



# REZ2017-00044

## Gumenick Properties

Staff Report for Board of Supervisors Public Hearing  
Revised January 10, 2019

*This report is prepared by the Henrico County Planning Staff to provide information to the Planning Commission and the Board of Supervisors to assist them in making a decision on this application. It may also be useful to others interested in this zoning matter.*

### I. PUBLIC HEARINGS:

<b>Planning Commission:</b>	November 8, 2018 December 6, 2018	Deferred at applicant's request Recommended for approval
<b>Board of Supervisors:</b>	January 22, 2019	Pending

### II. IDENTIFICATION AND LOCATIONAL INFORMATION:

**Proposed Zoning and Request:** UMUC, Urban Mixed Use District (Conditional) to add two parcels to the existing Libbie Mill urban mixed use community. Request would also amend proffered conditions accepted with case REZ2015-00008 for Libbie Mill related to the concept plan, density, prohibited uses and hours of operation, location of parking garages, building heights, architectural elevations, square footage of the community building, and outdoor music

**Existing Zoning:** B-1 Business District, O-2 Office District, UMUC, Urban Mixed Use District (Conditional); eastern portion of the site is located in the Enterprise Zone

**Acreage:** .754 acres (B-2 to UMUC), .305 acres (O-2 to UMUC), 64.04 acres (proffer amendment)

**Location of Property:** South of Bethlehem Road, between Staples Mill Road (U.S. Route 33) and Spencer Road / Libbie Avenue

**Magisterial District:** Brookland

**Comprehensive Plan Recommendation:** Commercial Concentration (CC); Light Industry (LI); Urban Mixed Use (UMU); Environmental Protection Area (EPA)

**Parcel Numbers:** Rezoning: 774-740-5174 (B-1 to UMUC), 771-740-8005 (O-2 to UMUC)  
Amend Proffers: 771-740-9118, 772-740-0431, -1137, -1743, -2229, -2836, 773-739-3784, -9074, 773-740-4815, -5180, 774-739-2373, -5672, 774-740-0804, -4456, -4637, -4716, and -4802

**Zoning of Surrounding Properties:**

North:	R-3 (Kildare and Kildare Annex subdivisions)
South:	M-1 (Willow Place shopping center, other commercial and industrial uses); R-5 (Mayfield subdivision)
East:	B-1, B-2C, B-3, O-3C (Holland Business Center, Wawa, other commercial uses)
West:	R-3 (Westbourne and Pine View subdivisions); O-2, O-2C, B-3C (various commercial and industrial uses)

### **III. SUMMARY OF STAFF REPORT COMMENTS:**

This is a request to conditionally rezone two parcels totaling 1.059 acres from B-1 and O-2 to UMUC to allow them to be incorporated into the Libbie Mill – Midtown Urban Mixed Use development. The request would also amend proffers accepted with rezoning request REZ2015-00018 which governs the existing Libbie Mill UMU development. The proposed changes would amend one page of the project's pattern book, the overall concept plan, and provide more flexibility in the placement and heights of buildings requested with companion provisional use permit PUP2018-00016. The proposed amendments would remove prohibitions on certain uses, such as theaters and drive-thru restaurants, allow additional flexibility for architectural design throughout the development, reduce the minimum size of the community building, clarify the possible location of parking garages, and increase the permitted building height in areas near Bethlehem and Spencer Roads. Minor housekeeping revisions related to these changes are also proposed. Staff notes the proffer amendments would apply only to those project areas controlled by Gumenick Properties, meaning the Libbie Mill Library property and platted townhouse and condominium areas are excluded.

Overall, the inclusion of additional properties into the Libbie Mill community are logical and would allow the expansion of a high-quality mixed-use community. The proposed proffer changes are generally consistent with the site's Urban Mixed Use (UMU) 2026 Comprehensive Plan designation and level of quality established by the existing zoning on the property. For these reasons, staff supports this request.

The Planning Commission recommended approval of this request at their December 6, 2018 meeting.

### **IV. LAND USE ANALYSIS AND IMPLICATIONS:**

The first parcel proposed to be conditionally rezoned to UMUC is located at the southwest intersection of Staples Mill and Bethlehem Roads. It is zoned B-1 and was the location of a former Wells Fargo branch bank. The site is designated Light Industry on the 2026 Comprehensive Plan; however, the property shares two property lines with the existing Libbie Mill development and would incorporate the entire southwest corner of the intersection into the community, indicating it could be appropriate for Urban Mixed Use zoning.

The second parcel is zoned O-2 and located on Libbie Avenue just north of West Broad Street. The property contains an existing office building and is located adjacent to property rezoned UMUC by the original rezoning case (C-5C-07). The site is designated Commercial Concentration on the 2026 Comprehensive Plan.

The larger development these properties would be incorporated into (totaling 79.5 acres) was approved for an urban mixed use development in 2007 via rezoning case C-5C-07 and provisional use permit (PUP) case P-1-07 based on the UMU zoning ordinance in place at that time. Following revisions to the UMU ordinance in 2012, PUP2014-00014 was approved which included changes related to an alternative parking plan, a comprehensive signage program, and emergency communication infrastructure. In 2015 several proffers were amended and a new pattern book was adopted via REZ2015-00018. Several components of the project are now complete or in progress, including: Libbie Mill Library, 4900 and 4901 Libbie Mill East Boulevard retail and office buildings, the former Southern Season gourmet grocery store, several townhouse and condominium buildings, and the almost completed Penstock Quarter apartment building.

To continue refining the proffers and plans governing the site, the applicant now proposes the following amendments for the properties subject to this application:

- **Pattern Book / Land Bay Master Plan** – The pattern book would be revised to substitute new Pages 19 and 26, which are similar versions of the conceptual master plan showing the general location of development areas. Areas in close proximity to Spencer and Bethlehem Roads were previously labeled “Residential Neighborhoods.” These areas would now be identified as “Residential and/or Commercial” consistent with other project areas not already developed as residential townhomes and condominiums. The new conceptual plans are attached, as is the previous plan and applicable documents regarding architecture and streetscape for the adjacent roadways that would continue apply to the development.
- **Architectural Design and Minimum Square Footage for Community Building** – The applicant is requesting to amend numerous proffers related to architecture for the various building types proposed in the development. The proposed language would allow additional variations to the designs and materials shown in the approved pattern book, provided they are approved by the Planning Commission at the time of plan of development review. The applicant also proposes to reduce the minimum size of the required community building, from 5,000 to 3,500 square feet. It is not anticipated the architectural design amendment will negatively impact existing or future residents, and the reduction in size of the community building could be appropriate given the other public and semi-public amenities with Libbie Mill.
- **Prohibited Uses** –Theaters, small cell telecommunication facilities, and restaurants with drive-thru windows are currently prohibited by proffer. The applicant proposes to allow these uses within the development. Staff does not believe the inclusion of theaters and small cell facilities, properly designed, would be detrimental to the community.
- **Parking Garages** – Stand-alone parking garages, as approved by PUP2015-00006, are not permitted adjacent to the segments of Bethlehem and Spencer Roads within the residential neighborhoods portion of the current conceptual master plan. In addition to the proposed revision to the concept plan, the applicant proposes to specify a minimum distance of 20’ from those roadways for any parking garage. These revisions expand the areas where parking garages are able to be located, although they are more likely to be located towards the denser center of the development. Any garage would be subject to the provisional use permit conditions of companion case PUP2018-00016, streetscape requirements from the pattern book, and future plan of development review. This should ensure any garage is designed in a manner compatible with existing and future uses.
- **Building Height** – In conjunction with the revision to the conceptual plan, the applicant proposes to amend Proffer 14 related to building height. The proffer currently limits building height at the corner of Libbie Avenue and Libbie Mill West Boulevard to 60’ and buildings north of Libbie Lake North Street and east of Libbie Lake East Street (which is adjacent to Bethlehem Road) to 50’ in height. The applicant now proposes to limit buildings within 85’ of Bethlehem Road to 85’ in height. Given the distance from adjacent homes north of Bethlehem, this would be generally consistent with other UMU developments in the county.
- **Hours of Operation and Outdoor Music** – The previous case, by proffer, limits the hours of operation to 6:00 a.m. – 12:00 a.m. (Sun-Wed) and 5:00 a.m. – 1:00 a.m. (Thu-Sat) for all retail uses, except health clubs, which can operate 24 hours every day. The applicant proposes to add theaters and performing arts centers as uses without limitations on hours of operation. The applicant also proposes to extend the hours when outdoor music is permitted

from 11:00 p.m. to 12:00 midnight Sunday through Wednesday and 1:00 a.m. the remainder of the week. Additional standards regarding speakers for outdoor music have been provided in order to mitigate potential impacts from the later hours.

Overall, the rezoning of two additional parcels for inclusion in the Libbie Mill development is logical and supported by the goals of the 2026 Comprehensive Plan. In addition, the changes proposed to the proffers accepted with REZ2015-00018 would be generally consistent with Libbie Mill's Urban Mixed Use (UMU) 2026 Comprehensive Plan designation and in keeping with the level of quality established by the previous rezoning cases. For these reasons, staff supports this request.

The Planning Commission recommended approval of this request at their December 6, 2018 meeting.

## **V. COMPREHENSIVE PLAN ANALYSIS:**

### ***Land Use Plan Recommendation:***

The 2026 Comprehensive Plan's recommended future land use for the proffer amendment portion of this request is Urban Mixed Use, and a small portion of Environmental Protection Area. The existing zoning of UMUC is consistent with these designations and the proposed amendments should not have significant impact on quality, uses, or intention of the accepted proffers.

The two parcels proposed to be rezoned UMUC for inclusion in Libbie Mill are designated Light Industry and Commercial Concentration. These designations are not fully consistent with the requested UMUC zoning; however, given both parcels are directly adjacent to Libbie Mill, inclusion in the development is logical.

### ***Vision, Goals, Objectives and Policies:***

This application is most consistent with the following Vision, Goals, Objectives, and Policies of the 2026 Comprehensive Plan:

- Mixed-Use Keystone Policy 12: Strongly encourage vertical mixed uses in Urban Mixed-Use and Traditional Neighborhood Developments areas. Individual structures should include commercial uses on the lower stories, offices on secondary stories and residential uses on upper stories.
- Economic Goal 1: The county will have a strong, stable, growing and diverse economy.
- Economic Objective 5: The county will promote reinvestment in older neighborhoods to meet the needs for retail services and employment in local areas.
- Land Use and Community Character Goal 6: The county will have portions of the county which are currently developed that offer opportunities for redevelopment, infill and intensification to take advantage of existing infrastructure, services and utilities.
- Land Use and Community Character Objective 9: The county will promote diverse housing types that meet the needs of a demographically diverse population.
- Land Use and Community Character Objective 29: The county will promote mixed-use, planned large tract development to achieve economies of scale and to provide retail services and employment opportunities near residential concentrations.

## **VI. PUBLIC SERVICE AND SITE CONSIDERATIONS:**

### ***Major Thoroughfare and Transportation:***

Traffic Engineering has no objections to this request.

### ***Drainage:***

- All proposed improvements must comply with all applicable Public Works plan of development requirements.

- The site must comply with applicable stormwater quality and quantity requirements.
- Traffic Engineering will determine if any right-of-way dedication or road improvements are required.
- The site is located within 50/10 detention area and must comply with applicable regulations.

***Public Utilities:***

The parcels under consideration for amending proffered conditions are currently under agreement to be served with County water and sewer.

***Schools:***

This request does not involve the addition of any residential housing outside of that already approved and thus it does not have any educational impacts.

***Community Revitalization:***

No comments.

***Division of Fire:***

In reference to proffered conditions #4. Road Certification. Road widths and turning radii will need to meet the Virginia Statewide Fire Prevention code requirements. Specifically, emergency vehicle access and aerial operations road width requirements.

***Division of Police:***

The applicant is encouraged to contact and work with the Community Services Unit within the Police Division for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts as a subdivision is drafted to be submitted for review. The Police Division supports and implements Crime Prevention Through Environmental Design (CPTED), which is the theory that the proper design and effective use of the built environment can lead to a reduction in the incidence and fear of crime and an improvement in the quality of life.

***Recreation and Parks:***

No park or recreation facilities, historical, archeological, or battlefield impact.

***Libraries:***

No comments.

***Topography and Land Characteristics Adaptability:***

There are no known topographic reasons why the site cannot be used as proposed.



# Proffers for Conditional Rezoning County of Henrico, Virginia

4301 E. Parham Road, Henrico, Virginia 23228  
Henrico Planning Web Site: <http://www.henrico.us/planning>

Mailing Address: Planning Department, P.O. Box 90775, Henrico, VA 23273-0775 Phone (804) 501-4602 Facsimile (804) 501-4379

Original  Amended  Rezoning Case No. 2018-00044 Magisterial District Brookland

Pursuant to Section 24-121 (b) of the County Code, the owner or duly authorized agent\* hereby voluntarily proffers the following conditions which shall be applicable to the property, if rezoned:

James W. Theobald / James W. Theobald, Atty-in-Fact                      December 4, 2018  
Signature of Owner or Applicant / Print Name    Date

*\*If applicant is other than Owner, the Special Limited Power of Attorney must be submitted with this application*

REZ2018-00044  
PROFFERED CONDITIONS  
LIBBIE MILL - MIDTOWN UMU

APPLICABLE TO ALL

1. The proffers applicable to the respective development areas and parcels set forth in REZ2015-00018 shall be applicable to the development areas and parcels as amended hereby so as to have the effect of revising the parcel descriptions submitted with REZ2015-00018 as though such revised descriptions had been a part of such case and thereby bound by the proffers applicable thereto.

2. Condition 1 of REZ2015-00018 is hereby amended and restated as follows:

Pattern Book. The Property shall be developed in general conformance with the illustrations and information set forth in the "Libbie Mill - Midtown Pattern Book" (the "Pattern Book") filed herewith, with replacement pages 19 and 26, unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, which illustrations and information are conceptual in nature and may vary in detail.

3. Condition 3 of REZ2015-00018 is hereby amended and restated as follows:

Overall Density. Including those approved with Case No. REZ2015-00018, there shall be no more than 2,090 residential units developed on the Property, of which no more than 1,096 may be rental units. In order to meet changing market demands, but subject to the foregoing limits, the Owner reserves the right to adjust upward (other than the number of rental units) and/or downward, the number of each type of unit. The Owner shall maintain a cumulative record of the number and types of units being developed and provide such record to the County with each Plan of Development for residential units.

4. Condition 11 of REZ2015-00018 is hereby amended and restated as follows:

All Retail Uses. All retail uses (excluding health clubs, theaters and performing arts centers) shall be open to the public only between the hours of 5:00 a.m. and 12:00 midnight Sunday through Wednesday and 5:00 a.m. and 1:00 a.m. Thursday, Friday and Saturday.

5. Condition 13 of REZ2015-00018 is hereby amended and restated as follows:

Parking Garages. No parking garages (other than individual garages serving individual units) shall be built within twenty (20) feet of the right-of-way of Bethlehem Road and Spencer Road.

6. Condition 14 of REZ2015-00018 is hereby amended and restated as follows:

Building Height. The height of buildings within the “residential and/or commercial” area at the corner of Libbie Avenue and Libbie Mill West Boulevard shall be limited to a maximum of sixty (60) feet. Subject to the foregoing, buildings within eighty-five (85) feet of the existing right-of-way of Bethlehem Road shall be limited to eighty-five (85) feet in height.

APPLICABLE TO APARTMENT (RENTAL) DEVELOPMENT AND  
MULTIFAMILY (FOR SALE) CONDOMINIUMS

7. Condition 16 of REZ2015-00018 is hereby amended and restated as follows:

Architecture. Unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, buildings shall be in general conformance with the architectural themes displayed in the Pattern Book, which illustrations and information are conceptual in nature and may vary in detail.

APPLICABLE TO TOWNHOMES (FOR SALE)

8. Condition 24.b. of REZ2015-00018 is hereby amended and restated as follows:

Architecture. Unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, Townhome A shall be in general conformance with the architectural themes displayed in the Pattern Book, which illustrations and information are conceptual in nature and may vary in detail.

9. Condition 25.b. of REZ2015-00018 is hereby amended and restated as follows:

Architecture. Unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, Townhome B shall be in general conformance with the architectural themes displayed in the Pattern Book, which illustrations and information are conceptual in nature and may vary in detail.

10. Condition 26.b. of REZ2015-00018 is hereby amended and restated as follows:

Architecture. Unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, Townhome C shall be in general conformance with the architectural themes displayed in the Pattern Book, which illustrations and information are conceptual in nature and may vary in detail.

11. Condition 27.b. of REZ2015-00018 is hereby amended and restated as follows:

Architecture. Unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, Townhome D shall be in general conformance with the architectural themes displayed in the Pattern Book, which illustrations and information are conceptual in nature and may vary in detail.

APPLICABLE TO STACKED TOWNHOME-STYLE  
(FOR SALE) CONDOMINIUMS (TYPE E)

12. Condition 29 of REZ2015-00018 is hereby amended and restated as follows:

Architecture. Unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, Type E units shall be in general conformance with the architectural themes displayed in the Pattern Book, which illustrations and information are conceptual in nature and may vary in detail.

APPLICABLE TO COMMUNITY BUILDING

13. Condition 31 of REZ2015-00018 is hereby amended and restated as follows

Square Footage. The Community Building shall have a minimum of three thousand five hundred (3,500) square feet of finished floor area.

14. Condition 32 of REZ2015-00018 is hereby amended and restated as follows:

Architecture. Unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, the Community Building shall be in general conformance with the architectural themes displayed in the Pattern Book, which illustrations and information are conceptual in nature and may vary in detail.

APPLICABLE TO COMMERCIAL/OFFICE DEVELOPMENT

15. Condition 34 of REZ2015-00018 is hereby amended and restated as follows:

Prohibited Uses. The following uses shall be prohibited on the Property:

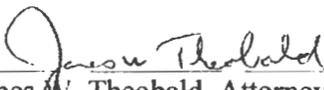
- a. automotive filling and service stations including towing service;
- b. billiard, bagatelle, video game or a bingo parlor, unless accessory to a permitted use;
- c. flea markets or antique auctions;
- d. billboards;
- e. recycling facilities;
- f. funeral homes, mortuaries, crematories and/or undertaking establishments;
- g. dance halls;
- h. truck stops;
- i. gun shop, sales and repair;
- j. sign painting shops;
- k. communication towers, not to include small cells;
- l. general hospitals, sanitoriums and charitable institutions for human care;
- m. adult businesses as defined by Section 24-3 of the Henrico County Code;
- n. establishments whose primary business is check cashing and/or the making of payday loans as defined and regulated by Sections 6.1-432 et seq. and 6.1-444 et seq. of the Code of Virginia (the foregoing shall not preclude banks, savings and loans or similar financial institutions that are not regulated by the foregoing Virginia Code sections);
- o. car title loan operations;
- p. fuel pumps associated with permitted uses; and
- q. motels or motor lodges.

16. Condition 37 of REZ2015-00018 is hereby amended and restated as follows:

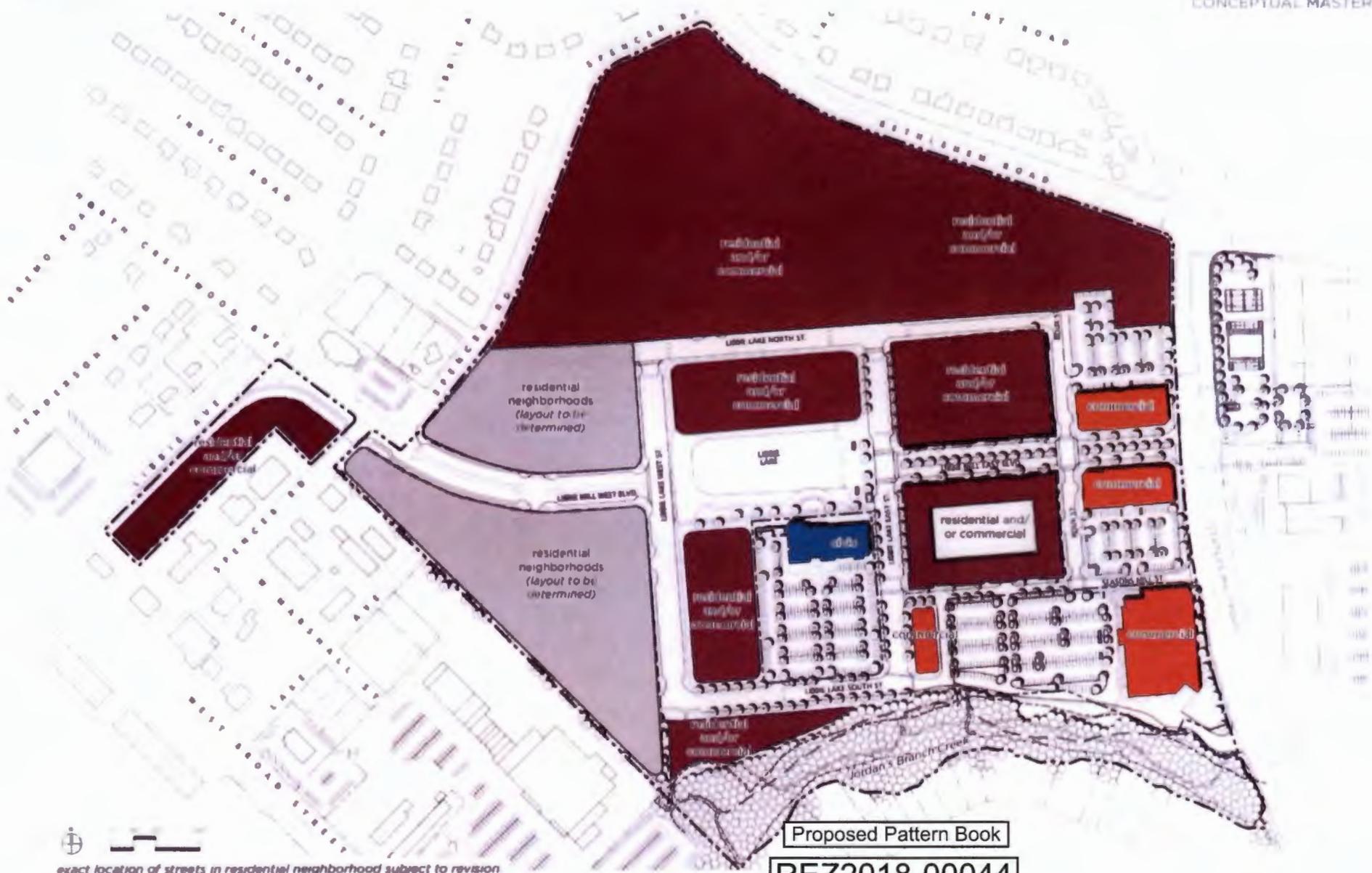
Outdoor Music. Outdoor music shall not be permitted on the Property after 12:00 midnight Sunday through Wednesday and 1:00 a.m. Thursday, Friday, and Saturday. Any outside speakers or sound system shall comply with the following standards:

- a. Sound systems shall be equipped with controls permitting full volume adjustment.
- b. Sound from the system shall not be audible beyond the property lines of the development.

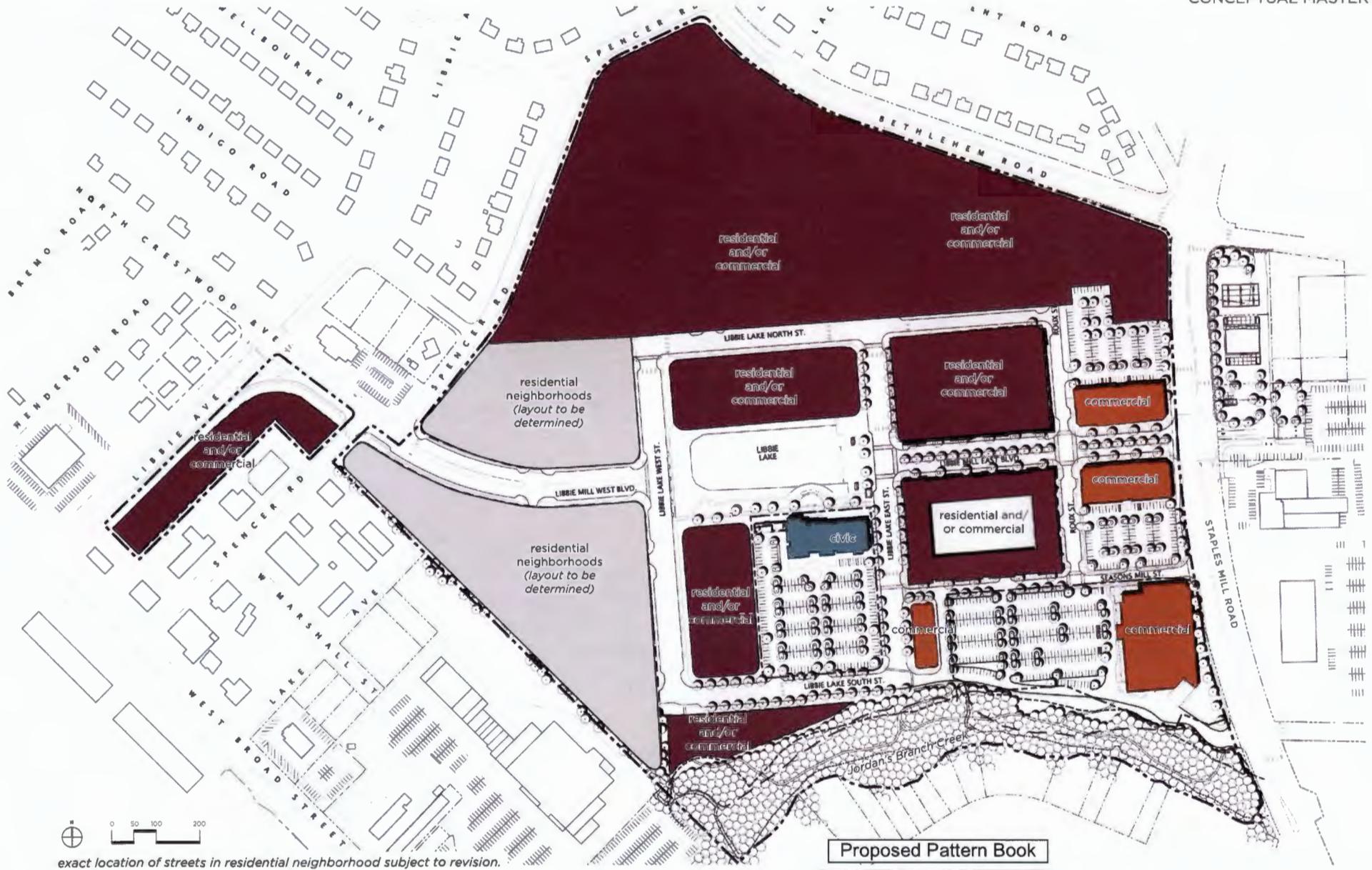
MIDTOWN LAND PARTNERS, LLC  
a Virginia limited liability company,  
LM RETAIL, LLC,  
a Virginia limited liability company,  
LM OFFICE/RETAIL NORTH, LLC,  
a Virginia limited liability company,  
LM OFFICE/RETAIL A, LLC,  
a Virginia limited partnership, and  
LM MIXED USE 5001, LLC,  
a Virginia limited liability company,

By:   
James W. Theobald, Attorney-in-Fact  
Date: December 4, 2018

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exact location of streets in residential neighborhood subject to revision

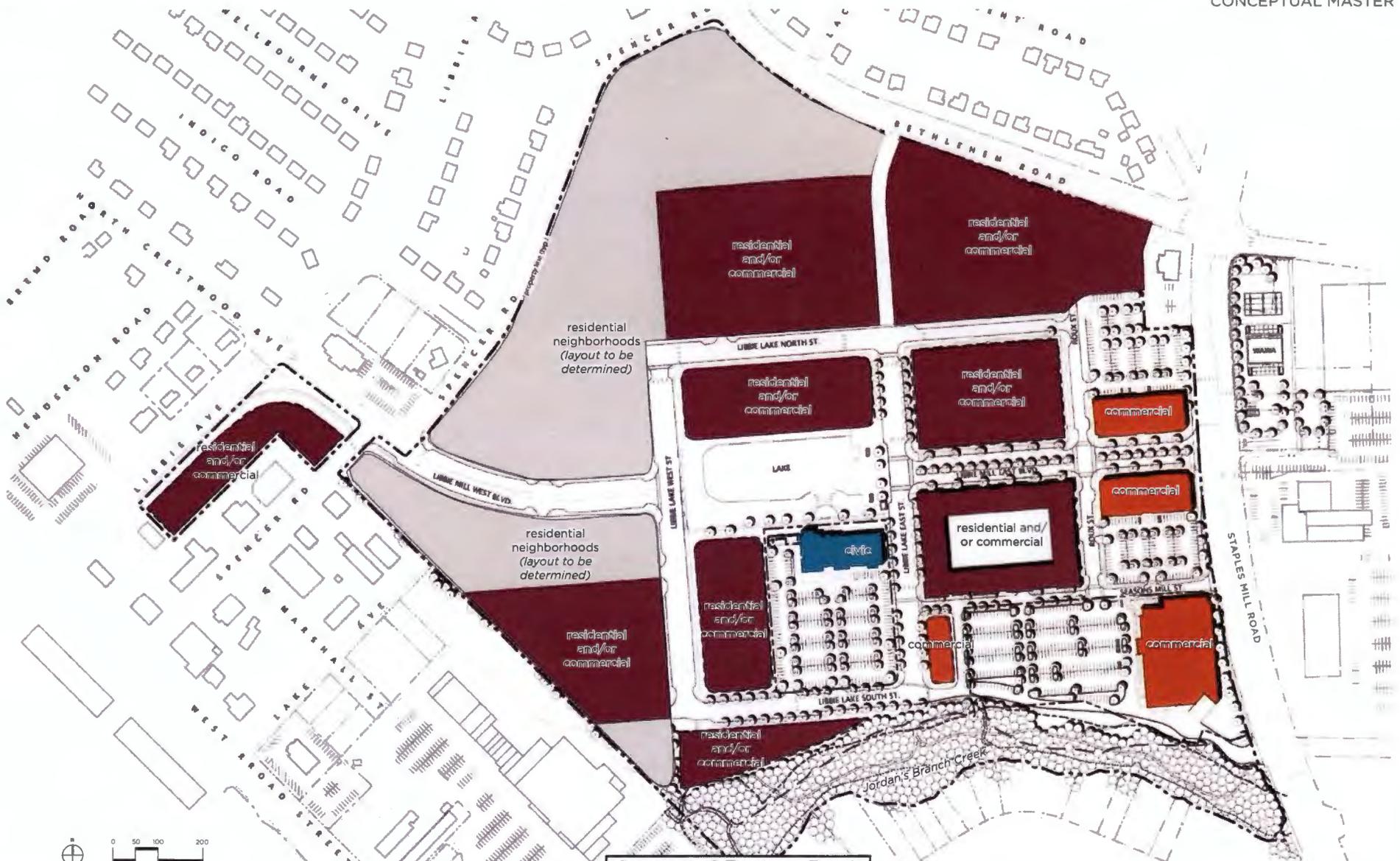


exact location of streets in residential neighborhood subject to revision.

Proposed Pattern Book

REZ2018-00044

120618



08.07.15 exact location of streets in residential neighborhood subject to revision.

Approved Pattern Book  
**REZ2015-00018**



4901 East Libbie Mill Blvd. rendering.



The buildings at Libbie Mill - Midtown are designed to evoke a familiarity with the historic character of the downtown urban and industrial districts of Central Virginia. The use of authentic materials, quality construction, and traditional detailing define a contemporary architectural interpretation to the area's prominent

Pre-Civil War Federal and Post-Civil War Industrial styles. Careful attention has been given to the buildings' mass, scale and height as they interact with the surrounding streetscape, allowing the built environment to shape a vibrant and inspiring experience at Libbie Mill - Midtown.

Image courtesy of Pronz Brick wall designed by Emily Heisch from The Noun Project. Mosaic designed by Juan Pablo Bravo from The Noun Project.

Approved Pattern Book  
REZ2015-00018

4901 LIBBIE MILL EAST BLVD./4900 LIBBIE MILL EAST BLVD.



Above: 4901 Libbie Mill East Blvd from intersection of Roux St. and Libbie Mill East Blvd. Below: 4900 Libbie Mill East Blvd. from intersection of Staples Mill Rd. and Libbie Mill East Blvd.

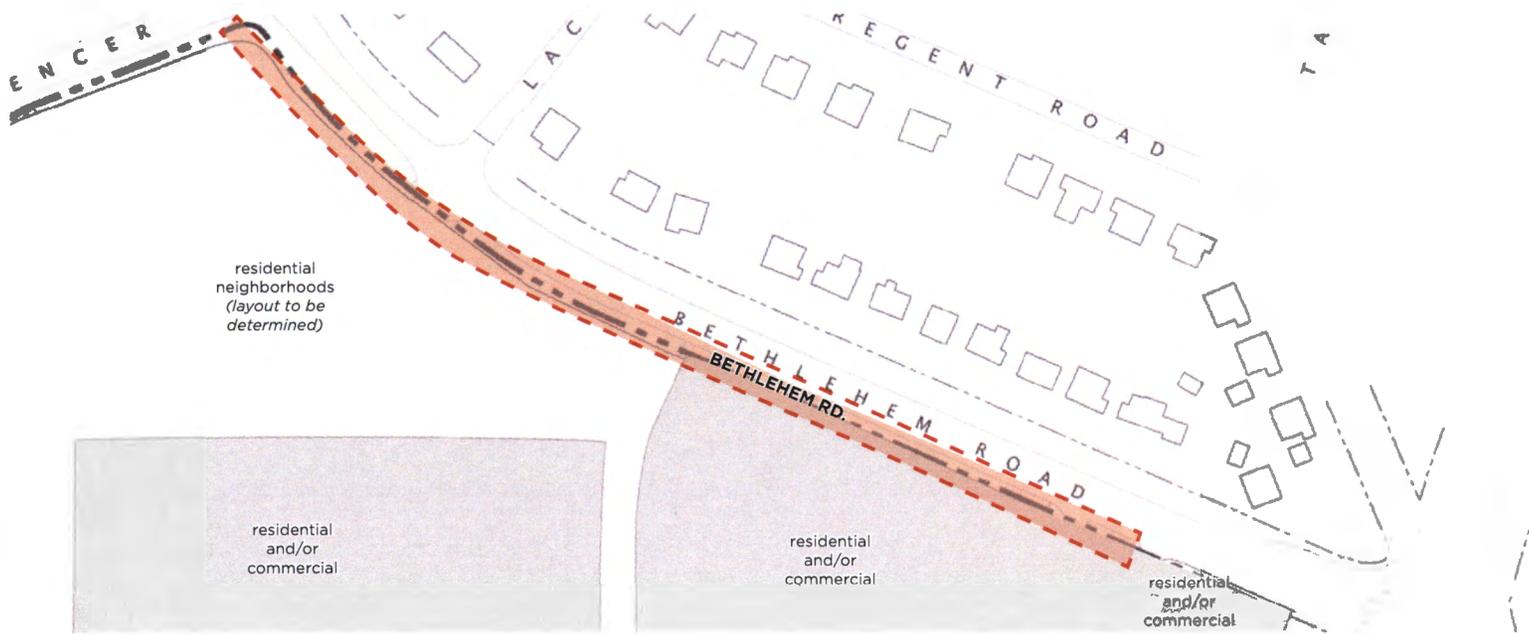


5001 Libbie Mill East Blvd. rendering (from Libbie Lake plaza)

Approved Pattern Book

REZ2015-00018

PERIMETER (TYPE 2): BETHLEHEM RD.



residential neighborhoods  
(layout to be determined)

residential and/or commercial

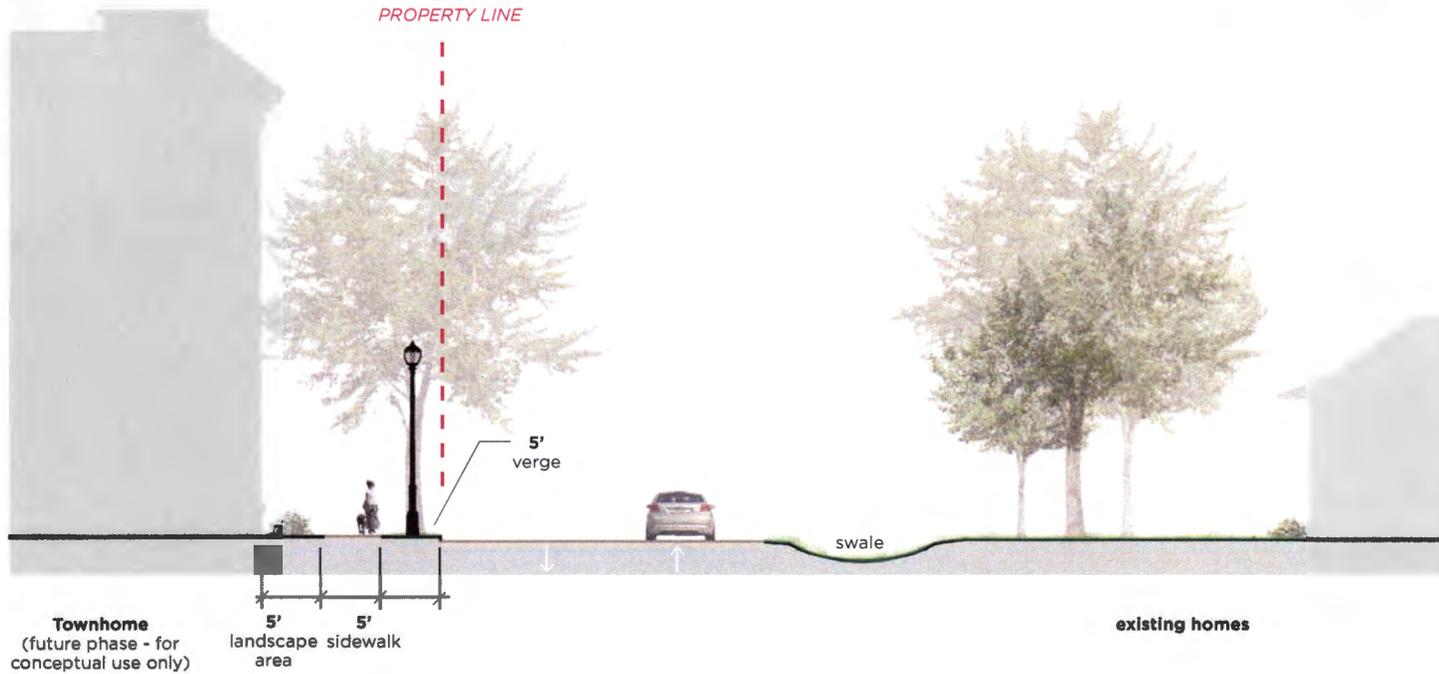
residential and/or commercial

residential and/or commercial

- STREET WIDTH:** existing
- STREET PARKING:** no
- SIDEWALK WIDTH:** min. 5'
- STREET TREES:** canopy tree (deciduous)
- BUILDING TYPE:** residential
- STREET LIGHTS:** yes

Approved Pattern Book

REZ2015-00018



**SAMPLE STREET SECTION**

ALL DIMENSIONS VARY BASED ON USE.

Approved Pattern Book

REZ2015-00018

PERIMETER (TYPE 3): SPENCER RD.



**SPENCER RD.**

**STREET TYPE:** Perimeter (Type 3)

**STREET WIDTH:** approx. 36' (existing)

**STREET PARKING:** yes

**SIDEWALK WIDTH:** min. 5'

**STREET TREES:** canopy tree (deciduous)

**BUILDING TYPE:** residential

**STREET LIGHTS:** yes

residential  
and/or  
commercial

residential  
neighborhoods  
(layout to be  
determined)

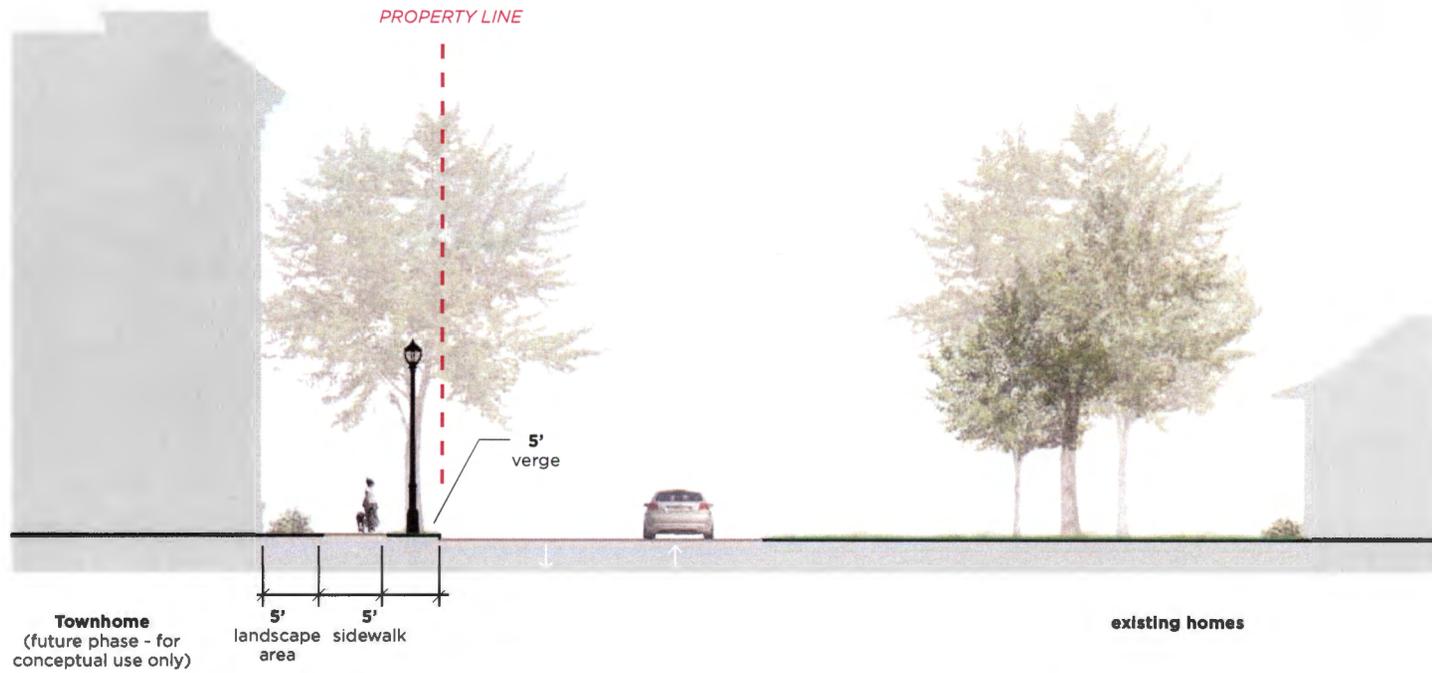
LIBBIE LAKE

residential  
and/or  
commercial



Approved Pattern Book

REZ2015-00018



**SAMPLE STREET SECTION**  
ALL DIMENSIONS VARY BASED ON USE.

COUNTY OF HENRICO

John A. Vithoukas  
County Manager

August 18, 2015

Midtown Land Partners, LLC  
c/o Wayne Chasen  
Gumenick Properties  
4901 Libbie Mill East Boulevard  
Suite 200  
Richmond, VA 29230

Re: Rezoning Case REZ2015-00018

Dear Sirs:

The Board of Supervisors, at its meeting on August 11, 2015, approved your request to amend proffered conditions accepted with Rezoning Case C-5C-07 on Parcels 771-740-9118, 772-740-0431, -1137, -1743, -2229, -2836, -4023, 773-739-6286, -8155, 773-740-5043, -8899, -9498, 773-741-2637, -3132, -3726, -4222, -5414, -6011, -6808, -7505, -8102, 774-739-4371, -5043, -5750, 774-740-0096, -0894, -1592, -2190, -2403, -2888, -3584, -4182, -4708 located on the east line of Libbie Avenue approximately 310' north of W. Broad Street (U.S. Route 250) to its intersection with N. Crestwood Avenue, then along the east line of Spencer Road to the south line of Bethlehem Road and the west line of Staples Mill Road (U.S. Route 33).

The Board of Supervisors accepted the following proffered conditions, dated July 9, 2015, which further regulates the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

APPLICABLE TO ALL

1. **Pattern Book**. The Property shall be developed in general conformance with the illustrations and information set forth in the "Libbie Mill Midtown Pattern Book" (the "Pattern Book") filed herewith (see case file), unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, which illustrations and information are conceptual in nature and may vary in detail.
2. **Storm Water Management Facilities**. Any above-ground wet stormwater management facilities located on the Property shall be designed and utilized as a water feature amenity and/or designed and landscaped to make it an integral part of the development and shall be aerated.

3. **Overall Density.** There shall be no more than 2,090 residential units developed on the Property, of which no more than 1,096 may be rental units. In order to meet changing market demands, but subject to the foregoing limits, the Owner reserves the right to adjust upward (other than the number of rental units) and/or downward, the number of each type of unit. The Owner shall maintain a cumulative record of the number and types of units being developed and provide such record to the County with each Plan of Development for residential units.
4. **Road Certification.** Prior to the issuance of the first permanent certificate of occupancy in a given phase of development, the Owner shall provide the Planning Department with certification from a licensed engineering firm that the roadways within that phase of development were constructed according to the approved Plan of Development and in compliance with Henrico County road design standards and specifications, to include proper compaction of the sub-base soils, utility trenches, base stone and asphalt surface, but excluding road widths and turning radii.
5. **Pedestrian Access.** A pedestrian access system shall be provided connecting the major project areas of the development.
6. **Restrictive Covenants/Homeowners' Association.** A document shall be recorded in the Clerk's Office of the Circuit Court of Henrico County, Virginia setting forth controls on the development and maintenance of such portions of the Property. In addition, there shall be an Owners' Association(s) that shall be responsible for the enforcement of the restrictive covenants, including, but not limited to, maintenance of the common areas and limitations on the parking and storage of boats, RVs, campers and trailers.
7. **Road Improvements.** The improvements outlined in the letter of Monte Lewis, P.E. to Tim Foster, Henrico County Public Works, dated January 3, 2007, shall be made by the developer of the Property as may be required by the Director of Public Works.
8. **Curb and Gutter.** Curb and gutter shall be used on all streets and shall be designed to meet the current County standard for either "roll top" curb and gutter which shall measure not less than three (3) feet from edge of pavement to back of curb, or six (6) inch standard curb and gutter.
9. **Burning on Site.** There shall be no burning of construction debris, materials or vegetation on the Property, except to provide warmth to workmen using drums not exceeding fifty-five (55) gallons.
10. **Satellite Dishes.** Satellite dishes larger than that permitted by Federal law without restriction shall be prohibited on the Property.
11. **All Retail Uses.** All retail uses (excluding health clubs) shall be open to the public only between the hours of 5:00 a.m. and 12:00 midnight Sunday through Wednesday and 5:00 a.m. and 1:00 a.m. Thursday, Friday, and Saturday.

12. **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.
13. **Parking Garages.** No parking garages (other than individual garages serving individual units) shall be adjacent to Bethlehem Road and Spencer Road within the residential neighborhoods areas as shown on the Conceptual Master Plan (see case file).
14. **Building Height.** The height of buildings within the "residential and/or commercial" area at the corner of Libbie Avenue and North Crestwood Avenue shall be limited to a maximum of sixty (60) feet. The height of structures within the "residential and/or commercial" area north of Libbie Lake North Street and east of Libbie Lake East Street shall be limited to a maximum of fifty (50) feet.

APPLICABLE TO APARTMENT (RENTAL) DEVELOPMENT AND  
MULTIFAMILY (FOR SALE) CONDOMINIUMS

15. **Square Footage.** Studio units shall be a minimum of four hundred fifty (450) square feet of finished floor area in size, one bedroom units shall be a minimum of five hundred (500) square feet of finished floor area in size, two bedroom units shall be a minimum of eight hundred (800) square feet of finished floor area in size, and three bedroom units shall be a minimum of one thousand one hundred (1,100) square feet of finished floor area in size. The number of studio units shall be limited to no more than twenty percent (20%) of all units.
16. **Architecture.** Buildings shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.
17. **Exterior Materials.** Buildings shall have exposed exterior front, rear and side walls (above finished grade) primarily of brick, glass, split face block, architectural precast concrete, cementitious or composite-type siding, stone, marble or granite, or a combination of the foregoing or other material(s) of similar quality. No building shall be covered with or have exposed to view any unadorned or unfinished concrete block. Soffit and exterior ceiling materials shall be constructed using non-combustible material.
18. **Sound Suppression.** Interior dwelling unit separation walls between units, floor/ceiling assemblies between units, and/or floor/ceiling assemblies between office/commercial and residential units in buildings shall be designed to have a minimum sound transmission coefficient rating of 54 as evidenced by a cross-sectional detail, reviewed and approved by a certified architect or engineer as to the approved assembly accomplishing the sound coefficient rating, which shall be included in the building permit application.

APPLICABLE TO ALL TOWNHOMES (FOR SALE) AND APPLICABLE TO ALL  
STACKED TOWNHOME-STYLE (FOR SALE) CONDOMINIUMS  
("TOWNHOMES")

19. **Exterior Materials.** Townhomes shall have exposed exterior front, rear and side walls (above finished grade) primarily of brick, glass, split face block, architectural precast concrete, cementitious or composite-type siding, stone, or a combination of the foregoing or other material(s) of similar quality. No building shall be covered with or have exposed to view any unadorned or unfinished concrete block. Soffit and exterior ceiling materials shall be constructed using non-combustible material.
20. **Building Height.** Townhomes shall not exceed fifty (50) feet in height as measured consistent with the definition of "building height" as set forth in the Henrico County Zoning Ordinance.
21. **Sound Suppression.** Interior dwelling unit separation walls between units in Townhomes shall be designed to have a minimum sound transmission coefficient rating of 54 as evidenced by a cross-sectional detail, reviewed and approved by a certified architect or engineer as to the approved assembly accomplishing the sound coefficient rating, which shall be included in the building permit application.
22. **Fences.** Any fences greater than forty-two (42) inches in height shall be constructed of vinyl, finished masonry or constructed with a combination of masonry piers and aluminum, metal or cast iron pickets. No wooden stockade-type fences or chain link fences shall be permitted.
23. **Limitation on Development.** Areas labeled "residential neighborhoods" as shown on the Conceptual Master Plan (see case file) shall only be developed for Townhomes.

APPLICABLE TO TOWNHOMES (FOR SALE)

24. **Townhome Type A.**
  - a. **Square Footage.** Units shall be a minimum of one thousand two hundred (1,200) square feet of finished floor area in size.
  - b. **Architecture.** Townhome A shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.
25. **Townhome Type B.**
  - a. **Square Footage.** Units shall be a minimum of one thousand five hundred (1,500) square feet of finished floor area in size.

- b. Architecture. Townhome B shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

26. **Townhome Type C.**

- a. Square Footage. Units shall be a minimum of one thousand eight hundred (1,800) square feet of finished floor area in size.
- b. Architecture. Townhome C shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

27. **Townhome Type D.**

- a. Square Footage. Units shall be a minimum of two thousand (2,000) square feet of finished floor area in size.
- b. Architecture. Townhome D shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

APPLICABLE TO STACKED TOWNHOME-STYLE (FOR SALE)  
CONDOMINIUMS (TYPE E)

- 28. **Square Footage.** Units shall be a minimum of one thousand two hundred (1,200) square feet of finished floor area in size.
- 29. **Architecture.** Type E units shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

APPLICABLE TO COMMUNITY BUILDING

- 30. **Amenities.** Prior to the issuance of three hundred (300) certificates of occupancy for owner-occupied residences, a Community Building for use by homeowners shall be provided and include, at a minimum, a business center, meeting space and a swimming pool.
- 31. **Square Footage.** The Community Building shall have a minimum of five thousand (5,000) square feet of finished floor area.
- 32. **Architecture.** The Community Building shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

33. **Exterior Materials.** The Community Building shall have exposed exterior front, rear and side walls (above finished grade) primarily of brick, glass, architectural precast concrete, cementitious or composite-type siding, stone, or a combination of the foregoing or other material(s) of similar quality. No building shall be covered with or have exposed to view any unadorned or unfinished concrete block. Soffit and exterior ceiling materials shall be constructed using non-combustible material.

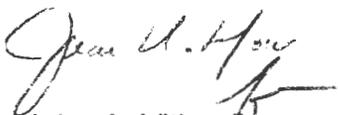
APPLICABLE TO COMMERCIAL/OFFICE DEVELOPMENT

34. **Prohibited Uses.** The following uses shall be prohibited on the Property:
- a. automotive filling and service stations including towing service;
  - b. billiard, bagatelle, video game or a bingo parlor, unless accessory to a permitted use;
  - c. flea markets or antique auctions;
  - d. billboards;
  - e. recycling facilities;
  - f. funeral homes, mortuaries, crematories and/or undertaking establishments;
  - g. dance halls;
  - h. truck stops;
  - i. gun shop, sales and repair;
  - j. sign painting shops;
  - k. theaters;
  - l. communication towers;
  - m. general hospitals, sanitoriums and charitable institutions for human care;
  - n. adult businesses as defined by Section 24-3 of the Henrico County Code;
  - o. establishments whose primary business is check cashing and/or the making of payday loans as defined and regulated by Sections 6.1-432 et seq. and 6.1-444 et seq. of the Code of Virginia (the foregoing shall not preclude banks, savings and loans or similar financial institutions that are not regulated by the foregoing Virginia Code sections);
  - p. restaurants with drive-thru windows, not to exclude, however, restaurants with dedicated parking spaces for the pick-up of carry-out food nor restaurants whose primary business is the sale of specialty coffees or other non-alcoholic beverages or pastry;
  - q. car title loan operations;
  - r. fuel pumps associated with permitted uses; and
  - s. motels or motor lodges.
35. **Architecture.** The buildings shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

36. **Exterior Materials.** The buildings shall have exposed exterior front, rear and side walls (above finished grade) primarily of brick, glass, split face block, architectural precast concrete, cementitious or composite-type siding, stone, marble or granite, or a combination of the foregoing or other material(s) of similar quality. No building shall be covered with or have exposed to view any unadorned or unfinished concrete block. Soffit and exterior ceiling materials shall be constructed using non-combustible material.
37. **Outdoor Music.** Outdoor music shall not be permitted on the Property after 11:00 p.m.
38. **Restaurant Ventilation.** The developer shall install an adequate restaurant ventilating and exhaust system to minimize smoke, odors, and grease vapors. The plans and specifications shall be included with the building permit application for review and approval. If, in the opinion of the County, the type system provided is not effective, the Planning Commission retains the rights to review and direct the type of system to be used.

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

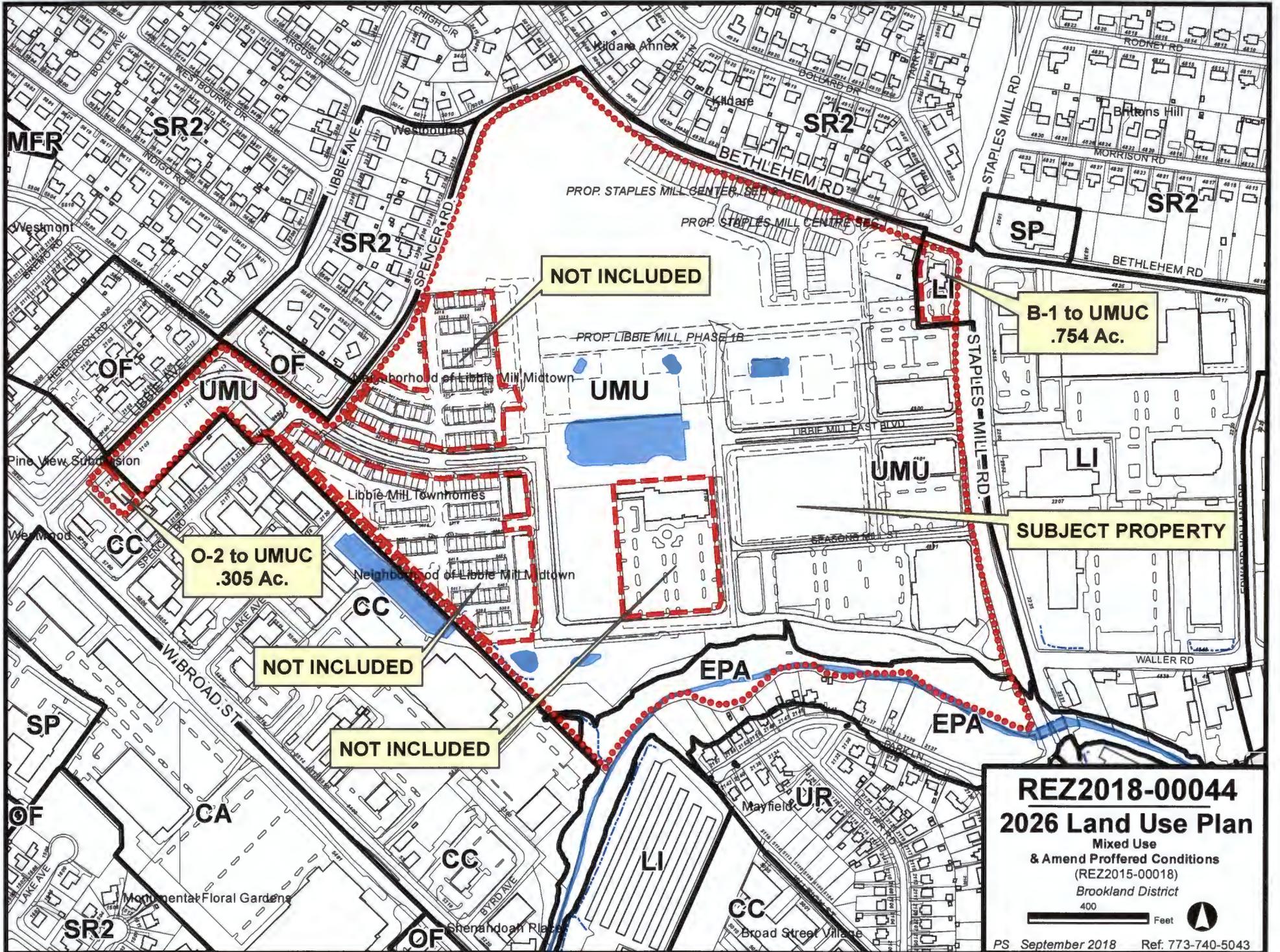
Sincerely,



John A. Vithoulkas  
County Manager

pc: LM Retail, LLC  
LM Office/Retail A, LLC  
County of Henrico, Virginia  
James W. Theobald, Esquire  
Director, Real Estate Assessment





**REZ2018-00044**  
**2026 Land Use Plan**  
 Mixed Use  
 & Amend Proffered Conditions  
 (REZ2015-00018)  
 Brookland District  
 400

PS September 2018 Ref. 773-740-5043