

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

**0-20-04**

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 10<sup>th</sup> day of November, 2004:

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

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Motion was made by Mr. Davis, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE TO APPROVE APPLICATION PUD-02-04  
TO RECLASSIFY APPROXIMATELY 68.95 ACRES OF LAND  
TO PLANNED UNIT DEVELOPMENT AND INCORPORATE  
INTO THE KENTLAND PUD**

WHEREAS, Mr. & Mrs. Jack King submitted application PUD-02-04 on May 17, 2004; and

WHEREAS, said application requests the rezoning of approximately 68.95 acres of from A-1, Agricultural, to PUD, Planned Unit Development; and

WHEREAS, said application requests the addition of the 68.95 acre parcel into the New Kent Planned Unit Development now referred to as the "Kentland Planned Unit Development"; and

WHEREAS, Mr. & Mrs. Jack King submitted a "Statement of Proffers" to accompany said application on July 19, 2004, and those proffers were revised prior to the opening of the Public Hearing; 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 New Kent County Code, the Planning Commission scheduled and conducted a formal and duly advertised public hearing on July 19, 2004, carefully considering the public comment received; and

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

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

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

- 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
- The proposed rezoning would provide a positive, long-range fiscal impact to the community
- 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 10<sup>th</sup> day of November 2004, by the New Kent County Board of Supervisors that application PUD-02-04 be, and it hereby is, approved by amending the New Kent County Zoning Map to reclassify the following property as PUD, Planned Unit Development:

All those certain pieces and parcels of land owned by Jack and Ethyl King, containing 68.95 acres, more or less, and located in the County of New Kent, State of Virginia, and more particularly described as follows (hereinafter the "Subject Property"):

All that certain piece and parcel of land containing 69.6 acres, more or less, located in the Cumberland District, New Kent County, Virginia, beginning at a point at the intersection of the plat line of State Route 628, property now or formally owned by Jack C. & Ethel T. King (Deed Book 223, Page 624, Tax Map 34 Parcel 33, "Horse Creek Farm"), the northwest corner of property now or formally owned by Wilford Farms LTD. Partnership (Deed Book 119, Page 263, and the southwest corner of property now or formally owned by Raymond A. Parrish (Deed Book 106, Page 310, Plat Book 1, Page 41, Tax parcel 34-34); thence along the center line of State Route 628, a 30' prescriptive right of way S 54° 03'45"W., 113.30' to a rod set; thence S 64° 48' 06" W., 69.28 to a rod set; thence 27° 32' 49" along a curve to the left having a radius of 270.21', a length of 129.91' and a tangent of 66.24' to a rod set; thence S 37° 15' 17" W. 120.94' to a rod set; thence S 42° 08' 51" W. 99.07' to a rod set; thence 12° 16' 56" along a curve to the right having a radius of 346.54', and a length of 74.29 and a tangent of 37.29' to a rod set; thence S 54° 25' 47" W. 67.52' to a rod set; thence 37° 15' 51" along a curve to the left with a radius of 216.96', and a length of 141.11' and a tangent of 73.15' to a rod set; thence S 17° 09' 56" W., 104.17' to a rod set; thence 15° 17' 20" along a curve to the right having a radius of 334.56', a length of 89.27', and a tangent of 44.90' to a rod set; thence S 32° 27' 16" W., 42.79' to a rod set; thence 14° 00' 34" along a curve to the left with a radius of 398.93', a length of 97.54', and a tangent of 49.02' to a rod set; thence S 18° 26' 42" W., 118.79' to a rod set; thence 15° 11' 52" along a curve to the right having a radius of 564.35' with a length of 149.69' and a tangent of 75.29' to a rod set; thence S 33° 38' 34" W., 30.35' to a rod set; thence 7° 12' 43" along a curve to the right having a radius of 1008.19', a length of 126.90', and a tangent of 63.54' to a rod set; thence S 40° 51' 17" W., 159.75' to a rod set; thence 76° 57'40" along a curve to the left having a radius of 68.48', a length of 91.98', and a tangent of 54.43', bearing S 2° 22' 27" W., and a chord distance of 85.22' to a rod set; thence leaving the center line of State Route 628 N 36° 06' 24" W., 89.51' to a rod set; N 9° 36' 31" W., 241.30' to a rod set; thence N 20° 00' 31" W., 185.20' to a rod set; thence N 11° 55' 31" W., 104.60' to a rod set; thence N 20° 12' 31" W., 126.70' to a rod set; thence N 31° 34' 31" W., 250.20' to a rod set; thence N 39° 37' 31" W., 574.50' to a rod set; thence N 17° 54' 31" W., 76.50' to a rod set; thence N 5° 24' 31" W., 353.20' to a rod set; thence N 28° 17' 31" W.,

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78.80' to a pipe found; thence N 32° 14' 16" E., 754.84' to a rod set; thence N 44° 47' 14" E., 915.00' to a t-bar found; thence N 38° 15' 30" E., 212.81' to a tie line on the center line of a creek; thence meandering along said creek by reference to a survey tie line having the following courses and distances S 49° 12' 07" E., 258.88' to a tie line; thence S 22° 21' 31" E., 251.60' to a tie line; thence S 0° 17' 31" E., 262.10' to a tie line; thence S 14° 16' 31" E., 224.20' to a tie line; thence S 23° 04' 29" W., 237.10' to a tie line; thence S 13° 15' 31" E., 218.40' to a tie line; thence S 45° 44' 14" E., 130.19' to a tie line; thence leaving the survey tie line S 38° 59' 43" E., 41.30' to a rod found; thence S 27° 39' 20" E., 501.39' to the point and place of beginning.

BE IT FURTHER ORDAINED that the Subject Property will be added to the New Kent Planned Unit Development, now referred to as the Kentland Planned Unit Development, and the general conditions and provisions of the Kentland PUD as evidenced in the document entitled, "NEW KENT, Application for Planned Unit Development" dated September 1995 (the "Original Application") and supplemented by the "New Kent Planned Unit Development Proffers" dated June 26, 1997 and recorded on September 9, 1997 in Deed Book 248 Pages 501-528 shall apply to the Subject Property.

BE IT FURTHER ORDAINED that the Kentland PUD Land Use Plan Map and Development Summary Table, both of which are attached to and are hereby incorporated into this ordinance by this reference, replace the Land Use Plan Map and Development Summary Table incorporated into the Kentland Application for Planned Unit Development (9.95) as Exhibit 13 and Table 2, respectively, and every reference to the Land Use Plan Map and the Development Summary Table in the Application for Planned Unit Development shall refer to the Land Use Plan Map and Development Summary Table attached hereto. Any subsequent revisions to the Land Use Plan 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.

BE IT FURTHER ORDAINED that the following conditions shall apply to the development of the Subject Property:

- A. The maximum number of residential units constructed on the Subject Property shall be 70 single family detached dwellings.

- B. The Subject Property shall be developed in accordance with the site development plan entitled, "King Property", prepared by Koontz-Bryant, P.C., and dated March 12, 2003. Any material change to this site development plan 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.
- C. The equestrian facilities to be developed on the Subject Property shall be fully constructed and available for use within twenty-four months of the date that the first lot within the subject development is recorded. Prior to recording any lots within the Subject Property, the owner shall enter into a development agreement secured by surety, both in a form and amount acceptable to the County Attorney, to guarantee construction of the equestrian facilities within the timeframe established herein. Equestrian facilities shall include, but not be limited to, the paddock, trails, road crossing and signage as depicted on the plans referenced in paragraph B. above.
- D. Utilities Improvements and Standards
1. All development within the PUD shall be served by public water and sewer.
  2. The plans, specifications, construction documents and surety for all public utility infrastructure, whether on site or off site, required to serve the Subject Property shall be reviewed and approved by the County prior to approval for recordation of any subdivision plat pertaining to any of the Development Areas other than to convey necessary land and easements to the Commonwealth or County.
  3. No building permit for a residential unit shall be issued until all public utilities necessary to serve that residential section have been constructed and tested or are within ninety (90) days of completion as certified by the project engineer for the utility or utilities.

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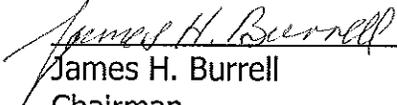
4. All new utility lines shall be installed underground. Any existing above-ground utilities that require relocation shall be placed underground.

BE IT FURTHER ORDAINED that the proffers voluntarily offered by the applicant as evidenced by the proffer statement dated as of July 19, 2004, and amended on this day prior to the opening of the Public Hearing, and incorporated by reference herein and made a part hereof are hereby accepted by the County and shall run with the land and shall be fully binding upon the applicant and his heirs and assigns.

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

Attest:

  
\_\_\_\_\_  
Gary F. Christie  
County Administrator

  
\_\_\_\_\_  
James H. Burrell  
Chairman

Commonwealth of Virginia

County of New Kent, to-wit:

Subscribed to before me, Connie C. Nalls, Notary Public for the Commonwealth of Virginia at large, by Gary F. Christie and James H. Burrell, on the 18<sup>th</sup> day of November, 2004, in New Kent County, Virginia.

My commission expires May 31, 2008.

  
\_\_\_\_\_  
Notary Public

PREPARED BY  
HIRSCHLER FLEISCHER  
a Professional Corporation  
P.O.B. 500  
RICHMOND, VIRGINIA 23218-0500

Tax Parcel No. 34-33 (pt)

NEW KENT PLANNED UNIT DEVELOPMENT PROFFERS  
(KING PROPERTY)

These proffers (the "Proffers") are made as of this 19<sup>th</sup> day of July, 2004, by JACK KING and ETHEL KING (collectively, the "Owner", to be indexed as Grantors) for the benefit of the BOARD OF SUPERVISORS OF NEW KENT COUNTY, VIRGINIA, a body corporate and politic of the Commonwealth of Virginia, (the "County", to be indexed as Grantee).

RECITALS:

R-1. The Owner is the owner of 69 acres, more or less (the "Property), in New Kent County, Virginia, as generally shown and described on that plat entitled "Compiled Plat Showing 69.6 +/- Acres of Land Lying East of Kentland Trail, Cumberland District, New Kent County, Virginia", dated September 18, 2004, JN:4458, made by Koontz-Bryant, P.C., a copy of which plat is attached to these Proffers as Exhibit A.

R-2. The Owner intends to develop the Property as a part of the mixed use community known as the New Kent Planned Unit Development (the "New Kent PUD").

R-3 The Owner has applied to amend the New Kent PUD to include the Property, which is currently zoned A-1, Agricultural District (the "PUD Application").

NOW, THEREFORE, The Owner and applicant in the PUD Application, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of New Kent County, for itself and its successors or assigns, proffer that the Property 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 amendments to the PUD Ordinance not agreed to by

the Developer, the proffers shall immediately be null and void and of no further force or effect.

PROFFERS

1. Cash Proffers. The Owner agrees to make cash payments to the County upon issuance of building permits for dwelling units in accordance with the following schedule:
  - a. \$2,500.00 per each dwelling unit, as defined by the County Zoning Ordinance. Such cash payments shall be used by the County to construct public school facilities to serve the New Kent PUD and the other citizens of the County.
  - b. \$500.00 per each dwelling unit, as defined by the County Zoning Ordinance. \$300.00 of such cash payment shall be used by the County to construct fire facilities and support fire programs serving the New Kent PUD and the other citizens of the County. \$200.00 of such cash payment shall be used by the County to construct rescue facilities and support rescue programs serving the New Kent PUD and the other citizens of the County.
  - c. The Cash Proffers set out herein shall be subject to adjustment beginning one year after approval of the PUD Application by the County Board of Supervisors, and each calendar year thereafter using the following formula: Applicable cash proffer amount for current calendar year = cash proffer amount set out in these Proffers (or the last adjustment thereof, as applicable) multiplied by a fraction, the numerator of which is the Consumer Price Index, Urban Wage Earners and Clerical Workers, all items for Richmond, Virginia, published by the Bureau of Labor Statistics, U. S. Department of Labor ("CPI-U") for the last full month of the preceding calendar year and the denominator of which is the CPI-U for the first full month of the preceding calendar year. Notwithstanding anything herein to the contrary, in no event shall any adjustment to a Cash Proffer result in an increase in excess of five and one-half per cent (5.5%) per annum.
2. Equestrian and Pedestrian Trail System. The Owner shall commit to the designation and construction by the Owner and others of a connective equestrian and pedestrian trail system between the Property and the adjacent portion of the New Kent PUD. The trail system shall be designed and constructed in accordance with construction plans and the subdivision

plat. The trail system will be maintained by an owner's association as set out in the PUD Conditions, and not by the County.

3. Water and Sewer. All development within the Property 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.
4. Conditions. These Proffers are made in addition to, and not in limitation of, the Planned Unit Development Conditions recorded in the Clerk's Office of the Circuit Court of New Kent County, Virginia (the "Clerk's Office") in Deed Book 248, page 510.
5. Severability. If any Proffer or part thereof set forth herein shall be held invalid or unenforceable for any reason by a court of competent jurisdiction, the invalidity or unenforceability of such Proffer or part thereof shall not invalidate any other Proffer contained herein.
6. Recordation The Owner and the County agree that an original of these Proffers shall be recorded in the Clerk's Office.

WITNESS the following signatures:

Bluegreen Properties of Virginia, Inc.,  
a Delaware corporation, as attorney  
in fact for Ethel King and Jack King

By: *Thomas Powers*  
Thomas Powers, Vice President

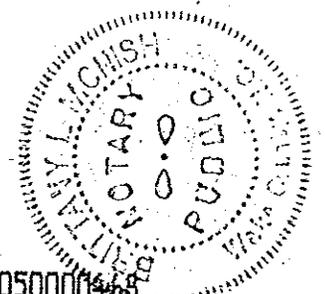
STATE OF North Carolina

CITY/COUNTY OF Chatham, to-wit:

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of January, 2005, by Thomas Powers, as Vice President of Bluegreen Properties of Virginia, Inc., a Delaware corporation, in its capacity as attorney-in-fact for Ethel King and Jack King.

*Brittany S. McVish*  
Notary Public

My commission expires  
12/12/09.



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INSTRUMENT #050000468  
RECORDED IN THE CLERK'S OFFICE OF  
NEW KENT COUNTY ON  
JANUARY 31, 2005 AT 03:45PM  
KAREN A. BUTLER, CLERK

*Plot BK 18 pg 27*

RECORDED BY: ADM

BK0427PG0409



PO Box 50  
New Kent, Virginia 23124  
(804) 966-9690

Case No.	_____
Date Received	_____
Staff Initials	_____

STAFF USE ONLY

### SPECIAL LIMITED POWER OF ATTORNEY

This form is to be used to delegate authority in the representation of a property owner's interests in an application before the New Kent County Planning Commission, Board of Zoning Appeals, Board of Supervisors and/or administrative applications such as site plans. This form is to be used, for example, when a contract purchaser or an agent submits an application for rezoning or a use permit.

KNOW ALL MEN BY THESE PRESENTS:

That I/We

Name: Jack C. King  
Address: P.O. Box 294, Providence Forge, Va. 23140

Name: Ethel T King  
Address: 709 Box 294 Providence Forge, Va. 23140

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Being all the owner(s) of the property described as New Kent County Tax Map #: 34 <sup>N. of Rt. 628</sup> <sub>(Approx. 70 Ac.)</sub> 33 <sup>part of</sup> Parcel for which application has been made to REZONE (REVISE PUD), and authorized to take such action, do hereby make, constitute and appoint:

Name: BLUEGREEN PROPERTIES OF VA. INC  
(Applicant/Contract Purchaser)

Address: 11000 KENTLAND TRAIL, PROVIDENCE FORGE, VA, 2314

OR

Name: \_\_\_\_\_  
(Agent)

Address: \_\_\_\_\_

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to act as my/our true and lawful attorney-in-fact and in my/our name, place and stead with full power and authority I/we would have if acting personally to seek approval of the application on file and to set forth and offer such legally acceptable voluntarily proffered conditions in his or her discretion are deemed reasonable, appropriate and necessary. This special limited power of attorney shall expire upon final action or withdrawal of the application to which this form applies.

In witness whereof, I/we have set my/our hand and seal this 15<sup>th</sup> day of March, 2004

Signature: Jack C. King

Witnessed by: Wayne R. Helmsling

Witnessed by: [Signature]

Signature: [Signature]

Witnessed by: Wayne R. Helmsling

Witnessed by: [Signature]

Signature: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

NOTE: This document shall be filed with the application and become a permanent part thereof

STATE OF VIRGINIA

CITY/COUNTY OF New Kent

BEFORE ME, the undersigned, a Notary Public in and for said County and State, do hereby certify that Jack C. King personally appeared before me this day and acknowledged the execution of the foregoing instrument.

2004. GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15<sup>th</sup> day of December.

Linda B. McLaughlin  
Notary Public

My Commission Expires:

December 31, 2007

STATE OF VIRGINIA

CITY/COUNTY OF New Kent

BEFORE ME, the undersigned, a Notary Public in and for said County and State, do hereby certify that Ethel T. King personally appeared before me this day and acknowledged the execution of the foregoing instrument.

2004. GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15<sup>th</sup> day of December.

Linda B. McLaughlin  
Notary Public

My Commission Expires:

December 31, 2007

INSTRUMENT #050000467  
RECORDED IN THE CLERK'S OFFICE OF  
NEW KENT COUNTY ON  
JANUARY 31, 2005 AT 03:29PM  
KAREN A. BUTLER, CLERK

RECORDED BY: ADM

