

**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**O-18-09(R1)**

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 13th day of October 2009:

Present:	Vote:
D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
Thomas W. Evelyn	Abstain
W. R. Davis, Jr.	Aye

Motion was made by Mr. Sparks, which carried 4:0:1 to adopt the following ordinance:

**AN ORDINANCE TO APPROVE THE  
COURTHOUSE DEVELOPMENT DISTRICT  
ZONING CLASSIFICATION**

WHEREAS, Application ZT-05-09 requests approval of a new zoning classification, Courthouse Development District, and establishes the requirements therefor; and

WHEREAS, the Zoning Ordinance Rewrite Committee developed an initial draft of the district and recommended its consideration and adoption; and

WHEREAS, the application was referred to the New Kent County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission, after carefully considering the proposed district and gathering public input through a duly advertised public hearing, recommended approval of the proposed reclassification; and

WHEREAS, the Board of Supervisors finds that adoption of the Courthouse Development District as contained herein would address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County; and

WHEREAS, the New Kent County Board of Supervisors has made the following findings with regard to this application:

- The proposed zoning district is not prejudicial to the character of the Courthouse area and to the contrary would enhance the area.
- The proposed zoning district positively impacts the general plans for the physical development of the County by implementing certain goals, objectives and strategies embodied in the adopted Comprehensive Plan.
- The proposed zoning district will not be detrimental to the use or development of adjacent properties or the general neighborhood, nor will it impair the value of buildings or property in surrounding areas.

NOW THEREFORE BE IT ORDAINED this the 13<sup>th</sup> day of October 2009 by the New Kent County Board of Supervisors that the following addition to the New Kent County Zoning Ordinance be, and it is hereby, approved and adopted:

#### **ARTICLE XIV. SPECIAL AREA DISTRICTS.**

##### **Sec. 98-541. Courthouse Development District**

- (a) *Intent of district.* The Courthouse Development District is intended to create within the Village designation around New Kent Courthouse in the adopted New Kent County Comprehensive Plan a mixed-use, mixed-income community where people can live, work, play, and worship within a compact area developed on a pedestrian scale. Development within the district must offer a safe and effective transportation system accommodating all modes of travel, attractive and safe streetscapes, expansive opportunities for market-directed commerce, and multiple residential types. The Courthouse Development District is intended to provide flexibility in uses and spatial arrangements, accommodate various income levels, and offer the ability to adapt to unanticipated change over time. The Courthouse Development District is intended to comply with the requirements of §15.2-2223.1 of the Code of Virginia.

- (b) *Relationship to other development requirements.* The Courthouse Development District is a mixed use district that provides exceptional flexibility as a matter of right to effect compact development and meet the intent defined above. The provisions of this Courthouse Development District shall be liberally interpreted to supersede other conflicting requirements contained in the subdivision and zoning ordinances of the County.
- (c) *Uses.* The uses permitted within the Courthouse Development District are all uses permitted in the R-2, R-3 and Business districts. Any use permitted as a matter of right in any of the three districts shall be permitted as a matter of right in the Courthouse Development District. Any use permitted by conditional use permit in at least one of the three districts but not permitted as a matter of right in any of the three districts shall only be permitted by conditional use permit in the Courthouse Development District. All uses shall be established using the performance standards applicable to that use as found in this chapter (§98-870 et seq.) unless specifically exempted or modified in this section. All development and redevelopment in the Courthouse Development District requires approval of a site plan or plan of development.
- (d) *Density and dimensional requirements in the Courthouse Development District.*

<b>Standard</b>	<b>Requirement</b>
Minimum Residential Density	
Single-Family Detached	4 dwellings per acre
All Attached and Multi-Family	6 dwellings per acre
Maximum Residential Density	8 dwellings per acre
Minimum Lot Area	None
Minimum Lot Width	None
Maximum Setback from External Right-of-way (See Note 1)	30 feet
Minimum Setback from External Right-of-way (See Note 2)	10 feet
Minimum Setback from Internal Right-of-way	10 feet
Minimum Rear Yard (See Note 3)	
Single-Family Detached Dwellings	30 feet (may include alley)
Single-Family Attached Dwellings	20 feet (may include alley)
Multi-Family Buildings	30 feet

	(may include alley)
Commercial/Mixed-Use Buildings	18 feet (may be paved)
Minimum Side Yard	Minimum allowed under the Virginia Statewide Fire Prevention Code
Maximum Height (See Note 4)	
Commercial and mixed-use	50 feet
Single-family detached and attached	45 feet
Multi-family residential	50 feet

Note 1: Maximum setback requirements do not apply to buildings existing at the time of application of the ordinance to a parcel.

Note 2: Roll-out awnings and similar temporary projections may extend to within 5 feet of the edge of the street provided that no less than 7.5 feet of vertical clearance is provided to permit walking under the awning by pedestrians.

Note 3: There shall be no minimum rear yard setback requirement for commercial buildings, mixed-use buildings, or multi-family dwellings if they are located within 75 feet of a common open space designed and improved as a plaza, square, green, or landscaped courtyard.

Note 4: Architectural features such as chimneys, towers, cupolas, monuments, mechanical equipment, vents, spires, and/or similar architectural or structural features may exceed the height limits. Except as regulated by § 98-873 (m), telecommunications facilities including antennas, poles, towers, and necessary mechanical structures may exceed the height limits; however, these structures shall be shielded from view to the extent possible while still permitting acceptable use.

- (e) *Accessory structures.* Accessory structures are permitted within the Courthouse Development District, provided such structures meet the following requirements:
- (1) Accessory structures shall meet the minimum front, side, and rear yard requirements stipulated for principal buildings in this section.
  - (2) Accessory structures shall not be constructed in front of the principal buildings on a site.

- (3) Accessory structures shall not block or limit ingress to or egress from the site itself or any buildings on the site, and such structures must comply with applicable build code, fire safety, ADA, and crime prevention standards.
  - (4) Temporary outdoor seating arrangements may be located with the front setback and utilize a portion of the required sidewalk, provided that five feet (5') of unimpeded way remains at all times.
- (f) *Design requirements.* The following design requirements shall apply in the Courthouse Development District.
- (1) *Public Utilities.* All new development in the Courthouse Development District shall be connected to and utilize public water and public sewer.
  - (2) *Street Network.*
    - i. Proposed streets within new developments shall provide for a continuation of existing, planned, or platted streets on adjacent tracts, unless such continuation is prevented by topography or other physical barriers.
    - ii. The proposed streets in the subdivision shall be extended to the boundary lines of the parcels being developed to provide access to adjacent tracts not presently subdivided or developed.
    - iii. The internal street network shall consist of a series of interconnected streets that form a pedestrian-scaled system of blocks that are generally 300 to 600 feet (300' – 600') long. Cul-de-sac streets shall not be used unless topography or other physical barriers preclude connection to other streets. The use of "U-shaped" streets, as an alternative to cul-de-sac designs, is encouraged. When cul-de-sacs are necessary or the street network forms blocks greater than 600 feet (600') in length, mid-block pedestrian ways shall be required to ensure pedestrian connectivity.
    - iv. When planning the street network, developers should consider the terminating vista created by each street. Where possible, street intersections should be placed to emphasize a local landmark, such as a historic structure or civic building, or frame a unique view of the surrounding landscape.

- v. To ensure safe pedestrian travel and encourage alternative modes of transportation, proposed streets within new developments shall generally allow for only two lanes of vehicular traffic, excluding any parking lanes, and such roads should be built to the narrowest dimensions permitted by the Virginia Department of Transportation (VDOT). If possible, existing two-lane roads should not be widened.
- vi. The installation of roundabouts, as opposed to traffic signals at major intersections, is encouraged to create an uncluttered, aesthetically-pleasing streetscape.
- vii. The use of rear alleys is encouraged. When accessed by a rear alleyway, lots are not required to front on a public or private street, provided such lots have direct access to a pedestrian way that provides no less than five feet (5') of clear and unimpeded area and the distance between opposing buildings is at least thirty feet (30').

(3) *Main Streets.* Within each new development, the developer must designate an existing or planned roadway within or adjacent to the parcel as a main street, which would be subjected to the following conditions:

- i. On main streets, at least eighty-five percent (85%) of the total first floor area of new development fronting the street on any parcel shall be devoted to non-residential uses. Any existing use may continue and may be expanded.
- ii. A primary pedestrian way providing no less than eight feet (8') of clear and unimpeded area shall be provided across the front of structures (on both sides of the street) that face the main street.
- iii. The first floor of buildings along main streets shall maintain forty percent (40%) or more of their façade fronting the main street transparent from the street through the provision of glass windows/doors or equivalent materials. The façade shall be transparent at a level that allows the average person to view the interior of the building. The placement of signage shall not reduce the transparency of the façade other than for such small signage as may be required by law or regulation or that provides opening hours or emergency contact information.

- iv. In infill situations, the main street(s) of adjacent parcels shall be continued across the infill parcel unless it is demonstrated to the satisfaction of the zoning administrator that it is unreasonable to do so and would not contribute to maintaining community continuity.

*(4) Pedestrian Facilities*

- i. A primary pedestrian way providing no less than eight feet (8') of clear and unimpeded area shall be provided across the front of structures (on both sides of the street) that face the main street. A pedestrian way (sidewalk) of no less than five feet (5') of clear and unimpeded area shall be provided across the front of all other streets (both sides of the street), inclusive of residential, public and commercial uses.
- ii. All pedestrian ways shall be illuminated by outdoor lighting that is shielded or recessed and does not create intense glare or hinder night vision. Lighting shall not exceed eighteen feet (18') in height unless mounted on a building.
- iii. All pedestrian ways along a given street must adjoin one another or connect.
- iv. Street trees shall be provided along each sidewalk and road frontage with a goal of achieving a tree canopy coverage of the sidewalk of between thirty percent (30%) and seventy percent (70%) at maturity. Street trees planted to meet this requirement shall be native species. Existing invasive species of trees shall be removed. Existing exotic species of trees shall also be removed unless the local urban forester from the Virginia Department of Forestry shall determine that the exotic species poses no risk to native species and is suitable as a street tree.

*(5) Parking Requirements.* The following parking requirements supplement and modify the generally applicable off-street parking requirements found in article XXIII of this chapter.

- i. The use of shared parking arrangements is encouraged.
- ii. All required off-street parking for commercial and mixed-use structures shall be located to the rear of the building with the exception of required handicapped parking spaces or

loading spaces which may be located to the sides of the building.

- iii. The use of on-street parking is encouraged, provided that the design and placement of such spaces are approved by the Virginia Department of Transportation (VDOT). Where on-street parking is permitted, the off-street parking requirements shall be reduced accordingly.
  - iv. Seasonal outdoor seating areas shall not require additional parking spaces if limited to 180 days of use per year or less.
  - v. Off-street and on-street parking shall use Low-Impact Development (LID) design standards to allow for proper rainwater runoff management, to minimize soil erosion, to minimize land disturbances, and to provide proper stormwater management.
    1. Landscaping such as trees, shrubs, grasses, and bioretention areas shall be strategically used to absorb rainwater runoff from impervious parking services.
    2. Infrastructure such as gutters and curbs shall be strategically used with impervious parking surfaces for runoff.
  - vi. All required bicycle facilities shall be conveniently located for use by cyclists and placed in a manner that provides good visibility and security for parked bicycles. Bicycle parking may be located in front of buildings as well as to the side and rear of buildings.
  - vii. The development of commuter parking facilities within the Courthouse Development District is encouraged, providing residents and workers with alternative modes of transportation, such as carpooling, vanpooling, and travel by bus, and reducing the impact of single-occupancy vehicles on local roadways.
- (6) *Provisions for mass transit.* The development of bus stop facilities within the Courthouse Development District shall be encouraged, providing residents and workers with an alternative mode of transportation and reducing the impact of single-occupancy vehicles on local roadways. All new developments within the

Courthouse Development District greater than three (3) acres in area and that meet any one of the following qualifications must include a suitable location for a transit stop within their development plan:

- i. Contain fifty (50) or more dwelling units
- ii. Contain five (5) or more dwellings per acre
- iii. Contain 30,000 square feet of commercial development

*(7) Open space requirements*

- i. Any development site that consists of five (5) net developable acres or greater must include dedicated open space that is equal to at least ten percent (10%) of the net developable site. At least sixty percent (60%) of the minimum required open space must be improved as a plaza, square, or green with amenities that accurately reflect the intended demographics of the development. The remaining space may be arranged in any manner deemed appropriate and may include perimeter buffers, planters, parking islands or other open space and landscape features.
- ii. All residential dwellings shall be located within ¼ mile (1320') of some type of dedicated open space including public spaces.
- iii. Community gardens, including plots that are made available with or without a fee to residents, are encouraged as a part of developments.

*(8) Building sizes and standards.* The following building sizes and standards are applicable to new buildings and additions exceeding 100% of the original building's floor area.

- i. Commercial and residential buildings shall not exceed 25,000 square feet gross floor area for an individual establishment or 40,000 square feet gross floor area for a mixed-use or multi-tenant building. Buildings exceeding this size may be allowed with a conditional use permit. Schools, public buildings and places of worship may exceed these sizes.
- ii. Building façades greater than one-hundred feet (100') in length shall incorporate recesses, projections,

porches/arcades, and/or windows along at least twenty percent (20%) of the length of the façade; if located on designated main streets, the first floor of all buildings must have forty percent (40%) or more of their facade fronting the main street transparent from the street (see requirements above for main streets). Varying roof lines, projections/recesses, and other elements of architectural interest are encouraged to create an attractive streetscape.

- iii. Primary entrances to commercial and mixed-use buildings shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and inclement weather. Multiple building entrances are encouraged.
- iv. Motor vehicle oriented uses such as fueling facilities, repair garages, and uses with drive-in components shall reasonably complement the purposes of the Courthouse Development District to the greatest extent possible, while still affording necessary access and circulation. Such designs having fueling islands to the side or rear of the principal structure and bay doors facing away from the main street should be considered where feasible, based on the physical characteristics of the parcel and the operational requirements of the business. Special care and attention shall be focused on conflict points between pedestrians and motor vehicles to afford reasonable safety for both.
- v. The use of architectural styles common in pre-1940 Tidewater Virginia and/or contemporary architectural design evocative of these periods is encouraged, contributing to New Kent County's unique sense-of-place. Unique architectural designs should avoid stylistically "modern" or "post-modern" architectural elements such as curtain-wall glass. Corporate trademark design should be avoided.
- vi. In residential areas, the use of side- or rear-loading garages is encouraged, as is the placement of porches and balconies on the front façade.

*(9) Preservation of historic structures and sites.*

- i. The preservation of historic structures and sites including the adaptive reuse of historic structures is encouraged. The setback and arrangement requirements of the Courthouse

Development District that apply to new construction shall not apply to historic structures in their historic setting.

- ii. Historic structures, to the extent that such structures are nonconforming by reason of size, shape arrangement or location may be expanded or enlarged as a part of the adaptive reuse of such structures provided that the expansion or enlargement substantially preserves the historic shapes, façades, context and setting of the historic structure when viewed from public streets.

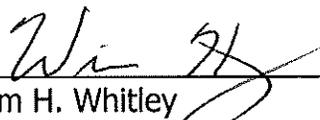
(g) *Process for approval of development within the Courthouse Development District.*

- (1) A preliminary site plan or preliminary subdivision plat shall be submitted for all development in the Courthouse Development District. Such preliminary site plan or preliminary subdivision plat shall comply with all relevant requirements established by the zoning, subdivision and other development ordinances in the County Code. Architectural plans containing building views from existing and proposed streets rendered in color with shadows shall be part of the submission.
- (2) In addition to showing the parcel or parcels proposed for development, the preliminary site plan or preliminary subdivision plat shall also show all existing development and utility infrastructure within two-hundred fifty feet (250') of the proposal for the purpose of documenting interconnections and designs of streets, driveways, pedestrian facilities, parking, and uses.
- (3) In reviewing individual site or subdivision plans within the Courthouse Development District, the zoning administrator or planning commission shall consider the purposes and intent of the Courthouse Development District and the underlying designation contained in the Comprehensive Plan and shall make specific findings in support of the action taken. The flexibility inherent in this designation shall constitute a broad grant to the zoning administrator and planning commission to consider and approve reasonable modifications that comport with the overall spirit and intent of the district and the underlying Comprehensive Plan. Any action taken by the zoning administrator and/or planning commission shall be based on the following guidelines.

- i. The Courthouse Development District is intended to involve a mixture of land uses on a smaller, pedestrian scale.
- ii. The scale, design and attention to detail of structures within Courthouse Development District are critical to carrying out the vision of the Comprehensive Plan.
- iii. Structures are intended to be located close to the street with all parking located either on-street or behind structures.
- iv. Sidewalks and sitting areas are intended to be located between streets and buildings.
- v. The Courthouse Development District is intended to have provisions for public plazas, parks, and other gathering places.
- vi. The Courthouse Development District provisions are not intended to create or cause development to have adverse impacts on the health, safety, or general welfare of the general public.

(4) Plats and plans, upon approval, may be executed in any reasonable phased approach that provides for a rational extension of public infrastructure to serve the phases.

BE IT FURTHER ORDAINED that the provisions contained herein shall be effective upon adoption.

  
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William H. Whitley  
Interim County Administrator

  
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W. R. Davis, Jr.  
Chairman