

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

O-09-05(R3)

At the regular meeting of the New Kent County Board of Supervisors in the Boardroom of the Administration Building in New Kent, Virginia, on the 23rd day of May, 2005:

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

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

AN ORDINANCE TO APPROVE APPLICATION PUD-03-04 BY NEW KENT FARMS, LLC TO RECLASSIFY APPROXIMATELY 2,520 ACRES OF LAND IN NEW KENT COUNTY FROM A-1, AGRICULTURAL; R-1, RESIDENTIAL; AND M-2, MANUFACTURING TO PUD, PLANNED UNIT DEVELOPMENT

WHEREAS, New Kent Farms, LLC has submitted an "Application for Comprehensive Plan Amendment and Rezoning" dated July 15, 2004 and continuously revised thereafter, through and including "Project Information Package" dated 24 March 2005; and

WHEREAS, said application requests the rezoning of approximately 2,100 acres from A-1, Agricultural to PUD, Planned Unit Development; approximately 135 acres from R-1, Residential to PUD, Planned Unit Development; and approximately 285 acres from M-2, Manufacturing to PUD, Planned Unit Development; and

WHEREAS, the Planning Commission conducted a series of advertised informal public hearings and work sessions on this application in order to gather information from throughout the New Kent County community; and

WHEREAS, subsequent to receiving a complete application in December 2004 and 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 considerable discussion and thought, the Planning Commission voted unanimously to transmit an unfavorable recommendation to the Board of Supervisors; 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, in adopting this Ordinance, the New Kent County Board of Supervisors has made the following specific findings with regard to this application:

- The application, while not fully conforming to the Future Land Use map, is generally in conformance with goals and objectives contained in the New Kent County Comprehensive Plan, "Vision 2020"
- The development proposed by the application will eliminate the Southern Branch of Black Creek as a potential future water impoundment, however it has been determined that the environmental and historic resource costs of such an impoundment would be too great and far outweigh any public benefit from having a drinking water reservoir located there
- 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
- The proposed rezoning would address the County's desire to provide home ownership opportunities for a growing senior population
- Approval of the subject application would further the health, safety and general welfare of the citizens of New Kent County and further the implementation of good zoning practice within the County.

NOW THEREFORE BE IT ORDAINED this, the 13th day of June 2005, by the New Kent County Board of Supervisors that rezoning application PUD-03-04 be, and it hereby is, approved amending the New Kent County Zoning Map to reclassify the following properties as PUD, Planned Unit Development:

- *Land Bay I*

Beginning at the intersection of State Route 249 and 106; thence, along the right of way line of State Route 249, from the beginning of Right curve from which the radius point bears North 08°05'02" East, westerly and northwesterly a distance of 159.60 feet along the curve concave to the north, having a radius of 547.96 feet and a central angle of 16°41'17"; thence North 65°20'06" West, a distance of 1373.46 feet; thence North 59°37'22" West, a distance of 50.25 feet; thence North 65°20'00" West, a distance of 30.00 feet; thence North 69°25'08" West, a distance of 70.18 feet; thence North 65°22'04" West, a distance of 212.50 feet; thence North 57°34'30" West, a distance of 37.04 feet; thence North 65°20'00" West, a distance of 100.00 feet; thence North 71°02'38" West, a distance of 50.25 feet; thence North 65°20'00" West, a distance of 600.00 feet; thence North 52°48'16" West, a distance of 46.10 feet; thence North 65°20'00" West, a distance of 55.00 feet; thence North 76°38'36" West, a distance of 50.99 feet; thence North 65°20'00" West, a distance of 205.14 feet to the beginning of a curve tangent to said line; thence northwesterly a distance of 59.63 feet along the curve concave to the southwest, having a radius of 1935.00 feet and a central angle of 1°45'57"; thence North 65°06'33" West, a distance of 87.37 feet; thence North 76°03'31" West, a distance of 50.96 feet to the beginning of a curve concave to the south; having a radius of 1935.00 feet and a central angle of 7°43'16" and being subtended by a chord which bears North 75°02'22" West 260.57 feet; thence westerly along said curve, a distance of 260.76 feet; thence North 78°54'00" West tangent to said curve, a distance of 1330.50 feet to the beginning of a curve tangent to said line; thence westerly a distance of 303.95 feet along the curve concave to the south, having a radius of 1935.00 feet and a central angle of 9°00'00"; thence North 87°54'00" West tangent to said curve, a distance of 693.22 feet; thence North 02°06'00" East, a distance of 754.92 feet; thence South 76°24'55" West, a distance of 123.36 feet; thence South 78°25'30" West, a distance of 191.66 feet; thence South 78°25'30" West, a distance of 155.94 feet; thence South 75°46'20" West, a distance of 439.98 feet; thence North 05°10'10" East, a distance of 391.00 feet; thence North 04°09'50" West, a distance of 50.00 feet; thence North 04°09'50" West, a distance of 280.00 feet; thence along the stream center line a distance of 2915 feet; thence along the edge of water a distance of 5301 feet; thence South 85°20'26" East, a distance of 66.00 feet; thence North

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63°29'57" East, a distance of 597.46 feet; thence North 82°20'26" West, a distance of 448.80 feet; thence North 51°20'26" West, a distance of 435.60 feet to the stream centerline; thence along the stream center line a distance of 6123 feet; thence North 36°39'59" East, a distance of 2799.80 feet to center line of State Route 606; thence along the said road South 22°07'17" East, a distance of 238.25 feet to the beginning of a curve concave to the northeast having a radius of 661.27 feet and a central angle of 27°41'08" and being subtended by a chord which bears South 34°01'29" East 316.43 feet; thence southerly and southeasterly along said curve, a distance of 319.53 feet; thence South 51°42'04" East, a distance of 267.12 feet to the beginning of a curve concave to the southwest having a radius of 4930.87 feet and a central angle of 5°07'40" and being subtended by a chord which bears South 47°48'39" East 441.15 feet; thence southeasterly along said curve, a distance of 441.30 feet to a point of cusp on a curve, from which the radius point bears South 39°27'52" West; thence southeasterly a distance of 185.21 feet along the arc of said curve concave to the southwest having a radius of 739.80 feet and a central angle of 14°20'39"; thence South 37°01'12" East, a distance of 63.34 feet to the beginning of a curve concave to the northeast having a radius of 979.05 feet and a central angle of 14°22'58" and being subtended by a chord which bears South 47°59'24" East 245.12 feet; thence southeasterly along said curve, a distance of 245.77 feet to a point of cusp on a curve, from which the radius point bears South 38°38'38" West; thence southeasterly a distance of 317.44 feet along the arc of said curve concave to the southwest having a radius of 257199.81 feet and a central angle of 0°04'15" to a point of cusp on a curve, from which the radius point bears South 34°53'22" West; thence southeasterly a distance of 196.69 feet along the arc of said curve concave to the southwest having a radius of 950.11 feet and a central angle of 11°51'41" to a point of cusp on a curve, from which the radius point bears South 40°57'26" West; thence southeasterly a distance of 104.47 feet along the arc of said curve concave to the southwest having a radius of 292.90 feet and a central angle of 20°26'11"; thence South 32°21'39" East, a distance of 132.41 feet to the beginning of a curve concave to the northeast having a radius of 721.81 feet and a central angle of 14°56'16" and being subtended by a chord which bears South 38°17'25" East 187.66 feet; thence southeasterly along said curve, a distance of 188.19 feet to a point of cusp on a curve, from which the radius point bears South 43°11'20" West; thence southeasterly a distance of 307.89 feet along the arc of said curve concave to the southwest having a radius of 2811.55 feet and a central angle of 6°16'28" to a point of cusp on a curve, from which the radius point bears North 53°38'12" East; thence southeasterly a distance of 199.05 feet along the arc of said curve concave to the northeast having a radius of 627.60 feet and a central angle of 18°10'17" to a point of cusp

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on a curve, from which the radius point bears North $40^{\circ}34'17''$ East; thence southeasterly a distance of 272.77 feet along the arc of said curve concave to the northeast having a radius of 2256.34 feet and a central angle of $6^{\circ}55'35''$ to a point of cusp on a curve, from which the radius point bears South $35^{\circ}07'17''$ West; thence southeasterly a distance of 294.70 feet along the arc of said curve concave to the southwest having a radius of 1324.28 feet and a central angle of $12^{\circ}45'01''$; thence South $42^{\circ}52'11''$ East, a distance of 80.93 feet to the beginning of a curve concave to the northeast having a radius of 939.47 feet and a central angle of $8^{\circ}55'34''$ and being subtended by a chord which bears South $45^{\circ}57'29''$ East 146.21 feet; thence southeasterly along said curve, a distance of 146.36 feet to a point of cusp on a curve, from which the radius point bears South $43^{\circ}32'59''$ West; thence southeasterly a distance of 276.46 feet along the arc of said curve concave to the southwest having a radius of 5313.25 feet and a central angle of $2^{\circ}58'52''$ to a point of cusp on a curve, from which the radius point bears South $45^{\circ}23'43''$ West; thence southeasterly and southerly a distance of 653.46 feet along the arc of said curve concave to the west having a radius of 800.29 feet and a central angle of $46^{\circ}47'00''$; thence South $05^{\circ}08'02''$ West, a distance of 631.26 feet to the beginning of a curve concave to the east having a radius of 8177.12 feet and a central angle of $4^{\circ}18'14''$ and being subtended by a chord which bears South $03^{\circ}23'08''$ West 614.10 feet; thence southerly along said curve, a distance of 614.24 feet; thence South $00^{\circ}46'00''$ West, a distance of 362.95 feet to the beginning of a curve concave to the northwest having a radius of 827.21 feet and a central angle of $63^{\circ}59'32''$ and being subtended by a chord which bears South $30^{\circ}20'53''$ West 876.61 feet; thence southerly and southwesterly along said curve, a distance of 923.89 feet; thence South $58^{\circ}33'30''$ West, a distance of 400.77 feet to the beginning of a curve concave to the southeast having a radius of 1143.13 feet and a central angle of $18^{\circ}59'42''$ and being subtended by a chord which bears South $51^{\circ}12'25''$ West 377.24 feet; thence southwesterly along said curve, a distance of 378.97 feet; thence South $40^{\circ}22'39''$ West, a distance of 1443.43 feet to the beginning of a curve tangent to said line; thence southwesterly and southerly a distance of 357.52 feet along the curve concave to the southeast, having a radius of 1050.00 feet and a central angle of $19^{\circ}30'32''$; thence South $20^{\circ}52'07''$ West tangent to said curve, a distance of 1862.36 feet to the Point of Beginning and containing 1156.02 acres, more or less and being more particularly shown on "Parcel and Zoning Map" by Resource International, Ltd., July 14, 2004.

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- *Land Bay II*

Beginning at the northeast intersection of State Route 249 and State Route 609; thence North $20^{\circ}52'07''$ East, a distance of 1814.18 feet along the center line of State Route 609; thence, leaving the said road, South $79^{\circ}23'24''$ East, a distance of 337.76 feet; thence North $10^{\circ}36'36''$ East, a distance of 210.00 feet; thence North $25^{\circ}39'49''$ West, a distance of 290.31 feet; thence, getting back to State Route 609 and along the center line of the said road North $40^{\circ}22'39''$ East, a distance of 755.22 feet; thence, leaving State Route 609, South $48^{\circ}04'37''$ East, a distance of 211.86 feet; thence North $41^{\circ}55'23''$ East, a distance of 208.71 feet; thence South $48^{\circ}04'37''$ East, a distance of 618.17 feet; thence North $41^{\circ}53'52''$ East, a distance of 526.31 feet; thence North $04^{\circ}36'38''$ West, a distance of 496.94 feet; thence North $57^{\circ}42'22''$ East, a distance of 431.70 feet; thence North $05^{\circ}21'11''$ West, a distance of 421.62 feet to a point on State Route 642 and to a point of cusp on a curve concave to the north having a radius of 225.00 feet and a central angle of $32^{\circ}18'38''$ and being subtended by a chord which bears South $77^{\circ}34'17''$ East 125.21 feet; thence southeasterly and easterly along said curve, a distance of 126.88 feet; thence leaving State Route 642 South $04^{\circ}56'53''$ East, a distance of 394.68 feet; thence North $84^{\circ}55'07''$ East, a distance of 417.90 feet; thence North $04^{\circ}59'53''$ West, a distance of 412.09 feet to State Route 642 to the beginning of a curve concave to the north having a radius of 1140.00 feet and a central angle of $0^{\circ}58'37''$ and being subtended by a chord which bears North $74^{\circ}09'33''$ East 19.44 feet; thence easterly along said curve, a distance of 19.44 feet; thence leaving State Route 642 South $82^{\circ}19'09''$ East, a distance of 997.62 feet; thence South $64^{\circ}57'07''$ East, a distance of 395.53 feet; thence South $07^{\circ}45'21''$ East, a distance of 3961.09 feet to the northern right of way line of State Route 249; thence, along the right of way line of the said road South $80^{\circ}57'30''$ West, a distance of 75.26 feet to the beginning of a curve tangent to said line; thence westerly a distance of 177.69 feet along the curve concave to the north, having a radius of 1407.50 feet and a central angle of $7^{\circ}14'00''$; thence South $88^{\circ}11'30''$ West tangent to said curve, a distance of 1403.30 feet to the beginning of a curve tangent to said line; thence westerly a distance of 208.37 feet along the curve concave to the north, having a radius of 1121.00 feet and a central angle of $10^{\circ}39'00''$; thence North $81^{\circ}09'30''$ West tangent to said curve, a distance of 888.20 feet; thence westerly a distance of 208.18 feet along the curve concave to the north, having a radius of 2840.00 feet and a central angle of $04^{\circ}12'00''$; thence North $76^{\circ}57'30''$ West, a distance of 1324.80 feet to the beginning of a curve tangent to said line; thence westerly a distance of 352.71 feet along the curve concave to the south, having a radius of

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1021.50 feet and a central angle of $19^{\circ}47'00''$; thence South $83^{\circ}15'30''$ West tangent to said curve, a distance of 489.30 feet to the beginning of a curve concave to the north having a radius of 547.96 feet and a central angle of $14^{\circ}48'01''$ and being subtended by a chord which bears North $89^{\circ}18'58''$ West 141.15 feet; thence westerly along said curve, a distance of 141.55 feet to the Point of Beginning and containing 342.9 acres, more or less, and more being particularly shown on "Parcel and Zoning Map" by Resource International, Ltd., dated July 14, 2004.

LESS AND EXCEPT, Tax Parcel known as 22-29 owned by Margie and Chapman L. Harrison, by Deed Book 177, Page. 842:

Beginning at the northeast intersection of Route 609, Old Church Road and Route 249; thence along the centerline of Route 609, North $20^{\circ}52'07''$ East, a distance of 479.49 feet; thence South $28^{\circ}31'33''$ East, a distance of 477.21 feet; to the right of way of Route 249, thence along the right of way of Route 249, South $83^{\circ}15'30''$ West, a distance of 259.35 feet to the beginning of a curve concave to the north having a radius of 547.96 feet and a central angle of $14^{\circ}48'01''$ and being subtended by a chord which bears North $89^{\circ}18'58''$ West 141.15 feet; thence westerly along said curve, a distance of 141.55 feet to the Point of Beginning and containing 2.5 Acres, more or less.

- *Land Bay III*

Beginning at the southeast intersection of Route 106 and Route 249; thence along Route 249 from the beginning of a curve to the left from which the radius point bears North $02^{\circ}12'41''$ East, easterly a distance of 93.36 feet along the curve concave to the north, having a radius of 597.46 feet and a central angle of $8^{\circ}57'12''$; thence North $83^{\circ}19'00''$ East, a distance of 489.30 feet to the beginning of a curve concave to the south having a radius of 971.50 feet and a central angle of $19^{\circ}47'00''$ and being subtended by a chord which bears South $86^{\circ}51'00''$ East 333.78 feet; thence easterly along said curve, a distance of 335.44 feet; thence South $76^{\circ}57'30''$ East tangent to said curve, a distance of 828.53 feet; thence, leaving the right of way for Route 249, South $01^{\circ}53'26''$ East, a distance of 901.62 feet; thence South $81^{\circ}22'01''$ West, a distance of 1161.23 feet; thence North $85^{\circ}41'32''$ West, a distance of 870.81 feet to the eastern right of way line of Route 106; thence along the right of way of Route 106 North $11^{\circ}15'01''$ East, a distance of 1107.09 feet; thence North $36^{\circ}33'47''$ East, a distance of 85.76 feet to the Point of Beginning and containing 49.930 acres, more or less.

Together with:

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Beginning at the southwest intersection of State Route 249 and State Route 106; thence along the right of way of Route 106 South $11^{\circ}12'50''$ West, a distance of 409.71 feet; thence leaving the right of way of Route 106 North $82^{\circ}03'55''$ West, a distance of 750.90 feet; thence North $79^{\circ}54'10''$ West, a distance of 77.89 feet; thence North $86^{\circ}41'31''$ West, a distance of 123.53 feet; thence North $24^{\circ}33'01''$ East, a distance of 694.74 feet to the right of way line of Route 249; thence South $65^{\circ}19'27''$ East, a distance of 672.48 feet to the beginning of a curve concave to the north having a radius of 597.96 feet and a central angle of $6^{\circ}06'35''$ and being subtended by a chord which bears South $68^{\circ}23'18''$ East 63.73 feet; thence southeasterly and easterly along said curve, a distance of 63.76 feet; thence South $18^{\circ}33'25''$ West radial to said curve, a distance of 5.00 feet; thence South $55^{\circ}24'28''$ East, a distance of 80.18 feet to the Point of Beginning and containing 11.028 acres, more or less.

Together with:

Beginning at the southern right of way line of State Route 249, 0.3 miles from the intersection of State Route 249 and 609; thence leaving State Route 249, South $48^{\circ}25'13''$ West, a distance of 582.50 feet; thence South $06^{\circ}23'56''$ East, a distance of 616.04 feet; thence North $46^{\circ}48'09''$ West, a distance of 111.35 feet; thence North $32^{\circ}16'33''$ West, a distance of 848.30 feet; thence North $32^{\circ}02'29''$ West, a distance of 965.05 feet to southern right of way line of State Route 249; thence along the right of way line of the said road, North $85^{\circ}23'49''$ East, a distance of 64.45 feet; thence South $70^{\circ}14'21''$ East, a distance of 64.23 feet; thence South $65^{\circ}20'00''$ East, a distance of 850.28 feet; thence South $56^{\circ}13'45''$ East, a distance of 50.64 feet; thence South $74^{\circ}26'15''$ East, a distance of 50.64 feet; thence South $56^{\circ}13'45''$ East, a distance of 50.64 feet; thence South $67^{\circ}03'32''$ East, a distance of 100.05 feet; thence South $69^{\circ}12'51''$ East, a distance of 36.78 feet; thence South $66^{\circ}02'40''$ East, a distance of 212.52 feet; thence South $61^{\circ}57'55''$ East, a distance of 70.40 feet to the Point of Beginning and containing 16.69 acres, more or less, and being more particularly shown on a "Parcel and Zoning Map" by Resource International, Ltd., dated July 14, 2004.

- *Land Bay IV*

Beginning at the northwest intersection of Interstate 64 and State Route 106; thence leaving the right of way line of Route 106, North $59^{\circ}46'49''$ West, a distance of 1889.22 feet; thence South $32^{\circ}49'38''$ West, a distance of 196.26 feet; thence South $42^{\circ}38'48''$ West, a distance of 127.03 feet; thence South $36^{\circ}35'28''$ West, a distance of 101.06 feet; thence South $49^{\circ}50'38''$ West, a distance of 102.95 feet; thence South $61^{\circ}45'01''$ West, a distance of 93.51 feet; thence South $53^{\circ}42'41''$ West,

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a distance of 218.11 feet; thence South $67^{\circ}24'27''$ West, a distance of 198.41 feet; thence North $60^{\circ}47'32''$ West, a distance of 153.87 feet; thence North $04^{\circ}55'52''$ East, a distance of 91.72 feet; thence North $00^{\circ}59'19''$ East, a distance of 91.39 feet; thence North $13^{\circ}48'27''$ West, a distance of 64.40 feet; thence North $6^{\circ}02'09''$ West, a distance of 154.94 feet; thence North $12^{\circ}59'41''$ West, a distance of 200.12 feet; thence North $25^{\circ}16'40''$ West, a distance of 597.18 feet; thence North $19^{\circ}17'24''$ West, a distance of 317.84 feet; thence North $30^{\circ}27'56''$ West, a distance of 295.85 feet; thence North $08^{\circ}07'48''$ West, a distance of 106.07 feet; thence North $08^{\circ}07'48''$ East, a distance of 318.20 feet; thence North $23^{\circ}09'53''$ East, a distance of 228.47 feet; thence North $36^{\circ}23'04''$ East, a distance of 354.01 feet; thence North $45^{\circ}00'00''$ East, a distance of 84.85 feet; thence North $67^{\circ}20'43''$ East, a distance of 229.58 feet; thence North $34^{\circ}59'52''$ East, a distance of 258.27 feet; thence North $15^{\circ}56'43''$ East, a distance of 69.25 feet; thence South $03^{\circ}19'36''$ East, a distance of 159.12 feet; thence South $74^{\circ}02'08''$ East, a distance of 677.53 feet; thence North $09^{\circ}43'32''$ East, a distance of 1292.40 feet to the right of way line of Route 610; thence along the right of way line of Route 610, to a point of cusp on a curve concave to the north having a radius of 2894.79 feet and a central angle of $3^{\circ}19'55''$ and being subtended by a chord which bears North $84^{\circ}25'34''$ East 168.32 feet; thence easterly along said curve, a distance of 168.34 feet; thence North $82^{\circ}45'37''$ East tangent to said curve, a distance of 1023.04 feet; to a point of cusp on a curve concave to the south having a radius of 2834.79 feet and a central angle of $12^{\circ}22'23''$ and being subtended by a chord which bears North $89^{\circ}20'01''$ East 610.98 feet; thence easterly along said curve, a distance of 612.17 feet; thence South $84^{\circ}28'48''$ East tangent to said curve, a distance of 1261.92 feet; thence South $45^{\circ}32'04''$ East, a distance of 26.87 feet to the southwest intersection of Route 610 and Route 106; thence along the right of way of Route 106 South $11^{\circ}15'01''$ West, a distance of 258.15 feet; to the beginning of a curve concave to the east having a radius of 11489.16 feet and a central angle of $6^{\circ}05'30''$ and being subtended by a chord which bears South $08^{\circ}17'28''$ West 1220.93 feet; thence southerly along said curve, a distance of 1221.50 feet; thence South $05^{\circ}14'43''$ West tangent to said curve, a distance of 538.96 feet; thence South $10^{\circ}05'35''$ West, a distance of 108.39 feet; thence South $01^{\circ}45'03''$ West, a distance of 150.28 feet; thence South $05^{\circ}14'43''$ West, a distance of 420.74 feet to the beginning of a curve tangent to said line; thence southerly and southwesterly a distance of 1507.61 feet along the curve concave to the northwest, having a radius of 1879.86 feet and a central angle of $45^{\circ}57'00''$; thence South $58^{\circ}04'12''$ West, a distance of 346.39 feet; thence South $51^{\circ}26'50''$ West, a distance of 284.29 feet to the Point of Beginning and containing 340.57 acres, more

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or less and being more particularly shown on "Parcel and Zoning Map" by Resource International, Ltd. dated July 14, 2004.

- *Land Bay V*

Beginning at the northeast intersection of Interstate 64 and State Route 106; thence along the right of way of Route 106 North $51^{\circ}26'50''$ East, a distance of 429.21 feet; thence North $39^{\circ}32'06''$ East, a distance of 194.83 feet; thence North $51^{\circ}31'13''$ East, a distance of 142.71 feet to the beginning of a curve tangent to said line; thence northeasterly and northerly a distance of 1566.73 feet along the curve concave to the northwest, having a radius of 1939.86 feet and a central angle of $46^{\circ}16'30''$; thence North $05^{\circ}14'43''$ East tangent to said curve, a distance of 659.74 feet; thence North $16^{\circ}31'47''$ East, a distance of 62.20 feet; thence North $01^{\circ}41'40''$ West, a distance of 100.74 feet; thence North $05^{\circ}14'43''$ East, a distance of 25.00 feet; thence North $10^{\circ}28'43''$ East, a distance of 100.42 feet; thence North $00^{\circ}00'43''$ East, a distance of 100.42 feet; thence North $05^{\circ}14'43''$ East, a distance of 171.96 feet to the beginning of a curve tangent to said line; thence northerly a distance of 252.38 feet along the curve concave to the east, having a radius of 11429.16 feet and a central angle of $1^{\circ}15'55''$; thence North $17^{\circ}10'01''$ East, a distance of 50.70 feet; thence North $01^{\circ}42'00''$ East, a distance of 100.13 feet to the beginning of a curve concave to the east having a radius of 11429.16 feet and a central angle of $4^{\circ}04'42''$ and being subtended by a chord which bears North $09^{\circ}17'59''$ East 813.37 feet; thence northerly along said curve, a distance of 813.54 feet; thence North $11^{\circ}15'01''$ East, a distance of 1328.95 feet; thence leaving the right of way line of Route 106 South $85^{\circ}43'06''$ East, a distance of 906.67 feet; thence North $04^{\circ}16'54''$ East, a distance of 293.00 feet; thence North $81^{\circ}22'01''$ East, a distance of 1161.23 feet; thence along a creek in an easterly direction 753; thence South $03^{\circ}51'48''$ East, a distance of 1198.14 feet; thence South $20^{\circ}06'02''$ East, a distance of 164.87 feet; thence South $35^{\circ}12'09''$ East, a distance of 156.17 feet; thence South $11^{\circ}56'22''$ East, a distance of 275.37 feet; thence South $03^{\circ}40'29''$ East, a distance of 288.87 feet; thence South $03^{\circ}42'15''$ East, a distance of 1993.23 feet; thence South $75^{\circ}26'56''$ West, a distance of 147.67 feet; thence South $50^{\circ}33'07''$ West, a distance of 119.86 feet; thence South $17^{\circ}28'01''$ West, a distance of 154.10 feet; thence South $35^{\circ}34'39''$ East, a distance of 101.78 feet; thence South $69^{\circ}15'14''$ East, a distance of 382.90 feet; thence South $42^{\circ}36'14''$ East, a distance of 276.41 feet; thence South $78^{\circ}36'12''$ East, a distance of 132.30 feet; thence South $64^{\circ}45'31''$ East, a distance of 179.95 feet; thence South $40^{\circ}34'53''$ East, a distance of 128.89 feet; thence South $22^{\circ}51'38''$ West, a distance of 324.15 feet; thence South $04^{\circ}51'57''$ East, a distance of 510.67 feet;

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thence South 10°16'22" West, a distance of 219.45 feet; thence South 29°39'33" West, a distance of 463.63 feet; thence South 12°27'30" East, a distance of 492.83 feet; thence South 50°54'22" East, a distance of 115.36 feet; thence South 15°42'31" West, a distance of 186.01 feet; thence South 12°17'03" East, a distance of 298.94 feet to the beginning of a curve concave to the north having a radius of 45730.61 feet and a central angle of 1°48'26" and being subtended by a chord which bears North 79°37'08" West 1442.43 feet; thence westerly along said curve, a distance of 1442.49 feet; thence North 76°04'48" West, a distance of 304.49 feet; thence North 86°41'06" West, a distance of 100.98 feet; thence North 78°42'55" West, a distance of 3036.12 feet; thence North 11°17'05" East, a distance of 147.58 feet; thence North 78°42'55" West, a distance of 147.58 feet; thence South 11°17'05" West, a distance of 147.58 feet; thence North 78°42'55" West, a distance of 30.84 feet; thence North 62°54'43" West, a distance of 259.12 feet; thence North 60°59'29" West, a distance of 471.97 feet; thence North 03°19'37" West, a distance of 110.23 feet to the Point of Beginning and containing 606± acres, more or less, and being more particularly shown on "Parcel and Zoning Map" by Resource International, Ltd., dated July 14, 2004.

BE IT FURTHER ORDAINED that the property shall be developed in strict and complete accordance with the Application submitted to the County except as may be modified or amplified by the following general conditions and provisions which shall apply to the development of property located within this Planned Unit Development:

1. References and Definitions

- a. The application package entitled *The Farms of New Kent Application for Comprehensive Plan Amendment and Rezoning* dated 15 July 2004 with all attachments, exhibits and enclosures is cited as the Application. In all instances of conflict between the Application and this PUD Ordinance, this Ordinance shall prevail. Specific reference is made to the "General Development Plan" prepared by Resource International, Ltd dated July 06, 2004, and inclusive of three (3) attachments dated June 02, 2004, together with "Project Information Package" dated March 24, 2005. The Application shall serve to show the expressed intent of the Applicant and shall not impose any requirement or obligation upon the County to approve at a future date any provision in the Application or "Project Information Package" that is not provided for in this PUD Ordinance.

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- b. For the purposes of interpreting and applying this PUD Ordinance, certain words and terms shall have the following meanings:

Affordable Dwelling Unit: For the purposes of this development, an Affordable Dwelling Unit shall be one for which at initial delivery a family may qualify with an annual income that is 80% of median annual income for the New Kent County service area, as established by the U.S. Department of Housing and Urban Development and the Virginia Department of Housing and Community Development from time to time.

Applicant: New Kent Farms, LLC, a North Carolina limited liability company and its heirs, successors and assigns.

Area Plan: As defined in Section 5 of this PUD Ordinance, an Area Plan is a more detailed plan of development depicting the natural and physical features of the land bay and the development to occur within the land bay inclusive of all transportation and utility infrastructure, basic layout and arrangement of uses and units, location and extent of facilities serving public or community needs, buffers and transitions, and renderings and other information necessary to demonstrate how the General Design Manual is being implemented.

Cluster dwelling unit: A dense group of dwellings for private and separate ownership where emphasis is placed on providing private yards and enhance landscaping. The buildings may or may not be connected; includes such techniques as "zero lot line" and "z-lot" products.

Commercial: For purposes of this development, commercial shall mean any component of the development that is not used for residential, agricultural and recreational purposes and from which state and local tax revenues applicable to business and industry are generated.

Common open space: Open space owned or maintained by one or more Property Owners Associations, or included within a golf course or other area or facility available to residents some or all of the time and with or without a separate membership fee.

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

Development Ordinances: The New Kent County Zoning Ordinance and Subdivision Ordinance in existence as of the date the PUD Ordinance is approved by the Board of Supervisors.

Development Parcel: Any portion of a Land Bay 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.

General Design Manual: The General Design Manual described in Section 16 of this PUD Ordinance.

Land Bay: An area of land designated for particular use by the Plan, defined by the metes and bounds description of this ordinance as may be amended from time to time.

Model home: A dwelling that is temporarily used as a real estate office to market dwellings within the PUD.

Open Space: Any area of land or water which is not covered by completely enclosed building space or by hard surface area intended and used for parking or circulation of motor vehicles, and which is set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of lands adjoining or neighboring such open space.

Phasing Schedule: The schedule for constructing infrastructure improvements as described in the proffers submitted by the Applicant and accepted by the County, as

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modified from time to time in accordance with the procedures stipulated herein.

Plan: The Farms of New Kent General Development Plan prepared by Resource International, Ltd dated July 06, 2004, and inclusive of three (3) attachments dated June 02, 2004.

PUD: The Farms of New Kent Planned Unit Development, as amended.

PUD Ordinance: This Farms of New Kent Planned Unit Development Ordinance, as amended.

Resort Cottage: A residential unit for transient occupancy which may be privately owned and occupied and/or leased to others as resort property, and including without limitation fractional ownership; provided however that permanent or extended occupancy by any individual or related group of individuals shall be prohibited.

Restrictive Covenants: Covenants, conditions and restrictions that are applicable to the use of any parcel of property within the PUD, recorded in the land records of New Kent County. There may be more than one set of Restrictive Covenants applicable to portions of the PUD, in order to manage the common properties within the PUD, and to implement certain requirements for a Master Association and subsidiary associations for separate elements of the development.

Tree, Large Evergreen: An evergreen tree having a height upon maturity of at least forty (40) feet and having a minimum height at time of planting of six (6) feet.

Tree, Medium Evergreen: An evergreen tree having a height upon maturity of between twenty (20) and forty (40) feet and having a minimum height at time of planting of four (4) feet.

Tree, Small Evergreen: An evergreen tree having a height upon maturity of between ten (10) and twenty (20)

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feet and having a minimum height at time of planting of four (4) feet.

2. Relationship to the Development Ordinances

- a. This PUD Ordinance is intended to provide specific and unique development standards for the Farms of New Kent PUD. 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 Zoning Ordinance of New Kent County, in force at the date of approval of this Planned Unit Development ordinance, and the Subdivision Ordinance of the County shall generally control the development of the land contained within this project except as modified herein. The definitions contained in the Zoning Ordinance 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 Zoning Ordinance shall be resolved in favor of the provisions contained herein.
- d. Conflicts between the proffered conditions and the provisions of this PUD Ordinance shall be resolved in favor of the most restrictive requirement as applied to the Applicant.
- e. 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.
- f. Nothing in this ordinance shall be interpreted as modifying or waiving any applicable requirement of the County's implementation of the Chesapeake Bay Preservation Areas, Stormwater Management or Erosion and Sediment Control 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

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those laws or regulations except to the extent such vesting is protected under state law.

- g. Restrictive Covenants may be established for the PUD as a whole or on the basis of separate sections or Development Parcels at the sole discretion of the Applicant. Copies of all Restrictive Covenants shall be submitted to the County as a part of the review of subdivision and site plan submittals, and must be approved by the County as to compliance with the requirements of this PUD Ordinance; said approval shall not be unreasonably withheld.
3. Permitted Uses – The following principal uses shall be constructed or appropriate land shall be provided for the uses within each of the specified Land Bays, and they shall be the only principal uses permitted:
- a. Land Bay I
 - i. A maximum of 300 estate lots for the construction of new single family detached dwellings each with a minimum square footage of 2,800 ft² of finished space excluding garage in addition to the two (2) existing homes
 - ii. An inn and spa with a square footage of approximately 16,000 ft² of finished space and with a maximum of 75 rooms
 - iii. A maximum of 100 Resort Cottages each with a minimum square footage of 1,500 ft² of finished space excluding garage for which transient occupancy of six (6) months or less in any twelve (12) month period by any individual or related group of individuals shall be permissible
 - iv. A bed and breakfast establishment containing a minimum of 6 guest sleeping rooms
 - v. Vineyards with a minimum of 12.5 acres under cultivation
 - vi. A winery having a minimum square footage of 6,000 ft² in the first phase, with related retail sales and gift shop
 - vii. English café or comparable restaurant containing approximately 3,000 ft²
 - viii. An 18-hole Rees Jones (or comparable designer) championship golf course
 - ix. A golf clubhouse, including pro shop and restaurant with a minimum square footage of 12,000 ft² of finished space
 - x. Equestrian facilities, including stables in one (1) or more locations for commercial use or homeowner use or both
 - xi. Bridle paths, carriage trails, walking and bicycling trails, and other recreational amenities to serve the residents and

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transient occupants of Land Bay I and, at the option of the Applicant, other residents of the PUD

b. Land Bay II

- i. One (1) existing single-family residence
- ii. Vineyards with a minimum of 7 acres under cultivation
- iii. A high goal polo field complex containing approximately 25 acres and appropriate guest service and sanitary facilities for spectators
- iv. Grass event parking
- v. Bridle paths, carriage trails, walking and bicycling trails
- vi. Farming or other agricultural uses

c. Land Bay III

- i. A maximum of 160 dwelling units each with a minimum square footage of 1,500 ft² of finished space which shall be provided in a mixture of single family detached, semi-attached, attached or multi-family dwellings
- ii. A minimum of 40 affordable dwelling units as follows:
 - (A) 20 or more units shall each have a minimum square footage of 1,050 ft² of finished space, excluding garage if any
 - (B) A maximum of 10 units may have a minimum square footage of 950 ft² of finished space, excluding garage if any
 - (C) A maximum of 10 units may have a minimum square footage of 850 ft² of finished space, excluding garage if any
- iii. Farmers' Market with a minimum finished space square footage of 3,000 ft²
- iv. A minimum of 100,000 square feet and a maximum of 150,000 square feet of commercial or retail building space (not to include open space or parking areas, but inclusive of the Farmers' Market above) for which the permitted uses shall include any or all of the following provided however that they shall be of appropriate size and scale for a village:
 - (A) All uses permitted as a matter of right in the B-1 zoning district excluding establishments providing gasoline sales or automotive service/repair, provided that such B-1 uses shall not be subject to the maximum floor area specified for the B-1 district if of appropriate size and scale for a village
 - (B) Game rooms, amusement facilities
 - (C) Hardware stores

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- (D) Sale of household furniture and furnishings
 - (E) Assembly and sale of handcrafted goods
 - (F) Farm market
 - (G) Church or house of worship
 - (H) Conference center
 - (I) Tourist center
 - (J) Offices
 - (K) Plant nursery
- v. Individual structures may contain both commercial and residential uses without limitation
 - vi. Recreational amenities
 - vii. Walking and bicycling trails
- d. Land Bay IV
- i. A maximum of 450 dwelling units, of which no more than 100 may be cluster, multi-family, single family attached or any arrangement other than single family detached units. Any single family detached unit shall contain a minimum square footage of 2,000 ft² of finished space excluding garage; any other type of residential unit shall contain a minimum square footage of 1,500 ft² of finished space excluding garage
 - ii. A minimum of 334,000 square feet of commercial building space for which the permitted uses shall include all of those listed as permitted as a matter of right in the B-1 and B-2 zoning districts
 - iii. Recreational amenities to serve the residents of Land Bay IV
 - iv. Walking and bicycling trails
 - v. Fire and Emergency Services facility
- e. Land Bay V
- i. A maximum of 1,450 age-restricted dwelling units, of which a maximum of 700 may be multi-family, attached, cluster or assisted living products; the remainder shall be single family detached units each with a minimum square footage of 1,550 ft² of finished space excluding garage
 - ii. A minimum of 334,000 square feet of commercial building space for which the permitted uses shall include all of those listed as permitted as a matter of right in the B-1 and B-2 zoning districts
 - iii. Recreational amenities to serve the residents of Land Bay V
 - iv. Walking and bicycling trails
 - v. Vineyards with a minimum of 7 acres under cultivation

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- f. All reasonable and customary accessory uses to the principal permitted uses in that Land Bay are permitted

4. Adjustments to Land Bay Boundaries and Approved Densities

- a. Overall project boundaries generally shall be consistent with those contained in the legal descriptions in this ordinance; however, the Applicant may make minor adjustments to such internal boundaries, with the approval of the Zoning Administrator, provided such adjustments do not increase or decrease the size of any Land Bay by more than ten (10) percent.
- b. Minor deviations from the above-referenced uses or specified sizes (either an increase or a decrease) may be approved during consideration of Area Plans for each Land Bay.
- c. Any increase in residential densities shall require the approval of the Board of Supervisors after receipt of a recommendation from the Planning Commission. The application shall be in the form of a Planned Unit Development amendment and duly advertised public hearings are required by both the Planning Commission and Board of Supervisors.
- d. The subdivision of individual land bays into separate Development Parcels shall be permissible; however, individual development plans for each Development Parcel shall be subject to review and approval by the New Kent County Planning Commission, as is the case with all site plans and subdivision plans.

5. Plan Submissions and Approval

- a. An Area Plan shall be prepared for and submitted for each Land Bay. The Area Plan shall depict the physical development of the Land Bay including the natural features of the site and proposed transportation, utility and other infrastructure together with the basic layout and arrangement of uses and the units within the uses. Area Plans submissions shall also include design renderings of buildings and signage sufficient to determine that the design requirements of the General Design Manual are being upheld.
- b. Area Plans shall be submitted to, reviewed and approved or not approved by the Planning Commission which shall conduct at least one (1) duly advertised public hearing and may attach conditions to

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approval. Appeals from the action of the Planning Commission shall be to the Board of Supervisors.

- c. Revisions or amendments to Area Plans shall be considered in the same manner as the original, unless the Zoning Administrator shall determine in writing that the proposed changes are reasonably insignificant.
- d. After approval of an Area Plan for a Land Bay, site plans and subdivision plans for development parcels within that Land Bay shall be submitted to the County for approval in accordance with applicable procedures contained in the Development Ordinances and with any conditions established by this PUD Ordinance or the Area Plan approval.
- e. In any case where the site plan for a Development Parcel includes less than the entire Land Bay, it shall be accompanied by the relevant portions of the approved Area Plan showing the general relationship between the approved Area Plan and the Development Parcel and including existing and proposed future utility arrangements and vehicular access for the remainder of the Land Bay. The submission shall be sufficient to demonstrate compliance with the approved Area Plan or showing what adjustments may be necessary to accommodate the proposed Development Parcel.

6. Project Phasing

- a. Development of residential units within the PUD shall be related to the development of the commercial components within the PUD in accordance with the following project phasing plan:

The specified increment of Commercial activity MUST Occur PRIOR to issuance of Residential Building Permits beyond the number noted	
Commercial Component	Residential Units
Site Plan(s) for new commercial construction or building renovation permit application(s) submitted for not less than 50,000 ft ² total	200
Construction or renovation of not less than 50,000 ft ² total completed; building Occupancy Certificates issued	500
Construction of the 18-hole Rees Jones (or comparable designer) championship golf course; Certificate of Occupancy issued for golf clubhouse building	500

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The specified increment of Commercial activity MUST Occur PRIOR to issuance of Residential Building Permits beyond the number noted	
Construction complete and Certificate of Occupancy issued for winery Phase 1	500
Construction complete and Certificate of Occupancy issued for English café or comparable restaurant in Land Bay I	500
Construction complete and Certificate of Occupancy issued for Farmers' Market	500
Vineyards planted in Land Bays II and V	500
High goal polo field complex completed	500
Site Plan(s) for new commercial construction or building renovation permit application(s) approved for not less than 100,000 ft ² total	750
Construction or renovation of not less than 100,000 ft ² total completed; building Occupancy Certificates issued	950
Construction complete and Certificate of Occupancy issued for winery Phase 2 to bring to a minimum of 12,000 ft ² total	1,000
Site Plan(s) for new commercial construction or building renovation permit application(s) approved for not less than 150,000 ft ² total	1,200
Master development plan(s) for new commercial construction or building renovation permit application(s) approved for not less than 300,000 ft ² total	1,400
Construction or renovation of not less than 150,000 ft ² total completed; building Occupancy Certificates issued	1,800
Master development plan(s) for new commercial construction or building renovation permit application(s) approved for not less than 500,000 ft ² total	1,950

- b. The year-round permanent non-age-restricted residential units within the PUD shall not be constructed at a rate faster than seven percent (7%) annually of the total number of units authorized in the PUD. Excluded from this construction cap are all age restricted units in Land Bay V, up to 40 affordable dwelling units in Land Bay III, and up to 100 resort cottages in Land Bay I. Any part of the authorized annual increment not constructed in a calendar year may be carried forward to the next calendar year. The annual

accrual shall commence on 1 January 2006. The residential build-out is shown in the following table:

YEAR	ANNUAL INCREMENTAL UNITS AUTHORIZED	TOTAL UNITS AUTHORIZED
1	63	63
2	63	126
3	63	189
4	63	252
5	63	315
6	63	378
7	63	441
8	63	504
9	63	567
10	63	630
11	63	693
12	63	756
13	63	819
14	63	882
15	28	910

- c. The applicant shall be entitled to an additional annual increment of residential development for each increment of 30,000 square feet of commercial space beyond the initial increment of 150,000 square feet that is physically occupied by tax-paying commercial and business concerns. In determining compliance with this section, "physically-occupied" shall mean that actual business operations are being conducted on a year-round basis by a business enterprise that owns the premises or has a binding lease on the premises that guarantees lease payments for a period of no less than thirty-six (36) months. In cases of conflict over this determination, the Commissioner of Revenue for New Kent County shall resolve the issue and his or her determination shall be binding.
- d. Any revisions to this project phasing plan other than provided in subparagraph 6.c above 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.

7. Conditions Under Which Sites May be Sold – The conditions attached to this PUD including this PUD Ordinance, the General Development Plan, the Restrictive Covenants, proffered conditions if any, and General Design Guidelines established by the PUD shall run with the land, and shall be binding on successors in title.
8. Conservation Areas – Conservation areas shown on the Plan include wetlands, Chesapeake Bay Resource Protection Areas (RPAs), steep slopes exceeding 25%, and composite slopes of 20-25% immediately adjacent to other RPA features. Site-specific delineation of conservation areas will be required to be shown on final site plans. Conservation areas shall be encumbered by permanent conservation easements dedicated in favor of the Property Owners Association having management control over the area being encumbered, 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. Where minimum lot size is at least two acres, the Planning Commission may authorize some or all conservation areas to be included within lots on a case-by-case basis for good cause shown, however in all other situations, conservation areas shall be excluded from lots.
9. Common Open Space – No less than twenty-five percent (25%) of the total project shall be maintained as common open space for the enjoyment of the residents, guests and transient occupants of the PUD. No more than fifty percent (50%) of the required total open space may be contained in the golf course or other facility which residents are either typically prevented from using at will or for which a separate membership fee is required. All open space required to meet this requirement shall either be encumbered by a perpetual conservation easement or have a perpetual open space easement placed over the property to preclude future development other than for recreational uses, vineyards, or other complimentary agricultural or open space use.
10. Yard, Height and Setback Requirements – The following height, setback, and yard requirements shall apply:
 - a. Land Bay I
 - i. Residential Use—Single family detached
 - (A) Minimum lot size requirement: No less than 1 acre unless adjacent to a permanent buffer of at least thirty-five feet (35') in width
 - (B) Minimum yard requirements for primary structures:
 - Front: 30 feet

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- Side: 10 feet
- Rear: 25 feet
- (C) Minimum yard requirements for permitted accessory structures
 - Front: 10 feet behind the front of the principal structure
 - Side: 5 feet
 - Rear: 15 feet
- (D) Minimum lot width: No requirement.
- (E) Building height limitation: 45 feet maximum except where a lesser height is required to protect historic structure view sheds (see Condition 12); in no case shall accessory structures exceed the height of principal structures

ii. Non-Residential Use

- (A) Lot size requirement: No requirement.
- (B) Minimum lot width: No requirement.
- (C) Minimum yard requirements:
 - Front: 30 feet
 - Side: Requirement controlled by fire code
 - Rear: 25 feet
- (D) Building height limitation: Maximum 65 feet for principal structures except where a lesser height is required to protect historic structure view sheds (see Condition 12); in no case shall accessory structures exceed the height of principal structures
- (E) Minimum open space on each parcel: 25%

b. Land Bay II

i. Residential Use

- (A) One existing residence to remain generally in its current configuration and form

ii. Non-Residential Use

- (A) Lot size requirement: No requirement
- (B) Minimum lot width: No requirement
- (C) Minimum yard requirements:
 - Front: 30 feet
 - Side: Requirement controlled by fire code
 - Rear: 25 feet
- (D) Building height limitation: Maximum 65 feet for principal structures except where a lesser height is

required to protect historic structure view sheds; in no case shall accessory structures exceed the height of principal structures

c. Land Bay III

- i. All Uses—uses may be mixed within single structures
- (A) Minimum lot size requirement: None
 - (B) Minimum yard requirements for primary structures: None
 - (C) Minimum yard requirements for permitted accessory structures: None
 - (D) Minimum lot width: None
 - (E) Building height limitation: 65 feet maximum except where a lesser height is required to protect historic structure view sheds (see Condition 12)
 - (F) The village arrangement is to be achieved by, among other things, having the minimum possible setback from public roads that allows sufficient pedestrian space and placing parking primarily behind or adjacent to principal buildings and further screened from view from public rights-of-way. Unless approved as a part of the Area Plan approval or otherwise approved by the Zoning Administrator, no motor vehicle parking or motor vehicular activity is permitted between the front of commercial and public structures and the public road right-of-way on which the structures front within the village. Alleys and other back-loading features are encouraged for all uses and forms within the village.
 - (G) Minimum open space requirement: 10%

d. Land Bay IV

- i. Residential Use—Single family detached
- (A) Minimum lot size requirement: None
 - (B) Minimum yard requirements:
 - Front: 20 feet
10 feet for rear-load dwellings served by alleys
 - Side: 20 feet between buildings unless fire rated walls provided on adjacent structures
 - Rear: 25 feet

- (C) Minimum yard requirements for permitted accessory structures
 - Front: Must be behind front of principal structure
 - Side: 10 feet between structures
 - Rear: 10 feet between structures
 - (D) Minimum lot width: No requirement.
 - (E) Building height limitation: 40 feet maximum except where a lesser height is required to protect historic structure view sheds (see Condition 12); in no case shall accessory structures exceed the height of principal structures
- ii. Residential Use—Single family attached
- (A) Minimum lot size requirement: None
 - (B) Minimum yard requirements:
 - Front: 10 feet
 - Side: None
 - Rear: 20 feet
 - (C) Accessory structures must be located behind the front line of the primary structure and may not occupy more than twenty five (25) percent of the rear yard space. No side or rear yard setback is required.
 - (D) Minimum lot width: No requirement.
 - (E) Building height limitation: 40 feet maximum except where a lesser height is required to protect historic structure view sheds (see Condition 12); in no case shall accessory structures exceed the height of principal structures
- iii. Residential Use—Multi-family
- (A) Minimum lot size requirement: None
 - (B) Minimum yard requirements:
 - Front: 10 feet in front of building
 - Side: 25 feet between multi-family buildings
 - Rear: 10 feet
 - (C) Minimum yard requirements for permitted accessory structures: 30 feet to any multi-family building, right-of-way or parcel line
 - (D) Minimum lot width: No requirement.
 - (E) Building height limitation: Maximum 65 feet for principal structures except where a lesser height is required to protect historic structure view sheds

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(see Condition 12); in no case shall accessory structures exceed the height of principal structures

- (F) Minimum open space within each Development Parcel: 25%

iv. Non-Residential Use

- (A) Lot size requirement: No requirement.
(B) Minimum lot width: No requirement.
(C) Minimum yard requirements: Requirement controlled by fire code
(D) Building height limitation: Maximum 65 feet for principal structures except where a lesser height is required to protect historic structure view sheds (see Condition 12); in no case shall accessory structures exceed the height of principal structures
(E) Minimum open space on each parcel: 20%

e. Land Bay V

i. Residential Use—Single family detached

- (A) Minimum lot size requirement: None
(B) Minimum yard requirements:
 - Front: 10 feet
 - Side: 20 feet between buildings unless fire rated walls provided on adjacent structures
 - Rear: 10 feet(C) Minimum yard requirements for permitted accessory structures:
 - Front: Must be behind front of principal structure
 - Side: 10 feet between structures
 - Rear: 10 feet between structures(D) Minimum lot width: No requirement.
(E) Building height limitation: 40 feet maximum except where a lesser height is required to protect historic structure view sheds (see Condition 12); in no case shall accessory structures exceed the height of principal structures

ii. Residential Use—Single family attached

- (A) Minimum lot size requirement: None
(B) Minimum yard requirements:
 - Front: 10 feet
 - Side: None

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- Rear: 10 feet
 - (C) Accessory structures must be located behind the front line of the primary structure and may not occupy more than twenty five (25) percent of the rear yard space. No side or rear yard setback is required.
 - (D) Minimum lot width: No requirement.
 - (E) Building height limitation: 40 feet maximum except where a lesser height is required to protect historic structure view sheds (see Condition 12); in no case shall accessory structures exceed the height of principal structures
- iii. Residential Use—Multi-family
- (A) Minimum lot size requirement: None
 - (B) Minimum yard requirements:
 - Front: 10 feet in front of building
 - Side: 25 feet between multi-family buildings
 - Rear: None
 - (C) Minimum yard requirements for permitted accessory structures: 20 feet to any multi-family building, right-of-way or parcel line
 - (D) Minimum lot width: No requirement.
 - (E) Building height limitation: Maximum 65 feet for principal structures except where a lesser height is required to protect historic structure view sheds (see Condition 12); in no case shall accessory structures exceed the height of principal structures
 - (F) Minimum open space within each multi-family area: 25%
- iv. Non-Residential Use
- (A) Lot size requirement: No requirement.
 - (B) Minimum lot width: No requirement.
 - (C) Minimum yard requirements: Requirement controlled by fire code
 - (D) Building height limitation: Maximum 65 feet for principal structures except where a lesser height is required to protect historic structure view sheds (see Condition 12); in no case shall accessory structures exceed the height of principal structures
 - (E) Minimum open space on each Development Parcel: 20%

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f. Flag lots

- i. A "flag lot" is defined as a lot that does not abut a public or private street other than by its driveway that affords access to the lot.
- ii. In order to achieve more creative planning and preservation of natural land features, the use of flag lots shall be permitted in any residential subdivision; in no event shall a group of lots served by a common driveway with one connection to a public or private street exceed five (5) in number.
- iii. Yard Regulations for Flag Lots and Lots Contiguous to Flag Driveways:
 - (A) On a flag lot, the front yard shall be a minimum of twenty feet (20'). The required width shall be measured from the lot line formed by the flag at the point where the flag "pole" opens to the front yard.
 - (B) The "pole" of the flag lot shall be platted as a part of the lot. Where a single "pole" serves multiple lots, it shall be platted as a deeded right of way encumbered by easements running to the benefit of all property owners utilizing the shared driveway. The right of way for a shared flag lot driveway serving one to two (1-2) lots shall be a minimum of twenty feet (20') in width, and for a flag lot driveway serving three (3) or more lots, the deeded right of way shall be thirty feet (30') in width. A private street name may be required for rights-of-way serving 3 or more lots. The paved portion of the flag lot driveway shall be ten feet (10') in width when serving one to two (1-2) lots, and eighteen feet (18') in width when serving three (3) or more lots.
 - (C) On a lot contiguous to a flag lot driveway serving more than one flag lot, the yard contiguous to the flag lot driveway shall also be deemed a minimum required front yard and shall be a minimum of twenty feet (20'). The required twenty feet (20') shall be measured from the required right-of-way provided however, that such lot shall not be deemed a corner lot.

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- (D) The lots served by flag lot driveways shall be limited to twenty percent (20%) of single family detached units within each Land Bay.
 - (E) When more than one (1) flag lot driveway is proposed on the same side of a street, the centerlines of the flag lot driveways shall be spaced at least two (2) lot widths apart, but in no case less than one hundred-twenty (120) feet apart.
- iv. A grouping of flag lots may be designed in an eyebrow configuration. An "eyebrow" means a landscaped area that is located between a shared driveway and a street where the shared driveway having two (2) connections to a public or private residential street provides access to a number of residential lots. An eyebrow driveway may serve three (3) to twelve (12) lots. The ownership and maintenance for the eyebrow and the shared driveway shall be vested with the Property Owners Association.
- g. Modifications to the yard, height and setback requirements established herein may be authorized by the Planning Commission during the review and approval process of individual Development Parcels when such modifications would clearly contribute to a superior design, reduce environmental impacts, enhance vistas and view sheds, or provide other demonstrable benefits to the community based on the specific proposal for the specific Development Parcel under review. In the sole discretion of the Planning Commission, such modifications may be conditioned on certain other performance factors deemed by the Planning Commission to be relevant to the request.
11. Buffers – Buffers shall be provided as indicated on the Plan and as follows:
- a. *Interstate 64*: A buffer no less than 100 feet in width from the edge of the future right-of-way (as determined by plans included within or prepared pursuant to the June 1999 *I-64 Major Investment Study* prepared by Virginia Department of Transportation) of Interstate 64 shall be provided. The buffer shall be left in its undisturbed vegetative state, except that grading shall be permitted within the buffer provided that such encroachment shall be the minimum necessary for grading of adjacent sites and shall, in no event, exceed twenty five (25) feet. The buffer shall be supplemented where necessary with one Large Evergreen Tree and

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one Medium Evergreen Tree for every 1000 square feet of open area, to achieve no less than a 100-foot treed depth at maturity in order to provide both a visual screen and a sound barrier. The buffer shall be required along the I-64 mainline as well as the interchange ramps and shall be provided regardless of the adjacent land use.

- b. *State Route 106:* At a minimum, a 100-foot wide landscaped buffer shall be established between the ultimate right-of-way of Route 106 and all residential uses. Within the buffer, landscape plantings that overall average a rate of 10 evergreen trees, 6 deciduous trees and 6 ornamental trees per each 100 linear feet shall be preserved or established and maintained. Existing trees that are preserved shall be credited against the above planting requirements. Intermittent berms shall be used within the buffer to achieve an interesting and varied landscape, and to provide a visual buffer. Fencing sections that blend with the architectural and design features of the community may be placed within the buffer. This buffer shall not be required at the village activity component of Land Bay III.
- c. *State Route 610:* At a minimum, a 60-foot wide landscaped buffer shall be established between the ultimate right-of-way of Route 610 and all adjoining lands in Land Bay IV. Within the buffer, landscape plantings that overall average a rate of one (1) Large Evergreen Tree plus two (2) Medium Evergreen Trees plus three (3) small deciduous, ornamental, or evergreen trees for every 15 linear feet. A pedestrian trail connecting State Route 106 with the proffered Pine Fork Park shall be constructed within the buffer. The requirement for the buffer and the trail applies only to property owned or controlled by the Applicant.
- d. *Transitional Buffers:* Buffer screening between dissimilar uses and adjacent to existing uses shall be provided in accordance with the three (3) different buffer screening requirements described below:
 - i. Buffer Screening Type 1 shall consist of a minimum 35-foot wide visual buffer that shall average a rate of one (1) Large Evergreen Tree and one (1) Medium Evergreen Tree for every 15 linear feet. Type 1 buffers shall be established along the northern boundary of Land Bay V and unless supplanted by a buffer of higher order, a Type 1 buffer screen shall be established around the entire perimeter of the PUD.

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- ii. Buffer Screening Type 2 shall consist of a minimum 50-foot wide visual buffer that shall average one (1) Large Evergreen Tree plus one (1) Medium Evergreen Tree plus two (2) Small Evergreen Trees or shrubs for every 15 linear feet. Type 2 buffers shall be established along New Kent Highway (SR 249) west of the intersection with SR 106 and SR 609.
- iii. Buffer Screening Type 3 shall consist of a minimum 75-foot wide visual buffer that shall average one (1) Large Evergreen Tree plus two (2) Medium Evergreen Trees plus three (3) small deciduous, ornamental, or evergreen trees for every 15 linear feet. A Type 3 buffer shall be established along the eastern and western edges of Old Church Road (SR 609 and SR 606), along the northern edge of New Kent Highway (SR 249) in Land Bay II and between commercial nodes and residential properties.
- iv. Transitional buffers are not required between differing uses internal to village development in Land Bay III nor between village development and adjacent public roads.
- v. Transitional buffers shall be placed on the property bearing the higher intensity use, unless (a) shared buffers or (b) placement of the required buffer on the less intense use, are approved during Area Plan approval or by the Zoning Administrator during the site and subdivision approval processes.
- vi. To promote normal, healthy growth for established and new plantings and reduce of the opportunity for disease, stunted or uncharacteristic growth, or premature death; preservation and planting specifications shall generally have the following average ratios:
 - (A) Large Evergreen Tree: 1 per 300 ft²
 - (B) Medium Evergreen Tree: 1 per 250 ft²
 - (C) Small Evergreen Tree: 1 per 200 ft²
 - (D) Small deciduous tree or shrub: 1 per 225 ft²
- vii. Once all construction activities immediately adjacent to buffers or reasonable portions thereof, are completed, the Applicant shall provide a one-year landscaping bond sufficient to provide for the replacement of landscaping and buffer plantings that may be required during the said year.

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e. Buffer Guidelines:

- i. Buffers measured from rights of way are to be measured from the ultimate right-of-way line, as determined by Virginia Department of Transportation with reference to the adopted Richmond Regional Metropolitan Planning Organization Long-Range Transportation Plan, except where specifically stated otherwise.
- ii. Where vineyards, agricultural fields, or similar use are adjacent to the roadways for which a buffer is required, the transitional buffer may be coterminous with the established vineyards, agricultural fields, or similar uses provided, however that evergreen plantings of sufficient height and density shall be established between the established vineyards, agricultural fields, or similar uses and any residential uses to obscure views of the residential uses from the roadway during all times of the growing season.
- iii. Existing trees that are preserved shall be credited against the above planting requirements. In order to qualify, existing trees must be healthy, meet the minimum size defined herein, and shall be protected and preserved during all construction activities in full accordance with generally accepted tree protection measures.
- iv. Intermittent berms may be used within the buffer to achieve an interesting and varied landscape, and to provide a visual buffer. Fencing sections that blend with the architectural and design features of the community may be placed within the buffer
- v. The Planning Commission may on a case-by-case basis modify or grant deviations from the requirements contained herein 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 or berms are 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 Development Parcel upon a finding that the enhanced buffering

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is appropriate and necessary to fulfill the objectives of the buffer being enhanced.

- vi. Where required buffers traverse wetlands and other environmentally sensitive areas, installation of landscape materials or berms shall not be required.
- vii. Buffers may be broken only where driveways, utility easements, sight distance easements or other openings exist or are required.
- viii. All buffers required by this section that are adjacent to existing public road rights of way (SR 610, SR 106, SR 249, I 64 and SR 630) shall be maintained as common open space and may not be platted into individual residential lots.
- ix. All buffers parallel to designated Scenic Byways as depicted in the Comprehensive Plan shall be encumbered with a permanent landscape preservation easement running to the benefit of the County.
- x. Plant material and berms 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.

12. Historic Structure View Shed Protection

- a. The normal views of standing historic structures and any historic sites related to them as listed on the National and State Registers of Historic Places or as contained in the New Kent County Historic Commission Archeological and Architectural Inventory shall be protected through all seasonal conditions by ensuring that only appropriate development occurs in the vicinity in order to protect the setting in which the resource exists as well as the resource itself. This shall apply equally to standing structures within the PUD as well as those that border the PUD.
- b. All new structures or parking shall be setback a minimum of three hundred feet (300') from any structure listed on the National or State Registers of Historic Places unless the historic structure is across an existing hard-surfaced public road or unless a complete visual screen during all seasons exists or is provided between the

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historic structure and the new development. Any newly constructed visual screen shall be provided by vegetation or berms that will provide full visual screening during all seasons between two feet (2') and sixteen feet (16') above the ground around the perimeter of the historic structure adjacent to portions of all new structures or parking. Once established, the visual screen shall be encumbered by a permanent landscape preservation easement running to the joint benefit of the County and the owner of the historic structure, shall be maintained as common open space and shall not be platted as a part of individual lots.

- c. No structure shall pierce the view shed within three hundred feet (300') of historic structures, and the height of all structures within the three hundred foot (300') view shed shall be below the visual screening that exists or is provided and provided further that the owner of an historic property not owned by the Applicants consents to allow the necessary personnel to enter upon the historic resource for the purpose of conducting the appropriate tests or studies, a Virginia licensed engineer or a Virginia licensed architect hired by the Applicant shall certify the height limits necessary to preserve the viewshed, and such restrictions shall be noted on all applicable site plans or subdivision plans for individual lots.
 - d. At the request of the Applicant, the requirements of this paragraph may be modified by the Planning Commission upon a finding that a combination of enhanced landscaping, setback and enforceable development restrictions will adequately protect the historic character of the historic structure. The Applicant shall utilize the services of a Virginia licensed architect with demonstrated experience in historic preservation in the preparation of such a request.
 - e. All restrictions, whether based on subparagraphs 12.b and 12.c above or from a site specific view shed analysis shall be noted on all applicable plats, site plans or subdivision plans for individual lots.
13. Transportation Improvements and Standards – Various transportation improvements shall be constructed as a part of the PUD in general accordance with the General Development Plan, dated 06 July 2004 and prepared by Resource International , Ltd.:
- a. Emmaus Church Road (SR 106) shall be reconstructed as a 4-lane divided parkway from the I-64 interchange through Route 249.

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The roadway shall be designed with twelve-foot travel lanes, a two-way bicycle/pedestrian path (either within the VDOT right-of-way or in the Farms of New Kent common area buffer along the right-of-way), a median not less than sixteen feet in width (except at intersections to provide turning movements), with appropriate shoulders, left and right turn storage lanes, and such other improvements as are required and approved by the Virginia Department of Transportation. Construction of the parkway from the I-64 Interchange to Pine Fork Road (SR 610) shall be complete by the issuance of the three hundredth (300th) building permit of any type except for utility construction in the Farms of New Kent PUD. Construction of the parkway from Pine Fork Road to New Kent Highway (SR 249) shall be complete by the issuance of the five hundredth (500th) building permit of any type except for utility construction in the Farms of New Kent PUD.

- b. Old Church Road (SR 609) shall be reconstructed north of Route 249 to the primary entrance into Land Bay I as a three lane road (two southbound, one northbound) with paved shoulders. This shall be complete by the issuance of the three hundredth (300th) building permit of any type except for utility construction in the Farms of New Kent PUD.
- c. New Kent Highway (SR 249) shall be improved westerly from the roundabout with Route 106 to the extent required by VDOT to effect a suitable transition into the said roundabout. Route 249 shall be improved to the east of the said roundabout to the principal entrance into Land Bay III and transition thereafter to the current section. Paved shoulders shall be provided in all locations along SR 249 where improvements are made. This shall be complete by the issuance of the five hundredth (500th) building permit of any type except for utility construction in the Farms of New Kent PUD.
- d. Roundabouts are circular intersections with specific design and traffic control features that include yield control of all entering traffic, channelized approaches, and appropriate geometric curvature to ensure relatively slow traffic speeds (typically less than or equal to 30 MPH) on the circulatory roadway. The roundabout is the preferred intersection design within the Farms of New Kent PUD for both public and private road intersections and shall be used wherever approved by the Virginia Department of Transportation. To the extent possible and permitted by the Virginia Department of Transportation, installation of traffic signals

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shall be avoided other than to provide an emergency signal to facilitate egress from the public safety and emergency services facility to be constructed along SR 106.

- e. Roundabouts or, if roundabouts are not approved by Virginia Department of Transportation, another intersection design that is approved by the County and the Virginia Department of Transportation, shall be constructed at the intersections of SR 106/609 with SR 249, SR 106 with Pine Fork Road (SR 610), the primary and secondary entrances into Land Bays IV and V, and the interchange ramp termini for both the eastbound and westbound ramps from Interstate 64. Such intersections shall be designed and, with the exception of the roundabouts at the termini of the I-64 ramps, bonded prior to the issuance of the one-hundredth (100th) building permit of any type except for utility construction in the Farms of New Kent PUD or at such earlier time as may be required by Virginia Department of Transportation. Construction of all such intersection improvements shall be substantially completed prior to issuance of the three hundredth (300th) building permit. The I-64/SR 106 interchange improvements shall be bonded within 30 days of receiving approval from VDOT and constructed before the issuance of the five hundredth (500th) building permit of any type except for utility construction in the Farms of New Kent PUD.
- f. Major intersections within Land Bays IV and V shall be constructed as roundabouts, as generally illustrated on the General Development Plan, or, if roundabouts are not approved by Virginia Department of Transportation, another intersection design that is approved by Virginia Department of Transportation.
- g. The Route 249 roundabout shall have free flowing right turn lanes from all four approaches; the I-64 interchange roundabouts shall each have two free flowing right turn lanes; the other roundabouts may or may not have free flowing right turn lanes.
- h. All internal roads serving single family detached housing lots in Land Bay IV shall be dedicated for public use and maintenance.
- i. All internal roads and rights-of-way shall be the narrowest that will meet the standards found in the most recent edition of the Virginia Department of Transportation *Subdivision Street Requirements*.
- j. All internal roads, whether intended as public or private, shall be designed and constructed to public road standards as found in the

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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.

- k. Curb and gutter road sections shall be used in all commercial nodes and in Land Bays III and V.
- l. The preferred method of handling roadside drainage elsewhere in the PUD shall be grass-lined swales, however, open ditch sections shall be limited to ditch depths of eighteen inches (18") unless the Applicant can demonstrate to the County the safety and appropriateness of deeper ditches.
- m. All streets in Land Bays III, IV and V shall be designed to interconnect and all nodes shall be designed to afford at least two (2) paths of ingress and egress. An emergency access shall constitute a path of ingress and egress. Cul-de-sacs shall not be considered a desirable design technique and, except in Land Bay I, may not exceed one thousand (1,000') in total length (measured from the nearest intersection affording multiple exit paths) except where exceptional and extreme environmental constraints exist. For the purposes of this paragraph, boulevard streets that are divided by a median shall constitute two (2) paths of ingress and egress. Within cul-de-sacs the maximum spacing for fire hydrants shall be six hundred feet (600'). Where cul-de-sac streets are permitted and used, direct pedestrian and bicycle connections shall be provided between cul-de-sac termini wherever economically and environmentally feasible. This shall specifically include consideration of pedestrian and bicycle bridge structures across sensitive environmental areas.
- n. The roadway designs shall at a minimum conform to the Conceptual Street Sections of the General Development Plan, subject to the approval of the Virginia Department of Transportation.
- o. Pedestrian pathways or sidewalks shall be provided: (i) throughout Land Bays I, III, IV, and V, including along the eastern side of SR 106 in Land Bay III and the residential portion of Land Bay V and along the western side of SR 106 in Land Bay IV; (ii) within the village activity development in Land Bay III; (iii) interconnecting

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residential with retail, office, public use and commercial activities; and (iv) interconnecting all residential units in Land Bays IV and V with the recreational centers in those Land Bays, provided that pathways or sidewalks shall not be required on roads carrying less than 500 vehicles per day, shall only be required on one side of roads carrying 501 to 2000 vehicles per day, and shall be required on both sides of roads carrying in excess of 2,000 vehicles per day unless otherwise approved by the zoning administrator. Pedestrian pathways shall be fully accessible to the handicapped.

- p. Where sidewalks and pedestrian paths parallel a roadway, a planting strip shall be maintained between the back of curb and the edge of the sidewalk or pedestrian path, except at necessary intersections. If sidewalks or pedestrian pathways are provided only on one side of a road, such planting strip shall be not less than six feet (6') in width; if sidewalks or pathways are provided on both sides of a road, such planting strips shall be not less than three (3) feet in width. Said planting strip shall be used for the cultivation and propagation of landscape materials, the placement of required utilities or traffic control signs, and installation of street lighting.
- q. Bicycle accommodations and facilities including multi-use pathways shall be fully integrated into the PUD including bicycle lanes along SR 106 and SR 249 within the project boundaries, bicycle lanes along all higher volume internal roads (generally those that exceed 1,000 vehicles per day), bicycle and multi-use pathways between residential and non-residential and tourist commercial uses, and secure bicycle parking and storage at multiple convenient locations within commercial, public use, office, retail and higher density residential components of the project.
- r. Bicycle and pedestrian access shall be provided between the commercial and residential components of Land Bays IV and V. Such access shall to the extent possible follow the shortest path between the uses and the facility along SR 106 shall be deemed insufficient by itself to meet this requirement.
- s. One (1) or more tunnels providing safe pedestrian, bicycle and electric golf cart access between Land Bays I and III shall be provided under the SR 106/SR 249/SR 609 intersection if permitted by VDOT.
- t. Bicycle facilities and accommodations and pedestrian sidewalks and paths plus any multiuse paths shall be designed and constructed in

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accordance with the relevant standards of FHWA, VDOT, AASHTO or ITE.

- u. Street lights shall be provided along SR 106 and throughout the PUD and especially at intersections and where pedestrian facilities are present using light standards and luminaires that are architecturally compatible with the design standards of the General Design Guidelines and consistent with promoting rural character within the development. Luminaires shall direct all illumination downward and utilize cut-off fixtures that prevent upward light scatter and preserve the dark night sky.
- v. Private streets shall be placed within a deeded right-of-way no less than the width required by the Virginia Department of Transportation *Subdivision Street Requirements* for a comparable public street. The right-of-way shall be conveyed to a property owners association 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.
- w. No new residential lots in the PUD shall have direct access to Emmaus Church Road (SR 106), New Kent Highway (SR 249), Old Church Road (SR 606 and SR 609) or Pine Fork Road (SR 610).
- x. No access other than that limited exclusively to emergency vehicles shall be permitted to Pine Fork Road (SR 610) or to Old Church Road (SR 606 and SR 609) north of the entrance depicted on the Plan approximately 2,200 feet north of the intersection with New Kent Highway (SR 249).

14. Utilities Improvements and Standards

- a. All new development within the Farms of New Kent shall be served by public water and sewer systems constructed to standards promulgated by the County Department of Public Works and Utilities or otherwise approved by the Director of Public Works and Utilities.
- b. Any existing structures currently using private utilities may continue to be served by private wells and septic systems unless a change of use or maintenance needs requires any expansion, replacement or substantial alteration of the existing private system at which time the structures shall be connected to public utilities and the private systems abandoned.

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- c. The Planning Commission during Area Plan approval may on a case-by-case basis and upon a showing that extension of public utilities will be economically or environmentally infeasible, authorize the use private utilities on residential parcels exceeding ten (10) acres in size for which no further subdivision is possible.
- d. The plans, specifications, construction documents and surety for all necessary public utility infrastructure, whether on site or off site, required to serve the portion of the PUD under consideration shall be reviewed and approved by the County prior to approval for recordation of any subdivision plat pertaining to any of the Development Parcels other than to convey necessary land and easements to the Commonwealth or County.
- e. Except for building permits for a maximum of nine Model Homes in each Land Bay, no building permit for a residential unit shall be issued until all public utilities necessary to serve the use have been constructed and tested or are within ninety (90) days of completion as certified by the project engineer for the utility or utilities.
- f. All new utility lines shall be installed underground. Any existing above-ground utilities that require relocation shall be placed underground.
- g. In the event that a natural gas utility company agrees to extend service lines to the PUD, the Applicant shall provide for natural gas service generally throughout Land Bays I, III, IV, and V.
- h. In the event that a service provider agrees to extend high speed data communications to the PUD, the Applicant shall provide for the extension of such facilities generally throughout Land Bays I, III, IV, and V.
- i. Broadband telecommunications connections shall be provided to all residential, commercial and office buildings within Land Bays I, III, IV and V.
- j. Chemical toilets or other appropriate facilities shall be provided for construction workers at each construction site or lot within the PUD for the duration of construction on the site or lot.
- k. Irrigation of homeowner lots and common elements other than the golf course and polo field complex within the PUD and utilizing

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public water resources shall require the use of low water volume systems. Any system, regardless of type shall be equipped with devices to measure natural rainfall and meter irrigation water usage and timing accordingly. The County Director of Public Works and Utilities shall approve the type and installation design of any irrigation system installed in the PUD. The Applicant shall cause all lot purchasers to execute a written statement acknowledging this requirement and shall provide a copy to the County Director of Public Works and Utilities.

15. Property Owners Association

- a. A master Property Owners Association (POA) shall be established for the Farms of New Kent PUD. At the option of the applicant, sub-associations may be created on the basis of separate Land Bays or sections or Development Parcels or a combination thereof. Not less than one member of the master POA shall represent each of the individual neighborhood and commercial owners associations. Articles of incorporation and bylaws of the POA and each such sub-association shall provide for mandatory membership of all property owners, authority for the POA and sub-associations to enforce the covenants and restrictions, and assess members for maintenance of property owned or maintained by the POA, according to the provisions of state law.
- b. The POAs shall be responsible for maintaining all common elements appurtenant to the development. This shall specifically include all buffers and common open space, private streets, stormwater management facilities, streetscapes, streetlights and signs, private utilities and recreation areas and facilities. If sub-associations are established, appropriate maintenance and cost-sharing agreements between the POA and the sub-associations and among the sub-associations must be established to provide for the maintenance of common areas, drainage facilities, and amenities that provide benefits to more than one sub-association.
- c. The documents creating the master POA shall be reviewed and approved by the County Attorney for compliance with the requirements of the PUD Ordinance and State Law, and shall be recorded contemporaneously with the first subdivision plat of any property within the Farms of New Kent PUD. If sub-associations are established, each set of documents shall be reviewed and approved by the County Attorney for compliance with the requirements of the PUD Ordinance and State Law and shall be recorded with the first

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subdivision plat of property within the Development Parcel to which the sub-association shall apply.

- d. With the exception of property to be dedicated to the Commonwealth of Virginia or to New Kent County, every piece of property within the PUD shall be encumbered by membership in the POA or sub-association or both.
 - e. POAs with homeowners as members shall receive initial funding in the amount of one-third (1/3) of the pertinent annual POA assessment. Funds shall be deposited in the account of the POA at the first settlement on each house sold to a homeowner. Subsequent sales of any lot for which the POA has already received its contribution shall not require additional contribution to the POA unless stipulated in the POA or sub-association documents.
 - f. Each prospective property owner within the Farms of New Kent PUD shall be provided with a written outline of the Restrictive Covenants that apply to the property being considered and POA structure, responsibilities and mandatory membership provisions plus an estimated average annual cost of POA membership in accordance with the Virginia Property Owners Association Act.
16. General Design Manual: General design guidance shall be codified into a General Design Manual that shall apply to the entire Farms of New Kent PUD. Supplemental design guidelines may be provided for each Land Bay within the General Design Manual. The General Design Manual 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 Farms of New Kent PUD being issued. Once adopted, the General Design Manual may only be amended or repealed by the Architectural Review Committee for the Farms of New Kent (see Condition 17 below) or for each Land Bay or Development Parcel. Each prospective property owner within the Farms of New Kent PUD shall be provided with a written outline of the General Design Manual contents and provisions as well as the architectural review process.
17. Architectural Review Committee – One or more architectural review committees (ARC) shall be established by the Applicant. The ARC shall review all building plans for all structures proposed for erection within the Farms of New Kent PUD and shall have the authority to approve or disapprove the character and design of final building plans within the entire PUD, Land Bay or specific Development Parcel for which it has responsibility. The constitution, membership, procedures and authorities

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of the ARC shall be reviewed and approved by the County Attorney for compliance with the requirements of this PUD ordinance and State Law and shall be recorded contemporaneously with the first subdivision plat of any property within the Farms of New Kent PUD. If multiple ARCs are established, each set of documents shall be reviewed and approved by the County Attorney for compliance with this PUD Ordinance and State Law and recorded with the first subdivision plat of property within the Land Bay or separate section thereof to which the ARC pertains. With the exception of property to be dedicated to the Commonwealth of Virginia or to New Kent County, all new Development Parcels shall be encumbered by architectural review requirements provided in the General Design Manual.

18. Landscaping

- a. Landscaping, including street trees, streetscape and median treatments, buffers and yards shall generally be provided in accordance with the General Design Manual.
- b. Landscape plans shall accompany all subdivision and site plans submitted for the Farms of New Kent. Landscape plans shall be prepared and certified by a landscape architect, landscape nursery person, or other design professional practicing within their area of competence.
- c. Unless specifically approved otherwise during the review of a specific Development Parcel proposal and only for good cause shown, landscape areas may only be used for the cultivation of landscape materials and the provision of pedestrian accommodations.
- d. Other than in village activity areas, a landscape yard no less than twenty feet (20') in width shall be provided along the internal perimeter property lines of commercial sites. In addition, a landscaped area ten feet (10') in width shall be provided adjacent to and surrounding all multi-family structures and adjacent to the front and sides of commercial structures. Notwithstanding the foregoing, where two commercial sites or a commercial site and a multifamily site adjoin one another, the combined yard between the two sites need only have a minimum width of twenty feet (20'). Any landscaped area specified in this paragraph may be bisected by pedestrian sidewalks providing access to entrances, but no more than one-half (50%) of the required area may be impervious. Where vehicular access into the building is required, the portion of the required landscape yard used for vehicular access shall be

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transferred to the front yard. The requirements for landscaped areas under this paragraph shall not be additional to any requirements for buffers; any area meeting a requirement for a buffer shall satisfy the requirements of this paragraph.

- e. Trees and shrubs shall be cultivated and propagated within all landscape yards and strips required above in accordance with the following ratios:

LOCATION	PLANTING RATIOS number: square footage	
	<i>Trees</i>	<i>Shrubs</i>
Front Yard	1:350	3:350
Side Yard	1:700	3:700
Rear Yard	0	0
Building Perimeter	1:500	3:350

Both trees and shrubs are required. The ratios for yards are calculated based on the total size of the yard less the area encumbered by a required utility easement, provided that the maximum easement area that shall be deducted from the yard area for the purposes of this calculation shall be twenty five percent (25%) of the total yard area; the ratios for building perimeters are calculated based on total amount of planting area.

- f. Existing mature trees on the site shall be protected and preserved on site to the maximum extent possible while still enabling development of the site. Such trees shall count toward fulfilling the planting ratios above.
- g. 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

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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.

- h. 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.

19. Entrance signs – Entrance signs to identify the development components shall conform to the following standards:

- a. The maximum size of each sign face shall be forty (40) square feet and the maximum height shall be eight feet (8') 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 component name and logo and any symbols indicating compliance with or participation in a governmentally sponsored or mandated fair housing practices program or code may be placed on any such sign.
- c. Only external illumination shall be permitted and the size, placement, and number of luminaires shall be reviewed and approved by the Zoning Administrator. All sign illumination shall be directed downward and use cut-off fixtures that prevent upward light scatter to protect the dark night sky.
- d. The design of entrance signs and monuments shall clearly convey a thematic standard common throughout the PUD and shall conform to the design concepts in the Application. Signage design shall be part of the Area Plan approval process.
- e. Nothing in this section shall be deemed to restrict or prohibit the use of directional signs of modest size appropriate to the purpose for which erected.

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20. 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, conforms to the minimum requirements of Virginia Department of Transportation, and provides for a clear delineation between public and private streets. The minimum sign and lettering size shall depend upon the posted or anticipated speed limit of the street that the sign faces in accord with the following chart:

		Lettering Height	
Speed Limit	Sign Size	Upper case	Lower case
≤ 35 mph	9" x 30-48"	6"	4½"
36-50 mph	12" x 45-55"	8"	6"
> 50 mph	18" x 55"	12"	9"

- 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.

21. 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 Farms of New Kent PUD. Design and architectural features for commercial areas outside of the village activity area 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

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meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.

- c. 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 Farms of New Kent 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. Brick, field stone, masonry, natural wood siding, or other materials with similar texture and appearance are considered most appropriate. Reflective (i.e. mirrored) surfaces are generally not to be considered acceptable exterior material.
- f. 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.
- g. Generally no more than three (3) colors shall be used per building. Semitransparent stains are recommended for application on natural wood finishes.
- h. Building lighting generally shall be recessed under roof overhangs or generated from concealed source, low level light fixtures.
- i. 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. Lighting fixtures or devices shall be of a directional or cut-off type capable of shielding the light source from direct view and providing well-defined lighting patterns while preventing upward light scatter to protect dark night skies.
- j. 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 any such screening.

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- k. Surface parking within forty five feet (45') of a public road right of way shall generally be screened from the public road by shrubbery or earthen berms. Such screening is not intended to obscure the view of buildings from the public road.
- l. Each sign, whether free-standing or building-mounted, generally shall have no more than three (3) colors.
- m. Except in the case of shopping centers, not more than one (1) permanent free-standing sign shall be permitted for each lot or parcel. The minimum setback of any free-standing sign, or any portion thereof, from any property line shall be ten feet (10') and shall not interfere with sight triangles at points of ingress and egress from the site. Free-standing signs shall be of a ground-mounted monument type and shall not be larger than fifty (50) square feet nor erected to a height greater than fifteen feet (15') above average ground level measured in a twenty-foot (20') radius around the midpoint of the sign. The ground-level may not be built-up in this area solely for the purpose of achieving greater sign height.
- n. A landscaped planting area shall be provided around the base of any free-standing sign. The planting area shall contain four (4) times the area of the sign, be a minimum of six feet (6') in width, be protected from vehicular encroachment, and be landscaped with a combination of low-growing shrubs and groundcovers (other than grass), including at least six (6) shrubs. The landscape treatment shall be designed and maintained to not exceed a height of three feet (3') above grade
- o. Building-mounted signage shall be permitted only on building faces 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 and signs may not be mounted on canopies.
- p. The following provisions shall apply to shopping center signs:
 - i. One (1) free-standing sign shall be permitted for each street frontage.

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- ii. The maximum area of any one (1) free-standing sign shall be one hundred fifty (150) square feet.
- iii. The maximum cumulative free-standing sign area per shopping center shall be two hundred fifty (250) square feet.
- iv. Each individual tenant within a shopping center shall be permitted one (1) marquee or canopy sign provided that such sign shall not exceed a maximum area of three (3) square feet and shall have a minimum ground clearance to the bottom of the sign of not less than eight (8) feet.
- v. In addition to the marquee or canopy sign, wall signs shall be permitted at the ratio of a maximum of one (1) square-foot of sign area for each linear foot of the building face parallel or nearly parallel to the public street from which access is obtained.
- vi. Individual free-standing signs for individual shopping center tenants shall not be permitted. For the purposes of this section, lawfully subdivided out parcels which have been depicted on the approved shopping center site plan shall be considered as separate parcels and may be signed as such.
- q. No logo, brand name, or sign which is legible from adjacent public roads may be placed on fuel dispensing pumps or pump islands or drive-in window menu boards or on-premises directional signs or other similar structure.
- r. Compliance with the provisions of this section shall be evidenced by the submission to the Zoning Administrator and/or Planning Commission at time of site plan application of the following plans and information, in addition to complying with all applicable provisions of the Subdivision or Zoning Ordinances:
 - i. Comprehensive sign plan including design, materials, and colors to be utilized.
 - ii. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.

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- iii. Rendering of the landscape treatment in perspective view depicting parking areas visible from public roadways. If appropriate, this rendering may be combined with the one in subparagraph ii. above.
- iv. The location and design of all proposed exterior site lighting within the proposed Development Parcel.
- v. Photographs or drawings of neighboring uses and architectural styles.

22. Village Activity Design and Development

- a. The village activity area in Land Bay III shall be designed to provide an integrated, living, shopping, service and community use area at a pedestrian scale while de-emphasizing motor vehicles.
- b. The Area Plan for Land Bay III shall contain a village master plan implementing the description above and shall be prepared and submitted to the Planning Commission for review and approval within twenty four (24) months after approval of the Farms of New Kent PUD by the Board of Supervisors. The village master plan component of the Area Plan shall contain details and specifications for the type and arrangement of structures and uses, public spaces, pedestrian areas, ingress and egress for private and service vehicles and other features and components of the village. Architectural details, building materials, signage, lighting, landscaping, and tree preservation shall be contained in the village master plan or the General Design Manual.
- c. Site plans and subdivision plans in substantial conformance with the approved village master plan component of the Area Plan shall be subject to review and approval by the zoning administrator.

23. Parking Lot Design Standards

- a. Grass overflow parking in Land Bay II shall have entrances from public streets constructed to Virginia Department of Transportation standards and surfaced with a permanent dustless surface for a distance of no less than fifty feet (50') from the edge of the public street right-of-way. Block pavers or other pervious treatments are encouraged.

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- b. All parking areas other than those contained in Land Bay II and for the bed and breakfast in Land Bay I shall be surrounded with non-roll-top barrier curbing except to provide access for the disabled, paved with asphalt or concrete or equivalent permanent dustless surface, constructed in bays of approximately 15 spaces separated by traffic islands that are also surrounded by barrier curbing, and shall have no less than seven and one-half percent (7.5%) of its surface area 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. 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 design standards of the Land Bay or Development Parcel. Luminaires shall direct all illumination downward and cut off illumination above the fixture to prevent upward light scatter and protect dark night skies.
- d. Except in Land Bay II, all parking areas other than temporary parking areas shall be provided with sidewalks 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.
- e. Numerical standards for parking shall be as found in the New Kent County Zoning Ordinance. In commercial nodes, where uses are designed to inter-relate, shared parking shall be permitted.

24. Recreational Standards

- a. Common recreational facilities shall be provided for the benefit of the residents of the PUD. Such recreation areas generally shall be owned, operated and maintained by an association, or such entity as may be approved by the Zoning Administrator.

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b. The championship golf course may be owned and operated by a private entity.

c. Unless otherwise requested by the Applicant and approved by the Planning Commission at the time of Area Plan approval, at least the following recreational facilities shall be provided within the specified Land Bay:

i. Land Bay I

- (A) Community clubhouse
- (B) Swimming pool configured for both competitive and recreational use, either 25 meters or 50 meters in length
- (C) Children's wading pool
- (D) Two (2) or more tennis courts
- (E) Area for lawn games
- (F) Multipurpose trails and/or bike and pedestrian paths
- (G) Equestrian facility which may be exclusively for homeowner use, a commercial enterprise, or shared in some manner
- (H) Bridle paths
- (I) Picnic areas
- (J) Sand volley ball court

ii. Land Bay III

- (A) Open space for passive recreation
- (B) Bike and pedestrian paths

iii. Land Bay IV

- (A) Community clubhouse
- (B) Swimming pool configured for both competitive and recreational use, either 25 meters or 50 meters in length
- (C) Children's wading pool
- (D) Two (2) or more tennis courts
- (E) Picnic and open play area
- (F) Tot lot
- (G) Multi-purpose activity field(s), at least one (1) acre in the aggregate
- (H) Bike and pedestrian paths

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iv. Land Bay V

- (A) Community clubhouse
 - (B) Indoor swimming pool with lap lanes
 - (C) Outdoor pool
 - (D) Tot lot
 - (E) Two (2) or tennis courts
 - (F) Picnic and open play area
 - (G) Bike and pedestrian paths
 - (H) Outdoor active recreation area for uses such as bocce ball, croquet, horseshoes, and putting green
 - (I) Health club
 - (J) Library
 - (K) Ballroom
 - (L) Hobby area
- d. Each recreation area shall be easily and safely accessible by pedestrians and bicyclists from all areas of the Land Bay to be served, shall have good ingress and egress, including separate pedestrian and bicycle accommodations, and shall have adequate frontage on a platted road; however, dividing of active recreation areas by platted roads is discouraged and shall be permitted only with the approval of the zoning administrator.
- e. Each recreation area shall be located so that essential utilities including water, public sewage, and power will be easily accessible to serve planned and potential future recreational facility development.
- f. Each recreation area shall be free of above-ground fuel, power, or other transmission lines and rights-of-way.
- g. The recreation area(s) shall be identified at the time that the Area Plan for each Land Bay having permanent year-round residential uses is submitted.
- h. The site plan for the recreation area(s) in each Land Bay shall have received approval by the County prior to platting lots or receiving final plan approval as the case may be for more than ten percent (10%) of the total number of permanent year-round occupancy residential units authorized in that Land Bay.
- i. The construction of the recreational facilities in each Land Bay in accordance with the approved site plan or plans shall have been guaranteed by the Applicant prior to platting lots or receiving final

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plan approval as the case may be for more than thirty percent (30%) of the total number of permanent year-round occupancy residential units authorized in that Land Bay.

- j. The recreational facilities in each Land Bay shall have been constructed, obtained final certificates of occupancy and deeded to a property owners association or other appropriate entity prior to platting lots or receiving final plan approval as the case may be for more than fifty percent (50%) of the total number of permanent year-round occupancy residential units authorized in that Land Bay.
- k. The clubhouses for Land Bays I, IV, and V shall have been constructed, obtained final certificates of occupancy and deeded to the property owners association prior to platting lots or receiving final plan approval as the case may be for more than fifty percent (50%) of the total number of permanent year-round occupancy residential units authorized in that Land Bay.

25. Special Studies and Design Standards

- a. *Cultural Resource Survey*: A systematic Phase 1 Cultural Resource Survey of those portions of the development proposed to be disturbed using a firm approved by the County and guided by the recommendations of the Gray & Pape Phase IA Survey for the Property dated July 16, 2003 shall be undertaken by the Applicant. In the event that land disturbance within these areas can not avoid the archaeological sites, the Applicant shall cause to be performed Phase II and Phase III investigations, as necessary in advance of construction pursuant to Guidelines promulgated by the Virginia Department of Historic Resources (VDHR).
- b. *Low Energy Environmental Design*:
 - i. Copies of the US Green Building Council Leadership in Energy and Environmental Design (LEED) design principles will be provided to all builders in the PUD, and the Applicant will require consideration of said principles during building design and incorporation of those that are financially feasible and realistic.
 - ii. The Applicant shall as a demonstration project develop or cause to be developed at least one commercial building that incorporates the US Green Building Council Leadership in

Energy and Environmental Design (LEED) prerequisites and achieves certification as a Green Building.

c. *Low Impact Development Design:*

i. Except for agriculture, viticulture and silviculture uses, low impact development design (LIDD) shall be implemented throughout the Farms of New Kent PUD to the extent reasonable and practical, and in accordance with sound engineering practices. All reasonable and practical measures will be undertaken and each subdivision or site plan submission shall specifically address the LIDD measures to be employed. Included shall be consideration of the following:

(A) Mandatory soils testing and analysis prior to initially establishing lawns and landscape areas; copies of such analysis shall be provided to the owner or initial purchaser of the lot or property.

(B) Selective clearing within Land Bays I and II

(C) Native plant and tree conservation and replacement

(D) Filter/buffer strips and other multifunctional landscape areas adjacent to parking facilities and other impervious areas

(E) Vegetated open channels

(F) Bio-retention facilities where the soil is suitable to handle roof and other impervious surface runoff

ii. The design criteria, hydrologic analysis and computational procedures for low-impact development design and stormwater management plans shall follow criteria set forth by the following documents and the latest New Kent County Standards for LIDD:

- *Low-Impact Development Design Strategies: An Integrated Design Approach*, United States Environmental Protection Agency, Office of Water, EPA 841-B-00-003 dated June 1999 and subsequent modifications and updates thereof.

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- *Low-Impact Development Hydrologic Analysis*, United States Environmental Protection Agency, office of Water, EPA 841-B-00-002 dated June 1999 and subsequent modifications.
- iii. Easements shall be recorded to identify the locations of low-impact management practices on lots or parcels.
- iv. The property owner shall not remove or structurally alter low-impact management practices without prior written approval from the County program administrator.
- v. All stormwater management practices, including low-impact management practices, shall be maintained by the master POA or one or more of the sub-associations.

d. *Accessibility:*

- i. All residential and nonresidential structures in Land Bay V shall be designed and constructed to meet or be able to meet with reasonable modification the accessibility requirements of the Americans with Disabilities Act.
- ii. Residential units throughout the PUD should be designed and constructed with a goal to provide a reasonable level of accessibility for persons with diminished physical capabilities who may visit or reside in the units. Examples of design considerations may include the following:
 - Wider doorways on first or ground-floor rooms, including baths.
 - An entrance to the structure at or near ground-level affording access from a vehicle into the living spaces of the residential unit with few or no vertical steps.
 - Where steps into a residential unit are necessary, evaluating how a ramp might be installed by a homeowner and ensuring that there is sufficient space to do so.
 - Extra bracing in walls to allow the homeowner to more easily install mobility assistance grips
 - Shower stall in addition to or instead of bath tub in a first or ground-floor bath.

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e. *Recycling*: Recyclable materials collection points shall be provided within the Farms of New Kent PUD. All multi-family, commercial and office areas shall have designated pads adjacent to trash collection points where recyclable collection containers may be placed. Multi-family units shall provide a location within each unit or convenient to a small group of units for the accumulation of recyclable materials.

26. Amendments – Amendments to the requirements contained herein shall be made in the manner prescribed in the Zoning Ordinance in effect at the time that the amendment is requested.

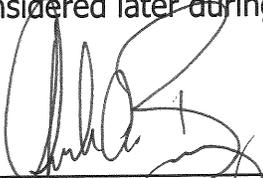
BE IT FURTHER ORDAINED that the proffers voluntarily offered by the applicant as evidenced by the proffer statement dated 5 May 2005 and incorporated by reference herein and made a part hereof are hereby accepted by the County and shall be fully binding hereafter upon the applicant.

BE IT FURTHER ORDAINED that the Development Agreement dated 5 May 2005 between the Applicant and the County and incorporated by reference herein and made a part hereof is hereby accepted by the County.

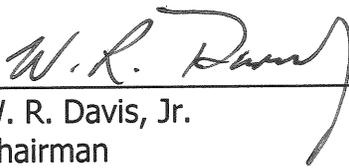
BE IT FURTHER ORDAINED that the County Administrator be, and he is hereby, directed to have a fully executed copy of this Ordinance and the Proffers and Development Agreement associated with it recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.

BE IT FURTHER ORDAINED that the County Administrator be, and he is hereby, directed to immediately add one (1) Planner I position to the Community Development Department and commence the hiring process to fill it.

BE IT FURTHER ORDAINED that with respect to the request to amend the New Kent County Comprehensive Plan *Vision 2020* to change the land use designations to match the plan contained in the Farms of New Kent application, the Board finds that it is inappropriate to modify the Comprehensive Plan in a piecemeal fashion and accordingly the request is at this time denied, but will be considered later during the next complete review of the plan.



John A. Budesky
County Administrator



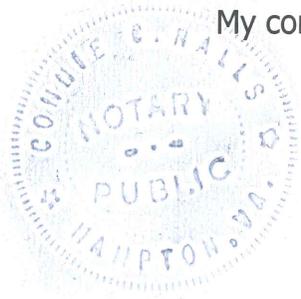
W. R. Davis, Jr.
Chairman

STATE OF VIRGINIA

County of New Kent, to-wit:

Subscribed to before me, the undersigned Notary Public, by John A. Budeksy, County Administrator, and W. R. Davis, Jr., Chairman of the Board of Supervisors, on the 26th day of May, 2005.

My commission expires May 31, 2008.



Connie C. Nalls

Notary Public

**THE FARMS OF NEW KENT
Planned Unit Development**

**Proffer Statement
Case No. PUD-03-04
July 15, 2004**

Revised December 28, 2004
Revised February 14, 2005
Revised March 11, 2005
Revised April 25, 2005
Revised May 5, 2005

1. Generally applicable proffers.

- 1.1. The undersigned owners of property bearing the Tax Parcel I.D. numbers that are set forth on Exhibit A hereto, (the "Property"), hereby proffer that the use and development of the property shall be in strict conformance with the following conditions and shall supersede all other proffers made prior to this submission. In the event the above-referenced rezoning is not granted, these proffers shall be withdrawn and become null and void.
- 1.2. "Final Rezoning" as the term is used herein shall be defined as the date upon which the New Kent County Board of Supervisors grants the rezoning.
- 1.3. The headings on the proffers set forth below have been prepared for convenience and reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers.
- 1.4. The term "Applicant" as referenced herein shall include within its meaning all present and future owners, assigns, and successors in interest.
- 1.5. Reference is made to this Proffer Statement to various plans and exhibits that correspond to the plans and exhibits submitted as a part of this filing, which are incorporated by reference.
- 1.6. The Applicant hereby proffers that the Development Agreement between the County of New Kent and New Kent Farms LLC, dated _____, 2005, is incorporated by reference and shall have the same force and effect as if set out fully herein.
- 1.7. The Applicant hereby proffers that it accepts and concurs with the terms and conditions of the Planned Unit Development Ordinance for the Farms of New Kent ("PUD Ordinance") and said Ordinance shall be deemed incorporated herein by reference.

2. **Events Entertainment Permits and Restriction on Use of Polo Complex.** The Applicant hereby proffers that it shall submit an application for an Events Entertainment Permit for any event, including polo matches, held at the polo complex to be constructed on the Property. Use of the polo complex shall be restricted to non-profit organizations, and to owners of land within the Property, for non-commercial events or activities.
3. **Impact Mitigation.**
- 3.1. The Applicant shall contribute the sum of \$5,000 per non-age-restricted dwelling unit including resort cottages, and \$2,500 per age-restricted dwelling unit, to be paid to the County at the time of application for building permits for each unit.
- 3.2. The Applicant shall contribute the sum of \$0.30 per square foot of commercial and retail structural space constructed, payable to the County at the time of application for building permits for such space. For the purposes of this Proffer 3.2, commercial and retail space shall be defined as: the golf club house, winery, and country inn and spa; the shops, boutiques, offices or other commercial structures in LB III, excluding the rental flats associated therewith; all construction in the commercial nodes in LB's IV and V as depicted on the General Development Plan.
- 3.3. In recognition of the impact that this project will have on fire and rescue services, the Applicant will dedicate by General Warranty Deed with English Covenants of Title along with title insurance, a five acre site, with direct access to a road accepted into the VDOT system, for a new fire and rescue station in a location that the County and the Applicant, in consultation with the first responding company, determine to be satisfactory within the Property. Such dedication of real property shall be made no later than eighteen (18) months after Final Rezoning.
- 3.4. In addition to the foregoing, the Applicant shall assist in the provision of a Fire/Rescue/Police Station in either of the following ways, as the County may determine in its sole discretion within eighteen months following the Final Rezoning.
- 3.4.1. The Applicant shall design and construct a Fire / Rescue / Police Station to be built and equipped in three phases as follows:
- 3.4.1.1. Not later than the end of the second year following Final Rezoning, the Applicant shall design an emergency services building containing two rooms and four vehicle bays and support facilities for rescue squad, fire and law enforcement uses. The design shall show the ultimate facility to be built on the site, which shall be constructed in phases as described herein following. After final approval of the building design and the site plan by the County or its designee, and receipt of the

building permit for the first phase of construction, the Applicant shall have eighteen months to complete the construction of the first phase of the Station.

- 3.4.1.2. The first phase of the project shall consist of approximately 3,000 square feet and shall include a personnel area that includes offices and two vehicle bays that will accommodate both a rescue squad vehicle and an existing New Kent County fire truck. The personnel area shall be for both law enforcement and fire/emergency medical systems purposes. The maximum cost to the Applicant for this phase shall not exceed \$750,000, unless otherwise approved by the Applicant.
- 3.4.1.3. Not later than the end of the sixth year following Final Rezoning, the Applicant shall provide the said Station with additional fire or rescue equipment at a cost to the Applicant not to exceed \$250,000, unless otherwise approved by the Applicant.
- 3.4.1.4. Not later than the end of the tenth year following Final Rezoning, the Applicant shall construct the remainder of the Station according to the plans previously approved, but at a cost to the Applicant not to exceed \$500,000, unless otherwise approved by the Applicant.
- 3.4.1.5. While it is anticipated that the funds contributed pursuant to this proffer will be sufficient to accomplish the purposes hereof, in the event that costs exceed the maximums set forth, the Applicant shall have the option of paying such additional costs, or of redesigning the aforesaid facilities in a reasonable manner so that they may be constructed, or the equipment be acquired, for the sums to be contributed hereunder.
- 3.4.1.6. The foregoing dates for performance for completion of any of the foregoing provisions of this Proffer 3.4.1 shall be extended if a mutually agreeable location for the fire station site has not yet been determined.
- 3.4.2. In the alternative, should the County elect to forego construction of the Station, the Applicant shall contribute the sum of up to \$1,500,000. The County may elect the cash alternative for any one or more of the components of this proffer for Fire/Rescue/Police purposes as follows.
 - 3.4.2.1. The Applicant shall contribute \$750,000 not later than ninety days after the County has made the election.

3.4.2.2. The Applicant shall contribute \$250,000 not later than the last calendar day of the fourth year following Final Rezoning.

3.4.2.3. The Applicant shall contribute \$500,000 not later than the last calendar day of the sixth year following Final Rezoning.

4. Property and Homeowners' Associations

4.1. Property and homeowners associations in conformance with the requirements of the Virginia Property Owners Association Act will be created to serve as the long-term management entity for each of the neighborhoods and commercial areas developed under the GDP. Such associations shall administer their own architectural review committees, and those matters that are specific to their several communities and shall be granted authority to establish fees and dues sufficient to perform responsibilities duly assigned.

4.2. There shall further be created one master association, on which not less than one member shall represent each of the neighborhood and commercial owners associations.

4.2.1. Among such other duties and responsibilities as may be otherwise assigned, the master association shall be responsible for management of a new construction committee, shall collect dues and fees sufficient to perform the responsibilities duly assigned, and be granted authority to establish policy for all sub-associations for the assurance of a unified development of the Property. It shall also have responsibility for the ownership, operation, and maintenance of common areas serving the entire development, including, without limitation, common areas along Route 106, including the road median and the common areas within such roundabouts as may be constructed.

4.2.2. The master association shall further have the affirmative obligation to enter into and maintain in perpetuity a contract with a reputable private waste disposal company for the collection of solid waste from all commercial users and residential dwellings within the Property.

4.2.3. The master association shall further have the affirmative obligation to enter into and to maintain in perpetuity one or more contracts with qualified companies for the purpose of routine and emergency repair, maintenance or replacement of any privately-owned element of the sanitary or water systems that may be installed for residential or commercial uses constructed on the Property, but that are not dedicated to and made a part of the public sewer and water systems.

4.3. All common areas and facilities, storm water management facilities, parks, roadways, and parking areas shall be maintained by the Applicant until such time

as control and responsibility is transferred to the master property or homeowner's association, or the association for that area of the project, in accordance with the covenants, conditions and restrictions by which such associations are created.

- 4.4. In the event that any community within the Property is developed as a gated community, the Applicant shall coordinate with the Director of Fire and Rescue Services and make all necessary provisions to assure that emergency access to such community is available at all times. If such gated community is constructed, the size of the entrance to the community will accommodate emergency fire and rescue vehicles.

5. Cultural Resources Investigation and Preservation

- 5.1. Any archeological or historical resources discovered during the course of development of the Property will be evaluated in accordance with VDHR guidelines, and in the event a National Register eligible site not previously identified is discovered, the Applicant will work with VDHR and other agencies with jurisdiction to mitigate any adverse effects that may result from the proposed development.
- 5.2. The Applicant agrees to consult with the New Kent County Historical Society with respect to any archeological or historical resources as development progresses. If such resources are discovered, the New Kent County Historical Society shall be given an appropriate time of not less than one week to view such findings and to advise on their disposition.

6. Provision of public park area and contribution to park and recreation purposes.

- 6.1. In recognition of the impact that development of the Property will have on available park and recreation facilities, the Applicant shall
- 6.1.1. dedicate at a minimum of 15 useable acres to the Board of Supervisors County for use as a passive park, should the County choose to accept such dedication, to be known as Pine Fork Park or such other name as the Board may select, in the location and as generally depicted on the conceptual plan attached hereto and incorporated herein by reference. The Applicant shall construct within said park two pavilions, a parking area, and trails, including trail access along Pine Fork Road on within the Property. In the event that the County elects not to accept such dedication within twelve months after the Applicant provides notice to the County of the completion thereof, such park shall be deeded to the master association created hereunder. Such dedication shall be made by General Warranty Deed with English Covenants of Title and title insurance shall be provided with such deed, and

6.1.2. shall pay to the County the sum of not more than \$100,000.00 to be used in connection with capital expenditures for County parks, in such manner as the County shall deem appropriate. The obligation to make such payments shall commence ninety (90) days following the Final Rezoning. Such payment shall be made in the form of reimbursements of funds expended by the County for such purposes, within forty-five (45) days after the date of presentation of invoices therefor.

7. **Disposition of real property dedications and cash contributions to the County.**

7.1. In the event that cash payments are made to the County under these proffers, and such payments are not used by the County for the purposes intended within fifteen years from the date of Final Rezoning or within one year of the last residential building permit issued, those funds may be used as the Board of Supervisors may direct.

7.2. In the event that real property dedications are made to the County and not used by the County for the purposes intended within fifteen years from the date of Final Rezoning or within five years from the date of the last residential building permit issued, such property interests shall be granted to the Master Homeowners' Association created for the Farms of New Kent, to be included in the open space owned and managed by such Association. If such association declines to accept such real property, the County may retain ownership of the land.

8. **Proffer Surety.** To assure that the donations of cash and real property as set forth in these Proffers are completed satisfactorily and/or tendered to the County in a timely manner, an amount of \$2,362,500.00 shall be provided as surety for such performance within ninety (90) days of the Final Rezoning; provided, however, that the Applicant shall post a bond or other acceptable surety for the design and construction of sewer extension to Watkins School within ninety days of the County's approval of plans therefor.

9. **Adjustment of Proffer Contributions**

9.1. In the event the monetary contributions set forth in the Proffer Statement are paid to the County within twenty-four (24) months of the approval of this rezoning, said contributions shall be in the amounts as stated herein. Any monetary contributions set forth in the Proffer Statement which are paid to the Board after twenty-four (24) months following the approval of this rezoning shall be adjusted in accordance with the Consumer Price Index for All Urban Consumers ("CPI-U") published by the United States Department of Labor, such that at the time contributions are paid, they shall be adjusted by the percentage change in the CPI from that date that is twenty-four (24) months after the approval of this rezoning to the most recently available CPI to the date the contributions are paid, subject to a cap of 6% per year, non-compounded.

10. **Severability.**

10.1 The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

11. **No Incorporation.** The Applicant shall not seek to have the Farms of New Kent incorporated as a town as permitted by Va. Code Ann. § 15.2-3600 et seq

SIGNATURES APPEAR ON THE FOLLOWING PAGES

WITNESS the following signatures and seals:

Douglas E. Anderson

Douglas E. Anderson
Attorney-in-Fact for New Kent Farms, LLC, John
E. Dodson, Trustee, Marjorie R. Goodall, Janice M.
Fisher, Kenneth Eugene Fisher, Lee Fisher,
Chapman L. Harrison and Edward E. Harrison, Jr.

COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND, to-wit:

The foregoing instrument was acknowledged before me this 5 day of
May, 2005, by Douglas E. Anderson.

My commission expires:

My Commission Expires January 31, 2008

Janet J. Johnson

Notary Public

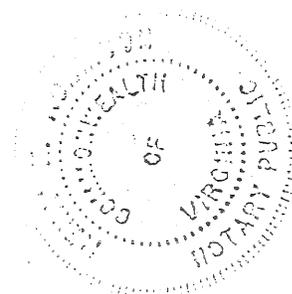


Exhibit A

The following tax map parcels are those for which rezoning is applied:

<u>Tax Map Parcel</u>	<u>Owner</u>
10-63 (part)	Marjorie R. Goodall
11-24 (part)	Marjorie R. Goodall & New Kent Farms LLC
21-88A	Marjorie R. Goodall
21-90	Marjorie R. Goodall
21-91 (part)	Marjorie R. Goodall
21-92	Marjorie R. Goodall
21-101	Marjorie R. Goodall
21-104	Marjorie R. Goodall
21-3-A1	Kenneth E. & Janice A. Fisher
21-3-A3	Kenneth E. & Lee D. Fisher
22-1 (part)	Marjorie R. Goodall & New Kent Farms LLC
22-2 (part)	Marjorie R. Goodall & New Kent Farms LLC
22-2A	New Kent Farms LLC
22-2C	Marjorie R. Goodall
22-3	Edward E. Harrison
22-3C	Chapman L. & Edward E. Harrison
22-4	Marjorie R. Goodall
22-5	John E. Dodson, Tr.
22-5B	Marjorie R. Goodall
22-11 (part)	Marjorie R. Goodall
22-11A	Marjorie R. Goodall
22-30	Chapman L. Harrison
22-31	Chapman L. Harrison