

**County of Spotsylvania**  
**Department of Planning**



**Board of Supervisors Staff Report**

Rezoning # R16-0004  
(Chancellor Voting District)

**Planning Commission:** Approval

**Staff Recommendation:** Denial

**I. Overview**

**Applicant:** Catherine T. Neale and Rebecca T. Acors

**Request:** The applicants request a proffer amendment to an approved rezoning R14-0008 Catherine T. Neale and Rebecca T. Acors (Thorburn Estates) which rezoned approximately 171 acres from Rural (RU) to Residential 2 (R-2) with proffers for a maximum of a 59-lot subdivision. The requested amendment would extend the deadline to either complete the proffered off-site transportation improvements at the intersection of Chancellor Road and Old Plank Road or provide a cash contribution to the County in the amount of \$971,664.00 to a time no later than the issuance of the 30th occupancy permit. The property is located along the south side of Chancellor Road (Route 674), approximately one (1) mile west of the intersection of Chancellor Road (Route 674) and Gordon Road (Route 627).

**Tax Map Parcels:** 21-A-60F, 21-A-60G and 21-A-95

**Location:** The property is located along the south side of Chancellor Road (Route 674), approximately one (1) mile west of the intersection of Chancellor Road (Route 674) and Gordon Road (Route 627).

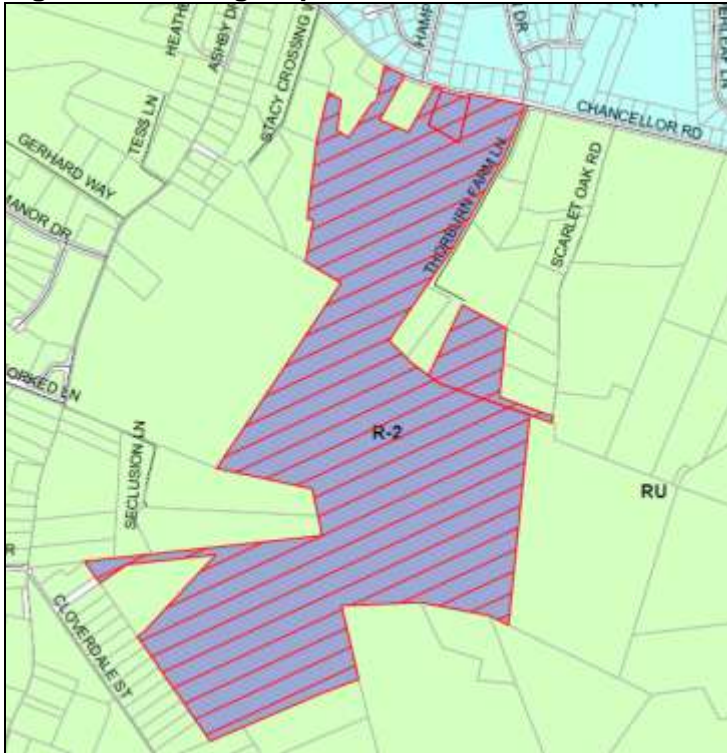
**Zoning Overlay:** Reservoir Protection Overlay District

**Future Land Use Designation:** Rural Residential

**Historic Resources:** None identified

**Date Application Deemed Complete:** 8/5/2016

**Figure 1: Zoning Map**



**Figure 2: Aerial Map (2013) (subject parcels outlined in red)**



## Analysis

On December 9, 2014 the Board of Supervisors approved a rezoning of 171 acres located along Chancellor Road from Rural (RU) to Residential 2 (R-2) with proffers to allow for 59 single-family detached units (R14-0008 Thorburn Estates). With the approved rezoning, the applicant committed to construct off-site road improvements at the Chancellor Road and Old Plank Road intersection or provide a lump sum cash contribution in the maximum amount of \$971,664 within twelve (12) months of preliminary plat approval. No per unit cash proffers were offered. The applicant requests to amend the approved proffer to extend the deadline to either complete the proffered off-site transportation improvements at the intersection of Chancellor Road and Old Plank Road or provide a cash contribution to the County in the amount of \$971,664.00 to a time no later than the issuance of the 30th occupancy permit. The applicants have conveyed to staff the proffer amendment is based on the inability to market the property to a buyer with the existing parameters of the proffers related to the offsite improvements.

The proffered road improvements at the Chancellor Road and Old Plank Road intersection include widening Chancellor Road between Old Plank Road and Chancellor Pond Lane to add a northbound turning lane on Chancellor Road onto Old Plank Road and construct a dedicated westbound left turn lane from Old Plank Road onto Chancellor Road with a painted median. During the rezoning process it was discussed and understood by the applicants and staff that right of way would be needed and existing utilities would need to be relocated to accommodate the improvements. Thus, the approved construction estimate was inflated to \$971,664 to ensure those potential unknown costs would be adequately covered to complete the construction.

The existing condition of the northbound approach on Chancellor Road at the time of the rezoning and still today is a Level of Service E (LOS E). The impact of the Thorburn Estates development, which is projected to generate an additional 565 vehicles per day, will cause the northbound approach on Chancellor Road to drop to a Level of Service F (LOS F). With the proffered improvements the Level of Service for the northbound approach on Chancellor would be elevated to a "D". Both of the Old Plank Road approaches are free flowing with the only delay occurring when someone turns left onto Chancellor Road. The proffered improvements provide for a left turn lane on Old Plank Road onto Chancellor Road to reduce these delays. Overall if you looked at just the level of service for the entire intersection one might conclude it operated at an acceptable level; however that would be a false assumption. There are very few gaps in the traffic flow on Old Plank Road causing motorists on Chancellor Road to look for those gaps to safely merge with the Old Plank Road traffic creating a dangerous situation. An additional issue with the intersection is the poor turning radii on the eastbound approach of Old Plank Road. Larger vehicles cannot make a right turn when there are vehicles on Chancellor Road. The trucks usually must come to a complete stop and wait for the Chancellor Road traffic to make their turn onto Old Plank Road because they cannot make the turn given the narrowness of Chancellor Road. The proffered improvements include the widening of Chancellor Road to address this issue.

Community concerns during the early stages of the rezoning were primarily related to existing traffic concerns and the development's impact on traffic; specifically the Chancellor Road and Old Plank Road intersection. The traffic concerns were satisfied with the applicant's commitment to improve the intersection prior to the additional Thorburn Estates traffic and garnered community support for the application as a whole.

As noted, the proffers provided for either the applicant to construct the improvements with specific timing triggers in place related to the approval of the preliminary plat or the applicant would pay the lump sum to the County within one year of preliminary plat approval. The approved proffers also provided the County an alternative option to request the sum of \$971,664 within 90 days of preliminary plat approval. The Thorburn Estates preliminary plat was approved on July 20, 2016. Therefore, per the approved proffers, the applicant should have by this point in time scheduled a scoping meeting with VDOT, identified the total amount of right of way needed and pursued construction plan approval for the improvements. To date, other than preliminary plat approval, the applicant has taken no actions towards complying with the conditions related to the transportation improvements.

## **II. Key Findings**

- A.** The northbound approach on Chancellor Road operates at a Level of Service E. The impact of Thorburn Estates will further reduce the Level of Service to an F. With the proffered improvements the Level of Service for the northbound approach on Chancellor would be elevated to a "D".
- B.** The community's support of the rezoning hinged on the applicants' commitment to complete the improvements to the Chancellor Road and Old Plank Road intersection prior to the additional Thorburn Estates traffic.
- C.** To date, other than preliminary plat approval, the applicant has taken no actions towards complying with the conditions related to the transportation improvements.
- D.** The applicants' proposal does not provide an expected timeline for completion of the improvements.

## **III. Summary and Recommendation**

The Planning Commission held a public hearing on January 4, 2017 and on a motion by Mr. Newhouse, seconded by Mr. Smith voted unanimously to recommend approval of the amended proffer statement dated December 8, 2016. While the Planning Commission recommended approval, several members raised concerns with the potential for the development to progress through to house #29 and not beyond resulting in no trigger to the proffered improvements or cash contribution and therefore no mitigation would be provided.

Staff recommends denial of the proffer amendment as proposed. The primary issue at hand is timing. With the existing proffers, the County had a clear expectation of when the needed improvements to the Chancellor Road and Old Plank Road intersection would be completed by the applicant. The existing proffers go further to say if the applicant is unable to acquire the necessary right of way or relocate the existing utilities in order to complete the construction, the lump sum of \$971,664 will be paid to the County within one year of preliminary plat approval, which would be before July 20, 2017. Staff's primary concern with the proposal is there is no guarantee as to the timing of when either the transportation improvements will be completed or the cash contribution will be paid. The rezoning was approved with the expectation the condition of the Chancellor Road and Old Plank Road intersection would be improved prior to the additional Thorburn Estates traffic. The proposed amendment essentially eliminates any guarantee of the timing of completion.