

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

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 ____ day of _____ 2023:

Present:

Vote:

Thomas W. Evelyn
C. Thomas Tiller, Jr.
Patricia A. Paige
Ron Steirs
John N. Lockwood

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

AN ORDINANCE TO APPROVE APPLICATION PUD- -23
TO RECLASSIFY APPROXIMATELY 117.43 ACRES OF
LAND FROM A-1, AGRICULTURAL and from BUS,
BUSINESS TO PUD, PLANNED UNIT DEVELOPMENT, TO
ESTABLISH THE LIBERTY LANDING PLANNED UNIT
DEVELOPMENT

WHEREAS, Bridgewater Crossing, Inc. submitted a "Planned Unit Development (PUD) Application" dated _____, 2023; and

WHEREAS, said application requests the rezoning of approximately 112.79 acres from BUS, Business and 4.64 acres from A-1, Agricultural to PUD, Planned Unit Development; with the subject property being identified as the following Tax Map numbers and GPINs:

Tax Map

19 11 1

19 11 2

19 11 3

19 11 4

19 11 5

GPIN

I06-0026-5401

J06-0076-0544

J05-3790-0116

J05-3625-0395

J05-3595-0816

<u>19 11 A</u>	<u>I05-3417-4710</u>
<u>19 11 B</u>	<u>I05-2715-5420</u>
<u>19 46 A</u>	<u>I06-0429-5299</u>
<u>29 2A</u>	<u>I06-0260-4947</u>
<u>29 2B</u>	<u>I06-0795-5318</u>

[as more particularly described below in the Legal Description section; and](#)

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

WHEREAS, after considerable discussion and thought, the Planning Commission voted to transmit a recommendation for approval 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 fully conforms to the Future Land Use map and is in conformance with the goals and objectives contained in the adopted New Kent County Comprehensive Plan, adopted October 9, 2012 with amendments.
- The proposed rezoning would provide for the development of the subject property in a coordinated and well-planned fashion.
- The proposed rezoning, together with the proffered conditions, would provide a positive, long-range fiscal impact to the community.
- The proposed rezoning would address the County's desire to provide diverse home ownership opportunities for the 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 _____ day of _____ 2023, by the New Kent County Board of Supervisors that rezoning application

PUD__-23 be, and it hereby is, approved amending the New Kent County Zoning Map to reclassify the property described below from A-1, Agricultural and BUS, Business, to PUD, Planned Unit Development, and establishing the Liberty Landing Planned Unit Development.

LEGAL DESCRIPTION

112.79 +/- Acre Property:

Property description: Beginning at a point on the south right of way line of State Route 60, said point being 0.8± miles from State Route 249, extended; thence, along Route 60; thence South 52°29'55" East, a distance of 37.30 feet; thence South 52°29'55" East, a distance of 167.56 feet; thence South 52°29'55" East, a distance of 826.65 feet; thence South 52°46'35" East, a distance of 500.06 feet; thence, leaving Route 60, South 13°34'29" West, a distance of 1,438.79 feet; thence North 88°38'16" West, a distance of 382.30 feet; thence North 67°47'16" West, a distance of 28.30 feet; thence North 67°47'36" West, a distance of 129.50 feet; thence North 85°33'04" West, a distance of 757.77 feet; thence North 86°41'06" West, a distance of 775, more or less, feet to a point on the north bank of the Chickahominy River; thence, along the northern bank of river approximately 1,895, more or less, feet to a point; thence North 53°08'56" East, a distance of 795, more or less, feet; thence North 53°08'56" East, a distance of 1,728.00 feet to the Point of Beginning and containing 112.79± Acres of land. This description was compiled from plats prepared by Timmons dated October 31, 2002 and by Holly and Spain, PC dated December 2, 1986 and recorded in Deed Book 137, Page 191.

4.64 +/- Acre Property:

Property description: Beginning at a point on the south right of way line of State Route 60, said point being 1.08± miles from State Route 249, extended; thence, along Route 60; thence South 52°29'16" East, a distance of 150.00 feet; thence South 02°32'47" East, a distance of 585.82 feet; thence South 06°11'24" East, a distance of 214.50 feet; thence North 85°18'36" West a distance of 331.29 feet, thence North 13°34'29" a distance of 887.53 feet to the Point of Beginning and containing 4.64± Acres of land. This description was compiled from plats prepared by Townes Site Engineering dated February 16, 2011 and by Engineering Design Associates, Inc. dated June 15, 1995 and recorded in Deed Book 218, page 668.

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, Relationship to the Development Ordinances and Definitions
 - a. This Ordinance approving the Liberty Landing Planned Unit Development shall be known as and may be referred to as the "Liberty Landing PUD Ordinance" or when the construction allows, simply as the "PUD Ordinance".
 - b. The application package entitled *Liberty Landing Rezoning Application* dated _____, 2023, with all attachments, exhibits and enclosures is cited as the "Application." In all instances of conflict between the Application and this PUD Ordinance, this PUD Ordinance shall prevail. 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 that is not provided for in this PUD Ordinance. Reference to the "Zoning Ordinance" shall mean the Zoning Ordinance of New Kent County, Virginia. Reference to the "Subdivision Ordinance" shall mean Subdivision Ordinance of New Kent County, Virginia. Together they are referred to herein as the "Development Ordinances".
 - c. This PUD Ordinance is intended to provide specific and unique development standards for the Plan. It is intended to work together with the generally applicable Development Ordinances by modifying otherwise applicable provisions and providing standards and requirements that may not otherwise exist.
 - d. 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.
 - e. Conflicts between the provisions contained herein and those contained in the Zoning Ordinance shall be resolved in favor of the provisions contained herein.
 - f. The Zoning Administrator shall be vested with the authority to interpret the provisions of this PUD Ordinance. Any conflict between this PUD Ordinance and the Development Ordinances shall be resolved in favor of this PUD Ordinance. Appeals of the Zoning Administrator's determinations and interpretations with respect to this PUD Ordinance shall be heard by the Board of Zoning Appeals

in full accord with the process and requirements contained in the Zoning Ordinance.

- g. Nothing in this PUD Ordinance shall be interpreted as modifying or waiving any applicable requirement of the County's implementation of the Chesapeake Bay Preservation Act, Stormwater Management or Erosion and Sediment Control laws and regulations as promulgated by the Commonwealth of Virginia, nor shall this PUD Ordinance be vested with respect to any changes that may occur to those laws or regulations except to the extent such vesting is protected under state law.
- h. One or more Declarations may be established and recorded for the Liberty Landing Planned Unit Development as a whole or for each area at the sole discretion of the Applicant. ~~Drafts of every~~Every Declaration 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 complying~~comply with the requirements of this PUD Ordinance; ~~said approval shall not be unreasonably withheld.~~
- i. For the purposes of interpreting and applying this PUD Ordinance, certain words and terms shall have the following meanings:

Amenity Area: Shall mean the areas depicted on the Plan as amenity area within the Residential Area, including the areas designated as "Amenity Area" and "Historic Save Area and Park."

Applicant: Bridgewater Crossing, Inc., a Virginia corporation, its successors, and assigns.

Commercial Area: The portion of the Plan designated as the "Commercial Landbay" on the Plan (a total of 16.36 acres).

Commercial Building Area: The gross floor area of a building in the Commercial Area.

Declaration: Covenants, conditions, and restrictions that are applicable to the use of any parcel of property within the Liberty Landing Planned Unit Development, recorded in the land records of New Kent County. These covenants, conditions, and restrictions will be real covenants running with the land and not covenants in gross.

Model Home(s): A dwelling that is temporarily used as a real estate office and/or models to market dwellings within the Liberty Landing Planned Unit Development.

Open Space(s): Any area of land or water (i) which is not within a lot or covered by completely enclosed building space or by hard surface area intended and used for parking or circulation of motor vehicles; and (ii) which is set aside, dedicated, designated, or reserved for public or private use or enjoyment, subject to any easement rights existing as of the date of approval of this PUD Ordinance.

Plan: The plan entitled "Planned Unit Development Area Master Plan Liberty Landing State Route 60", prepared by Resource International, Ltd., dated December, 2022.

Residential Area: The portion of the Plan designated as the "Residential Landbay" on the Plan (a total of 101.07 acres)

Single-Family Attached Dwelling(s): Two or more dwelling units attached by common vertical walls without opening between them and with separate entrances for each dwelling unit, such as townhomes.

Single-Family Detached Dwelling(s): A dwelling unit that is not attached to any other dwelling unit.

2. Commercial Area

a. Permitted Uses:

- i. All uses permitted as a matter of right in the Business zoning district, ~~including accessory dwelling units~~;
- ii. Winery-commercial;
- iii. Building Supply and Lumber Store (with or without exterior storage);
- iv. Plant nurseery, garden center over 15,000 square feet;
- v. Distillery;
- vi. ~~Shopping center~~ Retail establishment over 30,000 square feet; and

~~vii. Senior housing, as it relates to clause (i) in the definition of "Senior housing" in § 98-2 of the Zoning Ordinance.~~

vii. Shopping center over 30,000 square feet.

b. ~~viii.~~ The following ~~permitted~~ uses shall be prohibited:

i. ~~(A)~~ Agricultural equipment sales and service;

ii. ~~(B)~~ Animal hospital with outside runs;

iii. ~~(C)~~ Automobile sales and service;

iv. ~~(D)~~ Auto service stations, automobile repair services and garages;

v. ~~(E)~~ Boat parts or accessories sales;

vi. ~~(F)~~ Boat sales and service;

vii. ~~(G)~~ Recreational Vehicle (RV) sales and service;

viii. ~~(H)~~ Cemetery, columbarium;

ix. ~~(I)~~ Equestrian facility;

x. ~~(J)~~ Boat launch ramp;

xi. ~~(K)~~ Commuter parking; and

xii. ~~(L)~~ Motor vehicle rental.

c. ~~b.~~ Yard, Height and Setback Requirements – The following height, setback, and yard requirements shall apply:

i. Front yard setback: A 30-foot front yard setback, which shall be inclusive of any applicable buffer.

ii. ~~i.~~ Lot size requirement: No requirement.

iii. ~~ii.~~ Minimum lot width: No requirement.

iv. ~~iii.~~ Minimum building yard requirements: Requirement controlled by fire code.

v. ~~iv.~~ Building height limitation: Maximum 50 feet for principal structures; in no case shall accessory structures exceed the height of principal structures.

d. ~~c.~~ ~~Bottoms Bridge~~ Commerce Corridor Overlay District – Commercial development in the Commercial Area will comply with the architectural and other requirements in the ~~Bottoms Bridge~~ Commerce Corridor Overlay District. The ~~Bottoms Bridge~~ Commerce Corridor Overlay District will only apply to the Commercial Area.

e. ~~d.~~ Temporary Vegetation

i. The Commercial Area shall remain vegetated and shall not be cleared until users/tenants for the Commercial Area are identified and a site plan or construction plans for all or a portion of the Commercial Area are submitted to the County. As users/tenants are identified and site plans or construction plans are submitted, the Commercial Area may be cleared for the portion of the Commercial Area that is the subject of the submitted plans. Notwithstanding the foregoing, vegetation shall be removed to provide for the installation of entrances, roads, utilities, and other infrastructure needed for the Commercial Area and Residential Area, and may be removed from portions of the Commercial Area as approved by the Planning Director at the time of site plan approval for such infrastructure installation.

f. Loading Docks – No loading docks within the Commercial Area shall front on Route 60.

3. Residential Area

a. Permitted Uses - The following principal uses shall be permitted and they shall be the only principal uses permitted:

i. A maximum of 145 lots for Single-Family Detached Dwellings, each with a minimum square footage of ~~1,600~~ 1,400 ft² of finished space excluding garage.

- ii. A maximum of 145 lots for Single-family Attached Dwellings with a minimum square footage of ~~1,200~~1,000 ft² of finished space excluding garage.
- iii. In no event shall the number of dwellings in the Residential Area exceed 290.
- iv. Amenities serving the residents in the ~~residential area~~Residential Area.

b. Accessory uses:

- i. All reasonable and customary accessory uses to the principal permitted uses are permitted.
- ii. All rights pursuant to easements encumbering the project as of the date of approval of this PUD Ordinance.

c. Yard, Height and Setback Requirements – The following height, setback, and yard requirements shall apply:

i. Single-Family Detached Dwellings:

(A) Minimum dwelling lot size requirement: None

(B) Minimum yard requirements:

- Front: 20 feet
- Side: 5 feet
- Rear: 20 feet

(C) Minimum yard requirements for permitted accessory structures.

- Front: Must be behind front of principal structure
- Side: 10 feet between structures on adjoining parcels
- Rear: 10 feet between structures

(D) Minimum lot width: No requirement.

(E) Building height limitation: 40 feet maximum

ii. Single-Family Attached Dwellings:

(A) Townhomes

- Minimum lot size requirement: None
- Minimum dwelling yard requirements:
 - i. Front: 20 feet
 - ii. Side: None
 - iii. Side at end unit: 5 feet
 - iv. Rear: 20 feet
- Maximum number of units in a row: No limit.
- Accessory structures must be located behind the front line of the primary structure. No side or rear yard setback is required.
- Minimum lot width: No requirement.
- Building height limitation: 40 feet maximum

d. Building Architecture - Residential development in the Residential Area will employ one of the following architectural styles: Traditional Colonial, Colonial, Cottage, or Craftsman.

e. Amenity Standards

- i. Amenity areas shall be provided for the benefit of the residents of the Residential Area. Such Amenity Areas generally shall be owned, operated, and maintained by an association, or such entity as may be approved by the Zoning Administrator.
- ii. Unless otherwise requested by the Applicant and approved by the Planning Director at the time of plans review and approval, at least the following recreational facilities shall be provided within the Residential Area:
 - i. Multipurpose trails and/or bike and pedestrian paths
 - ii. Picnic area with shelter
 - iii. Open Space for passive recreation
 - iv. Community clubhouse
 - v. Swimming pool

- vi. Play area/Tot lot
- iii. Dog park
- iv. The Amenity Area shall be identified at the time of ~~tentative~~ ~~or~~ preliminary subdivision approval.
- v. The final certificate of occupancy for the clubhouse shall be issued prior to the issuance of the 75th certificate of occupancy in the Residential Area.
- vi. The pool shall be constructed simultaneously with the clubhouse, weather permitting. However, the status of pool construction shall not affect the issuance of the 75th certificate of occupancy in the Residential Area.
- vii. The remaining recreation area shown on the approved tentative site plan shall be completed no later than the issuance of the 150th certificate of occupancy in the Residential Area.

4. General Design Standards Applicable to Both Areas.

a. Adjustment to Area Boundaries.

- i. Overall project boundaries generally shall be consistent with those contained in the legal descriptions in this ordinance; however, the Applicant may make adjustments to such internal boundaries, with the approval of the Planning ~~Commission~~ Director, provided that such adjustments do not (i) change the area of the Residential Area by more than ten (10) percent or (ii) change the Commercial Area by more than ten (10) percent.
- ii. Minor deviations from the above-referenced uses or specified sizes (either an increase or a decrease) may be approved by the Planning Director during ~~plans~~ plan review for each area at the request of the Applicant.

b. Plan Submissions and Approval – Submission of subdivision plans and site plans shall follow the requirements set out in the Development Ordinances.

c. Project Phasing - Simultaneous with the initial development of the Property, Applicant shall develop the infrastructure (roads, water, and sewer) for the Commercial Area. See Section 3 above for phasing of amenities.

- d. Open Space – No less than twenty-five percent (25%) of the total land area within the [PlanPUD](#) shall be maintained as open space for the enjoyment of the residents, employees, customers, and guests and to protect sensitive environmental features. Open Space areas shown on the Plan include wetlands and Chesapeake Bay Resource Protection Areas (RPAs). Open Space also includes the preservation areas shown on the Plan. All Open Space shall either be encumbered by a perpetual conservation easement, owned by a property owners or homeowners association as common area, or have a perpetual open space easement placed over the open space property to preclude future development other than for recreational uses or other complimentary agricultural or open space use, including, without limitation, the installation, maintenance and use of walks, trails, benches, viewing decks, gazebos, utilities, subject to compliance with all applicable environmental and other regulations. Any easement used to encumber the Open Space shall be dedicated in favor of the homeowners or property owner’s 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 Open Space areas shall be vested with one or more homeowners or property owners’ associations.

- e. Modification - Modifications to the yard, height and setback requirements established herein may be authorized by the Planning [CommissionDirector](#) during the plan review and approval process 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 plans 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.~~

5. Buffers and Landscaping.

a. Transitional Buffers

- i. The following transitional buffers shall be required with the width specified:

- 1. Transitional Buffer along Route 60 – 15 feet.

2. Transitional Buffer along the remaining exterior perimeter of the property adjacent to parcels of land not zoned PUD – 25 feet
 - ii. These required transitional buffers shall be planted to the same planting standard as set forth in § 98-1062(c)(1) of the Zoning Ordinance.
 - iii. There shall be ~~no buffer~~ a 10-foot landscaped area within those portions of the Commercial Area that front on the north-side of the road located between the Residential Area and the Commercial Area.
 - iv. Where required buffers traverse ponds, wetlands, RPA buffers, lakes, rivers, and other environmentally sensitive areas, installation of landscape materials or berms shall not be required.
 - v. Buffers may be broken only where driveways, roads, private streets, bicycle facilities, drainage or utility easements, sight distance easements, slope easements, or other openings exist or are required.
 - vi. Pedestrian trails may be located within any Transitional Buffer.
 - vii. There shall be a 50 foot setback between the sewer pump station building and any residential dwelling.
- b. Landscaping - Landscaping shall be provided as required in the Development Ordinances, specifically in §§ 98-1061, 1062(c)(1), 1063, and 1064 of the Zoning Ordinance and § 91-80(a)–(b) of the Subdivision Ordinance, except that trees may be planted at an initial height of 6-feet.
6. Parking Lot Design Standards – The project will follow the requirements for parking lot designs as set forth in Development Ordinances, except that a maximum of Thirty (30) percent of the parking areas can be compact parking spaces at a minimum of 8’ wide by 18’ deep.
7. Signage - The project will adhere to the signage requirements as set forth in the Development Ordinances, including the ~~Bottoms Bridge~~ Commerce Corridor Overlay, as applicable. The entrance signage for the Residential

Area may be located within the Commercial Area without counting toward the permitted signage in the Commercial Area.

8. Transportation Improvements and Standards – The following transportation improvements shall be constructed as a part of the project in general accordance with the Plan.
 - a. Access – The project shall be limited to two (2) entrances onto US 60. The locations for these two (2) entrances are as generally shown on the Plan. One (1) entrance is located at the west side of the project (the “West Entrance”) and the other entrance is located at the east side of the project (the “East Entrance”). The final location for these entrances shall be approved by VDOT during the plans review and approval process. Changes to the Plan may be permitted in response to the review of site plans by VDOT as necessary without requiring approval of ~~a proffer amendment or an amendment to the PUD~~, provided such modifications are (i) approved by the Planning Director in consultation with other applicable agencies, which may include, but is not limited to, the Zoning Administrator and (ii) in general conformance with the Plan ~~and these proffers~~.
 - b. West Entrance Improvements – The West Entrance shall be designed as generally shown on the Plan and shall include the construction of a left turn lane along westbound US 60 and a right turn lane along eastbound US 60. These turn lanes shall be constructed to VDOT standards as shown on the approved plans. The median at the West Entrance shall be widened to 100 feet in width. These improvements shall be completed prior to the 25th certificate of occupancy in the Residential Area.
 - c. East Entrance Improvements – The applicant shall construct one of the three (3) options below with the option chosen by the applicant based on the status of VDOT and County plans for modifications to US 60 at the time the applicant submits its plans for the East Entrance to the County for review and approval:
 - i. Design the East Entrance as generally shown on the Plan, which includes the construction of a left turn lane along westbound US 60 and a right turn lane along eastbound US 60. These turn lanes shall be constructed to VDOT standards as shown on the approved plans. The median at the East Entrance shall be widened to 100 feet in width. These

improvements shall be completed prior to the 25th certificate of occupancy in the Residential Area; or

ii. Close the existing median opening at the East Entrance location shown on the Plan and relocate the East Entrance to the west. The applicant would then open a new median break and construct an "r-cut" in the median break. The applicant's obligation to make this improvement is limited to existing right-of-way with no change to the existing US 60 lane adjustment; or

iii. An alternative entrance design that does not include the applicant's obligation to install a traffic signal. This alternative entrance design shall be agreed upon by the applicant, VDOT and the County.

d. All internal roads on the Plan shall be dedicated for public use and maintenance.

e. All internal roads shall be designed and constructed to public road standards as found in the most recent edition of the Virginia Department of Transportation *Subdivision Street Requirements* as it may be amended from time-to-time.

f. Each development area within the project shall be provided with at least two paths of ingress and egress. An emergency access shall constitute a path of ingress and egress. For the purposes of this paragraph, boulevard streets that are divided by a median shall constitute two (2) paths of ingress and egress. Along cul-de-sac streets the maximum spacing for fire hydrants shall be six hundred feet (600').

g. No new residential lots in the project shall have direct access to US Route 60.

9. Utilities Improvements and Standards

a. All new development within the PUD shall be served by public water and sewer systems constructed to standards promulgated by the County Department of Public Utilities or otherwise approved by the Director of Public Utilities.

b. 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.

- c. Except for building permits for a maximum of eight (8) Model Homes in the Residential Area of the PUD, no building permit for a residential unit shall be issued until all water and sewer 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 and confirmed by the Director of the New Kent County Department of Public Utilities or his/[her](#) designee.
- d. All new utility lines shall be installed underground except for any new Dominion Energy Transmission Mains. Any existing above-ground utilities that require relocation shall be placed underground. For clarity, any existing utility line along Route 60 need not be buried underground even if it is relocated.
- e. In the event that a service provider agrees to extend high-speed data communications to the PUD, the Applicant will use its best efforts to provide for the extension of such facilities generally throughout the project.
- f. All street lights and parking lot lighting shall consist of full cut-off or fully shielded fixtures that prevent upward light scatter and protect the dark night sky. This shall include any lighting of recreational facilities as well as pole-mounted lights along the paths in the common area. This provision shall apply equally to the Residential Area, Commercial Area, and Amenity Area.
- g. There shall be no above-ground installation of water and sewer appurtenances, such as meter boxes, valve boxes, clean outs, etc. (the "Appurtenances") in the driveways and sidewalks adjacent to single-family detached dwellings. The above-ground installation of the Appurtenances in the driveways and sidewalks adjacent to townhome dwellings shall be minimized to the extent possible, with the understanding that there is less flexibility when installing the Appurtenances on townhome lots given the narrow size of the lots and the width of the driveways on the lots.

10. Community Association

- a. A community association shall be established for the Residential Area. A community association may also be established, at the option of the Applicant for the Commercial Area. The Declaration, Articles of Incorporation and Bylaws for the community association shall ~~invoke the authority of the Virginia Property Owners Association Act or the Virginia Condominium Act, as appropriate, and provide for mandatory membership of all property owners within the applicable area,~~the authority for the community association to enforce the covenants, conditions, and restrictions over all property within the applicable area, and assess members for the common expenses, including maintenance of the common area or common elements, as appropriate, of the community association, according to the provisions of state law.
- b. Every Declaration shall provide for one or more architectural review committees (ARC). The ARC shall review all building plans for all structures proposed for erection within the association for compliance with the requirements and design concepts set forth in the association documents and shall have the authority to approve or disapprove the character and design of final building plans within the entire PUD, the Residential Area, the Commercial Area, or specific portion of the project for which it has responsibility. The Declaration shall stipulate the manner by which any property owner or any other aggrieved party may challenge any decision of the ARC. Except for property to be dedicated to the Commonwealth of Virginia or to New Kent County, all portions of the project shall be encumbered by architectural review requirements.
- c. The Community Association(s) shall be responsible for maintaining all common area or common elements appurtenant to the development or portion of the development to which the association relates. This shall specifically include all buffers and Open Space, private streets, stormwater management facilities, streetscapes, and signs, private utilities and recreation areas, amenity areas, private drainage easements, and facilities. Private drainage easements will be required to be dedicated to the community association(s) on any subdivision plats. If sub-associations are established, appropriate maintenance and cost-sharing agreements between the community association and the sub-associations and among the sub-associations must be established to provide for the maintenance of common areas,

common elements, drainage facilities, and amenities that provide benefits to more than one sub-association.

- d. All the governing documents (including the Declaration, Articles of Incorporation, and Bylaws) creating the community association shall ~~be reviewed and approved by the County Attorney for compliance~~comply 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 project. If sub-associations are established, each set of governing documents (Declaration, Articles of Incorporation, and Bylaws) shall ~~be reviewed and approved by the County Attorney for compliance~~comply with the requirements of the PUD Ordinance and State Law and shall be recorded with the first subdivision plat within the Residential Area or Commercial Area, as applicable.
- e. Each prospective property owner within the PUD shall be provided with those documents required for disclosure by the Virginia Property Owners Association Act or the Virginia Condominium Act.

- 11. 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 this Ordinance is approved by the New Kent County Board of Supervisors this ___ day of _____, 2023, and that the County Administrator ~~be, and he~~ is hereby, directed to have a fully executed copy of this Ordinance recorded upon the Land Records of the County in the office of the Clerk of the Circuit Court.

Attested:

County Administrator

Chairman

Summary report: Litera Compare for Word 11.3.0.46 Document comparison done on 3/29/2023 2:07:37 PM	
Style name: HF Standard	
Intelligent Table Comparison: Active	
Original DMS: iw://HF_IMAN/IMAN/14347724/13	
Modified DMS: iw://HF_IMAN/IMAN/14347724/14	
Changes:	
Add	64
Delete	54
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	118