

AMENDMENT

CASE NO: 4C0238-5-EB LAWS/REGULATIONS INVOLVED:
PERMITTEES: *Hannaford Brothers Co. and* 10 V.S.A. Ch. 151 (Act 250)
Southland Enterprises, Inc.

The Vermont Environmental Board hereby issues Land Use Permit 4C0238-5-EB, pursuant to the authority vested in it by 10 V.S.A. §§6001-6092 . This permit amendment applies to the lands identified in Volume 218, Page 91 of the Land Records of the City of South Burlington, Vermont, as the subject of a deed to Burlington Mall, Inc. (now known as Southland Enterprises, Inc.), a Permittee as Grantee.

This permit specifically authorizes the construction of a Lowe's Home Improvement Center, including the following: relocation and enlargement (from 107,806 s.f. to 121, 292 s.f.) of previously approved Building C; addition of an outdoor garden center; elimination of previously approved Building B; parking changes and other site changes from the previously approved plans. The Project is located off Shelburne Road in the City of South Burlington.

The Permittees, their assigns, and successors in interest, are obligated by this permit to complete, operate, and maintain the Project in accordance with the following conditions:

1. The Project shall be completed, operated and maintained in accordance with: (a) the terms and conditions of Land Use Permit 4C0238-5 issued by the District 4 Environmental Commission on June 18, 2001, except as amended hereby; (b) *Hannaford Brothers Co. and Southland Enterprises, Inc.*, Land Use Permit 4C0238-5-EB, Findings of Fact, Conclusions of Law, and Order, issued on even date herewith, (c) the plans and exhibits on file with the Vermont Environmental Board; and (d) the conditions of this permit. The Permittees shall not make any changes to the Project without the written approval of the District 4 Environmental Commission.
2. The Project shall be operated so as not to exceed 55 db(A) Lmax between the daytime hours of 7:00 a.m. and 7:00 p.m., as measured at the following locations: 11 Maple Avenue and 25 Central Avenue, 54 Central Avenue, and 90 Central Avenue in Queen City Park, South Burlington, and at the residential property immediately to the south of the Project. The Project shall also be operated so as not to exceed 45 db(A) Lmax between the nighttime hours of 7:00 p.m. and 7:00 a.m., as measured at the above-noted locations.

3. The Permittees shall file a written noise monitoring report with the Commission within six months after the opening of the Project. The report shall contain the results of a noise monitoring study conducted after the opening of the Project by a noise consultant retained by Permittees. The Commission shall approve the consultant selected by the Permittees after an opportunity for comment on the selection by all parties. The post-opening study conducted by the consultant shall measure broadband, A-weighted one-hour Leq and Lmax sound levels on the east side of the Wilber, Katz, Yankowski and Copp/Hodgson residences, and at the residential property immediately to the south of the Project, with all typical Project noise sources in operation, and broadband, A-weighted five-minute Leq sound levels at each location without the Project noise sources in operation, to establish a background level. The consultant shall observe the sound levels in real time, and shall record the maximum levels for observed events, to confirm the noise source for each such event. The written report shall state the monitoring results and noise generated by the Project in comparison with ambient sound levels.
4. On request, or upon the complaint of a party, or on its own motion, the Commission may reopen the hearing and impose additional conditions, including further monitoring requirements and/or the construction of additional sound mitigating devices, should the reported noise levels from the Project operation exceed, or should the Commission have reasonable grounds to believe that the noise levels from the Project operation exceed, those previously predicted by the Permittees' consultant, as set forth in Finding of Fact 52 of *Hannaford Brothers Co. and Southland Enterprises, Inc.*, Land Use Permit 4C0238-5-EB, Findings of Fact, Conclusions of Law, and Order, issued on even date herewith.
5. There shall be no exterior loading of the trash compactor and no testing of the emergency generator between the nighttime hours of 7:00 p.m. and 7:00 a.m. The loudspeakers for outdoor paging / telephone system shall be located only in the garden center or on the east (front) facade of the store, and shall face northeast, east or southeast. The outdoor paging / telephone system shall not be operated between the nighttime hours of 7:00 p.m. and 7:00 a.m.
6. Condition 32, the first Condition 33 (relating to adjustable backup alarms for forklifts), and Condition 35 of Land Use Permit 4C0238-5, issued by the District 4 Environmental Commission, are deleted and superceded.

Dated at Montpelier, Vermont this 9th day of April 2002.

ENVIRONMENTAL BOARD

___/s/Marcy Harding_____

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