

**CURRITUCK COUNTY
BOARD OF ADJUSTMENT MEETING
October 11, 2007**

The Currituck County Board of Adjustment met on October 11, 2007 at 7:30 p.m. in the Historic Currituck County Courthouse. The following members were present: Larry Etheridge, Bryan Bass, Paul Beaumont, Donald Ferebee, and Earl Wemer, Jr. The following members were absent: Ralph Jones and Carol Bell. Tammy Glave, Planner; Tiffany Brothers, Planning Technician, and Ben Gallop, Attorney, were also present.

Mr. Etheridge called the meeting to order and announced a quorum had been met with four members and one alternate. None of the members disqualified themselves from voting on any of the items on the agenda. Mr. Wemer disclosed that he was a residence of 1125 Persimmon Street, but he had not made any prior decisions concerning this case.

APPROVAL OF MINUTES

Mr. Wemer motioned to approve the September 13, 2007 minutes as presented. Mr. Beaumont seconded the motion and the motion passed unanimously.

BOA 07-19 LIGHTHOUSE CAPITAL PARTNERS, LLC: Conditional use permit to allow a medical clinic less than 10,000SF (Use 3.130) located in Corolla at 1150 Persimmon Street, PIN 0114-000-0029-0000, Poplar Branch Outer Banks Township.

Tammy Glave, Lee Rumley, and Eddie Valdivieso appeared before the board and were sworn in.

Mrs. Glave presented the following case analysis to the board:

BOARD OF ADJUSTMENT CASE ANALYSIS

Meeting Date:	October 11, 2007
Case Number:	BOA 07-19
Applicant:	Lighthouse Capital Partners, LLC
Property Owner:	Scott Wheeler and Lizabeth Rutgers
PIN:	0114-000-0029-0000
Address:	1150 Persimmons Street
Zoning District:	RO1
Township:	Poplar Branch – Outer Banks

Request

Conditional use permit to allow an outpatient medical clinic pursuant to Section 1310, Table of Permissible Uses; Use Number 3.130 of the Currituck County Unified Development Ordinance.

Narrative

1. According to the applicant, "The property will be used as a medical professional outpatient office to include treatment and counseling. The staff will include three to five people and patients will be transported to the office by private shuttle. Operation hours will be from 9:00 a.m. to 5:00 p.m., Monday through Saturday. There will be a maximum of six vehicles at any one time. The facility will be operated under the direction of Duke Medical Center staff. Operation will be outpatient services only. The total number of patients serviced by this office will be approximately 15 per month."
2. An outpatient medical clinic is an allowable use with a conditional use permit in the RO1 zoning district.

Conditional Use Permit Criteria and Staff Findings:

(The Board must find that the applicant meets all criteria in order for a Conditional Use Permit to be approved.)

In granting a Conditional Use Permit, the Board of Adjustment may attach to the Permit such reasonable requirements in addition to those specified in this Ordinance as will ensure that the development in its proposed location:

- (a) **will not endanger the public health or safety;**
- (b) **will not injure the value of adjoining or abutting property;**
- (c) **will be in harmony with the area in which it is located;**
- (d) **will be in conformity with the Land Use Plan, Thoroughfare Plan, or other plan officially adopted by the Board of Commissioners; and,**
- (e) **will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities.**

Following is the staff Suggested Findings for each criteria (as is required by the UDO).

1. COMPLETENESS OF THE APPLICATION

Suggested Findings:

1. The application is complete.

2. COMPLIANCE WITH ORDINANCE REQUIREMENTS

Suggested Findings:

1. The applicant's proposal will be required to maintain compliance with all UDO requirements and any additional requirements of the Board of Adjustment.

(a) The proposed use **will not** materially endanger the public health or safety for the following reasons:

Suggested Findings:

1. The proposed clinic could enhance public health and safety by providing additional medical care in Corolla.

2. Persimmons Street will be improved to allow proper access for emergency vehicles, thus increasing public health and safety for the residents on Persimmons Street.

(b) The proposed use **will not** substantially injure the value of adjoining or abutting property for the following reasons:

Suggested Findings:

1. Section 1310, Use 3.130, of the Unified Development Ordinance indicates that outpatient medical clinics are permissible in the RO1 zoning district with a conditional use permit.

2. The surrounding land uses include:

- | | | |
|-----------|-------------------------------------|--------------|
| a. North: | Single Family Dwellings | Zone: RO1 |
| b. South: | Vacant | Zone: RO1 |
| c. East: | Corolla Chapel | Zone: RO1 |
| d. West: | Condominiums/Single Family Dwelling | Zone: GB/RO1 |

(c) The proposed use **will** be in harmony with the particular neighborhood or area in which it is to be located.

Suggested Findings:

1. The clinic will be within an existing building.

(d) The proposed use **will** be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plan officially adopted by the Board of Commissioners.

Suggested Findings:

1. The 2006 Land Use Plan classifies this property as Full Service District. "Areas designated as Full Service are those parts of the county where a broad range of infrastructure and service investments have been provided or will be made available by the public and/or private sections." This use is compliant with this plan.

- (e) The proposed use **will not** exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, and law enforcement, and other county facilities.

Suggested Findings:

1. The medical clinic should have minimal impact on county services.

Staff Recommendation

Staff recommends approval of this conditional use permit with the above findings of fact and the following:

Fire Marshal:

1. The structure was designed and constructed to residential standards as this is a change of use from residential to business it must be modified to the business standards of today. Fire extinguishers, Emergency lighting, illuminated exit signs etc.
2. The road must be 20' wide. It must be capable of withstanding 75,000lbs. in all weather conditions. It must have clear height of 13'6".
3. The property must have the capability of allowing the fire apparatus on the property a turn around area so that there is no undo backing into the roadway.
4. A fire hydrant must be within 400' of all portions of the structure.
5. Fire apparatus must be able to come within 150' of all portions of the structure.

Zoning:

1. The applicant must provide approval from Albemarle Regional Health Services that the septic system will support this change in use.
2. The applicant must provide approval from the Spence Castello, Chief Building Inspector, for this change in use.
3. According to the 2006 Land Use Plan with respect to nonresidential uses, "it is essential that the existing community character be preserved. Design criteria should be established to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping, and site design." Staff recommends that the residential character of the existing single family dwelling be preserved as the dwelling is converted to a commercial use.
4. Six parking spaces must be called out on the site plan and improved on the site. The applicant states there will be a maximum of six vehicles at the clinic at anytime. The UDO requires 23 spaces; however, Section 403 allows flexibility in administration of parking space standards to better suit the proposed use. Since this is not a typical outpatient clinic with a high volume of patient turnover per day (15 patients per month proposed) and since the patients will not drive to the clinic (shuttle service provided), staff supports the six space request. According to the NC Building Code, one of the parking spaces must be a van accessible handicap space.

Staff suggests that the board require a shrub row to be installed to visibly screen the parking area to help preserve the residential character of the neighborhood.

5. The driveway entrance requires a 10' x 35' sight-distance triangle. (UDO Section 414)
6. If Persimmon Street is improved to a hard surface material, then the driveway apron must be of a hard surfaced material, concrete or asphalt. (UDO Section 407).
7. A 12' x 25' loading area must be called out on the site plan. (UDO Section 41)
8. A Type C bufferyard is required at the street property line and a Type A is required at both side property lines. Compliant bufferyards must be shown on the revised site plan. Existing trees/shrub may be included in meeting the bufferyard requirements. (UDO Section 505)
9. Twenty percent of the vehicle accommodation areas must be shaded. This must be shown on the revised site plan. (UDO Section 515)
10. A lighting plan must be submitted that is compliant with Article 6, Part II, of the UDO.
11. A 12' x 12' dumpster pad must be called out on the revised site plan. The dumpster must be screened by an opaque fence and gate. If the applicant will not be using a dumpster, the site does not have to be improved; however, it must be called out on the site plan in case it is needed in the future. A copy of a trash disposal contract must be submitted if not using a dumpster. (UDO Section 615)
12. The principle building is located in Flood Zone AE (5.0'). If more than 50% of the value of the building is proposed for repairs or improvements, then the entire structure must be brought into compliance with floodplain regulations. (UDO Article 16).
13. Staff requests that the board set the hours of operation for the clinic.
14. Staff requests that the board limit the clinic to "outpatient" services only.

DISCUSSION

Mr. Eddie Valdivieso with Quible & Associates questioned the wording of the Fire Marshall's requirements. He stated that he was present in order to answer any technical questions.

Mr. Etheridge stated that the Fire Marshall would be the one to make the decision if the building meets all fire code requirements.

Mr. Wemer asked the applicant if he was aware of the flooding that was present at the location in September of 2006. He asked if that would cause a problem for clients to access the building if flooding were to occur in the future.

Mr. Rumley stated that the facility is more a counseling center rather than a critical care center. He explained that it's not a public style walk-in facility and the facility would provide transportation for patients.

Mr. Wemer questioned if they would have a commercial style garbage pick-up.

Mr. Rumley stated that they would be compliant with the dumpster area, but the facility wouldn't produce enough garbage to need a dumpster. He stated that they would use the garbage pick-up that is already provided. He also stated he was aware that the garbage pick-up was 200' from the building. He advised that he would utilize a dumpster if it became necessary.

Mr. Beaumont asked Mr. Rumley what would be his ideal hours of operation.

Mr. Rumley explained that it was critical for his operation to be open six days a week and the operation was designed to be low impact. The hours of operation that they would like to operate would be from Monday through Saturday and from 9 a.m. to 5 p.m.

Mr. Bass questioned the total number of patients that would be treated monthly and if the number of patients would be reoccurring patients.

Mr. Rumley explained that it would be the same patients on a 30 or 60 day basis.

Mr. Wemer questioned if there would be any patients staying overnight.

Mr. Rumley stated no.

ACTION

FINDINGS OF FACT

1. COMPLETENESS OF THE APPLICATION

Mr. Etheridge motioned for approval that the application is complete based on the following finding of fact:

- a. The application is complete.

Mr. Bass seconded the motion and the motion passed unanimously.

2. COMPLIANCE WITH ORDINANCE REQUIREMENTS

Ms. Beaumont motioned for approval that the proposed development will comply with the requirements of the UDO based on the following finding of fact:

- a. The development will comply with the requirements of the UDO and any additional requirements of the Board.

Mr. Bass seconded the motion and the motion passed unanimously.

3. WILL NOT ENDANGER THE PUBLIC HEALTH OR SAFETY;

Mr. Ferebee motioned for approval that the proposed development will not endanger the public health or safety based on the following findings of fact:

- a. The proposed clinic could enhance public health and safety by providing additional medical care in Corolla.

- b. Persimmons Street will be improved to allow proper access for emergency vehicles, thus increasing public health and safety for the residents on Persimmons Street.

Mr. Bass seconded the motion and the motion passed unanimously.

4. WILL NOT INJURE THE VALUE OF ADJOINING OR ABUTTING PROPERTY;

Mr. Bass motioned for approval that the proposed development will not injure the value of adjoining or abutting property based on the following findings of fact:

- a. Section 1310, Use 3.130, of the Unified Development Ordinance indicates that outpatient medical clinics are permissible in the RO1 zoning district with a conditional use permit.

- b. The surrounding land uses include:
 - a. North: Single Family Dwellings Zone: RO1
 - b. South: Vacant Zone: RO1
 - c. East: Corolla Chapel Zone: RO1
 - d. West: Condominiums/Single Family Dwelling Zone: GB/RO1

Mr. Ferebee seconded the motion and the motion passed unanimously.

5. WILL BE IN HARMONY WITH THE AREA IN WHICH IT IS LOCATED;

Mr. Bass motioned for the approval that the proposed development will be in harmony with the area in which it is located based on the following finding of fact:

- a. The clinic will be within an existing building.

Mr. Beaumont seconded the motion and the motion passed unanimously.

6. WILL BE IN CONFORMITY WITH THE LAND USE PLAN, THOROUGHFARE PLAN, OR OTHER PLAN OFFICIALLY ADOPTED BY THE BOARD OF COMMISSIONERS; AND,

Mr. Wemer motioned for the approval that the proposed development will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the board of commissioners based on the following finding of fact:

- a. The 2006 Land Use Plan classifies this property as Full Service District. "Areas designated as Full Service are those parts of the county where a broad range of infrastructure and service investments have been provided or will be made available by the public and/or private sections." This use is compliant with this plan.

Mr. Bass seconded the motion and the motion passed unanimously.

7. WILL NOT EXCEED THE COUNTY'S ABILITY TO PROVIDE ADEQUATE PUBLIC FACILITIES, INCLUDING, BUT NOT LIMITED TO, SCHOOLS, FIRE AND RESCUE, LAW ENFORCEMENT, AND OTHER COUNTY FACILITIES.

Mr. Bass motioned for approval that the proposed development will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities based on the following finding of fact:

- a. The medical clinic should have minimal impact on county services.

Mr. Ferebee seconded the motion and the motion passed unanimously.

PERMIT CONDITIONS:

Mr. Beaumont motioned to approve the conditional use permit subject to the following permit conditions:

1. The applicant must provide approval from the Fire Marshall for this change in use.
2. The applicant must provide approval from Albemarle Regional Health Services that the septic system will support this change in use.
3. The applicant must provide approval from the Spence Castello, Chief Building Inspector, for this change in use.
4. That the residential character of the existing single family dwelling be preserved as the dwelling is converted to a commercial use.
5. Six parking spaces, one of which shall be van accessible, must be called out on the site plan and improved on the site. Also, a shrub row shall be installed to visibly screen the parking area to help preserve the residential character of the neighborhood.
6. The driveway entrance requires a 10' x 35' sight-distance triangle.
7. If Persimmon Street is improved to a hard surface material, then the driveway apron must be of a hard surfaced material, concrete or asphalt.
8. A 12' x 25' loading area must be called out on the site plan.
9. A Type C bufferyard is required at the street property line and a Type A is required at both side property lines. Compliant bufferyards must be shown on the revised site plan.
10. Twenty percent of the vehicle accommodation areas must be shaded. This must be shown on the revised site plan.

11. A lighting plan must be submitted that is compliant with Article 6, Part II, of the UDO.

12. A 12 'x 12' dumpster pad must be called out on the revised site plan. Since the applicant will not be using a dumpster, the site does not have to be improved; however, it must be called out on the site plan in case it is needed in the future. A copy of a trash disposal contract must be submitted if not using a dumpster.

13. The principle building is located in Flood Zone AE (5.0'). If more than 50% of the value of the building is proposed for repairs or improvements, then the entire structure must be brought into compliance with floodplain regulations.

14. That the clinic be used for "outpatient" services only.

15. The hours of operation are Monday through Saturday from 9 a.m. to 5 p.m.
Mr. Bass seconded the motion and the motion passed unanimously.

Discussion of meeting time change

Ms. Glave asked the board to consider changing the meeting time to 7p.m. so that it would be consistent with the BOC meeting time.

Mr. Bass motioned to continue meeting at 7:30 p.m.

Mr. Ferebee seconded the motion and the motion passed unanimously.

ADJOURNMENT

There being no further business to discuss, Mr. Wemer motioned for adjournment. Mr. Beaumont seconded the motion and the motion passed unanimously. The meeting adjourned at 7:52 p.m.

Respectfully Submitted,

Tiffany C. Brothers/s/

Tiffany C. Brothers
Planning Technician