

1 **Minutes of the regular monthly meeting of the Planning Commission of Henrico**
2 **County held in the County Administration Building in the Government Center at**
3 **Parham and Hungary Spring Roads, beginning at 6:00 p.m., Thursday, June 13,**
4 **2024. Display Notice having been published in the Richmond *Times-Dispatch* on**
5 **May 31, 2024, and June 7, 2024.**
6

7 Members Present: Mr. William M. Mackey, Jr., Chairperson (Varina)
8 Mr. Robert H. Witte, Jr., Vice Chair (Brookland)
9 Mr. Brian Winterhoff, (Tuckahoe)
10 Mr. Bob Shippee, (Three Chopt)
11 Mr. Jaron N. Dandridge (Fairfield)
12 Mr. R. Joseph Emerson, Jr., AICP, Director of Planning
13 Secretary
14 Mr. Tyrone E. Nelson (Varina)
15 Board of Supervisors Representative
16

17 Members Absent: Mr. Jaron N. Dandridge (Fairfield)
18

19 Also Present: Ms. Jean Moore, Assistant Director
20 Mr. Ben Sehl, Senior Principal Planner
21 Mr. Michael Morris, County Planner
22 Ms. Kelly Drash, County Planner
23 Mr. Livingston Lewis, County Planner
24 Ms. Ali Hartwick, County Planner
25

26 **Mr. Tyrone E. Nelson, the Board of Supervisors' representative, abstains from all**
27 **cases unless otherwise noted.**
28

29 Mr. Mackey - Good evening, welcome. I'll call this meeting to order. This is
30 the Henrico County Planning Commission rezoning meeting for June 13, 2024. I would
31 like to ask you, if you haven't already, would you please silence your phones or turn them
32 off and everyone who can, will you please stand with us and do the Pledge of Allegiance?
33

34 [Recitation of the Pledge of Allegiance]
35

36 Mr. Mackey - Thank you. Do we have anyone from the news media in the
37 audience tonight? Anyone on WebEx from the news media? All right, at this time, I'd like
38 to also welcome Reverend Nelson. He's sitting with the Commission this year,
39 representing the Board of Supervisors. Thank you for being here, sir, and at this time, I'll
40 turn the meeting over to our Secretary, Mr. Joe Emerson.
41

42 Mr. Emerson - Thank you, Mr. Chairman, I would note that the Commission
43 did hold a work session this evening in this room. It began at 4:00 p.m. and it was recessed
44 at approximately 5:30 p.m., and then the Commission did take a quick break and eat a
45 sandwich for dinner; with that said, Mr. Chairman, also Mr. Dandridge, will not be with us
46 this evening. He had other commitments and was unable to be here. But we do have a
47 quorum. I'll join with you welcoming everyone to the Henrico County Planning

Commission public hearing for June 13, 2024. This evening, it is requested that all public comments be provided from the lectern located to the rear of the room. For everyone who's watching live stream on the county website you can participate remotely in the public hearings by following these guidelines. Go to the Planning Department's meeting web page at henrico.us/planning/meetings. Scroll down under Planning Commission and click on WebEx event. Once you have joined the WebEx event, please click the chat button in the bottom right corner of the screen. Staff will send a message asking if anyone would like to sign up to speak on an upcoming case. To respond, select Mike Morris from the drop-down menu and send him a message. He will place you in the queue to speak. The Commission does have guidelines for its public hearings. The applicant is allowed 10 minutes to present the request and time may be reserved for responses to testimony. The opposition is allowed a cumulative 10 minutes to present its concerns, meaning that everyone who wishes to speak must be included in that overall, 10-minute allowance. Commission questions do not count into the time limits. Comments must be directly related to the case under consideration. The Commission maintains verbatim minutes of the meeting. Commentors must provide their name and address prior to speaking for the record, and we do that so we can contact you if we have questions regarding your comments. Thank you again for your participation and interest this evening. With that said, Mr. Chairman, the first item on your agenda this evening, are requests for withdrawals and deferrals. And I believe we have one request for deferral, and that will be presented by Mr. Ben Sehl.

Mr. Sehl - Good evening, Mr. Chairman, members of the Commission. Staff is aware of one request for deferral this evening. This is REZ-2024-100257, it's on Page 2 of your agenda in the Varina District.

REZ-2024-100257 Ric Bushey for JSN Development LLC: Request to amend proffers accepted with C-63C-07 on part of Parcel 816-687-5307 located at the southeast intersection of New Market Road (State Route 5) and Strath Road. The applicant proposes to amend proffers related to the concept plan, building materials, permitted uses, buffers and fencing, dumpster screening, outdoor speakers, sidewalks, and stormwater facilities. The existing zoning is B-2C Business District (Conditional). The 2026 Comprehensive Plan recommends Office.

The applicant has requested this item be deferred by the Commission to your July 11, 2024, meeting.

Mr. Mackey - I'm not interested in granting the deferral, so I will make a motion. I move that the applicant's request to defer REZ-2024-100257 JSN Development LLC, to the July 11, 2024, meeting be denied.

Mr. Witte - Second.

Mr. Mackey - I have a motion by Mr. Mackey, a second by Mr. Witte. All in favor say aye.

94 Commission - Aye.
 95
 96 Mr. Mackey - Alright, is the applicant here? Okay, then we'll hear the case
 97 on its regular spot on the agenda.
 98
 99 Mr. Emerson - Yes, sir, Mr. Chairman. The next item on your agenda is a
 100 request for expedited items. There is one of those as well this evening, and that will also
 101 be presented by Mr. Ben Sehl.
 102
 103 Mr. Sehl - Thank you again. As Mr. Emerson noted, there is one request
 104 on your expedited agenda this evening. It's on Page 2 in the Fairfield District. This is REZ-
 105 2024-100695, MCM Enterprises, LLC.
 106
 107 **REZ-2024-100695 Midview Management for MCM Enterprises, LLC:** Request to
 108 conditionally rezone from B-1 Business District to B-2C Business District (Conditional)
 109 Parcel 780-748-5202 containing 0.51 acres located at the southwest intersection of
 110 Kenwood Avenue and Hermitage Road. The applicant proposes rezoning to bring an
 111 existing restaurant into conformance. The use will be controlled by zoning ordinance
 112 regulations and proffered conditions. The 2026 Comprehensive Plan recommends
 113 Suburban Residential 2, density should not exceed 3.4 units per acre.
 114
 115 With this request, the applicant is proposing to rezone the site to bring an existing
 116 restaurant into conformance with the zoning ordinance. Staff is unaware of any opposition
 117 to this request and is recommending approval, and I'd be happy to answer any questions
 118 you might have at this time.
 119
 120 Mr. Mackey - Is there anyone in the audience or anyone on WebEx that's in
 121 opposition of the approval of this item on the expedited agenda?
 122
 123 Ms. Hartwick - Mr. Chairman, there is no one on WebEx.
 124
 125 Mr. Mackey - Thank you. Seeing there is no opposition, I move that we
 126 recommend approval of REZ-2024-100695, MCM Enterprises, LLC, with the proffers
 127 dated May 20, 2024, in the staff report.
 128
 129 Mr. Witte - Second.
 130
 131 Mr. Mackey - Alright, a motion by Mr. Mackey, a second by Mr. Witte. All in
 132 favor say, aye.
 133
 134 Commission - Aye.
 135
 136 Mr. Mackey - Any opposed? Motion is granted.
 137
 138 **REASON:** Acting on a motion by Mr. Mackey, seconded by Mr. Witte, the
 139 Planning Commission voted 4-0 (one absent, one abstention) to recommend the Board

of Supervisors grant the request because it is reasonable, and the proffered conditions should minimize the potential impacts on surrounding land uses.

Mr. Emerson - Mr. Chairman, that completes those two items. We move on to your regular agenda. You do have two ordinance amendments to consider this evening. The first is to amend and reordain Section 24 4205 titled Principal Use Table; Section 24 4323, titled Commercial Uses, Retail Sales and Services. Section 2451 10, titled Minimum Number of Off Street Parking Spaces; Section 24 5508 titled Crime Prevention Through Environmental Design; Section 24 8405 titled Commercial Use Classification of the Code of the County of Henrico to add vaping shop as a regulated use type and allow vaping shops by provisional use permit in the B-3 and M-1 districts. The staff report will be presented by Mr. Ben Blankinship.

Mr. Blankinship - Thank you, Mr. Emerson, good evening, Mr. Chair, members of the Commission. As you all remember, the Commission held a work session on this subject in April of this year, where we discussed in some detail that this proposal was first brought forward to the county by our school division when a couple of vaping shops opened across the street or in close proximity to some of our schools. Concern was expressed not about the subject of vaping or about the broad sale of vaping materials, but about the more focused issue of vaping shops catering specifically to school kids, and we were asked to look into ways that we could regulate vaping shops to prevent that from happening. Not long before that, our neighbors to the south in Chesterfield County had adopted a zoning ordinance amendment regulating vaping shops as well as a variety of other kinds of retail businesses with more or less the same ends in sight. So, we met with them, we received a great deal of research from them, and then we had a group from the county get together. The county attorney's office led the discussions with the Division of Police, the school district and the Planning Department were also participants. Out of that came a set of zoning ordinance amendments that I'll now walk you through. The purpose of which, as I say, is not to prevent vaping or to restrict the sale of vaping supplies, but specifically to regulate vaping shops and keep them away from school kids to the extent that we believe we can. So structurally, the first thing we need to do is add a line to our principal use table. Currently, vaping shops would be considered retail sales like any other general retail use. So, in order to regulate them separately, we need to add a new use to the ordinance. So, we've recommended, as you see before you, adding a line for vaping shops. The "P" under the B-3, and M-1 districts indicates that they would be allowed by provisional use permit, rather than being allowed by right, and the number, section number at the far right of that page is a hyperlink to the use-specific standards that we would also propose. The use-specific standard is on the second page of the amendment. It's merely adding a paragraph or a subsection F to Section 4323 titled Vaping Shops, and stating that a vaping shop must not be located within 1000 feet of a school or within 2000 feet of an existing vaping shop. Now, if you followed the Chesterfield process, you saw that they set the distance as 2000 feet from a school or from an existing use at the time that they were regulating. After theirs and before ours, the General Assembly added some additional legislation to the state code specifically on this topic, and that legislation has the 1000-foot distance requirement for schools. So, on the advice of the county attorney's office, we thought it best to keep the same number that's used in the state

186 legislation just to avoid any challenges on that front. But the legislation did not specify a
187 distance for existing businesses, so we kept the 2000, borrowing that from our neighbors
188 for that distance requirement. Then since we have added a new use to the proposed use
189 table, we also need to add that use to the parking table. So that's the next section of the
190 amendment here is to add vaping shop as a specific use in the parking table, but with the
191 same parking requirement that applies to other retail businesses, 3.5 spaces per 1000
192 square feet of gross floor area. Then under the Crime Prevention Through Environmental
193 Design Standards. That, as you know, is a list of uses that require additional review by
194 the police division to negotiate and implement design features into buildings and sites
195 that make it naturally less likely for crimes to be committed or easier for natural
196 surveillance of the site and other items like that. There is a list of uses, and we are
197 proposing adding vaping shops to the list of uses that would trigger that requirement. So,
198 even if there is an existing retail business, if a vaping shop goes into that space in the
199 future, it would trigger the CPTED. Then finally, we're adding a definition of the term
200 vaping shop to Article 8. Every use that is listed in the principal use table is defined in
201 Article 8. And so we've provided a definition there, and I'll just call out in there the number
202 15%. Essentially the difference between, you know, you can go into a lot of convenience
203 stores and a lot of other kinds of businesses, and you can buy vaping materials and
204 vaping supplies, but we're describing as a vaping shop, a business where that's really
205 what they do, is vaping materials and supplies, above and beyond anything else. And
206 again, working with Chesterfield, and having borrowed from their research, we chose 15%
207 of the display area of the store as the threshold at which we would determine that's a
208 vaping shop. If that much of your business is vaping oriented, you're a vaping shop. But
209 if you're you know a larger store with a small section of vaping supplies, then you're not
210 a vaping shop. You're a convenience store, or whatever else you are. And with that, those
211 are the end of my prepared remarks. This is a public hearing, so we'll have to hear if
212 there's anybody else who wishes to speak, but I would be happy to answer your
213 questions.

214
215 Mr. Mackey - Do we have any questions or comments from the
216 Commission?

217
218 Mr. Witte - I just want to clear one thing up, about this 15%.

219
220 Mr. Blankinship - Yes, sir.

221
222 Mr. Witte - I believe Chesterfield has 15% in sales volume also on theirs.
223 Is that correct?

224
225 Mr. Blankinship - Yes, sir they did.

226
227 Mr. Witte - But this does not do that.

228
229 Mr. Blankinship - That's correct. We met with our commissioner, I'm sorry, our
230 Department of Finance, the Revenue Division, and asked them if that was a provision
231 that would be something that they would have access to, or that we could get access to.

232 Could we go into a business and ask them for their gross receipts and how broken down
233 by whether it was vaping? Their advice to us was that there's really no way to do that. If
234 the business wants to offer that information, they can, but if they don't, there's no other
235 way that we could get it. So, we felt like we could send an inspector into a retail store with
236 a measuring tape, and he can determine in a matter of minutes, or they can determine in
237 a matter of minutes whether the display is more or less than 15% whereas the retail sales
238 data is not really available to us. So that's why we went with it.

239
240 Mr. Witte - So volume doesn't matter?

241
242 Mr. Blankinship - Well, the shelf space is generally going to be proportional to
243 the volume, and that was what we decided would be the...

244
245 Mr. Witte - Alright, thank you.

246
247 Mr. Blankinship - Yes, sir.

248
249 Mr. Mackey - Any other questions?

250
251 Mr. Winterhoff - Just one. First, Mr. Blankinship, thank you for all the effort and
252 investment into this. And you know, I think it's wonderful to hear about the partnership
253 working with Chesterfield County. And I think one of the differences that I just noticed that
254 I wanted to ask as a recommendation to potentially update on this ordinance, is the way
255 that we think about the inclusion and think about the children. And I think having schools
256 being called out here is absolutely necessary. But would like to recommend including
257 parks and playgrounds too. It's included in their language, and just as a way to help, I
258 think, inform and provide clarity that that would be part of the protected area too.

259
260 Mr. Blankinship - That could certainly be added with the Commission's
261 recommendation. There was no reason why the committee excluded that. It just was not
262 what we were focusing on. We were focusing on our schools.

263
264 Mr. Winterhoff - Wonderful. Thank you.

265
266 Mr. Blankinship - Yes, sir.

267
268 Mr. Mackey - Any other comments? Is anyone in the audience that would
269 like to comment to this case? Is there anyone on WebEx?

270
271 Ms. Hartwick - There is no one on WebEx.

272
273 Mr. Mackey - I believe a motion is in order.

274
275 Mr. Witte - Okay, Mr. Chairman...

276

277 Mr. Emerson - Mr. Chairman, do you want to consider the addition of the
 278 2000-foot distance from public parks?
 279
 280 Mr. Mackey - Yes, sir.
 281
 282 Mr. Emerson - To add to this?
 283
 284 Mr. Mackey - Yes, sir.
 285
 286 Mr. Emerson - That would need to be in the motion.
 287
 288 Mr. Mackey - Okay, that addition of 2000 for public parks. Mr. Secretary?
 289 That's the only addition?
 290
 291 Mr. Emerson - I believe that's the only addition I heard.
 292
 293 Mr. Mackey - Thank you.
 294
 295 Mr. Witte - Okay. I move that we recommend approval of the revisions to
 296 zoning ordinance related to vaping shops as presented this evening, with the addition of
 297 2000 foot distance from public parks added to it.
 298
 299 Mr. Shippee - Second.
 300
 301 Mr. Mackey - Alright, we have a motion by Mr. Witte, a second by Mr.
 302 Shippee. All in favor, say, aye.
 303
 304 Commission - Aye.
 305
 306 Mr. Mackey - Any opposed? Motion is carried.
 307
 308 Mr. Emerson - Mr. Chairman, the next item is, as I mentioned earlier, is also
 309 an amendment to the code. It is an ordinance to amend and reordain Section 24 4205
 310 titled, Principal Use Table; Section 2443 21 titled Commercial Uses, Recreation and
 311 Entertainment, Indoor; Section 2451 10, titled Minimum Number of Off Street Parking
 312 Spaces; Section 24 5508 titled Crime Prevention Through Environmental Design; and
 313 Section 24 8405 titled Commercial Use Classification of the Code of the County of Henrico
 314 to add historical horse racing as a regulated use type and allow historical horse racing by
 315 provisional use permit in the CMU-03, B-1, B-2, B-3, M-1, M-2, and M-3 districts in the
 316 mixed use corridor, mixed use core, walkable corridor, walkable center and highway edge
 317 development areas of the form based alternative overlay districts and subject to an
 318 approved PD Master Plan and PD terms and conditions in the SMX, PD, UMU PD and LI
 319 PD districts. And of course, you also had a presentation on this during your work session.
 320 This staff report will also be presented by Mr. Ben Blankinship.
 321

Mr. Blankinship - Yes, as Mr. Emerson said, we did just go over this, but for the benefit of those who are on WebEx or in the room with us who were not in attendance at our work session, I'll just say this is a very similar amendment, structurally, but completely different in purpose. Of course, everyone's familiar with horse racing and the idea of walking up to a window, placing a bet on a horse, and then looking over and watching the horse run the race. Many years ago, that use was expanded to include off-track betting, where people in a place like Henrico County could go to an off-track betting parlor and place bets on those same races and then follow them either by audio or video while the actual race was being run in New Kent County or someplace else. And this was when it was first allowed in the state of Virginia, the General Assembly decided to do that by referendum. So, the people of Henrico County held a referendum and decided that we wanted to have off track betting be a legal use in the county. So the referendum was approved, and we have had off-track betting in the county for many years now, there has come a new use that is in some ways similar to off-track betting, but in other ways different, which is called historical horse racing, where the same statistics and the same data that drives the person who is handicapping horses is made available, but for a race that was run sometime in the past. All this is done on a computer console that looks a lot like a slot machine. So, it almost appears like you're working on a random number generator, but in fact, you are gambling on horse races that have taken place in the past. It's kind of a different way of approaching the same general subject of betting on horses. Now, the General Assembly has decided to add this kind of machine, video gaming machine, under the Virginia Racing Commission's authority, and the Virginia Racing Commission has decided to allow them in places where off-track betting has already been approved by referendum. Several years after the approval of referendum, in a sense, a new opportunity for a different kind of gambling is being added to that. So whereas in the past, we have allowed off-track betting again just as a general indoor recreation use, we haven't called it out separately in our zoning ordinance because the need had never arisen. Now, with this new activity being added to off track betting by the state, the Board of Supervisors has seen the need to regulate this use differently from other indoor recreation uses. So again, the first section of the proposed ordinance amendment is to amend the principal use table by adding a new line for specifically for historical horse racing, breaking that out of the recreation and entertainment category generally, and list the districts in which it would be a permitted use and it would require legislative review in every district. In those districts where you see the P, it would be by a provisional use permit. In those where you see the A, it would be allowed, but that's as part of a planned development district that is already being reviewed at a legislative level. In all cases where the use would be allowed, it would require that additional legislative review. All the way at the right end of the table, you see again, the section number, and that is a reference to the use-specific standard. And the use specific standard is also somewhat similar. What we are proposing is that any establishment offering historical horse racing terminals must not be located within 2000 feet of a school, park, playground, religious institution or another gambling-related use. There's an effort to keep this specific use away from uses that might find it offensive, or that it might cause conflicts again, places where children are likely to gather, or we don't want one location to have several of these kinds of businesses gathering around it, because that tends to increase the secondary impacts that businesses like this can generate. The third section, again, is adding a new line to

the parking table. Because again, every time we add a new use, we need a new line in the parking table as well. And the parking requirement we are proposing is five parking spaces per 1000 square feet of gross floor area, which again, is what we are currently using for indoor recreation. It's a change in form, but not really a change in the substance of the parking requirement. And once again, we recommend adding this to the uses that require a Crime Prevention Through Environmental Design or CPTED plan. In this case, gambling related uses are already listed in the ordinance, so they would already be covered if we didn't make this specific change. But we think, just for the sake of clarity, it's a good idea to go ahead and list historical horse racing specifically as one of the gambling related uses that will require a CPTED plan. Then finally, the definition, again, same as the previous ordinance amendment. Here the definition we are proposing is taken directly from the Virginia Administrative Code. It reads a form of horse racing that creates parimutuel pools from wagers placed on previously conducted horse races as authorized and regulated by the Virginia Racing Commission, and then cites the section of the VAC. Again, this is a public hearing, so we'll have to hear from the public. I'd be happy to answer your questions.

Mr. Mackey - Alright, thank you. Mr. Blankinship, any questions or comments from the Commission?

Mr. Witte - I'm not sure I understand. How can you lose if you know the horse race has already been run?

Mr. Blankinship - You don't know which race you're betting on. It's randomized. So, you're told, here are horses, one through 10, and here are their track records. Here are the jockey's track records. Here are the trainers' track records, and here are the conditions in which the race was run. It's the same information that you would get on a current horse race if you were a person going to the track to bet on.

Mr. Witte - Does it give the odds?

Mr. Blankinship - Yes, it has the odds. It tells you everything, except...

Mr. Witte - You have no idea which race?

Mr. Blankinship - You don't know where it was run, the date it was run, any of the horse's names or any of the jockey's names. Now here's the fun part. That's how these machines began. Then they started adding a button at the bottom that says, if you don't want to go to all this work, you can just let the machine pick for you. Sort of like if you buy a lottery ticket, you know, you always have the choice. You can choose your own numbers, or you can let them choose your numbers. And that is now on the third generation of machines; that's the default setting. So, what's the difference between this and a slot machine? This is regulated by the Virginia Racing Commission.

Mr. Witte - Okay.

414 Mr. Mackey - Any other questions or comments?
 415
 416 Mr. Witte - I like the part where you couldn't lose.
 417
 418 Mr. Blankinship - That's why they call it gambling.
 419
 420 Mr. Mackey - Does anyone in the audience have any questions or
 421 comments? Is there anyone on WebEx with any questions or comments to this case?
 422
 423 Ms. Hartwick - There is no one on Webex for this case.
 424
 425 Mr. Mackey - All right, thank you.
 426
 427 Mr. Witte - We ready?
 428
 429 Mr. Mackey - Yes, sir.
 430
 431 Mr. Witte - Mr. Chairman, I move we recommend approval of the revision
 432 of the zoning ordinance related to historical horse racing as presented this evening.
 433
 434 Mr. Mackey - Second. We have a motion by Mr. Witte, a second by Mr.
 435 Mackey. All in favor. Say, aye.
 436
 437 Commission - Aye.
 438
 439 Mr. Mackey - Opposed? Motion is granted.
 440
 441 Mr. Emerson - Mr. Chairman, we now move on to the next case on your
 442 agenda, which appears at the top of Page 2. It's REZ-2024-100816, Andrew M. Condlin
 443 for LLBB, LLC.
 444
 445 **REZ-2024-100816 Andrew M. Condlin for LLBB, LLC:** Request to conditionally
 446 rezone from O-2C Office District (Conditional) to R-6C General Residence District
 447 (Conditional) Parcel 739-765-2992 containing 3.65 acres located at the northwest
 448 intersection of Pouncey Tract Road (State Route 271) and Liesfeld Farm Drive. The
 449 applicant proposes a townhouse development. The use will be controlled by zoning
 450 ordinance regulations and proffered conditions. The 2026 Comprehensive Plan
 451 recommends Suburban Mixed-Use.
 452
 453 The staff report will be presented by Mr. Michael Morris.
 454
 455 Mr. Mackey - Do we have anyone in the audience who would like to speak
 456 to this case? Do we have any... we're not going to do yet? Thank you. Do we have anyone
 457 on WebEx?
 458
 459 Ms. Hartwick - There is no one on WebEx for this case.

460
461 Mr. Mackey - When we come to the public comment section, sir, you'll be
462 first. Alright, thank you, Mr. Morris.

463
464 Mr. Morris - Thank you Mr. Chair, members of the Commission. This is a
465 request to rezone 3.65 acres from O-2C Office District to R-6C General Residence District
466 (Conditional) to construct no more than 32 townhome units. The partially treed site is
467 located at the northwest intersection of Pouncey Tract Road and Liesfeld Farm Drive, at
468 the eastern entrance to the Bacova development. The applicant has indicated the
469 proposed development would be incorporated into the Bacova subdivision and
470 homeowner's association. Surrounding uses include the Short Pump Manor at Bacova
471 subdivision to the north and Colonial Trail Elementary to the south, across Liesfeld Farm
472 Drive. The remainder of the Bacova subdivision sits to the west. To the east across
473 Pouncey Tract is an O-2C parcel followed by a residential condominium development
474 currently under construction. Handouts you received this evening include revised proffers,
475 concept plan, and new elevations provided by the applicant. Changes made to the
476 concept plan since distribution of the staff report include illustration of site landscaping,
477 and 6' masonry walls located at the end of those driveways adjacent to Liesfeld Farm
478 Drive. That would be right here and right here. Sidewalks would be provided throughout
479 the site, connecting the property to Liesfeld Farm Drive at two points.

480
481 In response to concerns raised by residents at the June 4th, 2024, community meeting
482 the applicant has revised proffered elevations showing a reduction in the amount of brick,
483 adjustments of the roofline and character of the townhomes, and a reduction in the
484 number of windows on the front and side facades of the fourth floors. These elevations
485 are similar in character to other, recent townhouse developments in the county. While the
486 pitched roof shown on the revised elevations reduces the perceived massing of the
487 building, staff does note the overall height is still shown at 45'.

488
489 Changes reflected in the revised proffers handed out this evening include a commitment
490 to provide fencing along the Liesfeld Farm Drive frontage, as well as minor clerical
491 changes. Other proffers set a minimum finished floor area at 2,250 square feet; commit
492 to exterior building materials including brick, stone and stone veneer, or hardi-plank; and
493 establish a minimum planting standard along both Pouncey Tract and Liesfeld Farm
494 Drive. A 15' buffer planted to a TB25 standard would also be provided along the northern
495 property line, adjacent to Short Pump Manor. The subject property and majority of the
496 Bacova subdivision are designated Suburban Mixed-Use on the 2026 Comprehensive
497 Plan. This classification encourages "unified, high-quality developments that are phased
498 with the provision of necessary infrastructure improvements" and includes "a variety of
499 housing types". The proposal would be generally consistent with this designation and
500 proffered conditions would ensure a level of quality in keeping with the surrounding area.
501 Additionally, the property's access to existing county services and proximity to major
502 transportation corridors could limit potential impacts on infrastructure in the area. For
503 these reasons, staff can support this request. That concludes my presentation and I'm
504 happy to answer any questions you may have at this time.

506 Mr. Mackey - Thank you. Mr. Morris, any questions from the Commission?
507 How would you like to proceed, sir?

508
509 Mr. Shippee - Mr. Chairman, let's hear from the public at this time.

510
511 Mr. Marple - My name is William Marple, 12109, Manor Glen Lane, which
512 is the Short Pump Manor community, and my house is immediately adjacent to the area
513 being rezoned. I am lot number three, so my house will back up directly. I have some
514 comments I'd like to share that are more general in nature. But first, I'd also like to thank
515 those who've been involved with listening to those of us who have been participating in
516 the resident meetings. Mr. Andy Condlin, the attorney with Roth Jackson, Mr. Babcock,
517 who's here with the Bacova Development, Mr. Liesfeld, who's the owner of the property,
518 as well as Mr. Shippee and Misty Whitehead, who have attended the meetings as well.
519 Thank you. I will say at the onset of my comments that I'm generally in favor for rezoning.
520 I think it's fair to say that we all understand you, more so than I, that the nature of
521 development, particularly in retail, is not where it was a number of years ago. And we
522 understand as residents that that was initially proposed for this property at the time when
523 we were one of the very first residents, were provided with exhibits that showed a 25-foot
524 buffer behind the property, and then a design for how buildings might be put together
525 that's similar to the Twin Hickory development, if you're familiar with that. So single-story,
526 professional, non-retail type buildings. Since then, obviously, the property has been
527 vacant. What I'm concerned generally in, is what happens downstream from here. The
528 parcel is 3.6 acres, and we're looking at putting 32 four-story units. Our property happens
529 to be three stories. It's really a two-story home with a finished third floor. These properties
530 would be, you know, at least another story above what we're looking at. So, we'd ask the
531 Commission and those to follow, if this is approved for rezoning, consider, I would say the
532 following three conditions. First is generally utilization, adding 30 more units, 32 more
533 units adds a certain amount of density to an area that already has a lot of density. We
534 think, and many of my neighbors feel the same way, that while the facilities that were
535 provided as part of the Bacova community are very nice designs, we already have a lot
536 of utilization here, so that's a lot of units. Also, while it's not directly an issue related to the
537 community, we do have safety and security concerns in our neighborhood, which our
538 community board has addressed. We've had an increase in cars and garages being
539 broken into, so we'd ask that security conditions be considered in this as well. From a
540 design standpoint, again, I'd like to thank Mr. Babcock for redesigning the work of this. I
541 think it is in keeping with other properties. We also want to be certain that the buffers to
542 the homes are looked at. Originally it was 25 feet. Now it's 15 feet plus the road. So, we'd
543 recommend the Commission look at that, and that's really more of a design. So from
544 scale, use, design, I think these are more downstream issues. If it's rezoned or a matter
545 of public record, I want to make sure that those are considered. The bottom line, if the
546 county is unable to support rezoning to other use, parks and playgrounds, because this
547 is directly across from an elementary school, then I'd like to recommend that the rezoning
548 is approved, but with the conditions of you know how this is designed from a use density
549 standpoint, that's all I have to say.

551 Mr. Mackey - All right. Thank you, Mr. Marple. Any questions or comments
552 for Mr. Marple?
553

554 Mr. Shippee - Can I hear from the applicant just to respond to some of these
555 points please. Andy, in particular, I'm interested in the buffer question.
556

557 Mr. Condlin - Good evening members of the Commission. My name is Andy
558 Condlin. I'm here on behalf of the applicant, LLBB. We have with us a whole host of folks
559 there that can help answer questions. More specifically to help answer that I want to put
560 this in context of the overall development. This particular property is part of the 226-acre
561 Bacova development, which has over 43%, it has over 90 acres, 98 acres actually
562 dedicated to open space and community area. So, as part of the overall development that
563 we've provided for, that's why we think this fits into with the suburban mixed use. To
564 answer your question, specifically, one of the things that we provided, and we've looked
565 at a lot of different uses and certainly appreciate Mr. Marple's time. Get into design work,
566 you do a good job working with us. And quite frankly, as we look at other uses with parking
567 next to it, that's why we created and Mr. Morris, I don't know if you can pull up the concept
568 plan; that would be alright just so we can have that in front of us. We are providing within
569 the buffer, as he's pointed out, it's a transitional buffer 25 plan. There's also a seven-foot
570 composite fence in there, which, from a standpoint of the actual ordinance requirements,
571 and it meets those standards that we have otherwise. Now I know I can't speak to the 25
572 feet. I don't believe that was part of the original zoning between these cases, but that was,
573 I think that was probably part of the residential marketing as to what they were planning
574 on and what the plan is. I don't think we ever drew any specific plans for this as an office
575 development. We're waiting for the market to occur. And as the staff report points out, it's,
576 it's a substantial change in the market since this was approved in 2011. Certainly, as
577 we've gone through from an office market standpoint. So that's why you can see the
578 setback and Andrew, what is the setback of those off of that? I think that's a that's well
579 excessive, almost 75 feet there from the from the homes itself. That's why we put the road
580 and we designed and moved all the units so that no rear unit would face those homes.
581 You can see the side units. We revised the elevations of the side units to have alternatives
582 so that the windows are not on the fourth floor. So that's why we, you know, in order to fit
583 this particular development. Thank you, Mr. Morris. So, you can see that up on the left
584 side, how that's a little bit different. That's the alternative for those units, so that the
585 outdoor terrace, the fourth four story balcony, doesn't have an opening on there. So that's
586 walled off. You can see the windows only go up to the three stories at that point in the
587 fourth story. Again, that's a design issue that some of the neighbors had commented on
588 too. I think I probably more than answered your question, but I threw a lot in there. Sure.
589

590 Mr. Marple - Very quickly, the 25 feet relates back to an exhibit that was
591 provided to us of the design of the property behind us back in 2011. This was provided
592 by Ryan Homes, who was the builder of our community. At that time and it's not
593 necessarily the subject for your decision tonight, but it gets back to why we were told
594 there'd be 25 feet but actually be kind of more of a hill with a fence on it. So, we thought
595 there'd just be more separation. It's, you know, our bedroom is on the second floor, and
596 it will look directly out on these four-story buildings. That will be a 15-foot buffer, a 26-foot

597 road, and then some distance, maybe another five or six feet into the house. So that's
598 what we're worried about. It's just looking up at a very large structure. But I do want to
599 say thank you again for the redesign. It's more in keeping with what's in the neighborhood,
600 and a roof type design doesn't look like, you know, the different buildings you see that are
601 on West Broad Street now. Thank you.

602

603 Mr. Mackey - Thank you. Mr. Marple. Were you finished with your
604 presentation?

605

606 Mr. Condlin - I'm happy to answer any questions. I think Mr. Shippee knows.
607 He's had to sit through two of my presentations in meetings already. So again, I'm happy
608 to answer any questions.

609

610 Mr. Mackey - Anyone have any questions for Mr. Condlin?

611

612 Mr. Witte - I have a question. I want to start with Mr. Emerson. According,
613 and I may be wrong, but according to the Virginia Statewide Fire Prevention Code; do
614 those dead-end streets have to be a cul-de-sac?

615

616 Mr. Emerson - No, the fire department will accept it, as long as they've got a
617 hammerhead, but that design would be settled at time of plan of development.

618

619 Mr. Witte - I know there's POD.

620

621 Mr. Emerson - There are some cases where Fire will accept that.

622

623 Mr. Witte - Okay.

624

625 Mr. Condlin - Mr. Emerson, I believe the standard, if it's less than 150 feet,
626 that certain standard that they'll accept, and these meet that standard.

627

628 Mr. Witte - Looks like 151.

629

630 Mr. Condlin - You're looking at it sideways.

631

632 Mr. Witte - That's my only question. Thank you.

633

634 Mr. Mackey - Any other questions? Alright, Mr. Shippee?

635

636 Mr. Shippee - Thank you, Mr. Chairman. I do want to thank the applicant
637 here. There's been a lot of back and forth, not even just this year, but the prior year as
638 well. I want to thank the members of the community that really showed up at multiple
639 community meetings that we had and I think has led to many positive changes to this
640 development. I do think residential zoning is appropriate for this parcel. I think in terms of
641 the buffer, it's possible that maybe we can still finagle that as we get to the final plan. But

642 having said that, I do, I do move that we recommend approval of REZ-2024-100816,
643 LLBB, LLC, with the proffers that you see dated June 11, 2024.

644
645 Mr. Winterhoff - Second.

646
647 Mr. Mackey - All right, we have a motion by Mr. Shippee, a second by Mr.
648 Winterhoff. All in favor, say, aye.

649
650 Commission - Aye.

651
652 Mr. Mackey - Any opposed? Motion is granted.

653
654 **REASON:** Acting on a motion by Mr. Shippee, seconded by Mr.
655 Winterhoff, the Planning Commission voted 4-0 (one absent, one abstention) to
656 recommend the Board of Supervisors grant the request because it is appropriate
657 residential zoning at this location and is not expected to adversely affect the pattern of
658 zoning and land use in the area.

659
660 Mr. Emerson - Mr. Chairman, we now move on to the next, case in line, which
661 also appears on Page 2, and it was previously on request for deferral. The deferral was
662 denied, and that is REZ-2024-100257, Rick Bushy for JSN Development LLC.

663
664 **REZ-2024-100257 Ric Bushey for JSN Development LLC:** Request to amend proffers
665 accepted with C-63C-07 on part of Parcel 816-687-5307 located at the southeast
666 intersection of New Market Road (State Route 5) and Strath Road. The applicant
667 proposes to amend proffers related to the concept plan, building materials, permitted
668 uses, buffers and fencing, dumpster screening, outdoor speakers, sidewalks, and
669 stormwater facilities. The existing zoning is B-2C Business District (Conditional). The
670 2026 Comprehensive Plan recommends Office.

671
672 The staff report will be presented by Mr. Livingston Lewis,

673
674 Mr. Mackey - Before we get started, is there anyone in the audience that's
675 in favor of this case? Is there anyone on WebEx that's in favor of this case?

676
677 Ms. Hartwick - There is one person on WebEx for this case.

678
679 Mr. Mackey - In favor? Can you ask them if they are in favor? Do they
680 support it or are they in opposition?

681
682 Ms. Hartwick - In opposition.

683
684 Mr. Mackey - Okay, all right, Mr. Lewis, I don't think we need to have the
685 staff report. I'm ready to move forward with a motion.

687 Mr. Nelson - Can I just make one comment that -I don't know if the person,
688 I don't know if they're listening, but if they are, I would just say, save your money, right?
689 Just withdraw the case before it gets to the Board of Supervisors.

690
691 Mr. Mackey - Absolutely. Alright, I move that REZ-2024-100257, JSN
692 Development LLC be denied because it would set an adverse zoning precedent for the
693 area and would be inconsistent with numerous goals and objectives of the 2026
694 Comprehensive Plan, including Route Five Corridor recommendations related to visual
695 impacts, landscaping, building and site design.

696
697 Mr. Witte - Second.

698
699 Mr. Mackey - Alright, we have a motion by Mr. Mackey, a second by Mr.
700 Witte. All in favor. Say aye.

701
702 Commission - Aye.

703
704 Mr. Mackey - Opposed? Motion granted. Thank you,

705
706 Mr. Emerson - Mr. Chairman. We now move on to the next case on Page 2,
707 which is REZ-2024-100572, Winfrey LLC.

708
709 **REZ-2024-100572 Winfrey Road LLC:** Request to conditionally rezone from A-1
710 Agricultural District to RTHC Residential Townhouse District (Conditional) part of Parcel
711 778-772-7200 containing 8.39 acres located at the southeast intersection of Woodman
712 Road and Winfrey Road. The applicant proposes rezoning for a townhouse development.
713 The use will be controlled by zoning ordinance regulations and proffered conditions. The
714 2026 Comprehensive Plan recommends Suburban Residential 2, density should not
715 exceed 3.4 units per acre, and Environmental Protection Area.

716
717 The staff report will be presented by Mr. Michael Morris,

718
719 Mr. Mackey - Thank you, Mr. Morris, is there anyone in the audience or on
720 WebEx that would like to speak to this case?

721
722 Ms. Hartwick - There is no one on WebEx for this case.

723
724 Mr. Mackey - Okay, you may proceed, Mr. Morris.

725
726 Mr. Morris - Thank you Mr. Chair, members of the Commission. As stated
727 this is a request to conditionally rezone 8.39 acres from A-1 to RTHC to construct
728 townhouses. The site is located at the southeast intersection of Woodman Road and
729 Winfrey Road and consists of a large, open field bordered by trees and environmental
730 areas to the south and a power transmission line to the east. This case was previously
731 deferred by the Planning Commission at their May 9, 2024, public hearing at the request
732 of the applicant.

733
734 The surrounding area is largely residential in nature, with a mixture of large-acreage,
735 single-family properties, vacant A-1 lots, and townhomes and single-family residential
736 development associated with the River Mill development. The county-owned Glover Park
737 is located to the west, across Woodman Road. The future location of the Fall Line Trail is
738 located to the east, as well as the River Mill Townhomes development. The applicant is
739 proposing to conditionally rezone the property to allow a townhouse development, shown
740 here with no more than 60 units, which would be developed in a manner similar to the
741 neighboring River Mill Townhomes. The applicant has also indicated the proposed
742 development would be incorporated into the River Mill subdivision and homeowner's
743 association.

744
745 The handouts you received this evening note two changes to the request since
746 distribution of the staff report, specifically further extending the 10' buffer area along the
747 western property boundary, which is located here, and adding parking spaces along the
748 cul-de-sac at the terminus of Private Road 3, which is located generally here. Other items
749 addressed by the applicant since the last Planning Commission hearing include a
750 proffered density of no more than 60 units; minimum planting standard of TB25 in the
751 Woodman Road buffer; inclusion of the 10' buffer along the western property line;
752 provision of sidewalk along both sides of internal streets; and identifying details of the
753 entrance feature and amenity area. Proffered elevations show units from two to three
754 stories with front-loading garages and exterior materials of stone, stone veneer, brick,
755 fiber cement siding, engineered wood, and vinyl. Other proffers would set a minimum
756 finished floor area of 1,400 square feet and minimum lot width of 20 feet. They would also
757 require initial marketing of units as "owner-occupied", and limit hours of construction to 7
758 a.m. to 7 p.m., Monday through Saturday.

759
760 The proposed use, density, and overall character is consistent with the adjacent River
761 Mill Townhomes development and would be in keeping with the pattern of development
762 taking place in the area. While the request is not entirely consistent with the
763 Comprehensive Plan designation of Suburban Residential 2, it is residential in nature and
764 could benefit the area by providing additional housing and pedestrian amenities. It would
765 also take advantage of existing infrastructure and is not anticipated to create negative
766 impacts on public facilities. For these reasons, staff can support this request. This
767 concludes my presentation and I'm happy to try and answer any questions you may have
768 at this time.

769
770 Mr. Mackey - As everyone is well aware, Mr. Dandridge could not make it
771 to the hearing tonight because of a work conflict that he could not get out of. So, he asked
772 me to take the lead on this case. I've spoken with him this week extensively about it, and
773 he feels comfortable about moving on with the case. Does anyone from the Commission
774 have any questions for Mr. Morris right now? I have just one. Have you heard a lot of
775 feedback from the community, or have you had any...

777 Mr. Morris - We've received a few questions. No expression of concern,
778 opposition or support. I think people were just curious to see the signs and wanted to
779 know what was happening.

780
781 Mr. Mackey - Thank you. We'll hear from the applicant.

782
783 Mr. Geiger - Good evening members of the Commission. My name is Jeff
784 Geiger here on behalf of the applicant. We really appreciate the feedback that the
785 planning staff has provided on the request, in particular, Mr. Morris's time to improve the
786 request. We believe that it's in good shape to add another section to a high-quality
787 community in Henrico and continue the quality development that River Mill started. Glad
788 to answer any questions that the Commission may have at this time.

789
790 Mr. Mackey - Any questions for the applicant or Mr. Geiger? Thank you, Mr.
791 Geiger. I would like to say that Mr. Dandridge asked me to relay his thanks to staff and to
792 Mr. Geiger for the work that has been put in since the last deferral on getting the case in
793 a position where it can move forward. He believes this would be a good addition to the
794 community. Having said that, I move that we recommend approval of REZ-2024-100572,
795 Winfrey Road LLC, with the proffers dated June 4, 2024.

796
797 Mr. Winterhoff - Second.

798
799 Mr. Mackey - We have a motion by Mr. Mackey, a second by Mr. Winterhoff.
800 All in favor, say aye.

801
802 Commission - Aye.

803
804 Mr. Mackey - Any opposed? Motion is carried.

805
806 **REASON:** Acting on a motion by Mr. Mackey, seconded by Mr.
807 Winterhoff, the Planning Commission voted 4-0 (one absent, one abstention) to
808 recommend the Board of Supervisors grant the request because it would permit
809 development of the land for residential use in an appropriate manner and the proffered
810 conditions will assure a level of development otherwise not possible.

811
812 Mr. Emerson - Mr. Chairman, the remaining item on your agenda this
813 evening would be the consideration of the Planning Commission minutes from your
814 regular meeting on May 9, 2024. Of course, if you have any changes or corrections, if
815 you'll just provide those to us, we'll take care of them.

816
817 Mr. Mackey - Any changes, corrections, additions, subtractions,

818
819 Mr. Shippee - Mr. Chairman, there is an errata sheet that we do see.

820
821 Mr. Emerson - Oh, is there an errata sheet? I'm sorry.

822

823 Mr. Shippee - I would move that errata that we approve the minutes.
824
825 Mr. Witte - Second.
826
827 Mr. Mackey - We have a motion to accept the minutes with the errata sheet
828 attached by Mr. Shippee, a second by Mr. Witte. All in favor. Say, aye.
829
830 Commission - Aye.
831
832 Mr. Mackey - Any opposed? Motion is carried.
833
834 Mr. Emerson - Mr. Chairman, I have nothing further for the Commission this
835 evening, other than I will request if you'll review the documents that the consultants
836 presented to you this evening. If you do have any changes or any thoughts of how they
837 could be made better or in any way corrected or they're in error, let us know within the
838 next two weeks. We would like to wrap those up and move them on to the Board of
839 Supervisors.
840
841 Mr. Mackey - All right, we'll do that. I have one comment. I would like to wish
842 all the Commissioners and anyone in the audience a very happy Father's Day. Enjoy it
843 with your families. Be safe and I don't have anything else. Does anyone else? Meeting
844 adjourned.

845
846
847
848 Mr. William M. Mackey Jr., Chairperson
849
850
851
852

Mr. R. Joseph Emerson, Secretary