



NEW KENT COUNTY
PLANNING COMMISSION -- REGULAR MEETING
OCTOBER 19, 2015, AT 6:30 PM
COUNTY ADMINISTRATION BUILDING BOARDROOM
AGENDA

ITEM	DESCRIPTION
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1. CALL TO ORDER

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL OF MINUTES

SEPTEMBER 21, 2015

5. 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.

6. PRESENTATION – LOVES TRAVEL STOPS AND COUNTRY STORES

7. UNFINISHED BUSINESS

8. PUBLIC HEARING

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

A. **APPLICATION ZM-02-15, PHILBATES PROFFER REPEAL REQUEST:** REBECCA PHILBATES HAS REQUESTED THAT FOUR (4) PROFFERS ASSOCIATED WITH TAX PARCEL 26-87F (GPIN #J27-1002-0745) BE REPEALED. THESE PROFFERS ARE ASSOCIATED WITH REZONING REQUEST ZM-06-09 AND RESTRICT USES ON THE PROPERTY. THESE PROFFERS ARE NO LONGER APPLICABLE TO THE PROPERTY AND ITS PROPOSED USE AS A PUBLIC SAFETY TRAINING/VEHICLE EXTRICATION FACILITY.

9. NEW BUSINESS

10. CHAIRMAN'S REPORT

11. RRPDC REPORT

12. COMMISSIONER'S REPORTS

13. STAFF REPORTS

14. MEETING SCHEDULE

A. THE PLANNING COMMISSION'S NEXT REGULAR MEETING IS SCHEDULED FOR MONDAY, NOVEMBER 16, 2015 AT 6:30 PM IN THE BOARDROOM

15. ADJOURNMENT



NEW KENT COUNTY
 PLANNING COMMISSION - REGULAR MEETING
 MONDAY, SEPTEMBER 21, 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 21ST DAY OF SEPTEMBER IN THE YEAR TWO THOUSAND FIFTEEN IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:30 PM.

IN RE: CALL TO ORDER

Chairwoman Townsend called the meeting to order at 6:30 pm.

IN RE: MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Chairwoman Townsend led the Moment of Silence and Pledge of Allegiance.

IN RE: ROLL CALL

Attendance:

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

Chairwoman Townsend established that there was a quorum.

Also Attending:

- Mr. Rick Opett, New Kent Fire Chief
- Mr. Jeff Gore, County Attorney
- Mr. Rodney Hathaway, County Administrator
- Mr. Matthew Smolnik, Director of Community Development
- Ms. Kelli L. Z. Le Duc, Planning Manager
- Ms. Sheri Wood, Recording Secretary

IN RE: APPROVAL OF MINUTES

A. June 15, 2015 – Regular Planning Commission Meeting Minutes

A motion was made by Mr. Chalmers to approve the minutes as presented. Mr. Pollard noted a correction on page 10 from Ms. Gore to Mr. Gore. The recording secretary so noted.

The members were polled:

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

The motion carried with a 9:0:0 roll call vote to approve with noted correction.

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

None

IN RE: UNFINISHED BUSINESS

None

Chairwoman Townsend called for a brief recess prior to beginning the public hearings.

Chairwoman Townsend called the meeting back to order at 7:00PM.

IN RE: PUBLIC HEARINGS

Ms. Butler reviewed the public hearing procedure stating speakers are limited to three minutes each and

should come to the podium and state their name and address. When the timer sounds please conclude with your closing remarks.

A. APPLICATION CUP-01-15, PHILBATES/NEW KENT COUNTY FIRE & RESCUE: REBECCA PHILBATES AND NEW KENT COUNTY FIRE & RESCUE HAVE APPLIED FOR A CONDITIONAL USE PERMIT TO OPERATE A VEHICLE EXTRICATION TRAINING/PUBLIC SAFETY TRAINING FACILITY LOCATED ON NEW KENT HIGHWAY, ACROSS THE STREET FROM PHILBATES AUTO WRECKING AND TOWING (16238 NEW KENT HIGHWAY). THE PROPERTY IS IDENTIFIED AS TAX PARCEL 26-87F (GPIN #J27-1002-0745).

Planning Manager Kelli Le Duc began her staff overview of CUP-01-15 indicating that there is no definition in the code for "vehicle extrication training" therefore a conditional use permit is required for the operation in question.

The property was rezoned from A-1 to business in December of 2009 and four proffers were involved. A repeal of the proffers will be presented to the Planning Commission at the October 19th meeting. Staff will also bring forward a draft resolution to incorporate both the repeal of the proffers and action on CUP-01-15.

The proposed conditions are as follows being guided by Section 98-744 of the New Kent County Zoning Ordinance:

1. Training activities shall occur no more than six (6) times in a calendar quarter.
2. No more than six (6) vehicles shall be permitted per training activity.
3. All vehicles shall be drained of fluids prior to the training activity.
4. Vehicles may be stored on site for no more than forty-eight (48) hours prior to the training activity.
5. Vehicles shall be removed no more than twenty-four (24) hours after the training activity.
6. No training activity shall occur on the property between the hours of 10:00PM and 7:00AM.
7. New Kent Fire & Rescue will be responsible for all clean up including any spills.
8. The Conditional Use Permit will expire on the thirtieth (30th) anniversary of its issuance.

She recommended that the Commission defer action on this as noted above until the October 19th meeting.

Mrs. Philbates addressed the Commissioners by saying how her husband had always served the county and he let them use the wrecked cars. They had donated land for fire station 3 to be built and suggested they have saved tax-payers and the county money. Many citizens have spoken highly of the exercises.

Mr. Opett addressed the Commissioners letting them know vehicle extraction has occurred there in the past but just recently came to his knowledge that this use was not in the county code. This issue was visited before by his predecessors but nothing came to pass on it. These exercises reinforce the class room training his staff receives and offers them a higher proficiency in their skills. They can demonstrate what they have learned in class. Technical training of this nature is valuable to our county as well as surrounding localities they offer mutual aid to.

Chairwoman Townsend asked if they do safety checks to see if the ground on the property has settled.

Mr. Opett said they perform safety checks but not of the ground. It was his guess that the ground there has been settled for ten years now. Heavy rescue vehicles will be present on site and support vehicles will be off to the side.

Dr. Schmit asked to clarify if they were doing this there before without a permit. Mr. Opett explained that they were but now wants a proper permit to cover what was lacking before.

The Public Hearing was opened and closed by Ms. Butler since there was no one signed up to speak.

Chairwoman Townsend asked if the Commissioners had any other questions or discussion.

Mr. Chalmers asked Kelli to review the proffer situation again. Kelli reviewed by saying that the Conditional Use Permit approved for a mini-storage facility has expired, but the proffers associated with that property do not expire. This is why we are presenting the Conditional Use Permit now to allow Fire and Rescue operations instead. Next month the proffer repeal will be presented.

Mr. Pollard asked if Fire & Rescue would clean up the exercise site and Chief Opett confirmed that their department would.

Mr. Chalmers made a motion to defer action on application CUP-01-15 until the October 19th meeting.

The members were polled:

Ms. Butler	Aye
Mr. Chalmers	Aye
Mr. Kontny	Absent
Mrs. Moss-Gregory	Aye
Mr. Moyer	Aye
Mr. Pollard	Aye
Ms. Rose	Absent
Dr. Schmit	Aye
Mr. Tiller	Abstain
Mrs. Williams	Aye
Mrs. Townsend	Aye

The motion carried with an 8:0:1 roll call vote.

B. APPLICATION CUP-03-15 HORSLEY TREOLO HOLDING/DENNIS' TRUCK & AUTO REPAIR: HORSLEY TREOLO HOLDINGS & DENNIS GENTRY HAVE APPLIED FOR A CONDITIONAL USE PERMIT TO OPERATE A TRUCK AND TRAILER REPAIR SHOP AT 6570 EMMAUS CHURCH ROAD. THE PROPERTY IS IDENTIFIED AS TAX PARCEL 31-2B (GPIN #12-0892-3687).

Kelli Le Duc explained there is no definition in the code for truck repair or trailer repair therefore a CUP is required for this operation. There is an existing permitted use for auto repair by Mr. Gentry. The property is currently zoned and planned for the future as Economic Opportunity.

She highlighted her staff memo and explained that the following conditions be considered in accordance with Section 98-744 of the New Kent County Zoning Ordinance:

1. All motor vehicles that are repaired or stored on the property shall be placed behind the privacy fence.
2. The Conditional Use Permit shall expire on the thirtieth (30th) anniversary of its issuance.

Kelli introduced Mr. Gentry to the Planning Commission.

Mr. Gentry of Dennis' Truck & Auto Repair, Inc. accepted questions from the Commissioners.

Mr. Chalmers asked how extensive the repairs were going to be and wanted to know if he was going to be changing engines and transmissions.

Mr. Gentry said the repairs would be minor in nature such as fan belt replacements, lights, tires, brakes and towing services for now.

He has future plans of bringing on State and County vehicle maintenance and that he was currently towing for New Kent County Police. He has taken a TIMS Class and understands the importance of clearing the roads as quickly and safely as possible. He also intends on helping New Kent Fire & Rescue.

Ms. Butler opened the public hearing.

Mr. Fred Shaia of SPF, Investor and Manager of adjacent property, New Kent City Center, came to speak stating that he had concerns the application lacked detail.

He questioned why five (5) acres needed to be included and asked why the minor repairs were not listed in the application. He felt operations could not be properly enforced without such detail.

He mentioned the fence specifications were lacking and that you could see over it from the road because the land slopes down to back of lot from the road. He was worried the property may begin to look like a junk yard.

He pointed out there was no mention of future showers or bathing facilities and questioned whether or not the operation would be required to hook up to public utilities.

Mr. Shaia stated the traffic impact was not discussed and that serious consideration should be given and that an easement be obtained for the widening of Emmaus Church Road. This will occur sometime in the future and having the easement in place now would avoid future conflict.

In his closing statement He said he was concerned that the County may not be able to enforce the conditions of this action without more details.

Mr. Gentry expressed that he took great pride in his operation and never wants the place to look or feel like a junk yard. He will keep everything behind the fence. He has wrecked cars picked up within a week as soon as he gets the titles to have them scrapped elsewhere.

Ms. Butler closed the public hearing with no one else signed up to speak.

Chairwoman Townsend asked the Commissioners if they had questions.

Mr. Pollard commented that the application noted well and septic currently on the property and wanted to know the status of public utility service.

Mr. Smolnik indicated that public utilities stopped at the southern end of Burger King currently and service is not currently available at Dennis'. Dennis' Truck & Auto Repair would have the option to connect in the future if the lines are extended.

Mr. Tiller asked if they would be required to connect and Mr. Smolnik said connection for this corridor is optional not required at this time.

Chairwoman Townsend asked if anyone wanted to address any of Mr. Shaia's concerns.

Mr. Smolnik stated that any future construction/expansion would require a full development and site plan review, that five acres are permitted to be developed per the county standards and that VDOT had no comment on traffic volume at this time. His staff is getting a traffic study for the 106 corridor and future right-of-ways and once received the Board of Supervisors will consider it.

Chairwoman Townsend asked if road work would be done by the State or Individuals or the County.

Mr. Smolnik said Kimley-Horn who is doing the traffic study, would make those recommendations and thought maybe 10 to 15 foot easements, curb and gutter and possible multi-use paths may be suggested but didn't know for sure.

Mr. Chalmers said Mr. Gentry built a car repair business there by right and now he is trying to do the right thing by asking for the conditional use to grow his business with New Kent County. He could do business elsewhere.

Mr. Pollard said we need to plan for the future to open those lanes up more and we should consider the road improvements to take place.

Mr. Smolnik said the structure is set far back on the parcel and way in back of the lot.

Mr. Chalmers thought a decision on the road issues could be made once the Kimley-Horn Study arrived.

Chairwoman Townsend thought this was a much needed service for our citizens and our community.

Mr. Moyer said he could tell by looking at the current business operations that he could see Mr. Gentry trying to do better and help more people.

Chairwoman Townsend said Mr. Moyer's point was well taken.

A motion was made by Mr. Chalmers to adopt Resolution PC-22-15 and send a favorable recommendation to the Board of Supervisors.

The members were polled:

Ms. Butler	Aye
Mr. Chalmers	Aye
Mr. Kontny	Absent
Mrs. Moss-Gregory	Aye
Mr. Moyer	Aye
Mr. Pollard	Aye
Ms. Rose	Absent
Dr. Schmit	Aye
Mr. Tiller	Abstain
Mrs. Williams	Aye
Mrs. Townsend	Aye

The motion carried with an 8:0:1 roll call vote.

IN RE: NEW BUSINESS

None

IN RE: CHAIRWOMAN'S REPORT

Chairwoman Townsend expressed a concern about the parking at the old high school now that the fire lane striping has been done out front. Mr. Smolnik is looking into it and thinks additional parking is in the works now that Rappahannock Community College is there. Chairwoman Townsend thought it would be a good idea to reach out to some of the athletic and school organizations to let them know ahead of time that those fire lanes will be enforced shortly so that people don't get towed away or ticketed. Chairwoman Townsend presented Mr. Smolnik a written list of potentially alternate parking locations for his consideration.

IN RE: RRPDC REPORT

Mr. Pollard explained at the RRPDC there was a presentation by Town of Ashland council woman, Faye Prichard to discuss concerns about people living in hotels/motels within the Town and other localities. Police have been putting people out and local churches have been asked to help find places for people to live that can't afford conventional leases.

The question is how does our county regulate this issue and what are the solutions?

Our welfare department has some statistics on transient housing and we should investigate further.

Chairwoman Townsend recalled a recent house fire family that stayed about 90 days at the Star Motel and thought the hotel management staff handled it well.

Mr. Chalmers thought maybe changes in the eviction process would help.

Ms. Moss-Gregory stated that many can't qualify to rent an apartment due to credit checks even though apartment rent would be cheaper than renting a hotel room.

Both Mr. Pollard and Mrs. Williams have seen children get off school buses at some of our local hotels.

Mr. Pollard wanted everyone to think about what type of housing was taking place in New Kent for these people and for the elderly and that the RRPDC is looking for viable solutions as well.

IN RE: COMMISSIONERS REPORTS

Mr. Moyer will attend the Virginia Certified Planning Commissioner's program and he appreciates the County's support.

Ms. Townsend said he'd get a lot of valuable experience and Mr. Chalmers encouraged all Commissioners to take the class; it is very informative.

IN RE: STAFF REPORTS

Kelli Le Duc reported that Love's will give a presentation at the October meeting.

IN RE: MEETING SCHEDULE

- A. The Planning Commission's next regular meeting is scheduled for Monday, October 19, 2015 at 6:30PM in the Boardroom.

IN RE: ADJOURNMENT

The meeting was adjourned at 7:36PM.

Respectfully submitted by: Sheri Wood, Recording Secretary



MEMORANDUM

DATE: October 19, 2015

TO: New Kent County Planning Commission

FROM: Kelli LeDuc, Planning Manager

SUBJECT: Application Number ZM-02-15 Philbates Proffer Repeal Request and
CUP-01-15 Philbates/New Kent County Fire & Rescue

REQUEST

Rebecca Philbates has requested that the four proffers associated with Tax Parcel 26-87F be repealed. These proffers are associated with rezoning request ZM-06-09 and restrict uses on the property. These proffers are no longer applicable to the property and its proposed use as a public safety training/vehicle extrication facility.

Rebecca Philbates and New Kent County Fire & Rescue have applied for a conditional use permit to operate a vehicle extrication training/public safety training facility located on New Kent Highway, across the street from Philbates Auto Wrecking and Towing.

PUBLIC HEARINGS

Planning Commission: CUP-01-15 September 21, 2015, 7:00 p.m., County Boardroom
ZM-02-15 October 19, 2015, 7:00 p.m., County Boardroom

Board of Supervisors: Tentatively scheduled for November 12, 2015, 7:00 p.m.,
County Boardroom

GENERAL INFORMATION

Location: The subject property is located across from 16238 New Kent Highway in the gravel lot (across from Philbates Auto Wrecking and Towing)

Tax Parcel: 26-87F

Size: Approximately 4 acres

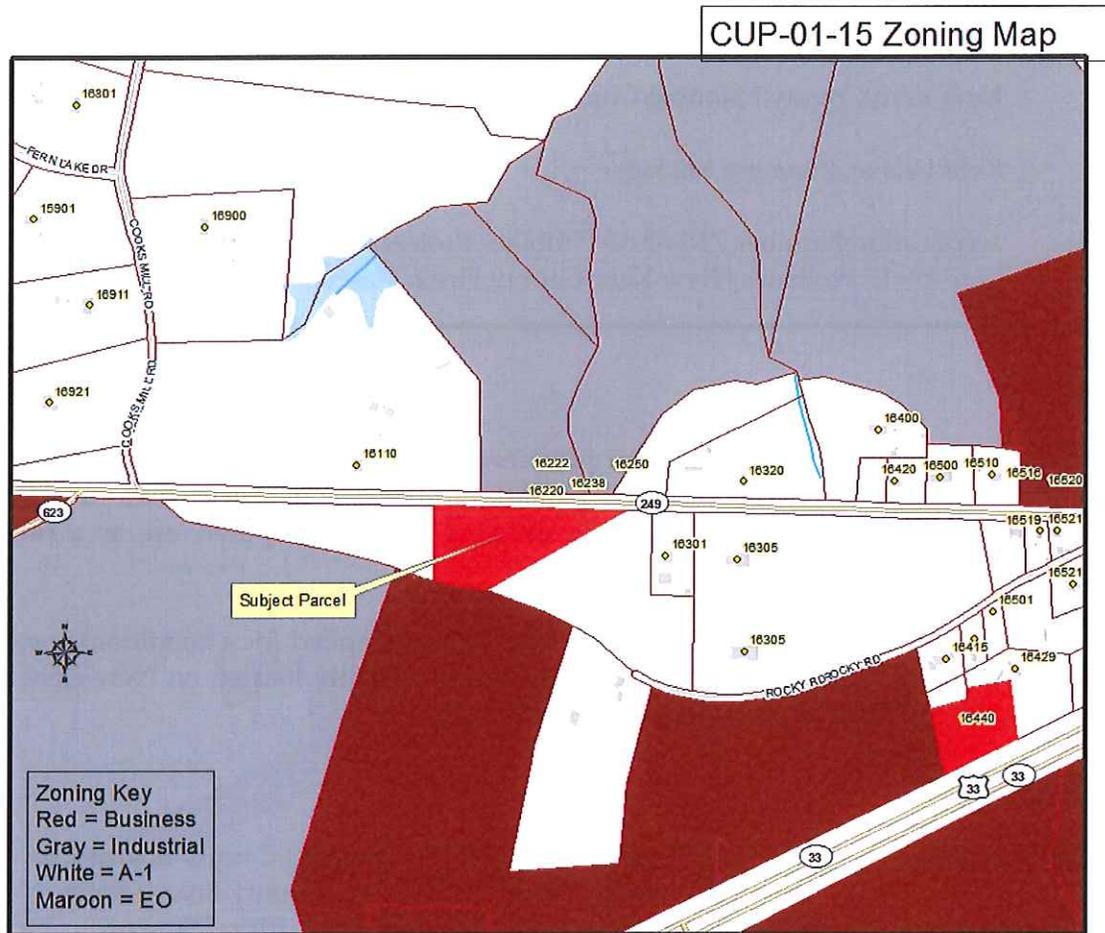
Owners: Mrs. Rebecca Philbates

Current Zoning: Business

Current Use: Vacant/Gravel lot

Adjacent North - Industrial
Zoning: East - A-1
West - A-1 and Industrial
South - Economic Opportunity and Industrial

New Kent County Comprehensive Plan Future Land Use Designation: Rural Lands



CONSIDERATIONS

- In 2014, the New Kent County Zoning Ordinance was amended to read "Sec. 98-61 - Land uses by conditional use permit - If a use is not permitted under section 98-62, a conditional use permit application may be submitted in accordance with article XIX of this chapter." There is no definition in the Code for "vehicle extrication training"; therefore a conditional use permit is required for the operation in question.
- The property was rezoned from A-1 to Business in December of 2009 (ZM-06-09), by Ordinance O-26-09. Along with this rezoning there were four (4) proffers:
 - There will be no outside storage for boats, RV's, or motor vehicles.
 - Front wall will be of cinder block construction, 8 feet tall, faced with stone in open area, and entrance will make a 90 degree angle, making building and contents not visible from the road.
 - Site will be used for mini-storage use only.

- Site will be developed in stages as close to concept plan as possible.
- At the same meeting in December 2009, a Conditional Use Permit for a mini-storage facility was approved with Resolution R-67-09. This Conditional Use Permit expired on December 14, 2014.
- New Kent County Fire & Rescue wants to utilize the property for vehicle extrication training.
- The surrounding properties are zoned Industrial, A-1, and Economic Opportunity. The training will produce moderate levels of noise typically associated with using gas-powered generators, gas-powered saws, etc. The noise will not exceed 75 decibels and will not violate the County's noise ordinance. Training will be conducted during daylight and evening hours, but not past 10:00 p.m. Vehicles used in training scenarios will be removed from the property promptly after the conclusion of the training session.
- No water or wastewater infrastructure will be needed on site.
- No construction or land disturbance will be necessary for the issuance of this Conditional Use Permit.
- Traffic will enter and exit the site from New Kent Highway.
- This CUP will have no impact on New Kent County schools or other public services. The use of this site as a training area will have a positive impact on the County's Fire-Rescue agencies. Crews can train more often and more effectively at this site, allowing them to practice lifesaving extrication techniques more frequently.
- The Planning Commission held a public hearing for CUP-01-15 at the September 21, 2015 meeting and voted to defer action on the permit until the October meeting in order to take action on both the CUP and the ZM (proffer repeal) at the same time.

COMMENTS FROM REVIEWING AGENCIES

Staff sent the conditional use permit application and information to all County and State reviewing agencies and received the following comments:

- New Kent County Fire Marshal Office - "Plans submitted have been reviewed and approved as they meet all requirements of the Statewide Fire Prevention Code."
- New Kent County Sheriff's Office - No comments or problems with this request
- VDOT - No comments

STANDARDS FOR REVIEW

The standards for review of Conditional Use Permits are set forth in Section 98-744 of the New Kent County Zoning Ordinance:

1. *The proposed use shall not be prejudicial to the character of the neighborhood.*

2. *The proposed use shall not adversely affect the general plans for the physical development of the county as embodied in the comprehensive plan.*
3. *The proposed use shall not be detrimental to the use or development of adjacent properties or the general neighborhood nor impair the value of buildings or property in surrounding areas.*
4. *The proposed use shall not unreasonably restrict an adequate supply of light, water, or air to adjacent property nor produce undue congestion in the street.*
5. *The proposed use shall adequately provide for access facilities for the estimated traffic.*
6. *The proposed use shall be subject to any applicable site planning or performance standards enumerated in article XXII of this chapter.*
7. *The proposed use shall be reasonable in terms of the logical, efficient, and economical extension of public services and facilities serving the county, such as water, sewer, streets, police and fire protection, transportation, recreation, and public schools.*

The Zoning Ordinance also lists specific restrictions for conditional use permits. Restrictions on any conditional use may include, but are not limited to the following:

1. Hours of operation
2. Access to and from the subject property
3. Protection of surface and groundwater
4. Lighting of the site, including the intensity and shielding so as to not adversely affect adjacent or nearby property owners
5. Adequate sewer and water supply
6. Sound limitation as needed to ensure peaceful enjoyment of neighboring property
7. Location, size, height, design of buildings, walls, fences, landscaping, and buffer yards
8. Covenants and/or homeowners associations for maintenance of applicable restrictions
9. Timing or phasing of development
10. Type and placement of utilities including underground placements
11. Controls for smoke, dust, and odors
12. Requirements for performance guarantees ensuring that all conditions are met and plans are implemented
13. Any other conditions deemed necessary to protect the health, safety, and general welfare of the public.

OVERALL ANALYSIS AND RECOMMENDED CONDITIONS

Staff has reviewed this conditional use permit application in the same manner as other zoning change applications and has found that the following proposed conditions will assist in addressing, protecting, and promoting health, safety, and the general welfare of New Kent County citizens.

1. Training activities shall occur no more than six (6) times in a calendar quarter.
2. No more than six (6) vehicles shall be permitted per training activity.
3. All vehicles shall be drained of fluids prior to the training activity.
4. Vehicles may be stored on site for no more than 48 hours prior to the training activity.
5. Vehicles shall be removed no more than 24 hours after the training activity.
6. No training activity shall occur on the property between 10:00 p.m. and 7:00 a.m.
7. New Kent County shall be responsible for clean up on the site, including any spills, which may occur during the training activity.
8. This Conditional Use Permit shall expire on the 30th anniversary of its issuance.

SUGGESTED MOTIONS

1. In order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, I move to adopt Resolution No. PC-21-15 to forward Application CUP-01-15 and Application ZM-02-15 to the New Kent County Board of Supervisors with a favorable recommendation.

or

2. I move to forward Application CUP-01-15 and Application ZM-02-15 to the New Kent County Board of Supervisors with an unfavorable recommendation for the following reasons:

- a. _____
- b. _____
- c. _____

Attachments:

- Application ZM-02-15
- Application CUP-01-15
- Advertisement & Adjacent Property Owners List

Copies to:

- Applicant
- File

PLANNING COMMISSION
COUNTY OF NEW KENT
VIRGINIA

PC-21-15

At the regular meeting of the Planning Commission of the County of New Kent, in the Boardroom of the New Kent Administration Building in New Kent, Virginia, on the 19th day of October, 2015:

Present:

Katherine Butler
Jack Chalmers
Joanne Schmit
Laura Rose
Charna Moss - Gregory
Richard Kontny, Jr.
John Moyer
Edward Pollard
Tommy Tiller
Patricia Townsend
Joyce Williams

Vote:

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

**A RESOLUTION TO RECOMMEND APPROVAL OF
APPLICATION ZM-02-15, PHILBATES PROFFER REPEAL REQUEST
AND CONDITIONAL USE PERMIT APPLICATION CUP-01-15,
PHILBATES/NEW KENT COUNTY FIRE & RESCUE,
TO ALLOW FOR A VEHICLE EXTRICATION TRAINING
FACILITY ON TAX MAP & PARCEL 26-87F (GPIN #J27-1002-0745)**

WHEREAS, Rebecca Philbates (property owner) has submitted a proffer repeal request dated September 15, 2015; and

WHEREAS, said request is to repeal the four (4) proffers associated with the property that were approved as part of Rezoning application ZM-06-09, as these proffers restrict uses on the property and are no longer applicable; and

WHEREAS, Rebecca Philbates (property owner), and New Kent County (applicant), have submitted a "Conditional Use Permit Application" dated June 10, 2015; and

WHEREAS, said application requests a conditional use permit to allow for a vehicle extrication training facility on a parcel identified on the New Kent County digital map as GPIN #J27-1002-0745 (Tax Map and parcel 26-87F); and

WHEREAS, subsequent to receiving complete applications and within the timeframes established by Code, the Planning Commission scheduled and conducted formal and duly advertised public hearings, carefully considering the public comment received; and

WHEREAS, the Planning Commission has evaluated the applications based on the current zoning of the parcel, which is Business, the standards set forth in the Conditional Use Permit Provisions of the Zoning Ordinance (Article XIX, § 98-741 et seq.), and the proposed conditions in the staff memo; and

WHEREAS, the Commission finds that approval of CUP-01-15 with the conditions stated herein, as well as approving ZM-02-15, is appropriate 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;

NOW THEREFORE, BE IT RESOLVED that on this, the 19th day of October, 2015, by the New Kent County Planning Commission, that Proffer Repeal Request ZM-02-15, submitted by Rebecca Philbates, and Conditional Use Permit Application CUP-01-15 submitted by Rebecca Philbates and New Kent County, be forwarded to the New Kent County Board of Supervisors with a recommendation of approval with the following conditions:

1. Training activities shall occur no more than six (6) times in a calendar quarter.
2. No more than six (6) vehicles shall be permitted per training activity.
3. All vehicles shall be drained of fluids prior to the training activity.
4. Vehicles may be stored on site for no more than 48 hours prior to the training activity.
5. Vehicles shall be removed no more than 24 hours after the training activity.
6. No training activity shall occur on the property between 10:00 p.m. and 7:00 a.m.
7. New Kent County shall be responsible for clean up on the site, including any spills, which may occur during the training activity.
8. This Conditional Use Permit shall expire on the 30th anniversary of its issuance.

Attested:

Patricia Townsend, Chair
New Kent County Planning Commission

New Kent

COUNTY · VIRGINIA



A GREAT PLACE TO GROW

PROFFER REPEAL REQUEST

REZONING/ORDINANCE CHANGE APPLICATION

County of New Kent, Virginia
Planning Department

Web site: www.co.new-kent.va.us/planning

New Kent County ♦ Community Development Department-Planning ♦ P O Box 50 ♦ New Kent, VA 23124 ♦ Phone 804-966-9690 ♦ Fax 804-966-8531
Use P O Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY

DESCRIPTION OF PROPERTY

Tax Map Parcel Number(s): 26-87F Total Lot Area (Acres): 4
GPIN: J27-1002-0745
Property street address: across from 16238 N.K. Hwy
Current Zoning: Business Proposed Zoning: Business
Current Use: vacant Proposed Use: Public Safety Training
Does proposed zoning/use include entire property? [X] YES [] NO
If no, how much will be used for proposed use? _____

OFFICE USE ONLY

DO NOT WRITE IN THIS BOX

Application No: ZM-02-15
AFD Status: _____
Date Received: 9/21/15
Tax Receipts: Yes No
Fee Amount: \$ none
Staff Initials: KLJL

PROPERTY OWNERS INFORMATION

Name: Rebecca Philbates
Address: PO Box 28
City: New Kent State: VA Zip: 23124
Telephone: Work: 843-9787 Home: 966-2970
Cellular/Pager: 366-3854 Fax: _____
E-mail Address: _____

APPLICANT'S INFORMATION

Name: SAME
Address: _____
City: _____ State: _____ Zip: _____
Telephone: Work: _____ Home: _____
Cellular/Pager: _____ Fax: _____
E-mail Address: _____

WATER/SEWER SUPPLY

- Public Water Public Sewer Well Septic
 Other: NA - no utilities needed

NEW KENT COUNTY COMPREHENSIVE PLAN – FUTURE LAND USE DESIGNATION OF PROPERTY

- Agriculture/Forest Conservation Rural Lands Suburban Housing Hamlet
 Village Economic Opportunity Commercial Industrial

I/We as the property owner/applicant/agent give permission for County personnel to enter subject properties in relation to the administration of this application, and to any applicable New Kent County, State of Virginia or U.S. Federal Government regulations. Additionally, if the County Planning Department deems it necessary for an outside agency or organizations to review any technical part of this application, I/we agree to reimburse the County for all costs associated with such outside reviews and consultation within 15 business days of being billed by the County.

Property Owner Signature: Kelli Le Due for Rebecca Philbates Date: 9/21/15
 Property Owner Signature: Rebecca C. Philbates Date: _____
 Property Owner Signature: _____ Date: _____
 Applicant/Agent Signature: _____ Date: _____

All property owners must sign the application

FEES

The fees for this application consist of an application fee and a Map Maintenance fee (*see below for calculations*).

The fee for this application is **\$1,600.00 plus \$40.00 per acre/fraction.**

Make checks payable to *Treasurer of New Kent County.*

Fees must be submitted at time of application.

	Fee: \$	<u>1,600.00</u>
+ \$40.00 per acre(fraction),		
Number of acres(fraction): _____ x \$40=	\$	_____
Map Maintenance Fee:	\$	<u>35.00</u>
+ \$10.00 per acre(fraction),		
Number of acres(fraction): _____ x \$10=	\$	_____
Total Due:	\$	<u>NA</u>



September 15, 2015

New Kent County Planning Commission
New Kent County Board of Supervisors
P.O. Box 150
New Kent, VA 23124

REFERENCE: Proffers associated with Rezoning Application ZM-06-09 on Tax Map Parcel 26-87F

Dear Commission members and Board members:

On December 14, 2009, the New Kent County Board of Supervisors approved an application for the zoning reclassification of Tax Map Parcel 26-87F from A-1 (Agricultural) to Business, with Ordinance O-26-09. The proffers associated with this rezoning are as follows:

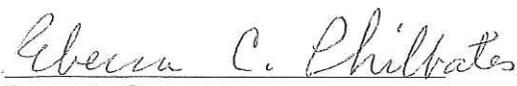
1. There will be no outside storage for boats, RV's, or motor vehicles.
2. Front wall will be of cinder block construction, 8 feet tall, faced with stone in open area, and entrance will make a 90 degree angle, making building and contents not visible from the road.
3. Site will be used for mini-storage use only.
4. Site will be developed in stages as close to concept plan as possible.

Additionally, on December 14, 2009, the New Kent County Board of Supervisors approved a conditional use permit application to construct and operate a mini-storage facility on the property, with Resolution R-67-09. This CUP expired on December 14, 2014.

I hereby ask that the proffers listed above, associated with this property, be repealed. There are no longer any plans to construct a mini-storage facility on the property. I would like the property to revert back to the underlying Business zoning in order to allow for the pending CUP-01-15 for New Kent County Fire & Rescue's "vehicle extrication training facility" to be approved.

I understand that a public hearing will need to take place in order to repeal these proffers.

Sincerely,


Property Owner

BK0564PG0553

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

O-26-09

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 14th day of December, 2009:

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

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

**AN ORDINANCE TO REZONE APPROXIMATELY
FOUR (4) ACRES OF LAND IN THE
WEIR CREEK MAGISTERIAL DISTRICT
FROM A-1, AGRICULTURAL, TO BUSINESS**

WHEREAS, George Philbates Jr. and Rebecca Philbates, applicants and property owners, have submitted a "Rezoning/Ordinance Change Application" dated April 30, 2009; and

WHEREAS, said application requests the rezoning of approximately four (4) acres identified on the New Kent County digital map as GPIN #J27-1002-0745 (Tax Parcel 26-87F); and

WHEREAS, said application was formally referred to the New Kent County Planning Commission (the "Planning Commission") in accordance with applicable procedures; and

WHEREAS, within the timeframes established by the Code of Virginia and the New Kent County Code, the Planning Commission scheduled and conducted a formal and duly advertised public hearing on November 16, 2009, and carefully considered the application; and

WHEREAS, the Planning Commission voted 9:1 to forward the subject application to the New Kent County Board of Supervisors ("the Board of Supervisors") with an unfavorable recommendation; and

BK0564PG0554

WHEREAS, the rezoning application has been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, approval of the rezoning request through the adoption of this Ordinance will further the public necessity, convenience, general welfare and good zoning practices in the County of New Kent; and

WHEREAS, the Board of Supervisors has found the following, with regard to this application:

- The proposal is not prejudicial to the character of the neighborhood.
- The proposal will not adversely affect the general plans for the physical development of the County as embodied in the Comprehensive Plan.
- The proposal 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.
- The application is generally in conformance with the New Kent County Comprehensive Plan, "Vision 2020".
- The proposed rezoning would provide for the long-range development of the subject property in a coordinated and well planned fashion.
- Approval of the subject application would further the health, safety and general welfare of the citizens of New Kent County and support the implementation of good zoning practice within the County.

NOW THEREFORE BE IT ORDAINED this, the 14th day of December 2009, by the New Kent County Board of Supervisors, that application ZM-06-09 be, and it hereby is, approved by amending the New Kent County Zoning Map to rezone GPIN # J27-1002-0745, consisting of approximately 4 acres from A-1, Agricultural, to Business.

BE IT FURTHER ORDAINED, that the proffers voluntarily offered by the applicants as evidenced by the proffer statement dated January 12, 2009 and incorporated by reference herein and made a part hereof are accepted and shall be fully binding upon the applicants; and

BE IT FURTHER ORDAINED, that the Interim County Administrator be, and he is hereby, directed to have a fully executed copy of this Ordinance recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.

BK0564PG0555

William H. Whitley
William H. Whitley
Interim County Administrator

W.R. Davis, Jr
W.R. Davis, Jr
Chairman

STATE OF VIRGINIA
County of New Kent, to-wit:

Subscribed to before me, the undersigned Notary Public, in the county and state aforesaid, on the 17th day of December, 2009.

My commission expires 5/31/12.

Connie C. Nalls
Notary Public
Notary Registration Number: 156812



INSTRUMENT #090004704
RECORDED IN THE CLERK'S OFFICE OF
NEW KENT COUNTY ON
DECEMBER 18, 2009 AT 02:40PM

KAREN A. BUTLER, CLERK
RECORDED BY: JMK

RECIVED
JAN 12 2009

BK0564PG0556 Proffer Statement



PROFFER STATEMENT
County of New Kent, Virginia
Planning Department
Web site:
www.co.new-kent.va.us/planning

OFFICE USE ONLY	
DO NOT WRITE IN THIS BOX	
Application #:	<u>ZH-06-09</u>
Date Received:	<u>1/12/09</u>
Staff Initials:	<u>KLZ</u>

New Kent County ♦ Community Development Department-Planning ♦ P O Box 50 ♦ New Kent, VA 23124 ♦ Phone 804-966-9690 ♦ Fax 804-966-8531
Use P O Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY

Information and Instructions:

Sections 98-781 to 98-790 of the New Kent County Code govern the establishment of conditions at the time of rezoning of property. The proffer of conditions must be prepared and submitted voluntarily by the property owner. Conditions must be specific and must bear a direct relationship to the rezoning request. Conditions may not impose any obligations upon the County beyond the granting of the requested zoning.

Proffers or amendments thereto must be filed within (ten) 10 business days prior to the public hearing at which the rezoning request will be heard.

All property owners of record must sign the proffer statement before a Notary Public. If a person signs on behalf of a company or organization, or if someone other than the property owner signs, then a Power of Attorney Form will need to accompany the Proffer Statement.

I/We hereby voluntarily proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth below:

1. THERE WILL BE NO OUTSIDE STORAGE FOR BOATS, RV'S, OR MOTOR VEHICLES.
 2. FRONT WALL WILL BE OF CINDER BLOCK CONSTRUCTION, 8 FT. TALL, FACED WITH STONE IN OPEN AREA, and ENTRANCE WILL MAKE 90° ANGLE MAKING BUILDING AND CONTENTS NOT VISIBLE FROM THE ROAD.
 3. SITE WILL BE USED FOR MINI STORAGE USE ONLY.
 4. SITE WILL BE DEVELOPED IN STAGES AS CLOSE TO CONCEPT PLAN AS POSSIBLE.
- Use Additional sheets if needed*

George & Rebecca Philbates Rebecca C. Philbates Date: 1-12-09
 Applicant Agent Contract Purchaser

STATE OF VIRGINIA
CITY/COUNTY OF New Kent, TO-WIT:

This day George & Rebecca Philbates personally appeared before me, Tracee McLeod, a Notary Public in and for the County and State aforesaid, swore or affirmed that the matters stated in the foregoing Statement of Proffer are true to the best of his acknowledgement and belief. Given under my hand this 12 date of January 2009.

Notary registration No.: 7109306
My commission expires: 1/31/2011



Tracee Anne McLeod
Notary Public

NEW KENT COUNTY
Notice of Mailing

Applicant Name: Rebecca Philbates
Application Number: ZM-02-15
Public Hearing Date: Monday, October 19, 2015

STATE OF VIRGINIA
COUNTY OF NEW KENT, to wit

I, Kelli L. Z. Le Duc, of the New Kent County Planning Division, do make oath that notices as required by Section 15.1-431 of the Code of Virginia, 1950, as amended, were mailed on the 7th day of October 2015, by first class mail, postage prepaid, to the persons whose names and addresses are attached.

Kelli LeDuc
Signed

Subscribed and sworn to before me this 7th day of October, 2015.

Sheri Lynn Wood
Notary Public



SHERI LYNN WOOD
NOTARY
PUBLIC
REG # 224610
MY COMMISSION
EXPIRES
12/31/2015
COMMONWEALTH OF VIRGINIA

My commission expires: December 31, 2015

§ 15.2-2302. SAME; AMENDMENTS AND VARIATIONS OF CONDITIONS.

A. Subject to any applicable public notice or hearing requirement of subsection B but notwithstanding any other provision of law, any landowner subject to conditions proffered pursuant to § [15.2-2297](#), [15.2-2298](#), [15.2-2303](#), or [15.2-2303.1](#) may apply to the governing body for amendments to or variations of such proffered conditions provided only that written notice of such application be provided in the manner prescribed by subsection H of § [15.2-2204](#) to any landowner subject to such existing proffered conditions. Further, the approval of such an amendment or variation by the governing body shall not in itself cause the use of any other property to be determined a nonconforming use.

B. There shall be no such amendment or variation of any conditions proffered pursuant to § [15.2-2297](#), [15.2-2298](#), [15.2-2303](#), or [15.2-2303.1](#) until after a public hearing before the governing body advertised pursuant to the provisions of § [15.2-2204](#). However, where an amendment to such proffered conditions is requested pursuant to subsection A, and where such amendment does not affect conditions of use or density, a local governing body may waive the requirement for a public hearing (i) under this section and (ii) under any other statute, ordinance, or proffer requiring a public hearing prior to amendment of such proffered conditions.

C. Once amended pursuant to this section, the proffered conditions shall continue to be an amendment to the zoning ordinance and may be enforced by the zoning administrator pursuant to the applicable provisions of this chapter.

D. Notwithstanding any other provision of law, no claim of any right derived from any condition proffered pursuant to § [15.2-2297](#), [15.2-2298](#), [15.2-2303](#), or [15.2-2303.1](#) shall impair the right of any landowner subject to such a proffered condition to secure amendments to or variations of such proffered conditions.

E. Notwithstanding any other provision of law, the governing body may waive the written notice requirement of subsection A in order to reduce, suspend, or eliminate outstanding cash proffer payments for residential construction calculated on a per-dwelling-unit or per-home basis that have been agreed to, but unpaid, by any landowner.

1978, c. 320, § 15.1-491.6; 1997, c. 587; 2009, c. [315](#); 2012, cc. [415](#), [465](#); 2013, c. [513](#).

§ 15.2-2204. ADVERTISEMENT OF PLANS, ORDINANCES, ETC.; JOINT PUBLIC HEARINGS; WRITTEN NOTICE OF CERTAIN AMENDMENTS.

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. The local planning commission and governing body may hold a joint public hearing after public notice as set forth hereinabove. If a joint hearing is held, then public notice as set forth above need be given only by the governing body. The term "two successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ [15.2-2240](#) et seq.) where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department or division of the local governing body, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § [15.2-2311](#) or [15.2-2314](#), is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

Code 1950, § 15-961.4; 1962, c. 407, § 15.1-431; 1964, c. 632; 1968, cc. 354, 714; 1973, cc. 117, 334; 1974, cc. 100, 570; 1975, c. 641; 1976, c. 642; 1977, c. 65; 1982, c. 291; 1990, c. 61; 1992, cc. 353, 757; 1993, cc. 128, 734; 1994, c. [774](#); 1995, c. [178](#); 1996, cc. [613](#), [667](#); 1997, c. 587; 2001, c. [406](#); 2002, c. [634](#); 2004, cc. [539](#), [799](#); 2005, c. [514](#); 2007, cc. [761](#), [813](#); 2011, c. [457](#); 2012, c. [548](#); 2013, cc. [149](#), [213](#).

PUBLIC NOTICE
NEW KENT COUNTY PLANNING COMMISSION

Notice is hereby given that the following public hearing will be held on Monday, October 19, 2015 at 7:00 PM or as soon thereafter as possible in the Boardroom of the New Kent County Administration Building located in New Kent, VA, where the Planning Commission of the County of New Kent may or may not take action on the following:

1. **Application ZM-02-15 Philbates Proffer Repeal Request:** Rebecca Philbates has requested that four (4) proffers associated with Tax Parcel 26-87F (GPIN #J27-1002-0745) be repealed. These proffers are associated with rezoning request ZM-06-09 and restrict uses on the property. These proffers are no longer applicable to the property and its proposed use as a public safety training/vehicle extrication facility.

All interested persons may appear and present their opinions at the above time and place. If a member of the public cannot attend the hearing, comments may be submitted in writing. Those received by 12:00 P.M. on the day of the hearing will be distributed to Planning Commission members and made a part of the public record. Copies of the applications may be viewed in the New Kent County Office of Community Development, located at 12007 Courthouse Circle, New Kent, VA 23124, during regular business hours. Copies of staff reports will be available approximately 5 days prior to the public hearing date and may be downloaded from the County web site http://www.co.new-kent.va.us/planning/staff_reports/. Anyone needing assistance or accommodation under the provisions of the Americans with Disabilities Act should call the County Administrator's Office at (804)966-9683 at least 24 hours in advance of the hearing.

PLANNING COMMISSION

**Goldstein Barry TR
Goldstein Ami TR
16305 New Kent Hwy
Lanexa, VA 23089**

ZM-02-15

**Renalds Nancy Taylor
11 Skipwith Green
Richmond, VA 23294**

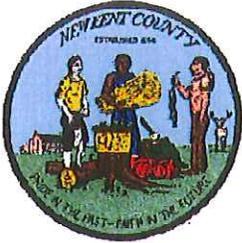
ZM-02-15

**Julia & Saumel Harlow
PO Box 33
New Kent, VA 23124**

ZM-02-15

**Rebecca Philbates
PO Box 28
New Kent, VA 23124**

ZM-02-15



CONDITIONAL USE PERMIT (CUP) APPLICATION

County of New Kent, Virginia
Planning Department

Web site: www.co.new-kent.va.us/planning

New Kent County ♦ Community Development Department-Planning ♦ P O Box 150 ♦ New Kent, VA 23124 ♦ Phone 804-966-9690 ♦ Fax 804-966-8531
Use P O Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY

DESCRIPTION OF PROPERTY

Tax Map Parcel Number(s): 26-87F Total Lot Area (Acres): 4.08
GPIN: J27-1002-0745
Property street address: across from 16238 New Kent Highway
Current Zoning: Business Proposed Zoning: Business
Current Use: Vacant/Parking lot Proposed Use: Public Safety Training
Does proposed zoning/use include entire property? [X] YES [] NO
If no, how much will be used for proposed use? _____

OFFICE USE ONLY

DO NOT WRITE IN THIS BOX

Application No: CUP 01-15
AFD Status: N/A
Date Received: 6/10/15
Tax Receipts: Yes No
Fee Amount: \$ 0
Staff Initials: Slw
See Waiver

PROPERTY OWNERS INFORMATION

Name: Rebecca C. Philbates
Address: PO Box 28
City: New Kent State: VA Zip: 23124
Telephone: Work: 804-843-9787 Home: 804-966-2970
Cellular/Pager: 804-366-3854 Fax: None
E-mail Address: None

APPLICANT'S INFORMATION

Name: New Kent County
Address: PO Box 150
City: New Kent State: VA Zip: 23124
Telephone: Work: _____ Home: _____
Cellular/Pager: _____ Fax: _____
E-mail Address: _____

AGENTS INFORMATION

Name: New Kent Fire-Rescue
Address: PO Box 209
City: New Kent State: VA Zip: 23124
Telephone: Work: 804-966-9618 Home: _____
Cellular/Pager: _____ Fax: _____
E-mail Address: _____

WATER/SEWER SUPPLY

- Public Water Public Sewer Well Septic
 Other: N/A - No utilities on property and none requested

As part of the submission, the following questions must be answered in detail in narrative form. Answers of "Yes" or "No" are **NOT ACCEPTABLE** and the application is not complete until 25 copies of this narrative have been submitted.

1. Describe in detail, the proposed use(s) of the property.
2. Describe in detail, how the proposed use may impact surrounding properties. Please relate your response to the existing zoning and land uses in the area, plus the characteristics of the proposed use—hours of operation, activity levels, appearance, etc.
3. Describe the proposed water and wastewater utility infrastructure including sources, discharges, permits, construction, ownership, and maintenance responsibilities.
4. Describe the environmental impact of the proposed development and the efforts to be undertaken to abate air, water, noise, stormwater, and other environmental impacts during and after construction.
5. Describe what techniques will be used to control traffic flow and what impacts the proposed use will have on existing roadways and provide a professionally prepared traffic impact analysis for any development expected to generate 1,000 vehicle trips per day or more.
6. Describe the impact of the proposed use on New Kent County's Schools.
7. Describe the impact of the proposed use on New Kent County public services—water service, wastewater disposal, solid waste disposal, fire, rescue, law enforcement, libraries, etc.
8. Describe the impact the proposed use(s) will have on any historic sites or structures on the property or in the vicinity.
9. Describe the impact the proposed use(s) will have on any rare, endangered, or irreplaceable species or natural areas.
10. Describe the impact the proposed use(s) will have on the scenic or natural beauty of the County.

For those plans requiring review by the Planning Commission, the applicant shall, in addition to the plan sheets required above, submit an overall plan on one (1) or more eleven inch by seventeen inch (11" x 17") reproducible sheets and shall provide sufficient copies of larger plan sheets as required for the Planning Commission distribution list of twelve (12). In addition, the applicant shall provide electronic copies of all applicable documents.

I/We as the property owner/applicant/agent give permission for County personnel to enter subject properties in relation to the administration of this application and to any applicable New Kent County, State of Virginia or U.S. Federal Government regulations. Additionally, if the County Planning Department deems it necessary for an outside agency or organizations review any technical part of this application, I/we agree to reimburse the County for all costs associated with such outside reviews and consultation within 15 business days of being billed by the County.

Property Owner Signature: Rebecca C. Phillately Date: 5-27-15
 Property Owner Signature: _____ Date: _____
 Property Owner Signature: _____ Date: _____
 Applicant/Agent Signature: _____ Date: _____
 Applicant/Agent Signature: _____ Date: _____

All property owners must sign the application

FEES

The fees for this application consist of an application fee and a Map Maintenance fee (*see below for calculations*). The fee for this application is **\$1600.00 plus \$40.00 per acre/fraction.** Make checks payable to *Treasurer of New Kent County*. **Fees must be submitted at time of application.**

	Fee:	\$ 1600.00
+ \$40.00 per acre(fraction),		
Number of acre(fraction): _____ x \$40=	\$	_____
Map Maintenance Fee:	\$	35.00
+ \$10.00 per acre(fraction),		
Number of acres(fraction): _____ x \$10=	\$	_____
Total Due:	\$	_____

Narrative Responses to Conditional Use Permit Application

1. Describe in detail, the proposed use(s) of the property.

The property will be used by New Kent Fire-Rescue for vehicle extrication training.

2. Describe in detail, how the proposed use may impact surrounding properties. Please relate your response to the existing zoning and land uses in the area, plus the characteristics of the proposed use—hours of operation, activity levels, appearance, etc.

Training will produce moderate levels of noise typically associated with using gas-powered generators, gas-powered saws, etc. The noise will not exceed 75 decibels and will not violate the County's noise ordinance. Training will be conducted during daytime and evening hours. No training will occur past 10:00 p.m. Vehicles used in training scenarios will be removed from the property promptly after the conclusion of the training session.

3. Describe the proposed water and wastewater utility infrastructure including sources, discharges, permits, construction, ownership, and maintenance responsibilities.

No water or wastewater infrastructure will be needed on site.

4. Describe the environmental impact of the proposed development and the efforts to be undertaken to abate air, water, noise, stormwater, and other environmental impacts during and after construction.

No construction or land disturbance will be necessary for the issuance of this CUP; therefore, there will be no environmental impacts associated with using the site as a training area. Noise will not exceed 75 decibels and will not violate the County's noise ordinance. Training will be conducted during daytime and evening hours. No training will occur past 10:00 p.m.

5. Describe what techniques will be used to control traffic flow and what impacts the proposed use will have on existing roadways and provide a professionally prepared traffic impact analysis for any development expected to generate 1,000 vehicle trips per day or more.

Traffic will enter and exit the site from New Kent Highway. The training area will have a minimal impact on traffic and the roadway.

6. Describe the impact of the proposed use on New Kent County's Schools.

This CUP will have no impact on New Kent Public Schools.

7. Describe the impact of the proposed use on New Kent County public services—water service, wastewater disposal, solid waste disposal, fire, rescue, law enforcement, libraries, etc.

The use of this site as a training area will have a positive impact on the County's Fire-Rescue agencies. Crews can train more often and more effectively at this site, allowing them to practice lifesaving extrication techniques more frequently. The proposed training area will have a negligible impact on other County agencies.

8. Describe the impact the proposed use(s) will have on any historic sites or structures on the property or in the vicinity.

This CUP will have no impact on any historic sites or structures.

9. Describe the impact the proposed use(s) will have on any rare, endangered, or irreplaceable species or natural areas.

This CUP will have no impact on any endangered species or natural areas.

10. Describe the impact the proposed use(s) will have on the scenic or natural beauty of the County.

This CUP will have no impact on the scenic or natural beauty of the County.