

CURRITUCK COUNTY PLANNING BOARD
December 14, 2004

A work session was held prior to the meeting to discuss items on the agenda.

The Currituck County Planning board met in the Historic Courthouse on December 14, 2004. The following members were present: Horace Bell, Bobby Bell, Eddie Hawley, Alvin Keel, Forrest Midgette, Pat Riley, Joe Kovacs, William Etheridge, and Arthur Winter. Gary Ferguson, Planning Director, Mike Kear, Chief Planner, and Chery Eggar were also present.

Horace Bell called the meeting to order, announced a quorum had been met, and lead the Pledge of Allegiance. None of the members disqualified themselves from voting on any of the items on the agenda. Rev. Todd Underwood gave the invocation.

APPROVAL OF AGENDA

Mr. Keel motioned to approve the agenda as presented with item 3, 4, and 6 removed. Mr. Winter seconded the motion. Motion passed unanimously.

APPROVAL OF NOVEMBER 9, 2004 MINUTES

Mr. Riley motioned to approve the November 9, 2004 minutes as presented. Mr. Hawley seconded the motion and the motion passed unanimously.

PB 04-71 Swan Beach Corolla, LLC Amendment to UDO section 127 to create off road historic Village Commercial Overlay District.

PB 04-72 Swan Beach Corolla, LLC Rezone 25.77 acres from Residential Outer Banks Limited Access (RO2) to Village Commercial Overlay District on property located on Ocean Pearl Rd. north of intersection of Albatross Ln, Swan Beach. Tax Map 101, Lot 1A, and Tax Map 101A, Lots C & D Section 1, Fruitville-Outer Banks Township.

These items were removed from the agenda, however the following people appeared to speak in response to the item:

Mr. and Mrs. Gene Snow of the Corolla Wild Horse fund spoke about their concern for the wild horses on the Outer Banks and protecting the integrity of the environment.

Nila Johnson, Currituck Chamber of Commerce and Corolla Wild Horse Fund, said that if the county loses the horses, the county will lose tourism.

PB 04-60 LBH, LLC/Shirley Webber Rezone 244 acres from Agricultural (A) to Residential (R) on property located on the west side of Caratoke Highway approximately 1,000' South of Forbes Rd. Tax Map 109, Lot 156, Poplar Branch Township

Eddie Hyman and Jim Arnold appeared before the board
 Ms. Eggar presented the following case analysis to the board.

**Zoning Staff Report: PB 04-60
 L.B.H., LLC Rezoning**

TYPE OF REQUEST: Request for rezoning 244 acres from Agricultural (A) to Residential (R).

LOCATION: This site is located on the west side of Caratoke Highway (NC 158) approximately 1,000' south of Forbes Road; Poplar Branch Township.

TAX ID: TM 109, Parcel 156

PROPERTY OWNER: L.B.H., LLC (under contract from Shirley Webber)

APPLICANT: Hyman & Robey

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Agricultural	Residential & General Business
ZONING HISTORY:	This property has been zoned Agricultural (A) since the adoption of the 1989 Zoning Map.	
SURROUNDING ZONING/LAND USE:	NORTH: Agricultural/ Farmland & Woodland SOUTH: Residential/ Mining, Farmland & Woodland EAST: Agricultural & General Business/ Mining, Residential, Medical Clinic, Woodland WEST: Albemarle Sound	
EXISTING LAND USE:	Mining, farmland and woodlands	
PROPOSED LAND USE:	Development of a major residential subdivision with 10 acres of General Business zoned property fronting Caratoke Highway (US 158)	
LAND USE PLAN :	In the County's 1990 Land Use Plan this property appears to be designated as Limited Transition along Caratoke Highway and Rural for the remaining part. It should be noted that the maps are not clear due to a diminished scale and it is difficult to precisely determine the exact locations of these classifications on this property.	

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The Rural area described in the LUP calls for low density dispersed single-family residential uses at a gross density of approximately one unit per acre. The purpose of the Limited Transition class is to provide for development in areas that will have some services, but are suitable for lower densities than those associated with the urban transition class. This class is intended for residential developments with densities of three units per acre or less and non-residential uses along major transportation routes.

This rezoning is consistent with the current Limited Transition and Rural classifications. The current Land Use Plan is dated. Staff has concerns about this plan guiding the future development of the County, especially since an updated Land Use Plan is in the works.

PUBLIC SERVICES AND UTILITIES: Lower Currituck Volunteer Fire Department provides fire protection for this area. Electric, natural gas, telephone, county water, and cable are currently available in the area.

TRANSPORTATION: The ingress/egress for this property is on Caratoke Highway which is classified as a Minor Arterial in the 1988 NCDOT Thoroughfare Plan.

SOILS: On the eastern one third of the site is marginally suitable for septic systems while the majority of the remaining site is favorable for septic systems. Soils inadequate for septic systems are located along at the rear of the property along the northern and southern property lines. Swamp Forest wetlands are located along the northwest portion of the property adjacent to Albemarle Sound

FLOOD ZONE: According to FEMA maps, a majority of the property is located outside of the 100 yr. floodplain (Zone C). A small portion at the northwestern end of the site is located within the 100 yr. floodplain with a base flood elevation of 8' (Zone A4). 75' of frontage along Albemarle Sound is within the CAMA Area of Environmental Concern.

STAFF COMMENTS:

- The Land Use Plan promotes commercial nodal development instead of having it stretched out along the highway. The commercial area is located in the area classified as Limited Transition in the Land Use Plan. The conceptual plan submitted with the rezoning request shows the 10 acre commercial area fronting along Caratoke Highway with two entrances to the shopping area. Staff has concerns that this layout will encourage strip commercial development.
- Under the proposed rezoning, single family density would increase from 1 unit every 3 acres to 1 unit every 40,000 square feet.
- Due to the size of the tract, 244 acres, the development will be required to be developed as a Conservation Subdivision which allows lot sizes down to 20,000 sf.
- Based on the USDA Soils Survey and the wetland delineations, it appears that only the center portion of the site is acceptable for development. In the areas where the soil is marginal for septic

systems, it is recommended that lot sizes for a future conservation residential development should not be less than 30,000 square feet.

- The 1990 Land Use Plan is out-of-date and is presently being updated. It is anticipated that the new Land Use Plan will be completed in the summer of 2005.

STAFF

RECOMMENDATION:

This site is contiguous with an existing Residential zone that extends over two miles to the south. The rezoning represents an expansion of this existing residential zoning. This proposed land use conforms to the existing uses found in the area.

The site is not contiguous with any General Business zoned land. The closest General Business zoned properties are located across Caratoke Highway, approximately 650' north and 750' south of the site. This rezoning may foster strip commercial development along Caratoke Highway.

Staff recommends denial of this major rezoning request since conformity with the new Land Use Plan can not yet be determined. There are additional concerns with the impact that the increased density through residential rezoning may have on school and water capacities.

DISCUSSION

Mr. Hawley asked about the possibility of downsizing the project due to being considered a conservation subdivision.

Ms. Eggar Said that 45% is conserved as open space and the lots can be reduced to 20,000 sq. ft.

Mr. Hawl asked what the number of units anticipated is.

Ms. Eggar said that is hard to determine at this time. Once septic and suitable soils, etc. are established, yield can be determined.

Mr. Hyman pointed out application was submitted while the 1990 Land Use Plan was being used. This rezoning is consistent with that plan. The surrounding area is currently residential.

Mr. Arnold restated that this plan was in process prior to the new Land Use Plan idea. He thinks this could set a nice 'tone' to the new plan because there is over 50% of open space in this plan, and there is a flow to the street plan. He envisions Coastal Carolina type housing, and a 'tax positive' development with homes over \$350,000. He said that the commercial part of the project would impact the local job market.

Mr. Kovacs asked how many units were envisioned.

Mr. Arnold said they hadn't determined how many at this time. He is hoping for 40,000 sq ft lots and approx. 200 units. The soils seem to be very sandy.

Mr. Kovacs stated that the area would be greatly reduced because the property is only 1/3 suitable for development.

Mr. Arnold said that he is not going to compromise the scenic unity of the property.

Mr. Hawley asked how Mr. Arnold would feel about moving the commercial area off the property.

Mr. Arnold said that he would certainly be open to that as a suggestion and he sees the property as having a nicer area than just a strip mall type development.

Mr. Hawley asked what is on the north side of Fisher Landing road.

Ms. Eggar said there is a major sub with 10 lots, Wright Medical Clinic.

Mr. Hawley stated that this is primarily an Agricultural area all the way north to Grandy.

Mr. Bell asked what the target is for build out.

Mr. Arnold said 5-6 years.

Mr. Hawley motioned approval of this request as presented with the condition that the general business is removed from the project. Mr. Bell seconded the motion. Motion passed unanimously.

PB 04-69 Carlyle and Betty Turner Rezone 3.04 acres from Mixed Residential (RA) to General Business (GB) on property located on Caratoke Highway approximately .6 miles north east of Beechwood Shores Rd. Tax Map 23, Lot 33H, Moyock Township.

This item was removed from the agenda. However the following people spoke with regard to the item:

Ms. Easter Dolgier spoke in opposition to the rezoning. She said this is a quiet neighborhood and would like to keep it this way. She asked why they want rezoning.

Mr. Ferguson explained that the people requesting a rezoning don't really have to tell the staff what their plans are. He said that the staff did not support the rezoning and the applicant withdrew.

Mr. Kear said that the applicant stated that he would not reapply in the near future.

Ms. Nellie Bailey said that she is in opposition to the rezoning as well.

Ms. Beulah Spellman spoke in opposition to the rezoning as well. She said that there is a septic problem as well as a traffic problem in this area.

PB 04-70 Shirley Williams Rezone two lots .98 and .92 acres from Mixed Residential (RA) to General Business (GB) on property located at the corner of S. Currituck Rd. and Caratoke Highway. Tax Map 59, Lots 25B and 25C, Crawford Township.

Shirley Williams appeared before the board.
Mr. Kear presented the following case analysis to the board.

**Zoning Staff Report: PB 04-70
Shirley H. Williams - Rezoning**

TYPE OF REQUEST: Request for rezoning two contiguous lots containing a total of 1.9 acres (.92 acre and .98 acre) from Mixed Residential (RA) to General Business (GB).

LOCATION: This site is located in Crawford Township at the southwest corner of Caratoke Highway (NC 168) and South Currituck Road.

TAX ID: Tax Map 59 Lots 25B & 25C

PROPERTY OWNER: Shirley H. Williams

APPLICANT: Shirley H. Williams

ZONING:	<table border="0" style="width: 100%;"> <tr> <td style="text-align: center;"><u>Current Zoning</u></td> <td style="text-align: center;"><u>Proposed Zoning</u></td> </tr> <tr> <td style="text-align: center;">Mixed Residential (RA)</td> <td style="text-align: center;">General Business (GB)</td> </tr> </table>	<u>Current Zoning</u>	<u>Proposed Zoning</u>	Mixed Residential (RA)	General Business (GB)
<u>Current Zoning</u>	<u>Proposed Zoning</u>				
Mixed Residential (RA)	General Business (GB)				
ZONING HISTORY:	Property has been zoned Mixed Residential since 1989.				
SURROUNDING ZONING/LAND USE:	NORTH: Mixed Residential/Farmland & Vacant SOUTH: Mixed Residential/Vacant EAST: Mixed Residential/Residences & Vacant WEST: Mixed Residential & Agricultural/Residential, Farmland & Vacant				
EXISTING LAND USE:	Vacant				
PROPOSED LAND USE:	The applicant is a real estate agent and desires to construct model homes including patio homes on the two lots being rezoned.				
LAND USE PLAN:	The 1990 Land Use Plan shows this property as Limited Transition. The purpose of this class is to provide for development in areas that have some services, but are suitable for lower densities than those associated with the urban transition class. This class is intended for residential developments with densities of three units per acre or less. This class is				

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also intended for nonresidential areas along major transportation routes. This rezoning request is consistent with the Land Use designation.

**PUBLIC SERVICES
AND UTILITIES:**

Crawford Township Volunteer Fire Department provides fire protection for this area. County water, electric, telephone and cable are currently available at this location.

TRANSPORTATION:

Property has approximately 410 feet of frontage on Caratoke Highway (NC 168) and approximately 190 feet of frontage on South Currituck Road. Caratoke Highway is classified as a Minor Arterial in the 1988 NCDOT Thoroughfare Plan.

FLOOD ZONE:

According to FEMA maps, the property is located outside of the 100 year floodplain (Flood Zone C).

SOILS:

According to the Currituck County Soil Survey, the soils found in northern lot are marginally suitable for septic systems and requires extensive drainage and site modifications to improve the potential for septic systems. The southern lot has soils which are unfavorable for septic systems due to wetness.

STAFF COMMENTS:

- The property is only 1.9 acres and this could be considered as spot zoning.
- The land is currently vacant. The applicant owns the adjacent property to the west and it is improved with a single family home. In 1993 the applicant was granted a Conditional Use Permit by the Board of Adjustment to operate a home business, a real estate office, out of her home
- The applicant wishes to expand her real estate business by construction model homes and model patio homes on the two lots.
- The adjacent property to the south and the property across South Currituck Road from the site are both vacant woodlands.
- Directly across Caratoke Highway from the site are two home businesses one selling antiques the other bird houses.
- This site is approximately 0.5 miles away from GB zoned land which is located to the north and south on Caratoke Highway. The GB zoned land to the south is improved with the Maple Post Office and single family home which is used for business purposes.
- The corner property has direct access to Caratoke Highway and South Currituck Road.
- This rezoning request is consistent with the current Land Use designation of Limited Transition.

STAFF

RECOMMENDATION: This property is not contiguous with the General Business zoning district and spot zoning may be of concern given the size of the property, 1.9 acres. Staff recommends denial of this application on the basis of spot zoning.

DISCUSSION

Ms. Williams said that her idea is to use the property for patio homes and higher density properties. She is interested in making the best use of the property.

Mr. Hawley asked what zoning is allowed on that size property.

Mr. Kear said that residential use is allowed, and that she could have one house on each site.

Ms. Williams said that she is asking for multiple residences on this property.

Ms. Eggar stated that currently the UDO requires 40,000 for each home built.

Mr. Hawley asked what the other options are to utilize this property.

Mr. Kear said that the staff would work with Ms. Williams in obtaining variances for other uses.

Mr. Ferguson said that these lots are only able to have two homes on two lots.

Ms. Williams said that the marketability of two houses on the highway is questionable. Rent on one home could be \$1500 month and if she could get some smaller units for more affordable housing built, the rent could potentially be \$1000 for each unit.

Mr. Ferguson said Ms. Williams is talking about impacting the school system, water system, etc. and stated that she is asking too much for such a small parcel of land. This would require a change in the UDO and said that she would have to ask for an amendment to be able to use this property for this purpose. Mr. Ferguson stated that all she will get at this meeting is a recommendation from the Planning Board, the Board Of Commissioners will make the final decision.

Mr. Keel motioned to deny the request as presented. Mr. Winter seconded the motion, motion passed unanimously.

**PB 03-38 Currituck Industrial Park (Formerly known as Farr Commercial Park)
Preliminary Plat for 51 lots on property located at the east side of Chase Dr. directly east of
Fox Knoll Commercial Park. Tax Map 123, Lot 32, Poplar Branch Township.**

Eddie Valdivieso and Andy Deel and Robert Hobbs appeared before the board.
Ms Eggar presented the following case analysis to the board.

**STAFF ANALYSIS FOR THE PLANNING BOARD
MEETING DATE: DECEMBER 14, 2004**

ITEM: **PB 03-38 CURRITUCK INDUSTRIAL PARK, PRELIMINARY PLAT FOR 50 LIGHT MANUFACTURING LOTS**

LOCATION: On the east side of Chase Court, directly east of Fox Knoll Commercial Park, Poplar Branch Township.

TAX ID: Tax Map 132 Parcel 32

ZONING DISTRICT: Light Manufacturing

OWNER(S):

Farr Developing, LLC
6032 Currituck Road
Kitty Hawk, NC 27949

APPLICANT/AGENT:

Quible & Associates, P.C.
PO Box 1068
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Vacant/Farmland- zoned A
SOUTH: Vacant/Mining Site, Farmland and Woodland - zoned A
EAST: Vacant/Woodland - zoned A
WEST: Commercial and Residential (Fox Knoll)- zoned GB

NARRATIVE OF REQUEST:

Farr Developing, LLC is seeking Preliminary Plat approval for 50 light manufacturing lots. The development is located on approximately 72 acres across Chase Drive from the Fox Knoll commercial development.

Lot sizes range from 40,000 to 2.6 acres. The lots will be serviced by County water and individual septic systems. There are two points of entry into the subdivision from Chase Drive.

This property is zoned Light Manufacturing with a minimum lot size of 40,000 sf. Since the development is commercial/light manufacturing in nature, no open space is required.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

- STREETS:** All streets will be built to NCDOT Design and Construction Standards. The streets will be dedicated for maintenance to the NCDOT.
- WATER:** This development will be served by County water.
- FIRE:** This development will be located within the Lower Currituck Volunteer Fire Department which currently has a State ISO rating of 9. Hydrants will be installed throughout the subdivision at a maximum distance of 1,000 feet.
- WASTEWATER:** On-site wastewater treatment and disposal systems are proposed.
- SCHOOL CAPACITIES:** This subdivision is industrial in nature and will have no impact on school capacities.
- OPEN SPACE:** No open space is required for non-residential subdivisions.
- DRAINAGE:** Stormwater will be retained in accordance with the NC Division Stormwater Permit. Roadside swales and drainage pipes will be installed as well as outlets to existing ditches from the detention ponds. Detention ponds will be used to control the release of stormwater run-off from the site.
- FLOOD ZONES:** This development is located outside of the 100 year flood zone (Zone C).
- LAND USE PLAN:** According to the 1990 Land use Plan this area is designated *Rural*. The purpose of the rural class is to “provide for agricultural, forestry, mineral extraction and other allied uses traditionally associated with an agrarian region.” In addition, industrial type land uses may also be appropriate if sited in a manner that minimizes their negative effect on surrounding land uses or natural resources.

STAFF COMMENTS:

- Sketch Plan/Special Use Permit approval for this development was granted by the Board of Commissioners on December 1, 2003 for a 60 lot light manufacturing subdivision.
- At the time of the Planning Board meeting in November 2003 it was discovered that this development is adjacent to a site used for land application of commercial sludge. The state requires a 400’ buffer from the sludge activities to residences or places of public assembly. Farr Developing, LLC has met with Marcus Felton, owner of Atlantic Nutrients, Inc. to discuss the setback reduction. Mr. Farr has tentatively agreed to allow the continuing sludge disposal operation within 100’ of his property line. Quible confirmed the setback reduction and permit option with Al Hodge at NCDENR. Written

consent and a permit modification were to be forthcoming. Staff has not yet received a copy of the modified state permit allowing the buffer reduction.

- The site has two entrances off Chase Drive. One being an extension of Dr. Newbern Road and the other an extension of Fox Knoll Drive. Dr. Newbern Road is a state maintained road while Fox Knoll Drive has not yet been accepted into the state system. Fox Knoll will be a private street until NCDOT accepts the offer of dedication. To date permission for this subdivision to use Fox Knoll Drive has not yet been granted by John Harris, developer of Fox Knoll Commercial Park
- During the Technical Staff meeting there were discussions centered on the lack of adequate fire flow for the area and the possibility of placing a water tower in the detention pond facing Chase Drive.

Technical Review Staff:

On October 14, 2004, Technical Review staff reviewed this application. At the TRC meeting, the primary concerns were lots not meeting the design criteria, the drainage discharge, lack of pad elevations, the requirement to state the responsible party for the drainage system maintenance, size of the cul-de-sacs, adequate fire flow, and the water department requiring hydraulic plans and calculations. The Preliminary Plat and Construction Drawings have been revised to address concerns expressed by the Technical Review staff. The drainage plan has been approved by the County Engineer and Soil & Water Conservation office.

- (a) Planning Staff – additional corrections are required on the preliminary plat.
- (b) County Engineer - reviewed & approved. Grading plan shall note that the existing perimeter ditch is to be cleaned out as per the typical ditch cross section.
- (c) Soil & Water Conservation - reviewed & approved
- (d) Fire Marshal – reviewed & approved if the water tower issue is resolved so that adequate fire protection can be provided. If the local fire department secures a ladder truck prior to completion of the site improvements, the cul-de-sacs will be required to have a larger turning radius.
- (e) County Water Department – reviewed & approved
- (f) Health Department – all lots approved for conventional septic systems
- (g) Lower Currituck VFD Fire Chief – no comments received
- (h) Recreation Department - no comments received
- (i) NCDENR, Water Quality – reviewed and approved a High Density Stormwater Permit
- (j) NCDENR, Land Quality Section – reviewed and issued erosion & sedimentation control permit
- (k) NCDENR, Public Water Supply Section – approved construction of the waterlines
- (l) NCDOT – driveway permits pending
- (m) CAMA – no comments received
- (n) Recreation Department - no comments received
- (o) Phone Company - no comments received
- (p) Recreation Department - no comments received
- (q) Superintendent of Schools - no comments received

- (r) Recreation Department - no comments received
- (s) N C Power – no comments received
- (t) Recreation Department - no comments received
- (u) USACOE – no comments received
- (v) Recreation Department - no comments received.

STAFF RECOMMENDATION

Staff recommends **approval** subject to the following conditions:

1. That the owner submit to the Planning Department a copy of the modified state permit allowing the buffer reduction to 100' from the sludge operations;
2. This development shall not be permitted to use Fox Knoll Drive for access to the site until such time as the street is accepted into the NCDOT system or an agreement has been reached with the John Harris or the Fox Knoll Property Owners Association;
3. That adequate on-site space shall be provided for a future water tower;
4. That the state stormwater permit may require modification for the future water tower site;
5. That the corrected Preliminary Plat be submitted and approved by the Planning Department prior to the Board of Commissioners meeting;
6. That the grading plan shall note that the existing perimeter ditch is to be cleaned out as per the typical ditch cross section;
7. That street trees shall be installed (or bonded) prior to submittal for final plat approval;
8. That required improvements be installed and accepted prior to submission for final plat approval;
9. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners;
10. That applicant meet all requirements of the county's Unified Development Ordinance; and
11. That should any conditions within this permit conflict with any other permit(s) issued for this activity, then the more restrictive condition shall prevail.

DISCUSSION

Mr. Hawley asked about the TRC statements from the Fire Marshall regarding securing a ladder truck prior to completion of the project.

Ms. Eggar said if the project is completed prior to the purchase of the truck, then the developer will make the cul de sacs larger at that time.

Mr. Riley said the ladder truck from Corolla has been here several times and that the cul de sac radius should be enlarged to accommodate the truck.

Mr. Kovacs said that the cul de sacs should be larger to accommodate the trucks whether the county has them at this time or not.

Mr. Valdivieso said that the right of way is a 70 diameter, and the cul de sacs could be enlarged by 10' to accommodate a truck and the property owner would be agreeable to that condition.

Mr. Kovacs said that there are already trucks in the county and the trucks should be accommodated.

Mr. Kovacs asked if the water tower is going where the storm retention area is, and where the retention area will be.

Mr. Valdivieso said that the retention area will be in the middle of the pond and the pond on the current plan will be enlarged and worked out with the staff.

Mr. Valdivieso said that the sludge field conditions require 400' distance unless the adjoining property owner agrees to 100' and Mr. Farr has done that.

Mr. Hawley said that the first condition of the staff recommendation be deleted.

Mr. Bell asked about the private road.

Ms. Eggar said it has not been taken in to the state system.

Mr. Valdivieso said that Mr. Farr has spoken to the owner and he will not give access to the property until the state takes over the road.

Mr. Hawley asked about determining the size of the radius.

Mr. Farr asked about the size of the truck.

Mr. Riley said that the Fire Chief would have that information.

Mr. Kovacs motioned to approve the request deleting staff recommendation #1 and increasing the cul de sac radius . Mr. Midgett seconded the request. Motion passed unanimously.

PB 03-09 Sunset Plaza Commercial Subdivision Preliminary Plat for seven commercial lots on property located on the west side of Caratoke Highway adjacent to Betsy Dowdy Rd. Tax Map 108, Lot 51E Poplar Branch Township.

Bob Stewart appeared before the board.

Mr. Kear presented the following case analysis to the board.

**STAFF ANALYSIS FOR THE PLANNING BOARD
MEETING DATE: DECEMBER 14, 2004**

ITEM: **PB 03-09 SUNSET PLAZA COMMERCIAL SUBDIVISION
(f.k.a. PUTZ), PRELIMINARY PLAT FOR 7 GENERAL
BUSINESS LOTS**

LOCATION: Northeastern corner of the intersection of Caratoke Highway and
Betsy Dowdy Road, Poplar Branch Township.

TAX ID: Tax Map 108 Parcel 51E

ZONING DISTRICT: General Business

OWNER(S):
Lawrence & Carol Putz
947 Mallard Drive
Lanoka Harbor, NJ 08734

APPLICANT/AGENT:
Performance Engineering
8604 Caratoke Highway
Powell's Point, NC 27966

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Farmland - zoned RA
SOUTH: Warehouse and Modular Home Sales - zoned GB
EAST: Residential and Farmland - zoned A
WEST: Residential and Farmland - zoned A

NARRATIVE OF REQUEST:

Property owner is seeking Preliminary Plat approval for 7 general business lots. The development is located on approximately 11.5 acres at the intersection of Caratoke Highway and Betsy Dowdy Road. The rear of the site has frontage on Young Rider Lane. Both Betsy Dowdy Road and Young Rider Lane were created as private streets to serve Betsy Dowdy Farms minor and exempt subdivisions.

Lot sizes range from 1.1 acres to 1.9 acres with the typical lot size being 1.1 acres. The lots will be serviced by County water and individual septic systems. Access to the subdivision will be provided by a private access road located within a 60' common access easement along the front of the lots. There are three points of entry to the site, two from Caratoke Highway and one from Betsy Dowdy Road.

This property is zoned General Business with a minimum lot size of 40,000 sf. Since the development is commercial nature, no open space is required.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: The private access road will be built to NCDOT Design Standards.

WATER: This development will be served by County water.

FIRE: This development will be located within the Lower Currituck Volunteer Fire Department which currently has a State ISO rating of 9. Hydrants will be installed throughout the subdivision.

WASTEWATER: On-site wastewater treatment and disposal systems are proposed.

SCHOOL CAPACITIES: This subdivision is a non-residential subdivision and will not have an impact on school capacities.

OPEN SPACE: No open space is required for non-residential subdivisions.

DRAINAGE: Stormwater will be retained in accordance with the NC Division Stormwater Permit using roadside swales and a detention pond. The detention pond will be used to control the release of stormwater run-off from the site.

FLOOD ZONES: This development is located outside of the 100 year flood zone (Zone C).

LAND USE PLAN: According to the 1990 Land use Plan this area is designated Limited Transition. The purpose of the Limited Transition class is to provide for residential uses and is also intended for nonresidential areas along major transportation routes.

STAFF COMMENTS:

- Sketch Plan/Special Use Permit approval for this development was granted by the Board of Commissioners on June 2, 2003 for an 8 lot commercial development.
- That the following corrections be made to the plans:
 1. Lots 1, 2, 3, and 4 require a 5' non-access buffers along Young Rider Lane.
 2. That additional ditch inverts and slopes shall be shown.
 3. Show the width of the access road at the property lines.
 4. Increase the common access utility & drainage easement to 65'.
 5. Landscape plan – make reference that the plantings will be in accordance with Section 513 of the UDO.
 6. The plat shall state who the responsible party will be for the maintenance of the stormwater drainage facilities.
 7. Submit water construction details and specifications for approval.
- Technical Review Staff:
 On October 14, 2004, Technical Review staff reviewed this application. At the TRC meeting, the primary concerns were providing adequate fire protection, the lack of pad elevations and ditch inverts, the street configuration, and the requirement to state the responsible party for the drainage system maintenance. The Preliminary Plat and Construction Drawings have been revised to address concerns expressed by the Technical Review staff. The drainage plan has been approved by the County Engineer and Soil & Water Conservation office.
 - (w) County Engineer - reviewed & approved
 - (x) Soil & Water Conservation – need additional ditch inverts and slopes shown
 - (y) Fire Marshal – reviewed & approved
 - (z) County Water Department – require submission of water construction details and specifications
 - (aa) Health Department – all lots approved for conventional septic systems
 - (bb) County Mapper – approved as is.
 - (cc) Emergency Management – approved as is.
 - (dd) Lower Currituck VFD Fire Chief – consider installing a fire hydrant
 - (ee) Recreation Department – reviewed with no comments

- (ff) NCDENR, Water Quality – reviewed and approved a High Density Stormwater Permit
- (gg) NCDENR, Land Quality Section – reviewed and issued erosion & sedimentation control permit
- (hh) NCDOT – driveway permit approved
- (ii) CAMA – reviewed and located outside of jurisdiction
- (jj) Phone Company - reviewed with no comments
- (kk) Superintendent of Schools - reviewed with no comments
- (ll) Dominion Power – reviewed and requests that necessary easements be acquired prior to selling any of the lots.

STAFF RECOMMENDATION

Staff recommends **approval** subject to the following conditions:

1. That the following corrections be made to the plans:
 - (a) Lots 1, 2, 3, and 4 require a 5' non-access buffers along Young Rider Lane
 - (b) That additional ditch inverts and slopes shall be shown.
 - (c) Show the width of the access road at the property lines.
 - (d) Increase the common access utility & drainage easement to 65'.
 - (e) Landscape plan – make reference that the plantings will be in accordance with Section 513 of the UDO.
 - (f) The plat shall state who the responsible party will be for the maintenance of the stormwater drainage facilities
 - (g) Submit water construction details and specifications for approval
2. That the corrected plans be submitted and approved by the Planning Department prior to the Board of Commissioners meeting;
3. That street trees shall be installed (or bonded) prior to submittal for final plat approval;
4. That required improvements be installed and accepted prior to submission for final plat approval;
5. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners;
6. That applicant meet all requirements of the county's Unified Development Ordinance; and
7. That should any conditions within this permit conflict with any other permit(s) issued for this activity, then the more restrictive condition shall prevail.

DISCUSSION

Mr. Kovacs asked if there were restrictions on lots 1-5 along Young Rider Road and if the road can be extended in the future.

Mr. Kear said that it is a private access road and it would need to be upgraded.

Mr. Stewart is willing to put a condition of no access other than access road.

Mr. Kovacs stated that he liked the single access road to the development.

Mr. Hawley asked what the anticipated lots would be used for.

Mr. Stewart said he did not know. It is likely that someone would buy more than one lot and recombine and put a large building or strip mall.

Mr. Hawley asked if that was possible.

Mr. Ferguson said yes.

Mr. Hawley asked about rear access for deliveries, etc.

Mr. Ferguson said that was a good point. The existing road is not designed for truck access.

Mr. Riley said that Monterey Plaza has a service road behind the buildings.

Mr. Hawley asked if that road could accommodate fire vehicles.

Mr. Ferguson said no.

Mr. Keel said they should have to put a fire lane in depending on what is built.

Mr. Kear said that there are fire hydrants planned.

Mr. Hawley motioned to approve the request with a non-access buffer on the rear of all the lots. Mr. Keel seconded the motion. Motion passed unanimously.

PB 00-53 Country Lakes (Country Roads) Preliminary Plat for 150 lots on property located on Tulls Creek Rd. adjacent to N. Lou Sawyer Rd. Tax Map 40, Lots 10, 25A, 26A, 26B, Tax Map 40G, Lots OPEN, 1, 2, 3, 4, Crawford Township.

Mark Bissell and Dwight Wolf appeared before the board.

Ms. Eggar presented the following case analysis to the board.

**STAFF ANALYSIS FOR THE PLANNING BOARD
MEETING DATE: DECEMBER 14, 2004**

**ITEM: PB 00-53 COUNTRY LAKES SUBDIVISION,
PRELIMINARY PLAT FOR COMMON OPEN SPACE
SUBDIVISION**

OWNER(S):

Country Roads of Currituck, LLC

c/o Wolf Contractors

473 Wolf Drive

Newport News, VA 23601

APPLICANT/AGENT:

Bissell Professional Group

PO Box 1068

Kitty Hawk, NC 27949

Roger Tice, Horace Kim Old & Jerry L. Old
181 Courtney Lane
Moyock, NC 27958

LOCATION: Southside of Tulls Creek Road between N. Lou Sawyer Road and Poyner Road, Crawford Township.

TAX ID: Tax Map 40 Parcels 10, 25A, 26A, and 26B
Tax Map 40G Parcels 1 to 4 and OPEN

ZONING DISTRICT: Agricultural & Residential

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Residential, Woodland & Farmland - zoned R & A

SOUTH: Farmland & Woodland - zoned A

EAST: Residential & Farmland - zoned A

WEST: Farmland - zoned A

NARRATIVE OF REQUEST:

Country Roads of Currituck, LLC is seeking Preliminary Plat approval for a 150 lot Common Open Space Subdivision. The development is located on 391 acres on the south side of Tulls Creek Road adjacent to N. Lou Sawyer Road and S. Lou Sawyer Road. Approximately 30 acres of the site is in 404 wetlands.

To meet the open space requirements, 200 acres, or 51% of the site, will be dedicated open space. As a recreational amenity, a system of walking/jogging paths will loop around a pond. Included in the 200 acre open space is a 40 acre dedication to Currituck County.

Lot sizes range from about 33,500 sf to 42,700 sf with an average lot size of approximately 37,700 sf. The lots will be serviced by County water and a private central wastewater treatment plant. The nearest residential lot is approximately 1,000' away

from the wastewater treatment system. There is one point of entry into the subdivision from Tulls Creek Road.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

- STREETS:** All streets will be built to NCDOT Design and Construction Standards. The streets will be dedicated for maintenance to the NCDOT.
- WATER:** This development will be served by County water.
- FIRE:** This development is located within the Crawford Volunteer Fire Department District.
- WASTEWATER:** A 63,000 gpd centralized wastewater treatment system will be incorporated.
- SCHOOL CAPACITIES:** Using national averages for school age student generation from the *1987 American Housing Study*, one can expect .4243 elementary students, .084 Jr. high students and .1568 High school students per dwelling unit. (*Note: These figures were verified by a field check of Currituck subdivisions in 1994*). The occupancy rate for Crawford Township is 0.9106. Based on these pupil generation figures, Currituck can expect 58 elementary students, 12 junior high students, and 21 high school students from this development.
- OPEN SPACE:** 200 acres of open space (51% of the total tract area) is provided within the development. Included in the open space calculations is a 40 acre dedication to Currituck County.
- DRAINAGE:** Stormwater will be retained in accordance with the NC Division Stormwater Permit. Outlet and roadside swales will be installed as well as inlet/outlet swales to the lake. Side lot line swales will be installed as per the approved drainage plan. A detention pond will be used to control the release of stormwater run-off from the site.
- FLOOD ZONES:** This development contains flood zone C (outside the flood zone) and A3 (within the 100 year flood zone with a base flood elevation of 6').
- LAND USE PLAN:** The 1990 Land Use Plan classifies this site as Rural with services. Low density single family residential uses at a gross density of approximately one unit per acre is appropriate within this area. Proposed density for the total 150 lot subdivision is approximately 0.4 units per gross acre and therefore is consistent with the Land Use Plan.

STAFF COMMENTS:

Sketch Plan/Special Use Permit approval for this development was granted by the Board of Commissioners on April 1, 2002 for a 150 lot common open space subdivision. The motion for approval required that 40 acres of land be donated to the County; that trees be planted within the open space areas and that the phasing of the development be limited to 10% of the development per year (15 lots). The area for the 40 acre dedication shall be approved at the time of preliminary plat approval.

The preliminary plat submitted for approval shows the location of the 40 acres to be dedicated to Currituck County. The 40 acre dedication is at the southwestern portion of the site and is split into two parcels fronting on S. Lou Sawyer Road. It should be noted that 18 acres of the dedication is land surrounding the wastewater treatment facility.

Since the Sketch Plan approval, staff has discovered that there was a “taking” of a portion of the right-of-way for S. Lou Sawyer Road and reduced the previously dedicated right-of-way from 45’ to 20’ for a distance of approximately 500’ going eastward from Poyner Road. The right-of-way taking was done via a revised minor subdivision for the Malachi Ferebee Heirs in December 2001. The revised subdivision plat recombined 12.5’ of the existing 45’ right-of-way into the two subdivision lots thereby reducing the right-of-way to 20’. NCDOT did not sign the plat agreeing to the reduction of the right-of-way.

When this subdivision was originally created in December 1997, it reflected, and thereby dedicated, a 45’ right-of-way fronting the property. Staff has been working with the NCDOT Right-of-Way Department and has secured copies of correspondence regarding the taking of the right-of-way. In August of 2001 the Special Deputy Attorney General, W. Richard Moore, with the NC Department of Justice informed Ms. Patricia Blowe that S. Lou Sawyer Road has been part of the state maintenance system since 1952 and that the minimum right-of-way width for dead-end secondary roads is 45’. The letter further states that it is his “understanding that the Department of Transportation’s right-of-way for this segment of SR 1279 is by easement.” It is stated that the 45’ right-of-way is also based upon the recorded survey (the 1997 subdivision plat for the Malachi Ferebee Heirs).

The NCDOT Right-of-way Department once again contacted the Attorney General in regards to this matter. They were informed that a right-of-way can not be rescinded without an official acceptance by NCDOT. Staff has contacted the County Attorney’s office in regards to resolving the taking of the right-of-way.

A condition of the Sketch Plan approval is that trees be planted in the open space areas. The Board of Commissioners needs to clarify the numbers and preferred locations for the tree plantings.

Technical Review Staff:

On May 13, 2004, Technical Review staff reviewed this application. At the TRC meeting, the primary concerns were with the drainage plan, lack of pad elevations, and the requirement to state the responsible party for the drainage system maintenance. The Preliminary Plat has been revised to address concerns expressed by the Technical Review

staff. The drainage plan has been approved by the County Engineer and Soil & Water Conservation office.

- (mm) Planning Staff – additional corrections are required on the preliminary plat.
- (nn) County Engineer - reviewed & approved
- (oo) Soil & Water Conservation - reviewed & approved
- (pp) Fire Marshal – reviewed & approved
- (qq) County Water Department – requires submittal of construction drawings.
- (rr) County Mapper – reviewed and approved
- (ss) Crawford VFD Fire Chief – no comments received
- (tt) Emergency Management Services – reviewed and could not decipher map
- (uu) Recreation Department – reviewed with no comment
- (vv) NCDENR, Water Quality – reviewed and approved a Low Density Stormwater Permit
- (ww) NCDENR, Land Quality Section – reviewed and issued erosion & sedimentation control permit approved construction of the waterlines
- (xx) CAMA – reviewed and outside of jurisdiction
- (yy) NCDENR Water Quality – reviewed and approved the construction of the 63,000 gpd wastewater treatment facility.
- (zz) NCDENR, Public Water Supply Section – approved construction of the waterlines
- (aaa) NCDOT – reviewed and approved driveway permit and encroachment contract
- (bbb) Phone Company - reviewed with no comments
- (ccc) Superintendent of Schools - reviewed with no comments
- (ddd) N C Power – reviewed with no comments
- (eee) USACOE – reviewed and approved the wetland delineation.

STAFF RECOMMENDATION:

Staff recommends **approval** subject to the following conditions:

1. That if the Board of Commissioners accepts dedicated areas fronting on S. Lou Sawyer Road, that the 20' right-of-way issue be resolved prior to submission of the Final Plat;
12. That phasing for the development is limited to 10% per year (15 lots);
13. That the corrected Preliminary Plat be submitted and approved by the Planning Department prior to the Board of Commissioners meeting;
14. That the developer will be required to plant trees in the open space areas as determined by the Board of Commissioners. The proposed planting locations shall be denoted on the Landscape Plan;
15. That street trees shall be installed (or bonded) prior to submittal for final plat approval;
16. That required improvements be installed and accepted prior to submission for final plat approval;
17. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners;

4. That applicant meet all requirements of the county's Unified Development Ordinance; and
5. That should any conditions within this permit conflict with any other permit(s) issued for this activity, then the more restrictive condition shall prevail.

DISCUSSION

Mr. Kovacs asked about the land that was dedicated to the County.

Ms. Eggar said that at the time of Sketch Plan approval the BOC would determine the location at Preliminary Plat approval.

Mr. Bissell stated that waste water treatment would be inadequate for the development to include all 4 bedroom homes, the treatment plant and homes would be built in phases and there should be no need to restrict bedrooms.

Mr. Hawley asked about deacceleration and turning lanes.

Mr. Bissell said there is a plan for that.

Mr. Hawley asked about emergency vehicle access.

Mr. Bissell said that access could be from the water treatment area if necessary.

Mr. Kovacs asked if they plan to have sidewalks.

Mr. Bissell said there is a walking plan.

Mr. Bell asked when Tulls Creek Road would be widened.

Mr. Ferguson said that DOT seems to be more interested in the bridges at this time.

Mr. Hawley made a recommendation for sidewalks for the safety of the children in the development.

Mr. Ferguson spoke about curb and gutter systems and their problems and about swale systems with regard to the septic systems.

Mr. Hawley said that families want to watch their children and would appreciate sidewalks for safety reasons.

Mr. Bissell said there is a proposed sidewalk in the development that begins in the front and continues behind the lots to the loop behind the lake.

Mr. Hawley asked if utilities such as power and cable would be accessed from the front of the property.

Mr. Ferguson said yes.

Mr. Bell asked who monitors the building limitations for the phasing.

Mr. Ferguson said the staff would have to monitor that.

Mr. Hawley said the lots could be put to record, but the homes could only be developed 10% at a time.

Mr. Kovacs stated the phasing should be left up to the BOC, not to the Planning Board.

Mr. Riley motioned to approve this request with item 1 omitted. Mr. Hawley seconded the motion. Motion passed unanimously.

PB 04-65 Currituck County amendment to the UDO section changing the board that hears Special Event Permits from the Board of Adjustment to the Board of Commissioners.

Mr. Ferguson presented the following case analysis to the board.

MEMO

To: Planning Board

From: Planning Staff

Subject: Special Event Permits

This UDO amendment was requested by the Board of Commissioners to change which board hears applications for Special Event Permits. The UDO defines Special Events as:

Special Events. Circuses, fairs, carnivals, festivals, or other types of special events that (i) run for longer than one (1) day but not longer than two (2) weeks, (ii) are intended to or likely to attract substantial crowds, and (iii) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

In the past, these permits were issued as Conditional Use Permits by the Board of Adjustment.

CURRITUCK COUNTY
PB 04-65
UDO AMENDMENT REQUEST

CURRITUCK COUNTY BOARD OF COMMISSIONERS requests the following amendment to the Currituck County Unified Development Ordinance:

PB 04-65 CURRITUCK COUNTY BOARD OF COMMISSIONERS: Amendment to require Special Event permits to be heard by the Board of Commissioners in place of the Board of Adjustment.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: The following will change which board hears applications for Special Event Permits.

Article 13
Section 1310 Table of Permissible Uses

Use #	Description	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
26.000	Special Events	S	S	S	S	S	S	S	S	S	S	S

Item 2: The following will replace which board hears applications for Special Event Permits.

Article 14
Section 1403 Specific Standards.

8. Special Events:

- (a) in deciding whether a permit for a special event should be denied for any reason specified in this Article, or in deciding what additional conditions to impose under Article 20, the Board of ~~Adjustment~~ **Commissioners** shall ensure that:
 - (1) the hours of operation allowed shall be compatible with the uses adjacent to the activity;
 - (2) the amount of noise generated shall not disrupt the activities of adjacent land uses;
 - (3) the applicants shall guarantee that all litter generated by the special event be removed at no expense to the County; and,
 - (4) the Board of ~~Adjustment~~ **Commissioners** shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners to the beneficial use and enjoyment of their property.
- (b) in cases where it is deemed necessary, the Board may require the applicant to post a bond to ensure compliance with the conditions of the conditional use permit; and,
- (c) if the permit applicant requests the County to provide extraordinary services or equipment or if the County otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the County a fee sufficient to reimburse the County for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

Item 3 This ordinance amendment shall be in effect from and after the _____ day of _____, 200__.

Board of Commissioners' Chairman

Attest:

Gwen Tatem,

Clerk to the Board

DATE ADOPTED: _____
MOTION TO ADOPT BY COMMISSIONER: _____
SECONDED BY COMMISSIONER: _____
VOTE: _____AYES_ NAYS

PLANNING BOARD DATE: 12/14/04
PLANNING BOARD RECOMMENDATION: _____
VOTE: AYES: _____NAYS: _____
ADVERTISEMENT DATE OF PUBLIC HEARING: _____
BOARD OF COMMISSIONERS PUBLIC HEARING: _____
BOARD OF COMMISSIONERS ACTION: _____
POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
AMENDMENT NUMBER: _____

DISCUSSION

Mr. Ferguson said there aren't many special use permit requests and the BOC would prefer to hear these requests instead of the BOA.

Mr. Kovacs asked if the BOA has issues with this request.

Mr. Ferguson said that he doesn't think the board was polled.

Mr Etheridge asked why the BOC wanted this back.

Mr. Ferguson said to control the permit approval.

Mr. Kovacs motioned to approve request as presented. Mr. Riley seconded the motion. Motion passed 8-1 Mr Etheridge voted no.

OTHER OLD BUSINESS

Mr. Bell asked again for the NCDOT driveway workshop Mr. Russell.

Mr. Bell will have Mr. Midgette Chair the next meeting. He asked that the resolution for Mrs.Glave to be presented at February meeting.

Mr. Bell asked for some notes on where the LUP is.

ADJOURNMENT

There being no further business to discuss, Mr. Riley motioned for adjournment. Mr. Bell seconded the motion and the motion passed unanimously. The meeting adjourned at 9:35 p.m.

Respectfully Submitted,

*Minutes are not official until approved by the board.

Tammy J. Underwood /s/

Clerk to the Board