

15. **No Access.** Except as provided herein, there shall be no direct vehicular access to and from the Property from Three Chopt Road or Gaskins Road. Vehicular access to and from the Property shall be through the development which was the subject of Case No. C-33C-03. The existing access to the Property on Three Chopt Road shall be closed upon access being provided through the development which was the subject of Case No. C-33C-03.
16. **Severance.** The unenforceability, elimination, revision or amendment of any proffer set forth herein, all or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.
17. **Hours of Construction.** The hours of exterior construction, including operation of bulldozers and other earthmoving equipment, shall only be between 7:00 a.m. and 7:00 p.m., Monday through Saturday, except in emergencies or where unusual circumstances require extending the specific hours in order to complete work such as concrete pours or utility connections that cannot be interrupted. Signs, in both English and Spanish, stating the above-referenced provisions shall be posted and maintained at all entrances to the Property prior to any land disturbance activities thereon.
18. **Plan of Development Application.** An application for a Plan of Development which includes the existing structure and outbuildings shall be filed within six (6) months from the date of final rezoning approval by the Board of Supervisors.

The vote of the Board was as follows:

Aye

Nay

David A. Kaechele
 Patricia S. O'Bannon
 James B. Donati, Jr.
 Richard W. Glover
 Frank J. Thornton

402-07 Creighton & Laburnum LLC: Request to conditionally rezone from A-1
 C-29C-07 Agricultural District, B-2C Business District (Conditional) and M-1C Light
 Fairfield Industrial District (Conditional) to B-2C Business District (Conditional) and M-1C
 Light Industrial District (Conditional), Parcels 807-730-9116, 808-730-2377, 808-
 730-6309, 808-730-4825, 808-730-3946, 808-730-3162, and 808-730-6227,
 containing approximately 27.04 acres (B-2C 7.37 ac; M-1C 19.67 ac), located at
 the northwest intersection of N. Laburnum Avenue and Creighton Road.

No one from the public spoke in opposition to this case.

Mr. Thornton complimented and expressed appreciation to the County staff and to the applicant's representative, Mr. Theobald, and his staff for their patience and flexibility with this case. He opined that the eastern corridor of the County would be enhanced by this development. Mr. Theobald thanked Mr. Thornton, other Board members, and several members of the County staff who helped work through these issues. He elaborated on meetings he had held with staff during the past 30 days,

with Mr. Thornton's encouragement, concerning the planned realignment of Creighton Road. Mr. Theobald advised that the applicant had agreed to dedicate without cost to the County the entirety of the right-of-way that comes through its property. In response to a question from Mr. Kaechele, Mr. Theobald stated that he thought the timing of the Creighton Road realignment and the applicant's proposed development would work out for both parties. Mr. Theobald thanked everyone again for their hard work and Mr. Thornton once again thanked Mr. Theobald.

On motion of Mr. Thornton, seconded by Mrs. O'Bannon, the Board followed the recommendation of the Planning Commission and approved Agenda Item No. 402-07 (C-29C-07) subject to the following proffered conditions:

APPLICABLE TO ALL

1. **Site Plan.** The Property shall be developed in general conformance with one of the following conceptual site plans depending upon the alignment of Creighton Road as determined by the County, unless otherwise requested and specifically approved at the time of Plan of Development: (a) "Stoney Run" prepared by Bay Design Group dated October 15, 2007 attached hereto as Exhibit A (see case file); or (b) the site plan dated January 22, 2008 attached hereto as Exhibit A-1 (see case file).
2. **Lighting.** Parking lot lighting fixtures shall not exceed twenty (20) feet in height as measured from the grade at the base of the lighting standard unless otherwise approved at the time of Plan of Development. Except for decorative or period-style lighting fixtures or landscape lighting, parking lot lighting shall be produced from concealed sources.
3. **Underground Utilities.** Except for junction boxes, meters and existing overhead utility lines and technical or environmental reasons, all utility lines shall be underground.
4. **HVAC.** Heating and air conditioning equipment shall be screened from public view at ground level at the property lines in a manner approved at the time of Plan of Development.
5. **Central Trash Receptacles.** Dumpsters, trash receptacles, not including convenience cans and recycling receptacles, and compactors at ground level at the property lines shall be screened from public view with masonry enclosures which complement the architectural design of the buildings as approved at the time of Plan of Development. Convenience cans and/or recycling receptacles, if any, shall be within or part of a decorative container.
6. **Mechanical Equipment.** Mechanical equipment shall be screened from public view at ground level at the Property lines with enclosures compatible with the architectural design of the buildings as approved at the time of Plan of Development.
7. **Outside Speakers.** There shall be no outside speakers which may be heard beyond the boundaries of the Property.
8. **BMPs.** Any wet BMP shall be aerated.

9. **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 any of the other proffers or the unaffected part of any such proffer.
10. **Conservation Areas.** Notwithstanding the uses permitted and regulated by the zoning of the Property, such portion(s) of the Property which lie within a one hundred (100) year flood plain (as determined by definitive engineering studies approved by the Department of Public Works, excluding those areas for which permits are issued allowing fill-in and development) may only be used for the following purposes:
 - a. Storm water management and/or retention areas.
 - b. Ponds, lakes and similar areas intended as aesthetic and/or recreational amenities and/or wildlife habitats.
 - c. Access drives, infrastructure, utilities, signage, walkways and recreational facilities installed in a manner to minimize their impacts.
 - d. Such additional uses to the uses identified in (a), (b) and (c) above as may be deemed compatible and of the same general character by the Planning Administrator (Director of Planning) pursuant to Chapters 19 and 24 of the Henrico County Code.

and the Owner shall, prior to Plan of Development approval, apply to rezone such portions of the Property within the flood plain, as are included within the Plan of Development or adjacent thereto, to a C-1 Conservation District.

11. **Buffer Area.** Landscaped buffer areas a minimum of twenty-five (25) feet in width shall be provided and maintained on the Property adjacent to the ultimate right-of-way line of Laburnum Avenue and the ultimate right-of-way line of Creighton Road (as such rights-of-way lines shall be determined by the Director of Public Works at the time of Plan of Development). Sidewalks, utility easements, turn lanes, signage, access drives and any other uses as requested and specifically permitted at the time of Plan of Development shall be permitted within such buffers, provided that any such access drives or utility easements (other than existing easements) shall be extended generally perpendicular to Laburnum Avenue and Creighton Road through such buffers, unless otherwise requested, and specifically approved, at the time of Plan of Development. Buffers along Laburnum Avenue and Creighton Road which contain turn lanes shall maintain at least ten (10) feet in width of green space and shall include supplemental landscaping as determined at the time of Landscape Plan Review.
12. **Sidewalks.** Subject to obtaining all required governmental approvals and permits, a sidewalk shall be provided along Laburnum Avenue to the southernmost entrance of the Property, and shall be constructed to current County road standards and specifications for sidewalks.

13. **Landscaping and Lighting Plan.** A landscaping and lighting plan for the development shall be filed at the time of Plan of Development.
14. **Roofs.** All buildings shall have mansard, gable, and/or hip-styled roofs, or the appearance of these sloped-type roofs, except that buildings adjacent to RPAs with the rear façade facing the western boundary line of the Property and which are not immediately adjacent to Creighton Road may exclude such roof treatments on the rear, unless and except as otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development.
15. **Creighton Road Dedication.** The Owner, upon written request of the Director of Public Works, shall dedicate without cost to the County, the right-of-way over the Property for the proposed re-alignment of Creighton Road in the location as substantially shown on Exhibit A-1 (see case file). Should the dedicated property not be used for its intended purpose within thirty (30) years of the date of dedication, title to the dedicated property shall revert to the owner or its successors in interest.

APPLICABLE TO PROPERTY ZONED M-1C

16. **Use Restriction.** The M-1 zoned Property shall be used only for those uses permitted in an Office Service 2 District, as well as such uses as are customarily accessory and incidental thereto, and shall be regulated by Office Service 2 standards, regulations, and restrictions, except that the following shall not apply:
 - a. Section 24-50.33(f); and
 - b. Section 24-50.34(a)-(f).
17. **Loading Docks.** Service and delivery loading docks will be screened from view from the public roadways or any adjacent residential districts and treated with architectural elements or decorative fencing and/or evergreen landscaping to screen their visibility from the public roadways, as determined by the Director of Planning at the time of Plan of Development review.
18. **Signage; Attention-Getting Devices.** Detached signs will be monument-style signs not to exceed eight (8) feet in height and shall contain materials that are compatible with the exterior materials used on the buildings. No pole signs or inflatable or other attention-getting devices shall be permitted unless specifically requested and approved at the time of Plan of Development. No detached signs shall be lit internally.
19. **Exterior Materials/Elevations.** The exposed portion of each exterior wall surface (front, rear and sides) of any building (excluding rooftop screening materials for mechanical equipment) shall be complementary in architectural treatment and materials with the exposed portions of other exterior walls of such building. Any building shall have exposed exterior walls (above finished grade and exclusive of trim) primarily constructed of brick and glass, except that the rear exterior walls of buildings facing the western boundary line of the Property and adjacent to RPAs and which are not immediately adjacent to Creighton Road may be constructed primarily of brick and/or split face block, unless different

architectural treatment and/or materials are requested and specifically approved by the Planning Commission at the time of Plan of Development. Accent materials for buildings may include E.I.F.S., stone, split face block, concrete tilt-up panels, cementitious, composite-type siding, or a combination of the foregoing, unless different architectural treatment and/or materials are requested and specifically approved by the Planning Commission at the time of Plan of Development. No building shall be covered with or have exposed to view any painted or unfinished concrete block. All buildings shall be complementary in design and materials with the elevations attached hereto as Exhibit B (see case file), unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development.

APPLICABLE TO PROPERTY ZONED B-2C

20. **Prohibited Uses.** The following uses shall be prohibited:

- a. billiard, bagatelle, video game or a bingo parlor;
- b. flea markets or antique auctions;
- c. billboards;
- d. recycling facilities;
- e. funeral homes, mortuaries, crematories and/or undertaking establishments;
- f. dance halls;
- g. truck stops;
- h. gun shop, sales and repair;
- i. parking garages or commercial parking lots;
- j. communication towers;
- k. adult business as defined in the Henrico County Zoning Ordinance;
- l. 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);
- m. bars, which, for purposes of this restriction, shall mean a business establishment whose primary business is the sale of alcoholic beverages for on-premises consumption. This restriction shall not prohibit the sale of alcoholic beverages in restaurants as licensed by the Virginia Department of Alcoholic Beverage Control;
- n. off-track betting parlor;
- o. private club, lodge, meeting hall or fraternal organization;
- p. drapery making and furniture upholstery shop;
- q. self-storage facility;
- r. recreation facility, indoor, to include a theater, bowling alley, skating rink (ice skating and roller skating), swimming pool, tennis, model racing track, archery range, rifle or pistol range, and similar activities;
- s. Massage parlors, not to include spa, massage and other therapeutic establishments where employees performing massages, if any, are all duly licensed massage therapists in the Commonwealth of Virginia.

21. **Building Height.** No building constructed on the B-2C zoned property shall exceed thirty-five (35) feet in height above grade to the top of the proposed structure (exclusive of architectural features), unless requested and specifically approved at the time of Plan of Development.
22. **Signage; Attention-Getting Devices.** Detached signs will be monument-style signs not to exceed eight (8) feet in height and shall contain materials that are compatible with the exterior materials used on the buildings. No pole signs or inflatable or other attention-getting devices shall be permitted unless specifically requested and approved at the time of Plan of Development.
23. **Exterior Materials/Elevations.** The exposed portion of each exterior wall surface (front, rear and sides) of any building (excluding rooftop screening materials for mechanical equipment) shall be similar to and complementary with the exposed portions of other exterior walls of such building in architectural treatment and materials. Any building shall have exposed exterior walls (above finished grade and exclusive of trim) primarily constructed of brick and glass, unless different materials are requested and specifically approved by the Planning Commission at the time of Plan of Development. Accent materials for buildings may include E.I.F.S., stone, split face block, concrete tilt-up panels, cementitious, composite-type siding, or a combination of the foregoing, unless different architectural treatment and/or materials are specifically approved with respect to the exposed portion of any such wall, at the time of Plan of Development. No building shall be covered with or have exposed to view any painted or unfinished concrete block. All buildings constructed on the Property shall be complementary in design and materials with the elevation attached hereto as Exhibit C (see case file), unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development.

The vote of the Board was as follows:

<u>Aye</u>	<u>Nay</u>
David A. Kaechele	
Patricia S. O'Bannon	
James B. Donati, Jr.	
Richard W. Glover	
Frank J. Thornton	

32-08 Kalyan III, Inc.: Request to conditionally rezone from O-3C Office District
C-60C-07 (Conditional) to B-2C Business District (Conditional), Parcels 786-770-7883 and
Fairfield 786-770-9586, containing 3.575 acres, located between the east line of Telegraph
Road and the west line of I-95 approximately 1,170 feet north of JEB Stuart
Parkway.

No one from the public spoke in opposition to this case.

Mr. Thornton thanked staff for working with the applicant.