Re: Conditional Rezoning Case C-67C-05

Dear Mr. Jester:

The Board of Supervisors at its meeting on January 24, 2006, granted your request to conditionally rezone from R-4 One Family Residence District and M-2 General Industrial District to R-5AC General Residence District (Conditional), Parcels 806-710-8061 and 807-711-0058, containing 21.694 acres, located on the north line of Darbytown Road approximately 765 feet southeast of Oregon Avenue described as follows:

Beginning at a point on the northern line of Darbytown Road 765.00'± East of eastern line of Oregon Avenue. Thence N 05°08'04" E, 156.91 feet to a point; thence S 85°46'44" E, 576.52 feet to a point; thence N 06°35'40" E, 769.97 feet to a point; thence S 89°15'16" E, 145.69 feet to a point; thence S 08°59'44" E, 421.52 feet to a point; thence S 83°37'27" E, 514.44 feet to a point; thence S 09°03'33" W, 370.58 feet to a point; thence N 89°15'16" W, 230.75 feet to a point; thence S 03°04'50" W, 868.82 feet to a point; thence S 42°26'07" W, 226.82 feet to a point; thence S 53°15'15" W, 372.99 feet to a point; thence S 59°47'29" W, 149.46 feet to a point; thence along a non-tangent curve to the left, having a radius of 1176.00 feet, length of 18.09 feet, chord bearing and chord distance of N 45°58'42" W 18.09 feet to a point; thence N 46°25'09" W, 649.37 feet to a point. Said point being the point of beginning containing 944,980.03 square feet or 21.694 acres of land.

The Board of Supervisors accepted the following proffered conditions, dated January 23, 2006 which further regulates the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

1. **Maximum Density.** There shall be a maximum of 88 lots on the Property to be used for residential dwelling units.

2. **Conceptual Site Plan.** The Property shall be developed generally consistent with the layout plan entitled "EAST POINTE COMMONS - TND, HENRICO COUNTY, VIRGINIA", prepared by Kroskin Design Group, dated December 8, 2005, and attached hereto as Exhibit A (the "Concept Plan") (see case file). The Concept
VIRGINIA", prepared by Kroskin Design Group, dated December 8, 2005, and attached hereto as Exhibit A (the "Concept Plan") (see case file). The Concept Plan is conceptual in nature and may vary in detail as the exact locations, footprints, configurations, sizes and details of the building(s), lots and roads shown thereon may be revised for engineering reasons, as required by any governmental authority or as otherwise approved by the Planning Commission at the time of subdivision review. The actual building locations will vary so that no two homes adjoining each other will have the same front yard setback.

3. **Minimum House Size.** Houses shall have a minimum of one thousand seven hundred (1,700) square feet of finished floor area. No ranch (one story) homes shall be permitted on the Property.

4. **Dwelling Requirements.** All dwellings shall be one-family dwellings; provided, however, dwellings located on lots 54-65, inclusive, as shown on the Concept Plan, and as otherwise approved by the Planning Commission at the time of subdivision approval, shall be permitted to be semidetached dwellings.

5. **Exterior Materials.** The exterior of the dwellings shall be constructed with brick, stone, vinyl siding, hardiplank, a combination thereof or such other material approved by the Director of Planning; provided, however, in all instances, a minimum of the first 16 inches of such exterior walls, as measured from the level of the finished grade of such home, shall be brick, exclusive of windows, steps and doors. In all cases brick shall cover the foundation walls up to the finished floor. In no case shall masonite siding or block be permitted. All lattice, railings and similar architectural features shall be made of plastic or PVC material or such other similar material as approved by the County. No two detached homes with a substantially similar architectural front elevation or layout shall be permitted to adjoin each other.

6. **House Elevation.** All dwellings on the Property shall have architectural styles and use design elements compatible to those renderings and exterior elevations of buildings as shown on Exhibit B for one-family dwellings and Exhibit C for semidetached dwellings, each attached hereto and made a part hereof (see case file), which such renderings are conceptual in nature and are provided only as an illustration of the quality of the design and architectural style of such buildings.

7. **Porches.** Every house shall have a front porch that extends out from the home by at least five (5) feet and extends along a minimum of forty percent (40%) of the width of the front elevation of the home. All stairs leading to such porches shall be made of synthetic lumber (color impregnated), brick or such other similar maintenance free material as approved by the County.
8. **Driveways.** No driveway for any house shall be permitted in the front yard. Driveways shall be constructed of concrete or other material of similar quality as approved by the County.

9. **Garages.** A minimum of a one-car garage shall be attached to each dwelling constructed on the Property. There shall be no front loading garages permitted on the Property.

10. **Chimneys and Flues.** The exposed portion of any chimney shall be constructed of brick, stone or hardiplank. The exposed portion of a flue for a direct-vent gas fireplace shall be constructed of the same material used on the adjacent siding. No chimneys or gas vent units (not including direct vent gas fireplaces or appliances) shall be cantilevered.

11. **Mailboxes and Lamp Posts.** All improved lots shall be required to have a common theme for each home for (a) lamp posts in the front yard and rear yard, and (b) mailboxes, which shall include a supporting post of design and installation as specified in the home owners' association documents. Improved lots shall be required to have a lamp post in the front and rear yards, provided that any such lot may share the lamp post with an adjoining lot.

12. **Roads, Alleys and Curb and Gutter.** All roads on the Property shall be constructed with curb and gutter so long as the curb is a standard full-faced curb or as otherwise approved by the Planning Commission at the time of subdivision review. Alleys shall be restricted to and signs posted in conspicuous areas to note such restriction of use by vehicles weighing 10,000 pounds or less and a speed limit of fifteen (15) miles per hour.

Prior to the issuance of a Certificate of Occupancy for any unit, the developer shall provide the Planning Office certification from a licensed geotechnical engineering firm that the roadways and parking areas within the development were constructed according to the approved plan 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 or a bond shall be provided to Henrico County for items not yet completed.

13. **Sidewalks.** A pedestrian sidewalk four feet in width shall be installed along one side of any road (excluding alleys) on the Property, as shown on the Concept Plan (see case file), unless otherwise approved by the Planning Commission at the time of subdivision review.

14. **Community Clubhouse.** A community clubhouse with a pool and tot lot and playground equipment shall be constructed prior to the issuance of the 40th building permit for a dwelling unit on the Property. Such clubhouse shall have at a
minimum 2,000 square feet and a minimum of fifteen (15) parking spaces. The clubhouse shall have an architectural style and use design elements similar to those renderings and exterior elevations of buildings as shown on Exhibit D, prepared by Kroskin Design Group, dated June 2, 2003, attached hereto and made a part hereof (see case file), unless otherwise approved by the Planning Commission at the time of subdivision review.

15. **Lot Clearing and Trees.** The clearing of healthy trees measuring 6 or more inches in diameter on any lot shall be limited to areas required to accommodate the dwellings, driveways, sidewalks, open yard areas, utility lines and any other areas typically required for the construction of a dwelling. The front yard of each improved lot shall contain at least 1 healthy tree measuring eight (8) to ten (10) feet at the time of planting, which shall either exist or be planted prior to the issuance of the final certificate of occupancy.

16. **Screening.** An opaque fence at least sixty-nine inches in height, with a decorative lattice design on top, shall be constructed along the boundary line of the Property (except along Darbytown Road) as required at the time of subdivision review. Such fence shall be constructed of white PVC or other material of similar quality as approved by the Director of Planning, as generally shown as "FENCE ELEVATION" on the plan entitled "LANDSCAPE SCREEN EXHIBIT, EAST POINTE COMMONS, Henrico County, Virginia", dated January 11, 2006, prepared by WPL Surveyors, and a copy of which is attached as Exhibit F (see case file). A minimum four (4) foot wide planting strip shall be provided along any such fence. A planting strip along the south-eastern boundary line of the Property shall be provided as shown on Exhibit F, or as otherwise approved at the time of subdivision review.

17. **Underground Utilities.** Except for junction boxes, meters and existing overhead utility lines or for technical or environmental reasons, all utility lines shall be placed underground. Any junction boxes and meters shall be placed on the alley side of any lot.

18. **Restrictive Covenants.** Prior to or concurrent with the recordation of a subdivision plat approved by the County of Henrico, Virginia, one or more documents shall be approved by the Henrico County Attorney's Office and recorded in the Clerk's Office of the Circuit Court of Henrico County, Virginia establishing a homeowner's association and that set forth development controls and maintenance responsibilities for all common areas and all entranceways within that portion of the Property subject to that subdivision plat (the "HOA Documents"). The HOA documents shall also include such provisions as are set forth on Exhibit G (see case file).
19. **Access to the Property.** Access to the Property shall be provided by Darbytown Road.

20. **Storm-Water Facilities.** Best Management Practice structures shall be provided only as an aerated water-related feature with landscaping as approved by the Planning Commission at the time of subdivision review. Any such structure shall be setback from Darbytown Road at least twenty-five (25) feet.

21. **Darbytown Road Buffer.** A landscaped buffer at least twenty (20) feet in width will be provided on the Property adjacent to the right-of-way line of Darbytown Road, as generally shown on the Concept Plan. Underbrush, fallen, diseased or dead trees and plant growth may be removed from any buffer area; if such underbrush, trees and plant growth are removed, additional supplemental plantings shall be added to such buffer. Utility easements, driveways, roads and signage may be permitted in any buffer as approved at the time of subdivision review. Any such road or utility easement shall be extended generally perpendicular to such buffer.

22. **Entrance Feature.** At least one entrance into the subdivision from Darbytown Road shall contain an entrance sign substantially similar to the sign rendering shown on Exhibit E attached hereto (see case file) and made a part hereof, unless otherwise approved by the Planning Commission at the time of subdivision review. In no case shall such sign have a height greater than six (6) feet, and shall be no more than one hundred (100) square feet in area.

23. **Disclosure.** A written disclosure shall be made by the owner of the property and/or by the Homeowner's Association to the initial buyer of a lot on the Property, which will disclose the existence of industrial and commercial zoned property to the north, south, east and southeast of the Property.

24. **Sound Suppression.** The exterior walls (including windows and doors) and walls between dwelling units of any (a) semi-detached home (lots 54-65) and (b) any home to be located on lots 52, 53, 66, 67, 68, 69, 70, 71, 72 and 73 as shown on the Concept Plan shall be constructed with a minimum sound coefficient rating of 55. Prior to the issuance of a building permit, the owner or applicant shall submit construction details (cross section), with an architect's or engineer's seal, demonstrating that construction will provide the proffered sound coefficient.

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

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

Virgil R. Hazelett, P.E.
County Manager

pc: Andrew M. Condlin, Esq.
    Ryan W. Boggs
    Director, Real Estate Assessment
    Conditional Zoning Index
    Dr. Penny Blumenthal, Dir. Research & Planning, Schools
The proposed planting design scheme for buffering the adjacent industrial land use is comprised of a mixture of evergreen plant materials and a 6 ft. high fence construction. The first initiative plantings are comprised of Pinus strobus (Eastern White Pine) at 15 feet on center. These will grow rapidly and provide vertical screening at a higher elevation above the fence construction. Inter-dispersed between the eastern white pines is Ilex x attenuata ‘Foster’ (Foster’s American Holly) at 15 feet on center. These are a slower growing evergreen tree mass that will provide secondary under story screening as the eastern white pines continue to grow vertically. The base of the planting screen will be comprised of Juniperus chin. Nick’s Compact (Nick’s Compact Juniper) at 4 ft. on center. This will form an evergreen mass at the base of the fence thus providing a pleasing edge to the screen composition. This screen planting configuration has been used successfully at Norfolk International Airport along the aircraft blast walls, at military installations separating base installations from adjacent land uses and at various quarry and barrow sites across Virginia.