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

O-07-04R

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 7th day of June 2004:

Present:	Vote:
Mark W. Hill	Aye
D. M. Sparks	Nay
Stran E. Trout	Aye
W. R. "Ray" Davis, Jr.	Nay
James H. Burrell	Aye

Motion was made by Mr. Trout, which carried 3:2, to adopt the following ordinance:

**AN ORDINANCE TO APPROVE APPLICATION PUD-1-04
TO RECLASSIFY APPROXIMATELY 616 ACRES OF LAND
TO PLANNED UNIT DEVELOPMENT
GENERALLY REFERRED TO AS
"DRAGONSRIDGE MOTORSPORTS PARK"**

WHEREAS, Dominion Land Ventures, LLC has submitted application PUD-1-04 requesting reclassification of approximately 616 acres of property from A-1 (Agriculture) to PUD (Planned Unit Development); and

WHEREAS, the request includes construction of an approximate 2.95-mile road racing track, an approximate 1-mile karting track, ancillary and support facilities for the tracks, campground, commercial amusements and recreation, clubhouse, conference center and lodge, museum, 300 resort residential units, 6 permanent year-round residential units, and retail commercial and office uses; and

WHEREAS, the application is subject to conditions voluntarily proffered by the applicant; and

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

WHEREAS, within the timeframes established by Code, the Planning Commission scheduled and conducted a formal and duly advertised public hearing, carefully considering the public comment received; and

WHEREAS, after conducting said duly advertised public hearing, the Planning Commission determined that the proposed rezoning conforms to the adopted Comprehensive Plan in that it furthers economic development while not increasing the density of residential uses and voted to recommend approval of the application; and

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

WHEREAS, in order to assure compliance with §15.2-2286.A.7 of the Code of Virginia, it is stated by the Board that the public purpose for this Ordinance is to further the public necessity, convenience, general welfare and good zoning in the County of New Kent and that approval will further these public purposes; and

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

1. The application is generally in conformance with the New Kent County Comprehensive Plan, "Vision 2020"
2. The proposed rezoning would provide for the long-range development of the subject property in a coordinated and well-planned fashion
3. The proposed rezoning would provide a positive, long-range fiscal impact to the community
4. The proposed rezoning would allow the development of public utilities infrastructure that will serve not only the subject properties, but potentially other economic development priority areas, as well
5. 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 7th day of June 2004, by the New Kent County Board of Supervisors that Application No. PUD-1-04 be, and it is hereby, approved to amend the New Kent County Zoning Map to reclassify the

herein described property from A-1 (Conditional), Agriculture, to PUD, Planned Unit Development:

PROPERTY DESCRIPTION

All those certain pieces and parcels of land beginning at a point on the South line of State Route 632, said point being 1.8 miles +/- from the intersection of Route 33; thence along the East Right of Way of State Route 632 S 48 27' 45" E., 634.79'; thence continuing along said East centerline of Route 632 along a curve to the left having a radius of 1939.86' and a length of 804.89' to a point; thence S 06 05' 05" W., 406.65' to a point; thence S 18 53' 56" W., 320.90' to a point; thence S 02 58' 25" W., 593.00' along a stream to a point; thence S 18 45' 48" W., 1232.95' to a point; thence S 37 59' 46" W., 857.10' along a stream to a point; thence N 61 17' 56" W., 110.0' to a point; thence S 23 27' 04" W., 163.00' to a point; thence S 18 42' 04" W 610.00' to a point; thence S 78 30' 40" W., 256.47' to a point; thence S 25 32' 34" W., 122.44' to a point, thence S 25 19' 31" W., 273.34' to a point; thence S 50 36' 02" W., 270.29' to a point; thence S 57 56' 55" W., 294.04' to a point; thence S 38 49' 26" W., 199.15' to a point; thence S 76 22' 13" W., 483.61' to a point' thence S 79 28' 57" W., 719.48' to a point; thence N 80 00' 47" W., 310.43' to a point; thence N 52 56' 30" W., 273.24' to a point; thence N 47 00' 28" W., 199.28' to a point; thence S 66 04' 03" W., 79.94' to a point; thence N 50 20' 46" W., 2065.68' to a point along the fence line; thence N 40 50' 10" W., 299.67' to a point; thence N 60 31' 15" W., 563.31' to a point along the fence line; thence N 50 20' 46" W., 911.81' to a point along the fence line; thence N 16 18' 22" E., 366.04 to a point; thence N 44 57' 32 W., 1070.58' to a point; thence N 36 49' 03" W., 352.14' to a point; thence N 66 21' 06 E., 235.00' to a point; thence N 62 26' 06" E., 236.00' to a point; thence N 72 36' 06" E., 234.00' to a point; thence N 69 56' 06" E., 125.00' to a point; thence N 79 41' 06" E., 41.00' to a point; thence N 78 21' 06" E., 202.00' to a point; thence N 74 01' 06" E., 122.00' to a point; thence N 77 25' 17" E., 267.74' to an iron rod found 6.00' up line from the center of the stream; thence N 78 06' 58" E., 526.00' to a point; thence S 56 28' 02" E., 247.00' to a point; thence S 22 38' 02" E., 498.37' to an iron rod found 10.00' up line from the center of the stream; thence N 64 47' 35" E., 1301.27' along the stream to a point; thence N 64 51' 58" E., 648.65' to a point; thence N 64 51' 58" E., 542.35' to a point; thence S 40 59' 38" E., 717.74' to a point; thence S 46 51' 55" E., 176.48' to a point; thence S 59 41' 55" E., 143.00' to a point; thence N 56 05' 05" E., 459.00' to a point; thence N 58 05' 05" E., 360.00' to a point; thence N 51 50' 05" E., 400.00' to a point; thence N 43 50' 05" E., 400.00' to a

point; thence N 36 35' 05" E., 300.00' to a point; thence N 57 20' 05" E., 200.00' to a point; thence N 88 20' 05" E., 40.90' to a point on the south line of State Route 632, being said point and place of beginning and containing 616.38+/- acres.

Said parcels comprising New Kent County tax map parcels 36-17, 36-22, 36-23, 36-24, and 36-25.

BE IT FURTHER ORDAINED that the following general conditions and provisions shall apply to the development of property located within this Planned Unit Development:

1. References and Definitions

- a. The application package entitled "Planned Unit Development Application for the Proposed DragonsRidge Motorsports Park" dated January 2004, received by New Kent County on 20 January 2004, together with all attachments, exhibits and enclosures is cited as the Application. In all instances of conflict between the Application and this PUD ordinance, this PUD ordinance shall prevail.
- b. For purposes of interpreting and applying these conditions, certain words and terms shall have the following meanings:

Ambient $L_{eq}(h)$: The $L_{eq}(h)$ existing without site-generated noise. The value shall be defined and determined by the process described in paragraph 24.c.iii of this ordinance.

Applicant: Dominion Land Ventures, LLC, a Virginia limited liability company and its assignees.

Application: Means the DragonsRidge Motorsports Park Planned Unit Development Application.

Bed and Breakfast: Means a single-family dwelling in which the principal use is permanent residential quarters; and in which, as an accessory use, no more than eight (8) bedrooms are made available for transient occupancy, generally for not more than seven consecutive days, by no more than sixteen (16) guests for compensation.

Buffer: Means an area of land, typically a linear strip of specified width, which is maintained in natural form supplemented as necessary with additional plantings to provide a transition between dissimilar uses or to shield views from one side to the other.

Club: Means buildings and facilities owned and operated by a corporation, association or persons for a social, educational

or recreational purpose but not primarily to render a service which is customarily carried on as a business. This includes community pools and recreational facilities and may be public or private.

Developer: Means a person or entity that acquires property within the PUD for the purpose of further developing such property for its permitted uses.

Development Ordinances: Means the Zoning Ordinance and the Subdivision Ordinance, collectively.

Development Parcel: Any portion of the PUD for which a site plan or subdivision plat is submitted to the County for review and approval.

Dwelling, Single-Family Attached: Two or more units attached by common vertical walls without opening between them and with separate entrances for each dwelling unit; may include patio homes, townhouses, zero-lot line, two-family, duplexes, triplexes and quadraplexes.

Event: any organized occasion or activity within the PUD including, but not limited to motorized vehicle racing, motorsports activities, conferences, concerts, club functions and gatherings, trade and other shows, social functions or sports competitions

Garage Villa: Means an attached or detached unit which may be privately owned (including without limitation, fractional ownership) and occupied and/or leased to others as a place for automobile and tool storage, automotive maintenance and repair, temporary lodging, and related use. Garage villas are not permitted to be used as permanent residences.

General Design Criteria: Means the General Design Criteria contained in this PUD Ordinance, as amended.

L_{dn}: The day-night sound level is the equivalent A-weighted sound level during a 24-hour period with a 10 decibel weighting applied (added to) to the equivalent sound level during the nighttime hours of 10:00 p.m. to 7:00 a.m.

L_{eq}: The equivalent sound level is the steady-state, A-weighted sound level which in a stated period of time contains the same amount of acoustic energy as the actual time-varying sound level during the same period.

L_{eq}(h): The L_{eq} for a one-hour period, termed the hourly equivalent sound level.

Motorized Vehicle Racing: A contest in which a motorized vehicle takes part and which is of a competitive nature or is given a competitive nature by publication of results. Practice, testing and qualifying for starting positions are included in

the term "racing". A race may also be referred to as a "competition".

Motorsports Facilities: Means any component of this PUD which purpose and function is primarily to support motorized vehicle racing or provide amusement, education and training, vehicle or component testing, entertainment or any other similar function or activity involving the use of motorized vehicles of any type.

Operations: Means Motorized Vehicle Racing together with all non-construction activities and events collectively and individually conducted or occurring on the property included in the PUD. The term may be modified to clearly define and describe a subset of all operations.

Phasing Schedule: Means the schedule for constructing infrastructure improvements as contained in and described in the Application and inclusive of modifications contained within this ordinance.

Plan: Means the concept plan for DragonsRidge Motorsports Park prepared by Timmons, and dated July 2003.

PUD: The DragonsRidge Motorsports Park Planned Unit Development containing 616 acres, more or less, as described in the Application package entitled "Planned Unit Development Application for the Proposed DragonsRidge Motorsports Park" dated January 2004.

PUD Ordinance: Means this ordinance, the DragonsRidge Motorsports Park Planned Unit Development Ordinance, as amended.

Resort Villa: Means an attached or detached residential unit which may be privately owned and occupied and/or leased to others as resort property, and including without limitation fractional ownership. Resort villas are not permitted to be used as permanent residences.

Setback: Means the minimum distance by which any building or structure must be separated from a road right-of-way or the property line.

Spectator Event: Means a racing event or other event to which members of the public are invited or admitted for a charge or for free and which is anticipated to be attended by more than 2,500 people, excluding staff, crew and those occupying resort villas or other overnight accommodations in the PUD.

Spill: Means any flow from a container, either accidentally or intentionally, that results in any quantity being deposited in a manner constituting loss or waste.

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Subdivision Ordinance: Means the New Kent County Subdivision Ordinance.

Track Operator: Means the property owner of DragonsRidge Motorsports Park unless responsibility for motorsports operations has been legally transferred to another entity.

Zoning Ordinance: Means the New Kent County Zoning Ordinance.

2. Relationship to the Development Ordinances

- a. This ordinance is intended to provide specific and unique development standards for DragonsRidge. It is intended to work together with the generally applicable Development Ordinances of New Kent County by modifying otherwise applicable provisions and providing standards and requirements that may not otherwise exist.
- b. The Development Ordinances of New Kent County, as of the date of approval of this PUD Ordinance shall control the development of the land contained within this project except as modified herein. The definitions contained in the Development Ordinances shall apply to the provisions of this document unless a different definition is provided herein, in which case the definition provided herein shall control.
- c. Conflicts between the provisions contained herein and those contained in the Development Ordinances shall be resolved in favor of the provisions contained herein.
- d. The Zoning Administrator shall be vested with the authority to interpret the provisions of this ordinance and shall be the arbiter of all conflicts between this ordinance and the Development Ordinances. Appeals of the Zoning Administrator's determinations and interpretations with respect to this document shall be heard by the Board of Zoning Appeals in full accord with the process and requirements contained in the Zoning Ordinance.
- e. Nothing in this ordinance shall be interpreted as modifying or waiving any applicable requirement of the County's implementation of the Chesapeake Bay Preservation Act or Erosion and Sediment Control or Stormwater Management laws and regulations as promulgated by the Commonwealth of Virginia nor shall this PUD be vested with respect to any changes that may occur to those laws or regulations except to the extent such vesting is provided and protected under state law. Notwithstanding any other provisions of this PUD Ordinance, any site plan or preliminary

subdivision plat shall fully comply with the provisions of any Watershed Management and Protection laws and regulations adopted by the County, including any that are incorporated into the County Zoning Ordinance, that exist at such time as such site plan or preliminary subdivision plat is initially filed.

- f. Conflicts between the provisions of this PUD Ordinance and those of Chapter 6, Amusements and Entertainments, Code of New Kent as they relate to the operational aspects of events conducted at the PUD shall be resolved in favor of the provisions contained or reasonably construed from this PUD Ordinance.

3. Permitted Principal Uses – The following principal uses shall be constructed or appropriate land shall be provided for the uses, and they shall be the only principal uses permitted:

- a. Motorsports facilities, including, without limitation, racetracks, paddocks, timing and scoring towers, spectator viewing areas and stands.
- b. Automobile and motorized vehicle show facilities.
- c. Auto parts retail sales and distribution.
- d. Conference centers.
- e. Community centers.
- f. Assembly halls.
- g. Hotels and motels.
- h. Bed and breakfasts.
- i. Tourist homes.
- j. Museums.
- k. Banks and ATMs.
- l. Barber and beauty shops.
- m. Clothing stores.
- n. Clubs.
- o. Business and professional offices.
- p. Campgrounds.
- q. Restaurants.
- r. Convenience stores and mini-supermarkets.
- s. Retail sales and service.
- t. Race-karts and go-karts
- u. Sales offices and models in conjunction with the development of resort villas and garage villas.
- v. The following dwelling types, provided that no more than six (6) residences shall be used for permanent year-round occupancy:
 - i. Dwellings, single-family detached

- ii. Dwellings, single-family attached
- iii. Apartment house and multiple-family dwellings
- iv. Condominiums

4. Permitted Accessory Uses – The following accessory uses shall be permitted, but only in conjunction with the principal uses noted above:
- a. Automotive shops for repair, service, maintenance, building and assembly, testing and auto-body work and painting.
 - b. Machine and welding shops.
 - c. Motorized vehicle sales, rental and service.
 - d. Service stations, including fuel dispensing.
 - e. Concerts, indoor and outdoor.
 - f. Laundromats.
 - g. Research centers.
 - h. Mini-warehouses.
 - i. Mini-storage units.
 - j. Parking and storage garages, including, without limitation, multi-car storage facilities and garage villas.
 - k. Drugstores.
 - l. Medical care facilities.
 - m. Gift, record and tobacco shops.
 - n. Childcare and daycare centers.
 - o. Game arcades and amusements, including Motorsports simulators.
 - p. Miniature golf.
 - q. Parks, playgrounds, pools, tennis courts and similar recreational facilities.
 - r. Recycling/collection center.
 - s. Temporary construction uses.
 - t. Public and private utility facilities necessary to serve the site and its uses
 - u. Other reasonable and customary accessory uses
5. Prohibited Uses – The following uses shall be prohibited on the property within the PUD:
- a. Salvage yards and junk yards
 - b. Surface or sub-surface mining or landfills
 - c. Occupancy of camping or house trailers for more than 7 consecutive days
 - d. Mobile home parks
 - e. Group homes

- f. Truck repair, testing or racing
- g. Drag racing of any type
- h. Manufacturing
- i. Mini-warehouses unrelated to the track activities
- j. Wood recycling yards
- k. Wood preserving operations
- l. Asphalt or concrete mixing
- m. Intensive livestock operations
- n. Telecommunications towers exceeding 125 feet
- o. Flea markets
- p. Outdoor advertising legible from public roads or adjacent properties

6. Project Phasing

- a. Developments within the PUD and timing of dedications, reservations and improvements shall be carried out in accordance with the Phasing Schedule, which is attached to and incorporated into this ordinance by reference. Any revisions to this Phasing Schedule shall be reviewed by the New Kent County Planning Commission and approved by the Board of Supervisors. This shall require duly advertised public hearings by both the Planning Commission and the Board of Supervisors or a jointly convened public hearing. The application shall be in the form of a Planned Unit Development amendment.
- b. No more than two (2) permanent year-round residential uses shall be permitted prior to connection to public water and sewer. Occupancy of these units prior to connection to public water and sewer shall be limited to principals in Dominion Land Ventures, LLC or a resident property caretaker who shall be an employee of the owner.

7. Area Plan Submissions and Approval – An area plan must contain detail sufficient to define development impacts, building types and coverage, drainage, reservoir and environmental protection features, access and internal transportation network, parking lots/areas, impervious surfaces, and other physical changes to the property. Such plans, other than the plan for the road track itself, shall be submitted to the Planning Commission for its approval before each major phase or area of construction. Once the area plan is approved by the Planning Commission, site plans and subdivision plans for land sections within those plans may be submitted for review and approval.

8. Site Plan and Subdivision Plan Submissions and Approval
 - a. Site plans and subdivision plans submitted to the County for approval in conformity and in accordance with approved area plans shall be reviewed and approved administratively provided that they conform to the Zoning and the Subdivision Ordinances and approved area plans.
 - b. In any case where the site plan embraces less than the entire PUD, it shall be accompanied by a concept plan showing the general relationship between the area of the PUD and the existing and proposed future development pattern and vehicular access for the remainder of the PUD.
9. Conditions Should Sites Be Sold – The conditions attached to this PUD including the covenants, restrictions, proffered conditions and General Design Criteria established by the PUD shall run with the land, and shall be binding on successors in title. Covenants and restrictions may be established for the PUD as a whole or on the basis of separate sections or Development Parcels as determined by the Applicant. Copies of all covenants and restrictions shall be submitted to the Zoning Administrator as a part of the review of subdivision and site plan submittals, and must be approved by the Zoning Administrator as to compliance with the requirements of this PUD Ordinance.
10. Conservation Areas – Conservation areas include wetlands, Chesapeake Bay Resource Protection Areas (RPAs), and naturally-occurring steep slopes exceeding 25% that are adjacent to RPA features or components. Site specific delineation of existing wetlands, RPAs and naturally occurring steep slopes exceeding 25% will be required to be shown on area and site plans. Any impacts to wetlands, RPAs or naturally-occurring steep slopes exceeding 25% shall comply with all applicable federal, state and local laws and regulations. Site-specific delineation of the conservation areas as they will appear after development will be required to be shown on area and site plans. Conservation areas shall be encumbered by permanent conservation easements dedicated in favor of New Kent County, the property owners association, or such other entity as may be approved by the County, and shall be shown on all recorded plats. Maintenance of all conservation areas shall be vested with one or more property owners associations.

11. Reservoir Protection

- a. The storm water management and run-off control plans shall be designed to ensure that the run-off leaving the site is qualitatively identical or superior to the pre-development condition.
- b. Newport News Waterworks shall review all storm water management and runoff control plans for the site and may recommend reasonable conditions and requirements to be imposed during the review process in order to protect the Diascund Creek Reservoir.
- c. Appropriate pollution prevention measures shall be implemented in and around all vehicle maintenance areas. Oil-water separators shall be the preferred method, where there are drains that service vehicle maintenance areas however other measures including but not limited to the use of source controls, "dry operations", and/or containment may be used if approved by the Fire Chief and Newport News Waterworks.
- d. Spills of petroleum products and hazardous materials shall be cleaned up immediately and disposed of properly.
- e. Required plans and approvals:
 - i. A spill containment and control plan shall be developed and submitted to the County. The Plan shall include a clear line of incident reporting that includes the County Fire Chief and the Newport News Waterworks and others designated by them.
 - ii. A management plan for storage and use of all petroleum products and hazardous materials on the property shall be developed and submitted to the County. Such plan shall clearly delineate the storage and use location(s), anticipated range of quantities and characteristics of all petroleum products, highly flammable materials, and any other substances hazardous or potentially hazardous to aquatic and mammalian life to be stored and used on the property.
 - iii. The above plans shall be initially reviewed and approved by the County Fire Chief and Newport News Waterworks in accordance with applicable statutory authority and duly adopted regulations prior to any motor vehicle racing activity or event occurring on the property

- iv. The above plans shall thereafter be annually reviewed in January of each calendar year and approved by the County Fire Chief and Newport News Waterworks in accordance with applicable statutory authority and duly adopted regulations prior to any motor vehicle racing activity or event occurring on the property in that calendar year.

12. Yard, Height and Setback Requirements – The following height, setback, and yard requirements shall apply:
- a. Residential Structures
 - i. Minimum lot size requirement: No requirement
 - ii. Minimum yard requirements for primary structures:
 - (a) Front: 20 feet
 - (b) Side: 10 feet (applicable only to end units in attached dwellings and one side of zero lot line units)
 - (c) Rear: 25 feet
 - iii. Minimum lot width: No requirement, but relationships between adjacent lots must be shown on the area plan.
 - iv. Building height limitation: 45 feet.
 - b. Non-Residential Uses and Structures
 - i. Lot size requirement: No requirement, but relationships between adjacent lots must be shown on the area plan.
 - ii. Minimum lot width: No requirement, but relationships between adjacent lots must be shown on the area plan.
 - iii. Minimum yard requirements: Minimum yards shall be controlled by fire code regulations.
 - iv. Building height limitation: 65 feet
 - c. Modifications to the yard, height and setback requirements established herein may be authorized by the Zoning Administrator during the review and approval process of individual site and subdivision plans when such modifications would clearly contribute to a superior design, reduce environmental impacts, enhance vistas and viewsheds, or provide other demonstrable benefits to the community based on the specific proposal for the specific plan under review. In the sole discretion of the Zoning Administrator, such modifications may be conditioned on certain other performance factors deemed by the Zoning Administrator to be relevant to the request.
13. Open Space – No less than sixty percent (60%) of the total project shall

be maintained as open space in order to provide light and air while enhancing and promoting rural and scenic values befitting the Comprehensive Plan designation as Rural Lands. Open space may include, but need not be limited to undisturbed natural areas, landscaped areas, wetlands, floodplains, resource protection areas, wooded areas, water bodies and those areas where setbacks, landscaping and buffering are required. Encumbered conservation areas may be included as Open Space. Open space shall not include driveways, parking lots, or other vehicular surfaces or any area occupied by a building.

- a. Open space percentages shall be based on the totality of the project and shall not apply individually to area plans, site plans and subdivision plans provided that the total amount equals or exceeds the requirement.
- b. Site-specific delineation of open space will be required to be shown on final site plans or subdivision plats.
- c. Common open space, if any is created, shall be dedicated in favor a property owners association, and shall be shown on all recorded plats. Maintenance of all common open space shall be vested with one or more property owners associations.
- d. Areas permanently dedicated for overflow parking and other areas which by virtue of their construction, location or use have significantly impaired storm water infiltration capacity shall not be counted toward meeting open space requirements.

14. Required Buffers – Buffers shall be provided as follows:

- a. A 200-foot wide buffer from Interstate 64 adjacent to residential uses shall be provided. The 200-foot buffer may be reduced to no less than 150 feet with the use of landscaped berms, additional evergreen landscaping or sound barriers of a design approved by the Virginia Department of Transportation.
- b. The buffer from Interstate 64 shall be 100 feet for all non-residential uses.
- c. Interstate 64 buffers may not be "thinned" to provide visibility of the PUD or any components to the traveling public along Interstate 64.
- d. A 100-foot buffer shall be established between Route 632 and all

proposed uses.

- e. A buffer of 100 feet shall be established between Kent Flatts Road and all proposed uses.
- f. Buffers shall be measured from the edge of the public or private right-of-way. The right-of-way of Route 632 shall be deemed to be sixty (60) feet or the actual width, whichever is wider. The right-of-way of Kent Flatts Road shall be deemed to be fifty (50) feet or the actual width, whichever is wider. The right-of-way widths shall be measured from the centerline of the roadway (e.g., the 50' Kent Flatts Road right of way is 25' on either side of the center line of the road).
- g. A buffer of 100 feet shall be established between common boundaries of the PUD and adjacent properties. The buffer area shall be maintained as natural or landscaped open space and may be supplemented with berms or architectural fencing.

15. Buffer and Open Space Guidelines

- a. Buffer treatment shall consist of the following in areas where no landscaping is present, or does not meet the minimum number of trees set forth. For every 100 linear feet, a minimum of five (5) evergreen trees and six (6) deciduous trees shall be planted and spaced to achieve a naturalized appearance. All trees planted to meet these requirements shall meet the landscaping requirements contained in this ordinance. Plant material installed in buffers shall be spaced to achieve a naturalized appearance, except where specifically indicated otherwise. Landscaping within buffers shall be maintained in a healthy growing condition at all times, replaced when necessary, and kept free of trash and litter.
- b. Where the required buffers and open space traverse wetlands and other environmentally sensitive areas, installation of landscape materials shall not be required.
- c. Buffers may be broken only where driveways, utility easements, sight distance easements, pedestrian ways, or other openings exist or are required.
- d. The Planning Commission may on a case-by-case basis modify or grant deviations from the requirements for the setbacks and buffers contained within this PUD Ordinance upon a finding that the need for

the more stringent requirements has been eliminated by the arrangement of the uses, condition of existing vegetation, or other mitigating factors. The Planning Commission additionally may modify buffers where existing vegetation is used to provide part or the entire buffer screening upon finding that an equivalent degree of buffering is provided. In granting modifications, reductions or deviations, the Planning Commission may require that reductions in buffers in one location be added to another location within the same area or general vicinity upon a finding that the enhanced buffering is appropriate and necessary to fulfill the objectives of the buffer being enhanced.

- e. The following improvements shall be permitted to the extent permitted by law in setbacks and buffers: walking paths, architectural fences, sound barriers, landscaping, berms, walls, utilities (running generally perpendicular to the buffer or setback) driveways and signage.
16. Transportation Improvements and Standards – Various transportation improvements shall be constructed as a part of the PUD in general accordance with the Plan, Proffers and Phasing Schedule, and shall, at a minimum, include the following:
- a. Two points of access into the PUD shall be provided from public roads. The access points shall be looped together such that emergency vehicles have two distinct but interconnected paths to the track facility.
 - b. All internal roads (other than tracks, paddocks, or track-related surfaces), whether intended as public or private, shall be designed and constructed to public road standards as found in the most recent edition of the Virginia Department of Transportation *Subdivision Street Requirements*. On a case-by-case basis and for good cause shown, alternative surface treatments may be approved provided that the alternative has similar maintenance and longevity characteristics as would the otherwise required surface treatment.
 - c. Pedestrian pathways, sidewalks, and trails shall be provided in a network that interconnects the various resort areas of the PUD and provides access to the recreational and feature sites and commercial areas. Sidewalks shall be fully accessible to the handicapped.
 - d. Street lights shall be provided in the PUD where pedestrian facilities are adjacent to or intersect streets using light standards and luminaires that are architecturally compatible with the design standards of the General Design Criteria. Luminaires shall direct all

illumination downward and cut off illumination above the fixture to prevent upward light scatter.

- e. Private streets where permitted shall be placed within a recorded right-of-way no less than the width required by the Virginia Department of Transportation *Subdivision Street Requirements* for a comparable public street. If the right-of-way is to be conveyed to a property owners association, conveyance shall occur with the recording of the plat creating the right-of-way. The maintenance responsibilities for all private streets shall be vested in one or more property owners associations or the overall property owner and not with either the County or the Virginia Department of Transportation.
- f. Cul-de-sac streets within the PUD shall not exceed one thousand feet (1000') in length except as provided herein below. The length shall be measured from the end of the cul-de-sac to the closest intersection which provides a means of egress from the development, either directly or indirectly which shall include access via an emergency-only access arrangement. Where the Zoning Administrator determines that the topography, property configuration or other physical constraints are such that a cul-de-sac of greater length is required or desirable for the effective and efficient development of the property, longer cul-de-sacs may be authorized. In such cases, the cul-de-sac street shall generally be designed with a landscaped median which divides the cul-de-sac street into two (2) distinct and separate lanes. Such street may, however, be continuously undivided for the final eight hundred feet (800') measured from the end of the turnaround. Median breaks shall be provided at street intersections and at other appropriate locations along the street to ensure good traffic circulation and the delivery of emergency services. In general, this means that median breaks should occur approximately at three hundred foot (300') intervals. In consultation with the fire chief, the median requirement may be waived or modified. Cul-de-sac streets shall be terminated by a turnaround having a minimum pavement radius of forty-five feet (45').

17. Utilities Improvements and Standards

- a. All development within the PUD shall be served by public water and sewer. This ordinance shall serve to authorize connection to public water and sewer without any additional requirement for a conditional use permit. Connection fees, tap fees or other fees existent at the time of permit application or construction shall apply.

- b. The plans, specifications, construction documents and surety for all public utility infrastructure, whether on site or off site, required to serve the PUD shall be reviewed and approved by the County prior to final approval of any site plan or subdivision plat pertaining to any part of the PUD other than to convey necessary land and easements to the Commonwealth or County. This requirement shall not apply to connection to County Water and Sewer except as provided in paragraph 17d.
- c. Adequate fire storage and flows shall be provided to meet state and New Kent County fire code requirements for each facility on site.
- d. With the approval of the Health Department, initial phases of the development may commence on private utilities, but in no case shall connection to public water and sewer occur later than 5-years from the date that the first building permit is issued on the property or when the 7-day equalized flow exceeds 10,000 gallons per day or on the submission of any site plan which would enable the total viewing stands to accommodate 1000 or more spectators, restroom facilities to allow the total 7-day equalized flow to exceed 10,000 gallons per day, or any meeting or lodging facilities other than camping, which ever occurs sooner. The plans, specifications, construction documents and surety for such public utility infrastructure, whether on site or off site, shall be reviewed and approved by the County prior to final approval of the site plan or subdivision plat pertaining to such improvements. No recreational vehicle "dump station" or portable toilet "dump station" shall be permitted on the property prior to connection to public sewer. All private utilities installed on the property must be abandoned in accordance with the Virginia Sewage Handling and Disposal Regulations upon connection to public utilities.
- e. All new utility lines whether public or private shall be installed underground. Any existing above-ground utilities that require relocation shall be placed underground.
- f. Permanent on-site restrooms shall be sufficient in number and location to serve typical events and activities on the property and shall be supplemented with temporary portable chemical toilets to accommodate attendance at larger events or activities. Appropriate permits and approvals will be obtained from the Health Department prior to use of such temporary chemical toilets. Servicing shall be performed by a licensed contractor.

18. General Design Criteria – General design guidance shall be codified into the General Design Criteria that shall apply to the entire PUD. The General Design Criteria shall be prepared by the Applicant and reviewed and approved by the Planning Commission for compliance with this PUD Ordinance prior to the first building permit for any structure within the PUD being issued. Once adopted and for a period of five (5) years following their adoption, the General Design Criteria may not be substantially changed or modified in such a way as to impact the PUD Ordinance. Thereafter the applicant may request the Planning Commission to authorize amendment of the General Design Criteria, provided however that no less than one (1) year shall elapse between such amendment requests.
19. Landscaping
- a. Existing healthy mature trees on the site shall be protected and preserved on site to the maximum extent possible while still enabling development of the site.
 - b. Deciduous trees installed to meet the planting requirements shall have a minimum caliper of one and one-half inches (1.5") at installation; evergreen and ornamental trees shall have a minimum caliper of one and one-quarter inches (1.25") at installation. Caliper shall be measured one foot (1') above ground for nursery stock and four and one-half feet (4.5') above ground for all other applications. Shrubs shall have a minimum spread of twenty-four inches (24") at installation. All trees and shrubs installed to meet the requirements of this section shall have been grown or have been transplanted in accordance with the standards of the American Nursery and Landscape Association and shall be rated as hardy for Zone 7 on the USDA Plant Hardiness Zone Map. Species that have low drought tolerances shall be avoided.
 - c. All plant material and planting areas shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse, litter, and debris.
20. Entrance Signs – Entrance signs to identify the development shall conform to the following standards:
- a. The maximum sign area of each sign face shall be forty (40) square

feet and the maximum height shall be twelve feet (12') above average ground elevation or street elevation, whichever is higher. Signs have a minimum setback requirement of ten feet (10') and shall not encroach into sight triangles required for vehicular or pedestrian safety.

- b. Only the development name and logo may be placed on any such sign.
- c. Illumination if any shall be reviewed and approved by the Zoning Administrator. Illumination shall not project above the sign itself and be designed to protect dark night skies from light scatter.
- d. On-site directional signs are permitted provided that they are reasonable in number, conform to the adopted General Design Criteria and are not posted along or legible from external public roadways.

21. Street Signs

- a. Street identification signs shall be provided and installed by the developer at all intersections. The specific design of the sign is at the discretion of the developer provided that it is double-sided and conforms to the minimum requirements of Virginia Department of Transportation. The minimum sign and lettering size shall be in accord with the following chart:

Sign Size	Lettering Height	
	Upper case	Lower case
9" x 30-48"	6"	4½"

- b. In order to assure that public safety services can be delivered during the construction phases of the development, temporary street signs shall be installed at all intersections within the development or section thereof before any building permit for individual structures will be issued by the County. Temporary signs may be hand-made provided that they are conspicuous and sufficiently durable to withstand the weather conditions during construction. Temporary signs that are damaged or defaced shall be repaired or replaced promptly.

22. Commercial Site Development Standards – No building exterior or structure including signs shall have architectural materials inconsistent in quality, appearance, or detail with other architectural materials commonly

used in the PUD. In addition to the provisions of the General Design Criteria, design and architectural features for commercial areas shall demonstrate consistency with the following provisions:

- a. Large work area doors or open bays shall not open toward or face the external roadways.
- b. Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from public roadways. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened. Appropriate noise mitigation of stationary equipment, compressors, machinery, dumpster loading and unloading operations, and similar activities shall be provided where feasible and necessary due to the sound characteristics of the equipment and where unmitigated noise generated by such equipment or operations is likely to be noticeably audible at residential structures located outside of the PUD.
- c. If used, fences in front of buildings on the site shall be landscaped and be of a style which is harmonious with the thematic fencing throughout the PUD.
- d. Long monotonous facade designs shall be avoided including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line.
- e. No portion of a building constructed of barren and unfinished concrete masonry unit (cinder block) or corrugated material or sheet metal shall be visible from any adjoining property or public right-of-way. This shall not be interpreted to preclude the use of architectural block as a building material.
- f. Permanent site lighting generally shall be from concealed sources (i.e., the luminaire or bulb itself is not visible), shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way impair with the vision of motor vehicle operators.
- g. Lighting fixtures or devices whether temporary or permanent shall be of a directional or cut-off type capable of shielding the light source from direct view, providing well-defined lighting patterns, and preventing upward light scatter to protect dark night skies.

- h. Outdoor storage shall be permitted provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adjacent property. Outdoor display of items for sale shall not require screening. Appropriate noise mitigation of outdoor storage activities shall be provided where feasible and necessary due to the sound characteristics of the equipment likely to be used and where unmitigated noise generated by such equipment or operations is likely to be noticeably audible at residential structures located outside of the PUD.
- i. Building-mounted signage shall be permitted only on building faces and canopies that parallel or are visible to roadways from which access to the site is available. Each building shall be limited to a maximum of one (1) square-foot of sign area for each linear foot of the building's longest dimension. Canopies are not considered to be buildings for the calculation of building-mounted signage. The total permitted sign area may be distributed on the building and canopies or placed in one location. Signs that are not legible from a public road shall not be considered in the calculation of total sign area.
- j. No logo, brand name, or sign which is legible from adjacent public roads may be placed on fuel dispensing pumps or drive-in window menu boards or on-premises directional signs or other similar structure.
- k. At the time that an area plan or site plan application is submitted, the following plans and information must be provided in addition to complying with all applicable provisions of the this PUD Ordinance as well as the Subdivision and/or Zoning Ordinances:
 - i. Conceptual sign plan including design, materials, and colors to be utilized.
 - ii. Elevations for building(s) including building materials and colors to be utilized.
 - iii. Landscaping plan.
 - iv. The location and design of all proposed exterior site lighting within the proposed Development Parcel.

23. Parking Lot Design Standards

- a. All permanent parking areas shall be surrounded with non-roll-top barrier curbing or some similar barrier except to provide access for the disabled, constructed with asphalt, pervious paving or concrete or equivalent permanent dustless surface, constructed in bays of approximately 20 spaces separated by traffic islands that are also surrounded by barrier curbing.
- b. No less than seven and one-half percent (7.5%) of the surface area in parking areas shall be maintained as landscaped open space. Within the landscaped open space and the perimeter around the parking bays shall be cultivated landscape plant materials at the rate of one (1) tree and three (3) shrubs per ten (10) parking spaces or fraction thereof. No less than one-half (50%) of the required trees shall have a minimum caliper of two and one-half inches (2.5") at installation. Caliper shall be measured one foot (1') above ground for nursery stock and four and one-half feet (4.5') above ground for all other applications.
- c. The requirements contained in the foregoing two subparagraphs may be modified during phase or area plan approval upon demonstration that Low Impact Development Design (LIDD) techniques are being employed.
- d. All parking areas available for night use other than temporary parking areas shall be illuminated using light standards and luminaires that are architecturally compatible with the General Design Criteria of the PUD and which have cut-off fixtures that prevent upward light scatter and protect the dark night skies.
- e. All parking areas other than temporary parking areas shall be provided with sidewalks or other designated pedestrian ways to facilitate safe and convenient pedestrian access. Sidewalks shall be placed no less than four feet (4') behind the curb or wheel blocks to prevent blockage by vehicle overhangs. Sidewalks shall be fully accessible to the handicapped and sidewalk ramps shall be avoided by having parking area surfaces and driveway crossings brought up to the level of the sidewalk rather than the sidewalk cut down to parking area or driveway level.
- f. Numerical standards for parking shall be as found in the New Kent County Zoning Ordinance. Where uses are designed to inter-relate and within commercial nodes, shared parking shall be permitted.

- g. Temporary or overflow parking for special events shall not be above any permitted waste water disposal system drain field or within any conservation area. The entrances to permanently dedicated overflow parking shall be armored to prevent erosion through the use of block pavers or similar design feature. The boundaries of temporary or overflow parking shall be established with physical barriers to prevent encroachment into areas not designated for such temporary or overflow parking.
- h. If temporary or overflow parking areas are used during storm events, appropriate erosion and sediment control measures shall be used.

24. Noise Limits and Monitoring

- a. Prior to any construction occurring, the applicant shall have a noise measurement program conducted by a professional firm acting within the scope of its professional licensure and competence for the purpose of determining the ambient $L_{eq}(h)$ values for required periods.
- b. Continuous noise monitoring stations shall be established as follows:
 - i. Motorsports Operations monitoring shall occur in no less than four (4) locations nor more than six (6) locations within fifty feet (50') of the Motorsports Facilities for the purpose of measuring $L_{eq}(h)$.
 - ii. Property line monitoring shall occur in no less than four (4) locations nor more than six (6) locations near or on the property line of the PUD between the track and existing or future residential units for the purpose of measuring L_{dn}
 - iii. The permanent monitoring stations shall be distributed around the Motorsports Facilities and the property and placed in locations approved in advance by the Zoning Administrator.
 - iv. Simultaneous noise measurements will be taken at the sites located 50-feet from motorsports operations and at the property line noise measurement sites for the purpose of establishing valid relationships of $L_{eq}(h)$ values. These measurements will be taken of motorsports operations occurring within the initial 30 days of PUD operation. The purpose of determining such relationships is to enable property line $L_{eq}(h)$ noise levels to be determined based on measurements taken at a 50-foot distance from a motorsports Event(s), thus minimizing potential contamination of noise

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measurements resulting from unusual activities in the vicinity of the property line measurement site. Operations measured shall include all motorsports activities, including, but not limited to, racing events and supporting activities, kart racing and recreational use and supporting activities, related maintenance activities, etc. Where multiple motorsports operations occur simultaneously, all activities shall be measured and evaluated in determining the $L_{eq}(h)$ relationships. Relationships shall be re-evaluated quarterly based on all monitored data at the fifty-foot (50') and property line data collection locations for all operational scenarios. Provide reporting as required by paragraph 24.h.

- v. Records in their source form shall be provided to the County or a consultant designated by the County at no cost upon demand within twenty-four (24) hours of such demand made in any form by any officer of the County or consultant designated by the County. Noise records derived during motorsports operations shall be retained by the applicant for a period of five (5) years.
- c. Events shall occur within the following noise limitations:
- i. Noise at the property line of the PUD property shall not exceed an L_{dn} value of 55 dBA on any calendar day. The basis for determining conformance with the 55 dBA L_{dn} criteria will be noise measurements taken at the 4 to 6 property line measurement sites. In the event that an exceedance of the L_{dn} criteria is indicated by measurement data at a property line noise measurement site and that an unusual noise-producing activity or event (not related to PUD operations) is suspected to be a cause or contributor to the L_{dn} criteria exceedance, the following calculation of L_{dn} may be performed:
 - (a) In the calculation of L_{dn} for calendar days containing motorsports activities, use the appropriate $L_{eq}(h)$ values from Step 4 (in paragraph 24.c.iii) for hours when motorsports activities are not occurring. In this L_{dn} calculation, use property line $L_{eq}(h)$ values derived from valid relationships to measurements taken at 50-foot distances from motorsports operations for the hours during which such activities are occurring. In the event that an exceedance of the L_{dn} criteria is indicated by measurement data at a property line measurement site and that an unusual noise-producing activity or event outside the control

or purview of the track operator during Motorsports Operations is suspected to be a cause or a significant contributor, the L_{dn} for this period will be considered invalid.

- ii. Within any hour of operation, the noise level at the property line shall not exceed an $L_{eq}(h)$ of 65 dBA or a noise level which exceeds the average ambient $L_{eq}(h)$ by more than 3 dBA, whichever condition shall be least restrictive. The property line $L_{eq}(h)$ values shall be determined by the relationship of noise measurements of motorsports operations taken at 50-foot distances from such operations.
- iii. The ambient $L_{eq}(h)$ values for specific hours or periods of specific days (weekdays and weekend days) shall be predetermined noise level values based on a noise monitoring program conducted prior to the PUD becoming operational. Such program will be implemented in the following manner:
 - Step 1: Perform noise measurements at the 4 to 6 property line L_{dn} measurement locations approved by the County.
 - Step 2: Conduct continuous 24-hour noise measurements on three (3) weekday calendar days and on one (1) Saturday calendar day and one (1) Sunday calendar day.
 - Step 3: Continuously observe activities in the study area during noise measurements and note both usual and unusual activities/events. Based upon a review of this data, determine which events should be considered usual.
 - Step 4: Calculate $L_{eq}(h)$ for each hour of each measurement period excluding unusual activities/events. These values will represent the "ambient" levels to which the 3 dBA "increase over ambient" criteria is applied.
 - Step 5: Supplement 24-hour measurements and observations with short-term measurements, as required
- iv. As required on a periodic basis, repeat Steps 1 through 5 (above) in the absence of motorsports activities if warranted by changes in non-PUD activities/events.
- v. All noise studies shall be designed and performed by a professional firm acting within the scope of its professional

licensure and competence. All measurements shall be obtained in a manner consistent with accepted measurement protocols. All measurements shall be taken under acceptable weather conditions, using ANSI Type I or Type II monitoring equipment.

- vi. The criteria in sub-paragraphs i. through v. above may be adjusted on a periodic basis if necessitated by permanent changes in noise levels from sources other than the PUD property and operations thereon.
- d. In addition, the County retains the right to monitor, cause to be monitored or direct the track operator to monitor noise at any point on the boundary of the PUD at any time. Such monitoring shall be performed by a professional firm acting within the scope of its professional licensure and competence and in a manner consistent with accepted professional practice. At existing residences on the south side of Interstate 64, $L_{eq}(h)$ noise levels during Motorsports Operations shall not exceed the ambient noise level by more than 3 dBA. The ambient $L_{eq}(h)$ noise level shall be determined by measurements in the absence of Motorsports Operations. "Existing residences" shall be deemed to include any residential structure for which a building permit is applied for or has been issued as of 1 July 2004.
- e. Exceeding the stipulated noise levels shall trigger a review and analysis of the noise monitoring data to ascertain the cause. Should it be determined that the exceedence is a result of Motorsports Operations rather than a random or unique event outside the control or purview of the track operator, all Motorsports Operations shall cease until appropriate noise reduction methods, including operational changes or structural means or a combination of both have been implemented or constructed.
- f. Failure for any reason attributable to the track operator to provide the noise monitoring data within the time period specified shall be cause for all Motorized Vehicle Racing to cease until the data are made available and are analyzed.
- g. The track operator shall reimburse the County for all costs associated with County review and data analysis of the noise monitoring system for the first thirty-six (36) months of Motorized Vehicle Racing. Thereafter, the applicant shall reimburse direct costs incurred by the County for review, analysis, and enforcement whenever arising from complaints that result in the discovery of violations of the noise

standards and protocols established herein. The applicant shall reimburse the County for all costs associated with the acquisition and annual calibration of ANSI Type I sound level metering equipment and initial training in its use.

- h. The Track Operator shall perform self-audits and provide certified noise compliance reports to the County no less than quarterly. An annual summary shall also be provided in January of each year detailing the prior calendar year's activities.

25. Public Safety Operations

- a. The track operator shall at all times during Motorized Vehicle Racing provide on site and fully equipped Emergency Medical Services units and personnel.
- b. Two (2) on-site Emergency Medical Services units each staffed with no fewer than two (2) trained and certified emergency medical technicians shall be provided for any and all Motorized Vehicle Racing events. At least one of the emergency medical technicians with each unit shall be trained and certified as an Advanced Life Support Technician. At least one (1) of the units must be continuously present for Motorized Vehicle Racing to occur or continue.
- c. A permanent and clearly marked first aid station shall be established near the spectator areas of the site during the first two phases of development and shall be shown on all diagrams or maps of the site provided to visitors and spectators. This facility and its staffing shall count toward meeting the requirements established in paragraphs a. and b. above.
- d. The track operator annually shall submit an emergency operations and response plan to the Fire Chief for review and approval. No events may occur at the track in any calendar year until and unless the Fire Chief has approved the emergency response and operations plan for the facility. Such approval shall not be unreasonably withheld and should the plan be denied, written notice of the plan deficiencies shall be provided which shall include the corrections necessary to make the plan approvable.
- e. All structures designed for unattended vehicle storage (this shall not include garages as a part of residential units or garage villas) and for vehicle repair shall comply with appropriate building codes.

- f. Fire hydrants shall be provided at the ends of all cul-de-sacs and along all roadways throughout the property at approximately 900-foot intervals wherever there is development.
- g. The Applicant shall provide access to County and volunteer emergency vehicles along all private roads within the PUD for inspection, training and familiarization purposes as well as in response to an alarm or other emergency.
- h. All Spectator Events on the property shall begin and end at times that will reasonably permit the traffic ingress to and egress from the site to occur during daylight hours unless one of the following or an appropriate combination is provided:
 - i. Traffic direction by uniformed law enforcement personnel is provided at the points of ingress and egress from the site and at the intersections of SR 33/SR 632, SR 632/SR 634 and SR 30/SR 634
 - ii. Street lighting, either temporary or permanent is provided at strategic locations along the exit routes from the PUD to a highway in the state primary system and including the intersections of SR 33/SR 632, SR 632/SR 634 and SR 30/SR

26. Motorsports Operations

- a. The hours of Motorized Vehicle Racing shall be limited to between 8:00 AM and 6:00 PM Monday through Thursday, between 8:00 AM and 8:00 PM Friday and Saturday, and between 9:00 AM and 6:00 PM on Sunday. No Motorized Vehicle Racing will occur between the hours of 11:00 AM and 12:00 Noon on Sundays.
- b. The applicant shall establish and enforce rules and regulations at the motor vehicle garage facilities that will prevent loud engine noise, loud radio playing, or other similar disturbance between 10:00PM and 7:00AM daily. For the purposes of this section, "loud" shall mean any noise that is equal to or greater than 55dBA when measured at the property line.
- c. No lighting of the road tracks shall be permitted with the exception of lighting required for security purposes. The kart track is specifically excluded from this provision; it may not however be utilized for Motorized Vehicle Racing beyond the hours specified above, nor may any recreational activity on the track extend beyond 10:00PM.

- d. The track operator shall not permit the accumulation of junk on the property including, but not limited to, inoperable vehicles, tires, vehicle parts, barrels, drums, or used equipment. All such junk shall be collected and contained in a manner that prevents any contamination from leaching into soil or being transported by surface flows during storm events. All junk shall be promptly and properly removed from the site.
- e. The tracks on the property shall be enclosed by appropriate and adequate fencing to prevent wildlife and unauthorized persons from gaining access to the facilities.
- f. Whenever the tracks on the property are not in use, they shall be secured to prevent unauthorized use.
- g. All motorsports Events conducted on the premises shall be fully subject to the terms of Section 66-6 of the New Kent County Code.
- h. Special Motorsports Events
 - i. Special Motorsports Events may occur at the Motorsports Facilities for up to six (6) days in one (1) calendar year.
 - ii. During designated special motorsports events, the hours of Motorized Vehicle Racing can be extended to as late as 10:00 pm.
 - iii. Use of portable directional lighting is allowed only for the duration of such special motorsports events.
 - iv. All special motorsports Events require individual application for an event permit in full accord with the provisions of Chapter 6 of the County Code as it may be amended from time-to-time.

27. Other Operations

- a. Outdoor events other than motorsports events shall be limited to the hours between 8:00AM and 8:00PM Monday through Thursday, between 8:00AM and 10:00PM Friday and Saturday, and between 9:00AM and 6:00PM on Sunday. No loud activities or events will occur between the hours of 11:00AM and 12:00 Noon on Sundays. For the purposes of this section, "loud" shall mean any noise that is equal to or greater than 60dBA when measured at the property line. Indoor events as well as routine outdoor activities, recreational activities other than motorsports or outdoor concerts, and commercial businesses

permanently established on the premises are not bound by these hours of operation.

- b. The applicant shall establish and enforce rules and regulations at the campground and public and private assembly areas of the PUD that will prevent loud entertainment, radio playing, television, social activities or other similar disturbances between 10:00PM and 7:00AM daily. - For the purposes of this section, "loud" shall mean any noise that is equal to or greater than 55dBA when measured at the property line.
- c. All Events that occur or are conducted on the property shall be subject to the noise limitations contained in paragraph 24 of this Ordinance.
- d. Notwithstanding the above provisions, fireworks displays on 4 July or the Independence Day holiday or on 31 December or January 1 shall be subject to neither the noise limitations nor the hours of operation limitations.
- e. Control of ingress and egress to the property shall be established to reduce or eliminate the number vehicles leaving or entering the site between 10:00PM and 7:00AM daily.
- f. All non-motorsports Events conducted on the premises shall be fully subject to the terms of Chapter 6 and Section 66-6 of the New Kent County Code.

28. Historic and Cultural Resources

Prior to approval of the Site Plan for Phase I, the applicant will have the "Cultural Resources Assessment of the DragonsRidge MotorSport Park Property" dated February 2003 revised to reflect the predictive model of potential prehistoric and historic sites in this area prepared for the New Kent County Historical Commission. A phase I archaeological study, including field work, shall be undertaken for known sites 44NK23/063-0099, 44NK205, and 44NK208 and additionally for all predicted and potential prehistoric and historic sites within the area of land disturbance. If deemed warranted by the phase I study, a phase II study and if appropriate, a phase III recovery shall be completed prior to any land disturbing activities within or immediately adjacent to the area identified for further Phase II or Phase III investigation. The studies herein shall be performed by professionals meeting the Secretary of the Interior's Professional Qualification standards; all reports shall be completed and

filed with the County and the Virginia Department of Historic Resources, and shall be approved by these entities prior to the issuance of any land disturbing activities permits at or near these sites.

29. Inspections by the County – The applicant shall permit County personnel or contractors designated by the County to inspect the premises at any time to ensure compliance with the operational requirements of this ordinance. Failure or refusal to allow reasonable administrative inspections shall be cause to suspend all motorsports activities on the property until such time as a hearing before the Board of Supervisors shall occur to determine what other remedies may be necessary.
30. Severability – If any provision of this Ordinance is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, or is found to be against public policy for any reason, such provision shall be fully severable and this Ordinance shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of the Ordinance and the remaining provisions shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance from this Ordinance.
31. Amendments – Amendments to the requirements contained herein shall be made in the manner prescribed for amendments to the Zoning Ordinance in effect at the time that the amendment is requested.

BE IT STILL FURTHER ORDAINED that the proffers voluntarily offered by the applicant as evidenced by the proffer statement dated 28 May 2004 and incorporated by reference herein and made a part hereof are recommended for acceptance by the County and shall, if accepted, be fully binding upon the applicant.

BE IT STILL FURTHER ORDAINED that the proffers attached to the rezoning of the subject property from C-1 to A-1 under Application C-1-01 shall remain in full force and effect for the property under the PUD designation and specifically the prohibition on family and parent-tract subdivisions of the subject parcels.

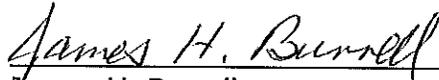
BE IT STILL FURTHER ORDAINED that the County Administrator shall cause this ordinance together with the proffers applicable to this application to

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be recorded upon the land records of New Kent County maintained by the Clerk of the Circuit Court.



Gary F. Christie
County Administrator



James H. Burrell
Chairman

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PUD-3-03

Proffers
DragonsRidge Motorsports Park
(May 28, 2004)

The property owner and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of New Kent County, for themselves and their successors or assigns (hereinafter jointly "the Developer"), proffer that the property under consideration will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the Developer. In the event this request is denied or approved with conditions or a PUD Ordinance not agreed to by the Developer, the proffers shall immediately be null and void and of no further force or effect.

1. **Cash Proffers.**

- a. **Annual Cash Proffers.** The Developer shall pay twelve (12) annual cash proffers to the County in the amounts provided below. The obligation to pay cash proffers to the County in accordance with this proffer shall commence one (1) year after commencement of racing at the road course track (the "Commencement Date") and shall end on the twelfth (12th) anniversary date of the Commencement Date.

Year 1 (Commencement Date):	\$ 50,000
Year 2:	\$ 50,000
Year 3:	\$ 50,000
Year 4:	\$ 50,000
Year 5:	\$ 125,000
Year 6:	\$ 125,000
Year 7:	\$ 125,000
Year 8:	\$ 125,000
Year 9:	\$ 200,000
Year 10:	\$ 200,000
Year 11:	\$ 200,000
Year 12:	\$ 200,000
TOTAL:	\$1,500,000

- b. **Allocation of Cash Proffers.** All such cash proffers shall be allocated as follows:

- i. 20% - for educational use.

- ii. 20% - for emergency services.
 - iii. 20% - for law enforcement.
 - iv. 20% - for parks and recreation.
 - v. 20% - for any of the uses listed above or for such uses as are not normally included in the capital improvement program, as determined by the Board of Supervisors.
- c. **Residential Cash Proffers.** The Developer shall pay the following to New Kent County for school infrastructure improvements. Payment shall be made at the time of the issuance of a building permit. The Developer shall pay \$6,000 for each non-age restricted residential dwelling unit constructed for permanent, year-round occupancy. The proffer shall not apply to resort villas or garage villas as described in the PUD Ordinance for the DragonsRidge Motorsports Park Planned Unit Development ("PUD").
- d. **Use of Cash Proffers.** If any of the cash proffers are not expended for the purposes designated by the Capital Improvement Program within fifteen (15) years from the date of payment, the unused portion shall be applied to any of the uses listed in 1bi through iv above.
2. **County Use of Road Course.** The Developer shall make the road course track available for the County's use at no charge for seventy five (75) hours each calendar year for driver education and public safety training. Such hours shall be scheduled in the sole discretion of the Developer provided that the hours are scheduled during daylight hours and are within the permitted hours of operation for the road courses as set forth in the PUD Ordinance. The Developer shall not be required to provide any support personnel or equipment, including, without limitation, fire and rescue equipment or personnel during such use. This proffer number 2 shall terminate at the expiration of the twelfth (12th) full calendar year following commencement of racing on the road course track.
3. **Road Improvements.** The following transportation improvements shall be constructed as a condition to operating any facilities within the PUD:
- a. **Interim Road Improvements.** For Phases I-IV of the PUD, the following road improvements shall be completed or designed in conjunction with VDOT and surety provided therefore prior to the use of any facilities on the PUD for any event or the use of the track for its intended purpose or obtaining a certificate of occupancy for any facilities on the PUD (the "Interim Road Improvements"):

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- i. Stage Road shall be improved from the easternmost property line of the PUD to Eltham Road (State Route 33) to include the following, as recommended by VDOT: a minimum of six-inches (6") of stone base, with a minimum of four-inches (4") of base course asphalt and a surface course of asphalt of no less than one and one-half inches (1.5") in two (2) ten-foot (10') lanes with two-foot (2') paved shoulders and ditches.
- ii. The following turn lanes at the Route 33/Stage Road intersection with the same pavement section provided in subparagraph 3ai above shall be completed or designed and surety provided therefore:
 1. Westbound right turn lane on Stage Road to Route 33 northbound - 200' lane plus 200' taper;
 2. Northbound right turn lane on Route 33 to Stage Road (Route 632) eastbound - 200' lane plus 100' taper; and
 3. Southbound left turn lane on Route 33 to Stage Road (Route 632) eastbound - 200' lane plus 200' taper.

The Developer shall reimburse VDOT for the cost of completing the Interim Road Improvements (or substantially equivalent improvements acceptable to VDOT) to the extent such costs exceed the cost of completing VDOT project #0632-063-117, C-502, Stage Road Improvements.

- b. **Temporary Access.** If VDOT does not complete the Interim Road Improvements prior to track opening, the Developer may use Polish Town Road (Route 634) as a temporary access to and from the PUD provided that the Developer first (i) installs a two inch (2") asphalt overlay on Polish Town Road from Route 30 to Stage Road (Route 632) and on Stage Road from Polish Town Road to the entrance to the PUD, and (ii) modifies the radii at the Route 30 and Stage Road intersections with Polish Town Road to accommodate trucks with trailers.
- c. **Reimbursement for Route 30 Turn Lane.** The Developer shall reimburse the County for its cost of adding a northbound left turn lane on Route 30/New Kent Road to Route 634/Polish Town Road southbound consisting of a 200' turn lane plus a 200' taper. Such reimbursement shall not exceed \$35,000 and shall be made to the County prior to the commencement of construction of Phase III of the PUD.

- d. **Final Stage Road Improvements.** The Developer shall maintain a record of daily vehicle trips entering and exiting the PUD until such time as the Developer's obligation to construct the Final Stage Road Improvements (defined below) has been triggered or designed and surety provided therefor. Records in their source form shall be provided to the Zoning Administrator and VDOT within ten (10) days after written demand by the Zoning Administrator or VDOT. The Developer shall maintain such records for a period of five (5) years. At any time that the daily traffic volume of the PUD exceeds an average of 4000 vehicle trips (entering and existing) during any twelve month period, or at any earlier time elected by the Developer, but in no event later than the commencement of construction of the improvements described in Phase V of the PUD, the Developer shall complete the following improvements on Stage Road (the "Final Stage Road Improvements"): add two inches (2") of asphalt to strengthen the pavement, and install three foot (3') gravel shoulders on both sides of Stage Road, including modifying or relocating drainage ditches on either side of the road, from the easternmost property line of the PUD to Eltham Road (State Route 33).
- e. **Additional Road Improvements.** The Developer shall provide the Zoning Administrator and VDOT with traffic studies upon completion of each phase, beginning with the completion of Phase II of the PUD. Road improvements shall be increased or decreased by the Developer as required by the County for additional phases if these studies demonstrate the traffic generation rates and distribution solely from the PUD are materially different as determined by the Zoning Administrator and VDOT from projections set forth in the Traffic Study for DragonsRidge Motorsports Park dated July, 2003, prepared by Kubilins Transportation Group, Inc., or subsequent studies approved by the Zoning Administrator and VDOT. If satisfactory improvements cannot be provided, the Planning Commission may withhold area or phasing plan approvals for additional phases until such conditions are satisfactorily addressed.
- f. **Alternative Road Improvements.** Alternative road improvements, as approved by the Developer, the Zoning Administrator and VDOT which will provide acceptable levels of service may be substituted for the improvements identified in these proffers.
- g. **Construction Traffic Access.** Construction traffic to and from the PUD shall use Polish Town Road (Route 634) until the Interim Road Improvements have been completed. Construction traffic shall be prohibited at all times from using Stage Road (Route 632) east of

Polish Town Road (Route 634) and Homestead Road (Route 620). The Developer shall be responsible for the cost of repairing damage to Polish Town Road to the extent caused by Developer's construction vehicles or construction vehicles of Developer's contractors.

- h. **Guide Signage.** Subject to applicable laws and regulations, the developer shall establish and maintain a guide sign program to direct traffic between I-64, both eastbound and westbound, and the PUD. Such signage shall be designed in accordance with the Federal Highway Administration *Manual on Uniform Traffic Control Devices*.
 - i. **Traffic Control.** The Developer shall provide special event traffic control as required by the applicable event permit required by the PUD Ordinance and issued by the County.
 - j. **Kent Flatts Road.**
 - i. The Developer acknowledges that Kent Flatts Road is currently a private road and any access rights and improvements to the road described in this Proffer 3j are subject to the legal rights that abutting or other property owners may have in Kent Flatts Road.
 - ii. Kent Flatts Road may be used for emergency vehicle access to and from the PUD, and no such improvements shall be required as a condition to such access.
 - iii. In addition, Kent Flatts Road may be used for maintenance and operational access to the PUD. However, the Developer shall not permit Kent Flatts Road to be used as a public access to the PUD property, except as provided in 3.j.iii below.
 - iv. As a condition to any other vehicular access to and from the PUD over Kent Flatts Road, the Developer shall improve Kent Flatts Road between the proposed entrance to the PUD and Route 632 in accordance with the standards required by the County. The Developer shall provide the County with a traffic study and such additional information as may be requested by the County for the purpose of determining the standards for the road improvements.
4. **Project Standards.** The entire PUD shall be developed in accordance with the PUD Ordinance agreed to by the Developer and the Design Criteria specified therein.

