

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

**O-01-10 (R5R6)**

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 24<sup>th</sup> day of February 2010:

Present:

Vote:

Thomas W. Evelyn  
David M. Sparks  
James H. Burrell  
Stran L. Trout  
W. R. Davis, Jr.

Motion was made by Mr. \_\_\_\_\_, which carried \_\_:\_ to adopt the following ordinance:

**AN ORDINANCE TO APPROVE AMENDMENTS TO  
THE FARMS OF NEW KENT PUD ORDINANCE**

**WHEREAS**, the New Kent County Board of Supervisors approved the Farms of New Kent Planned Unit Development on 23 May 2005 through the adoption of Ordinance No. O-09-05(R3), also referred to as the "PUD Ordinance", as modified by Ordinance No. O-08-06(R) and Ordinance No. O-09-09; and

**WHEREAS**, New Kent Farms LLC has requested a third amendment of the PUD Ordinance; and

**WHEREAS**, this application was referred to the New Kent County Planning Commission in accordance with the County Code and established procedure; and

**WHEREAS**, the Planning Commission conducted a duly advertised public hearing and carefully weighed the public input with the goals and objectives of the adopted Comprehensive Plan and recommended approval of the application; and

**WHEREAS**, the Board of Supervisors finds that said amendment will support economic development of the Farms of New Kent Planned Unit Development as well as New Kent County, will provide reasonable and appropriate flexibility within the PUD, and would address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County;

**NOW THEREFORE BE IT ORDAINED** this the 24<sup>th</sup> day of February 2010 by the New Kent County Board of Supervisors that the amendments contained in Application PUD-02-09 be, and they are hereby, approved as follows:

A. The PUD Ordinance [Ordinance No. O-09-05(R3), as previously modified by Ordinance No. O-08-06(R) and Ordinance No. O-09-09] is amended as set forth below:

1. Under Paragraph 3, Permitted Uses, subparagraph 3.c.ii applying to Land Bay III is hereby amended, restated, and readopted as follows:

*ii. A minimum of 40 affordable dwelling units shall be located in Land Bay III except to the extent such dwelling units are located in the commercial or multi-family components of Land Bay IV. The following minimum finished space requirements shall apply to the affordable dwelling units regardless of where they are located (i.e., in Land Bays III or IV):*

*(A) 20 or more units shall each have a minimum square footage of 1,050 square feet of finished space, excluding garage if any;*

*(B) A maximum of 10 units may have a minimum square footage of 950 square feet of finished space, excluding garage if any;*

*(C) A maximum of 10 units may have a minimum square footage of 850 square feet of finished space, excluding garage if any.*

2. Under Paragraph 3, Permitted Uses, subparagraph 3.c.iii applying to Land Bay III is hereby amended, restated, and readopted as follows:

*iii. Farmers' Market with a minimum finished space square footage of 3,000 square feet. On a temporary basis, the farmer's market may be located in Land Bay IV or Land Bay V or a combination of both, provided however, that within eighteen (18) months of the issuance of the first building permit in Land Bay III, at least 3,000 square feet of finished space shall be located in Land Bay III for use as a Farmers' Market.*

3. Under Paragraph 3, Permitted Uses, subparagraph 3.d.i applying to Land Bay IV is hereby amended, restated, and readopted as follows:

- i. A maximum of 450 dwelling units, as follows:*
  - a. No more than 100 may be cluster, multi-family, single family attached or any arrangement other than single family detached units.*
  - b. Of the 70 single family detached lots north of the main entrance road into the land bay and described nominally on the approved Area Plan for Land Bay IV as "60' Width", up to ~~18~~ 17 may contain dwellings with a minimum of 1,500 square feet of finished space and up to ~~17~~ 18 may contain dwellings with a minimum of 1,750 square feet of finished space. The remainder shall contain dwellings with a minimum square footage of 2,000 square feet of finished space.*
  - c. Of the 117 single family detached lots north of the main entrance road into the land bay and described nominally on the approved Area Plan for Land Bay IV as "80' Width", up to 40 may contain dwellings with a minimum of 1,750 square feet of finished space and the remainder shall contain dwellings with a minimum square footage of 2,000 square feet of finished space.*
  - d. Of the 84 single family detached lots south of the main entrance road into the land bay and described nominally on the approved Area Plan for Land Bay IV as 60'Width", up to 37 may contain dwellings with a minimum of 1,500 square feet of finished space and the remainder shall contain dwellings with a minimum square footage of 2,000 square feet of finished space.*
  - e. All remaining single family detached lots shall contain dwelling units with a minimum square footage of 2,000 square feet of finished space.*
  - f. All finished space calculations shall exclude garages.*

- g. No more than two (2) single-family detached dwelling units containing less than a minimum square footage of 2,000 square feet of finished space shall be located side-by-side along any street frontage.*
- h. Any other type of residential unit (other than designated affordable dwelling units) shall contain a minimum square footage of 1,500 square feet of finished space excluding garage.*

- 4. Under Paragraph 3, Permitted Uses, a new subparagraph 3.d.vi applying to Land Bay IV is hereby added and adopted as follows:

*vi. Affordable dwelling units as a part of the commercial or multi-family component of the land bay provided that such units shall not be counted for the purposes of Subparagraph 3.d.i. relating to the total number of dwelling units, and the minimum square footage of such units shall comply with the minimum finished space requirements set forth in Subparagraph 3.c.ii.*

- 5. Under Paragraph 3, Permitted Uses, subparagraph 3.e.i applying to Land Bay V is hereby amended, restated, and readopted as follows:

*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. Up to 250 of the single family detached units may contain ~~as little as~~ as a minimum of 1,200 square feet of finished space excluding garage. The remaining single family detached units shall contain a minimum square footage of 1,550 square feet of finished space excluding garage.*

- 6. Under Paragraph 3, Permitted Uses, a new subparagraph 3.a.xii applying to Land Bay I is hereby added and adopted as follows:

xii. A maximum of 30 detached cluster dwelling units of which at least 22 shall be located on or in close proximity to the lakes; the remainder shall be proximate to the golf clubhouse or swim and racquet club. Each detached cluster dwelling unit shall contain a minimum square footage of 1,500 square feet of finished space.

- 7. Under Paragraph 3, Permitted Uses, subparagraph 3.c.i applying to Land Bay III is hereby amended, restated and readopted as follows:

*i. A maximum of ~~160~~ 130 dwelling units each with a minimum square footage of 1,500 square feet of finished space which shall be provided in a mixture of single family detached, semi-attached, attached or multi-family dwellings*

8. Under Paragraph 24, Recreational Standards, subparagraph 24.j is hereby amended, restated, and readopted as follows:

*j. The recreational facilities in each Land Bay shall have been constructed, obtained final certificates of occupancy and either deeded to a property owners association or other appropriate entity or, with regard only to Land Bay I, a contract entered into for operation of the facilities by an 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.*

9. Under Paragraph 24, Recreational Standards, subparagraph 24.k is hereby amended, restated, and readopted as follows:

*k. The clubhouses for Land Bay I, if applicable, and Land Bays IV, and V shall have been constructed, obtained final certificates of occupancy and either deeded to the property owners association or a contract entered into for operation of the facilities by an 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. The requirement for a clubhouse in Land Bay I may be satisfied by membership or use rights extended to all residents of Land Bay I to the golf clubhouse and the inn and spa or either of them.*

- B. It is understood and agreed that nothing contained in this amendment to the PUD Ordinance shall be deemed to change the "date of approval" of the PUD Ordinance from the original date of approval, being 23 May 2005.
- C. The Farms of New Kent Planned Unit Development Proffer Statement (Amendment No. 3) dated November 30, 2009 and voluntarily offered by the applicant is recommended for acceptance by the Board of Supervisors.
- D. Should any of the amendments contained herein result in a requirement to redesign any New Kent County public utility, the developer shall bear the full engineering, construction and maintenance of service costs for the redesign and its implementation.

E. Upon approval by the Board of Supervisors, the County Administrator be directed to cause a fully executed copy of this Ordinance and the Proffers associated with it to be recorded upon the Land Records of the County maintained in the office of the Clerk of the Circuit Court.

~~**BE IT FURTHER ORDAINED** that the developer shall provide to the Board of Supervisors within thirty (30) days of adoption of this Ordinance, a schedule that details the completion schedule of the roundabouts at the I-64/Route 106 interchange and if such completion will extend past 30 September 2010, a performance agreement backed by surety guaranteeing completion no later than 30 June 2011 shall also be provided; the form of both the performance agreement and the surety shall be satisfactory to the County Attorney.~~

Attest:

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G. Cabell Lawton, IV, AICP  
County Administrator

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David M. Sparks  
Chair