

1 Minutes of the regular monthly meeting of the Planning Commission of the  
2 County of Henrico held in the County Administration Building in the Government  
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. October  
4 11, 2012. Display Notice having been published in the Richmond Times-Dispatch  
5 on September 24, 2012 and October 1, 2012.  
6

Members Present: Mr. Tommy Branin, Chairman (Three Chopt)  
Mrs. Bonnie-Leigh Jones, C.P.C., Vice Chairman (Tuckahoe)  
Mr. C. W. Archer, C.P.C. (Fairfield)  
Mr. Eric Leabough, C.P.C. (Varina)  
Mr. Robert H. Witte, Jr. (Brookland)  
Mr. R. Joseph Emerson, Jr., AICP,  
Director of Planning, Secretary  
Mr. Frank J. Thornton,  
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning  
Mr. James P. Strauss, CLA, Principal Planner  
Mr. Benjamin Blankinship, AICP, Principal Planner  
Ms. Rosemary D. Deemer, AICP, County Planner  
Mr. Benjamin Sehl, County Planner  
Mr. Livingston Lewis, County Planner  
Mrs. Lisa J. Blankinship, County Planner  
Mr. Justin Doyle, County Planner  
Mr. Mike Jennings, Assistant Director of Public Works  
Ms. Kim Vann, Henrico Police  
Ms. Sylvia Ray, Recording Secretary

7  
8 **Mr. Frank J. Thornton, the Board of Supervisors' representative, abstains**  
9 **on all cases unless otherwise noted.**

10  
11 Mr. Branin - Good evening to everybody in the room, and welcome  
12 to Henrico County's Planning Commission Rezoning meeting for October 11<sup>th</sup>. I  
13 want to welcome everybody. I thank Mr. Thornton for being with us; he's our  
14 Supervisor that's sitting with us this year. If everybody would do me the courtesy  
15 of taking your cell phones out and making sure they are off or on vibrate, I would  
16 appreciate it. Now, if everybody would please join me in standing for the Pledge  
17 of Allegiance.

18  
19 I don't believe we have anybody from the news media in the room tonight. With  
20 that, I'm going to move it over to Mr. Secretary.

21  
22 Mr. Emerson - Thank you, Mr. Chairman. The first item on your  
23 agenda tonight are the requests for withdrawals and deferrals. Those will be  
24 presented by Mr. Jim Strauss.  
25

26 Mr. Strauss - Thank you. Good evening members of the  
27 Commission. We have two requests for deferral this evening. The first is on page  
28 two of the agenda in the Three Chopt District. It is C-13C-11. The applicant is  
29 requesting deferral to the November 8, 2012 meeting.  
30

31 **C-13C-11 James W. Theobald for Highwoods Properties:**  
32 Request to conditionally rezone from UMUC Urban Mixed Use District  
33 (Conditional), O-2C Office District (Conditional), and A-1 Agricultural District to  
34 UMUC Urban Mixed Use District (Conditional) Parcels 749-765-7952, 750-765-  
35 0494, 750-765-4697, 750-766-3162, and 750-767-3526 containing 39.46 acres  
36 located at the southwest intersection of Cox Road and Sadler Place and the  
37 northeast intersection of Sadler Place and Sadler Road. The applicant proposes  
38 an urban mixed-use development with up to 2,324,000 square feet of  
39 commercial, office, and residential uses. The uses will be controlled by zoning  
40 ordinance regulations and proffered conditions. The 2026 Comprehensive Plan  
41 recommends Urban Mixed-Use and Environmental Protection Area and is  
42 located in the Innsbrook Study Area.  
43

44 Mr. Branin - Is anyone in opposition to the deferral of C-13C-11,  
45 James W. Theobald for Highwoods Properties? No one? Then I would like to  
46 move that of C-13C-11, James W. Theobald for Highwoods Properties, be  
47 deferred to the November 8 meeting per the applicant's request.  
48

49 Mrs. Jones - Second.  
50

51 Mr. Branin - Motion by Mr. Branin, seconded by Mrs. Jones. All in  
52 favor say aye. All opposed say no. That motion carries.  
53

54 At the request of the applicant, the Planning Commission deferred of C-13C-11,  
55 James W. Theobald for Highwoods Properties, to its meeting on November 8,  
56 2012.  
57

58 Mr. Strauss - The second request for deferral is also in the Three  
59 Chopt District on page two of the agenda. This is case P-10-11, Highwoods  
60 Properties. The applicant is requesting referral to the November 8<sup>th</sup> meeting.  
61

62 **P-10-11 James W. Theobald for Highwoods Properties:**  
63 Request for Provisional Use Permits under Sections 24-32.1(a), 24-32.1(e), 24-  
64 32.1(f), 24-32.1(g), 24-32.1(i), 24-32.1(j), 24-32.1(k), 24-32.1(l), 24-32.1(n), 24-  
65 32.1(o) 24-32.1(q), 24-32.1(s), 24-32.1(t), 24-32.1(z), 24-32.1(aa), and 24-  
66 34.1(bb) of Chapter 24 of the County Code, to permit certain uses and  
67 exceptions to density, height, setbacks and square footages of uses within the  
68 proposed Urban Mixed Use Development on Parcels 749-765-7952, 750-765-  
69 0494, 750-765-4697, 750-766-3162, and 750-767-3526 containing 39.46 acres  
70 located at the southwest intersection of Cox Road and Sadler Place and the  
71 northeast intersection of Sadler Place and Sadler Road. The existing zoning is

72 UMUC Urban Mixed Use District (Conditional), O-2C Office District (Conditional),  
73 and A-1 Agricultural District. The 2026 Comprehensive Plan recommends Urban  
74 Mixed-Use and Environmental Protection Area and is located in the Innsbrook  
75 Study Area.

76  
77 Mr. Branin - Is anyone in opposition to the deferral of P-10-11,  
78 James W. Theobald for Highwoods Properties? No one? Then I would like to  
79 move that P-10-11, James W. Theobald for Highwoods Properties, be deferred to  
80 the November 8<sup>th</sup> meeting as well, per the applicant's request.

81  
82 Mrs. Jones - Second.

83  
84 Mr. Branin - Motion by Mr. Branin, second by Mrs. Jones. All in  
85 favor say aye. All opposed say no. That motion carries.

86  
87 At the request of the applicant, the Planning Commission deferred P-10-11,  
88 James W. Theobald for Highwoods Properties, to its meeting on November 8,  
89 2012.

90  
91 Mr. Strauss - That completes the requests for deferrals this  
92 evening.

93  
94 Mr. Emerson - Mr. Chairman, there are no requests for expedited  
95 items this evening, so we move on to your regular agenda. The first item is a  
96 public hearing on zoning ordinance amendments.

97  
98 **PUBLIC HEARING ON ZONING ORDINANCE AMENDMENTS:** To Amend and  
99 Reordain Section 19-28 Titled "Extension of approvals to address housing crisis,"  
100 Section 19-93 Titled "Installation of improvements or bonding; release of bond,"  
101 and Section 24-106 Titled "Plan of Development (POD), administrative and  
102 schematic site plans" of the Code of the County of Henrico to Extend the Periods  
103 of Validity of Approved Plans and Plats and Allow Collection of Administrative  
104 Costs From Financial Guarantees

105  
106 Mr. Branin - Good evening, Mr. Blankinship. How are you this  
107 evening?

108  
109 Mr. Blankinship - Good evening, Mr. Chairman. I'm fine; thank you.  
110 Good evening, members of the Commission. This is the simplest amendment I've  
111 had the pleasure of bringing to you for quite some time.

112  
113 In the beginning of this year, there were two bills that passed the General  
114 Assembly and were signed by the Governor that made small changes in the state  
115 code enabling legislation. One is House Bill 571. In 2009, you'll remember that  
116 the General Assembly passed a law extending certain plat and POD approvals  
117 until July 1, 2014. As that date's approaching and the economy is recovering very

118 slowly, they have decided to extend those approvals for another three years to  
119 2017.

120

121 The other is Senate Bill 179, which provides some clarity to the situation when a  
122 developer defaults on a performance bond and there are administrative costs in  
123 addition to the hard costs involved with completing a project.

124

125 So we're bringing three sections before you for amendment. First of all, Section  
126 19-28 of the Subdivision Ordinance, simply changing the 2014 approvals to  
127 2017. On the second page of the amendment there is also a very similar  
128 provision in the Zoning Ordinance, Section 24-106, doing the same thing for  
129 plans of development, extending the 2014 dates to 2017. And then in Section 19-  
130 93 of the Subdivision Ordinance, we would add language at the end of that  
131 paragraph on installation of improvements or bonding to provide that if there is  
132 the necessity of the County taking over a project and completing it, then we can  
133 draw administrative costs out of the financial guarantee as well as the hard costs.

134

135 As you know, we held a work session on this matter last month. Today is your  
136 public hearing. We would request that you recommend approval of this  
137 amendment to the Board of Supervisors. We have tentative dates from them of  
138 November 8<sup>th</sup> for their work session and December 11<sup>th</sup> for their public hearing.

139

140 Mr. Branin - Does anybody have any questions for Mr.  
141 Blankinship? None. Well, looks like we're going to let you off easy tonight. And I  
142 have none. Mr. Secretary?

143

144 Mr. Emerson - Mr. Chairman, do you want to check to see if anybody  
145 would like to speak to this issue?

146

147 Mr. Branin - That's right. This is a public hearing. Does anybody  
148 have any questions for staff or the Commission in regards to this issue? None?  
149 Do you have one?

150

151 Male - [Speaking off the microphone.] May I ask a question  
152 about the [inaudible] [0:05:56]\*.

153

154 Mr. Branin - Pardon, sir?

155

156 Mr. Emerson - No sir. No sir, we're not to that on the agenda. Mr.  
157 Chairman, if there are no questions, a motion to recommend approval of the  
158 ordinance amendments as presented to the Board of Supervisors would be  
159 appropriate.

160

161 Mr. Branin - I'll entertain a motion.

162

163 Mr. Leabough - So move.

164  
165 Mr. Witte - Second.  
166  
167 Mr. Branin - The Motion to adopt these and move them on to the  
168 Supervisors was made by Mr. Leabough, seconded by Mr. Witte. All in favor say  
169 aye. All opposed say no. That motion carries.  
170  
171 Mr. Emerson - Mr. Chairman, that now takes us to the second item  
172 on your agenda on page one, P-15-12.  
173  
174 **P-15-12 Commercial Site Design for Cook-Out**  
175 **Restaurants:** Request for a Provisional Use Permit under Section 24-58.2(a),  
176 24-120 and 24-122.1 of Chapter 24 of the County Code in order to allow  
177 extended hours of operation for a proposed restaurant (Cook-Out) on parts of  
178 Parcels 813-718-6145 and 813-718-3037 located on the west line of S.  
179 Laburnum Avenue at its intersection with Interstate 64 eastbound. The existing  
180 zoning is B-2C Business District (Conditional) and B-3 Business District. The  
181 2026 Comprehensive Plan recommends Commercial Concentration. The site is  
182 located in the Airport Safety Overlay District. The staff report will be presented  
183 by Ms. Rosemary Deemer.  
184  
185 Mr. Branin - Good evening Ms. Deemer.  
186  
187 Ms. Deemer - Good evening.  
188  
189 Mr. Branin - Is anyone in opposition to P-15-12, Commercial Site  
190 Design for Cook-Out Restaurants? No one? Someone?  
191  
192 Male - [Speaking off the microphone.] This is now the  
193 restaurant?  
194  
195 Ms. Deemer - No, this is for a Cook-Out restaurant.  
196  
197 Mr. Branin - This is for Cook-Out Restaurant, sir. Do you have an  
198 agenda, by chance?  
199  
200 Male - I'm interested in P-16-12.  
201  
202 Ms. Deemer - This is P-15-12.  
203  
204 Mr. Branin - This is P-15-12, sir. Do you have an agenda? I'll be  
205 happy to give you mine.  
206  
207 Mr. Archer - They're in the back.  
208

209 Mr. Branin - Okay. Let me restate. Is anyone in opposition to P-15-  
210 12, the Cook-Out Restaurant? No one? Ms. Deemer.

211  
212 Ms. Deemer - Mr. Chairman, members of the Commission, this is a request  
213 for a Provisional Use Permit to allow extended hours of operation for a proposed  
214 Cook-Out restaurant with drive-thru service.

215  
216 The restaurant would adaptively reuse a former Wachovia bank now operating as  
217 a title loan servicing establishment and would include fast-food style restaurant  
218 service, convenience seating, and drive-thru service.

219  
220 The majority of the subject property, rezoned in 1986 via case C-32C-86, is zoned  
221 B-2C, while the northeastern most corner is zoned unconditioned B-3 Business  
222 District. Proffers for the case limited access points, architectural design, gross floor  
223 area, building height, landscape buffering, and parking lot lighting, and prohibited  
224 several uses. Use restrictions were removed via case C-24C-00.

225  
226 The applicant is requesting to extend hours of operation until 2 a.m., and as the  
227 majority of the site is located in B-2 zoning, this necessitates a Provisional Use  
228 Permit. The 2026 Comprehensive Plan recommends the site for Commercial  
229 Concentration, which is consistent with the proposed use. A similar request was  
230 granted in 2009 for the Steak-n-Shake located across Laburnum Avenue in the  
231 Shops at White Oak Village.

232  
233 Recent requests for extended hours have been approved in the area, and  
234 therefore staff could support the request with conditions 1 through 13 identified in  
235 the staff report.

236  
237 I'd be happy to answer any of your questions.

238  
239 Mr. Branin - Does anybody have any questions for Ms. Deemer?

240  
241 Mr. Witte - I have one. You said 1 through 13?

242  
243 Ms. Deemer - Yes sir.

244  
245 Mr. Witte - I have fourteen.

246  
247 Ms. Deemer - There are fourteen in the staff report. As we looked  
248 back on previous PUPs for other cases, we realized that we didn't need exactly  
249 to have security for midnight to 2 a.m.

250  
251 Mr. Witte - All right, thank you.

252

253 Mr. Leabough - I have a question for Ms. Vann regarding calls for  
254 service in the area related to the Steak-n-Shake. I just want to know what's going  
255 on across the street with regards to crime issues or calls for service.  
256

257 Ms. Vann - Yes sir. Good evening. Kim Vann with Henrico Police.  
258 For the Steak-n-Shake?  
259

260 Mr. Leabough - Yes.  
261

262 Ms. Vann - Yes sir, I do have those. For 2012, which was through  
263 October 7 of 2012, Steak-n-Shake has had fourteen calls for service and only  
264 two were between midnight and—I went ahead and said before 6 a.m., even  
265 though I know they open at five. For 2011—I'm not sure what month they opened  
266 in 2011, but they only had six calls for service, and none were between midnight  
267 and 6 a.m.  
268

269 Mr. Leabough - Thank you.  
270

271 Mrs. Jones - I have further questions before you escape. Do you  
272 see a difference in the potential for a problem with a freestanding situation versus  
273 a shopping center location? Is there anything here that gives you pause that  
274 would be different from the other restaurants that have extended hours?  
275

276 Ms. Vann - In regards to White Oak Village, the three that I know  
277 have had extended hours for Provisional Use Permits—7-Eleven, the Steak-n-  
278 Shake, and TGI Friday—those are all freestanding.  
279

280 Mrs. Jones - I realize they are freestanding. What I meant is not  
281 part of the shopping center. They're kind of off on their own.  
282

283 Ms. Vann - Okay. I'm not sure if I can think of one that has a  
284 PUP. None come to mind.  
285

286 Mrs. Jones - Not part of the—  
287

288 Ms. Vann - Right. I'm assuming this is an outparcel of the  
289 shopping center as well.  
290

291 Mrs. Jones - But this is the only one on this side of Laburnum. Is  
292 that correct?  
293

294 Ms. Vann - For extension of hours, yes ma'am. That I recall. At  
295 least in this immediate area.  
296

297 Mr. Leabough - What are the hours for the Taco Bell? Do they have  
298 extended hours as well, Ms. Deemer?

299  
300 Ms. Deemer - Actually, in doing our research, Taco Bell has their  
301 online hours posted as Sunday through Thursday until 2 a.m., and Friday through  
302 Saturday until 3 a.m. However, they do not have a Provisional Use Permit.  
303  
304 Mr. Leabough - Then Applebee's?  
305  
306 Ms. Vann - The Applebee's does have a Provisional Use Permit,  
307 and they have everyday hours until 1:30 a.m.  
308  
309 Mr. Leabough - Okay. Thank you.  
310  
311 Mrs. Jones - The only other question I have, I guess, when Ms.  
312 Vann is finished, has to do with again—although you may want to address it—the  
313 uniform security officer on duty midnight to two was taken out. Is that correct?  
314  
315 Mr. Leabough - That's what staff is suggesting.  
316  
317 Mrs. Jones - Why is that?  
318  
319 Mr. Leabough - In my opinion, the Steak-n-Shake for instance, there  
320 is no requirement for them to have security between those hours. And in addition,  
321 they're not serving alcohol, but the TGI Friday serves alcohol as well. That's a  
322 difference in terms of the use itself. They're not serving alcohol at all.  
323  
324 Mrs. Jones - So the difference is whether alcoholic beverages are  
325 served. Okay.  
326  
327 Mr. Branin - Any other questions for Ms. Vann or Ms. Deemer?  
328 Would you like to hear from the applicant? You would?  
329  
330 Mr. Craft - [Speaking off the microphone.] I have one.  
331  
332 Mr. Branin - Sir, if you have a question you can't—you have to  
333 come down and state your name for the record.  
334  
335 Mr. Craft - Tim Craft—C-r-a-f-t.  
336  
337 Mr. Branin - Okay. Your question, sir.  
338  
339 Mr. Craft - Does the Board or our representative from Henrico  
340 Police—is that what I heard correctly?  
341  
342 Mr. Branin- Yes sir.  
343

344 Mr. Craft - Do they consider the service calls of plus one a  
345 month—is that kind of average? Is that kind of standard?  
346

347 Mr. Branin - I don't understand your question. Would you rephrase  
348 it?  
349

350 Mr. Craft - Well the question is do you consider that an  
351 acceptable standard that you have service calls at a restaurant facility at the rate  
352 of more than one a month? Is that normal?  
353

354 Mr. Branin - I still don't understand his question.  
355

356 Ms. Vann - If I'm understanding the question, does Police feel like  
357 additional calls for service each month increase is normal. Is that what I'm  
358 understanding?  
359

360 Mr. Craft - At the rate of what you said, fourteen in 2012.  
361

362 Ms. Vann - So far in 2012, right.  
363

364 Mr. Craft - Is that what you would consider normal?  
365

366 Mr. Branin - You would also have to break down the definition of a  
367 call for service, sir. If someone locks their keys in their car and they call the  
368 police to assist, that's a call for service. If there's a medical emergency, the  
369 police are also called. So a call for service doesn't mean that there is a mugging,  
370 a robbery, or something malicious going on. It simply means the police got a call  
371 to respond, which there is a whole range of reasons why they would respond. So,  
372 to answer the question of is it typical for the police to get a call for service once a  
373 month to any location, I believe it to be. And Ms. Vann will probably answer a lot  
374 better than me. Pretty typical because a call for service means so many things.  
375

376 Ms. Vann - Hopefully I can answer as well as you did, sir. A call  
377 for service is really someone calling 9-1-1. It could be for any reason. An officer  
378 driving by seeing something in progress would not be necessarily a call for  
379 service. So as Mr. Branin said, it could be that I need assistance whether it's  
380 medical emergency—in this area there are a large number of accident reports.  
381 So oftentimes they give the closest business or identifiable landmark as where  
382 they are. And then for 2012, there are three accident reports or a non-report, two  
383 medical emergencies, several assisting other agencies, and I'm not sure what  
384 that goes into. So it actually starts to narrow down why the business may have  
385 called. What we don't want to do is use a call for service by a business or a  
386 homeowner to negatively reflect because that's why we're here. We want people  
387 to call the police. Sometimes we get more concerned when there are no calls for  
388 service because we wonder what's going on in the property, versus a lot of calls

389 for service. That's means hopefully they're being proactive. So it could mean one  
390 way or the other.

391

392 Mr. Branin - Mr. Craft, one of the other things that we've heard  
393 from some different operations be it—for example, with Wawa, one of the things  
394 they emphasize with their employees is if you don't think something is right—  
395 there may not be anything going on wrong, but if you have any inclination that  
396 something is not right, call the police. So when I look at a Wawa's calls for  
397 service, I always have to request them to be broken down to actual calls for  
398 service because a call for service is a broad stroke. Does that answer your  
399 question?

400

401 Mr. Craft - Yes it does. And we can see here from your numbers  
402 that nine of the fourteen are still—good answer. Thank you.

403

404 Mr. Branin - Glad we could help.

405

406 Mr. Leabough - Can we hear from the applicant?

407

408 Mr. Branin - If that's what you would like. Would the applicant  
409 please come down. Please state your name for the record. You have ten  
410 minutes. If you would like to reserve any for rebuttal, please let us know.

411

412 Mr. Clayton - Good evening. I'm Chris Clayton with Commercial  
413 Site Design out of Raleigh, North Carolina. We're the civil engineer and land  
414 planner on this project.

415

416 We're really here just to answer any questions. I did bring a board here that does  
417 show that our intent is basically to maintain the architecture exactly as it is now  
418 and just add signage. Our intent is to maintain the architectural integrity and  
419 cohesion with the shopping center, which I know was one of the conditions of the  
420 original permit for the shopping center. As far as construction, we are essentially  
421 just taking down the drive-thru canopy and adding the typical drive-thru lanes that  
422 Cook-Out utilizes, adding a little bit of restriping and some utility work. That's  
423 basically the bulk of the work. And of course we're here just for the extension of  
424 hours tonight, but just to give you guys a little bit of foresight as to what we plan  
425 to do.

426

427 Mr. Leabough - Preserving the architecture is definitely something  
428 that we hope to see there.

429

430 Mr. Clayton - And that's our intent.

431

432 Mr. Branin - Any other questions?

433

434 Mrs. Jones - Well, I'd just like to make a comment. Having had a  
435 wildly popular Cook-Out in my district for about two months that snarled traffic  
436 coming and going because of everyone's enthusiasm for your food, and your  
437 pricing, and being the new player in town, I wish you success. But I certainly  
438 hope that someone has taken a good look at the traffic flow.  
439

440 Mr. Clayton - Well, we appreciate that. And I think this site—I'm  
441 assuming you're talking about the Eastridge location?  
442

443 Mrs. Jones - Yes.  
444

445 Mr. Clayton - This is a different animal. Because the access is  
446 totally internal to the shopping center, we shouldn't have the stacking issues that  
447 I understand happened on Eastridge Road. And that was a much tighter site than  
448 this one is, so hopefully you won't see those same issues here.  
449

450 Mrs. Jones - I hope not for your sake.  
451

452 Mr. Leabough - I hope not also.  
453

454 Mrs. Jones - The phone rings.  
455

456 Mr. Branin - Three Chopt and Tuckahoe almost went to blows over  
457 that since the dividing line is the road between Three Chopt and Tuckahoe. So I  
458 was getting phone calls, too, about Tuckahoe.  
459

460 Mr. Leabough - The only thing that I would point out—and this is  
461 nothing that's a part of this case—is the signage. Just hoping that that can match  
462 the building a little bit better. But that's not what we're here to talk about; I'm just  
463 throwing that out.  
464

465 Mr. Clayton - What I'm showing here is typical signage for visual  
466 purposes. But we'll definitely keep in mind anything you guys would suggest or  
467 staff would suggest.  
468

469 Mr. Branin - Any other questions? I'll entertain a motion.  
470

471 Mr. Leabough - Mr. Chairman, I move that we recommend approval to  
472 the Board of Supervisors for Provisional Use Permit P-15-12, Commercial Site  
473 Design for Cook-Out Restaurants, subject to conditions 1 through 13.  
474

475 Mr. Witte - Second.  
476

477 Mr. Branin - Motion by Mr. Leabough, seconded by Mr. Witte. All  
478 in favor say aye. All opposed say no. That motion carries.  
479

480 **REASON:** Acting on a motion by Mr. Leabough, seconded by  
481 Mr. Witte, the Planning Commission voted 5-0 (one abstention) to recommend  
482 the Board of Supervisors **grant** the request because it is reasonable in light of  
483 the surrounding uses and existing zoning on the property and it would not be  
484 detrimental to the public health, safety, welfare and values of the area.

485  
486 **C-19C-12 Andrew M. Condlin for Bacova, LLC:** Request to  
487 conditionally rezone from A-1 Agricultural District and O-2C Office District  
488 (Conditional) to R-5AC General Residence District (Conditional) Parcels 738-  
489 766-9367 and 739-766-3768 and part of Parcel 739-766-2504 containing  
490 approximately 28.662 acres located on the west line of Pouncey Tract Road  
491 (State Route 271) approximately 300' north of its intersection with Bacova Drive.  
492 The applicant proposes a development of no more than 95 zero-lot-line homes  
493 and a recreation center. The R-5A District allows a minimum lot size of 5,625  
494 square feet and a maximum density of 6.0 units per acre. The uses will be  
495 controlled by zoning ordinance regulations and proffered conditions. The 2026  
496 Comprehensive Plan recommends Suburban Mixed Use. Part of the site is in the  
497 West Broad Street Overlay District.

498  
499 Mr. Branin - Is there anyone in opposition to C-19C-12, Andrew M.  
500 Condlin for Bacova, LLC? No one? Mr. Lewis.

501  
502 Mr. Lewis - Thank you Mr. Chairman. Good evening.

503  
504 This is a request to rezone 28.6 acres from A-1 and O-2C to R-5AC to allow  
505 construction of up to ninety-five detached zero-lot-line homes. The mostly  
506 cleared site consists of the former Commonwealth Kennels property and two  
507 residential parcels. The boundaries are Pouncey Tract Road to the east, Kain  
508 Road to the north, and future Liesfeld Farm Drive to the south (currently Bacova  
509 Drive). Notable features of the site include a 120-foot-wide Dominion Power  
510 easement, a possible wetland area, the kennel buildings, and a vacant residence  
511 known as the Wilborn House, which dates to between 1870 and 1890.

512  
513 Surrounding uses include a filling station, several single-family residences, and a  
514 variety of Office-zoned sites to the south and east. Three County facilities are  
515 also in close proximity: Colonial Trail Elementary School, Short Pump Middle  
516 School, and Pouncey Tract Park. The area approved as the original Bacova  
517 development in 2011 is situated to the south and west.

518  
519 The 2026 Comprehensive Plan recommends the site for Suburban Mixed-Use  
520 (abbreviated SMX). This designation allows for a variety of residential types  
521 (including zero-lot-line), in addition to a 5 percent office or commercial  
522 component, all designed under a cohesive development plan. Combined  
523 aggregate gross residential density for SMX is 4.0 units per acre, although some  
524 areas may be higher density and some lower.

525

526 On its own, this request does not fully reflect the SMX designation; however, it is  
527 intended to be an extension of the larger Bacova development. This proffered  
528 layout illustrates the applicant's plan for developing 89 detached zero-lot-line  
529 homes (which equates to 3.1 per gross acre). A potential location for a private  
530 recreation center is also identified, although this may change as the larger  
531 Bacova development progresses. There are three points of access—two on  
532 Pouncey Tract Road and one on future Liesfeld Farm Drive. Eight homes would  
533 face Pouncey Tract and approximately twenty-eight lots are shown with rear alley  
534 access. Buffers, perimeter fences, sidewalks, and street trees are also identified  
535 and include the following:

- 536
- 537 • Along Pouncey Tract Road – a Transitional Buffer 35 and wrought iron  
538 style ornamental fence;
- 539 • Along Kain Road – a Transitional Buffer 25 and six-foot-tall capped wood-  
540 board fence;
- 541 • Along proposed Liesfeld Farm Drive – a Transitional Buffer 25 and a  
542 wood-board or wrought iron style fence;
- 543 • A Transitional Buffer 10 adjacent to the filling station's western boundary,  
544 and a ten-foot transitional buffer if this orange area develops as the  
545 recreation facility;
- 546 • In addition, a five-foot-wide sidewalks along all buffers and neighborhood  
547 streets; and
- 548 • A five-foot-wide all-weather path through the Dominion Power easement.

549  
550 Additional assurances in the revised October 11<sup>th</sup> proffers distributed this evening  
551 include the following:

- 552
- 553 • A maximum of 95 total dwellings (equivalent to 3.3 per acre);
- 554 • 1,700 square foot minimum finished floor area per unit;
- 555 • Homes with a variety of design features, colors, and architectural styles as  
556 generally represented by these renderings;
- 557 • Façades of brick, stone, or cementitious siding, with every front elevation  
558 to have some brick or stone as follows:
  - 559 - 50 percent to be at least 20 percent brick or stone (forty-seven homes),
  - 560 - 50 percent to be at least 60 percent brick or stone (forty-eight homes,  
561 which includes four of those along Pouncey Tract Road);
- 562 • A five-foot front yard setback variation for one of every four lots when  
563 there are five or more in a row;
- 564 • A minimum one-car garage for all homes (some possibly detached, and all  
565 with a 10-foot by 18-foot clear space internally);
- 566 • Sod and irrigation in all front and side yards and corner-lot rear yards;
- 567 • Decorative, pedestrian-scale lighting;
- 568 • A 2.5-acre recreation facility with a pool and clubhouse provided in one of  
569 several potential locations: on the subject site as indicated; on Tract B, C,  
570 or F of the original Bacova case; or on some other unidentified property as  
571 approved through POD;

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- No access to Kain Road;
- Commitment to retain, move, or photo-document the historic home and kitchen;
- And various other assurances.

These most recent proffer revisions do address most of the issues previously raised by staff, with the exception of two items, both of which relate to the buffer details in Proffer 14.

- Throughout Proffer 14 berms may be included in buffers, but are not required as they were with the original Bacova case. The applicant is encouraged to provide berming primarily in the Pouncey Tract Road and Liesfeld Farm Drive buffers for two reasons: 1) continuity with the buffers along Tract A and other developments northward on Pouncey Tract, and 2) for enhanced screening of the rear yards along Liesfeld Farm Drive.
- Also, Proffer 14(b) does not state which of two possible fence types would be provided along Liesfeld Farm Drive. In the effort to achieve a consistent aesthetic appearance on both sides of the Liesfeld Farm Drive streetscape, the applicant should ensure the fence on the north side of the road will be the same type provided on the south side along Tract B.

The site's highly visible location and inclusion in the West Broad Street Overlay District underscore the importance of maximizing the attractive and cohesive visual appearance of the development. This is of particular importance along the perimeters involved in the berm and fence issues just mentioned.

As a part of the larger Bacova community, this request would generally be consistent with the SMX designation because it contains an open space/recreation component, and it includes one of the residential types encompassed in the SMX designation. Therefore, given the proposal's general consistency with the 2026 Plan in combination with the overall quality and impact mitigation assurances provided, staff is able to support this request. However, the applicant is encouraged to further enhance the request by addressing the berm and fence issues.

Time limits would need to be waived for the proffers.

This concludes my presentation. I will be happy to answer any questions.

Mr. Branin - Any questions for Mr. Lewis?

Mr. Archer - Mr. Lewis, could you put the plat back up and indicate where the historical dwelling is located?

617 Mr. Lewis - The aerial really shows it the best. It is that home right  
618 there near Pouncey Tract, just above where the hand icon is right now.

619  
620 Mr. Archer - Unoccupied?

621  
622 Mr. Lewis - Yes.

623  
624 Mr. Archer - Okay, thank you.

625  
626 Mr. Branin - Any other questions? None? Then I'd like to hear from  
627 the applicant. Sir, please state your name for the record.

628  
629 Mr. Condlin - Mr. Chairman, members of the Planning Commission,  
630 Andy Condlin from Williams Mullen representing Bacova, LLC and the entities  
631 regarding the development of this property. I think Mr. Lewis as always does a  
632 fantastic job of going over the proffers and the development details. Quite frankly  
633 I'm happy to answer any questions, including addressing the two concerns that  
634 were raised by Mr. Lewis, if that's what you would like me to do.

635  
636 Mrs. Jones - Yes.

637  
638 Mr. Condlin - Okay. The two issues raised were the berms and the  
639 14(b) fencing. Let me first address the fencing with respect to the overall  
640 concept. I'm going back to the original case. This property as it sits actually  
641 covers a little bit of the office space, but mostly this area here. This road in  
642 particular is a ninety-foot-wide road. If you remember, it had a ten-foot-wide  
643 multiuse path; that was a big issue, on the south side, on the opposite side. That  
644 concept road is a big road. With the multi-use path it has a twenty-five-foot wide  
645 buffer and then the fencing. We'd like to have ornamental fencing on our side.  
646 One, because we're trying to open up the area a little bit. We thought that would  
647 look nicer than a board fence along the concept road. I'll mention again, ninety-  
648 foot-wide, twenty-five-foot buffers. Big old pathways and sidewalks.

649  
650 Mr. Branin - Would you state that for the record again, please.

651  
652 Mr. Condlin - I'm going to state it one more time probably as I keep  
653 going, because I have it in my notes and I keep looking at them.

654  
655 So we think it would be like a nice option to have, the ornamental fencing, again,  
656 to open it up. But we are going to be coming back and asking for an amendment  
657 of the proffers on this side for a couple of minor things including maybe the  
658 curbing, which requires a standard curb so we can have a roll-face, Henrico  
659 County standard as well. But one of the things we'd like to add in there is  
660 because the proffers require the board fence along the concept road, we'd like to  
661 come in and provide for ornamental fencing. I think it looks nicer. It may not be as  
662 much screening. You're driving down a four-lane road with a wide median and a

663 huge sidewalk; you're not going to be looking into people's backyards. So we'd  
664 like to have that opportunity to have that choice and have this be a little bit  
665 different at this point. That's what we're trying to provide for with a TND-type  
666 development with alleys.

667  
668 The other issue is the Pouncey Tract Road buffer having berms. We'd like to  
669 have the flexibility, depending upon our grading plan, which will come back  
670 before the POD. We're happy to provide that with you, but it's a thirty-five-foot  
671 wide buffer along Pouncey Tract Road, which is heavily traveled as well. We're  
672 not sure with this type of development that we need to have the berm, if that's  
673 necessary at this place. You're looking at the front of homes, and it's with alley  
674 access otherwise that's providing for this. So we'd like to have the flexibility to  
675 come forward at that time with you all at the time of POD and subdivision to look  
676 at the landscape plan and define it at that time.

677  
678 Mr. Branin - Mr. Condlin, hold on one second. Mr. Lewis, we're  
679 comparing in regards to the berm with the subdivision of Bentley, correct?

680  
681 Mr. Lewis - Yes sir.

682  
683 Mr. Branin - What is the buffer at Bentley?

684  
685 Mr. Lewis - It's twenty-five feet. Actually, let me check that. I  
686 looked at a lot of buffers today. Okay. Let me change that. It's thirty-five feet  
687 wide, but it's planted to a Transitional 25.

688  
689 Mr. Emerson - But it also contains berming.

690  
691 Mr. Lewis - Yes sir, it does contain berms.

692  
693 Mr. Emerson - And other ornamental features.

694  
695 Mr. Lewis - Yes. The reference in my presentation was to  
696 Bentley, as well as on the opposite side of Bentley along the Grey Oaks pool. It  
697 also has a berm as well.

698  
699 Mr. Emerson - And you have an extensive landscaping plan  
700 proffered for the R-5A adjacent to Grey Oaks that has not been developed at this  
701 time. It's reflective of the other development along the corridor.

702  
703 Mr. Branin - Okay. You may continue now.

704  
705 Mr. Condlin - Well, as has been pointed out that's been the  
706 precedent on Pouncey Tract Road. We're just trying to ask for a little bit of  
707 flexibility with the full thirty-five-foot buffer planted to thirty-five. Like Bentley, the  
708 homes are facing. We do have an ornamental fence. We have the five-foot-wide

709 sidewalk that we're providing as well. I don't know what sidewalk is required, it's  
710 four to five. We have four feet along the remainder of the Bacova Drive that  
711 we've looked at from our standpoint.

712  
713 Again, we'd like to have some flexibility we could build into the proffers. On either  
714 case, we're really putting it to you to say can we define it better when we're doing  
715 the grading plan at the time of the landscaping plan, as required by the Planning  
716 Commission at that time. Again, it's just something to be able to define at a later  
717 time, to have that flexibility.

718  
719 Mr. Witte - I have a question. On this proposed concept road,  
720 rather than have a board fence because it doesn't aesthetically please a lot of  
721 people, you were talking about an ornamental, which does not screen the yards.  
722 Could that be accomplished with a brick wall, accomplish both things, screen the  
723 yards and look nice?

724  
725 Mr. Condlin - I'll go back to the board fence then because the board  
726 fence is a lot cheaper than even a wrought iron fence. Again, we're trying to open  
727 it up a little bit. You're talking about a long distance with a twenty-five-foot wide  
728 buffer; I think that will do the screening. This is just more of an aesthetic point of  
729 view.

730  
731 Mr. Witte - All right. And one other question. The garages. The  
732 elevations show no garages. Are they going to be detached?

733  
734 Mr. Condlin - Can you give me the layout for this case? You're  
735 right, and I'm actually going to go to the concept. You can see with a lot of the  
736 alley access—let me get my bearings here. Pouncey Tract is here, and there's  
737 an alley here in the front to access these. But you'll see some of the alley access.  
738 For example, all of these. The intent is to have the garage sit behind the home  
739 because you would access the garage off the rear alley. It's a traditional  
740 neighborhood development, how that works. And you can see the alley in this  
741 location as well. A few of the homes that have front access would potentially  
742 have attached garages, but most of these from the alley access would have a  
743 detached garage. That's why you don't see them from the elevation. We have  
744 committed that the garages have to be the same material as the homes, as well  
745 as any detached garages, of course to, have a pedestrian [door] and a window to  
746 have a little bit more architectural features on that. But otherwise it will be  
747 consistent with the architecture for the home that you've seen in the elevations.

748  
749 Mr. Emerson - Mr. Witte, since this is an R-5A development, you will  
750 have a plan of development come forward on this. You will get a chance to see  
751 the elevations of the homes at that time as well. And the garages.

752  
753 Mr. Witte - And the garage clear distances?  
754

755 Mr. Emerson - Absolutely.  
756  
757 Mrs. Jones - I have a quick question.  
758  
759 Mr. Condlin - It's not about brick walls is it, I hope? No?  
760  
761 Mrs. Jones - I was just saying that I thought an undulating brick  
762 wall like at Westham Green would be lovely.  
763  
764 Mr. Condlin - That would be beautiful. I'll go ahead and put up the  
765 wood fence if you'd like. I'll go out there and do it myself.  
766  
767 Mrs. Jones - I wanted to ask about the recreation center.  
768  
769 Mr. Condlin - Sure.  
770  
771 Mrs. Jones - This is a significant-sized development and is  
772 hopefully going to be very successful. The recreation center, however, is a big  
773 part of a neighborhood's interaction, and quality of life, and all that. Because  
774 there is some question about exactly where this is going to be, I haven't been  
775 able to peruse every word of these changes. So help me if I've missed it.  
776  
777 Mr. Condlin - Sure.  
778  
779 Mrs. Jones - Tell me about the timing of the construction of the  
780 recreation center based on the homes. Is there any kind of a tie-in to that?  
781  
782 Mr. Condlin - Yes. I'm going to refer back to the C-9C-11. And I  
783 don't know if we have where the recreation center—in the original case, for C-  
784 9C-11, we have the option with the idea that we would put this property under  
785 contract. We might move it where it sits under the recreation—excuse me; the  
786 parking for the recreation would sit under the VEPCO lines. The idea was that  
787 either we'd use the existing facilities that currently sit out there, go ahead and  
788 refurbish those and place it in this area, or place it up here. So we still want that  
789 opportunity. Case C-9C-11 requires that after the hundredth home for the single-  
790 family homes we need to provide the recreation facility. Our intent here was to  
791 say that this neighborhood that we're proposing to rezone for tonight would also  
792 share—because it is a neighborhood within the Bacova development, if it's  
793 located on the new property, everyone would continue to be able to use the  
794 recreation facility at its new location. Or if it remains at its existing location—as  
795 proposed under the Bacova—the new subdivision, as well as the existing  
796 subdivision, could both use it. Again, you need to have numbers to be able to  
797 maintain for capital costs. No matter what, upon the hundredth home, we need to  
798 build the recreation facility. Period.  
799  
800 Mrs. Jones - Okay. And these folks, then, will be using that facility.

801  
802 Mr. Condlin - While there could be two separate facilities, the intent  
803 is to have one facility to serve both because the numbers are still—really, quite  
804 frankly, it was somewhat close as to whether there are enough homes on the  
805 original case to help support this type of facility. The idea was we're going to go  
806 ahead and commit during the original case because we knew we were getting  
807 this under contract and we could include this in the neighborhood. So that  
808 certainly would be a sufficient number of homes to be able to support that type of  
809 recreation facility. It would be part of the same neighborhood, part of the same  
810 recreation facility. We just want the option, depending on if we can refurbish and  
811 use the existing facility, or would it be better placed underneath these. Which you  
812 can't really use underneath the power lines as it is, but you can put a parking lot  
813 there.

814  
815 Mrs. Jones - Sure. I do remember the discussion through the  
816 various cases that we've seen. Okay. Thank you.

817  
818 Mr. Branin - Any other questions for Mr. Condlin? All right, Mr.  
819 Condlin.

820  
821 Mr. Condlin - Yes sir.

822  
823 Mr. Branin - I truly appreciate you and Mr. Babcock giving the  
824 requests that we've had so far. I'm also going to propose a field trip. Before this  
825 gets to Mr. Kaechele and the Board of Supervisors, I would like you, myself, Mr.  
826 Kaechele, Livingston, and Mr. Babcock to take a drive. Go through Bentley, look  
827 at the buffers and the distance of the houses back from Pouncey Tract.

828  
829 Mr. Condlin - Fair enough, yes.

830  
831 Mr. Branin - Even though we're looking at buffers, we're not taking  
832 into consideration that those are R-3 and these are R-5A, and the houses are set  
833 back a lot further in the R-3 than they would be in the R-5A. I would like you,  
834 myself, Mr. Babcock, and Mr. Kaechele to get a good feel for the difference. We  
835 will address that berm before it gets to Mr. Kaechele.

836  
837 Mr. Condlin - Right.

838  
839 Mr. Branin - Okay. As for the fence, I'm kind of stuck in between  
840 because as much as I would like a wrought iron fence on this because of the look  
841 of it, which would enhance the development, I also have to protect and make  
842 sure the backyards of those residents are covered as well. We may be able to  
843 come up with a very heavy landscaping, but we may end up going with the wood.  
844 That would also be part of our field trip.

845

846 Mr. Condlin - I was going say let's do that. I'm happy to delete the  
847 wrought iron and just go with the wood fence. No brick.

848

849 Mr. Leabough - Did I hear you say brick?

850

851 Mr. Condlin - Did I mention it was ninety feet wide?

852

853 Mr. Witte - Serpentine brick?

854

855 Mr. Condlin - Serpentine. Undulating serpentine brick wall.

856

857 Mr. Branin - And that's the tough part. I'm sure you'd rather go  
858 with the cheaper fence, but you'd also like to have the look. I'd like to have the  
859 look. So I'm hoping that when we put our minds together that we come up with  
860 some sort of landscaping plan that will allow us to use that wrought iron fence,  
861 with heavy evergreen plantings.

862

863 Mr. Condlin - To screen the backyards.

864

865 Mr. Branin - To screen the backyards. There is going to be some  
866 median. We'll take care of all of that before it gets to the Supervisors.

867

868 Mr. Condlin - We can do it next week, if you'd like. If you're around.

869

870 Mr. Branin - That would be fantastic.

871

872 Mr. Condlin - It's supposed to be nice weather, so.

873

874 Mr. Branin - With that, does anybody have any other questions for  
875 Mr. Condlin? None. All right. Then I would like to move to waive the time limits for  
876 C-19C-12, Andrew M. Condlin for Bacova, LLC.

877

878 Mr. Archer - Second.

879

880 Mr. Branin - Motion by Mr. Branin, seconded by Mr. Archer. All in  
881 favor say aye. All opposed say no. That motion carries.

882

883 I would like to move that C-19C-12, Andrew M. Condlin for Bacova, LLC, move  
884 forward with a recommendation for approval with the understanding that the  
885 berm issue and the fencing should be cleared up with a site visit prior to it being  
886 heard by the Board of Supervisors, as well as conditions—proffers 1 through 26.

887

888 Mr. Witte - Second.

889

890 Mr. Branin - Motion by Mr. Branin, seconded by Mr. Witte. All in  
891 favor say aye. All opposed say no. The ayes have it; the motion carries.

892

893

**REASON:** Acting on a motion by Mr. Branin, seconded by Mr. Witte, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the request because it is reasonable in light of the residential zoning in the area and the proffered conditions will provide appropriate quality assurances not otherwise available.

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895

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897

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899

**P-16-12 Bruce Perretz for Perretz and Young Architects, P.C.:** Request for a Provisional Use Permit under Sections 24-58.2(d), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to allow outside dining for a proposed restaurant on part of Parcel 736-762-7338 located on the north line of Three Chopt Road approximately 500' west of its intersection with Lauderdale Drive. The existing zoning is B-2C Business District (Conditional). The 2026 Comprehensive Plan recommends Commercial Arterial. The site is located in the West Broad Street Overlay District. The staff report will be presented by Mr. Justin Doyle.

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909

Mr. Branin - Good evening, Mr. Doyle.

910

911

Mr. Branin - Is anyone in opposition to P-16-12, Bruce Perretz for Perretz and Young Architects, P.C.? Stay right where you are; we'll call you down in a minute. So noted that we have opposition. Mr. Doyle, you have the floor.

912

913

914

915

916

Mr. Doyle - Good evening, Mr. Chairman and members of the Commission.

917

918

919

This is a request for a Provisional Use Permit to allow outdoor dining at the new Q Barbeque restaurant in the Corner at Short Pump shopping center.

920

921

922

The site is zoned B-2C Business District (Conditional) and was rezoned via case C-57C-06 and amended via C-65C-07. The restaurant is located in the West Broad Street Overlay District. The 2026 Comprehensive Plan recommends the site for Commercial Arterial, which is consistent with the proposed request.

923

924

925

926

927

The proposed outdoor dining area is 350 square feet and would accommodate twenty seats along the eastern exterior of the building. The area would be enclosed by a thirty-six-inch-high prefinished black aluminum fence with a thirty-six-inch-wide patio gate to be used in the event of an emergency.

928

929

930

931

932

The proposed conditions in this staff report are similar to those of previously approved outdoor dining Provisional Use Permits in the area. Properly regulated the outdoor dining use would be compatible with surrounding uses. Therefore, staff supports the request with conditions 1 through 14 identified in the staff report.

933

934

935

936

937

938 This concludes my presentation and I'd be happy to answer any questions you  
939 may have at this time.

940  
941 Mr. Branin - Does anybody have any questions for Mr. Doyle this  
942 evening? None? Sir, if you'd like to come down. Please state your name for the  
943 record. You have ten minutes.

944  
945 Mr. Hansen - Jan Hansen. I live in Spring Rock. I found out about  
946 this last week. I've talked with a lot of our neighbors, and I know they'll be getting  
947 some e-mails because we just finally got ourselves together; I'm sorry about that.  
948 Our Wellesley Association kind of let us down on this one. We do get a lot of  
949 noise from the restaurants up there in the shopping center, especially on the  
950 weekends during the summer when they have the outside dining, and they have  
951 their loudspeakers and you can come into my house. Last year they toned it  
952 down a bit after there were a lot of complaints to the police. But you could feel  
953 the vibration. The music they played had a big bass to it, and you could just feel  
954 the vibrations. It stayed on until about midnight.

955  
956 Mr. Branin - Mr. Hanson, which restaurant are you referring to?

957  
958 Mr. Hansen - They toned it down somewhat now. Last year it wasn't  
959 near as bad as it was two years ago. That was the Applebee's that was the  
960 loudest.

961  
962 Mr. Branin - That's the Applebee's that's the outparcel at the mall.

963  
964 Mr. Hansen - Yes. This is going to be a lot closer to us. This  
965 restaurant will be a lot closer. I don't mind the outside dining or any of that; we  
966 just don't want the noise and the vibration. That's what we don't want.

967  
968 Mr. Branin - Does anybody have any questions for Mr. Hanson?

969  
970 Mr. Witte - Where is your property located?

971  
972 Mr. Hansen - I'm at 12001 Valleybrook Drive.

973  
974 Mr. Branin - Mr. Doyle, can you pull up an area map?

975  
976 Mr. Doyle - It's located on this cul-de-sac right here.

977  
978 Mr. Branin - His house is the house to the right of the cul-de-sac.  
979 Right there. That's it, that's the one.

980  
981 Mr. Hansen - What happened is when they did the sewer line they  
982 took all the trees down there. It seems the people on the right side of the street

983 when you're going down Valleybrook, they hear the most. It's not just me. And  
984 actually even the other side I've had some people tell me they hear the noise too.

985  
986 Mr. Branin - Mr. Hansen, is the family still living next door to you  
987 that was there?

988  
989 Mr. Hansen - What?

990  
991 Mr. Branin - Is the family still next door to you that the utility line  
992 went through their driveway?

993  
994 Mr. Hansen - Yes.

995  
996 Mr. Branin - Tell them I said hi, would you? It's a nice family.

997  
998 Mr. Hansen - Yes.

999  
1000 Mr. Witte - I have no questions.

1001  
1002 Mr. Leabough - So the Applebee's has outdoor dining currently?

1003  
1004 Mr. Hansen - Yes. How late is this?

1005  
1006 Mr. Leabough - Mr. Doyle? The Applebee's does have outdoor  
1007 dining?

1008  
1009 Mr. Doyle - The Applebee's—I'm not sure.

1010  
1011 Mr. Leabough - That has to be a pretty loud outdoor sound system to  
1012 project all the way across the street.

1013  
1014 Mr. Hansen - Actually, one of my neighbors, we had a hard time  
1015 figuring out where the real loud sound was coming from. A lot of us drove all  
1016 around at 11:00, 12:00 at night trying to figure out where it was coming from. I  
1017 thought it was coming all the way from Goochland. My one neighbor, he was able  
1018 to locate it. He went in and there was actually nobody on the patio at all, but they  
1019 just had the loud music on. And he asked the—well actually his wife called and  
1020 asked them if they would turn it down; they did. But they sent the police up there I  
1021 think four or five times. And finally last year it wasn't so bad. You can still hear it.  
1022 If you sit out on your deck you can listen to the music. But it's not like it's  
1023 vibrating your house anymore.

1024  
1025 Mr. Witte - Mr. Hansen? One of the conditions associated with  
1026 this is that the sound system shall not be audible beyond the property lines of the  
1027 development.

1028

1029 Mr. Hansen - Of that development. Well, we have no problem with  
1030 that, if that's true.  
1031  
1032 Mr. Branin - It's in the conditions, so it's law. With one complaint,  
1033 we have the authority to go down and tell them to shut it down completely or—  
1034  
1035 Mr. Hansen - Should we call the police this time or should we call—  
1036 I've been given a different number to call.  
1037  
1038 Mr. Emerson - You would call in and file a complaint with the  
1039 Planning Department.  
1040  
1041 Mr. Hansen - All right. I appreciate it.  
1042  
1043 Mr. Emerson - Of course you could call the police, if you like; it would  
1044 get back to us and we would investigate it.  
1045  
1046 Mr. Hansen - Like I said, it's not just me. There are, like, nineteen,  
1047 twenty others in there that hear that.  
1048  
1049 Mr. Branin - Mr. Hansen, here's my card. I know for a fact that  
1050 every single resident in Wellesley has my e-mail address because you guys use  
1051 it all the time. I get more love letters from Wellesley than anywhere else in the  
1052 County. Are you finished?  
1053  
1054 Mr. Hansen - I'm done.  
1055  
1056 Mr. Branin - Okay, because I think we're going to wrap this up  
1057 pretty quickly that you might be satisfied with. Applicant? Is there an applicant in  
1058 the room? Oh, fantastic. Can you come down, please? State your name for the  
1059 record.  
1060  
1061 Mr. Perretz - Members of the Commission, my name is Bruce  
1062 Perretz with Perretz and Young Architects. Q Barbeque closes at 10:00 at night.  
1063 They have a current location at Virginia Center with a patio. They have very small  
1064 speakers, and it is not about loud sound, and there is no live music. We feel that  
1065 it's very subdued, and it will be fine. We will meet the conditions.  
1066  
1067 Mr. Branin - Mr. Perretz, I know that you were kind enough to set  
1068 up a meeting with Wellesley, but the board chose to cancel it. I called them and  
1069 warned them that this was going to happen, that someone in the community was  
1070 going to get upset. And that's why we always have meetings there prior.  
1071  
1072 You understand that the condition is that the sound cannot travel beyond.  
1073 Correct?  
1074

1075 Mr. Perretz - Correct.  
1076  
1077 Mr. Branin - You understand that if there are complaints from  
1078 Wellesley we're going to request that you shut the speakers down, shut them off.  
1079  
1080 Mr. Perretz - Correct.  
1081  
1082 Mr. Branin - Okay. Mr. Hansen. I am willing to defer this—and Mr.  
1083 Perretz's stomach is probably sinking—to have a community meeting, but I don't  
1084 want to do that and then have your board cancel it again. So he understands the  
1085 conditions. He understands that the music can't go beyond the property line. He  
1086 understands that we have the authority to say okay, enough, and the music is  
1087 done. Is that going to be satisfactory for Wellesley? The one thing I don't want to  
1088 do to my boss is send this up and Wellesley come in with eighty people that are  
1089 really upset, and Mr. Kaechele say you didn't do your job. So do you think that  
1090 that will be satisfactory to the community, or would you rather us go into a  
1091 community meeting?  
1092  
1093 Mr. Hansen - [Speaking off the microphone.] I'll make some calls I  
1094 think it should be satisfactory. I really don't see a reason—  
1095  
1096 Mr. Branin - Okay. You have my e-mail. Let's move this forward,  
1097 and if it's going to become an issue, please e-mail me, and then we will have a  
1098 community meeting right away.  
1099  
1100 Mr. Perretz - Certainly.  
1101  
1102 Mr. Branin - Okay? I can't do that to my boss.  
1103  
1104 Mr. Perretz - Fair enough.  
1105  
1106 Mr. Branin - All right? Does anybody have any questions?  
1107  
1108 Mr. Archer - Mr. Chairman. Apparently Mr. Hansen's complaint is  
1109 due to an existing restaurant, correct? Is there any way we could research that  
1110 and see if that case is proffered to the extent that the sound shouldn't be past  
1111 the—  
1112  
1113 Mr. Branin - I have already requested that from Mr. Doyle. Mr.  
1114 Doyle is going to get blown away by e-mails from Wellesley tomorrow morning  
1115 I'm sure.  
1116  
1117 Mr. Archer - Absolutely thorough, Mr. Chairman.  
1118  
1119 Mr. Branin - And Ms. Vann, if you could check on that, too, as well,  
1120 because the calls probably would have—they're saying they would have come to

1121 the police. So calls for service in regards to that for us. And Mr. Secretary, if we  
1122 need to get Community Revitalization involved.

1123  
1124 Mr. Emerson - We will do so.

1125  
1126 Mr. Branin - Okay. Mr. Hansen, we should have that Applebee's  
1127 issue taken care of quickly as well.

1128  
1129 Mr. Leabough - They invested in a pretty robust sound system.

1130  
1131 Mr. Branin - It's a long ways.

1132  
1133 Mr. Leabough - That's a good distance, yes.

1134  
1135 Mr. Branin - Crossing Broad Street, crossing the parking lot—

1136  
1137 Mr. Leabough - It's traveling through those trees as well.

1138  
1139 Mr. Branin - I know.

1140  
1141 Mr. Leabough - That's a pretty good distance.

1142  
1143 Mr. Branin - So they must have one kicking system. Thank you,  
1144 sir.

1145  
1146 Mr. Perretz - Thank you.

1147  
1148 Mr. Branin - If there are no other questions, then I would like to  
1149 move that P-16-12, Bruce Perretz for Perretz and Young Architects, P.C., move  
1150 forward with a recommendation of approval to the Board of Supervisors with  
1151 conditions 1 through 14.

1152  
1153 Mr. Leabough - Second.

1154  
1155 Mr. Branin - Motion by Mr. Branin, seconded by Mr. Leabough. All  
1156 in favor say aye. All opposed say no. That motion carries.

1157  
1158 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.  
1159 Leabough, the Planning Commission voted 5-0 (one abstention) to recommend  
1160 the Board of Supervisors **grant** the request because it is reasonable in light of  
1161 the surrounding uses and existing zoning on the property and it would not be  
1162 detrimental to the public health, safety, welfare and values of the area.

1163  
1164 **C-25C-12 Glenn R. Moore for Crown RIB, LLC:** Request to  
1165 conditionally rezone from O-2C Office District (Conditional) to B-3C Business  
1166 District (Conditional) part of Parcel 760-756-7631 consisting of 1.498 acres

1167 located at the western terminus of Lynn Avenue approximately 550' north of W.  
1168 Broad Street (U.S. Route 250). The applicant proposes an expansion of the  
1169 adjacent auto dealership including the storage of motor vehicles, parts, and  
1170 supplies. The uses will be controlled by zoning ordinance regulations and  
1171 proffered conditions. The 2026 Comprehensive Plan recommends Office.  
1172

1173 Mr. Branin - Is there anyone in opposition to C-25C-12, Glenn R.  
1174 Moore for Crown RIB, LLC? No one?  
1175

1176 Ms. Blankinship - Mr. Chairman, members of the Commission, the applicant  
1177 proposes to rezone 1.5 acres at the rear of the Crown Acura/BMW dealership  
1178 from B-3C to allow for inventory storage, employee parking, and the enclosed  
1179 storage of auto parts and office supplies. The subject site was part of a larger  
1180 rezoning case in 2002 that rezoned 3.16 acres from A-1 to O-2C to allow for  
1181 employee parking and the reuse of an existing building for office storage. The  
1182 proffers previously accepted would continue to govern the remaining 1.65 acres  
1183 of the site.  
1184

1185 The applicant has submitted an un-proffered concept plan showing the proposed  
1186 parking area. The applicant has also submitted proffers that would continue to  
1187 provide protection for adjacent residents. Major aspects of the proffers include:  
1188

- 1189 • Limiting the use of the site to storage of dealership inventory, employee  
1190 parking, and enclosed storage of parts inventory, office equipment, files,  
1191 and supplies;  
1192
- 1193 • Restricting any new building to no more than 3,000 square feet, one story  
1194 in height, and architecturally compatible with other buildings of the  
1195 dealership; and  
1196
- 1197 • Limiting the use of any building to storage only  
1198

1199 The applicant has indicated that a pressure treated wooden fence, six feet in  
1200 height would be provided along the western boundary. Staff notes future  
1201 maintenance costs for the applicant could be reduced if alternative materials or  
1202 design of the proposed fence were used.  
1203

1204 Prior to the filing of this request, the applicant held a community meeting and no  
1205 opposition was raised. The Planning Department also received a letter from the  
1206 Virginia Home for Boys & Girls President supporting this rezoning request.  
1207

1208 The 2026 Comprehensive Plan recommends Office for this site. This request  
1209 deviates from the Land Use Plan recommendation, but the submitted proffers  
1210 limit the B-3 use to an equal or less intensive use and would be compatible with  
1211 the existing dealership development.  
1212

1213 In addition, the proffers continue to minimize potential impacts on adjacent  
1214 neighbors. Therefore, staff supports this request. This concludes my  
1215 presentation. I will be happy to answer any questions.

1216

1217 Mr. Branin - Does anyone have any questions for Ms.  
1218 Blankinship?

1219

1220 Mr. Witte - Ms. Blankinship has heard plenty from me; I don't  
1221 need to pester her anymore.

1222

1223 Mr. Branin - Then I will ask you if you would like to hear from the  
1224 applicant or make a motion?

1225

1226 Mr. Witte - Yes, I would like to hear from the applicant.

1227

1228 Mr. Branin - Okay.

1229

1230 Mr. Moore - Mr. Chairman, members of the Commission, my  
1231 name is Glen Moore. I'm an attorney here on behalf of the applicant this evening.  
1232 You've heard the case presented very well by Ms. Blankinship. I enjoyed the  
1233 opportunity to work with her and Mr. Strauss in connection with getting this case  
1234 in proper order for presentation to you. I'll be happy to answer any questions that  
1235 you have.

1236

1237 Mr. Witte - Mr. Moore, we've had more than one or two meetings,  
1238 and they've gone pretty well. But I do have a couple of questions, mainly in  
1239 reference to the old building. I never really got a reason why they would tear  
1240 down a 5,600-square-foot building to put up a 3,000-square-foot building when  
1241 the 5,600-square-foot building is being used for the same purpose.

1242

1243 Mr. Moore - I think the reason for that, Mr. Witte, is that they really  
1244 want to maximize the use of that property for the automobile inventory storage. In  
1245 other words, they need more space to put inventory that they have for sale.

1246

1247 Mr. Witte - Okay. And they're aware that this will only be used for  
1248 storage of office materials and automobile parts.

1249

1250 Mr. Moore - Yes sir.

1251

1252 Mr. Witte - There will be no mechanic work done, no vehicle work  
1253 at all.

1254

1255 Mr. Moore - That's absolutely correct. That's part of the proffered  
1256 conditions.

1257

1258 Mr. Witte - Okay. Then I have no more questions.

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Mrs. Jones - The property—as I was trying to drive around and finding it a little bit difficult to get way back in here—is it a BrickCrete wall that I noticed on one side of the property?

Mr. Moore - Yes ma'am. That wall was installed in 2004 or 2005 after a zoning amendment to the proffers. It was required in conjunction with that because people to the east of the site in the residential neighborhood there did have some issues with the dealership. We had a meeting with a number of those people, that Mr. Witte attended, as well as Ms. Blankinship and Mr. Strauss. We had a tough time getting my client to agree to put that in, but they did. I think it was pretty expensive, and apparently it's been pretty effective.

Mrs. Jones - Well that, in addition to the Leylands or Arborvitae or whatever, it is a really solid barrier. It seems to function very, very well. So I guess my question is would it make logical sense, design-wise, to continue that for the remaining perimeter.

Mr. Moore - I don't think that that's necessary.

Mr. Witte - Mrs. Jones, Mr. Moore and I walked down there and through there, and there's a substantial elevation drop between that and the Boys Home. If you put up a ten-foot-high fence, it would still be below the Boys Home property. You would have to put a twenty-foot wall to offer any break there.

Mrs. Jones - I thought I heard the board fence being discussed.

Mr. Witte - There is already a chain link fence there, but the top of the chain link fence is four or five feet below the Boys Home property already. They offered to put a fence up closer to the parking lot. I think that was more for protecting their vehicles. There is a pretty heavy natural buffer through there. We walked through the parking lot side, and we walked through the Boys Home side. I just didn't feel that a ten-foot fence or brick wall or whatever would accomplish anything.

Mrs. Jones - I just think that new car inventories are attractive to lots of folks, and security is obviously the main reason—

Mr. Moore - My client would certainly be concerned about that.

Mr. Witte - Do you think the Acura vehicles are attractive to people?

Mrs. Jones - I don't think this is the forum to discuss that, but yes. I guess the other thought is with the new building that's going in to house auto

1304 parts, office equipment, files, and supplies, will there be a functioning office area  
1305 in there, or is this strictly storage?

1306  
1307 Mr. Moore - That would be strictly storage.

1308  
1309 Mrs. Jones - So you're not going to have a—

1310  
1311 Mr. Moore - In other words, a customer couldn't come back there  
1312 to pick up their parts. It wouldn't be the parts distribution place.

1313  
1314 Mrs. Jones - And it's not attached to the dealership.

1315  
1316 Mr. Moore - No, it would not be. And again, this will be coming  
1317 back for plan of development approval. There has been some concern expressed  
1318 in the staff report about the building material. That building material is subject to  
1319 the approval of the Commission.

1320  
1321 Mrs. Jones - I was just trying to functionally understand how this  
1322 was going to be used.

1323  
1324 Mr. Branin - Any other questions? No one?

1325  
1326 Mr. Leabough - Just a quick question about the concept plan and why  
1327 that wasn't proffered. Is there any reason for that?

1328  
1329 Mr. Moore - I guess we didn't see the need of proffering it. We  
1330 proffered the buffers that are shown. We're going to maximize the use of the  
1331 property for the inventory storage. We also don't know precisely where the  
1332 building is going to be, if in fact there is a building.

1333  
1334 Mr. Leabough - In relationship to the location of the building.

1335  
1336 Mr. Moore - Right.

1337  
1338 Mr. Leabough - At this point, you could essentially put it anywhere.

1339  
1340 Mr. Moore - Well, we could.

1341  
1342 Mr. Emerson - Within reason. It will come back to you for POD site  
1343 plan approval. The fence, if they use it for reduction and buffer, will require  
1344 approval as well.

1345  
1346 Mr. Moore - I also would point out to you, though—and I'm sure  
1347 you're already aware of this—that there are already buildings on that site that  
1348 probably exceed 6,000 square feet in area. So we're going to be reducing the  
1349 amount of building on the site. And it will be newer material that will be

1350 compatible with the dealership. It shouldn't be visible to many people. And to the  
1351 extent it is visible it should be attractive.

1352

1353 Mr. Leabough - One other question. This was part of a previous  
1354 rezoning, so there are assurances that that BrickCrete wall can't be removed?

1355

1356 Mr. Emerson - Correct. That's part of a previous agreement.

1357

1358 Mr. Branin - Any other questions for Mr. Moore?

1359

1360 Mr. Witte - No, I'm good.

1361

1362 Mr. Branin - All right. I'll entertain a motion.

1363

1364 Mr. Witte - I propose we send C-25C-12, Glenn R. Moore for  
1365 Crown RIB, LLC, to the Board of Supervisors with the proposed submitted  
1366 proffers 1 through 7.

1367

1368 Mr. Leabough - Second.

1369

1370 Mr. Branin - Motion by Mr. Witte, seconded by Mr. Leabough. All  
1371 in favor say aye. All opposed say no. That motion carries.

1372

1373 **REASON:** Acting on a motion by Mr. Witte, seconded by Mr.  
1374 Leabough, the Planning Commission voted 5-0 (one abstention) to recommend  
1375 the Board of Supervisors **grant** the request because the proffered conditions  
1376 would provide appropriate quality assurances not otherwise available and should  
1377 minimize the potential impacts on surrounding land uses.

1378

1379 Mr. Emerson - Mr. Chairman, that takes you to the next item on your  
1380 agenda, which is the consideration of the approval of the minutes from the  
1381 Planning Commission meeting of September 13, 2012. You also have an errata  
1382 sheet that was provided to you with the one correction that we received prior to  
1383 the meeting.

1384

1385 Mr. Branin - Does anybody have any additions to the errata sheet?  
1386 None? Then I will entertain a motion for approval.

1387

1388 Mrs. Jones - I move we approve the minutes as corrected.

1389

1390 Mr. Archer - I second.

1391

1392 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Archer. All in  
1393 favor say aye. All opposed say no. The ayes have it; the motion passes.

1394

1395 Mr. Secretary, do you have anything else?

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Mr. Emerson -  
evening.

No sir, I have nothing more for the Commission this

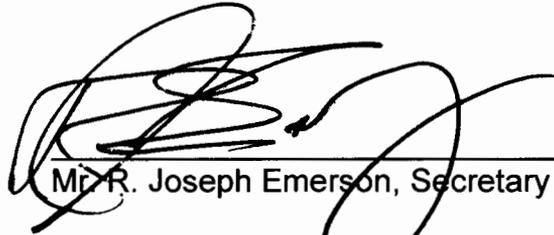
Mr. Branin -

I'll entertain a motion for adjournment.

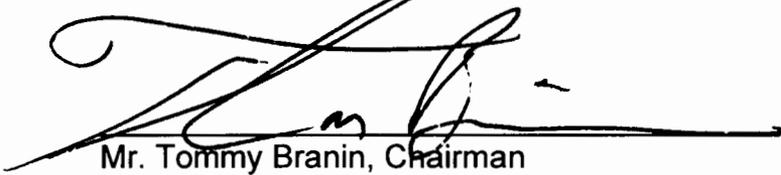
Mrs. Jones -

So moved.

Meeting is adjourned.



Mr. R. Joseph Emerson, Secretary



Mr. Tommy Branin, Chairman