



COMMONWEALTH OF VIRGINIA



COUNTY OF HENRICO

July 17, 1998

Re: Conditional Rezoning Case C-32C-98

Mr. Wayne Chasen Gaskins Centre, L.C. 6600 W. Broad St. Richmond, VA 23230

Dear Mr. Chasen:

This is a correction of our letter to you dated June 18, 1998. The corrections are noted in bold type.

The Board of Supervisors at its meeting on June 10, 1998, granted your request to conditionally rezone property from R-2 One Family Residence District to R-3C One Family Residence District (Conditional), R-5C General Residence District (Conditional) and RTHC Residential Townhouse District (Conditional), Parcels 99-A-12, 41, and 42, described as follows:

Parcel A:

Beginning at a point, said point being the intersection of the south line of Patterson Avenue (Route 6) and the east line of Gaskins Road; thence from said point of beginning continuing along the south line of Patterson Avenue S. 86° 42' 12" E., a distance of 743.51' to a point; thence leaving Patterson Avenue S. 3° 17' 48" W., a distance of 175' to a point; thence S. 32° 04' 11" W., a distance of 87.00' to a point; thence S. 61° 28' 53" E., a distance of 142.98' to a point; thence along a curve to the right having a radius of 483.56'; a length of. 209.20' to a point; thence along a curve to the left having a radius of 340', a length of 175.11' to a point; thence S. 7° 11' 08" W., a distance of 80.13' to a point; thence along a curve to the right having a radius of 201.21' a length of 296.00' to a point; thence along a curve to the left having a radius of 585.45' a length of 178.60' to a point; thence S. 73° 59' 42" W., a distance of 136.97' to a point; thence along a curve to the right having a radius of 165.0' a length of 262.49' to a point; thence N. 14° 51' 17" W., a distance of 85.18' to a point; thence along a curve to the left having a radius of 202', a length of 162.31' to a point; thence N. 60° 53' 31" W., a distance of 181.30' to a point in the east line of Gaskins Road; thence along the east line of Gaskins Road in a northerly direction along a curve to the left having a radius of 994.93', a length of 105.00' to a point; thence N. 27° 47' 45" E., a distance of 18.00' to a point; thence N. 33° 28' 40" E., a distance of 103.64' to a point; thence along a curve to the left having a radius of 933.47' and a length of 341.90' to a point; thence N. 36° 34' 33" E., a distance of 46.76' to the point and place of beginning, containing 17.381 acres.

Parcel B

Beginning at a point in the south line of Patterson Avenue (State Route 6), said point being 743.51'east of the intersection of the south line of Patterson Avenue with the east line of Gaskins Road; thence from said point of beginning along the south line of Patterson Avenue S. 86° 42' 12" E., a distance of 423.00' to a point; thence S. 63° 21' 47" E., a distance of 84.68' to a point; thence S. 22° 43' 20" W., a distance of 1,211.05' to a point; thence N. 64° 12' 10" W., a distance of 10.67' to a point; thence S. 26° 29' 18" W., a distance of 599.15' to a point; thence N. 65° 38' 15" W., a distance of 504.21' to a point; thence N. 25° 43' 44" E., a distance of 215' to a point; thence N. 31° 24' 04" W., a distance of 820.35' to a point in the east line of Gaskins Road; thence in a northerly direction along the east line of Gaskins Road along a curve to the left having a radius of 994.93', a length of 115' to a point; thence S. 60° 53' 31" E., a distance of 181.30' to a point; thence along a curve to the right having a radius of 202', a length of 162.3l' to a point; thence S. I4° 51' 17" E., a distance of 85.18' to a point; thence along a curve to the left having a radius of 165.0' a length of 262.49, to a point; thence N. 73° 59' 42" E., a distance of 136.97' to a point; thence along a curve to the right having a radius of 585.45', a length of 178.60' to a point; thence along a curve to the left having a radius of 201.21', a length of 296.00' to a point; thence N. 7° 11' 08" E., a distance of 80.13' to a point; thence along a curve to the right having a radius of 340', a length of 175.11' to a point; thence along a curve to the left having a radius of 483.56', a length of 209.20' to a point; thence N. 61° 28' 53" W., a distance of 142.98' to a point; thence N. 32° 04' 11" E., a distance of 87.00' to a point; thence N. 3° 17' 48" E., a distance of 175' to a point in the south line of Patterson Avenue and to the point and place of beginning, said parcel containing 19.499 acres.

Parcel C

Beginning at a point in the east line of Gaskins Road, said point being 497.83' north of the intersection of the east line of Gaskins Road with the north line of Derbyshire Road; thence from said point of beginning along the east line of Gaskins Road in a northeasterly direction along a curve to the right having a radius of 914.93', a length of 112.47' to a point; thence along a curve to the left having a radius of 994.93', a length of 458.52' to a point; thence S. 31° 24' 04" E., a distance of 820.35' to a point; thence S. 25° 43' 44" W., a distance of 215' to a point; thence N. 36° 15' 08" W., a distance of 126.00' to a point; thence N. 59° 31' 27" W., a distance of 126.00' to a point; thence N. 82° 47' 56" W., a distance of 86.12' to a point; thence N. 72° 07' 26" W., a distance of 145.29'to a point; thence N. 29° 38' 09" W., a distance of 244.21' to a point; thence S. 62° 56' 08" W., a distance of 158.02' to a point; thence N. 31° 51' 53" W., a distance of 250.73' to a point in the east line of Gaskins Road and to the point and place of beginning, containing 7.714 acres.

Parcel D

Beginning at a point where the east line of Gaskins Road intersects the north line of Derbyshire Road; thence from said point of beginning along the east line of Gaskins Road in a northeasterly direction along a curve to the right with a radius of 914.93', a length of 497.83' to a point; thence S. 31° 51' 53" E., a distance of 250.73' to a point; thence N.

62° 56' 08" E., a distance of 158.02' to a point; thence S. 29° 38' 09" E., a distance of 244.21' to a point; thence S. 72° 07' 26" E, a distance of 145.29' to a point; thence S. 82° 47' 56" E., a distance of 86.12' to a point; thence S. 59° 31' 27" E., a distance of 126.00' to a point; thence S. 36° 15' 08" E, a distance of 126.00' to a point; thence S. 25° 43' 44" W., a distance of 332.66' to a point in the north line of Derbyshire Road; thence along the north line of Derbyshire Road in a westerly direction along a curve to the left having a radius of 415.00', a length of 49.32' to a point; thence continuing along the north line of Derbyshire Road N. 64° 59' 55" W., a distance of 598.59' to a point; thence continuing along the north line of Derbyshire Road N. 25° 09' 43" E., a distance of 16.39' to a point; thence continuing along the north line of Derbyshire Road N. 64° 50' 17" W., a distance of 450.00' to a point; thence N. 18° 34' 08" W., a distance of 41.15' to the point and place of beginning, containing 10.154 acres.

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

- Setback Requirements: No building shall be constructed within one hundred (100) feet of the present rights-of-way lines of Patterson Avenue and Gaskins Road except for the detached single family lots for seniors for sale (Parcel D) in which case the minimum setback shall be sixty-five (65) feet.
- 2. Access to the Property: Access to the Property shall be from Patterson Avenue and Gaskins Road only. There shall be no access to the Property from Derbyshire Road, Lakewater Drive or Avalon Drive. The Owner will support the vacation of Avalon Drive subject to the County's retention of all utility easements in the right-of way.
- 3. Buffers Along Eastern Property Line: Except as otherwise provided in these Proffers, there shall be a seventy-five (75) foot undisturbed buffer along the eastern property line abutting Lots 4 - 9, Block A of Sleepy Hollow Forest Subdivision; Lots I - 8, Block G and Lots 3 - 6, Block D, Section 3 of Westmoor Subdivision. The easternmost fifty (50) feet of the aforesaid seventy-five (75) foot buffer abutting Lots 5, 6 and 7, Block A of Sleepy Hollow Forest Subdivision and Lots 1, 2, 4 and 5, Block G and Lots 4, 5 and 6 Block D, Section 3 of Westmoor Subdivision shall remain undisturbed and clearing and grading shall be permitted in the western-most twentyfive (25) feet of the seventy-five (75) foot buffer provided supplemental landscaping, as approved by the Planning Commission at the time of Landscape Review, is planted to replace any such clearing and grading. The aforesaid buffers shall be considered common area and not part of any dwelling unit's lot except for purposes of complying with required sideyards and setbacks. No structures of any kind (including fences) shall be built in the buffer area. Supplemental landscaping in the western-most twenty-five (25) feet of the seventy-five (75) foot buffer shall be as approved by the Planning Commission at the time of Landscape Review and shall be sufficient to provide a high degree of visual privacy for the Westmoor and Sleepy Hollow Forest property owners whose property abuts the buffer at that point.

- 4. <u>Buffers Along Patterson Avenue</u>: Except as otherwise provided in these Proffers, there shall be a fifty (50) foot undisturbed buffer within the one hundred (100) foot setback in Proffer 1, which buffer is in addition to the minimum setback requirements for buildings specified by the Henrico County Zoning Ordinance. Notwithstanding anything else contained to the contrary in these Proffers, the aforesaid buffer shall be outside of any non-perpendicular utilities easements, deceleration lanes and proposed widening strips along Patterson Avenue.
- 5. Buffers Along Gaskins Road: Except as otherwise provided in these Proffers, there shall be a fifty (50) foot undisturbed buffer within the one hundred (100) foot setback in Proffer 1, which buffer is in addition to the minimum setback requirements for buildings specified by the Henrico County Zoning Ordinance. Where the aforesaid buffer is between any lakes and Gaskins Road, the aforesaid fifty (50) feet may be cleared and graded provided supplemental landscaping, as approved by the Planning Commission at the time of Landscape Review, is planted to replace any such clearing and grading. Notwithstanding anything else contained to the contrary in these Proffers, the aforesaid buffer shall be outside of any non-perpendicular utilities easements, deceleration lanes and site distance easements required by Henrico County.
- 6. Buffers Along Derbyshire Road and Extending Northward to the End of the Single Family for Seniors: Except as otherwise provided in these Proffers, there shall be a twenty-five (25) foot undisturbed buffer along the rear of the single family lots for seniors adjacent to the right-of-way of Derbyshire Road and Gaskins Road as such rights-of-way are determined at the time of subdivision review and adjacent to the rear of the single family lots for seniors located at the eastern boundary of the Property and along the rear of the lots adjacent to Derbyshire Road which are not a part of Sleepy Hollow Forest Subdivision. This buffer is in addition to the minimum forty (40) foot setback requirements for buildings specified by the Henrico County Zoning Ordinance. This buffer shall not be considered common area and shall be a part of the single family lots. This twenty-five (25) foot buffer shall be reflected on the subdivision plat so as to preclude any buildings. In order to accommodate Henrico County's requirements for site distance clearing on that portion of the buffer adjacent to the right-of-way of Gaskins Road, the Owner shall be permitted to clear and grade in the aforesaid twenty-five (25) foot buffer adjacent to the rightof-way of Gaskins Road provided supplemental landscaping, as approved by the Planning Commission at the time of Landscape Review, is planted to replace any such grading.
- 7. <u>Buffers</u>: All of the buffer areas set forth in Proffers 3 through 6, inclusive, shall permit, to the extent required: (a) utility easements required by Virginia Power, Richmond Gas, Bell Atlantic and Henrico County; (b) drainage, sanitary sewer and site distance easements required by government bodies; and (c) signage and access to and from public rights-of-way required by the Planning Commission at the time of Plan of Development Review/Subdivision Approval. All of the buffer areas set forth in Proffers 3 through 6, inclusive, shall preclude fencing within 20 feet of a right-of-

way line, except for entrance-way fencing. Dead, diseased or fallen trees may be removed, taking care to not damage healthy trees in the buffer, and shall be replaced with trees which, when they reach maturity, will be of comparable size and height to the trees which they replaced as determined by the Planning Commission. Supplemental plantings and landscaping, as approved by the Planning Commission at the time of Landscape Review, shall be permitted in all of the aforesaid buffer areas, provided that these plantings and the processes used to plant them, do not damage or threaten damage to any healthy trees in the buffer. Any supplemental landscaping which falls, dies or becomes diseased, shall be removed and replaced with material which, when it reaches maturity, will be of comparable size and height to the material which it replaces. Any easements permitted under this Proffer 7(a), (b) and (c) shall run generally perpendicular to the property line at the point nearest the easement, unless otherwise specifically permitted or required by the Planning Commission at the time of the Plan of Development Review/Subdivision Approval. Areas disturbed for required utility and drainage easements shall be restored to the maximum degree permitted by utility companies and Henrico County (as determined by the Planning Commission) and shall thereafter be maintained by the Owner of the Property. If any required easements necessitate activity within the property lines of adjoining property owners, the desires of those property owners with regard to repair or reclamation of the affected portions of their property shall be sought, considered and (unless they are clearly unreasonable) implemented by the developer at no expense to that property owner.

- 8. Fences: Any fence built on single-family for senior lots backing up to Gaskins Road shall be built to the east of the buffer. Any fence built on single-family for senior lots backing up to Derbyshire Road shall be built to the north of the buffer. Any fence built on the two (2) single family lots for seniors located at the eastern boundary of the Property shall be constructed on the west side of the buffer. The finished side of any fence built on the Property shall be facing the Property. Any fence built parallel to the eastern boundary of the Property shall be constructed on the west side of the buffer. Chain link fences shall be prohibited. The footing and gate posts of any fence built on the Property shall be set in concrete and the style and materials shall be uniform for each housing type.
- 9. <u>Number of Units</u>: No more than two hundred and twenty (220) dwelling units shall be constructed on the Property, generally in accordance with the Conceptual Plan.
- 10. Size of Single Family Dwellings: The following types of units shall have a minimum finished floor area of: 2,000 square feet for detached single family dwellings for seniors; 2,000 square feet for attached condominium units; 1,600 square feet for interior residential townhouse units; 1,800 square feet for end-residential townhouse units; and 1,200 square feet for condominium units for seniors. Garages, decks and balconies shall not be included in the finished floor area calculations.
- 11. <u>Exterior Architectural Treatment</u>: The architectural treatment of the following types

of buildings within the development shall be substantially as follows:

- a. Residential Townhouses for Sale: The exterior architectural treatment of residential townhouses for sale to be constructed on the Property shall be of substantially the same architectural character and materials and shall be similar in treatment to the buildings shown on the elevations entitled "The Townhouses at Gaskins Center" prepared by Edward H. Winks Architecture, and dated March 2, 1998, a copy of which is attached hereto as Exhibit "A", (see case file) except that garages may be added to any such townhouse structures or may be located in stand-alone buildings on the site provided the design of any such garages shall be of the same architectural character and substantially similar in treatment as the townhouses.
- b. Attached Condos for Sale: The exterior architectural treatment of these residences to be constructed on the Property shall be substantially of the same architectural character and materials and shall be similar in treatment to the buildings shown on the elevations entitled "The Commons at Gaskins Centre", prepared by Edward H. Winks Architecture and dated March 2, 1998, a copy of which is attached hereto as Exhibit "B" (See case file).
- c. Detached Single Family for Seniors for Sale: The materials and exterior elevations shall be architecturally compatible with 11a and 11b above as determined by the Planning Commission at the time of Plan of Development Review and/or Subdivision approval.
- d. Four-story Condominiums for Seniors for Sale: The exterior architectural treatment of these residences to be constructed on the Property shall be of substantially the same architectural character and materials and shall be similar in treatment to the building shown on the elevations entitled "Gaskins Centre, Henrico County, Virginia", prepared by Walsh/Ashe Associates Architects and dated March 2, 1998, a copy of which is attached hereto as Exhibit "C" (See case file).

Any attached parking garages shall be in excess of the normal parking requirements of Henrico County.

12. Building Materials, Signage and Architecture:

- a. All buildings constructed on the Property shall be of compatible architectural styles and materials as determined by the Planning Commission at the time of Plan of Development Review/Subdivision Approval.
- b. Exterior wall materials (exclusive of windows and doors) that may be used are brick, stone, cultured stone, wood siding (cedar, redwood, masonite), cementitious siding (hardiplank), vinyl siding (may be used only in combination with brick, stone or cultured stone), stucco, and E.I.F.S., (collectively referred

to herein as "Permitted Materials") 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 Review/Subdivision Approval.

- c. The visible portions of exterior foundations for single-family detached residences shall be constructed of brick or stone; however, the visible portions of exterior foundations for single family detached residences may be constructed of E.I.F.S., provided that the exterior wall of such residences are sided primarily in E.I.F.S.
- d. All chimneys shall be brick except on "E.I.F.S." siding homes, on which the chimney may be "E.I.F.S.". All direct vent fireplaces shall have foundations where exposed, and such foundations shall be similar to the house foundation. No cantilevered chimneys shall be allowed.
- e. All construction (including firewalls) shall be in accordance with the Uniform Statewide Building Code.
- f. Signs on the Property shall be of low profile and compatible with the architecture of the surrounding community as determined by the Planning Commission at the time of Plan of Development Review/Subdivision Approval.
- 13. <u>Sidewalks</u>: Sidewalks or pedestrian paths shall be a part of the entire development and generally as shown on the Conceptual Plan.
- 14. <u>Irrigation System:</u> All landscaped areas, except the buffer areas and areas surrounding all lakes or BMPs, shall have an underground irrigation system unless topography precludes the practical installation thereof.
- 15. Covenants and Restrictions: Prior to or concurrent with the recordation of the subdivision plat approved by the County and before the conveyance of any portion of the Property conveyed by said subdivision plat (other than for the dedication of easements, roads or utilities), there shall be recorded a document (the "Document") 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. The Document shall include detailed provisions limiting the number and nature of leases, of all types of units on the Property and providing remedies for violations of the limitations. A copy of the Document shall be filed with the Henrico County Attorney.
- 16. <u>Driveways</u>: No lot developed on the Property shall have a driveway providing direct vehicle access to Derbyshire Road or Gaskins Road. Gravel driveways shall be prohibited. Substantially the same materials shall be used for driveways within any single housing type.

- 17. <u>Utilities</u>: All utilities, except for existing electric and telephone lines, shall be underground with the exception of junction, connection and meter boxes and padmounted transformers and equipment cabinets. Owner shall use reasonable efforts to have the utility companies install such above-ground boxes, transformers and cabinets at locations which are not visible at ground level from adjoining properties.
- 18. Four (4) Story Condominiums for Seniors: The individual living units for seniors will be restricted to "for sale only" and will not be constructed for congregate dining and living accommodations. The following uses shall be precluded on the R-5 zoned portion of the Property: congregate dining and living accommodations, group care facilities, group housing projects, nursing homes, convalescent homes and homes for the aged.
- 19. <u>Lakes</u>: Lakes shall be designed, constructed and maintained in accordance with all applicable engineering, governmental, and environmental requirements and the Owner will use all reasonable efforts to have the BMP requirements met by any lakes constructed on the Property. Use of motorized vehicles on the lakes shall be prohibited.
- 20. Construction Access and Traffic: All construction access to the Property shall be from either Patterson Avenue or Gaskins Road. Lakewater and Avalon Drives and Derbyshire Road shall not be used by construction trucks providing services to the Property during construction. All construction contracts will contain this provision.
- 21. Hours of Construction: The hours of exterior construction, including operation of bulldozers and other earthmoving equipment, shall 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.
- 22. <u>Burning on Site:</u> 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.
- 23. Parking Lot Lighting Standards: Parking lot lighting standards shall not exceed twenty (20) feet in height as measured from the grade at the base of the lighting standard, unless otherwise requested, described and specifically approved, or if required, by the Planning Commission at the time of Plan of Development Review/Subdivision Review or by any other governmental body. Parking lot lighting shall be produced from concealed sources of lighting (such as shoe-boxed type) and no lighting on the Property shall exceed one-half (1/2) foot candle at the boundaries of the Property.
- 24. <u>Units for Sale</u>: All dwelling units built on the Property shall be constructed and marketed as "for sale" units only. No rental units of any kind shall be allowed to be built by the Owner. The Owner, his designees and/or agents are precluded from

purchasing dwelling units for future use as rentals to third parties. This does not preclude purchasers of such units from renting such units subject to any limitations contained in the Declaration of Covenants and Restrictions referred to in Proffer No. 15 hereof or other applicable documents.

- 25. Retention of Trees: To the extent reasonably practicable at the time of development, the clearing of mature trees on residential lots shall be limited to trees in areas required to accommodate the structure and its normal and customary accessories, open yard areas and those limited areas required to permit utility services and driveways generally in accordance with the Conceptual Plan referred to in Proffer No. 27.
- 26. <u>Townhouses for Sale</u>: There shall be no more than six (6) townhouse dwelling units continuously connected.
- 27. Conceptual Plan: The Property shall be developed in general conformance with the Conceptual Plan prepared by The Clower Group, Inc. dated March 2, 1998, a copy of which is attached hereto as Exhibit "D", subject, however, to such traffic, engineering and other changes as may be requested by the County and approved by the Planning Commission at the time of Plan of Development Review/Subdivision Approval.
- 28. Adjustments: In order to meet changing market demands, the Owner reserves the right to adjust upward and/or downward, the number of residential townhouses and/or attached condominiums and/or single-family detached homes by twenty-five percent (25%) of the number of units shown on the Conceptual Plan, but in no event shall the aggregate number of these three (3) types of units exceed one hundred and seventy-two (I72) units nor the overall density of the project exceed 220 units; or the number of single-family detached homes be less than twenty-three (23); provided, however, the housing product type abutting the eastern line of the Property with Westmoor and Sleepy Hollow Forest Subdivisions shall only be attached condominiums for sale.
- 29. <u>Recreational Facilities</u>: Use of the recreational facilities on the Property shall be limited to residents of the Property, residents of the proposed mid-rise at the southwest comer of Gaskins Road and Patterson Avenue and their respective guests.
- 30. <u>Dumpsters</u>: Any dumpsters on the Property shall be screened from public view at ground level at the perimeter of the Property in a manner approved by the Planning Commission at the time of Plan of Development Review/Subdivision Approval. Enclosure areas for dumpsters on the Property shall be constructed of brick or split face block or other materials approved by the Planning Commission at the time of Plan of Development Review/Subdivision Approval and will be architecturally compatible with the unit type which any such dumpster serves.

- 31. <u>Seniors</u>: For purposes of these Proffers, the term "for seniors" shall mean at least one (1) person who is fifty-five (55) years of age or older occupying each dwelling unit unless otherwise prohibited by applicable law, administrative rulings or regulations.
- 32. <u>Severance</u>: 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.

The Planning Office has been advised of the action of the Board of Supervisors and will revise its records and place a copy of the accepted proffered conditions in the Conditional Zoning Index.

Sincerely,

Virgil R. Hazelett, P.E.,

County Manager

cc: Director, Real Estate Assessment Conditional Zoning Index

Mr. Jay M. Weinberg, Esquire