July 18, 2013

VIRGINIA: At a Regular Meeting of the Hanover County Planning Commission in the Board Auditorium of the Hanover County Government Building, Hanover County, Virginia, on Thursday, July 18, 2013 at 6:30 P.M.

PRESENT: Ms. Claiborne R. Winborne, Chairman
Mr. Larry A. Leadbetter, Vice-Chairman
Mr. Jerry W. Bailey
Mrs. Edmonia P. Iverson
Mr. C. Harold Padgett, Jr.
Mrs. Ashley H. Peace
Mr. Randy A. Whittaker

STAFF PRESENT: Mr. David P. Maloney, AICP
Mr. Dennis A. Walter
Mrs. Gretchen W. Biernot
Ms. Alyssa Halle
Mr. Ryan Fletcher
Mrs. Betty S. Gray

Meeting Called to Order

Madame Chairman, Ms. Winborne called the meeting to order at 6:30 P.M. ***All members were present.***

Approval of Minutes

Ms. Winborne advised that the June and July minutes will be submitted at the August meeting.

Consideration of Agenda Amendments by Action of the Commission

There were no amendments to the agenda.

EXPEDITED ADMINISTRATIVE AGENDA

Proffered Elevation Review

SPR-25-08 KIDMED MEDICAL OFFICE BUILDING
CHICKAHOMINY MAGISTERIAL DISTRICT
(COMMISSION ACTION)

Mr. Maloney advised that as part of the proffers of the Rezoning (C-10-99, Am. 1-09; proffer 3.2) for Hanover Group, L.L.C., the Planning Commission is charged with review and approval of architectural elevations for proposed developments in the M-1, Business Areas of the Bell Creek Park Subdivision. Staff recommended conditions if the Commission approved the elevations.

Mr. Padgett stated that this will be another nice improvement to the Bell Creek complex.

Upon a motion by Mr. Padgett, seconded by Mr. Leadbetter, the Planning Commission voted **UNANIMOUSLY TO APPROVE THE PROFFERED ELEVATION REVIEW FOR SPR-25-08, KIDMED MEDICAL OFFICE BUILDING SUBJECT TO THE FOLLOWING CONDITIONS AS OUTLINED IN THE STAFF REPORT:**

1. The building shall be constructed in substantial conformance with the architectural elevations titled KidMed Medical Office Building (AKA: Bell Creek Point), dated June 14, 2013 and prepared by Ratio.

2. The color scheme, building materials and façade design shall be in accordance with what is noted on the approved elevations.

3. A site plan shall be submitted and approved in accordance with Article 7, Section 6 prior to applications for building permits.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

MISCELLANEOUS

A. Revision of the Planning Commission Rules

Mr. Dennis Walter, Assistant County Attorney, explained that the Commission reviews the Rules on an annual basis to see if there are some areas of improvement or some areas that need to be changed based upon the Commission's experience. He stated that the Chairman, Vice-Chairman, Mr. Maloney and himself had a meeting to discuss their ideas on changes. He advised that the recommended changes are not major changes in terms of the amount of times for hearings or speakers. It is really more of an intent to clarify the Chair's authority as well as to clarify for the public what the Rules state especially for when they come up to address the Commission. He briefly reviewed the recommended changes by the Chairman and Vice-Chairman.

Ms. Winborne thanked Mr. Walter. She said they had discussed in their meeting whether or not under Citizens' Time (page 9) adding a notation about citizens' time.

Mr. Maloney advised that he has not drafted anything pending upon approval of the updated rules; however, if the Commission approves these Rules, he has notes to add the comment on Citizens' Time as they had discussed during their meeting as mentioned by Mr. Walter, as well as preparing the a summary on the Rules of conduct by the citizens, which if adopted, will appear on next month's agenda.

Ms. Winborne thanked Mr. Maloney and Mr. Walter for all of their help in reviewing and revising the Rules.

Mr. Padgett said paragraph G (page 4) should read The Chairman ***of*** the Commission.

Mr. Walter agreed.

Mr. Padgett said paragraph P (page 9) should read …each member should notify the Clerk ***when*** anticipating an absence….

Mr. Walter advised that it should read After being noted as present at any meeting each member should notify the Clerk ***when an absence at a succeeding meeting is anticipated***.

There was a question by the Commission of who the "Clerk" is.

Mr. Walter advised paragraph H (page 4) reads The Director of Planning shall appoint the Clerk of the Commission. He said that current position is occupied by Mrs. Gray.

Mr. Maloney said that was correct.

Ms. Winborne said in summary there are a couple of minor changes as noted above.

Upon a motion by Mr. Padgett, seconded by Mr. Whittaker, the Planning Commission voted unanimously to **APPROVE THE RULES OF ORDER AS AMENDED AND DISCUSSED TONIGHT.**

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

Mr. Maloney introduced the two new members of the Planning Staff. Mr. Ryan Fletcher is from King William County and has 5 years of experience of permitting and planned review process and is one of our Site Plan Review Planners. Ms. Alyssa Halle is a recent graduate of Virginia Tech with a Master's Degree in both Urban Regional Planning and Public Administration. She has extensive experience at the intern level and she will be serving as our Applicant Liaison a position that Mrs. Gretchen Biernot has held approximately 12 years. Mrs. Biernot's responsibilities will be transitioning as she will be responsible for more of the case processing.

Ms. Winborne thanked Mr. Maloney. She said the Commission looks forward to working with both of the new employees and welcomed them "aboard."

The Commission took a break at 6:50 P.M.

RECONVENED

Madam Chairman called the meeting back to order at 7:00 P.M. All members were present. She recognized Mr. Peterson, Chairman of the Board of Supervisors in the audience.

CITIZENS' TIME

No one addressed the Commission during Citizens' Time.

Ms. Winborne explained the Expedited Agenda. She asked if any one wished to speak to any of the cases on the Expedited Agenda. No one spoke.

PUBLIC HEARINGS

Request for Deferral

C-16-07(c) AM. 1-13 **D&R PROPERTY DEVELOPMENT, INC.,** Requests an amendment to the proffers approved with rezoning request C-16-07(c), Am. 2-10, D&R Property Development, Inc., on GPIN 8706-66-9058, zoned R-4(c), Residential Cluster Development District with conditions, and located on east line of Chamberlayne Road (U.S. Route 301) approximately 700 feet south of its intersection with McKenzie Drive (State Route 1239) in the **CHICKAHOMINY MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney advised that the applicant requested a deferral in order to address outstanding proffer policy issues. Staff recommended the request be deferred to the August meeting.

Upon a motion by Mr. Padgett, seconded by Mr. Bailey, the Planning Commission **DEFERRED C-16-07(c), AM. 1-13, D & R PROPERTY DEVELOPMENT, INC. UNTIL THE AUGUST 15, 2013 MEETING.**

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

EXPEDITED HEARINGS

C-29-03(c)
AM. 2-13

R-CI BUILDERS, L.L.C., ET AL. (MOUNT HERMON FARMS), Request an amendment to the proffers approved with rezoning request C-29-03(c), Arthur L. Traylor, Jr., on GPINs 7799-42-3744, 7799-32-9627 and 7799-42-0793, zoned RC(c), Rural Conservation District with conditions, and located on the south line of Mount Hermon Road (State Route 656) at its intersection with Campbell Creek Road (State Route 1071) in the **BEAVERDAM MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney stated that this request was for elimination of an existing $8,700.00 cash proffer accepted with zoning case C-29-03(c), Arthur L. Traylor, Jr. and to accept a new proffer addressing transportation impacts in the amount of $2,306. Staff recommended approval subject to the submitted proffers.

Ms. Winborne opened the public hearing and asked if the applicant was present. He was not; therefore, it is assumed that the applicant is in agreement with the staff recommendations.

Upon a motion by Mrs. Iverson, seconded by Mr. Leadbetter, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-29-03(c), AM. 2-13, R-CI BUILDERS, L.L.C. ET AL. (MOUNT HERMON FARMS) SUBJECT TO THE FOLLOWING PROFFERS DATED JULY 1, 2013 AS OUTLINED IN THE STAFF REPORT:**

1. The Property Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 ($2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.

2. Exterior foundation of houses shall be of brick or stone construction unless the house is constructed of synthetic stucco (DriVit) in which case the foundation may be of like material. Above the foundation exterior of the houses shall be constructed of brick, stone, synthetic stucco (DriVit), premium vinyl siding or concrete-based siding material (Hardi Plank).

3. Minimum house size shall be 2,500 square feet. Minimum floor area shall not include garages or breezeways in any category. Floor area shall be measured along the exterior walls of the structure.

4. There shall be no removal of trees of five-inch (5") or larger caliper in the required rear and side yard area of each building lot, as defined by the Zoning Ordinance, with the exception of dead or diseased trees. This, however, shall not prevent the removal of trees necessary for construction of improvements, driveways, utility easements, drain fields, drainage facilities, wells, swimming pools, or basketball or tennis areas. In addition, this shall not prevent the removal of trees for open areas in the Common Open Space areas as shown on the Conceptual Plan. No trees five inches (5") in caliper or greater may be cleared in the remaining area of the Common Open Space with the exception of clearing necessary for the installation of utilities.

5. The Property Owner agrees to dispose of or stabilize all fill material located on the Property in compliance with all applicable federal, state, and local guidelines and regulations. The Property Owner shall also provide a Groundwater Risk Analysis as recommended in the memo prepared by the County's Environmental Consultant EEE on May 5, 2004, to determine the potential for any risk to groundwater and well contamination. The Property Owner shall submit a remediation plan ("the Plan") and Groundwater Risk Analysis or Groundwater Sample Analysis with the construction plans for the project. The Plan shall indicate the steps the Property Owner will undertake to properly dispose of, remediate, or stabilize the areas of unconsolidated fill or contamination. The Plan and the Groundwater Risk Analysis or sample shall be submitted to Hanover County no later than one year following rezoning. The Plan shall include cost estimates for the removal and disposal of any necessary material, the stabilization of the consolidation fill areas and, should the results of the Groundwater Risk Assessment or sample indicate a risk to human health or the environment, the remediation of ground water and/or contaminated soils in accordance with applicable guidelines and/or regulations. The Plan shall be reviewed by the Department of Public Works. The Property Owner agrees to modify the Plan as required by the Department of Public Works. The Property Owner acknowledges that the Department of Public Works shall only approve the Plan if the Plan meets all federal, state, and local requirements and guidelines, and the Plan results in the complete remediation of the conditions and eliminates the risk to human health or the environment resulting from the fill activity.

   All remediation work described herein shall be bonded as a subdivision improvement in an amount determined by the Department of Public Works to be adequate for the completion of the remediation work. The location of all fill areas on the Property shall be shown on the final record plat for the Property. No building permits shall be issued by the County until all remediation work has been completed on the Property.

   Should any unidentified fill material be discovered on the Property during the design or construction phase, the owner shall dispose of this fill material in conformity with all Federal, State, and local statutes, regulations, and standards.

6. The Property Owner agrees to dedicate twenty-five (25') feet of right-of-way from the centerline of Mount Hermon Road (State Route 656) to the Property for future road widening free of cost to the County, upon request of the County or VDOT.

7. The Property Owner shall build the internal road to VDOT standards and specifications for residential subdivisions and the internal roads shall be dedicated to VDOT for maintenance and acceptance into the State highway system.

8. The Property Owner shall provide an ingress and egress easement as shown on the Conceptual Plan to the owner of GPIN 7799-11-7150. A deed of easement shall be recorded prior to or concurrently with recordation of the Subdivision Plat.

9. The Property Owner, his successors or assigns shall have developed a timber management plan for the timber located on the Preservation area and the Common Open Space areas as shown on the Conceptual Plan titled "Mt. Hermon Farms, Beaverdam District, Hanover County, Virginia, Conceptual Plan" by Resource International, LTD., dated December 15, 2003, (herein referred to as the "Timber Plan"). Said Timber Plan will be delivered to the Hanover County Planning Office prior to construction plan approval. Any thinning of timber recommended by the Timber Plan to be done immediately will be carried out prior to issuance of any building permits. The Owner, his successors or assigns reserve the right to cut, thin or otherwise remove timber from the said Common Open Space and Preservation Area as the Timber Plan and any of its amendments may recommend.

10. The Property Owner shall provide a drilled deep well upon each lot. Should production from the deep well prove inadequate for requisite household use with respect to either quantity or quality, a shallow well may be used.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

C-11-05(c) AM. 1-13 **GODSEY PROPERTIES, INC. (MADISON ESTATES)**, Requests an amendment to the proffers approved with rezoning request C-11-05(c), Am. 1-12, Godsey Properties, Inc., on GPINs 8744-04-2912, 8744-04-4891, 8744-04-6982, 8744-04-8818, 8744-05-3393, 8744-05-5071, 8744-06-5280, 8744-06-6363, 8744-06-7636, 8744-06-9872, 8744-14-3913, 8744-15-5863, 8744-15-9614, 8744-16-1814, 8744-16-2858, 8744-16-6022, 8744-16-6285, 8744-16-9086, 8744-25-0628, 8744-25-1756, 8744-25-2930, 8744-26-1674 and 8744-26-2101, zoned RC(c), Rural Conservation District with conditions, and located on the north line of Crown Hill Road (State Route 632) at its intersection with Madison Estates Drive (private road) and Tall Cedars Lane (private road) in the **COLD HARBOR MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney advised that the applicant is requesting to eliminate the current cash proffer of $9,741.00 accepted with zoning case C-11-05(c), AM. 1-12, Godsey Properties, Inc. and submit a road improvement proffer in the amount of $2,306.00 prior to Certificate of Occupancy. Staff recommended approval subject to the submitted proffers.

C-28-05(c) AM. 1-13 **MILES KECK BAKER (KECKSTON),** Requests an amendment to the proffers approved with rezoning request C-28-05(c), Miles K. Baker, on GPINs 8774-53-6337, 8774-53-7508, 8774-53-8264, 8774-53-9461, 8774-62-3970, 8774-63-1036, 8774-63-2215, 8774-63-7645, 8774-63-8041, 8774-63-8274, 8774-63-8487, 8774-63-9751 and 8774-64-6412, zoned RC(c), Rural Conservation District with conditions, and located on Baker Woods Place (private road), approximately 700 feet north of its intersection with Hopewell Road (State Route 619) near the Hanover/New Kent County line in the **COLD HARBOR MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney advised that the applicant is requesting to eliminate the current cash proffer of $9,741.00 accepted with zoning case C-28-05(c), Miles K. Baker and submit a road improvement proffer in the amount of $2,306.00, prior to Certificate of Occupancy. Staff recommended approval subject to the submitted proffers.

Ms. Winborne opened the public hearing and asked if the representative for Godsey Properties was present. No one was present; therefore, it is assumed they are in favor of staff's recommendations.

Ms. Winborne asked if a representative was present for Miles Keck Baker and if they were in agreement with the staff recommendations. The applicant from the audience stated yes he was in agreement with staff recommendations.

Ms. Winborne asked if there was anyone present who wished to speak regarding either of these two cases. Seeing no once come forward, she closed the public hearing for both cases.

Upon a motion by Mrs. Peace, seconded by Mr. Padgett, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-11-05(c), AM. 1-13, GODSEY PROPERTIES, INC. (MADISON ESTATES) SUBJECT TO THE FOLLOWING PROFFERS DATED JUNE 26, 2013, AS OUTLINED IN THE STAFF REPORT:**

1. Contribution for Road Improvements: Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 ($2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.

2. Exterior foundation of houses shall be of brick or stone construction unless the house is constructed of synthetic stucco (DriVit) in which case the foundation may be of like material. Above the foundation the exterior of the houses shall be constructed of brick, stone, synthetic stucco (DriVit), premium vinyl siding or concrete-based siding material (Hardi Plank). At least 50% of the houses shall be constructed with a brick or stone front on the exterior of the house.

3. Minimum house sizes shall be as follows: 2,220 square feet for a one-story building and 2,500 square feet for a one and one-half or two-story building. Minimum floor area shall not include garages or breezeways in any category. Floor area shall be measured along the exterior walls of the structure.

4. The Property Owner shall agree to build the internal roads to VDOT standards and specifications for the state roads.

5. A pull-off along the east side of the entrance road near State Route 632 shall be provided by the Property Owner and dedicated to VDOT for use in conjunction with a State Highway historic marker, the location of which shall be reviewed and approved by VDOT prior to dedication. The pull-off shall be constructed with a paved surface by the Property Owner. The marker shall be constructed and paid for by the Property Owner.

6. A Hanover County historic marker shall be provided to address the history of the railroad bed. Language for this marker and the State Historic Highway sign shall be developed in conjunction with the National Park Service and shall be reviewed by the Hanover County Historical Commission. The sign shall be paid for by the Property Owner.

7. To promote preservation of the historic features within the development, signage shall be placed along the earthworks, trenches or fortifications within the Common Open Space and the Preservation Lot to notify and remind residents they are not permitted to walk on traverse or encroach upon these features. On the preservation lot, a sign is needed between the trench line and each of Lots 19 and 31.

8. The owner of the Preservation Lot shall maintain posted signs on that lot to prevent intrusions upon the earthworks. The homeowners association shall maintain the signs posted in the Common Open Space.

9. Historic signage and the pull-off area shall be bonded as subdivision improvements.

10. The Dunham's cemetery shall be maintained on the original site.

11. All Civil War earthworks, trenches and fortifications, as well as the railroad bed, shall remain undisturbed. The Property Owner during development shall maintain "orange safety fencing" along the east side of the trenches from the rear of proposed Lot 19 to the north end of the earthworks. The location of such marking shall be shown on the construction plans. Hanover Planning Office or the National Park Service staff shall have an opportunity to inspect this feature prior to any land disturbance or other development on the Property.

12. Each lot shall be served by a drilled deep well. Should the Health Department determine that certain lots may be affected by gasoline leakage on the Property; a double cased deep drilled well will be used.

13. There shall be no clear cutting of trees on both sides of Madison Estates Drive and the rear portion of the Preservation Lot as shown on the Plan, thus preserving the current viewsheds from State Route 632.

14. Subject to the next sentences hereof, the required rear and side yard area of each lot, as required by the Zoning Ordinance, along with a minimum of 50' front setback shall be selectively cut with no cutting of trees 5 inch caliper or greater to be allowed. Additional clearing may be allowed (i) when said areas may be used for driveways, wells, drainfields, drainage and utility easements when necessary for dwelling or all other outbuilding construction and/or (ii) when required by the County of Hanover, and then only to the minimum extent necessary, except when cutting is permitted in accordance with approved grading plans, issued by the Public Works Department. The foregoing shall not prohibit the removal of dead or diseased trees.

15. On at least fifty percent (50%) of the lots within the subdivision, any garage which is attached to the dwelling shall be entered from the side or rear of the lot. Detached garages shall be located in the rear yard.

16. The Property Owner agrees to dedicate no less than thirty (30) feet of right-of-way from the centerline of State Route 632 to the Property, but variable in width in the located shown on the Conceptual Plan, for future road widening when requested by the County, free of cost, and free encumbrances interfering with the use of road purposes. The amount of land so dedicated shall be included in the acreage total of the Property as such total may be used to determine compliance with any of the requirements of the RC Zoning Ordinance.

17. The restrictive covenants for Madison Estates shall be amended, prior to recordation of an amended subdivision plat, to prohibit the owners of lots on which non-RPA wetlands exist, or lots that are located next to areas designated as Resource Protection Areas (RPAs) in accordance with the Chesapeake Bay Act, from encroaching upon or otherwise disturbing these areas.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

Upon a motion by Mrs. Peace, seconded by Mr. Whittaker, the Planning Commission voted **UNANIMOUSLY TO RECOMMED APPROVAL OF C-28-05(c), AM. 1-13, MILES KECK BAKER (KECKSTON) SUBJECT TO THE FOLLOWING PROFFERS DATED JUNE 27, 2013 AS, OUTLINED IN THE STAFF REPORT:**

1. Contribution for Road Improvements: The Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 ($2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.

2. The exterior foundation of houses shall be brick or stone construction unless the house is constructed of synthetic stucco (DriVit) in which case the foundation shall be of like material. Above the foundation, the exterior of the house shall be constructed of brick; stone, synthetic stucco (DriVit), premium vinyl siding or concrete based siding material (HardiPlank).

3. The minimum house size shall be two (2,000) square feet per one story home and two thousand four hundred (2,400) square feet per two story home measured along the exterior walls of the structure, but not including garages or breezeways in the calculation.

4. Existing trees of 5 inch caliper or greater on the Property shall not be removed with the exception of dead or diseased trees or parts thereof. This shall not prevent the removal of trees necessary for the construction of improvements, driveways, drainfields, or drainage facilities.

5. All roads shall be constructed to VDOT standards and specifications for public roads, but shall be privately maintained.

6. Each lot shall be served by a drilled deep well.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

C-16-03(c)
AM. 1-13

STYLECRAFT HOMES, INC., Requests an amendment to the proffers approved with rezoning request C-16-03(c), Rose Hill Properties, Inc. et al., on GPINs 8704-79-7450, 8704-89-4363, 8704-89-4258, 8704-89-4243, 8704-89-6114, 8704-89-0962, 8704-79-1458, 8704-79-5627, 8704-79-4798, 8704-79-4885, 8704-79-3893, 8704-79-3843, 8704-79-2892, 8704-79-2853, 8704-79-1894, 8704-79-1854, 8705-60-9093, 8705-70-0032, 8705-70-0082, 8705-70-1031, 8705-70-1080, 8705-70-2020, 8704-79-2979, 8704-79-3939, 8704-79-3999, 8704-79-4959, 8704-79-5909, 8705-70-5050, 8705-70-6000, 8705-70-6050, 8705-70-7000, 8705-70-7051, 8705-70-8011, 8705-70-8061, 8705-70-9011, 8704-79-7615, 8704-79-6790, 8704-79-6775, 8704-79-6843, 8704-79-7804, 8704-79-7854, 8704-79-8804, 8704-79-8844, 8704-79-8895 and 8704-89-6532, zoned RS(c), Single-Family Residential District with conditions, and located on the east line of Atlee Road (State Route 638) at its intersection with Rose Hill Drive (State Route 702) in the **MECHANICSVILLE MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney advised that the applicant was asking for the elimination of proffer No. 4, $1,344.00 (Capital Improvements) and $2,385.00 (Roads) and they have requested to replace those proffers with the road improvement proffer in the amount of $2,306.00. Staff recommended approval.

Ms. Winborne opened the public hearing and asked if the applicant was present and if so were they in agreement with the staff recommendations. From the audience the applicant or applicant's representative stated yes he was in agreement. She asked if anyone else was present who wished to speak. Seeing no one come forward, she closed the public hearing.

Upon a motion by Mr. Whittaker, seconded by Mrs. Iverson, the Planning Commission **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-16-03(c), AM. 1-13, STYLECRAFT HOMES, INC. SUBJECT TO THE FOLLOWING PROFFERS DATED JUNE 28, 2013 AS OULINED IN THE STAFF REPORT:**

1. Dedication of Right-of Way: The Owner agrees to dedicate fifty feet (50') of right-of-way from the centerline of Atlee Road (State Route 638) to the property for future road widening, free of cost to the County, upon request of the County or VDOT. The Owner shall not encumber any portion of the dedication that would restrict its use for road purposes.

2. Tree Preservation: Existing trees of 5 inch caliper or greater on the Property shall not be removed with the exception of dead or diseased trees or parts thereof. This shall not prevent the removal of trees necessary for the construction of improvements, driveways, drainfields, or drainage facilities.

3. Age Restriction: Dwellings within the Property shall comply with the definition of "housing for older persons" (currently 55 years of age and up) as defined in the Virginia Fair Housing Law, and occupancy of that housing shall comply in all respects with the age restrictions and other provisions of Section 36-96.7 of the Code of Virginia. In addition, persons under the age of 19 shall not be housed or domiciled and shall not reside on the Property. A covenant shall be recorded, and a homeowner's association established for enforcement of said covenant, to limit the use and occupancy of the dwellings as specified above.

4. Road Proffer:

   The Property Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 ($2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the

development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.

a) Roads: The entrances and turn lanes shall be constructed in substantial conformity with the plan titled "Rosehill Property, Mechanicsville District, Hanover County, Virginia, Road Improvement Plan," dated December 3, 2003, and prepared by Timmons Group. All road improvements shall be constructed in accordance with VDOT standards and specifications.

5. Sidewalks and Crosswalks: Concrete sidewalks shall be provided along streets within the community at an extent equal to or greater than that depicted in the conceptual plan. Final location may vary based on final design, provided that the construction plans submitted with the subdivision request demonstrate the provision of sidewalks in the amount depicted on the Conceptual Plan. For the crosswalks in the community, there shall be at least two (2) crosswalks that utilize a paved inlay or stamped treatment to form a decorative treatment. Sidewalks shall be designed and constructed in accordance with VDOT standards where parallel to and/or adjacent to streets.

6. Driveways: All dwelling lots will be improved with paved (concrete or bituminous) driveways.

7. Amenities: The community shall include both passive amenities (open space, and sidewalks) and active amenities (clubhouse, pool, parking area(s)), and although final design may change, the minimum extent and character of such features shall be substantially as depicted on the Conceptual Plan. In the case of the clubhouse and pool, this shall be constructed to mean that the clubhouse shall have a floor area of at least 2,000 square feet, and the pool shall have a water surface area of at least 700 square feet. The facilities shall be constructed at the expense of the Property Owner, and ownership shall be conveyed to a homeowners' association for operation, care and maintenance, as described herein, with appropriate covenants established to ensure the continued funding of the ongoing ownership, operational, and maintenance responsibilities. The conveyance to the homeowners' association will occur upon the formation and establishment of the homeowners' association after the recordation of the subdivision plat. The recreational amenities listed above shall be bonded as subdivision improvements.

8. Dwelling Size: The minimum dwelling size shall be 1,400 square feet of floor area.

9. Foundation Materials: Exterior of all foundations shall be brick, stone or stucco. The primary exterior cladding materials for the dwelling shall be limited to brick, vinyl siding or concrete fiber siding; cladding options shall not include masonry units (whether split face or smooth) or plywood.

10. Stormwater Management Facility, B-4: The applicant shall dedicate the necessary property interest for a stormwater management facility B-4 in accordance with the Hanover County Regional Storm Water Management Plan, which shall include an area that extends up to the one

hundred year flood pool (maximum water surface elevation 148.9), a twenty foot maintenance easement around such facility upland and continuous to the one hundred year flood pool elevation, and a twenty foot contiguous access easement to the stormwater management facility from the closest public road.

11. Stormwater Management Facility, B-5: The applicant shall dedicate the necessary property interest for a stormwater management facility B-5 in accordance with the Hanover County Regional Storm Water Management Plan, which shall include an area that extends up to the one hundred year flood pool (maximum water and surface elevation 148.9), a twenty foot maintenance easement around such facility upland and continuous to the one hundred year flood pool elevation, and a twenty foot contiguous access easement to the stormwater management facility from the closest public road.

12. Grave Sites: The Owner agrees to relocate the two graves on the Property prior to recordation of the subdivision plat.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

C-9-06(c)
AM. 1-13

ELM FIELD INVESTMENTS, L.L.C., ET AL. (ELM FIELD), Request an amendment to the proffers approved with rezoning request C-9-06(c), Am. 1-08, Dee Associates, L.L.C., on GPINs 7759-39-8459, 7759-38-2527, 7759-38-3460, 7759-38-6311, 7759-38-8273, 7759-48-0190, 7759-37-9897, 7759-37-6994, 7759-38-4072, 7759-38-1195, 7759-28-9393, 7759-28-8210, 7759-28-6055, 7759-27-5848, 7759-27-5527, 7759-27-5315, 7759-27-1255, 7759-27-1407, 7759-17-8739, 7759-18-5097, 7759-18-4286, 7759-18-5463, 7759-18-8357, 7759-18-9039, 7759-27-1938, 7759-28-4335 and 7759-39-0394, zoned RC(c), Rural Conservation District with conditions, and located on the west line of Greenwood Church Road (State Route 657) approximately 1,200 feet north of its intersection with Greenwood Creek Drive (private road) in the **SOUTH ANNA MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney advised that the applicant is requesting elimination of the existing cash proffer in the amount of $11,246.00 accepted with zoning case C-9-06(c), Am. 1-08, Dee Associates, L.L.C. and

replacing the proffer with the road Improvement proffer in the amount of $2,306.00 for the remaining lots with the exception of GPIN 7759-27-1255. In this instance the applicant is requesting the proffer amount be eliminated. During its June 12, 2013 meeting, the Board of Supervisors, in considering a separate but similar request, voted to allow applicants to request elimination of the cash proffer in its entirety, provided a valid purchase contract was entered into between November 28, 2012 and March 13, 2013. Staff recommended approval subject to the submitted proffers submitted.

Ms. Winborne opened the public hearing and asked if the applicant was present.

Ms. Emma Lee Mitchell, resident of the Beaverdam District came forward to represent the different properties in this application. She stated all of them were in agreement with the staff recommendations. She continued by saying this is her last case with these exceptions and she wanted to thank everyone on the Planning Commission and the Board of Supervisors. She said "truly your actions on doing this for the citizens that got caught in that gray area was truly government working at its best for its citizens."

Ms. Winborne asked if anyone one else wished to speak regarding this request. Seeing no one, she closed the public hearing.

Upon a motion by Mr. Leadbetter, seconded by Mr. Whittaker, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-9-06(c), AM. 1-13 ELM FIELD INVESTMENTS, L.L.C., ET AL. (ELM FIELD) SUBJECT TO THE FOLLOWING PROFFERS DATED JULY 9, 2013 AS OUTLINED IN THE STAFF REPORT:**

1. The Property Owner, for itself, its successors and assigns, agrees to pay Hanover County prior to the issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 ($2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 12, 2013. In the

event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.

2. The Property Owner, for himself, his successors and assigns of GPIN 7759-27-1255 agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of 00/100 ($) per single family unit built on the Property.

3. Exterior foundation of houses shall be brick or stone construction unless the house is constructed of synthetic stucco (DriVit) in which case the foundation may be of like material. Above the foundation the exterior of the houses shall be constructed of brick, stone, synthetic stucco (DriVit), premium vinyl siding or concrete-based siding material (Hardi Plank).

4. The Property Owner shall agree to build the internal roads as public subdivision roads, and they shall be designed and constructed to VDOT standards and specifications for such roads.

5. Tree Preservation. Existing trees of 5 inch caliper or greater on the Property shall not be removed with the exception of dead or diseased trees or parts thereof. This shall not prevent the removal of trees necessary for the construction of improvements, driveways, drainfields, or drainage facilities.

6. All lots within the subdivision, having garages attached to the dwelling, shall be entered from the side or rear of the lot. Detached garages shall be located in the rear yard.

7. The Property Owner agrees upon the County's or VDOT's request to dedicate no less than thirty (30) feet of right-of-way from the centerline of State Route 657 (Greenwood Church Road) to the Property, for future road widening when requested by the County or VDOT, free of cost, and free of encumbrances interfering with the use of road improvements.

8. Minimum house sizes shall be as follows: 2200 square feet for a one-story building or one and one-half story or 2500 square feet for a two-story building located on the Preservation Lot, Lot 28 in the Elm Field Subdivision; and, 1600 square feet for a one-story building, or 1800 square feet for one and one-half story or two-story building located on Lots 1-27 in the Elm Field Subdivision. Minimum floor area shall not include garages or breezeways in any category. Floor area shall be measured along the exterior walls of the structure.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

INDIVIDUAL HEARING

CUP-3-13 **HANOVER VILLAGE, L.L.C.**, Requests a Conditional Use Permit in accordance with Section 26-130.14 of the Hanover County Zoning Ordinance to permit a theater on GPIN 8724-08-2044, consisting of approximately 16.79 acres. The area of the Conditional Use Permit will be limited to approximately 8.66 acres. The property is zoned B-3(c), General Business District with conditions, and located on the south line of Mechanicsville Turnpike (U.S. Route 360) at its intersection with Sujen Court (State Route 1580) in the **MECHANICSVILLE MAGISTERIAL DISTRICT**. The subject property is designated on the General Land Use Plan Map as Commercial. (PUBLIC HEARING)

Mr. Maloney presented this request for a conditional use permit (CUP) to allow a movie theater at an existing shopping center. The property is located at the south line of Mechanicsville Turnpike at its intersection with Sujen Court. The property is zoned B-3, General Business District. The area of the CUP contains 8.66 acres and is shown for commercial use on the General Land Use Plan Map. He reviewed the GPIN and zoning maps. The property was rezoned in 1987 to B-3, General Business District with conditions. The approved proffers included a natural buffer area between the commercial property and the residential neighborhood and that buffer contains just over 4 acres. The applicant has arranged the site to place most of the parking in front of the theater building which will also serve as a physical barrier between the parking and the adjacent residential neighborhood. The layout of the property has increased the width of the natural buffer and shows supplemental landscaping at the rear property line to fill in gaps in the existing vegetation. This additional buffer adds approximately 100 feet from the edge of the wetlands; the existing proffered buffer varies from approximately 70 feet to 170 feet wide; and the proposed buffer will be increased to approximately 160 feet to as wide as approximately 275 feet.

Mr. Maloney reviewed the submitted elevations. The structure will be constructed of stained split-faced block and stucco; the height will vary from 30 feet to 46’4”, with an entrance tower feature to be as high as 52’6” tall that will require a separate height exception and the will be considered by

the Board of Supervisors; all of the facades show use of the materials and colors as shown in the legend; and the elevations show variations in setbacks and roof height to break up the façade.

Mr. Maloney explained that there are four shopping center entrances, and a fifth entrance serves the rear of the shopping center. Virginia Department of Transportation has reviewed the request and the current right turn lane from Brandy Creek Drive to the tire center shall be extended to the shopping center entrance to provide additional storage length for the turn lane. The applicant has shown the extended turn lane on the revised sketch plan as recommended by the Virginia Department of Transportation (VDOT).

Mr. Maloney stated that the applicant has held two community meetings. Issues raised at the meetings include: Concerns about public safety and the potential for an increase in crime; an increase of cut-through traffic to the adjoining residential neighborhood; noise from the vehicular traffic; trash blowing from the site into the adjacent neighborhood; and concerns with patrons crossing into the buffer area into the adjoining residential neighborhood.

Mr. Maloney said to address concerns about Brandy Creek Drive, traffic exiting the side onto Brandy Creek Drive will be directed by a left only channelized turn lane towards U.S. Route 360; Signage will also be added indicating that the exit is a left-only or that no right turns are permitted; in addition, signage will be provided on Brandy Creek Drive to deter through traffic into the adjacent neighborhoods. He reviewed the sketch plan. Subsequent to the staff report being finalized, staff prepared revised recommended conditions which reflect on-going discussions with the applicant and individual Commission members regarding this case. Copies of the conditions have been distributed to the Commission, the applicant, and copies are also located on the tables in the back of the room. He summarized the staff revised conditions. Condition 1) addresses the configuration of the entrance on Brandy Creek Drive as well as the installation of signage. Condition 2) the operation of the Theater

shall not begin before 9:00 A.M. and the last screening of any film shall not be advertised to begin after 11:30 P.M.; however the property owner would be permitted to have no more than three screenings per month where the screening of a premier film is advertised to begin no later than 12:15 A.M. 3) the owners shall be permitted to begin a screening for a special holiday event such as Halloween, Thanksgiving, Christmas and New Year's no later than 12:15 A.M. provided that screening constitutes one of the three monthly premier screenings referenced in Condition 2. 4) No condition set forth under the recommended conditions or the zoning ordinance shall be construed to allow the establishment of an "Adult Motion Picture Theater" or "adult uses" as described in the Hanover County Zoning Ordinance. Condition 5) addresses the screening of both ground and roof mounted HVAC equipment which is a common condition. Condition 6) prior to Site Plan approval the owner shall develop a public safety plan. The Public Safety Plan shall outline the security measures provided by the property owner and may include provisions concerning the use of security cameras and security personnel, whether off-duty law enforcement personnel or private security, during specific times or at the special screenings referenced in conditions 2 and 3. Should operational circumstances indicate that a modification to the Public Safety Plan is warranted, an amended plan shall be submitted to the Hanover County Planning Department. The amended plan shall be submitted no later than 60 days following notice by the County that changes are being requested. Condition 7) Use and development of the Property shall be in compliance with all other applicable Federal, State and local statutes, regulations and ordinances. This condition is an accumulative enforcement mechanism that is commonly recommended and accepted by both the Commission and the Board of Supervisors in instances of conditional use permits. Staff recommended approval subject to the revised conditions as just outlined as well as the sketch plan and elevations.

Ms. Winborne thanked those involved with this request for their time, effort and in addressing community concerns during the community meetings. A lot of thorough research has been done on this request and she appreciated everyone's diligence to this case.

Mr. Maloney advised that for the benefit of the public he wished to highlight the existing required buffer and the proposed buffer. In looking at the sketch plan, the proffered buffer is generally in this gray area towards the bottom of the screen. Because of the presence of RPA wetlands on the property the applicant will provide additional buffers beyond what was originally shown. When this site was originally zoned in the late 1980's they did not have the Chesapeake Bay Preservation Act in place. Because of the current Chesapeake Bay Regulations the applicant is required to provide additional buffering.

Mr. Maloney stated there is no additional parking directly behind the building. There are a few loading and parking spaces; however, these parking spaces will be designated as employee parking and through the Site Plan review process and staff will make sure that appropriate signage is installed to designate those areas as employee parking. There will be no public parking behind the theater. There will be a drive aisle to provide circulation throughout the site and to provide access for Fire and Emergency equipment to the rear of the building.

Mr. Whittaker said regarding the entrance way off of Brandy Creek Drive that there is one of these at Sheehy Ford in Ashland and he drove up there to look at it and the entrance seems to work very well there.

Mr. Padgett asked if the new buffer at the rear of the property line was delineated by anything.

Mr. Maloney replied that it will be delineated. He said at the time of the original zoning the original buffer was actually noted by meets and bounds; therefore, it will formally be defined as shown

formally prior to Site Plan review, because they have to show the RPA buffers based on the final wetlands delineation at that time.

Mr. Padgett asked that if a fence is desired that would be the time to address that.

Mr. Maloney answered no, should there be a desire for any additional features on site, a fence, additional lighting or whatever changes the Commission chooses to recommend those additional features would be done when the Commission takes an action on this request. The applicant will submit a Site Plan that meets the substantial conformity requirement of the sketch plan and elevations which meets all other applicable Zoning and County regulations then the Commission is obligated to approve those elevations. There is no discretion or authority to go back and negotiate additional features or improvements beyond what was ultimately approved by the Board of Supervisors.

Mr. Whittaker advised that during one of their meetings he asked the Sheriff's Department about the fence and the Sheriff's Department did not believe it would be safe to have a fence anywhere behind the proposed Theater.

Mr. Maloney explained that the terrain behind the proposed Theater is steep on both sides of the wetland feature, and there is fairly thick vegetation right now. The applicant is proposing to supplement the existing natural buffer with additional vegetation along the property line to delineate the buffer. The actual property line abuts the Brandy Creek neighborhood and the applicants would be supplementing the existing vegetation where it is not sufficient to provide an adequate buffer for the residents.

Mr. Leadbetter asked what formula was used to determine the amount of parking spaces needed.

Mr. Maloney answered that the parking spaces is established by the Zoning Ordinance. Typically in a situation like this staff has to make sure there is sufficient parking for all the proposed

uses. Both the existing shopping center and the proposed Theater and then once that has been established staff will essentially leave it up to the various property owners to negotiate appropriate easements to make sure the shopping has access through the Theater site and vice versa.

Mr. Leadbetter asked if that allowance has been made for future buildings.

Mr. Maloney replied yes and based on the information staff has received to date staff believes that the applicants have accounted for all of the required parking. He advised that part of this development proposal which is not part of the CUP, the applicants are showing the potential for two restaurant sites as well as an inline retail center. Those uses are permitted by-right. The applicant is showing additional parking for those uses outside the CUP boundary.

Ms. Winborne reviewed the Rules of Order for the Commission's public hearing. She opened the public hearing and asked for the applicant's presentation.

Mr. Andy Condlin, representing the applicant, asked for a few minutes for rebuttal at the end of the public hearing. He said they are very pleased to bring this request to the Commission tonight for use of a vacant B-3 commercial property next to an existing shopping center. He said the proposal is for a 12 screen theater from Carmike Cinema, and they are the 4th largest movie exhibitor in the Country. He stated that the Theater was founded in 1982 and they are known as "America's Hometown Theater" specializing in mid-market locations and they see a real opportunity here in Hanover for this type of use. He continued by saying, they believe it is consistent with the code requirements, the Master Plan, the B-3 zoning in the surrounding use of the shopping center, and with the conditions. He wished to review a few highlights that do provide for protection of the surrounding neighbors, residents and along the public road infrastructure; and they also believe that the necessary infrastructure is available to this site.

Mr. Condlin said in answering Mr. Leadbetter's question about parking spaces, the Code reference is one parking space per four seats. He stated that the parking they are providing here obviously is an estimate, but they have shown on the Site Plan specific parking to allow for the additional parking that is in the existing shopping center. He said as Mr. Maloney had stated they held two detailed community meetings and they appreciated the honesty of the community members. He said there were various concerns expressed and he was going to focus tonight on primarily two of them which are the traffic and security concerns.

Mr. Condlin said regarding the concerns of traffic that these are public roads and they do have cut-through traffic as we have observed. He said they were in agreement that there is a lot of traffic, and they agree with the staff report that there are different peak traffic times for a movie theater than from a typical retail shopping center. Therefore, he believes this is actually a better and more complementary use for that purpose because it is for different hours than there would be otherwise for a by-right typical retail, and they are presenting a configuration which will encourage and push people out of the neighborhood and onto U.S. Route 360.

Mr. Condlin advised that there was a concern raised with respect to the architectural features, which currently is shown to have large blocks of spaces. He said at one of the community meetings they showed photographs of a theater that was recently opened in Winchester which has some architectural design elements and features. He said those design elements could be provided to help to "break up" some of those large spaces for the proposed Theater. He showed the pictures and said while those are not currently on their existing architectural plans they wished to offer tonight with the Commission's permission, to work with Mr. Peterson and the Board of Supervisors to be able to add similar features to the architecture design to help break up the large space and make the Theater more attractive.

Mr. Condlin stated with regard to condition 6, in the Site Plan they have to provide a public safety plan. He said Carmike prides itself on service as well as security, and they want to make sure their patrons feel safe as that is very important to them. He advised that they do having training for their employees. At this particular site there will be 60 employees anytime the theater is open. These employees are trained in security for inside and outside the theater and they have a security plan. He said if operationally the security plan is not making sense in the County whether it is the Sheriff's office, Planning office, a Planning Commissioner, or Board of Supervisor member, the applicant has to amend the security plan as it is part of the conditions.

Mr. Condlin said regarding employee parking, their measurements were not 160 feet but 200 feet as stated by staff. He stated that after talking to their engineer this may not be an RPA area, and if not they will not be required by-law to have that buffer; however, it is shown on the Plan and therefore, they will provide that setback in that space. Regarding the fencing and the buffer, he said they would prefer to do landscaping, as there is already fencing behind most of the residents in the back; therefore, the applicant believes landscaping will be more effective as they can provide for specific areas to be much denser and be able to maintain better. He explained that one of the concerns at the community meeting that came up was would it be better to have fencing immediately behind the building itself. He said as Mr. Whittaker pointed out earlier, the Sheriff's Department suggests that fencing presents an "alley-way" and they were concerned with that. He stated that the buffer is very thick and wide and there is a stream downhill with the topographic and if people are determined to run through this the fences are not going to stop them either.

Mr. Condlin stated they agree with everything that was presented in Conditions 2 & 3; however, regarding the hours of operation, they do have an exception. In talking with Carmike Cinemas about hours of operation for 12:15 A.M. their preference is to have the flexibility for 6 nights

a week to not being set to 12:15 A.M. last showing. He said they understand the concerns of the County; however, at a minimum he believes in order to make this deal, and we obviously have to negotiate and provide for and bring Carmike in is that 12:15 A.M. is a request they have for Thursday, Friday and Saturday. Most movie releases happen in set times and the big premier seem to happen almost at the same time and back to back weekends. November and December is a big movie release time and obviously May, June and sometimes July. He said the real concern becomes in one of the proposed conditions he hoped that maybe they could work it out to have the three weekends based on an annual basis because there may be back to back weekends or every other weekend with a release and the way this works from a business standpoint, if in the same month there are two major releases they would want to be able to have those premiers over the weekend otherwise they would have to choose one verses the other. The way the condition is written they cannot have both in a particular month. He stated the other issue is of course is a Thursday, Friday and Saturday most of the premiers are required by the movie industry to not show the movie until Friday. Friday is technically 12:01 A.M. Thursday and that is why they want to be able to have the flexibility of having Thursday, Friday and Saturday nights. He reiterated their request for this change because of the competitive nature of the theater business.

Mr. Condlin reiterated that this request is consistent with the County's Master Plan that provides for productive use of commercially zoned property and is consistent with the existing Hanover Village Shopping Center and with the conditions proposed will not have a negative impact on the surrounding property. He said there were a number of folks present from Hanover Village the applicant, John Adamson, Mitch Bowser from Timmons and John Beckner.

Ms. Winborne asked regarding the design embellishments that he showed them, if they were going to make such a notation on their Site Plan.

Mr. Maloney explained that typically once the Commission makes a recommendation, assuming those embellishments are part of the Commission's recommendation, staff will forward that recommendation to the Board of Supervisors with the updated supporting documents. At the time of Site Plan the applicant is required to submit final building elevations and staff will not approve the Site Plan until the elevations meet those requirements as well.

Ms. Winborne said there has been much discussion certainly at the last community meeting with regard to the proposed buffers and the beavers. She asked him to share where they are with that.

Mr. Condlin stated that this issue comes with respect to the existing pond which is also impacting whether this is an RPA or a perennial stream because it is currently dammed by the beavers. The applicant's proposal is to go ahead and remove the pond, the dam and the beavers and with that it may or may not be deemed with the Army Corps of Engineers as a perennial which effects what we can or cannot do there. He said they will not be doing anything in there other than what is provided for like buildings and improvements of the parking lot and that will be part of the Site Plan which will have much more details of the stream.

Mr. Leadbetter asked Mr. Maloney to explain why the Commission looks at these elevation drawings for the public's knowledge as well as to refresh the Commission minds.

Mr. Maloney replied that Hanover County has a long history of wanting to ensure the residents of the County that what is being proposed is what they get. And the real way to do that is for the applicant and zoning matters to provide sketches and provide typical elevations. He said depending on the nature of the use there may not necessarily be elevations for every single rezoning case but more often than not if it is a rezoning and staff is negotiating proffer conditions with the applicant particularly for commercial properties where it is not practical to get elevations we will request that the applicant proffer architectural materials and generally architectural themes and so forth. Therefore,

when staff gets elevations prior to Site Plan approval staff can make sure those elements and themes are in fact executed within that building. The bottom line is to give a reasonable assurance to the residents of the County that what is being proposed is in fact what they can expect to see once the development occurs.

Ms. Winborne asked if anyone wished to speak in favor of this request.

Mr. Curt Reichstetter, a Mechanicsville District resident, said this site is currently not being used and not generating a lot of income besides the basic taxes. He said if this proposal is successful it will create money for the County in many different ways. The workers coming in will spend money in the local businesses buying food, snacks and other things. It will draw other people to use the retail stores surrounding it. We will have people come in and using the services around it. Once the Theater is built there will be job opportunities. And it will keep the revenues in Hanover County.

Ms. Winborne asked if anyone wished to speak in opposition of this request.

Mr. David Jennings, a Brandy Creek Subdivision resident, said he was not opposed to development but expressed concern that this project was not a good fit in this area because it backs up to a residential community; therefore, there is a potential negative impact on the neighborhood with their quality of life, and traffic problems. He said there are 4 points of ingress and egress to this neighborhood and expressed concern with the no right turn lane and signage not being effective. He suggested having a cul-de-sac at that point as that would not inhibit the flow of traffic to the businesses or the neighborhood. He expressed concern that the security program will not be practical with having 60 part-time employees.

Mr. Scott Marshall, a resident of the Henry District, said he was not opposed to development but he expressed concern with the residents in the Brandy Creek Area and potentially how their quality of life will change. He expressed concern with the negative impact in traffic and potential negative

activities due to people loitering. He expressed concern with Brandy Creek Drive being very narrow and with the possibility of Hanover's Fire/EMS emergency vehicles being able to access that road. He believed there were better areas suited for a Theater.

Ms. Martha Abernathy, an area citizen, expressed concerns with the impact of traffic, the potential for crime issues, loitering and the existing businesses struggling to stay open. She did not believe that posted signs will keep people from turning down Brandy Creek Drive. She said there is already loitering at the BP station and there was a stabbing in the Tractor Supply store. She said that the applicants said they can provide safety for the patrons but not for the neighborhood. She expressed concern with a theater being built across from Lee-Davis High School.

Mr. Robert Helwig, a Brandy Creek Subdivision resident, stated that he appreciated what Hanover Village, L.L.C. is proposing; however, he expressed concern with the vacant businesses in the area and particularly in this strip mall. He also expressed concern with the impact of the traffic and lighting.

Ms. Winborne closed the public hearing. She asked if the applicant wished to have rebuttal time.

Mr. Condlin, representative of the applicant, stated that this property is zoned B-3 and there are a lot of uses that can go on this property that will cause some sort of traffic impact. He said the movie theater proposal is consistent with those uses that are allowed on this property. He stated that the theater traffic would be at different time periods and that they have attempted to do something to encourage people from traveling down Brandy Creek Drive; however, because the road is public no one can keep the public from using it. Regarding the cul-de-sac in Brandy Creek Drive, they had a meeting with Mr. Whittaker, VDOT, the Sheriff's office, and emergency personnel to which they expressed concern with shutting off a public road because of the safety of the neighborhood and also

from a traffic flow standpoint. We also believe this proposal will help support those current businesses. This is an effective use of this property that is part of the Master Plan for the County. He reminded the Commission about their request regarding the hours of operation. They wish to have 12:15 A.M. Thursday – Saturday as that will cover Carmike for those new premier movies that the current condition does not allow for.

Mr. Whittaker noted that the applicant will make all of the improvements to U.S. Route 360 (Mechanicsville Turnpike) west if this request is approved.

Mr. Condlin confirmed that the improvements that were noted by VDOT are on the Plan and the applicant is committed to doing them.

Ms. Winborne closed the public hearing.

Mr. Maloney stated that the issues regarding compatibility are ultimately what this process is about. The State Code and the Zoning Ordinance recognize that with certain uses there will be certain challenges. The State Code authorizes the localities to adopt a process for conditional use permits (CUP) and that is why it is included in the Hanover County Zoning Ordinance. Staff recognizes the potential impacts to the adjacent residential neighborhood and those potential impacts are legitimate and valid concerns that have been expressed tonight and at the two community meetings; however, we have to recognize that the Zoning Ordinance allows other uses to occur on this property and those other uses may have the potential of creating more nuisances, depending on individual perspective, uses that are permitted by-right, which means uses that can occur without going through a CUP process, such as a hotel or motel, a flea market, a fitness center and others. Therefore, one of the advantages of having a use that requires a CUP is that the Board of Supervisors has a very broad discretion to establish conditions governing how that site operates. Staff has recommended to the Planning Commission a set of very specific conditions that will govern how this site operates. These

conditions not only include operational considerations such as the public safety plan it also includes required improvements to property entrances to provide safe ingress and egress as well as the configuration of those driveways. If someone purchased this land and decided to build what is allowed by-right on this B-1 zoned site there would be no authority for the County to negotiate conditions and would have very little control over it. That is why staff has made a recommendation in support of this project.

Mr. Maloney stated that earlier versions of the layout showed parking to the rear of the property and staff is aware there are public safety concerns and considerations. Earlier versions did not show the reconfiguration of the Brandy Creek Drive and by going through this CUP process those are the sorts of improvements and conditions we have been able to negotiate.

Mr. Maloney acknowledged Mr. Helwig's comments regarding the vegetation. He said much of that vegetation is deciduous but as was stated as part of his presentation, the buffer adjacent to the residential properties and the southern property line are noted on the Plan and specifically reference the use of evergreen vegetation to supplement and to minimize the views, visual disturbances and so forth from the site during the winter months.

Mr. Maloney advised that with the CUP process, he does not expect this to be the case in this particular instance, but if this owner or a future owner of the Theater showed a consistent habit of violating the conditions, the Board of Supervisors does have the authority through the public hearing process to actually revoke the CUP.

Mr. Maloney said there has been some concern expressed about the value of the economic benefits that this proposal provides. Staff has not undertaken any financial feasibility studies but this shopping center has some challenges. There are some vacant spaces, there has been tenant turnover and again purely from a land use and economic standpoint it would seem that a business that draws

additional people into that shopping center creates a more stable environment not only for the shopping center but for the community. He said where there are underutilized vacant buildings and so forth that is where illicit activities tend to begin to propagate and by injecting this site with a significant financial investment, not only in the theater but hopefully with the other tentative uses such as the restaurants and additional retail space, hopefully the people that patronize the theater, will also patronize some of the existing businesses.

Mr. Maloney advised there are concerns about the conditions of the site and loitering. He said the present condition of this portion of the property lends itself to that. There is no security lighting, the property is highly overgrown, significant portions of the property are not visible from within the shopping center or from U.S. Route 360 and it provides a very significant opportunity for those who wish to undertake less than desirable activities to do whatever mischief they want to. By having significant improvements such as a wide vision from U.S. Route 360 to front of the building, with virtually no public parking to the rear of the building, having appropriate parking lot lighting and other public safety measures being proposed by the applicant in the Public Safety Plan, it actually diminishes the ability for people hide and so forth, although there is no question that the citizens' concerns are real and there is always that potential for impacts to the neighborhood, staff believes the recommended conditions will adequately work to mitigate and minimize any of those unwanted activities.

Mr. Maloney said with respect to traffic, there are two components in any decision. Installation of a reconfigured entrance onto Brandy Creek Drive, the applicant can be asked to install signage. He said if people are really intent on not obeying common sense traffic rules, no zoning action is going to fix that because most likely from time to time people will make illegal left turns into this site and illegal right turns out of the site. As we travel on the public roads as individuals and citizens of the County from time to time no matter what the situation there will always be "stupid" driver behavior.

That is a fact of life; however, he said a majority of drivers do make a conscientious effort to obey signage and signalization and do the right thing. And the opportunities to minimize those unwanted traffic movements down Brandy Creek Drive have been reasonably addressed in the recommended conditions. Regarding the closure of Brand Creek Drive as Mr. Condlin mentioned, the Planning staff, Mr. Whittaker, representatives from VDOT, Fire/EMS, and the Sheriff's office did meet to look at alternatives to minimize the cut-through traffic. And the consensus between VDOT, Public Safety and Law Enforcement was by creating a cul-de-sac at the southern property line as was suggested and cutting off Brandy Creek Drive would be a detriment to the community. He said one of the speakers pointed out that Lee-Davis Road is a burdened highway and although the Brandy Creek Subdivision does have 4 entrances from Lee-Davis Road, by diverting all of that traffic in addition to existing background traffic onto Lee-Davis without the opportunity to disburse some of that residential traffic onto Brandy Creek Drive would really create a very challenging traffic situation and some very significant traffic safety issues along Lee-Davis Road; for that reason the collective thinking of our public safety, law enforcement, Planning staff and VDOT was to look at other creative options to not eliminate, but minimize that cut-through traffic and this is the solution that was agreed upon by those individuals as a result of that meeting. He reiterated that he wanted to assure the public that they did look very close and seriously at that option and the collective thinking was it was not a viable alternative.

Mr. Padgett said to be clear VDOT did not want a cul-de-sac on Brandy Creek Drive.

Mr. Maloney replied that was correct, VDOT was absolutely not in support of that.

There was general discussion between staff and the Commission regarding parking spaces.

Mrs. Peace asked Mr. Maloney to elaborate on the comments made about other movie theaters that have been approved for this same general area.

Mr. Maloney replied that in the late 1990's Hanover County approved zoning and a CUP for a Regal Cinema across U.S. Route 360 next to Lee-Davis High School and in fact not only was the zoning approved but the County had approved a Site Plan for that project as well. Much of the infrastructure for that project in terms of utilities was constructed into the property. The site was graded, curb and gutter was installed; however, due to larger financial challenges within the movie industry Regal Cinema chose not to pursue construction any further. That site was actually under construction before the developer chose to no longer pursue the project. That is the only other proposal he was aware of that has actually gone through the entire process.

Mr. Whittaker stated that there are over 50 uses permitted on this site right now and there would not have to be a public hearing or citizen input.

Mr. Maloney confirmed that statement. He said there could be a Sheetz, WaWa, convenience store or similar type of develop on this site as long as they meet the minimum zoning standards the County would have no additional discretion regarding architecture, hours of operation and so forth.

Ms. Winborne stated that Mr. Condlin mentioned the hours of operation they would like to have and she wished to share with her fellow commissioners that she had visited this site and the neighborhood because it is always very important to get an "eyes on" to be able to understand what our citizens are sharing with us when they describe their location. She said regarding the hours of operation, she had checked with two "competitor" theaters and they are not showing any shows predominately past 10:30 P.M. and one at 10:50 P.M. Therefore, the applicants are getting almost an hour more than their current competitors and there are provisions for the premier films and so she would support staff recommendations.

Mrs. Peace appreciated the developer's willingness to add in some type of condition on the enhancements to the architectural features and the façade. She wished to have that incorporated along

with additional landscaping enhancements, if this is truly going to be a development that its intent is to revitalize the shopping center and be an iconic building for the area she felt there is a ways to go as far as the proposed elevations.

Mr. Maloney advised that Mr. Whittaker had discussed the architectural enhancements prior to the meeting as he also wished to see that change. Therefore, if it is the Commission's intention to recommend approval not only would the Commission reflect in their motion the revised conditions as recommended by staff, with an additional condition regarding architectural and planting enhancements, and perhaps a condition suggesting that the required landscaping within the area of the CUP exceed the standards required by the Zoning Ordinance and that will be negotiated somewhat at the time of development review.

Mr. Whittaker stated that he believed that most people know he has lived in Mechanicsville all of his life. He said he has some very dear friends who live in Brandy Creek Subdivision and he contacted some of them in the last week and "they helped me make up my mind." He thanked all of those involved in this process, and for their thoroughness especially Lee Garman from the staff who was so helpful and responsive. He thanked the citizens for their participation in this process. Two community meetings were held and the applicant has been responsive where possible to the concerns. He said for some folks any commercial development will be concerning and undesirable. However; this property has already been rezoned for business use. This property was rezoned to B-3 in 1987. He pointed out that this is the third movie proposal for Hanover County. Two others were approved the last one in 1998 but with fault in the economic conditions and other things stopped that development, as Mr. Maloney said. He explained that they were here tonight because to use this land for a movie theater requires a conditional use permit. Hanover County's land use ordinance for B-3, General Business District permits 16 uses in addition to over 50 uses permitted from the B-2 and B-1

Districts which are included in the B-3. He said the point is there are lots of businesses that could have gone on this property that would not require any discussion. In addition to the community meetings where several citizens voiced concerns he talked with many citizens for their input which were overall positive. He said he drove around the proposed site area to look at the layout of the proposed theater in comparison to the neighborhood. He stated that they have heard from the applicant and they have explored the conditions for this project and with his fellow Commissioners. They heard from the public hearing tonight from the citizens and he thanked them.

Mr. Whittaker advised that weighing the pros and the cons is a responsibility he takes very seriously. He represents the Mechanicsville District and also what is in the best interest of Hanover County. He said to those citizens, who will not be pleased with his motion he thanked them again for sharing their concerns and thoughts. "We have heard them but we have just come to a different conclusion."

Mr. Whittaker made a MOTION to recommend CUP-3-13, Hanover Village, L.L.C. for approval subject to the modified conditions as presented by staff tonight and subject to the sketch plans and elevations which will be modified to include additional architectural embellishments similar to the elements in the exhibit.

Mrs. Winborne asked Mr. Maloney for clarification regarding landscaping. She asked if they needed to add the words "exceeding landscaping" or if there was something else that needed to go to that motion.

Mr. Maloney advised that for purposes of the motion it would be beneficial if the motion specifically reflected landscaping beyond the minimum required as that will allow the staff and the applicant prior to the Board public hearing, to more specifically negotiate what that standard may be. Since the issue was raised this evening staff has not had an opportunity to negotiate and evaluate a

reasonable standard beyond the minimum with the applicant; therefore, a motion reflecting landscaping in excess of the minimum requirement will allow staff to provide more specificity before it goes to the Board of Supervisors and still fulfill the intent of the Commission's motion.

Ms. Winborne asked Mr. Whittaker if it was his intent to include the addition of landscaping in excess of the minimum requirement.

Mr. Whittaker agreed that was his intent.

Mr. Leadbetter SECONDED.

The Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF CUP-3-13, HANOVER VILLAGE, L.L.C. SUBJECT TO THE FOLLOWING MODIFIED CONDITIONS AS PRESENTED BY STAFF, SUBJECT TO THE SKETCH PLANS AND ELEVATIONS WHICH WILL BE MODIFIED TO INCLUDE ADDITIONAL ARCHITECTURAL EMBELLISHMENTS SIMILAR TO THE ELEMENTS IN THE EXHIBIT SHOWN TONIGHT AND WITH THE ADDITIONAL LANDSCAPING IN EXCESS OF THE MINIMUM REQUIREMENT WHICH WILL BE DISCUSSED BETWEEN THE APPLICANT AND STAFF PRIOR TO THE BOARD OF SUPERVISORS MEETING:**

1. The property owner shall install signage at the Brandy Creek Drive entrance to the site to drivers that the entrance is right-in only/left-out only. In addition, subject to approval by VDOT, as sign or multiple signs shall be installed on the property along Brandy Creek Drive between this entrance and the neighborhoods to the south indicating that Brandy Creek Drive is not intended to be used by through traffic. The exact language to be placed on these signs shall be approved by the Director of Planning prior to site plan approval.

2. The hours of operation shall not begin before 9:00 A.M. and the last screening of any film shall not be advertised to begin after 11:30 P.M.; provided, the property owner is permitted to have no more than three screenings per month where the screening of a premier film is advertised to begin no later than 12:15 A.M.

3. The owner shall per permitted to begin a screening for a special holiday event such as Halloween, Thanksgiving, Christmas, and New Year's no later than 12:15 A.M. provided that such screening shall constitute one of the three monthly premier screenings referenced in Condition 2.

4. No condition as herein set forth shall be construed to allow the establishment of an "Adult Motion Picture Theater" or the permission for all "adult uses" as described in the Hanover County Zoning Ordinance.

5. Ground level heating and air conditioning equipment shall be screened from public right-of-ways in accordance with Section 26-263, of the Hanover County Zoning Ordinance. Any mechanical units placed on the rooftops of buildings shall be screened by architectural features that are compatible with the building façade architecture. Screening shall be designed so as to block such units from view by persons on any public streets immediately adjoining the Property, or from adjacent residential uses. The method of screening shall be shown on the architectural elevations for the theater structure and submitted to the Planning Commission for review and approval or disapproval prior to site plan approval.

6. Prior to final approval of a Site Plan for the use as a theater, a public safety plan shall be submitted to the Planning Department for review. The Public Safety Plan shall outline the security measures provided by the property owner and may include provisions concerning the use of security cameras and security personnel, whether off-duty law enforcement personnel or private security, during specific times or at the special screenings referenced in conditions 2 and 3. Should operational circumstances indicate that a modification to the Public Safety Plan is warranted, an amended plan shall be submitted to the Hanover County Planning Department. The amended plan shall be submitted no later than 60 days following notice by the County that changes are being requested.

7. Use and development of the Property shall be in compliance with all other applicable Federal, State and local statutes, regulations and ordinances.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

ADJOURNMENT

Ms. Winborne thanked the citizens for coming tonight and for their participation in this process. The next regularly scheduled meeting will be August 15, 2013. Madam Chairman adjourned the meeting at 8:47 P.M.