R-2 to RTHC
6.02 Ac.
February 20, 2007

Gumenick Properties
C/O Mr. Wayne A. Chasen
6000 W. Broad Street, Suite 100
Richmond, VA 23230-2222

Re: Conditional Rezoning Case C-8C-07

Dear Mr. Chasen:

The Board of Supervisors at its meeting on February 13, 2007, granted your request to conditionally rezone from R-2 One-Family Residence District to RTHC Residential Townhouse District (Conditional), Parcels 745-740-3611, 745-740-4804, 745-739-5887, 745-739-7086, 745-739-7474, and 745-739-8598, containing approximately 6.02 acres, located on the northeast line of Derbyshire Road at its intersection with Branway Drive, described as follows:

Commencing at the northern right-of-way line of Derbyshire Road as widened 188.96' west of the northwest intersection of Derbyshire Road extended and Lakewater Drive extended; thence in a southerly direction along the said right-of-way 18.87' to the point of beginning; thence continuing along the northern right-of-way line, along a curve to the right having a radius of 748.80', a length of 154.29' and a delta angle of 11°48'21" to a point; thence N 43°08'21" W, a distance of 367.43' to a point; thence along a curve to the left having a radius of 415.00', a length of 109.01' and a delta angle of 15°03'02" to a point; thence leaving said right-of-way line N 25°43'44" E, a distance of 332.66' to a point; thence S 65°38'15" E, a distance of 596.46' to a point; thence S 25°39'25" W, a distance of 545.38' back to the point of beginning. Said parcel contains 6.02 acres as shown on a map title "Compiled Plat of 6.02 acres on the northern line of Derbyshire Road in the Tuckahoe District of Henrico County, Virginia" dated August 30, 2006, by E. D. Lewis & Associates, P.C.

The Board of Supervisors accepted the following proffered conditions, dated December 14, 2006 which further regulate the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):
1. **Access to the Property.** Access to the Property shall be from the Grayson Hill entrances on Patterson Avenue and Gaskins Road only. There shall be no access to the Property from Derbyshire Road.

2. **Buffers Along Eastern Property Line.** There shall be a seventy-five (75) foot buffer, undisturbed except as may be specifically permitted herein, along the eastern property line abutting GPINs 745-739-8258, 745-739-8569, 745-739-8882 and 745-739-9496 and the eastern and southern property line abutting GPIN 745-740-9409 of Sleepy Hollow Forest subdivision. Except as otherwise provided in these Proffers, the eastern-most fifty (50) feet of the aforesaid seventy-five (75) buffer abutting GPINs 745-739-8258, 745-739-8569, 745-739-8882, 745-739-9496 and 745-740-9409 of Sleepy Hollow Forest subdivision shall remain undisturbed, and clearing and grading shall be permitted only in the western-most twenty-five (25) feet of the seventy-five (75) foot buffer provided supplemental landscaping, as approved at the time of Landscape Plan review, is planted to replace any such clearing and grading. The foregoing notwithstanding, the seventy-five (75) foot buffer may be disturbed for the demolition of the existing house located within said buffer and any regrading related thereto. The aforesaid buffers shall be considered common area and not part of any dwelling unit's lot. No structures of any kind (including fences), except for underground retaining wall footings, shall be built in the buffer area. Supplemental landscaping in the seventy-five (75) foot buffer shall be as described in Proffer 4 and as approved at the time of Landscape Plan review and shall be sufficient to ultimately provide a high degree of visual privacy for the Sleepy Hollow Forest property owners whose property abuts the buffer at that point.

3. **Buffer Along Derbyshire Road.** Except as otherwise provided in these Proffers, there shall be a fifty (50) foot buffer adjacent to the right-of-way of Derbyshire Road, as such right-of-way is determined by the Director of Public Works at the time of Plan of Development, except for grading, provided supplemental landscaping, as approved at the time of Landscape Plan review, is planted to replace any such grading. This buffer is in addition to the minimum setback requirements for buildings specified by the Henrico County Zoning Ordinance other than the requirements related to major collector roads. This buffer shall be considered common area and be reflected on the subdivision plat.

4. **Buffers.** All of the buffer areas set forth in Proffers 2 and 3, inclusive, shall permit to the extent required: (a) utility easements required by Virginia Power, Richmond Gas, Verizon and Henrico County or their successors; (b) drainage, sanitary sewer and site distance easements required by government bodies; (c) pedestrian access ways and (d) retaining walls. All of the buffer areas set forth in Proffers 2 and 3, inclusive, shall preclude fencing within 20 feet of a right-of-way line. Dead, diseased, unsightly or fallen trees and undergrowth may be removed, taking care not to damage remaining 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 at the time of Landscape Plan review. Supplemental plantings and landscaping, as approved at the time of Landscape Plan review, shall be provided and 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 remaining healthy trees in the buffer. Specific supplemental plantings and landscaping as shown on the landscape plans prepared by Studio 39 Landscape Architecture, P.C. and entitled "Building ‘YY’", "Building ‘ZZ’", "Building ‘AAA’ Sideview”, “Building ‘AAA’ Rear 700 Lakewater Dr.”, Building ‘AAA’ Rear 704 Lakewater Dr.” and “Building ‘AAA’ 708 Lakewater Dr.”, attached hereto as Exhibit “A” (see case file), subject to approval at the time of Landscape Plan review, shall be provided and permitted in the buffers referenced in Proffers 2 and 3, provided that these plantings and the processes used to plant them do not damage or threaten damage to any remaining 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 4 shall run generally perpendicular to the property line at the point nearest the easement, unless already existing or otherwise specifically permitted or required at the time of the Plan of Development. Areas disturbed for required utility and drainage easements shall be restored to the maximum degree permitted by utility companies and Henrico County (as determined at the time of Plan of Development) 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. The supplemental plantings required on Exhibit "A" (see case file) shall be installed no later than the first growing season after Plan of Development approval and shall be of the following size at planting: (i) deciduous shade trees shall be five to six inches in caliper; (ii) flowering understory trees shall be twelve (12) to fourteen (14) feet in height; and (iii) evergreen trees shall be twelve (12) to sixteen (16) feet in height.

5. **Fences.** Any fence built on lots backing up to Derbyshire Road shall be built to the north of the buffer. The finished side of any fence built on the Property shall face both the Property and the buffers along Lakewater Drive and Derbyshire Road. 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.
6. **Number of Units.** No more than sixteen (16) dwelling units shall be constructed on the Property, generally in accordance with the Conceptual Plan (as defined herein) (see case file).

7. **Size of Dwellings.** Homes shall have a minimum finished floor area of 3,100 square feet. Garages, decks and balconies shall not be included in the finished floor area calculations.

8. **Exterior Architectural Treatment.** 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 buildings entitled "Estate Homes" as shown on Exhibit "B" attached hereto (see case file), unless otherwise requested and specifically approved at the time of Plan of Development.

9. **Building Materials, Signage and Architecture:**
   a. Exterior wall materials (exclusive of windows and doors) that may be used are brick, stone, cultured stone, and cementitious siding (e.g. Hardiplank), unless different architectural treatment and/or materials are specifically approved with respect to the exposed portion of any such wall of the time of Plan of Development. Exterior materials shall be as follows: end units shall be brick on all three sides; interior units shall be a combination of brick, front/brick rear; brick front/cementitious siding on rear. All fronts shall be all brick.
   
   b. The visible portions of exterior foundations shall be constructed of brick or stone.
   
   c. All chimneys shall be brick. All direct vent fireplaces shall have foundations where exposed, and such foundations shall be similar to the townhouse foundation. No cantilevered chimneys shall be allowed.
   
   d. All construction (including firewalls) shall be in accordance with the Uniform Statewide Building Code. Sound suppression measures shall be provided between units with at least a 55 sound coefficient rating. A cross-sectional detail, reviewed and approved by a certified architect or engineer as to the approved assembly accomplishing the sound coefficient rating, shall be included in the building permit application.
   
   e. Front doors of townhomes shall not be at grade level, and will have a minimum of two steps for entry.
   
   f. Individual HVAC units shall be screened from view of residents adjacent to
the Property, and a conceptual screening plan for same shall be provided at the time of Plan of Development.

g. Any retaining walls shall be of brick.

h. Townhomes shall not exceed the maximum building height standard for townhouses for sale of thirty-five (35) feet.

10. **Sidewalks.** Sidewalks or pedestrian paths shall be a part of the entire development, generally as shown on the Conceptual Plan (see case file) and as approved at the time of Plan of Development. Subject to obtaining all required governmental easements, approvals and permits, a paved pedestrian path shall, concurrent with the development of buildings on the Property, be installed within the County’s right-of-way in the northern portion of Derbyshire Road and shall extend to the western-most intersection of Derbyshire Road and Lakewater Drive, which path shall be maintained by the Owner.

11. **Irrigation System.** All newly landscaped common areas, exclusive of buffer areas, existing mature stands of trees and areas surrounding all lakes or BMPs, shall have an underground irrigation system unless topography precludes the practical installation thereof.

12. **Covenants and Restrictions.** Prior to or concurrent with the recordation of the first subdivision plat or Plan of Development approved by the County and before the conveyance of any portion of the Property covered by said subdivision plat or Plan of Development (other than for the dedication of easements, roads or utilities), the Property shall be annexed into Grayson Hill and be bound by the covenants and restrictions applicable thereto. The Property shall have full access to the recreational facilities associated with Grayson Hill.

13. **Driveways.** No lot developed on the Property shall have a driveway providing direct vehicular access to Derbyshire Road. Gravel driveways shall be prohibited. Substantially the same materials shall be used for driveways within any single housing type.

14. **Utilities.** All utilities, except for existing electric and telephone lines, shall be underground with the exception of junction, connection and meter boxes and pad-mounted transformers and equipment cabinets. Owner shall use reasonable efforts to have the utility companies install such boxes, transformers and cabinets underground or, if not achievable, then at locations which are not visible at ground level from adjoining properties. Any above-ground boxes, transformers and cabinets shall be screened with vegetation, as permitted by the respective utility companies and in accordance with the Conceptual Landscape Plan (as defined herein) (see case file), or with hardscape material, as permitted by the respective utility companies and as approved at the time of Plan of Development or Landscape Plan review.
15. **Construction Access and Traffic.** All construction access to the Property shall be from either the Patterson Avenue or Gaskins Road entrances to Grayson Hill. Lakewater and Avalon Drives and Derbyshire Road shall not be used by clearing, grading or construction trucks providing services to the Property during construction. All clearing, grading and construction contracts will contain this provision. There shall be no exterior construction on Sundays. Signs, in both English and Spanish, stating the above-referenced provisions, shall be posted and maintained at all constructions entrances prior to any land disturbance activities on the Property.

16. **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 Friday, and 8:00 a.m. to 5:00 p.m. on 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. There shall be no exterior construction on Sundays. Signs, in both English and Spanish, stating the above-referenced hours of construction shall be posted and maintained at all constructions entrances prior to any land disturbance activities on the Property.

17. **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.

18. **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. Parking lot lighting, unless otherwise requested, described and specifically approved, or if required, at the time of Plan of Development, shall be produced from concealed sources of lighting, and no lighting on the Property shall exceed one-half (1/2) foot candle at the boundaries of the Property.

19. **Street Lighting Standards.** Street lighting fixtures shall not exceed sixteen (16) feet in height above grade level. Street lighting shall be non-glare, decorative in style, and residential in character.

20. **Units for Sale.** 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. 11 hereof or other applicable documents.
21. **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 grading, 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 (see case file) referred to in Proffer No. 23.

22. **Townhouses in a Row.** There shall be no more than six (6) townhouse dwelling units continuously connected.

23. **Conceptual Plan.** The Property shall be developed in general conformance with the Conceptual Plan prepared by Studio 39 Landscape Architecture, PC and entitled "Grayson Hill - Phase 4", a copy of which is attached hereto as Exhibit "C" (see case file), subject, however, to such traffic, engineering and other changes as may be requested by the County and approved at the time of Plan of Development. Streetscapes shall be provided generally as shown on the Conceptual Plan (see case file) unless otherwise approved at the time of Plan of Development or Landscape Plan review. Trees to be saved along the inner edges of all buffers will be clearly marked prior to the commencement of clearing and grading and will remain clearly marked throughout the construction process consistent with the phasing of development until the last townhouse is completed.

24. **Dumpsters.** No dumpsters shall be permitted on the Property.

25. **Garages.** Each dwelling unit shall have a minimum of a two-car garage which shall be recessed garages or garages facing the courtyard of the building. Permitted front-loading garages shall be recessed and shall be of varying architectural styles.

26. **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.
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

cc: Ms. Esther Pickels Fowler
GGC Associates, LLC
Mr. Herbert Pickles
Ms. Etta Darlene Metzger
Director, Real Estate Assessment
Conditional Zoning Index
Dr. Martha G. Blumenthal, Director, Research and Planning