

# NEW KENT COUNTY PLANNING COMMISSION

## *SCENIC & HISTORIC SUB-COMMITTEE*

4:30PM 1 May 2008  
Boardroom  
County Administration Building

### **AGENDA**

1. Call to order Ms. Snyder
2. Approve meeting notes from 2 April 2008 Ms. Snyder
3. Scenic Corridor Overlay
  - a. Distribute revised draft based on prior meeting Staff
  - b. Discussion Committee
  - c. Determine next steps Committee
4. Historic Overlay
  - a. Distribute revised draft based on prior meeting Staff
  - b. Discussion Committee
  - c. Determine next steps Committee
5. Set next meeting date/time Committee
6. Adjourn Ms. Snyder

# NEW KENT COUNTY PLANNING COMMISSION

## *SCENIC & HISTORIC SUB-COMMITTEE*

2 April 2008

3:00PM

County Administration Building Boardroom

### MEETING NOTES

#### Attendance:

##### Members Present:

- Ms. Brenda (Sam) Snyder, Chair
- Mr. Eddie Pollard

##### Members Absent:

- Mr. Steve Rocha

##### Staff Present:

- George M Homewood, AICP, Director of Community Development
- Kelli Z LeDuc, Planner

Ms. Snyder called the meeting to order at 3:05 and noted that copies of the draft zoning provisions for historic resources and scenic corridors from the draft zoning ordinance effort extending back to 2004 had been distributed. Ms. Snyder noted that a previous subcommittee of the Planning Commission had spent more than a year reviewing the draft zoning ordinance, including the provisions before this current subcommittee. She stated that she believed that because of the extensive previous efforts, they would make a good starting point, but that was all and the lessons learned from the public process between then and now should guide the committee as well.

The committee began by reviewing the historic resources impact analysis provisions. Staff showed the committee the maps and documents that comprise the "New Kent County Historic Resources Inventory" noting that while it is a public document it is shielded from the full application of the Virginia Freedom of Information Act because part of protecting historic resources entails not providing clear guidance to relic hunters who might loot sites and thus destroy their historical value. After review and discussion of the draft provisions, the committee decided that they were acceptable as written, but asked for the following changes:

- Add language in the intent section to more clearly specify that the requirements for impact analysis do not preclude development. The requirement is to identify historic significance and if there is any significance to document it before development occurs.

- Investigate the possibility of providing an opportunity for limited administrative modification of other provisions of the zoning ordinance that might provide additional flexibility in site design to preserve historic resources.

The committee then began consideration of the scenic corridor overlay provisions that had been proposed as part of the draft zoning ordinance. Staff noted that these provisions as drafted had been very controversial, especially the components that required preservation of tree canopies, and thus no timber harvest, adjacent to the specified scenic byways other than in designated villages.

Staff noted that a recent meeting between staff members of the County and the Virginia Department of Forestry had been quite helpful in clarifying many of the concerns of the forest products community. Among the philosophical concerns is that the tree canopy is a privately-provided public good and that if it is in the public interest to protect and preserve it, there should be some compensation in some manner to the private owners of the trees. Among the practical concerns is that a forest community grows in a manner that the trees collectively support each other in severe weather events. Leaving a buffer of mature trees from a clear cut will leave trees that are highly susceptible to weather-related damage and given that these buffers by definition will be along roadways, this action dramatically increases the possibility of tree fall across roads. Overhead utility lines are still prevalent in New Kent and typically follow the roads, thus tree falls will likely not only close roads, they will also disrupt electricity, telephone and cable. Consequently, unless sufficiently wide, left buffers have more negatives than positives. Of course wide buffers have substantially more economic impact on the landowners. Thus options other than regulation should be considered.

The committee decided that while the basic construct of the draft could form the basis for a renewed proposal, considerable additional thought would be required before a proposal could be brought forth that would be workable and practical. However, the committee directed staff to make the following changes or investigate options:

- Remove Crumps Mill Road and Criss Cross Road from the list of scenic corridors
- Investigate having St. Peter's Lane and Cooks Mill Road officially recognized by the Commonwealth as Scenic Byways and keep them on the list of local scenic routes in the meantime
- Consider alternatives to the greenbelt provisions that may include a tiered approach of decreased depth and increased plantings and/or more rapid replanting
- Set up an informal discussion with the owners of property along the scenic corridors to discuss options and alternatives before finalizing any recommendations

The committee set their next meeting for 3:00-5:00 Thursday 24 April 2008.

The meeting adjourned at 4:40PM.

**DRAFT Proposed Language**  
*Scenic & Historic Subcommittee*

**Sec. 98-xx. Historic resource impact analysis.**

- (a) *Intent.* In accordance with the objectives of the adopted comprehensive plan and specifically with section 15.2-2306, Code of Virginia, the purpose of the historic resources impact analysis is to protect the historic cultural resources of the County by ensuring that historic buildings and archeological sites are acknowledged and incorporated into the overall design of proposed development. It is not the purpose of these requirements to preclude development; instead historic significance is to be determined and documented before development occurs.
- (b) *Applicability.* Specifically, these provisions apply to all development in areas of the County which have or are predicted to have historic and archaeological resources present on the site as identified by the study entitled "New Kent County Historic Resources Inventory" as prepared by the James River Institute of Archaeology. However, because of the high potential that any land area in the County could contain resources of sufficient historical value as to warrant additional study, in addition to those predicted to have historic resources in the above-referenced study, any development comprising twenty (20) acres or more in any location in the County shall prepare and submit the studies and reports in the manner specified in subsection (c) below.
- (c) *Special requirements.*
- (1) Archaeological studies.
    - A. A Phase I archaeological study, as defined by the Virginia Department of Historic Resources in *Guidelines for Archaeological Investigations in Virginia, Department of Historic Resources* (1996, as amended), shall be undertaken for all development located as defined in subsection (b) above.
    - B. If, based on the "Guidelines for Preparing Archaeological Resource Management Reports" of the Virginia Department of Historic Resources, the Phase I study indicates the desirability for additional studies, a Phase II (as defined by the Virginia Department of Historic Resources, above) and, if

warranted, a Phase III (as defined by the Virginia Department of Historic Resources, above) study of the site shall also be completed. The recommendations of such studies shall be incorporated into the plan of development and any clearing, grading, or construction activities.

- C. Alternatively, instead of performing additional studies, the archaeological resource may be preserved in place provided, however, that the zoning administrator shall require that sufficient study and analysis are performed which shall determine the location and extent of the resource so as to ensure its future accessibility.

(2) Architectural studies.

- A. The Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be used in performing appropriate architectural studies or analyses of standing structures.
- B. In the case of demolition of historic standing structures, the zoning administrator may require that a set of measured drawings be prepared by a licensed architect and filed with the County and the state historic preservation office prior to demolition occurring.

- (3) Burial sites shall be identified on any property through investigation performed by a professional operating within his or her area of competency and an affidavit signed by such professional shall be submitted with each development application and shall state whether graves, objects, or structures marking human burial sites or places of historical significance exist or do not exist on the property. If such features exist, they shall be identified on all plans submitted and their preservation or disposition shall be specifically addressed as a part of the planning process.

- (4) All archaeological and architectural studies shall be submitted to the zoning administrator for review and approval and shall be made a part of any development plan approval.

- (d) *Waiver of certain requirements.* Upon written request from the developer, the zoning administrator may consider granting an administrative modification to other provisions of the zoning ordinance if the granting of such administrative modification would permit the permanent protection

and preservation of an historic resource deemed worthy of preservation in writing by competent authority recognized by the zoning administrator or state historic preservation officer without permitting development at an intensity greater than that allowed without the administrative modification. Additionally, the zoning administrator may waive any of the above requirements deemed not to be necessary for the proposed project or where it is determined in writing by competent authority recognized by the zoning administrator or state historic preservation officer that the value of the historic resource is insignificant in comparison to the cost of required studies, recovery, or preservation plans.

**DRAFT Proposed Language**  
*Scenic & Historic Subcommittee*

**Sec. 98-yy. SCO, Scenic Corridor Overlay, district.**

(a) *Statement of intent.* In accordance with section 15.2-2306 Code of Virginia and the objectives of the comprehensive plan, the scenic corridor overlay district regulations are designed and intended to protect and enhance the aesthetic and visual character of the transportation corridors designated as Virginia Scenic Byways and those other corridors providing access to the historic and tourist resources of New Kent County. All development proposed within these corridors shall be subject to procedures and standards in addition to those in the district regulations. Primarily this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county.

(b) *Applicability.* The special provisions established in this section shall apply to development on parcels which are located along major tourist corridors designated as Virginia Scenic Byways and those other corridors providing access to the historic and tourist resources of New Kent County. All lands within three hundred feet (300') of the road right-of-way shall be included in the overlay district. The following roads and roadway segments are determined to be scenic corridors to which the provisions of the overlay district apply:

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(1) New Kent Highway (Routes 30 & 249) east of Tunstall/Airport Roads (Route 612) to the James City County line

Deleted: George W. Watkins

Deleted: and west of Farmers Drive

(2) Old Church Road (Route 609)

(3) Old Church Road (Route 606)

(4) Old River Road (Route 608)

(5) St. Peters Lane (Route 642) west of St. Peters Church

Deleted: <#>Crumps Mill Road (Route 645)¶

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(6) Cooks Mill Road (Route 623)

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(7) Stage Road (Routes 627 and 632)

Deleted: <#>Criss Cross Road (Route 617)

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The boundary of the SCO district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the future right-of-way line if the proposed development will be required to add right-of-way, either because of its traffic impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period. Where the property is split by this line, these provisions shall apply only to the portion within the district.

- (c) *Use regulations.* Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein. Except in designated villages and hamlets, the setback from the scenic corridor for parking lots and for all structures other than fences shall be one hundred feet (100'). All setbacks shall be measured from the edge of the current right-of-way, or if substandard or future roadway plans indicate that the right-of-way is to be increased, from the edge of such future right-of-way.

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- (d) *Greenbelts required.* Along all scenic corridors, a landscaped buffer of no less than one-hundred feet (100') in width except in designated villages or hamlets shall be provided measured from the edge of the current right-of-way, or if substandard or future roadway plans indicate that the right-of-way is to be increased, from the edge of such future right-of-way.

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- (e) *Tree protection.* Along all scenic corridors, the living, disease-free mature trees and the canopy provided by those trees shall be protected and preserved during the development process to the extent possible while still permitting reasonable development opportunities for the property.

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**Deleted:** <#>New Kent Highway (Routes 30 & 249) east of George W. Watkins Road and west of Farmers Drive ¶  
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 <#>Old Church Road (Route 609)¶  
 ¶  
 <#>Old Church Road (Route 606)¶  
 ¶  
 <#>Old River Road (Route 608)¶  
 ¶  
 <#>Crumps Mill Road (Route 645)¶  
 ¶  
 <#>St. Peters Lane (Route 642) west of St. Peters Church¶  
 ¶  
 <#>Cooks Mill Road (Route 623) ¶  
 ¶  
 Criss Cross Road (Route 617)

- (1) No person shall cut, destroy, move or remove any living, disease-free tree of any species having a trunk caliper of twelve inches (12") or larger, measured four and one-half feet (4½') above ground level, in conjunction with any development of land in the greenbelt established by this district unless and until final approval of required site plans and subdivision plans shall be obtained that authorizes such action. Should the zoning administrator determine that trees twelve inches (12") in diameter or greater or vegetation which contributes to the buffering effect have been removed without specific site plan or subdivision plan approval for such removal, the zoning administrator may require replacement of such trees or

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vegetation in any enforcement action brought pursuant to this chapter. The minimum height of the new replacement trees shall be twelve feet (12'). The minimum height and spread of new shrubs shall be three feet (3'). The zoning administrator may require replacement at ratios greater than one-to-one (1:1) in recognition of the size, spatial coverage, and maturity differences between replacement trees and the trees being replaced.

(2) No person shall cut or clear trees within the greenbelt established by this district for the sole purpose of offering land for sale. Land may, however, be underbrushed (bushhogged). Replacement trees as described above may be required by the zoning administrator for violations of this standard.

(3) When located within a zoning district which permits such activity, the harvesting of trees strictly in conjunction with commercial timbering or silvicultural activities is permitted provided that no timbering debris higher than twelve inches (12") above the natural ground level is left within one hundred feet (100') of the right-of-way of any corridor designated in this section. Commercial timbering or silvicultural activities must be conducted in full compliance with a forest management plan approved by the Virginia Department of Forestry and utilize forestry best management practices. The area within the greenbelt shall be replanted with seedlings at a rate recommended by the Virginia Department of Forestry before the end of the growing season in which the harvest occurs or before the end of the first growing season after the harvest if the harvest occurs outside of the growing season or converted to improved pasture or a bona fide agricultural use.

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**Deleted:** The buffer may be broken by necessary haul roads.

**Deleted:** filed with the zoning administrator prior to the initiation of harvesting. Up to twenty-five percent (25%) of the mature trees within the buffer may be harvested provided that such harvest is performed in a manner to protect the remaining trees from damage during and after the harvesting operations

**Deleted:** <#> *Replacement of trees.* Should the zoning administrator determine that trees twelve inches (12") in diameter or greater or vegetation which contributes to the buffering effect have been removed without specific site plan or subdivision plan approval for such removal, the zoning administrator may require replacement of such trees or vegetation in any enforcement action brought pursuant to section 98-9 of this chapter. The minimum height of the new replacement trees shall be twelve feet (12'). The minimum height and spread of new shrubs shall be three feet (3'). The zoning administrator may require replacement at ratios greater than one-to-one (1:1) in recognition of the size, spatial coverage, and maturity differences between replacement trees and the trees being replaced. ¶

(f) *Special architectural standards along scenic corridors.* 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 SCO district. Specific consideration shall be given to compatibility with adjacent properties, thus preventing an adverse impact to existing or future development which could cause depreciation of property values. The zoning administrator can waive or modify in writing for good cause shown any of the special architectural standards established herein that are not applicable to a particular development or for agricultural uses or for single-family detached homes. In all cases of granting a waiver or modification, the zoning administrator shall ensure that the overall integrity of the district is maintained.

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- (1) Design and architectural features shall demonstrate consistency with the following provisions:
- (2) Large work area doors or open bays shall not open toward or face the external roadways.
- (3) 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 the roadway. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.
- (4) Fences in front of buildings on the site shall be of a style which is harmonious with adjacent development.
- (5) Long monotonous façade designs shall be avoided including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line.
- (6) Brick, natural wood siding, or other materials with similar texture and appearance are considered most appropriate. Reflective surfaces are generally not considered acceptable exterior material.
- (7) Generally no more than three (3) colors shall be used per building. Semitransparent stains are recommended for application on natural wood finishes.
- (8) 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 be not be interpreted to preclude the use of architectural block as a building material.
- (9) Building lighting shall be recessed under roof overhangs or generated from concealed source, low-level light fixtures.
- (10) Site lighting 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 the vision of vehicle operators. Lighting fixtures or devices shall be of a full cut-off type that prevents upward light scatter and protects dark night skies.

- (11) Signs shall generally have no more than three (3) colors. Free-standing signs shall be of a ground-mounted monument type and shall not be larger than thirty-two (32) square feet nor erected to a height greater than twelve feet (12').
- (12) Outdoor storage shall be permitted in accordance with the underlying zoning district, 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.
- (13) Parking areas shall have fifteen percent (15%) of their surface areas in landscaped islands. Surface parking shall be provided to the rear of the uses it serves. Where the zoning administrator determines that rear parking is not feasible, all parking in front of the principal structure on the site shall screened from direct view from the public road by shrubbery and earthforms.
- (14) Site landscaping shall be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.
- (15) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information, in addition to complying with all applicable provisions of the subdivision ordinance or article IV of this chapter:
  - A. Comprehensive sign plan including design, materials, and colors to be utilized.
  - B. 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.
  - C. Rendering of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with rendering required in subparagraph (15)B above.
  - D. The location and design of all proposed exterior site lighting within the proposed development.

E. Photographs or drawings of neighboring uses and architectural styles.

(16) Village master plans duly adopted by the board may modify the requirements contained herein.

| (g) *Appeals*. In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, such plans shall be forwarded to the planning commission for review if, and only if, the reasons for disapproval or requiring modification stem from a failure to meet the provisions of this section. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. Appeals of decisions made by the planning commission under this section shall be to the board which shall conduct at least one (1) duly advertised public hearing on the matter before rendering a decision.

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