



PLANNING DEPARTMENT

**NEW KENT COUNTY PLANNING COMMISSION  
REGULAR MEETING  
MONDAY, AUGUST 16, 2021, AT 6:30 PM  
COUNTY ADMINISTRATION BUILDING BOARDROOM  
APPROVED MINUTES**

THE REGULAR MEETING OF THE NEW KENT COUNTY PLANNING COMMISSION WAS HELD ON THE 16TH DAY OF AUGUST IN THE YEAR TWO THOUSAND TWENTY-ONE IN THE COUNTY ADMINISTRATION BUILDING BOARDROOM AT 6:30 PM.

**IN RE: 1. CALL TO ORDER**

The 2021 Chairwoman, Ms. Rose, called the meeting to order at 6:31 PM.

**IN RE: 2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**

The Chairwoman led the Moment of Silence and Pledge of Allegiance.

**IN RE: 3. ROLL CALL AND DETERMINATION OF A QUORUM**

Attendance:	Ms. Patricia Townsend	<b>Absent</b>
	Ms. Katherine Butler	<b>Absent</b>
	Mr. John Moyer	<b>Absent</b>
	Ms. Amy Pearson	Present
	Ms. Curtisa Thomas	Present
	Mr. Gary Larochele	Present
	Dr. Joanne Schmit	Present
	Mr. Joseph Davis	Present
	Mr. V. Marc Bennett	Present
	Mr. Clarence "Tommy" Tiller	<b>Absent</b>
	Ms. Laura Rose	Present

A quorum was established.

Also Attending: Mr. Patrick Horsley, Applicant  
 Mr. Jeff Tunstall, Applicant  
 Ms. Cindy Jez, Realtor  
 Mr. Tim White, Applicant  
 Mr. Andy Curtis, Applicant  
 Alicia and Jonathan Caldwell, Applicants  
 Ms. Patricia Paige, District 3  
 Mr. Brendan Hefty, County Attorney  
 Mr. Justin Stauder, Assistant County Administrator  
 Ms. Kelli L. Z. Le Duc, Planning Director  
 Mr. Joshua Airaghi, Environmental Director  
 Mr. Kenneth Vaughan, Jr., Zoning Administrator  
 Ms. Sheri Adams, Recording Secretary

**IN RE: 4. APPROVAL OF MINUTES**

**A. JUN 21, 2021 – PLANNING COMMISSION REGULAR MEETING MINUTES**

The Chairwoman asked the Commissioners to review the minutes.

Mr. Davis stated a correction was needed on page 17 in the first paragraph noting the word should be 'collection'. He also noted the next line should have an apostrophe in 'Mr. Johnson's parcel'.

Ms. Rose stated a correction was needed on page 3 noting the word 'explained' should be 'explaining'. She stated a correction was needed on page 4 noting Ms. Le Duc was 'not' ready. She stated a correction was needed on page 5 noting Mr. Bennett 'expressed'. She stated a correction was needed on page 6 noting 'in advance of applying'.

The recording secretary noted the corrections.

The Chairwoman asked if there were any other comments or a motion.

Mr. Bennett made a motion to approve the June 21, 2021 minutes with the noted corrections.

The Chairwoman acknowledged the motion and asked for a roll call vote.

The members were polled:

Ms. Amy Pearson	Aye
Mr. Marc Bennett	Aye
Dr. Joanne Schmit	Aye
Mr. Joseph Davis	Aye
Mr. Gary Laroche	<b>Abstained, was absent 06/21/21</b>
Ms. Curtisa Thomas	Aye
Ms. Katherine Butler	<b>Absent</b>
Mr. John Moyer	<b>Absent</b>
Mr. Clarence "Tommy" Tiller	<b>Absent</b>
Ms. Patricia Townsend	<b>Absent</b>
Ms. Laura Rose	Aye

The motion to approve the June 21, 2021 minutes with the noted corrections carried with a roll call vote of 6:0:1.

#### **IN RE: 5. CITIZEN COMMENT PERIOD**

*Comments are limited to those on planning related issues that are not scheduled for public hearings later on the agenda. The comment sign-up sheet is located at the back of the room and citizens are required to sign up prior to the start of the meeting.*

The Chairwoman acknowledged no one was signed up or present to give Citizens Comments.

#### **IN RE: 6. PRESENTATIONS**

None

#### **IN RE: 7. UNFINISHED BUSINESS**

None

**IN RE: 8. PUBLIC HEARINGS**

The Chairwoman, Ms. Rose, turned the floor over to the 2021 Public Hearing Vice Chair, Dr. Schmit, to explain the hearing procedures and to open the first public hearing.

Dr. Schmit explained the procedures for the public hearings and opened the first public hearing of application PUD-01-21.

**A. APPLICATION PUD-01-21, Farms of New Kent Land Bay I PUD Amendment**

Ms. Le Duc gave a brief overview of the application stating it was an amendment request to allow for half acre lots instead of one acre lots within a certain area in Land Bay One. She stated the legal description and directed the Commissioners to an area map in their meeting packet. She noted the environmental features and sensitive areas located within the parcel. She suggested the smaller lots would better utilize the parcels' developable land and minimize impact to those areas. She said the proposal would not change the amount of maximum allowable lots currently allowed in Land Bay One. She stated all county and state reviewing agencies looked at the application and their comments were included in her staff report. She said she received numerous e-mails regarding the application and the public comments were either included in the meeting packet or placed at their seats tonight. She then introduced Mr. Patrick Horsley and his associates to give their presentations.

The applicant, Mr. Patrick Horsley, stated he was a life long resident of New Kent County and indicated he had been living in Viniterra the past ten years. He became a development partner, within Viniterra, about two years ago when they purchased all eighty lots from New Kent Farms, LLC.

Mr. Horsley gave a brief history of Viniterra and stated Peter Johns started it back in 2005 then New Kent Farms secured about \$85 million in CDA money to widen route 106 and brought water and sewer to exit 211. He reported ground breaking began in 2008 right when the real estate market crashed, the developer defaulted on their CDA and the bonds were taken by the bond holders. He said New Kent Farms was current on its obligations. He said in 2016, the defaulted bonds from the previous developer were purchased by Preston Harlow. He reported in 2018, the bonds holders (New Kent Farms) sold to PHC Holdings which was his company and he sold 118 cottage villas to Reesbrooks Land Development which was a 29-lot section in the Estates. He said in 2020, Reesbrooks started construction on the Cottages and planned to start on multiple homes in the next couple of months. He stated Reesbrooks was owned by Mr. Jeff Tunstall who was the joint applicant for this proposed PUD amendment.

Mr. Horsley reviewed the major areas with the development by referring to the colored map which was included in the presentation materials. He stated the light blue area of the referenced map was the area they were requesting to be half acre lots. He also reviewed the number of lots and stated the total maximum number of lots previously approved by the County was 455 lots and the total being proposed, even with the half acre lots, would be a total of 450 lots. They estimated a loss of about 65 lots given the existing landscape if this proposal was denied. He stated a petition was circulated about two years ago that gave initial support of the half acre lots as long as they remained cluster in one area. He felt they did a good job isolating the area behind the golf course for the proposed half acre lots and they didn't intermingle within the estate lots. He felt it would help separate the markets, facilitate amenity development and allow for open spaces and woodland trails. He stated it would get home owners closer to relief of association fees with more residences paying to take care of the amenities and roads. He believed a smaller selection of estate lots would create competition and increase home values. Mr. Horsley then introduced a realtor of over thirty years, Ms. Cindy Jez, to share her knowledge and experience of the development market in and around Richmond.

Ms. Cynthia Jez stated she had been in the real estate industry for over thirty years and has worked with several communities of the greater Richmond area. She stated most planned unit developments within the area were designed with different lots sizes, features and entrances to offer a wide variety of housing options to today's consumer. She stated

construction per square foot cost was not necessarily differentiated by the different lot sizes and said the construction square foot cost remained the same regardless of the size of the lot. She stated acre plus lots were not always the most desirable lots because of maintenance issues based on market studies with consumers. She also stated having a mix of housing options allowed for move up opportunity within a community. She said a lot of times this type of development mix allowed for adult kids to move close by or for grandparents to move into the community into something like a cottage style home to help support the family unit. She said she was seeing a lot more remote workers figuring this into their home buying plans. She reported construction activity prompted existing home owners the benefit of see completion of amenities on a quicker time table. She also stated more roof tops better enabled businesses to thrive in a community. She said home buyer preferences were the driving factors in development decisions and generally home buyers wanted less than an acre. She said she found acre plus lots were more of a niche market. She stated the value of the acre plus lots increased with the presence of the smaller lots mixed within the development because there are fewer estate lots which drive up demand. She said she worked closely with East West Partners on the Hallsley Subdivision in Chesterfield County which was awarded Community of the Year in 2017 by the National Association of Home Builders and stated it was praised by the judges for its diversity of product and rich amenity package.

Ms. Jez concluded by saying that was her take on how community development took place in the Richmond area and thanked everyone for their time.

Mr. Jeff Tunstall stated he was the owner of Reesebrooks Land and the Market President for Craftmaster Homes and Perrincrest Custom Homes. He said he owns sixty-seven acres of the cottages and villas which they have started the first fifty-eight lots of the two phases of development. He reviewed where that was on the presented map and showed where the cottages were located. He also owned the estate lots which were depicted in dark blue on the presentation map. He said they received the first round of plan review comments for that section of development which he had responded to and hoped to move forward by late this year and early next year. He stated he was heavily invested in Viniterra and looked forward to the growth of Viniterra. He said they also put in eight thousand linear feet of sewer line all the way from the cottages to the pump house which was a great task. He said the sewer lines would be utilized for the cottages and the proposed light blue area whether they be acre or half acre lots. He said he was hopeful the development would succeed well with his one hundred and eighteen lots and the estate lots. He stated he would never want to do anything to disgrace any one's property value and he too wanted the property values to go up. He said it would be beneficial to his buyers and the rest of the community. He said the one hundred and fifty-five half acre lots could not be developed until he finished the road and there were discussions about a second entrance at Old Church Road. He stated he would be in favor of that if they could get approval and it would be beneficial to the general safety of the community and give ingress and egress to the Fire Department and school buses. He appreciated everybody's time.

The Public Hearing Vice Chairwoman asked if there were any further questions by Commissioners.

Mr. Bennett asked how big the estates lots were and Mr. Horsley stated the average lot size was 1.1 acres.

Mr. Bennett asked how big the cottage lots were and Mr. Horsley stated they were approximately 0.25 acres.

Mr. Bennett asked about the dimensions of the proposed lots and Mr. Horsley stated the width of some of the lots were one hundred and eight-three feet and the average width ran about ninety-seven feet wide with the minimum lot size being the half acre. He said the maximum lot size could go to 1.2 acres with an average of 0.60 acres.

Mr. Bennett stated he thought about ten of those lots could be significantly challenged by the terrain. Mr. Horsley agreed but felt Mr. Tunstall could navigate it with the proper design.

Mr. Bennett asked what the average home value of the estate lots would be and Mr. Horsley stated the average home price in Viniterra was \$750,000.00 to \$800,000.00 and said the cottages ran over \$400,000.00.

Mr. Tunstall added, even with the half acre lots, the prices would still be within that range due to current lumber prices.

Ms. Thomas asked if the original homeowners bought into the community assuming these would be one-acre lots ten years ago and Mr. Horsley stated yes that was the plan ten years ago.

Ms. Thomas asked how long the community would be under developers control and Mr. Horsley stated he thought it was until ninety percent build out. She then asked if additional changes could be requested until that time and Mr. Horsley stated that was true and they would still have to submit their changes to the Board for approval until such time the developer control ended and they could be denied future proposal requests.

Mr. Larochelle asked if there was a map showing the current layout of the section and Mr. Horsley said he didn't have one but it was slated for sixty-five lots prior to this proposal.

Mr. Larochelle asked what would happen to the steep slope areas indicated by the red arrows in the presentation map and Mr. Horsley said they would be come common areas for walking trails if allowed or effect the narrowness of one acre lots if the proposal was denied. Mr. Horsley stated he and Jeff were going to walk the site next week to check out the walking paths and there were no other plans to develop those red arrow areas into building lots. Mr. Horsley also added the density set for the area was four hundred and fifty-five lots and this proposal would stay under that density limit at four hundred and fifty lots.

Mr. Larochelle asked if there were homeowners present tonight that took the survey a couple of years ago and what the prevailing response was to the survey. Mr. Horsley stated over half of the current residences were not opposed to the suggestion two years ago.

Mr. Davis asked if anything changed since these were proposed as one-acre lots ten years ago and Mr. Horsley stated there was a big state stormwater regulation change in 2014 which required the BMP ponds to be much larger. Mr. Tunstall stated the regulations affected the estate lot blue area in the presentation map and added the cottage area had one BMP under the old regulations but had to have two under the new regulations. He said there also had to be a fifty-foot by fifty-foot square that had to be undisturbed and he also had to buy wetland credits.

Mr. Bennett asked how many discussions were held with the current homeowners and Mr. Horsley stated there were several discussions since 2018 and the opposition that was presented by the public tonight wasn't around two years ago. He reiterated the point he lived there and he wouldn't want anything to hurt his home value and that he understood Mr. Tunstall and the existing homeowners were also heavily invested. He said he really didn't see a decrease in home value to be an issue. He said they held face-to-face meetings in 2018 and 2019 as well.

Ms. Rose asked if there were any covenant changes anticipated regarding the size of the houses to which Mr. Horsley reply no there was not. He stated they would stay as required as a minimum twenty-five hundred square feet in size and they were not requesting to change that requirement.

Ms. Rose asked for more details about the second entrance and Mr. Horsley said the residences would like to see a second entrance but that wasn't being proposed in this request.

The Public Hearing Vice Chairwoman then opened the citizens comment portion of the public hearing and called Dana Roman to the podium.

Dana Roman, of 9226 Angel's Share Drive in Viniterra, stated she has lived in Viniterra for about six years and they loved it. Her son went to New Kent High School and both her sons lived with them for a period of time. She said her husband was active at the High School and they have both been involved in the community. She said this was where they called

home and her first concern was the lack of notification about this proposal. She said she found out about it after the last public meeting date was canceled. She did, however, acknowledge she recalled previous discussions about how the half acre lots would help them get to the amenities. She said she never signed a petition; she never gave her consent for this proposal and she never attended a face-to-face meeting. She stated she was worried the lot size reduction could happen elsewhere in the community because Mr. Tunstall owned other pieces of property called the estate lots and she felt the language didn't specify the proposed lot size reduction to just this one proposed area. She stated her second concern was the home values and she felt the architectural covenants were not always consistent and it left her wondering what could be next. She stated they still had no amenities. She thanked the Commissioners and said the Commissioners were their voice right now.

Doug Morse, of 7383 Crush Court, stated he liked the community so much he also bought a lot across the street at 7340 Crush Court. He said he was in support of the proposal and had been aware of the plans since last year when he was part of the discussions. He said the only concern he had was calling the half acre lots the same as the estate lots but that had been resolved by calling the proposed half acre lots the 'Preserve'. He felt it was good to achieve the density that was originally planned and he felt where they were situated was a positive thing.

William Green, of 9199 Angel's Share Drive, stated he wasn't notified until he happened to have a discussion with Mr. Horsley that the previous meeting had been canceled. He said he got an e-mail and discovered he and his wife were not included on a notification list. He said he was a Vice President of a construction company and he was concerned the site was already out of compliance with the New Kent County Environmental Department. He said he looked at the SWPPP on site and stated it had not been updated for two weeks and said it had numerous items which would constitute DEQ violations. He said given the violations, he didn't feel they were worried about the environmentally sensitive areas within the development. He said the cost of construction was more expense when dealing with environmentally sensitive areas and it wasn't the existing homeowners responsibility to worry about the density; it was the developers responsibility.

The Public Hearing Vice Chairwoman thanked the public for their comments and asked if there was anyone else to give comments. Mr. Richard Fields presented himself for comment and was added to the sign-up sheet by the recording secretary.

Richard Fields, of 9123 Angel's Share Drive, stated he had submitted his written comments but wanted to share more observations in person. He stated the developers were in violation of the original PUD agreement from 2005 in that the requirement that homeowners be members of a Master Property Owners Association was not being met. He said the developer denied them membership and because of that; the developer was able to ask for exemption from the Property Owners Association Act. He said the PUD amendment from 2018 stated they were to be members of the Property Owners Association but the developer hasn't changed the declaration and he said they were still being denied their rights (as homeowners). He went on to say the developer was also in violation of the Non-Stock Corporation Act because the developer was distributing income to the developer who was also a member of the association and stated that was unlawful. He suggested the County not approve any proposals until the developer amends the documents and comply with the ordinance, comply with the Virginia Property Owner Association Act and comply with the Virginia Non-Stock Corporation Act.

The Public Hearing Vice Chairwoman asked if there were any further comments from the applicants. With no further comments from the applicants, the Public Hearing Vice Chairwoman closed the citizens comment portion of the public hearing and closed the public hearing of application PUD-01-21. She then turned the floor back over to the Commission Chairwoman, Ms. Rose.

The Chairwoman asked the Commissioners if they had further questions.

Mr. Davis asked staff if they were aware of any violations and Ms. Le Duc asked the County Attorney, Mr. Brendan Hefty, to address that question.

The County Attorney, Mr. Hefty, stated Mr. Field's concerns were relayed to the County Zoning Administrator and no action had been taken.

Ms. Thomas asked if Mr. Fields was part of the survey and if there was a literature packet presented at that time and Mr. Fields stated he was part of a face-to-face meeting (at a Christmas Party) and he had a copy of the packet that was distributed. Mr. Fields stated about fifty-five percent of the residents present agreed, at that time, to a plat map that would put the proposed half acre lots over on the other side but since that time, things have changed. He stated he since learned of all the violations going on and stated again that they had rights under the initial ordinance. He also said they continued to have some, but not many, rights under the re-stated ordinance. He said the developer took almost all their rights when they did the re-statement in 2018. He went on to say the re-statement in 2018 took all the Counties' rights away because they no longer have the right or authority to review documents for compliance but they had that right in the initial ordinance. Mr. Fields state Mr. Hefty was right; he had presented his findings to several people at the County and no action has been taken but no one has disagreed with him. He reported everyone at the County has told him he had a great civil case and he could sue. He said the developer was breaking a lot of laws for their personal again and someone had to do something. He said the County had a duty to protect its citizens. He asked Commissioners to read the Master Declaration, go read the law and go read the ordinance and they would see the evidence in the Declaration, the Articles of Incorporation and in the Bylaws of the Corporation.

The Chairwoman stated Mr. Fields time for comments had expired and stated, for the record, that she didn't think Mr. Field's concerns were under the control of the Planning Commission. Mr. Field's suggested otherwise and asked why Planning had no control of the PUD Agreement and again Chairwoman, Ms. Rose, stated the Planning Commission was not in charge of code enforcement.

Dr. Schmit added the Planning Commission was not called tonight to vote on the items Mr. Field's presented. Mr. Field's said he understood.

The Chairwoman, Ms. Rose, asked Ms. Le Duc if there was any other concern about the second entrance. Ms. Le Duc stated County emergency services was definitely in favor of a second entrance but right now it was only proposed as an emergency access which was something. She stated it was not part of tonight's discussion but it was something they could look at during future site plans. Ms. Rose expressed concern about the increasing population of the community without a second entrance confirmed.

Mr. Larochelle asked if comments given by the Environmental Department on 6-1-21, in the plan review, were copied and pasted into Ms. Le Duc's staff report memorandum and Ms. Le Duc stated she did copy and paste them to her report.

Ms. Rose asked if the delineation of the area in the presentation map could be made more specific and Ms. Le Duc stated the one portion of LandBay One indicated by the colored presentation map would not be extended anywhere else in the Landbay One section and she made them provide a legal description for clarity. She said they would include the legal description in the resolution as well as a map and it would also be placed in the Board resolution.

A member of the audience, named Joe, asked to address the Chairwoman and she consented to one minute. Joe said the one entrance they had was shared with the winery, the golf course and all the residents along Angel's Share Drive in addition to them and he felt that was a big safety issue if some major event happened that cause a mass exodus of the community. He said if emergency services recommended it then it should be given strong consideration for public safety.

Mr. Bennett stated he was torn about a decision but he could justify the need for half acre lots. He felt diversity within a community brought variety and he didn't think the price points of the home were very much effected.

Ms. Rose stated that based upon her understanding of market pricing, she didn't think there was much of an issue with home values given that the half acre lot homes should not be considered comparable to the larger estate lots, and she thought diversity was good for the development also.

Mr. Davis didn't think the development had seventy-acres of water on the site and didn't think the topography had changed since the original proposed development. He said the stormwater regulations really didn't change the amount of lots noting the maximum of 455 lots allowed and now being able to build 450 lots.

Ms. Pearson asked if this would change the amenities and Mr. Horsley said there was an amenity site plan in review with the County which was high-end and would take a lot of money to perform the maintenance and to transfer the land for the amenity. Mr. Horsley stated the amenity would come regardless if the lots were one acre or half acre.

Ms. Thomas felt she had to consider all the citizens comments and her concern was the developer control of the community. She said when a developer has control for a long time and the propose changes such as this; the residents are kind of stuck. She said the residents then look to the Planning Commissioner to assist them with their concerns.

The Chairwoman asked if there were any other thoughts from staff or Commissioners.

Mr. Bennett stated it would be best to focus on land use issues rather than civil issues.

The Chairwoman said they could put it to a vote or table it to obtain more information.

Mr. Bennett ask what more information could be gathered that hasn't been explored already.

The Chairwoman stated this PUD had been started many years ago and a lot of money was at stake.

Mr. Larochelle asked Mr. Horsley how citizens of New Kent County benefited from this proposal.

Mr. Horsley stated there was a \$5,500.00 proffer for every house built, for one, which was revenue for the County and secondly, amenities and road maintenance would be more evenly paid for.

Mr. Larochelle asked how many lots had been sold so far and Mr. Horsley stated there were approximately forty-six lots that were currently developed.

Ms. Rose asked what number of homes built would trigger the building of the amenities and Mr. Horsley stated the requirement was one hundred and fifty-nine homes and forty homes have been built. He stated plans for the amenity in review may have to be delayed depending on this outcome.

Ms. Thomas said she understood the role of a Planning Commissioner was to consider land use but she felt she had to consider the residents issues hand-in-hand and consider how the citizens were feeling and thinking.

Ms. Pearson stated the Planning Commission did not make the final decision; the Board made the final decision.

Ms. Rose asked about the amenity plan review and Ms. Le Duc stated the County Planner, Mr. Koty Gray, could give comments on the plan review.

Mr. Gray said he provided comments to the applicants about a month ago on the submitted site plan for a clubhouse, which was quite large, at about 4,500 square feet and included a fitness center, swimming pool and tennis courts. He said the VDOT, the Environmental, Fire and Planning Departments all gave comments that were pretty straight-forward and he didn't think anything was entangled with what was going on tonight.

Ms. Pearson asked about future plans for a second entrance and Mr. Horsley said it wasn't being proposed at this time even though he felt it would benefit the community but stated several different elements would determine the outcome of a second entrance.

The Chairwoman asked if there was any further discussion or would they be able to make a better decision in another month.

Mr. Davis asked what more would be considered.

Mr. Bennett suggested maybe the developer should hold a town meeting with the residents and suggested they consider tabling a decision until next month even though he appreciated the diversification.

Mr. Tunstall stated the homes would be marketed within the same price range as the estate lots and wanted to know what Mr. Bennett meant by the diversification.

Mr. Bennett stated he was talking about the smaller lots and how they could open up a broader range of owners and families that could occupy the smaller lots even though the covenants that dictated the style of the homes would not change.

Mr. Larochelle asked the applicant to clarify the price points and Mr. Tunstall stated he didn't foresee the homes surrounded by five golf holes and the winery would be much under a million dollars.

Mr. Bennett thought about one-third of the homes were along the golf course and wondered if the smaller lots not directly along the golf course could be a different style of home at a lower price point to bring a different charm to that section of the community.

Mr. Fields again asked the Chairwoman for time to comment from the audience and the Chairwoman gave Mr. Fields another minute to comment.

Mr. Fields stated the one-acre lots homes were marketed as custom homes not to have two homes identically the same. He went on to say the half acre lots were being planned as production homes and every eighth house would be the same. He concluded they were going from one-acre lots with custom homes to half-acre lots where every eighth home was the same and it was a substantial difference.

Someone from the audience stated they tried to have a zoom meeting but some people were muted because they had a difference of opinion.

Ms. Rose acknowledged the past year had been very difficult getting everyone together. She was inclined to agree with Mr. Bennett to try to get better communications with the residents and asked if there was any motion.

Mr. Larochelle asked the applicants what they thought of Mr. Bennett's recommendation and Mr. Horsley stated they had conversations in the past, they sent out e-mails which described exactly what they were looking for, they asked for comments and questions and they responded to every single comment and question. He said he didn't know how they would be able to get together because of Covid and admitted they could not meet physically with the HOA last year but did conduct electronic meetings. He said the Covid restrictions might be more relaxed now looking at tonight's gathering

and said he was more than happy to have a meeting but felt it would result in the same conversations as tonight. He felt there would just be a divide that he didn't know how to unite. He felt he had support in the community in the past but recognized things change.

Mr. Horsley also addressed Mr. Fields last statement and said only minor modifications of the homes would occur in the design builds and that's the way it was currently stated in the Architectural Review Board (ARB).

Ms. Cynthia Jez asked the Chairwoman to comment and she was granted permission. Ms. Jez said, as a Real Estate Professional, she noted the developers had continued to pay their bonds and protect the integrity of the neighborhood since 2008 and said they had the opportunity, in the downturn of the market, to do a wholesale of the lots which could have negatively impacted the development. She said, based on the fact they have only had forty-six sales in the last thirteen years, they needed to have a better product offering to complete the property and protect the home values of the existing homeowners.

Someone in the audience stated the document said modifications would not be allowed and Mr. Horsley replied saying he pointed that out because it referred to a color of a door or something of that nature.

Mr. Horsley stated he preferred the Planning Commission take a vote tonight and let the Board decide how to move forward and, in the meantime, he would try to conduct another meeting with the residents.

Dr. Schmit agreed with Mr. Horsley and asked the Chairwoman if she was ready for a motion.

The Chairwoman acknowledged Dr. Schmit and asked her to proceed with her motion.

The County Attorney, Mr. Hefty, asked Mr. Bennett to first withdraw his previous motion before allowing Dr. Schmit to continue and Mr. Bennett withdrew his motion to defer action until next month.

Dr. Schmit moved to adopt resolution PC-18-21, to forward application PUD-01-21 to the New Kent County Board of Supervisors with a favorable recommendation.

The Chairwoman acknowledged both Mr. Bennett and Dr. Schmit and asked for a roll call vote on the motion given by Dr. Schmit.

The members were polled:

Ms. Curtisa Thomas	<b>Nay</b>
Mr. Marc Bennett	Aye
Dr. Joanne Schmit	Aye
Mr. Gary Laroche	<b>Nay</b>
Mr. Joseph Davis	<b>Nay</b>
Ms. Amy Pearson	<b>Nay</b>
Ms. Laura Rose	<b>Nay</b>
Ms. Townsend	<b>Absent</b>
Ms. Katherine Butler	<b>Absent</b>
Mr. John Moyer	<b>Absent</b>
Ms. Patricia Townsend	<b>Absent</b>
Mr. Clarence "Tommy" Tiller	<b>Absent</b>

The motion to adopt resolution PC-18-21 **failed** by a roll call vote of 2:5:0.

The Chairwoman, Ms. Rose, called a five-minute recess at 8:05 PM and reconvened the public hearings at 8:12 PM.

**B. Application CUP-03-21, The Truck Shop, LLC**

The Public Hearing Vice Chairwoman, Dr. Schmit, opened the public hearing of application CUP-03-21 at the direction of the Chairwoman, Ms. Rose, and turned to floor over to Ms. Le Duc to give her report.

Ms. Le Duc stated the applicant, Andy Curtis and his Manager, Tim White, were present and would give a brief presentation after her report.

She said they requested a conditional use permit for a public maintenance and repair shop designed for heavy-duty trucks, tractor trailers and recreational vehicles (RV's). She said it also included fueling and truck sales at the existing facility located at 7450 Ready Mix Drive in Eltham. She said it was called the Truck Shop and was on a developed lot of approximately ten acres. She reported the parcel was zoned industrial and was surrounded on all sides by industrial property. She said Section 98-61 of the zoning ordinance allowed for applicants to apply for land uses not defined in the code and stated there were no definitions for truck or trailer repair. She said the proposed hours of operation would be 7:30 AM to 5:00 PM, Monday through Friday and was not subject to change. She said no major comments were made by the reviewing departments or VDOT and reported the Economic Development Director felt it would bring revenue to the County and found it to be compatible with other uses in the area. She said the Standards for Review were set forth in Section 98-744 and were listed in her staff report. She listed four suggested conditions in resolution PC-19-21 and introduced Andy Curtis and Tim White.

Andy Curtis stated he was President of Curtis Contracting and came to the County in 2001 with about twenty employees and he now employed over three hundred people. He said he was located in Eltham for the last thirty-three years and over the last fifteen years, he had numerous requests from the public and the County to work on their heavy equipment at his maintenance facility. He said he stayed busy maintaining his own equipment at the time. He said the building that use to be Commercial Carriers Corporation is where he proposed his Truck Shop and recalled that was the company that use to carry all the beer out of Budweiser. He said he always admired the location and had no room for growth at his Curtis Contracting site because it was surrounded by waterways and Route 33. He said he ended up talking to the owner in Jacksonville, Florida and purchased the building two years ago. He said they use to use it for their truck maintenance and it was a fenced in compound. He said they hadn't put any money into the property in about twenty years but he went in and totally renovated it to make it a state-of-the-art facility which included indoor heating and air conditioning. He stated no heavy-truck maintenance shop he had toured around Virginia had indoor heating and air conditioning and his Manager, Tim White, would give a presentation on the facility in the upcoming slide show. He said he replaced the lighting, installed 24-hour gates around the compound and would offer a variety of services. He asked the Planning Commission to consider giving him a blessing to pursue his dream of this Truck Shop and he introduced his Manager, Tim White, to give a presentation of the facility.

Mr. White provided a copy of his PowerPoint presentation to staff for the record and reviewed the items shown in the slides. He discussed how the site use to be home to Rappahannock Concrete, an Environmental Company and Virginia Bio-Diesel. He said they proposed to do truck repairs and RV repairs since there was nowhere in the area to do RV repairs and wanted to keep that business in New Kent and not have the revenue go to Richmond. He said they would do part sales and inventoried parts upstairs at the facility and would do fuel and DEF sales. They intended to do truck sales and had an area to park trucks. He said they also wanted to do monthly parking and storage of trucks, RV's and boats at \$150.00 per month and the slide showed storage of those along the back of the parcel within the fenced area. He said they would also do Department of Transportation (DOT) inspections. He reviewed the hours of operations again and stated they had dual entrances into the facility with one being access to a customer parking lot and the other being gated to the back yard which would be closed after hours and on weekends. He said they had a fuel island and the customer parking area had over sixty parking places. He indicated on the slide where the truck for sale would be parked. He showed the video slides of the inside of the newly-renovated facility make note of the epoxied floors, the stock room

for the parts, the customer lounge, service windows and restrooms. He showed the heated and air-conditioned garage area and listed the individual services they would provide for trucks, trailers, Fire and EMS equipment and vehicles, trash trucks and school buses to name a few. He reviewed the office and customer areas shown on the slides and said the facility was head and shoulders above a Kenworth lounge he visited in Roanoke recently and he was very proud of it. He gave an overview of the lot, the parking locations, the fuel island and the electric gate with keypad coded access, the fencing and the exterior landscaping to come to the front of the building. He said they would leave the existing vegetative screen of existing trees up front along Route 33. He thanked the Commissioners for their time.

Ms. Pearson asked for the hours of operation and Mr. Curtis said they would be 7:30 AM to 5:00 PM, Monday through Friday. Mr. Curtis said the electronic gate would allow people to access their stored vehicles and they were also working on building a customer base for after hours fueling by access code only but that was in the works.

Ms. Thomas asked if they planned to work with the High School or Rappahannock Community College to recruit skilled employees and Mr. Curtis stated they did. He said how hard it was to find experienced people and they currently had one experienced mechanic and three younger gentlemen. He said they try to grow the younger ones with the more seasoned employees. He said employment was very competitive and employees would leave for another quarter an hour. He hoped to retain employees with the heated and cooled shop since they couldn't find that benefit anywhere else and he believed his biggest asset was his employees.

Ms. Pearson asked what the hours would be and Mr. Curtis said Monday through Friday, 7:30 AM to 5:00 PM and Mr. Curtis said they would work on a code to the electronic gate for people to get their stored vehicles at any time and they were working on building a customer base to give codes to those who needed DEF and diesel fuel after hours and weekends. He said it would be a controlled access for a logger, for example, to park in the yard if they need too.

Ms. Rose asked about the fuel tanks and Mr. Curtis said the tank was already there and it was a 15,000-gallon double-walled above-ground tank. He said he hired Papco to come inspect it and cleaned the residual out of it then they refilled it. He said all the pumps were upgraded and up to code and the DEF tank was a new above-ground tank and all ran on new pumps by credit card machine which he purchased. Ms. Rose asked if everything was registered with the DEQ and Mr. Curtis said it was.

Ms. Rose asked about the stormwater facilities and Mr. Curtis stated there was an existing BMP in the southwestern part of the property that was current. Mr. Curtis stated any runoff from the facility went to that BMP. Mr. Curtis said one of the advantages of having above-ground fuel tanks was you could see a leak if it occurred and address it immediately.

Ms. Rose asked if there was an oil separator on site and Mr. Curtis said there was not and that everything was on flat concrete and drained to the BMP.

Ms. Rose asked if the old company, Commercial Carriers, operated 24-hour fueling and Mr. Curtis stated they did and operated as a 24-hour facility. He said when they lost Budweiser, all the band truck left and all the flat beds came in. He said they hauled drywall, lumber, fertilizer and things of that nature and the drivers wanted to lease fifteen parking spots.

Ms. Rose said the use would serve a storage facility as well and asked if that was okay with Ms. Le Duc. Ms. Le Duc said they could always add that description to the proposed language but everything they had on site would meet the conditions for the storage use minimum standards as well. Ms. Le Duc said if the applicant changed anything after this action, they would have to come back to planning with an amended conditional use permit application.

Mr. Davis asked if the fleet fueling and fire codes have been met on site and Mr. Curtis said he had Fire Marshall inspections performed already and they bought their fuel from either Papco or the bio-diesel guy just up the street from them.

Mr. Davis asked if they planned to perform road-side service and Mr. Curtis said there were no plans to do that yet. Mr. Davis asked Ms. Le Duc if future towing would have an impact if this proposal was approved and Ms. Le Duc stated it would not and no further action would be required.

Mr. Davis said he liked the idea of having RV service available in the County instead of going to the Ashland area for inspections and repairs.

Mr. Bennett praised Mr. Curtis for his mentoring program because the future showed a lack of tradesmen unfortunately. He also asked Mr. Curtis if they would have to go to the site after hours for any reason. Mr. Curtis said they had contracts with VDOT for snow removal on the highways and that could, in times of those events, prompt them to go on site after hours to fulfill their contract obligations and retrieve vehicles and equipment. He said right now, they had eight-two plows and spreaders on contract and VDOT normally gave them four hours to react. He wanted to say how proud he was of one fact in that most spreaders had PTO or hydraulics diesel engines but he converted his to electric motors to better serve in times of need. He said he has plowed snow for over twenty years and found this more effective than having to service vehicles that have sat around for a while. He said he was proud of his community and he really appreciated Ms. Thomas bring people first over land issues. He said businesses today needed to put people first or they would be in business long.

Mr. Bennett said he liked the landscaping at Curtis Contracting and suggested maybe they could put something in between the customer area and the actual work area at the new facility. Mr. Bennett asked if they would work on heavy equipment like excavators and Mr. Curtis said they would not because the floor in the proposed shop was an eight-inch epoxied concrete floor that would be damaged.

The Public Hearing Vice Chairwoman opened and closed the citizens comment period since there was no one signed up to speak. She closed the public hearing of CUP-03-21 and turned the floor back over to the Chairwoman.

The Chairwoman asked if there was any further discussion.

Mr. Bennett suggested language be added to the conditions to address the occasional need for after hours entrance for emergency snow removal events and Ms. Le Duc said she could do that.

Mr. Davis moved to adopt resolution PC-19-21, to forward application CUP-03-21 to the New Kent County Board of Supervisors with a favorable recommendation with the addition of the emergency snow removal language.

The Chairwoman acknowledged the motion and asked for a roll call vote.

The members were polled:

Mr. Marc Bennett	Aye
Mr. Joseph Davis	Aye
Dr. Joanne Schmit	Aye
Ms. Curtisa Thomas	Aye
Mr. Gary Laroche	Aye
Ms. Amy Pearson	Aye
Ms. Laura Rose	Aye

Ms. Katherine Butler	<b>Absent</b>
Mr. John Moyer	<b>Absent</b>
Mr. Clarence "Tommy" Tiller	<b>Absent</b>
Ms. Patricia Townsend	<b>Absent</b>

The motion to adopt resolution PC-19-21 carried with a roll call vote of 7:0:0.

Mr. Curtis added the Sheriff's Department were great people and we were blessed to have them.

**C. Application OA-07-21, Amendment to Floodplain Ordinance Chapter 18, Article VI**

The Chair asked the Public Hearing Vice Chairwoman to open the public hearing of application OA-07-21. The Public Hearing Vice Chairwoman opened the public hearing and turned the floor over to Mr. Airaghi.

Mr. Josh Airaghi, Environmental Director, explained New Kent County participated in the National Flood Insurance Program (NFIP) which was managed by the Federal Emergency Management Agency (FEMA) and stated homes and business in high-risk flood areas with mortgages with government-backed lenders were required to have flood insurance. He said the Counties' participation in this program allowed the County homeowners to purchase flood insurance through the program. He reported FEMA had issued new flood maps that would take effect on October 1<sup>st</sup> of this year and the current County Code needed to be updated to meet the new NFIP requirements. He said the changes were to the existing floodplain ordinance to ensure compliance with the program. He said the changes were reviewed by the Department of Conservation and Recreation (DCR) which was tasked with the oversight of the Program requirements for the state and the changes were required for New Kent County to continue in the National Flood Insurance Program (NFIP).

The Public Hearing Vice Chairwoman asked if there were any questions from the Commissioners for staff. With no questions from the Commissioners, the Public Hearing Vice Chairwoman opened the citizens comment portion of the public hearing but with no one signed up to give comments; she closed the citizens comment period and closed the public hearing of OA-07-21 and turned the floor back over to the Chairwoman.

The Chairwoman asked for a motion if there were no further questions or comments.

Dr. Schmit moved to adopt resolution PC-20-21, to forward application OA-07-21 to the New Kent County Board of Supervisors with a favorable recommendation.

The Chairwoman acknowledged the motion and asked for a roll call vote.

The members were polled:

Mr. Joseph Davis	Aye
Mr. Gary Larochelle	Aye
Ms. Curtisa Thomas	Aye
Dr. Joanne Schmit	Aye
Ms. Amy Pearson	Aye
Mr. Marc Bennett	Aye
Ms. Katherine Butler	<b>Absent</b>
Mr. John Moyer	<b>Absent</b>
Mr. Clarence "Tommy" Tiller	<b>Absent</b>
Ms. Patricia Townsend	<b>Absent</b>

Ms. Laura Rose

Aye

The motion to adopt resolution PC-20-21 carried with a roll call vote of 7:0:0.

**D. Application AFD-09-21, Withdrawal from the Big Swamp AFD**

The Public Hearing Vice Chairwoman opened the public hearing of AFD-09-21, a withdrawal from Big Swamp Agricultural and Forestal District, and turned the floor over to Ms. Adams.

Ms. Adams reported application AFD-09-21 was for their consideration under resolution PC-21-21 and was a withdrawal request by the applicants Alicia and Jonathan Caldwell who were present tonight to answer any questions.

Ms. Adams stated they submitted an application to withdraw their parcel consisting of approximately 144 acres located on Carriage Road behind Vincent's Funeral Home. She said the special use district currently consisted of seventeen parcels and wasn't set to expire until 2024. She said the applicants wished to withdraw their parcel to explore their by-right options for the property unencumbered by the restrictions of the Agricultural and Forestal District Program. She said they recently inherited the property from the Mountcastle Estate, which was Jonathan's grandparent, so they may or may not be subject to roll-back taxes and that would be left to the Commissioner of Revenue. She reminded the Commissioners they could send a favorable recommendation to the Board of Supervisors through the adoption of resolution PC-21-21 and asked if anyone had any questions of her or the applicants.

The Public Hearing Vice Chairwoman asked if there were any questions from the Commissioners for staff.

Mr. Davis asked how the land was currently being used and Ms. Adams stated 123 acres were being used for timber and about 15 acres were used for agricultural production.

With no further questions from the Commissioners, the Public Hearing Vice Chairwoman opened the citizens comment portion of the public hearing but, with no one signed up to give comments, she closed the citizens comment period and closed the public hearing of AFD-09-21 and turned the floor over to the Chairwoman.

The Chairwoman asked if there were any other questions or comments on this proposal.

With no further discussion, the Chairwoman asked for a motion.

Ms. Pearson moved to adopt resolution PC-21-21, to forward application AFD-09-21 to the New Kent County Board of Supervisors with a favorable recommendation.

The Chairwoman acknowledged the motion and asked for a roll call vote.

The members were polled:

Dr. Joanne Schmit	Aye
Mr. Joseph Davis	Aye
Ms. Amy Pearson	Aye
Mr. Gary Larochelle	Aye
Ms. Curtisa Thomas	Aye
Mr. Marc Bennett	Aye
Mr. John Moyer	<b>Absent</b>
Ms. Katherine Butler	<b>Absent</b>

Mr. Clarence "Tommy" Tiller	<b>Absent</b>
Ms. Patricia Townsend	<b>Absent</b>
Ms. Laura Rose	Aye

The motion to adopt resolution PC-21-21 carried with a roll call vote of 7:0:0.

**IN RE: 9. NEW BUSINESS**

Ms. Rose said the Strategic Plan the Commissioners received tonight was the final product approved by the Board. She said they were now tasked with reviewing the document, looking at the Comprehensive Plan and making revisions to align with the Vision of New Kent. She said once all that was done, the task of re-writing the zoning ordinance would begin and it would be a large task. She said a contractor would be hired to help them through the Comprehensive Plan review which would probably take about a year and a half. She reported meeting with Marc Bennett, Kelli Le Duc, Rodney Hathaway, Thomas Tiller and Thomas Evelyn on July 27<sup>th</sup> to determine a way forward and it was decided a request for proposal (RFP) would come first to hire a consultant. She said they needed five volunteers to work on a subcommittee to develop the proposal and interview the candidates. She said her and Marc would be on the subcommittee so that left the need for three more. She explained it would probably result in several more meetings over a lengthy period of time and asked for volunteers.

Mr. Davis said he would volunteer his time to participate and would be happy to serve as a substitute for Mr. Bennett when he was busy with his other duties.

Ms. Rose also noted John Moyer, Katie Butler and Patricia Townsend were absent tonight but she would reach out to them to see if any or all of them could represent the other districts.

Mr. Larochelle said he didn't have much experience with RFP's but he would be interested if he could be helpful from district four.

Ms. Rose said Rodney had a general template for an RPF but they had to work together to develop criteria on how they were going to evaluate and rank the candidates.

Mr. Bennett added there would be a flow of how the process would occur.

Ms. Rose said, right now, they just needed to get a list of subcommittee members finalized and then she would get with Rodney to schedule a meeting when it was most convenient.

Mr. Bennett said the timeline, after the consultant was chosen, would be about 12 to 18 months to review the Comprehensive Plan and then the re-write of the zoning ordinance would take every bit of another 12 to 18 months. He said it would be prudent to get it right the first time to prevent having to amend ordinances later.

Ms. Rose said they wanted to pick a good contractor that could do the Comprehensive Plan work first and they were hopeful that same contractor would be able to roll right into the zoning re-write since they would already be familiar with the Comprehensive Plan. She also said Rodney would have to get a budget number for all this for the start of next year.

Ms. Thomas might have a problem meeting during the day.

Mr. Bennett said the consultant would compile a lot of the data and they would be tasked with reviewing the items they organized.

Ms. Thomas noted we still did not have a procurement manager.

Ms. Rose asked if anyone else was available during the day.

Mr. Larochelle said he was off on Fridays to help.

Ms. Le Duc said they could finalize the subcommittee list next month.

Ms. Rose stated they previously looked at companies from Northern Virginia and Ohio but she didn't think they would be flooded with proposals.

**IN RE: 10. CHAIRWOMAN'S REPORT**

None

**IN RE: 11. PLANRVA REPORT**

None

**IN RE: 12. COMMISSIONER'S REPORTS**

Mr. Larochelle reported he would be absent on September 20<sup>th</sup>.

Mr. Davis celebrated the birth of his fourth grandchild two weeks ago and everyone congratulated him!

Mr. Bennett wanted to know what was going on at the old polo field on Route 106 and Mr. Koty Gray said they were put the old polo field back to the original agricultural state and they were restoring soils and removing culverts that were installed. He said they were also timbering across the road.

**IN RE: 13. STAFF REPORTS**

Ms. Le Duc said she had a re-zoning application for their review next month which involved Mr. Kinney and the Ordinary across the street. She said he purchased retired Judge Hoover's house and wanted to incorporate that into the Ordinary project. She said that would be a request to re-zone from R-2 to CHDD.

Ms. Le Duc said the Board would come next month to discuss the Strategic Plan and coming events.

**IN RE: 14. MEETING SCHEDULE**

The Chairwoman stated the next meeting of the Planning Commission would be a joint meeting with the Board of Supervisors and would be held on Monday, September 20, 2021 at 6:30 PM in the County Administration Building Boardroom.

**IN RE: 16. ADJOURNMENT**

A motion to adjourn was made by Mr. Bennett and all agreed. The meeting was adjourned at 9:12 PM.

Respectfully,  
Sheri L. Adams, Recording Secretary