

**A-1 & R-5AC
to R-5AC
23.1 Ac.**

REZ2016-00033

Zoning

Single-Family Residential

Three Chopt District

400 Feet

PS August 2016 Ref: 736-768-6361

COMMONWEALTH OF VIRGINIA
COUNTY OF HENRICO



John A. Vithoukas
County Manager

December 20, 2016

Bacova Texas, LLC and Bacova, LLC
11533 Nuckols Road, Suite C
Glen Allen, VA 23059

Re: Rezoning Case REZ2016-00033

Dear Sirs:

The Board of Supervisors, at its meeting on December 13, 2016, approved your request to conditionally rezone from A-1 Agricultural District and R-5AC General Residence District (Conditional) to R-5AC General Residence District (Conditional) Parcels 736-768-6361, -5323, and 736-767-2166 containing 23.1 acres located at the southeast intersection of N. Gayton and Kain Roads, described as follows:

Beginning at a point the east line of North Gayton Road, said point having a Henrico County N.A.D. 83 (Virginia South Zone) coordinate value of N=3767777.04, E=11735825.59; thence continuing along the east line of North Gayton Road N 40°52'16" E a distance of 445.08' to a point; thence S 49°07'44" E a distance of 6.73' to a point; thence N 41°01'53" E a distance of 558.87' to a point; thence N 42°03'13" E a distance of 179.69' to a point; thence along a curve to the right with a delta angle of 6°33'06", a radius of 1125.95', an arc length of 128.75', a chord bearing of N 44°08'49" E, and a chord length of 128.68' to a point; thence N 88°40'26" E a distance of 38.25' to a point on the south line of Kain Road; thence continuing along the south line of Kain Road S 48°42'54" E a distance of 147.00' to a point; thence S 50°46'16" E a distance of 169.45' to a point; thence leaving the south line of Kain Road S 36°41'27" W a distance of 519.08' to a point; thence S 51°33'33" E a distance of 471.48' to a point in the centerline of a creek; thence along the centerline of the creek in a southwest direction 1519'± to a point on the north line of Liesfeld Farm Drive; thence continuing along the north line of Liesfeld Farm Drive N 49°07'44" W a distance of 38.38' to a point; thence N 42°17'10" W a distance of 100.72' to a point; thence N 49°07'44" W a distance of 143.96' to a point; thence along a curve to the right with a delta angle of 90°00'00", a radius of 25.00', an arc length of 39.27', a chord bearing of N 04°07'44" W, and a chord length of 35.36' to a point; thence N 49°07'44" W a distance of 50.00' to a point; thence S 40°52'16" W a distance of 12.00' to a point; thence along a curve to the right with a delta angle of 90°00'00", a radius of 25.00', an arc length of 39.27', a chord bearing of S 85°52'16" W, and a chord length of 35.36' to a point; thence N 49°07'44" W a distance of 41.04' to a point; thence N 42°17'10" W a distance of 100.72' to a point; thence N

49°07'44" W a distance of 144.48' to a point; thence N 04°07'44" W a distance of 49.50' to a point and place of beginning, containing 23.104 acres.

The Board of Supervisors accepted the following proffered conditions, dated October 26, 2016, which further regulate the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

1. **Development Plan.** The Property shall be developed generally consistent with that certain development plan entitled "SMITH GROVE AT BACOVA," prepared by Youngblood, Tyler & Associates P.C., dated June 16, 2016, and attached hereto as Exhibit 1 (see case file) (the "Development Plan"), unless requested and specifically permitted at the time of subdivision review.
2. **Architectural Features.** Various design elements shall be incorporated to provide variety amongst individual dwellings including, but not limited to the following: varying colors of brick, brick accents (including, but not limited to, arches with or without keystones, soldier courses, quoin corners, and accent coloring different from any main brick coloring), varying colors of siding, varying window designs, and varying doorway designs. No two dwellings adjoining each other side by side shall be identical in exterior architectural features and colors.
3. **Density.** No more than 66 single-family residential dwellings shall be constructed on the Property.
4. **Minimum Dwelling Size.** Any new dwelling constructed on the Property shall have a minimum of 2,000 square feet of finished floor area and shall be located on a lot with a minimum width of 60 feet.
5. **Lighting.** Pedestrian scale residential lighting within the Property shall be provided on each lot. Such lighting shall be non-glare, decorative in style, residential in character and shall be provided at least in the front yard of each residential lot.
6. **Streets.** All new streets within the Property shall be constructed with standard six (6) inch curb and gutter.
7. **Landscaping.** A minimum of one (1) tree measuring a minimum of 2.5" in caliper shall be retained or planted in the front yard of each residential lot and side yards on corner lots in the Property. In no case, shall any such tree be planted more than ten (10) feet from the right-of-way unless otherwise approved at the time of landscape plan approval. The front and side yards of any lot within the Property shall be irrigated and planted with sod. Each new dwelling on the Property shall have prototypical plantings (shrubs and ornamental ground cover) along the entire front foundation.

8. **Foundations.** All new dwellings located on the Property shall be constructed on elevated slabs or crawl space foundations except for basements and garages. The exterior portion of the foundations below the first floor level which is visible above grade shall be finished with full standard brick or stone unless otherwise approved by the Director of Planning. Dwellings located within the Property built on a crawl space foundation, with steps to the main entrances of all dwellings, including front access stoops or porches, but not including dwellings with country porches, shall be faced with full standard brick or stone with a finished concrete or exposed aggregate landing for any such steps, stoops or porches and any visible piers on porches shall be constructed of brick.
9. **Exterior Materials.** Any dwelling, including any garage accessory to such dwelling upon the same lot whether attached or detached shall have exposed exterior walls (above finished grade) of full standard brick, stone, cementitious siding, or a combination of the foregoing, unless otherwise approved by the Director of Planning.
10. **Roof Material.** Any dwelling on the Property shall be constructed with a roof that has a minimum certified twenty-five (25) year warranty.
11. **Garages.** Each new dwelling on the Property shall be constructed with a two (2) car garage (either attached or detached).
12. **Driveways.** All new driveways shall be constructed of either cobblestone, brick, asphalt, pre-cast pavers, concrete or other similar materials approved by the Director of Planning or the Planning Commission at the time of subdivision review. No individual lots shall have direct access to Liesfeld Farm Drive or North Gayton Road.
13. **Fireplace Chimneys.** The exposed portions of all fireplace chimneys shall be of full standard brick, stone, or cementitious siding. The exposed bases of all chimneys shall be of the same material as the building foundations. The exposed portion of a flue for a direct-vent gas fireplace shall be constructed of the same material used on the adjacent siding and shall be built on a foundation that is constructed of the same material that is used on the adjacent foundation.
14. **Cantilevering.** No cantilevered features will be allowed, except for direct gas vents and second story bay windows which will be designed and constructed with decorative corbels.
15. **Protective Covenants.** Prior to or concurrent with the final approval of the initial subdivision for the Property, a document setting forth covenants (the "Covenants") shall be recorded in the Clerk's Office of the Circuit Court of

Henrico County, Virginia (the "County"), setting forth controls on the development and maintenance of the Property and establishing an owners' association (the "Association"). The Association may be a part of a larger association encompassing more property than just the Property. The Covenants shall provide for high standards of uniform maintenance of individual sites, common areas, open space, landscaping and private streets. The Association shall establish uniform rules related to the standards for approval by the Association of improvements within the Property, including, but not limited to, construction of any buildings and other structures and signage.

16. **Entrance Features, Pedestrian Areas and Landscaping.** Signage for the Property shall be limited to 8 feet in height. There shall be pedestrian walkways and amenities designed throughout the Property within and connecting to other properties, which amenities which may include the following items: landscaped and natural areas, pavers, water features, pedestrian gathering areas, street furniture, benches, accessory picnic areas, pedestrian lighting and pedestrian accessways connecting to sidewalks and walking areas within and adjoining other properties. Sidewalks of a minimum width of four (4) feet within the Property and along roads adjoining the Property shall be provided and constructed as required by the County at the time of subdivision. No chain link fencing or stockade fencing shall be permitted on the Property.

17. **Buffer Requirements.**

a. **Overall.** Any buffer within the Property required herein shall be retained as natural and may also be landscaped, including supplemental plantings, signage, berms and/or fencing and other purposes as approved by the Planning Commission at the time of landscape plan review. Best tree preservation practices shall be followed to minimize large tree clearing for any buffer along the perimeter of the Property. Buffer areas with installed landscaping shall be irrigated unless otherwise approved at the time of subdivision review. Roads, sidewalks, utility easements (including drainage), common owned fencing/walls adjacent to any roads or drives, and signage shall be permitted within such buffer; provided, any such road or utility easements shall be extended generally perpendicular through such buffer. All buffers, whether in common area or a lot, shall be maintained by the Association. No fencing and walls for an individual lot may be located within a buffer. The Covenants shall provide that the Association shall have the obligation to and the right to access and maintain any portion of a buffer for the Property that is within a lot.

b. **Property Buffer.** A minimum twenty-five (25) foot natural and landscaped buffer and planted to the level of a transitional buffer 25 shall be provided adjacent to the boundary of the Property adjoining Liesfeld Farm Drive as shown on the Development Plan (see case file). A minimum twenty-five (25) foot natural and landscaped buffer and planted to the level of a transitional buffer 35 shall be

provided adjacent to the portion of the boundary of the Property adjacent to North Gayton Road. No wooden fence shall be permitted within the rear yard of any lot within the Property adjacent to any such buffer along North Gayton Road and any fence within the rear yard of any such lot shall be similar in appearance or type with the fence within the buffer along North Gayton Road. Each such buffer located on the Property shall be similar to the plans depicted on Exhibits 9 & 10 from case C-9C-11 (see case file), including, without limitation, the berms and fencing shown thereon.

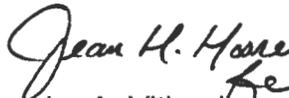
18. **Underground Utility Lines.** All utility lines on the Property shall be underground, except for already existing utilities, junction boxes, meters, utility lines in wetland areas and utility lines required to be above ground by the utility company. Electrical junction boxes and meters shall be screened from public view at ground level at the perimeter of the Property with use of a wall, fencing, landscaping, or such other method as may be approved at the time of review.
19. **Best Management Practice.** Best Management Practice structures shall be located outside of any landscaped buffer within the Property, except as a landscaping amenity or water-related feature and if requested and specifically permitted by the Director of Planning or the Planning Commission at the time of subdivision review for the Property. Any above-ground Best Management Practice structure shall include an aeration feature to move water within such structure.
20. **C-1 Zoning.** Applicant shall file an application for C-1 zoning for the areas within the Property that are within any 100-year flood plain, unless such areas are needed for roads, access ways or other purposes approved or required by the Director of Planning or the Planning Commission or any other governmental body or official at the time of any subdivision review for the Property. Such rezoning application shall be filed as soon as reasonably practical, but in no case later than the final plat recordation for the last subdivision plat for the Property. The acreage then zoned C-1 may or may not be included in any subdivision or lot on the Property, at the sole discretion of the Applicant.
21. **Hours of Construction.** During the construction of the development on the Property the hours of exterior construction shall be limited to 6:00 a.m. to 8:00 p.m., Monday through Saturday, except in emergencies or where unusual circumstances require extending the specific hours in order to complete work such as concrete pours or utility connections. Exceptions shall require the Director of Planning's approval. Construction signs shall be posted in English and in Spanish and shall state the hours of construction.
22. **North Gayton Road Improvements.** A third northbound lane along the entire frontage of the Property along North Gayton Road and improvements shall be

constructed when required at the time of subdivision review. Such improvements shall include any dedication of right-of-way needed, the installation of curb and gutter, pavement widening, a right turn lane into the Property and any necessary storm sewer along this portion of North Gayton Road.

23. **Severance.** The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

The Planning Department has been advised of the action of the Board of Supervisors and will revise its records.

Sincerely,



John A. Vithoulkas
County Manager

pc: Andrew M. Condlin, Esquire
Director, Real Estate Assessment
Tiffany S. Hinton, Ph.D., Dir. Research and Planning - Schools

