

Issue Paper: Native American Historical and Archaeological Sites in New Kent County and Protections Enforceable Against Data Center Development

Prepared for New Kent County residents August 2026

Executive Summary

New Kent County contains a dense concentration of Native American archaeological sites reflecting continuous Indigenous occupation from the Archaic period (as early as 7000–6000 B.C.) through the Contact period and into the historic era. These sites—primarily associated with the Chickahominy, Pamunkey, and related Algonquian peoples of the Powhatan paramount chiefdom—are concentrated along the Chickahominy and Pamunkey Rivers and their tributaries, with additional clusters near Barhamsville and Holly Forks.

At least 167 archaeological sites had been recorded by the early 1990s; many more remain undocumented. Notable resources include the National Register-listed Moysonec village (encountered by Captain John Smith in 1607) and sites investigated during the Chickahominy River Survey. Exact locations of most archaeological sites are restricted by law to prevent looting and desecration.

Data centers and associated infrastructure (buildings, substations, transmission lines, roads, and stormwater facilities) pose risks of permanent destruction or disturbance through grading, excavation, and vibration. Strong protections exist through federal Section 106 review (triggered by U.S. Army Corps of Engineers wetlands permits and other federal actions), Virginia Department of Historic Resources (DHR) oversight, tribal consultation, and local authority to require archaeological surveys and avoidance as conditions of development approval. New Kent can and should embed mandatory cultural-resource standards into any data-center ordinance or conditional-use process.

Scope of Native American Historical and Archaeological Sites

New Kent County lies in the heart of the ancestral territory of the Chickahominy and Pamunkey peoples and other groups within the Powhatan Confederacy. Archaeological evidence documents human presence for millennia:

- **Temporal range:** Sites span the Archaic period through the Late Woodland and Contact periods (roughly 7000 B.C. to the early 17th century and beyond). Artifacts include stone tools, pottery (including Chickahominy series wares), shell middens, and village features.
- **Geographic concentration:** The great majority of recorded sites lie along the Chickahominy and Pamunkey Rivers and the waterways extending inland. Additional concentrations occur in the eastern portion of the county near Barhamsville and Holly Forks, documented in part through investigations by the College of William & Mary.

- **Documented inventory:** A 1990 county comprehensive-plan draft reported 167 archaeological sites already discovered. The Virginia Department of Historic Resources maintains the official, continuously updated inventory (Virginia Cultural Resource Information System). Precise numbers and coordinates are not publicly released for most archaeological sites.
- **Significant examples:**
 - o **Moysonec** (DHR 063-0077 / NRHP #75002026): A Chickahominy village noted by John Smith in 1607; listed on the National Register of Historic Places for its information potential (prehistoric and historic-Aboriginal significance, Late Woodland affiliation). Address restricted.
 - o Multiple village and ossuary sites identified during the Chickahominy River Survey (1960s–1970s) conducted by William & Mary archaeologists. Human remains and associated funerary objects from these and related sites have been subject to inventory and repatriation under the Native American Graves Protection and Repatriation Act (NAGPRA) in consultation with the Chickahominy Indian Tribe, Chickahominy Indian Tribe–Eastern Division, Pamunkey Indian Tribe, and other consulted tribes.
 - o **Orapax:** Powhatan’s residence after his move from Werowocomoco circa 1609; historical and archaeological evidence places it in western New Kent near the Chickahominy River / Bottoms Bridge area. A state historical marker commemorates the site.

High-probability zones for undiscovered sites include river terraces, confluences, well-drained uplands near water sources, and areas of known prehistoric settlement. Large-scale grading for data centers in these settings carries a substantial risk of encountering intact deposits, human remains, or features of cultural significance to living descendant communities.

Existing Legal Protections

Multiple overlapping authorities can be enforced on data-center projects:

1. Federal – Section 106 of the National Historic Preservation Act (NHPA) Any data center requiring a federal permit, license, or funding—most commonly a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers for wetland or stream impacts—is a federal “undertaking.” Section 106 requires the federal agency to:

- Define the Area of Potential Effects (APE);
- Make a reasonable and good-faith effort to identify historic properties (including archaeological sites listed in or eligible for the National Register);
- Assess effects;
- Consult with the State Historic Preservation Officer (Virginia DHR), federally recognized Tribes, local governments, and other consulting parties; and
- Resolve adverse effects through avoidance, minimization, or mitigation (typically memorialized in a Memorandum of Agreement).

Tribal consultation is mandatory when sites may hold religious or cultural significance to Tribes. Failure to complete Section 106 can halt or delay federal permits.

2. State – Virginia Department of Historic Resources and related statutes DHR reviews federal and many state actions. The Virginia Antiquities Act requires permits for the archaeological excavation or removal of human remains. DHR guidelines establish professional standards for Phase I (identification), Phase II (evaluation), and Phase III (data recovery) surveys. Unanticipated discoveries of human remains trigger immediate stop-work and notification protocols.

3. Local – New Kent County authority

- The New Kent Historic Commission is charged with preserving historic sites and advising the Board of Supervisors on development that may affect them.
- Comprehensive-plan language dating to at least 1990 recommended requiring archaeological surveys before development of tracts with potential resources.
- Through zoning ordinances, conditional-use permits, site-plan review, and proffer negotiations, the County can require Phase I archaeological surveys (conducted by qualified professionals meeting Secretary of the Interior standards), avoidance of significant sites, buffers, construction monitoring, and an unanticipated-discoveries plan as conditions of approval.
- Resource Protection Area and environmental review processes can be coordinated with cultural-resource review.

4. Tribal rights and NAGPRA Federally recognized Tribes with ancestral ties to New Kent (including the Pamunkey Indian Tribe and Chickahominy Indian Tribe–Eastern Division) possess consultation rights under Section 106 and can assert cultural affiliation for human remains and funerary objects.

Recommended Protections Specific to Data Centers

Because data centers involve extensive land disturbance, New Kent should embed the following standards in any data-center ordinance, Technology Overlay District successor, or conditional-use process:

1. **Mandatory early identification:** Require a Phase I archaeological survey (and architectural survey if needed) of the entire project area and any off-site infrastructure as a completeness requirement for applications, with results submitted to DHR and the County before public hearings.
2. **High-probability screening:** Automatically trigger intensive survey for parcels along the Chickahominy or Pamunkey corridors, near known site clusters (e.g., Barhamsville vicinity), or identified as high-probability by DHR predictive models.
3. **Avoidance preference:** Prioritize redesign to avoid National Register-listed or eligible sites, human-burial areas, and high-integrity deposits. Require demonstration that avoidance is not feasible before allowing data recovery.

4. **Tribal consultation:** Formal written consultation with relevant Tribes early in the process, independent of federal Section 106 timing when possible.
5. **Independent review and bonding:** County-funded or developer-funded peer review of survey reports; performance bonds covering monitoring and potential data-recovery costs.
6. **Construction-phase controls:** Full-time archaeological monitoring in sensitive zones; immediate stop-work authority for discoveries; pre-approved treatment plans for human remains consistent with NAGPRA and Virginia law.
7. **Public transparency:** Redacted survey summaries made available for public comment while protecting exact site locations.

These measures are already routinely applied to large projects elsewhere in Virginia and can be imposed locally without conflicting with state or federal law.

Conclusion

New Kent County is a repository of irreplaceable Native American cultural heritage spanning thousands of years. The recorded inventory of more than 160 archaeological sites—concentrated along the county’s major rivers and including National Register properties such as Moysonec—represents only a portion of what remains in the ground. Data-center development, if allowed to proceed without rigorous cultural-resource controls, risks permanent loss of this heritage and further harm to descendant communities.

Federal Section 106 review provides a powerful backstop when wetlands permits are required, but local action is essential to ensure surveys occur early, avoidance is prioritized, and tribal voices are heard. The County’s Historic Commission, comprehensive-plan policies, and zoning authority give New Kent the tools to enforce meaningful protections. Citizens should advocate for explicit archaeological standards in the data-center ordinance currently under development and insist that every application undergo thorough cultural-resource review before any approval is granted.

Primary sources for further reference: Virginia Department of Historic Resources (dhr.virginia.gov) site files and Section 106 guidance; New Kent Historic Commission materials; 1990 New Kent Comprehensive Land Use Plan draft archaeological findings; National Register documentation for Moysonec; NAGPRA inventory notices related to the Chickahominy River Survey. Residents are encouraged to contact the New Kent Planning Division and Historic Commission for the latest ordinance drafts and to participate in upcoming public hearings.