot Expo building to accommodate a 6,710 square foot expansion of the existing building. Upon renovation the building will be occupied by two or three national retailers, including a Rooms To Go furniture store. Due to the extent and value of the proposed renovations, the applicant is required to bring the existing, grandfathered improvements into compliance with the existing City of Dunwoody ordinances.

Variance Application



City of Dunwoody
 400 Northridge Road, Suite 1250
 Atlanta, GA 30350
 Phone: (678) 382-6800
 Fax: (678) 382-6701

Type	Type of Request: <input checked="" type="checkbox"/> Variance (BZA) <input type="checkbox"/> Variance (Administrative)					
	Concurrent Variance(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide rezoning case #:					
			Square Feet		Acre	
			Minimum Setback Requirements		Proposed Setback Requirements	
	Total Area of Lot	365,599	8.393	Front 75	Front	N/A
Building Footprint	per site plan		Side 20	Front	N/A	
# of Parking Spaces	per site plan		Rear 30	Front	N/A	
Height			Other	Front	N/A	
Project	Name of Project/Subdivision:					
	Property Address/Location: southwest intersection of Ashford Dunwoody Road and Hammond Drive					
	Land Lot: 347/348	District: 18		Section:	Property ID:	
	Lot Number:	Block:		Present Zoning: C-1C	Proposed Zoning:	
Applicant Information	Name: Seaman Development Corp.					
	Company:					
	Address: 400 Perimeter Center Terrace, Suite 800, Atlanta, Ga. 30346					
	Phone: (678) 475-0499			Fax: (770) 352-9953		
	Cell:			Email: jfinkel@roomstogo.com		
Representative	Name: Carl E. Westmoreland, Jr.					
	Company: Seyfarth Shaw LLP					
	Address: 1545 Peachtree Street, Suite 700, Atlanta, Ga. 30309					
	Phone: (404) 885-6704			Phone:		
	Cell:			Cell: email: cwestmoreland@seyfarth.com		
Affidavit	To the best of my knowledge, this variance application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Dunwoody Zoning Ordinance. I understand that failure to supply all required information (per the relevant Applicant Checklists and Requirements of the Dunwoody Zoning Ordinance) will result in the rejection of this application. I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My Signed Campaign Disclosure Statement is included with the Application.					
	Applicant's Signature: <i>[Signature]</i>				Date: 6/3/09	
Representative's Signature: <i>[Signature]</i>						
Notary	Sworn to and subscribed before me this 3 Day of June 2009					
	Notary Public: Terri Thiro					
	Signature: <i>[Signature]</i>			Date: June 3, 2009		
Office Use	Fee: \$		Payment: <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> CC - Visa/MC			
	<input type="checkbox"/> Approved <input type="checkbox"/> Denied By:					



**Property Owner(s)
Notarized Certification**



City of Dunwoody
400 Northridge Road, Suite 1250
Atlanta, GA 30350
Phone: (678) 382-6800
Fax: (678) 382-6701

Variance

The owner and petitioner acknowledge that this ~~Land Use Petition~~ application form is correct and complete. If additional materials are determined to be necessary, the understand that they are responsible for filing additional materials as specified by the City of Dunwoody Zoning Ordinances.

Property Owner	Signature: <u>Home Depot USA, Inc., by: Thomas K. Anderson</u>		Date: <u>6-2-2009</u>
	Address: <u>2455 Paces Ferry Rd</u>		City, State: <u>Atlanta, GA</u> Zip: <u>30339</u>
	Phone: <u>770-384-5085</u>		
	Sworn to and subscribed before me this <u>2nd</u> day of <u>June</u> , 20 <u>09</u>		
Notary Public: <u>Evelyn R. Clayton</u>			
Property Owner (If Applicable)	Signature:		Date:
	Address:		City, State: Zip:
	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20_____		
Notary Public:			
Property Owner (If Applicable)	Signature:		Date:
	Address:		City, State: Zip:
	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20_____		
Notary Public:			

Variance Application



City of Dunwoody
 400 Northridge Road, Suite 1250
 Atlanta, GA 30350
 Phone: (678) 382-6800
 Fax: (678) 382-6701

Request	<p>Please explain the reason for the request and attach additional information as necessary.</p> <p style="text-align: center;">SEE ATTACHED</p>
Orientation	<p><i>Prior to the submission of a variance application, the applicant is required to schedule an orientation meeting with the appropriate planner in the Planning and Zoning Division of the Community Development Department. The purpose of this meeting is to determine the number and nature of the variances requested, become familiar with the appeals process and obtain preliminary input from staff. A meeting date before the Board of Zoning Appeals will be scheduled upon a determination of completeness and compliance of the application. The applicant or representative must attend the meeting and make the presentation. An Orientation Meeting is NOT required for an Administrative Variance.</i></p> <p>Orientation Meeting Date: May 7, 2009</p> <p>Board Meeting Date:</p> <p>Zoning Director Comments:</p>
Remarks	<p>Planning & Zoning Director: _____ Date: _____</p>

One Peachtree Pointe
1545 Peachtree Street, N.E.
Suite 700
Atlanta, GA 30309-2401
(404) 885-1500
fax (404) 892-7056
www.seyfarth.com

Writer's direct phone
(404) 885-6729
Writer's e-mail
jlhill@seyfarth.com
Writer's direct fax
(404) 724-1729

June 4, 2009

VIA HAND DELIVERY

Ms. Jennifer Peterson
Community Development Director
City of Dunwoody
41 Perimeter Center East
Dunwoody, Georgia 30346

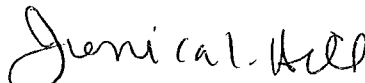
Re: Seaman Development Corp. variance application for property located at the intersection of Hammond Drive and Ashford Dunwoody Road

Dear Jennifer:

This letter explains the relationship of the parties in the above captioned variance application. Home Depot USA, Inc. owns the subject property. Seaman Development Corp., the Applicant in the above captioned application, has the property under contract to purchase. Seyfarth Shaw, LLP is the law firm representing Seaman Development Corp. in the variance application and is listed in the application as the Representative. Please let me know if further clarification is required.

Very truly yours,

SEYFARTH SHAW LLP


Jessica L. Hill

ATLANTA BOSTON CHICAGO HOUSTON LOS ANGELES NEW YORK SACRAMENTO SAN FRANCISCO WASHINGTON, D.C. BRUSSELS

Statement of Current Zoning and Land Use of Property and Proposed Land Use

The subject property is currently zoned C-1 conditional and is currently used for retail purposes. The comprehensive land use plan is still in the process of being adopted by the City of Dunwoody. The applicant seeks to continue to use the subject property for retail purposes.