



NEW KENT COUNTY  
PLANNING COMMISSION -- REGULAR MEETING  
MAY 18, 2015, AT 6:30 PM  
COUNTY ADMINISTRATION BUILDING BOARDROOM  
AGENDA

**ITEM DESCRIPTION**

1. CALL TO ORDER
2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. SPECIAL ELECTION OF OFFICERS
  - I. CHAIR
  - II. VICE CHAIR (IF NEEDED)

5. APPROVAL OF MINUTES

A. APRIL 20, 2015

6. CITIZEN COMMENT PERIOD

COMMENTS ARE LIMITED TO THOSE ON PLANNING RELATED ISSUES THAT ARE NOT SCHEDULED FOR A PUBLIC HEARING LATER ON THE AGENDA. PLEASE SIGN UP ON THE SHEET AT THE BACK OF THE ROOM PRIOR TO THE START OF THE MEETING.

7. PRESENTATION - NONE

8. UNFINISHED BUSINESS

9. JOINT PUBLIC HEARINGS WITH THE BOARD OF SUPERVISORS

7:00 PM OR AS SOON THEREAFTER AS POSSIBLE. SPEAKERS ARE LIMITED TO THREE MINUTES EACH & SHOULD COME TO THE PODIUM AND STATE THEIR NAME AND ADDRESS.

- A. **APPLICATION OA-01-15:** CONSIDER ORDINANCE CHANGES FOR SECTION 91-127 OF THE NEW KENT COUNTY CODE. THIS SECTION CONTAINS SPECIAL PROVISIONS FOR OPEN SPACE OR CLUSTER SUBDIVISIONS. PROPOSED AMENDMENTS INCLUDE RAISING THE MINIMUM ACREAGE TO 50 ACRES, ALLOWING DEED RESTRICTIONS IN LIEU OF RECORDED CONSERVATION EASEMENTS, REQUIREMENTS TO CONNECT TO PUBLIC WATER/SEWER IF THE SUBDIVISION IS IN A SERVICE AREA, NOT PERMITTING THESE TYPES OF SUBDIVISIONS ON LAND ZONED R-1, AND ONLY ALLOWING THESE SUBDIVISIONS IN AREAS DESIGNATED AS RURAL LANDS IN THE COMPREHENSIVE PLAN.
- B. **APPLICATION OA-05-15:** CONSIDER ORDINANCE CHANGES TO ADD THE BOTTOMS BRIDGE CORRIDOR OVERLAY REGULATIONS TO THE NEW KENT COUNTY CODE AS ARTICLE XXVIII IN CHAPTER 98. THIS ARTICLE IDENTIFIES THE AREA OF THE PROPOSED OVERLAY DISTRICT AND CONTAINS SPECIAL PROVISIONS FOR ARCHITECTURAL DESIGN STANDARDS FOR STRUCTURES AND SITE DESIGN FEATURES ALONG WITH SPECIFIC SIGNAGE STANDARDS FOR THE OVERLAY DISTRICT.

- C. APPLICATION OA-06-15:** CONSIDER ORDINANCE CHANGES FOR SECTIONS 98-411 AND 98-412 OF THE NEW KENT COUNTY CODE. THESE CHANGES WOULD REPEAL REQUIREMENTS FOR "MINIMAL FINAL FLOOR AREA" OF RESIDENTIAL DWELLINGS IN THE COUNTY.

**10. NEW BUSINESS**

- A. RESOLUTION PC-11-15 TO THANK MR. MICHAEL LANE FOR HIS SERVICE ON THE PLANNING COMMISSION**

**11. CHAIRMAN'S REPORT**

**12. RRPDC REPORT**

**13. COMMISSIONER'S REPORTS**

**14. STAFF REPORTS**

**15. MEETING SCHEDULE**

- A. THE PLANNING COMMISSION'S NEXT REGULAR MEETING WILL BE ON MONDAY, JUNE 15, 2015 AT 6:30 PM IN THE BOARDROOM**

**16. ADJOURNMENT**

## 2015 Planning Commission Officers

### SPECIAL ELECTION OF CHAIR OF PLANNING COMMISSION

I move to nominate \_\_\_\_\_ as the 2015 Chair of the New Kent County Planning Commission.

I move to close nominations for the 2015 Chair of the New Kent County Planning Commission.

**[If only one nomination]** I move to elect \_\_\_\_\_ as the 2015 Chair of the New Kent County Planning Commission by acclamation.

### SPECIAL ELECTION OF VICE-CHAIR OF THE PLANNING COMMISSION (IF NEEDED)

I move to nominate \_\_\_\_\_ as the 2015 Vice-Chair of the New Kent County Planning Commission.

I move to close nominations for the 2015 Vice-Chair of the New Kent County Planning Commission.

**[If only one nomination]** I move to elect \_\_\_\_\_ as the 2015 Vice-Chair of the New Kent County Planning Commission by acclamation.



NEW KENT COUNTY  
PLANNING COMMISSION -- REGULAR MEETING  
MONDAY, APRIL 20, 2015, AT 6:30 PM  
COUNTY ADMINISTRATION BUILDING BOARD ROOM  
MINUTES

THE REGULAR MEETING OF THE NEW KENT COUNTY PLANNING COMMISSION WAS HELD ON THE 20TH DAY OF APRIL IN THE YEAR TWO THOUSAND FIFTEEN IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:30 PM.

**IN RE: CALL TO ORDER**

Chairman Lane called the meeting to order at 6:30 pm.

**IN RE: ROLL CALL**

Attendance:

Mrs. Joyce Williams	Present
Mr. Clarence "Tommy" Tiller	Present
Mrs. Charna Moss-Gregory	Present
Dr. Joanne Schmit	Present
Mr. Michael Lane	Present
Mr. Edward Pollard	Present
Ms. Katherine Butler	Absent
Ms. Laura Rose	Present
Mrs. Patricia Townsend	Present
Mr. Richard Kontny	Present
Mr. Jack Chalmers	Present

Mr. Lane established that there was a quorum.

Also Attending:

Mr. Rodney Hathaway, County Administrator  
Ms. Michele Gowdy, County Attorney  
Mr. Matthew Smolnik, Director of Community Development  
Ms. Kelli L. Z. Le Duc, Planning Manager  
Mr. Kenneth Vaughan, Zoning Official  
Ms. Sheri Wood, Recording Secretary  
Charley Banks, DCR Floodplain Section

**IN RE: MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**

Mr. Lane led the Moment of Silence and Pledge of Allegiance.

**IN RE: APPROVAL OF MINUTES**

**A. March 16, 2015 – Regular Planning Commission Meeting.**

A motion was made by Mrs. Townsend to approve the minutes as presented.

The members were polled:

Dr. Joanne Schmit	Aye
Mrs. Joyce Williams	Aye
Mr. Clarence "Tommy" Tiller	Aye
Mr. Edward Pollard	Aye
Mrs. Patricia Townsend	Aye
Mrs. Charna Moss-Gregory	Abstain (absent for March 16 meeting)
Mr. Jack Chalmers	Aye
Ms. Laura Rose	Aye
Mr. Richard Kontny	Aye
Ms. Katherine Butler	Absent
Mr. Michael Lane	Aye

The motion carried with a 9:0:1 roll call vote.

**IN RE: CITIZEN COMMENT PERIOD**

*Comments are limited to those on planning related issues that are not scheduled for public hearings later on the agenda. The comment sign-up sheet is located at the back of the room and citizens are required to sign up prior to the start of the meeting.*

None

**IN RE: PRESENTATIONS**

**Present Resolution of Appreciation to Mr. Howard Gammon**

Mr. Gammon was not present at the meeting to accept his Resolution of Appreciation, however, the Commission members took turns expressing their respect and thanks for Mr. Gammon for his many years of service on the Planning Commission.

**IN RE: UNFINISHED BUSINESS**

NONE

\* THE ORDER OF BUSINESS WAS CHANGED DUE TO A PERIOD OF TIME AVAILABLE BEFORE THE PUBLIC HEARING AT 7:00 P.M.

**IN RE: NEW BUSINESS**

**A. DISCUSSION ON RESTRICTED ACCESS EASEMENTS**

Community Development Director Matt Smolnik explained to the Commission that the issue of Restricted Access Easements and a possible waiver to this requirement came up during the site plan review of the new Burger King on Route 106. As it turns out, there is already a waiver process in place within the Ordinance; therefore it is a moot point. The Burger King is currently working towards a right in/right out entrance onto Route 106.

**B. UPDATE ON BOTTOMS BRIDGE OVERLAY DISTRICT**

Community Development Director Matt Smolnik thanked the Commission, and especially the subcommittee, on their work on the draft Overlay District. He passed out some examples/photographs on what the County's current ordinance allows and what the new overlay district would allow in regards to signage and building façades. All of the subcommittee suggestions have been incorporated into the draft ordinance and it is ready to be taken to the Chamber of Commerce for their input. After that, staff would like to hold a public hearing on the ordinance. The Commission unanimously supported scheduling the public hearing for their May 18 meeting.

**C. "TINY HOUSES" ORDINANCE UPDATES**

Community Development Director Matt Smolnik explained to the Commission that there has been recent interest in New Kent for people to construct small, efficient, houses. Currently the zoning ordinance has requirements for Finished Floor areas for dwellings in the Residential Zoning Districts. The Building Code covers residential structures as small as 500 square feet, but the zoning ordinance does not allow a dwelling that small in the Residential Zoning Districts. Therefore, that section of the zoning ordinance must be repealed, as it is illegal to limit sizes of residences in general zoning districts (does not apply to Planned Unit Developments). This ordinance change will be considered at a public hearing at the May 18 meeting.

**IN RE: RICHMOND REGIONAL PLANNING DISTRICT COMMISSION (RRPDC)**

Mr. Pollard reported that at the last RRPDC meeting the Commission heard some presentations on lack of housing in the region, specifically housing for seniors and also rental housing. Also at the meeting the Commission was informed that the Executive Director, Bob Crum, is resigning from the RRPDC to go and work for the Hampton Roads PDC.

**IN RE: PUBLIC HEARING**

*The meeting was turned over to Ms. Rose, Public Hearing Vice Chairwoman, who explained the process for the public hearings.*

**A. APPLICATION OA-04-15:** THE COMMISSION WILL CONSIDER ORDINANCE CHANGES FOR ARTICLE II, CHAPTER 98, OF THE NEW KENT COUNTY CODE AND ALSO CONSIDER ESTABLISHING CHAPTER 18, ARTICLE IV IN THE NEW KENT COUNTY CODE. THESE ARTICLES CONCERN FMO, FLOODPLAIN MANAGEMENT OVERLAY DISTRICTS, AND FLOODPLAIN DISTRICTS. THE PROPOSED CHANGES TO THE COUNTY CODE REFLECT CHANGES TO THE VIRGINIA STATE CODE AND UPDATES TO THE FEMA FLOODPLAIN MAPS.

Ms. Rose opened the public hearing.

Building Official Clarence Jackson was unable to attend so Community Development Director Matt Smolnik went over the draft PC Resolution before the Commission for consideration. He also introduced Charley Banks from DCR – Floodplain Program, who was present in the audience to answer questions. There are a couple of technical amendments that need to be made to the document, but that can be done before the Ordinance goes to the Board of Supervisors.

Mr. Banks explained that 58 communities in Virginia are going through this same process and that a new ordinance is required any time FEMA makes changes to the floodplain maps. The communities have to have up to date ordinances in order to remain eligible for Flood Insurance.

Ms. Gowdy recommended to the Commission that they consider and vote on the Ordinance before them tonight and then staff will work with Mr. Banks to make the required tweaks before the final vote on the Ordinance by the Board of Supervisors.

Public Hearing Vice Chairwoman Rose opened up the hearing for citizen comments. There were no citizen comments, so she closed the public hearing and turned the meeting back over to Chairman Lane.

Mr. Kontny stated that he felt the document is well written and he is confident that the work that has been done on the ordinance will be approved by FEMA.

A motion was made by Mr. Chalmers to adopt PC Resolution PC-08-15 to forward Ordinance OA-04-15 as presented to the New Kent County Board of Supervisors with a favorable recommendation.

The members were polled:

Mr. Clarence "Tommy" Tiller	Abstain
Mr. Richard Kontny	Aye
Mrs. Charna Moss-Gregory	Aye
Mr. Edward Pollard	Aye
Dr. Joanne Schmit	Aye
Mr. Jack Chalmers	Aye
Ms. Katherine Butler	Absent
Ms. Laura Rose	Aye
Mrs. Patricia Townsend	Aye
Mrs. Joyce Williams	Aye
Mr. Michael Lane	Aye

The motion carried with a 9:0:1 roll call vote.

**IN RE: CHAIRMAN'S REPORT**

Chairman Lane explained to the Commission that he is going to be resigning from the Planning Commission effective immediately following tonight's meeting. He will be retiring and relocating to Florida. The Commissioners thanked him for his service and he will be missed.

**IN RE: COMMISSIONER'S REPORTS**

None

**IN RE: STAFF REPORTS**

Ms. Le Duc stated that the "Tiny House" Ordinance amendment and Bottoms Bridge Overlay District will be on the May agenda.

Michele Gowdy also announced her resignation from New Kent County effective April 30. The Commission thanked her for her service and counsel and she will be missed.

**IN RE: MEETING SCHEDULE**

The Planning Commission's next meeting is scheduled for Monday, May 18, 2015 at 6:30 p.m. in the Boardroom of the County Administration Building.

**IN RE: ADJOURNMENT**

A motion to adjourn was made by Mr. Chalmers and approved unanimously by a voice vote.

The meeting was adjourned at 7:21 p.m.

Respectfully submitted by:

Kelli Le Duc  
Planning Manager



## MEMORANDUM

DATE: May 7, 2015

TO: New Kent County Planning Commission

FROM: Matthew J. Smolnik, Director of Community Development

SUBJECT: Consideration of proposed amendments to Section 91-127 of the New Kent County Code

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### **REQUEST:**

Consider the proposed amendments to Section 91-127 of the New Kent County Code. The proposed amendments will modify certain requirements of the Cluster or Open Space Subdivision provisions of the New Kent County Code.

### **PUBLIC HEARINGS:**

Planning Commission: January 20, 2015 at 7:00 p.m., County Boardroom  
Board of Supervisors: April 13, 2015 at 7:00 p.m., County Boardroom  
Joint meeting of the Planning Commission and Board of Supervisors:  
May 18, 2015 at 7:00 p.m., County Boardroom

### **BACKGROUND:**

In order to make the County Code consistent with current practice, staff, under direction from the Board Supervisors and the Planning Commission has proposed amendments to the Cluster or Open Space Subdivision Ordinance. Proposed amendments were previously discussed at the Planning Commission meeting on May 19, 2014 and then referred to the Planning Commission for a public hearing at the Board of Supervisor's work session on November 19, 2014. A public hearing was held by the Planning Commission on January 20, 2015. The Planning Commission took action March 16, 2015 to send the amendments to the Board with a favorable recommendation by an 8:0:1 vote. At the April 13, 2015 meeting of the Board of Supervisors a public hearing was held and the proposed amendments failed by a 2:2 vote. The amendments were reconsidered at the April 29, 2015 Board of Supervisor's work session and were scheduled for a joint public hearing with the Planning Commission on May 18, 2015.

The first change allows for the cluster subdivision to be used only in areas designated as rural lands by the Comprehensive Plan and not in any area within the R-1 zoning district. Also, if the cluster subdivision is within a water or sewer service district as outlined by the Department of Public Utilities, all residential units must connect to public water and/or sewer. Additionally, easements or covenants must be submitted if the development proposes to locate principal buildings within ten (10) feet of the rear or side property line; this number has been increased from five (5) feet. Further, the minimum area required for a cluster subdivision is proposed to increase from ten (10) to fifty (50) acres. Additionally, the amendments will allow for the open space to be held by any entity if it is used for appropriate purposes as outlined in the County Code. The last proposed change allows restrictions on the deed rather than requiring the open space be placed in a permanent conservation easement.

**PLANNING COMMISSION ACTION:**

At the January 20, 2015 Planning Commission meeting, a public hearing was held on the proposed amendments. At their March 16, 2015 meeting, the Planning Commission voted 8:0:1 to forward the Board of Supervisors a favorable recommendation of approval for the amendments as presented.

**BOARD OF SUPERVISORS ACTION:**

At the April 13, 2015 Board of Supervisors meeting, a public hearing was held on the proposed amendments. The Board of Supervisors voted not to adopt the amendments by a 2:2 vote.

At the April 29, 2015 work session, the Board of Supervisors reconsidered the amendments to Section 91-127 and authorized the scheduling of a joint public hearing with the Planning Commission on May 18, 2015.

Attachment:

- Planning Commission Resolution, PC-02-15 (R)

PLANNING COMMISSION  
COUNTY OF NEW KENT  
VIRGINIA

PC-02-15 (R)

At the regular meeting of the Planning Commission of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 18<sup>th</sup> day of May, 2015:

Present:

C. Thomas Tiller, Jr.  
Jack Chalmers  
Dr. Joanne K. Schmit  
Laura Rose  
Charna Moss-Gregory  
Edward W. Pollard  
Richard Kontny, Jr.  
Katherine Butler  
Patricia E. Townsend  
Joyce B. Williams

Vote:

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Motion was made by \_\_\_\_\_, which carried \_\_\_\_\_, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF OA-01-15 AMENDING  
CHAPTER 91, SECTION 127, ENTITLED SPECIAL PROVISIONS FOR OPEN SPACE OR  
CLUSTER SUBDIVISIONS**

WHEREAS, the Commonwealth of Virginia has enacted Virginia Code Section 15.2-2286.1 which requires New Kent to have an open space or cluster subdivision ordinance; and

WHEREAS, pursuant to Virginia Code Section 15.2-400 et. seq., the New Kent County Board of Supervisors has the authority to amend Chapter 91 of the County Code; and

WHEREAS, the Commission finds the proposed changes to Section 91-127 of the New Kent County Code are to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County; and

NOW THEREFORE, BE IT RESOLVED that the New Kent County Planning Commission recommends that Section 91-127 of the New Kent County Code be repealed, amended, restated and readopted as follows:

**Sec. 91-127. Special provisions for open space or cluster subdivisions.**

(a) The intent of the residential open space or cluster development technique is to provide design flexibility to make efficient use of topography and develop residential communities with significant permanent reservations of open space that preserve the look and feel of a rural area while exploiting economics of scale and compact design forms. *This technique is only allowed in areas designated as*

rural lands by the Comprehensive Plan and is not allowed in the R-1 zoning district regardless. Design details are crucial and a higher level of review and approval is appropriate to this technique.

(b) The minimum gross area for an open space or cluster subdivision is ~~ten~~fifty acres. Additions of less than ~~ten~~fifty acres to existing open space developments may be approved if the agent finds that such an addition forms a logical extension.

(c) Density calculations shall be based on total developable acreage (gross acreage less Chesapeake Bay Resource Protection Areas) divided by the minimum lot size of the zoning district in which located. Fractional units are rounded up to the next whole number. The result is the maximum lot yield for the development.

(d) Lots created in open space or cluster subdivisions must access an internal road system. No lots may directly access existing public streets. Where lots abut an existing public street, a restricted access easement extending the entire distance shall be established and recorded contemporaneously with the record plat of the subdivision.

(e) If the proposed subdivision is in a water or sewer service district as outlined by the Department of Utilities, public water and/or sewer must be utilized in the subdivision. The installation of all necessary facilities to connect to public water and/or sewer is the responsibility of the developer/builder/owner.

(e) (f) Yard, size and dimension requirements.

(1) There are no lot width or area requirements.

(2) The above notwithstanding, any lots abutting the exterior boundary of the open space development shall be of the same size as would be required of conventional development. Unless separated by an area of common open space that is not less than 75 feet in width, a lot shall be considered to be abutting.

(3) The rear and side yards may be reduced to zero provided that easements or covenants clearly establish the rights of the two abutting properties where principal buildings are to be constructed on or within ~~five~~ten feet of a property line.

(4) The minimum setback from external public streets shall be twice that which is prescribed in the underlying zoning district.

(5) The minimum setback from internal public streets shall be 20 feet; from internal private driveways, streets or alleys the setback shall be established on the plan of development.

(6) The minimum distance between any two buildings within the open space development shall be governed by the building code, provided, however, that the fire chief shall approve the fire protection measures for any development where principal buildings are separated by less than 20 feet.

(7) There are no minimum house sizes or house footprint requirements.

(8) Where flag lots are utilized, the “staff” portion shall be 20 feet or greater in width. A single shared access for two abutting flag lots is required; the width of the “staff” portion shall be 30 feet or greater in width.

(9) In the case of shared access arrangements, an easement establishing the right-of-way and maintenance responsibilities shall be recorded at such time as the lots are created and the existence of such easement shall be noted on the face of the plat creating the lots.

(f) (g) Open space requirements.

(1) No less than 50 percent of the gross area of an open space development shall be preserved as open space assuring its availability for agricultural, forestall, recreational, or open-space uses by establishment of a permanent open space conservation easement or deed restriction.

(2) All areas not included in lots or public street rights-of-way shall be incorporated into open space.

(3) The open space shall be arranged and designed so as to facilitate its use, ensure, continuity of design, and preserve all of the sensitive environmental features within the development. Failure to achieve these goals shall be sufficient reason for the agent to deny applications for open space development plan approval or to require modifications that may include loss of lots.

(4) With the approval of the board of supervisors, open space other than the required recreational space within an open space or cluster subdivision may be held by an owner ~~other than a duly constituted property owners’ association~~ when the open space is used for agriculture, forestry, historical preservation, or other similar uses. The board of supervisors may not approve any use of the open space not allowed under the terms of the conservation easement.

(5) Conservation easement and Deed Restriction requirements:

a. Designated open space in cluster subdivisions shall be protected from any future subdivision or development by the establishment of a permanent conservation easement or deed restriction that must be recorded at the time of final plat subdivision approval.

b. The easement shall comply with the requirements of the Virginia Conservation Easement Act, Code of Virginia Tit. 10, Ch. 10.1 or contain similar provisions.

c. The conservation easement or deed restriction shall be in a form approved by the county attorney and shall provide that the eased portion of an open space subdivision shall be maintained by the owner of the property and that the county shall bear no responsibility or liability for such maintenance.

d. The board of supervisors, in its sole discretion, may approve a suitable alternative plan for maintaining the open space.

(g) (h) Recreational space requirements.

(1) Recreational space equivalent to at least five percent of the gross land area, but no less than one acre, shall be provided and shall be suitable, as determined by the agent, for recreation purposes and the

development of recreational facilities that are appropriate to the size, scale, and market orientation of the development.

(2) Recreational areas shall not abut the exterior boundary of the open space development unless entirely adjacent to a publicly-owned facility or community recreation facility of an adjoining residential development.

(3) The agent may modify the requirement for recreational space in any manner deemed appropriate or necessary, other than reducing the area required to be set aside, for the purpose of ensuring that adequate recreation facilities are available to serve the development given its size, scale, and market orientation.

(4) Adequate pedestrian and bicycle facilities shall be provided which fully interconnect the development and its recreation areas both internally and with existing, planned or desirable external pedestrian and bicycle facilities.

~~(h)~~ (i) Applications for open space developments shall be made in the same manner as prescribed for conventional subdivisions. In determining whether or not to grant approval, the applicant shall be required to show how the proposed open space cluster development provides superior protection of rural views from existing public roadways to that which would be effected by conventional subdivision of the subject property.

~~(i)~~ (j) Final plats recorded for an open space development utilizing the cluster technique and all deeds for lots within such development shall bear a statement indicating that the land is within an approved residential open space (cluster) subdivision and shall also bear a statement indicating the ownership status of the development's open space system and shall reference the covenants creating a property owners association which shall also be recorded at the time final plats were put to record.

Attested:

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Chairman, New Kent County Planning Commission



## MEMORANDUM

DATE: May 8, 2015

TO: New Kent County Planning Commission

FROM: Matthew J. Smolnik, Director of Community Development

SUBJECT: Consideration of proposed amendments to add the Bottoms Bridge Corridor Overlay Regulations to the New Kent County Code

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### **REQUEST:**

Consider the proposed amendments to create an overlay district in the Bottoms Bridge area to protect the aesthetic and visual character of land, public health, safety, and welfare by managing growth within the County's primary highway corridors.

### **PUBLIC HEARINGS:**

Planning Commission: May 18, 2015 meeting at 7:00 p.m., County Boardroom  
Board of Supervisors: May 18, 2015 meeting at 7:00 p.m., County Boardroom

### **BACKGROUND:**

At the August 18, 2014 Planning Commission meeting it was discussed that a possible overlay district in Bottoms Bridge may be considered. At the September 10, 2014 special meeting, The Board of Supervisors supported the Planning Commission's request to explore a Bottoms Bridge overlay district. At the September 18, 2014 Planning Commission meeting, County Administrator Rodney Hathaway presented the idea of creating an overlay zoning district in the Bottoms Bridge area and then-Chairman Mr. Jack Chalmers identified the following members to make up a sub-committee to discuss the proposed overlay district: Mr. Lane, Mr. Gammon, Ms. Rose, Mr. Kontny, and Mrs. Townsend.

The draft ordinance was presented to the Planning Commission sub-committee on March 16, 2015 where staff received feedback on suggested changes to the draft ordinance. On March 19, 2015 staff presented the proposed ordinance to the New Kent County Economic Development Authority at their regular monthly meeting for their initial review. Staff

explained to the members of the Economic Development Authority that the proposed guidelines will require specific architectural features and signage requirements for new development within the proposed overlay district, which will minimize future requests for incentive awards for façade and signage upgrades in this area of the County.

On April 20, 2015, staff presented the revised draft ordinance to the full Planning Commission at which time the Planning Commission authorized the scheduling of a public hearing for this item at their May 20<sup>th</sup> meeting. On April 21, 2015, the Director of Community Development was the guest speaker at the Chamber of Commerce meeting and the proposed ordinance was presented and the possibility of a joint public hearing with the Planning Commission and Board of Supervisors was raised. Based on the April 21<sup>st</sup> Chamber of Commerce meeting, staff came to the Board of Supervisors at their April 29, 2015 work session to provide the full Board with the proposed ordinance along with the feedback received from both the Planning Commission and attendees at the April 21<sup>st</sup> Chamber meeting. The Board of Supervisors authorized the scheduling of a joint public hearing with the Planning Commission at 7:00 pm on Monday, May 18, 2015.

Attachments:

1. Resolution PC-09-15
2. Examples of building facades and signs permitted under the current County Code and examples of typical building facades and signs that would be constructed under the proposed overlay district regulations

**PLANNING COMMISSION  
COUNTY OF NEW KENT  
VIRGINIA**

**PC-09-15**

At the regular meeting of the Planning Commission of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 18<sup>th</sup> day of May, 2015:

Present:

C. Thomas Tiller, Jr.  
Jack Chalmers  
Dr. Joanne K. Schmit  
Laura Rose  
Charna Moss-Gregory  
Edward W. Pollard  
Richard Kontny, Jr.  
Katherine Butler  
Patricia E. Townsend  
Joyce B. Williams

Vote:

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Motion was made by \_\_\_\_\_, which carried \_\_\_\_\_, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF OA-09-15 TO ADD ARTICLE XXVIII,  
ENTITLED BOTTOMS BRIDGE CORRIDOR OVERLAY REGULATIONS, TO THE NEW  
KENT COUNTY CODE**

WHEREAS, pursuant to Virginia Code Section 15.2-400 et. seq., the New Kent County Board of Supervisors has the authority to amend the New Kent County Code; and

WHEREAS, the Commission finds that the Bottoms Bridge area of the County has been experiencing growth pressure along the Route 60 and Route 249 corridors; and

WHEREAS, the Commission finds that the current provisions of the New Kent County Code do not adequately address the overall site design, building architecture and signage standards in order to protect the character along the Route 60 and Route 249 corridors; and

WHEREAS, the Commission finds the proposed addition of Article XXVIII to the New Kent County Code are to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the citizens in the County; and

NOW THEREFORE, BE IT RESOLVED that the New Kent County Planning Commission recommends that the New Kent County Code be amended, restated and readopted as follows:

## **ARTICLE XXVIII. – BOTTOMS BRIDGE CORRIDOR OVERLAY REGULATIONS**

### **Sec. 98-1066. - Intent of article.**

The intent of the Bottoms Bridge Corridor Overlay District (BBCOD) is to protect the aesthetic and visual character of land, public health, safety, and welfare by managing growth within the County's primary highway corridors. Specifically, this article is designed to:

- (a) Ensure the continued viability of New Kent's primary corridors as economic development tools.
- (b) Maintain the transportation safety of such corridors by managing access and visibility.
- (c) Ensure the long term transportation efficiency of such corridors, which carry high volumes of commuter, and tourist traffic.
- (d) Enhance the visual quality of such corridors, which, as points of entry into New Kent County, convey lasting impressions to residents and tourists.

### **Sec. 98-1067. - District boundaries.**

The Bottoms Bridge Corridor Overlay District (BBCOD) shall include all lands within five-hundred (500) feet on each side of the following arterial rights-of-way:

- (a) State Route 249 (New Kent Highway) from State Route 613 (Dispatch Road) to State Route 60 (Pocahontas Trail); and
- (b) State Route 60 (Pocahontas Trail) from State Route 1232 (Magnolia Woods Lane) to the Henrico County Boundary Line.

The Bottoms Bridge Corridor Overlay District shall be shown on the official New Kent County zoning map and shall be delineated as a surveyed line on any property proposed for development.

### **Sec. 98-1068. - Application of article.**

The requirements of this article shall be applicable to all development and redevelopment within the Bottoms Bridge Corridor Overlay District requiring subdivision approval in accordance with chapter 91 of the New Kent County Code, or a site plan prepared in accordance with Article XXII of this chapter. The requirements listed in this article are in addition to the requirements listed in the underlying zoning district article of the New Kent County Code. Where multiple or conflicting regulations exist, the more strict regulation shall apply.

### **Sec. 98-1069. Architectural, Development and Signage standards for all nonresidential uses.**

The compatible relationship of architecture along highways within the Bottoms Bridge Corridor Overlay District is of critical concern for any structure or site improvements. The purpose and intent of these architectural guidelines and development standards is not to stifle innovative architecture or development, but to assure respect for and to reduce incompatible and adverse impacts on the visual experience from the rights of way.

- (a) The architectural design of structures and their materials and colors shall be visually harmonious with the overall appearance, history, and cultural heritage of New Kent County, with natural

landforms and existing vegetation. Specific consideration shall be given to compatibility with adjacent properties where such projects demonstrate the county's character. Design and architectural features will demonstrate consistency with the following provisions:

- (1) Stucco, natural wood siding, brick, stone, decorative block, neutral colored cementitious siding or other materials with similar texture and appearance are considered appropriate to county character and shall be provided on all exterior elevations. Vinyl siding, flat or corrugated metal and concrete block shall not be used for exterior siding material on any building, except that vinyl siding may be used as trim material. The exterior covering material shall extend to the ground, except that when a solid brick or masonry perimeter foundation is used, exterior covering material need not extend below the top of the foundation.
- (2) No building facade (whether front, side or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other facade of the same building. The intent of this requirement is not to preclude the use of different materials on different buildings' facades (which would be acceptable if representative of good architectural design), but rather to preclude the use of inferior materials on sides which face adjoining property and thus, might adversely impact existing or future development causing a substantial depreciation of property values.
- (3) Not less than sixteen percent (16%) of the total area of any facade visible from a public right of way (excluding work areas) shall consist of windows and doors.
- (4) Large work area doors or open bays shall not open toward or face the public right of way.
- (5) Heating, ventilating, and air conditioning equipment, duct work, air compressors and other fixed operating machinery shall be either screened from view with either a solid wall, solid fence or landscaping or located so that such items are not visible from the public right of way. Utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly treated.
- (6) The exterior of the foundation walls shall be of brick or masonry construction, except when the exterior wall material extends to the ground in accordance with subsection 98-1069.a.1.
- (7) Fencing along the public right of way is discouraged, but if used, such fencing shall be landscaped to minimize visibility from the public right of way or be of a style which is harmonious with the rural, agricultural and historical character of the county. Chain link fences shall be prohibited.
- (8) All loading spaces shall be located within the side or rear yards.
- (9) Outside storage of equipment, materials, or supplies if permitted in the underlying district, shall be permitted only in the side or rear yards and shall be screened from view from the public right of way with fencing or landscaping.
- (10) All parking areas shall be paved with concrete or asphalt, or other similar material. Traditional curb and gutter systems (or alternative equivalents as approved by the County) shall be used around and within all such parking areas.

- (11) Large trash receptacles, dumpsters and recycling bins, must be completely screened from view from the public right of way and any adjoining lot with a solid wall or solid fencing constructed with the building elevation materials referenced in subsection 98-1069.a.1.
- (12) A pedestrian way (sidewalk) of no less than five (5) feet of clear and unimpeded area shall be provided across the frontage of the property, inclusive of residential public and commercial uses. All pedestrian ways must adjoin one another or connect.

(b) Signage. Notwithstanding the requirements of article 5, division 8 of this chapter, all development proposed in the Bottoms Bridge Corridor Overlay District shall be subject to the following additional requirements pertaining to signage:

- (1) A comprehensive uniform sign plan shall be submitted to the county for approval in conjunction with the site plan submittal. All signs for a proposed development shall be of uniform size, color and design. The plan shall show the size, location, and uniform design for all signage proposed for the development.
- (2) No roof signs shall be permitted.
- (3) Individual uses not located in a shopping center, office building or complex shall be subject to the following additional requirements regarding signage:
  - a. The total area for any free-standing sign shall not exceed fifty (50) square feet;
  - b. The maximum height for any free-standing sign shall not exceed eight (8) feet.
- (4) Shopping centers, and office buildings or complexes that contain multiple businesses or tenants shall be subject to the following additional requirements regarding free-standing signs:
  - a. The total area for any free-standing sign shall not exceed one hundred twenty (120) square feet;
  - b. The maximum height for any free-standing sign shall not exceed sixteen (16) feet or the height of the principal building, whichever is less.

**Sec. 98-1070. Process for approval of development.**

A preliminary site plan or preliminary subdivision plat shall be submitted for all development in the Bottoms Bridge Corridor Overlay 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.

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 250 feet of the proposal for the purpose of documenting interconnections and designs of streets, driveways, pedestrian ways, parking, and uses.

In reviewing individual site or subdivision plans within the BBCOD, the Zoning Administrator shall consider the purposes and intent of the BBCOD and the underlying designation contained in the comprehensive plan and shall make specific findings in support of the action taken. 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.

**Sec. 98-1071. Exceptions to additional development requirements.**

Exceptions to the development requirements and standards specified in this section may be granted by the Board of Supervisors following a recommendation by the Planning Commission in accordance with the procedures set out in this Ordinance. The applicant for such exception shall provide the Zoning Administrator a letter stating their justification for the exception request to the standards of this section along with accompanying documentation including, but not limited to, proposed site design layout, architectural renderings, or signage plans. Upon receipt of all items deemed necessary by the Zoning Administrator, he shall prepare a staff report for the Planning Commission and Board of Supervisors for their review and consideration. Upon approval of an exception to the standards outlined in this section by the Board of Supervisors, the Zoning Administrator shall determine that that the approved development plan or plat is consistent with the Board of Supervisors' approval.

An exception may be granted if the Board of Supervisors make the following findings:

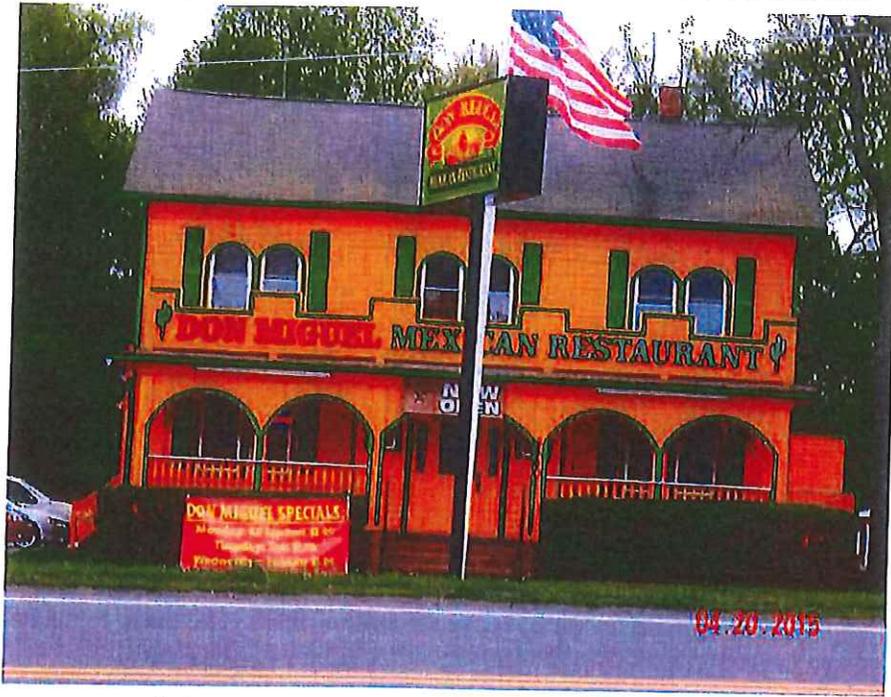
- (a) That the exception is reasonably necessary due to physical constraints of the site, such as size, shape, topography, soils, or arrangement of existing improvements, that prevent construction in accordance with applicable standards without compromising the intent of this Ordinance, and that the exception is the minimum departure from applicable standards necessary to provide relief;
- (b) That an exception would not unreasonably lower the level of service on affected roads;
- (c) That the design and location of proposed on-site improvements are compatible with existing developed sites contiguous with and near to the site of the proposed development;
- (d) That the granting of the exception will not substantially affect adversely the use of adjacent and neighboring property;
- (e) That the granting of the exception will avoid the unnecessary replacement of existing landscaping and other improvements on site, if applicable, and will not result in unsafe circulation patterns on site; and
- (f) That the granting of the exception will not endanger the public safety, or in any other respect impair the health, safety, comfort, and welfare of the inhabitants of the County.

Attested:

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Chairman, New Kent County Planning Commission

Building facades under current ordinance





Building facades under new ordinance

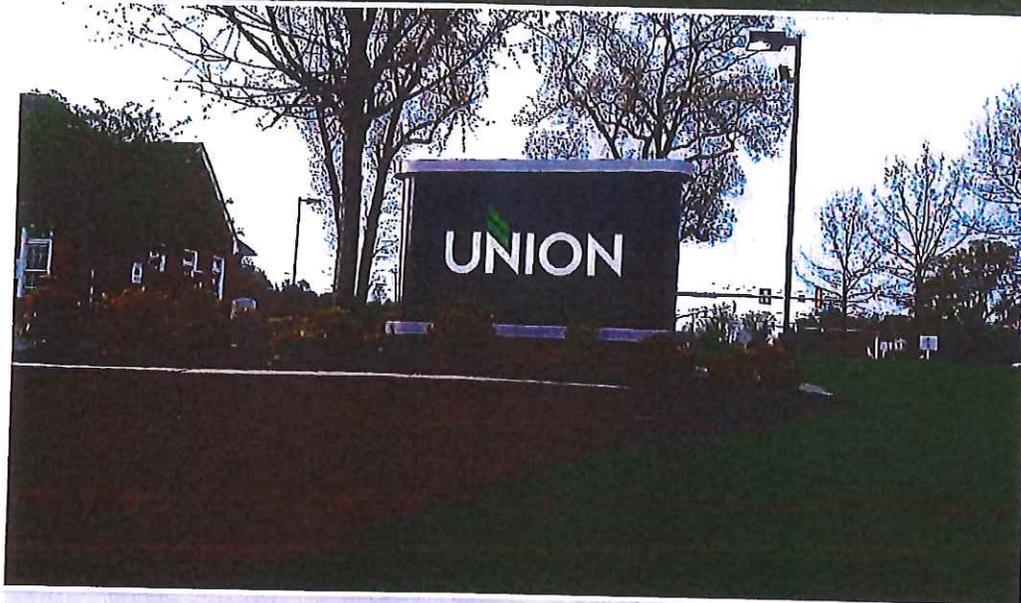


# Signs that are permitted under current ordinance





# Signs that would be allowed under new ordinance









## MEMORANDUM

DATE: May 8, 2015

TO: New Kent County Planning Commission

FROM: Matthew J. Smolnik, Director of Community Development

SUBJECT: Consideration of proposed amendments to amend Sections 98-411 and 98-412 of the New Kent County Code

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### **REQUEST:**

Consider the proposed amendments that will remove the minimum finished floor area requirements for residential dwellings in residential zoning districts.

### **PUBLIC HEARINGS:**

Planning Commission: May 18, 2015 meeting at 7:00 p.m., County Boardroom  
Board of Supervisors: May 18, 2015 meeting at 7:00 p.m., County Boardroom

### **BACKGROUND:**

At the April 20, 2015 Planning Commission meeting the Director of Community Development presented Sections 98-411 and 98-412 to the Planning Commission for discussion. After consulting with the County Attorney, staff informed the Planning Commission that the Department of Community Development could not prohibit the construction of a single family residential dwelling in residential zoning districts based solely on the finished floor area of the dwellings.

Staff presented this same information to the Board of Supervisors at their April 29, 2015 work session, where after discussion, the Board of Supervisors authorized the scheduling of a joint public hearing with the Planning Commission at 7:00 pm on Monday, May 18, 2015.

### Attachment:

1. Resolution PC-10-15

PLANNING COMMISSION  
COUNTY OF NEW KENT  
VIRGINIA

PC-10-15

At the regular meeting of the Planning Commission of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 18<sup>th</sup> day of May, 2015:

Present:

C. Thomas Tiller, Jr.  
Jack Chalmers  
Dr. Joanne K. Schmit  
Laura Rose  
Charna Moss-Gregory  
Edward W. Pollard  
Richard Kontny, Jr.  
Katherine Butler  
Patricia E. Townsend  
Joyce B. Williams

Vote:

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Motion was made by \_\_\_\_\_, which carried \_\_\_\_\_, to adopt the following resolution:

**A RESOLUTION TO RECOMMEND APPROVAL OF OA-06-15 REPEALING SECTIONS OF  
CHAPTER 98-411 AND 98-412 PERTAINING TO MINIMUM FINAL FLOOR AREA OF  
DWELLINGS IN RESIDENTIAL ZONING DISTRICTS**

WHEREAS, there is a growing interest within the community for landowners to construct smaller, more efficient dwellings; and

WHEREAS, pursuant to Virginia Code Section 15.2-400 et. seq., the New Kent County Board of Supervisors has the authority to amend Chapter 98 of the County Code; and

WHEREAS, the Commission finds the proposed changes to Sections 98-411 and 98-412 of the New Kent County Code are to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the Citizens in the County; and

NOW THEREFORE, BE IT RESOLVED that the New Kent County Planning Commission recommends that Sections 98-411 and 98-412 of the New Kent County Code be repealed, amended, restated and readopted as follows:

**Sec. 98-411. Table of regulations.**

The following is a table of regulations for area, frontage, yards, height, and setbacks ~~and building size~~ in residential districts:

	Maximum Height		Minimum Lot Area				Minimum Side Yard			
	Stories	Feet	Total (square feet)	Per Family (square feet)	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Least Yard (c) feet	Sum of Yards (feet)	Minimum Rear Yard Depth (feet)	Minimum Final Floor Area (square feet)
<i>R-O District</i>										
Dwelling		35	35,000	35,000	175	50(e)-(h)	20	50	35	2,000(g)(1)
Churches (p)-(i)	2½	45	3 Ac.		400	50	40	80	80	
Schools (p)-(i)	2½	45	5 Ac.		400	50	40	80	80	
Other permitted uses except as otherwise specified (p)-(i)	3(a)		2 Ac.		200	50	40	80	80	
<i>R-OA District</i>										
Dwelling		35	20,000 (b)	20,000	100 (c)	35 (e)(h)	15	35	35	1,800 (h)(1)
Churches (p)-(i)	2½	45	3 Ac.		400	50	40	80	50	
Schools (p)-(i)	2½	45	5 Ac.		400	50	40	80	80	
Other permitted uses except as otherwise specified (p)-(i)	3 (a)		2 Ac.		200	50	40	80	50	
<i>R-1 District</i>										
Dwelling		35	20,000 (b)	20,000	100 (c)	35 (e)(h)	15	35	35	1,500 (i)(1)
Churches (p)-(i)	2½	45	3 Ac.		400	50	40	80	50	
Schools (p)-(i)	2½	45	5 Ac.		400	50	40	80	50	
Other permitted uses except as	3 (a)		1 Ac.		150	50	40	80	50	

otherwise specified (p)-(i)										
<i>R-1A District</i>										
Dwelling		35	20,000 (b)	20,000	100 (c)	35 (e) (h)	15	35	35	1,300 (f)(1)
Churches (p)-(i)	2½	45	3 Ac.		400	50	40	80	50	
Schools (p)-(i)	2½	45	5 Ac.		400	50	40	80	50	
Other permitted uses except as otherwise specified (p)-(i)	3 (a)		1 Ac.		150	50	40	80	50	
<i>R-2 District</i>										
One-family dwellings		35	20,000 (m)-(f)	20,000	80	35 (e) (h)	10	25	25	1,000 (k)
Two-family dwellings		35	22,000(m) (g)	11,000	80	35 (e) (h)	10	25	25	700 (j)
Churches (p)-(i)	2½	45	3 Ac.		400	50	40	80	50	
Schools (p)-(i)	2½	45	5 Ac.		400	50	40	80	50	
Other permitted uses (p)-(i)	3 (a)		1 Ac.		150	50	40	80	50	
<i>R-3 District</i>										
Two-family dwellings		35	22,000(m) (g)	11,000	80	35 (e) (h)	10	25	25	700 (j)
Three-family dwellings	3	50	10 Ac.	3,000	450	50	30 (e) (i)	60 (e) (i)	50 (e)-(j)	350 (j)
Churches (p)-(i)	2½	45	3 Ac.		400	50	40	80	50	
Schools (p)-(i)	2½	45	5 Ac.		400	50	40	80	50	
Other permitted uses (p)-(i)	3 (a)		1 Ac.		150	50	40	80	50	

**Sec. 98-412. Table of regulations' notes of explanation.**

- (a) Public utility structures may be constructed to any necessary height, when located as far from all lot lines as the height of the structure.
- (b) For corner lots the minimum area shall be 27,000 square feet.
- (c) For corner lots the minimum width at the setback line shall be 125 feet. The front of the lot shall be the shortest of the two side lines adjacent to the street.
- (d) The minimum width shall be greater than in subsection (c) where specified elsewhere in this chapter.
- (e) Greater heights when required for a particular use may be authorized by the board of zoning appeals as a special exception.
- ~~(f) — Finished floor area for one-story dwellings may be 1,200 square feet.~~
- ~~(g) — Finished floor area for one-story dwellings may be 1,800 square feet.~~
- ~~(h) — Finished floor area for one-story dwellings may be 1,700 square feet.~~
- ~~(i) — Finished floor area for one-story dwellings may be 1,400 square feet.~~
- ~~(j) — Total floor area, each dwelling unit. However, studio apartments may be 280 square feet; provided, however, that the average floor areas of the units in a multifamily development or phase thereof is at least 500 square feet.~~
- ~~(k) — Finished floor area for one-story dwellings may be 900 square feet.~~
- ~~(l) — A maximum of one-third of the total floor area of the dwelling may be contained in unfinished rooms capable of being made livable floor area.~~
- ~~(m)-(f)~~ For lots served by public water and sewer, the minimum lot area shall be 10,00 square feet.
- ~~(n)-(g)~~ For lots served by public water and sewer systems, the minimum lot area shall be 12,000 square feet.
- ~~(o)-(h)~~ On any street right-of-way which is less than 50 feet in width all buildings shall be set back 60 feet or more from the centerline of the street right-of-way.
- ~~(p)-(i)~~ An approved site plan is required.
- ~~(q)-(j)~~ Yard requirements for multifamily housing are as follows:
  - (1) *Buffers.* A landscaped buffer area at least 25 feet in width shall be maintained surrounding all apartment and condominium developments, and no parking areas or structures shall be located within such 25-foot buffer area.

- (2) *Side.* The minimum side yard width for any structure shall be 30 feet. If a side yard abuts a residential or agricultural zoning district, the side yard shall be increased to a minimum of 75 feet.
- (3) *Rear.* Each structure shall have a rear yard of not less than 50 feet. If the rear yard abuts a residential or agricultural zoning district, the minimum rear yard shall be 75 feet.
- (4) *Minimum yard area between buildings on same parcel.* The minimum yard area between buildings located on the same parcel shall be measured horizontally in feet and shall be measured away from the front, side and rear of each building. No building as measured radially from any corner shall be closer to any other building corner than the combined distance of the yard requirements for each building. The combined distance of two side yards shall exclude any driveway or vehicular access, such driveway or vehicular access width being in addition to the combined yard width.

(Code 1999, § 9-130, O-08-15, 05-18-2015)

Attested:

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Chairman, New Kent County Planning Commission

**PLANNING COMMISSION  
COUNTY OF NEW KENT, VIRGINIA**

At the regular meeting of the Planning Commission of the County of New Kent in the Boardroom of the Admin. Building in New Kent, Virginia, on the 18<sup>th</sup> day of May 2015:

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Motion was made by \_\_\_\_\_, which carried \_\_\_\_, to adopt the following resolution:

**A RESOLUTION TO RECOGNIZE, THANK, AND COMMEND  
MR. MICHAEL B. LANE, SR.  
FOR HIS SERVICE AS A MEMBER OF THE NEW KENT COUNTY  
PLANNING COMMISSION**

**WHEREAS**, Michael Lane was first appointed to the New Kent County Planning Commission on January 10, 2011; and

**WHEREAS**, he resigned from the Commission on April 20, 2015; and

**WHEREAS**, Mr. Lane served as an officer of the Planning Commission numerous times throughout his years on the Commission; and

**WHEREAS**, Mr. Lane provided steady guidance and advice with respect to activities and development within the County and maintaining the rural way of life; and

**WHEREAS**, Mr. Lane has been consistent and persistent in his dedication to serving the best interests of the County as a whole, and at all times professionally and conscientiously carried out his duties as a member and officer of the Planning Commission; and

**WHEREAS**, Mr. Lane has served his community and New Kent County with pride, dignity, grace and wisdom, and will be greatly missed; and

**WHEREAS**, the New Kent County Planning Commission desires to recognize Mr. Lane for his service to the County;

**NOW THEREFORE BE IT RESOLVED** this, the 18<sup>th</sup> day of May 2015, by the New Kent County Planning Commission that Michael Lane be, and he is hereby, thanked and commended for his exemplary service to the citizens of New Kent County as a member of the Planning Commission.

**BE IT FURTHER RESOLVED** that the Commission and the Community Development staff members extend our best wishes to Mr. Lane and his family in all of their future endeavors.

Attested: \_\_\_\_\_  
Chairman, New Kent County Planning Commission