

CURRITUCK COUNTY PLANNING BOARD

March 9, 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 March 9, 2004. The following members were present: Bobby Bell, Horace Bell, William Etheridge, Eddie Hawley, Alvin Keel, Forrest Midgette, Lloyd Parker, Pat Riley, and Arthur Winter. Gary Ferguson, Planning Director, and Shelley Cox, Chief Planner, were also present.

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

Horace Bell asked if the agenda needed to be amended.

Ms. Cox said that the zero lot line amendment needed to be tabled. Mr. Keel motioned to table that amendment. Mr. Hawley seconded the motioned and the motion passed unanimously.

APPROVAL OF FEBRUARY 10, 2004 MINUTES

Mr. Midgette motioned to approved the February 10, 2004 minutes as presented. Mr. Etheridge seconded the motion and the motion passed unanimously.

PB 84-11 COROLLA LIGHT, BEACON HILL, PHASE 7B & 7C: FINAL PLAT APPROVAL OF 15 LOTS LOCATED IN COROLLA ON THE EAST SIDE OF NC 12 ACROSS FROM THE INN AT COROLLA, POPLAR BRANCH TOWNSHIP.

Carlos Gomez appeared before the board.

Ms. Cox presented the following case analysis to the board:

LOCATION: On the east side of NC 12, directly across from Baum Court, Poplar Branch Township.

ZONING DISTRICT: RO1/P.U.D.

OWNER:
Outer Banks Ventures, Inc.
215 Brooke Avenue
Norfolk, VA 23510

APPLICANT/AGENT
Coastal Engineering & Surveying
934 W. Kitty Hawk Road
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Vacant - zoned RO1
SOUTH: Vacant - zoned RO1

EAST: Residential - zoned RO1
WEST: Residential & Business - zoned RO1 & GB

NARRATIVE OF REQUEST:

Outer Banks Ventures, Inc. is seeking Final Plat approval for 15 single family lots within Corolla Light P.U.D. The total acreage of this Phase is approximately 4.515 acres.

This property is zoned Outer Banks Standard Residential. Under the original Sketch Plan approval, this site was zoned General Business and a hotel and retail complex was proposed. 3,677 s.f. of open space will be provided within this section of Corolla Light.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: This section contains one street which will be built to NCDOT Design and Construction Standards. The developer expects this street will be dedicated for maintenance to the NCDOT.

WATER: This development will be served by Corolla Light's centralized water system. Certification of capacity to serve the 15 lots proposed has been given by Carolina Water Service.

FIRE: This development will be located within the Corolla Fire and Rescue Department.

WASTEWATER: Corolla Light's centralized wastewater treatment system will provide wastewater disposal for this section. Carolina Water Service, which manages the Corolla Light wastewater treatment center, has certified that the system has the required capacity to serve the 15 lots proposed.

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*). Based on these pupil generation figures, Currituck can expect 1 elementary student, 1 Jr. high student, and 1 high school student from this development.

OPEN SPACE: 3,677 sq.ft. of open space is proposed within this section. The total amount of open space currently provided within Corolla Light is 125.74 acres (54.90%)

FLOOD ZONES: This development contains flood zone C (not within the 100 year flood area).

CAMA CLASS: The 1990 Land Use Plan classifies this site as Limited Transition. The proposal is consistent with the Limited Transition classification.

STAFF COMMENTS:

- Residential density within this development will be 2.52 units per acre, below the maximum permitted density of 3 units per acre.
- Access to the site will be a single entrance off of NC12 which will align with Baum Court directly to the west. An additional 20' wide accessway will also be provided for emergency access.

STAFF RECOMMENDATION:

Staff recommends approval of this request with the following conditions and Suggested Findings of Fact:

1. That applicant meet all requirements of the County's Unified Development Ordinance, including but not limited to, parking spaces, landscaping, shading, lighting, etc;
2. That a Street Maintenance Bond in the amount of **\$4,598.00** (681.2 LF of roadway X \$45 = \$30,654 X 15% = \$4,598.00) be submitted and held by the County for a minimum period of at least 18 months and then the bond will only be released at such time as the streets are turned over to either a property owners association or NCDOT;
3. That as a continuing condition to this approval, the applicant will continue to meet all requirements of the County's Unified Development Ordinance.

DISCUSSION

Mr. Ferguson said that stabilization needed to occur on the site in accordance with the approved Erosion and Sedimentation Control Plan.

Mr. Gomez said that they are working to stabilize the site, but had just finished the roads today. They had not started the landscaping.

Mr. Ferguson re-stated that his concern is for stabilization of the site and noted the sandy areas along the newly installed road. Landscaping can be bonded.

Mr. Hawley suggested requiring the stabilization prior to recordation of the final plat.

PLANNING BOARD ACTION

Mr. Hawley motioned to approve this request subject to the following:

1. That applicant meet all requirements of the County’s Unified Development Ordinance, including but not limited to, parking spaces, landscaping, shading, lighting, etc;
2. That a Street Maintenance Bond in the amount of **\$4,598.00** (681.2 LF of roadway X \$45 = \$30,654 X 15% = \$4,598.00) be submitted and held by the County for a minimum period of at least 18 months and then the bond will only be released at such time as the streets are turned over to either a property owners association or NCDOT;
3. That as a continuing condition to this approval, the applicant will continue to meet all requirements of the County’s Unified Development Ordinance.
4. That stabilization occur in accordance with the Soil Erosion and Sedimentation Control Plan prior to recordation of final plat.

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

PB 04-15 AREA STORAGE: REZONE 2.97 ACRES FROM RESIDENTIAL (R) TO GENERAL BUSINESS (GB) LOCATED IN POINT HARBOR AT 9050 CARATOKE HIGHWAY, TAX MAP 132, LOT 138, POPLAR BRANCH TOWNSHIP.

Bill Burnette and Jim Etsal appeared before the board.

Ms. Cox presented the case analysis to the board:

TYPE OF REQUEST: Request for rezoning 2.97 acres from Residential (R) to General Business (GB).

LOCATION: This site is located in Point Harbor along the south side of Griggs Acres Road, Tax Map 132, Parcel 159.

PROPERTY OWNER: Area Storage, Inc.

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Residential	General Business

ZONING HISTORY: Property was zoned Residential on the January 1, 1989 Official Zoning Map.

SURROUNDING

*Minutes are not official until approved by the board.

ZONING/LAND USE: NORTH: General Business/Area Storage
SOUTH: Residential/Residential
EAST: Residential/Residential
WEST: Residential/Agricultural & Vacant

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Extension of existing storage facility

LAND USE PLAN

CLASSIFICATION: According to the 1990 Land Use Plan this area is designated Rural. The purpose of the rural class is “to provide for agriculture, forestry, mineral extraction and other allied uses traditionally associated with an agrarian region....Low density dispersed, single family residential uses at a gross density of approximately one unit per acre are also appropriate within rural areas where lot sizes are large and where densities do not require the provision of urban type services.” This rezoning is consistent with the Rural classification.

PUBLIC SERVICES AND UTILITIES:

Lower Currituck Volunteer Fire Department provides fire protection for this area. Electric, telephone, County water and cable are currently available.

TRANSPORTATION: Property has access onto Griggs Acres Road, classified as a Minor Collector in the 1988 NCDOT Thoroughfare Plan.

FLOOD ZONE: According to FEMA maps, the property is located in Flood Zone C (outside of the 100 year flood plain).

SOILS: The property primarily consists of Conetoe loamy sand. Conetoe soils are well drained with moderate to rapid permeability.

STAFF COMMENTS:

- Property is surrounded on 3 sides by Residential (R) and on the 4th side by General Business (GB).
- A similar rezoning request for this property was previously denied by the Board of Commissioners in October 2001.

STAFF

RECOMMENDATION: The proposed rezoning would be consistent with the Rural Classification of the Land Use Plan. Therefore, staff recommends approval of this request.

DISCUSSION

Mr. Hawley asked the buffer area from the property line to the NC Power line easement.

Mr. Burnette said approximately 1.97 acres is under the high power lines.

Mr. Hawley said it appeared that NC Power easement is outside of the property line by about 50'. He expressed a concern for allowing enough buffer for the neighboring residential properties.

Mr. Burnette said they had talked to the property owners in Old Oak Estates and they did not have an objection to the project. He said he also plans to bring the lights down to better shield the residential areas.

Mr. Keel asked the distance to the closest house.

Mr. Burnette said the closest house is approximately 300' away. He is improving his privacy fence and has agreed to deed a 50' easement to Old Oak Estates to act as a larger buffer for the subdivision. He also has a tree planting plan to improve the site.

Mr. Etsal said he did have the deed prepared for the 50' easement to Old Oak Estates and funds of \$20,000 to be donated to the home owner's association for the installation of playground equipment.

PLANNING BOARD RECOMMENDATION

Mr. Hawley motioned to approve this request as presented. Mr. Keel seconded the motion and the motion passed unanimously.

PB 03-04 CTX, INC: REZONE 190 ACRES FROM A (AGRICULTURAL) TO RESIDENTIAL (R) ON PROPERTY LOCATED IN MOYOCK AT THE INTERSECTION OF CARATOKÉ HIGHWAY AND TULLS CREEK ROAD, TAX MAP 9, PARCEL 29K, MOYOCK TOWNSHIP.

Mark Bissell, Kim Old, and Jerry Old appeared before the board.

Ms. Cox presented the following case analysis to the board:

TYPE OF REQUEST: Request for rezoning 180 acres from Agricultural (A) to Residential (R).

LOCATION: This site is located on the east side of Caratoke Highway approximately 1500' northeast of Tulls Creek Road, Tax Map 9, Parcel 29E, Moyock Township.

PROPERTY OWNER: CTX, Inc.

CONTACT PERSON: Mark Bissell

ZONING: **Current Zoning** **Proposed Zoning**

Agricultural Residential (140 acres)

ZONING HISTORY: This property has been zoned Agricultural (A) since the adoption of the 1989 Zoning Map.

SURROUNDING

ZONING/LAND USE: NORTH: Agricultural & Light Manufacturing Zone/
Woodlands & Cultivated farmland

 SOUTH: Agricultural Zone/ Cultivated farmland &
Residential

 EAST: Residential Zone/Moyock Run, Woodlands,
Residential & Cultivated farmland

 WEST: General Business Zone/Vacant, Residential
& Commercial

EXISTING LAND USE: Farmland and woodlands

**PUBLIC SERVICES
AND UTILITIES:**

Moyock Volunteer Fire Department provides fire protection for this area. Electric, telephone, county water and cable are currently available.

TRANSPORTATION:

The ingress/egress for this property is on Caratoke Highway which is classified as a Minor Arterial in the 1988 NCDOT Thoroughfare Plan. Non-gated railroad tracks must be crossed when utilizing this access.

**LAND USE PLAN
CLASSIFICATION:**

Property appears to be located within the *Rural* and *Conservation* classifications in the County's 1990 Land Use Plan. However, 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.

The purpose of the *Rural* classification is to provide for agriculture, forestry, mineral extraction and other allied uses traditionally associated with an agrarian region. Low density dispersed, single family residential uses at a gross density of approximately one unit per acre are also appropriate within rural areas where lot sizes are large and where densities do not require the provision of urban type services.

The purpose of the *Conservation* classification is to provide for the effective long-term management and protection of significant, limited or irreplaceable areas. According to the Land Use Plan, *Conservation* areas (if developable) should be done at densities of less than one unit per gross acre.

SOILS:

The property contains Roanoke, Augusta, Altavista, and State soils. These soils are marginally suitable to poor for septic tank installation. Swamp Forest wetlands are located along the eastern property line adjacent to Moyock Run.

FLOOD ZONE:

The property is in Flood Zones C (outside the 100 year flood plain) and A3 EL6 (within the 100 year floodplain with a 6 foot base flood elevation). 75' of frontage along Moyock Run is within the CAMA Area of Environmental Concern.

STAFF COMMENTS:

- Under the proposed rezoning, single family density could increase from 1 unit every 3 acres to 1 unit every 40,000 square feet.
- Consistency with the Land Use Plan is difficult to determine due to the fact that the maps do not clearly indicate the classifications. In addition, the current Land Use Plan is dated and may not be valid.
- Staff has concerns regarding the soil suitability for the number of septic systems resulting from an increased density on the property. Due to the poor soil structures on this site, it is recommended that lot sizes for future residential development should not be less than 40,000 square feet.
- The property's ingress/egress is currently off of Caratoke Highway and requires crossing non-gated railroad tracks for access. The applicant has previously indicated that he is willing to install a gated railroad crossing to help mitigate safety concerns for future development.
- The developer has expressed interest in donating to the County 30 acres of property for public waterfront access along Shingle Landing Creek.
- A rezoning for this property was previously requested in May 2003. That request was for 30 acres of General

Business and 150 acres of Residential. The item was tabled at the Board of Commissioners level and was never voted on.

STAFF

RECOMMENDATION: This site is contiguous with an existing Residential zone and is located in an area that is experiencing concentrated growth. On this basis, staff recommends approval of this rezoning. However, staff is concerned about the impact that increasing density through residential rezoning may have on school capacity.

DISCUSSION

Mr. Bissell said this is an ideal location for the type of development the owner is proposing. He said this is an improvement over the previous request. He said a soil scientist had tested the soils and found them to be suitable for development.

Jerry Old said there is a water access on this property that could be used for a public boat ramp facility. He said he had met with the Board of Commissioners and the figure of 30 acres had been requested to be dedicated to the county. This would reduce the density for the subdivision.

Fletcher Humphries said that the board could not rezone this property to Residential. He said that Ernie Bowden had worked hard to require the three acre minimum lot size. He said if the board approves this rezoning, he will be bringing three new rezonings of his own, as will other property owners. He said the county would be guilty of discrimination if this rezoning is approved because other similar projects have already been denied. He gave his project of Dozier Acers as an example.

Mr. Ferguson said that this type of rezoning is purely a political decision. He said that the Board of Commissioners would not act as a quasi-judicial board on this. He said that rezoning approvals did not set a precedence.

Mr. Keel pointed out all property owners could request a rezoning.

PLANNING BOARD RECOMMENDATION

Mr. Parker motioned to recommend approval of this request as presented. Mr. Hawley seconded the motion and the motion passed unanimously.

PB 04-12: AMENDMENT TO SECTION 940 OF THE UDO TO ALLOW ZERO LOT LINE DEVELOPMENTS WITHIN THE MULTI-FAMILY DISTRICTS IN PLANNED UNIT DEVELOPMENTS.

This item was tabled at the beginning of the meeting as stated above.

PB 04-06: AMENDMENT TO ARTICLE 6 OF THE UDO REGARDING EXTERIOR LIGHTING OF NONRESIDENTIAL STRUCTURES GREATER THAN TWENTY THOUSAND (20,000) SQUARE FEET.

Ms. Cox presented the following memo to the board:

March 3, 2004

Memorandum

TO: Board of Commissioners, Planning Board

FROM: Gary Ferguson, Director

RE: Large Building Lighting Ordinance for Currituck Mainland

Enclosed is a draft of an UDO amendment requested by the Board of Commissioners for a lighting ordinance for structures greater than 20,000 square feet in heated floor space. This draft of the ordinance proposes the following:

- *This ordinance would regulate the exterior light levels for the entire site of large structures or “Big Box” retail buildings.*
- *The regulations would be for the Currituck Mainland only. The existing ordinance for the RO1 zoned area will remain in effect.*
- *The allowable foot-candle measurement at the property line is doubled from the ordinance in the RO1 zone, from 1.5 to 3 foot-candles.*
- *The intent is to reduce illumination to surrounding properties and avoid illumination of the night sky.*
- *An Engineer or Architect would have to certify the lighting meets the ordinance before a Certificate of Occupancy is issued.*
- *Lighting of outdoor recreational facilities is not a part of this draft ordinance.*
- *Gas station canopies and large parking lots are not covered if the building does not exceed 20,000 SF in heated area.*

If you have any questions, please call me at 252-232-3055, extension 262.

Ms. Cox presented the following case analysis to the board:

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:

Part 1. That Article 6 be amended as follows:

Article 6
UTILITIES

PART IV LIGHTING REQUIREMENTS FOR NONRESIDENTIAL STRUCTURES GREATER THAN TWENTY THOUSAND (20,000) SQUARE FEET, EXCLUDING THE OUTER BANKS OVERLAY DISTRICT IN POPLAR BRANCH TOWNSHIP

Part 2. That Sections 628-636, Lighting Requirements for Nonresidential Structures Greater Than Twenty Thousand (20,000) Square Feet, excluding the Outer Banks Overlay District in Poplar Branch Township, be added as follows:

Section 628 Purpose for Regulation of Lighting for Buildings with Greater than 20,000 Square Feet of Heated Space.

1. **The intent of these regulations is to allow installation of exterior lighting that provides adequate illumination for the performance of necessary tasks in the illuminated areas while reducing a dangerous or disabling glare, avoiding the illumination of adjacent or nearby properties, streets and roadways, and avoiding the illumination of the night sky. It is also the intent of these regulations to require the conservation of energy and to preclude a utility emergency.**
2. **The lighting regulations will only apply to buildings that are greater than 20,000 square feet of heated space. For all other lighting requirements, see sections 608 and 609, and sections 617-627 of the Currituck County Unified Development Ordinance.**

Section 629 Definitions.

1. **Disabling Glare. The sensation produced by a luminaire within the visual field, which is substantially greater than the level the eyes adapt to that can create annoyance, discomfort, or loss in visual performance and visibility.**
2. **Foot-candle. The international unit of illumination produced on a surface and equal to one lumen per square foot.**
3. **Light loss factor. The light output of a luminaire after losses due to decrease in lamp efficiency, dirt accumulation and other factors that lower the effective output with time.**
4. **Light trespass. Unwanted light that falls beyond the property line or area intended to be illuminated which is often called spill light. The maximum illumination measured in foot-candles at the property line shall not exceed 3 foot-candles measured at ground level by a measuring device.**
5. **Luminaire. A complete lighting unit or fixture (including the lamp, housing, reflectors, lenses and shields) excluding the support pole or mounting bracket.**

6. Nonresidential Structures Greater Than Twenty Thousand (20,000) Square Feet. Any non-residential structure that is regulated by the Currituck County Unified Development Ordinance that includes over twenty thousand square feet of heated space. This includes one or more structures on the same parcel that combined exceeds 20,000 square feet of heated space and are being used for nonresidential purposes.

Section 630 Lighting Prohibited.

1. Light fixtures that imitate an official highway or traffic control light or sign are prohibited.
3. Light fixtures in the direct line of vision with any traffic control light or sign are prohibited.
4. Light fixtures that have a flashing or intermittent pattern of illumination, except for time and temperature displays are prohibited.
5. Privately owned light fixtures located in the public right-of-way are prohibited.
6. Light fixtures that are a source of glare by their design, orientation or intensity are prohibited.
7. Searchlights are prohibited except when used by federal, state or local authority.

Section 631 Compliance.

1. All new lighting fixtures installed after the effective date of this ordinance for Nonresidential Structures Greater Than Twenty Thousand (20,000) Square Feet shall be in compliance with the requirements of this ordinance. Any lighting in existence before the effective date of this ordinance that does not comply with the requirements of this ordinance shall be considered legally nonconforming and may remain. All nonconforming lighting shall be governed by the requirements of this article and not Article 15 Nonconforming Situations.
2. All Nonresidential structures in the Outer Banks Overlay District in Poplar Branch Township shall be regulated under Article 6, Part II.
3. When poles and support structures are removed and replaced they must be replaced with poles, support structures and luminaires that comply with the requirements of this article.
4. When luminaires are replaced, they must be replaced with luminaires that comply with all provisions of this article.

5. All additions to vehicular accommodation areas shall comply with the requirements of this article.
6. When a building addition, after the effective date of this ordinance, to a nonresidential structure creates a structure that exceeds 20,000 square feet in heated floor area, it shall comply with this lighting ordinance.
7. Whenever the permit issuing authority allows or requires a deviation from the presumptive lighting requirements set forth in this ordinance, such deviation shall be allowed solely for health, safety and crime prevention. The deviation shall be in accordance with the light levels, fixture style and placement governed by the Illumination Engineering Society of North America (IESNA) Lighting Handbook 2000 Edition. Certification from a North Carolina Licensed Engineer shall be required for any deviation from this ordinance.
8. Lighting for signage shall be governed by the requirements contained in Article 17 and not the requirements of this article.

Section 632 Design Standards.

1. Exterior lighting for Nonresidential Structures Greater Than Twenty Thousand (20,000) Square Feet in heated floor area, excluding security lighting, shall be reduced by a minimum of 50% after operating hours to decrease unneeded lighting.
2. When practicable, all lighting installations will include timers, dimmers and sensors to reduce overall energy consumption.
3. Vehicular accommodation area lighting (parking area) shall be designed to provide minimum lighting necessary to ensure adequate vision and safety. Such lighting shall not cause disabling glare or direct illumination onto adjacent properties.
4. The maximum height for exterior light fixtures shall be 25 feet above natural grade; but, shall not exceed the building height if the Nonresidential Structure Greater Than Twenty Thousand (20,000) Square Feet in heated floor area is less than 25 feet.

Section 633 Interior lighting.

1. Where interior lighting shining through glass areas is excessive and it illuminates the exterior areas adjacent to the structure, then exterior lighting regulations shall apply when such interior lighting is considered to create an annoying, dangerous or disabling glare.

Section 634 Measurements.

1. **Lighting levels shall be measured in foot-candles.**
2. **All lighting fixtures, excluding street lighting, shall be designed, installed and maintained to prevent light trespass. The maximum illumination at the property line shall not exceed 3 foot-candles measured at ground level by a measuring device.**
3. **The maximum permitted foot-candle shall not exceed 25 at any location.**
4. **Measurements of newly installed light fixtures shall account for a light loss factor of .75 figured into the calculation. For example, a newly installed fixture that has a meter reading of one initial foot-candle and a light loss factor of .75 would calculate to .75 maintained foot-candle.**

Section 635 Lighting Plan.

1. **Applicants regulated by this ordinance shall submit a lighting plan produced by the lighting manufacturer, registered architect or engineer as part of the site plan review process. The lighting plan shall include:**
 - (a) **a site plan drawn to a scale of not more than one (1) inch equaling fifty (50) feet indicating areas to be illuminated, including but not limited to, building(s), sign(s), vehicular accommodation areas and the locations of all proposed exterior light fixtures;**
 - (b) **drawings of proposed building elevations showing the building height and location and type of light fixtures;**
 - (c) **proposed mounting height of all exterior light fixtures;**
 - (d) **specifications and descriptions for all proposed exterior light fixtures.**
 - (e) **locations and descriptions of all proposed exterior light fixtures and hours of operation,**
 - (f) **Analysis and illuminance level plans in the form of an iso foot candle or point-by-point grid diagram drawn to scale. The submitted grid plan shall plot lighting levels at ten-foot intervals or less. The iso foot candle diagram shall plot foot candles in increments of one-half (0.5) foot-candle or less.**
2. **The installation of the lighting and footcandle readings at the property line shall be certified by a registered architect or engineer before a certificate of occupancy is issued for the structure.**

Section 636 Exemptions.

1. **Holiday lighting during the months of November, December and January shall be exempt from the lighting requirements of this article provided the lighting does not create disabling glare onto adjacent rights-of-way.**

Part 3. This ordinance amendment shall be in effect from and after _____

Chairman, Board of Commissioners

DISCUSSION

Ms. Cox said there are three buildings currently on the mainland that would fall under this category. Two of the buildings are the Food Lion shopping centers.

Horace Bell asked if a lighting ordinance would ever apply to residential developments on the mainland.

Ms. Cox said she did not think this would ever apply to residential developments as there are many objections to street lights.

John Snowden said this ordinance needs to be equitable with the outer banks. He said this type of ordinance would not stop a Wings store since they are smaller than 20,000 square feet.

Mr. Ferguson said the Board of Commissioners asked for an ordinance to protect citizens from the lighting of big box stores. He said he knows there are loop-holes, but this ordinance is a foundation to work from. He said Wings are usually in the 5,000 to 6,000 and have atrocious lighting and would be exempt from this ordinance.

John Snowden listed many business that would be coming in that would be under 20,000 square foot.

Mr. Hawley said that there has to be sufficient lighting for safety reasons.

Mr. Etheridge said he had been in Currituck County for all his life, 50 years, and he has seen growth and development. He said growth is going to happen weather you want it or not. He said we need the businesses to protect our tax base. He said that lights can be projected down so that they do not spill over onto adjoining properties. He said that many business close at 10:00 p.m. and turn the lights out.

PLANNING BOARD RECOMMENDATION

Mr. Riley motioned to recommend approval of this amendment as presented. Mr. Etheridge seconded the motion and the motion passed with Mr. Parker voting no.

PB 04-13: AMENDMENT TO ARTICLE 13 AND ARTICLE 25 OF THE UDO TO PERMIT PRIVATELY OWNED AIRPORTS IN THE R01 ZONING DISTRICT WITH A SPECIAL USE PERMIT.

Sean Boyle and Bill Holland appeared before the board.

Ms. Cox presented the following memo to the board:

MEMORANDUM

*TO: Planning Board
Board of Commissioners*

*FROM: Shelley Cox
Chief Planner*

DATE: March 2, 2004

SUBJECT: PB 04-13

A text amendment request has been made to allow privately owned airports to operate within the RO1 zoning district with a Special Use Permit. Currently, privately owned airports are permitted by Special Use Permit in the Agricultural, Light Manufacturing and Heavy Manufacturing zones. Also included within this proposal is a basic definition for privately owned airports.

In conjunction with this amendment request, Turnpike Properties has applied for a Special Use Permit to utilize the Pine Island airstrip for a commercial air service (i.e. a privately owned airport). The existing airstrip has been utilized since the 1970's, prior to the development of Pine Island P.U.D. Use of the airstrip has previously been limited to Pine Island and Sanderling guests and homeowners. Turnpike Properties is proposing to continue using the airstrip for the landing and departure of air planes, however they are requesting to transport passengers who wish to travel to the beach with no restrictions on where the users are staying.

Staff recommends approval of this request.

Ms. Cox presented the following amendment to the board:

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:

Part 1. That the following section be amended:

Section 1310 Table of Permissible Uses.

(Z - Zoning Permit; C -Conditional Use Permit;
S - Special Use Permit)

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
15.200	Airports and Airstrips											

*Minutes are not official until approved by the board.

15.220 Privately Owned Airport		S				S					S	S
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Part 2. That the following section be amended:

Section 2501 Definition of Basic Terms.

Privately Owned Airport. An area of land or water, located on private property, that is designed or used on a recurring basis for the landing and take-off of aircraft and where no commercial activities occur.

Part 3. This ordinance amendment shall be in effect from and after the _____ day _____ of _____, 2003.

Chairman, Board of Commissioners

DISCUSSION

Ms. Cox said that Kathleen Page submitted a letter of objection to the amendment and special use permit. (See Attachment #1)

Mr. Hawley asked if the FAA would be regulating the operation.

Ms. Cox said that the FAA would be regulation the operation.

Wayne Leary, Economic Development Director, said that the Airport Board and Economic Development Board support this request and feel it is in the best interest of the county.

Mr. Boyle said that he had talked to about seven adjoining property owners who had no objection to the project.

Mr. Etheridge asked how far the strip is from NC 12.

Ms. Cox said the strip is about 150' from NC 12.

Mr. Keel asked if there would be night-time operations.

Mr. Holland said there are no plans for lighting the site or for any night-time operations. He said the airstrip has been in this location for about 25 years, but use was limited to Pine Island owners. They want to expand the service to allow for other people to use the airstrip. There will be planned scheduled flights that will help limit the use of the air strip.

PLANNING BOARD RECOMMENDATION

*Minutes are not official until approved by the board.

Mr. Hawley motioned to recommend approval of this amendment as presented. Mr. Etheridge seconded the motion and the motion passed unanimously.

PB 04-16 TURNPIKE PROPERTIES, INC.: SPECIAL USE PERMIT REQUEST FOR A PRIVATELY OWNED AIRPORT ON PROPERTY LOCATED IN COROLLA WITHIN PINE ISLAND, TAX MAP 128, LOT 2D, POPLAR BRANCH TOWNSHIP.

Sean Boyle and Bill Holland appeared before the board.

Ms. Cox presented the following case analysis to the board:

OWNER & APPLICANT

Turnpike Properties, Inc.
1100-C S. Stratford Road, Ste 102
Winston-Salem, NC 27103

PURPOSE OF REQUEST

The applicant requests Special Use Permit approval for a privately owned airport located in Corolla, within Pine Island P.U.D. There is an existing airstrip at this location that has been utilized prior to the development of Pine Island, P.U.D.

LOCATION OF PROPERTY

The site of the proposed development is located between NC 12 and the Audubon Sanctuary. The property is shown on Tax Map 128, Parcels 2D, Poplar Branch – Outer Banks Township.

EXISTING CONDITIONS

This property is zoned RO1. The airstrip is located on 28 acres with a current entrance off of NC12. The applicant has proposed to relocate the driveway approximately 1800' north of the current entrance. The airstrip shall also utilize the existing Pine Island Tennis Center driveway. In addition, six new parking spaces are proposed. No new construction, other than the relocated driveway and parking area is proposed.

Article 13 of the UDO currently allows privately owned airports in the Agricultural, Light Manufacturing and Heavy Manufacturing Districts. In conjunction with this request, a text amendment has been submitted that would allow privately owned airports within the RO1 District with a Special Use Permit.

STAFF FINDINGS:

Criteria: (a) Does the applicant meet the standards established in the Unified Development Ordinance (UDO) for the proposed use?

Findings: The applicant is requesting a Special Use Permit for a privately owned airport in the RO1 district. Approval of this permit shall be predicated upon approval of the proposed text amendment.

Criteria: (b) Will the proposed use materially endanger the public health or safety?

Findings: The property has been utilized as a private airstrip since the 1970's. There will not be a change in use of the property, only in a change of users of the air service. All operations of this airport must be regulated and approved by the FAA.

Criteria: (c) Will the proposed use substantially injure the value of adjoining or abutting property?

Findings: The surrounding land uses for the property include:

North: NC 12, Residential & Commercial	Zone: RO1 & LBH
South: Vacant (National Audubon Society)	Zone: RO1
East: Pine Island Tennis Center	Zone: RO1
West: Vacant (National Audubon Society)	Zone: RO1

Criteria: (d) Will the proposed use be in harmony with the particular neighborhood or area in which it is to be located?

Findings: The site is currently an amenity to the Pine Island and Sanderling communities. No additional commercial activities shall occur.

Criteria: (e) Will the proposed use be in general conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the board?

Findings: The 1990 Land Use Plan classifies the property as Limited Transition. The Limited Transition 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, and/or geographically remote from existing towns and municipalities. The proposed use is consistent with the Limited Transition classification.

Access for the property is from NC 12, a major collector street according to the 1988 Thoroughfare Plan.

Criteria: (f) 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.

Findings: Approval of this request should have no impact on public facilities.

STAFF RECOMMENDATION

In consideration of the suggested Findings of Fact, staff recommends approval with the following conditions:

*Minutes are not official until approved by the board.

1. All operations must be conducted in accordance with FAA regulations.
2. No additional commercial activity, other than the use of the airstrip, shall occur.
3. No additional structures or buildings on this property, including hangers or fuel tanks, shall be permitted.
4. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

DISCUSSION

Ms. Cox said that Kathleen Page submitted a letter of objection to the amendment and special use permit. (See Attachment #1)

Ms. Cox explained that the county will be regulating the use and not the user as has been done in the past if this special use permit is approved.

Mr. Keel said that staff recommendation three says that you cannot have commercial activity, except use of the airstrip. He said he did not think the airstrip could be for commercial use.

Mr. Holland compared this use to a taxi business. If the taxi picks you up in your front yard and you pay it there, your property is not the location of the business. He said that rental cars would be left at the commercial site. He said they will not engage in any commercial activities at the airstrip.

Mr. Hawley asked the type and size of aircraft that use the airstrip.

Mr. Holland said the plans range from 8 passenger single-engine planes to small jets.

Mr. Hawley asked the hours of operation.

Mr. Holland said the airstrip would only be permitted to operate during daylight hours.

Mr. Hawley asked how many scheduled flights would operate per day.

Mr. Holland said there would be scheduled flights in addition to private planes using the strip daily.

Mr. Hawley asked if there would be any aircraft parked over-night and how many.

Mr. Holland said there are currently three planes that can park over-night.

Mr. Hawley asked what restroom facilities would be available.

Mr. Holland said that the tennis facilities would be available to the passengers.

Mr. Keel asked the projected number of flights per summer day.

Mr. Holland said there would be three to four planes making no more than three or four flights per day.

Mr. Bell asked if a driveway would have to be re-located.

Mr. Boyle said the driveway was re-located in May.

Mr. Hawley is concerned that renters will be bothered by the number of flights/hours of operation.

Betty Shotton said that she is setting up the commercial flight operations. They are flying two eight passenger planes had have a three passenger plane as a back-up. She said they are classified as a Limited Operation by the FAA. She said they are planning four flights per week. In addition, they will be doing charter flights, usually scheduled at check-in or check-out times.

Mr. Keel asked how close this activity is to being a commercial activity. He thought that 40 flights per day would be a commercial activity.

Mr. Ferguson said it is close to operating as a commercial activity. He said the county did not want to rezone the property to commercial as it would open up the airstrip to numerous commercial uses. The county and the applicant want to protect the integrity of the area.

Mr. Etheridge asked if a tower would be required.

Mr. Ferguson said a tower is not required by the FAA.

Mr. Hawley asked if there is an allowable decible level.

Mr. Riley said the trucks on NC 12 are louder than the aircraft on the airstrip.

PLANNING BOARD RECOMMENDATION

Mr. Parker motioned to recommend approval of this request subject to the following:

1. All operations must be conducted in accordance with FAA regulations.
2. No additional commercial activity, other than the use of the airstrip, shall occur.
3. No additional structures or buildings on this property, including hangers or fuel tanks, shall be permitted.

- 4. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County’s Unified Development Ordinance.

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

PB 04-17 GRANDY ACRES, PHASE 2: SKETCH PLAN/SPECIAL USE PERMIT REQUEST FOR 7 LOTS LOCATED IN GRANDY AT 105 BETSY COURT, TAX MAP 94, LOT 172N, POPLAR BRANCH TOWNSHIP.

Sean Robey appeared before the board.

Ms. Cox presented the following case analysis to the board:

LOCATION: At the end of Betsy Court, approximately 450’ from its intersection with Poplar Branch Road, Poplar Branch Township.

ZONING DISTRICT: Residential

OWNER:
Johnny R. McCandless
P.O. Box 111
Jarvisburg, NC 27947

APPLICANT/AGENT
Hyman & Robey, PC
150-A U.S. Hwy 158 East
Camden, NC 27921

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Vacant - zoned R
SOUTH: Residential - zoned R
EAST: Residential - zoned R
WEST: Vacant - zoned R & GB

NARRATIVE OF REQUEST:

Johnny McCandless is seeking Sketch Plan/Special Use Permit approval for 7 single family lots through the major subdivision process. The total acreage of the entire development is approximately 7.57 acres.

This property is zoned Residential, therefore the minimum lot size required utilizing a conventional layout is 40,000 sq. ft. Lot sizes within this development are proposed to range from 40,010 sq. ft. to 56,539 sq. ft.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: Access is proposed to be provided by an extension of Betsy Court. Betsy Court is an existing private right-of-way that will be improved to NCDOT standards.

- WATER:** An 8” water main currently exists on Poplar Branch Road (approximately 450’ away from the proposed lots). Under Section 915 of the UDO, the developer will be required to install a six inch water line, with fire hydrants, to serve this subdivision.
- FIRE:** This development will be located within the jurisdiction of the Lower Currituck Volunteer Fire Department.
- WASTEWATER:** Individual, on-site septic systems are proposed. The property contains Portsmouth Fine Sandy Loam which consists of very poorly drained soils that have moderate permeability.
- 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*). Based on these pupil generation figures, Currituck can expect 3 elementary students, 1 Jr. high student, and 1 high school student from this development.
- OPEN SPACE:** No open space is required or provided.
- DRAINAGE:** Roadside and property line swales/ditches will be used to address drainage for this property.
- FLOOD ZONES:** This development is within Flood Zone C (not within the 100 year flood area).
- CAMA CLASS:** The 1990 Land Use Plan classifies this site as Rural with Services. The purpose of the Rural with Services class is “to provide for low density land uses including residential use where limited water services are provided to avert an existing or projected health problem. Development within this class should be low intensity to maintain a rural character.”
This proposal is consistent with the Land Use Plan.
- STAFF COMMENTS:**

- On February 12, 2004 Technical Review staff reviewed this application. Staff’s concerns included the following:
 1. Interconnectivity has not been provided for in accordance with Section 914(f) of the UDO.

2. Betsy Court is an existing gravel road. In accordance with Section 914, the developer will have to pave this street to NCDOT standards.
3. A 6" water line and hydrants will have to be installed along Betsy Court (Section 915).

QUESTION(S) BEFORE THE BOARD:

1. *Is the application complete?* Based on staff review all required information has been submitted for review.
2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?* The proposal complies with all UDO requirements for Sketch Plan approval.
3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*
 - (a) *Will not endanger the public health or safety.* Public health and safety issues including fire protection, stormwater management, wastewater disposal and access for emergency services have been adequately addressed within this proposal.
 - (b) *Will not injure the value of adjoining or abutting property.* The proposed residential subdivision should have no negative impact on adjoining property;
 - (c) *Will be in harmony with the area in which it is located.* The subdivision would consist of residential properties that would be in harmony with the surrounding area;
 - (d) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.* The proposal will be consistent with the CAMA Land Use Plan Rural with Services classification and with the Thoroughfare Plan;
 - (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. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within 2 years after the initial approval of the sketch plan. In the case of subdivision and multifamily development at the sketch plan/special use, preliminary plat or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in accordance with Section 2015.* Based on these pupil generation figures, Currituck can expect 3 elementary students, 1 Jr. high students and 1 high school students from this development.

According to the current school population projections Griggs Elementary School has -41 additional student capacity after full development of currently approved subdivisions.

STAFF RECOMMENDATION:

This application does not meet the interconnectivity requirements within Section 914 of the UDO. In addition, staff has concerns regarding the existence of adequate school facilities to serve the proposed development. The Board of Commissioners may deny this request if it concludes that the development will exceed the county's ability to provide adequate public facilities, including schools.

If approval of this request is granted, staff recommends the following conditions;

1. That applicant shall be required to meet all requirements of the UDO including, but not limited to installation of a 6" water line, fire hydrants, and adequate drainage facilities to serve the development;
2. That a Preliminary Plat shall be submitted for review within 24 months from the date the Sketch Plan is approved by the Board of Commissioners; and
3. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

DISCUSSION

Mr. Parker questioned where the existing ditch to be filled-in is to be re-located.

Ms. Cox said the ditch would be located behind lot 11. She said that Mike Doxey and Pat McDowell had reviewed the request.

Mr. Robey explained the engineering of the ditch relocation.

Mr. Hawley asked if the soils were suitable for septic.

Mr. Robey said that the adjoining subdivision perked for 40,000 square foot lots.

Mr. Hawley asked how to address the interconnectivity.

Mr. Ferguson said that staff had recommended denial of a previous subdivision because there was no interconnectivity as required by ordinance. Planning Board also recommended denial. The Board of Commissioners approved the subdivision without requiring interconnectivity. He said there is still an ordinance that requires interconnectivity.

Mr. Robey said that he did not think it would be a good idea to require interconnectivity to the general business park neighboring the property. He also said that there are no plans to develop the WE Grandy property to the north.

Mr. Etheridge said that in his subdivision, people purchased the property because of the cul-de-sac.

Mr. Ferguson said that interconnectivity is a good idea for safety reasons. If the only road is blocked and there is an emergency, you would need another way to access the subdivision. He also mentioned the benefits of interconnectivity in regards to school buses and trash pick-up.

Mr. Hawley suggested amending the interconnectivity requirement to be applicable to larger subdivisions.

PLANNING BOARD RECOMMENDATION

Mr. Hawley motioned to recommend approval of this request subject to the following:

1. That applicant shall be required to meet all requirements of the UDO including, but not limited to installation of a 6" water line, fire hydrants, and adequate drainage facilities to serve the development;
2. That a Preliminary Plat shall be submitted for review within 24 months from the date the Sketch Plan is approved by the Board of Commissioners; and
3. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

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

OLD BUSINESS

A. SET AGENDA FOR BOC WORK SESSION

Mr. Bell asked that the work session be held at the Crawford House. He said a work session prior to a Commissioner's meeting would not allow sufficient time. He expects the meeting to last two to three hours.

After a general discussion, the board asked that the following be added to the agenda for the work session with the Board of Commissioners: Adequate Public Facilities ordinance, drainage issues, water system adequacy, mid-county bridge, ferry to Corolla, mining operations, interconnectivity requirements, and large residential developments.

Mr. Bell asked Ms. Cox if she ever investigated the data base for grave sites as requested at the last meeting when Sea Hawk Acers was heard.

Ms. Cox said she had not researched the data base because the applicant had submitted a letter from the previous owner that there is no grave site. At the March 8, 2004 Board of Commissioner's meeting, Mike Doxey stated that he was certain that there is a grave site on the property.

Mr. Ferguson said that the survivors of the person buried at this site had not requested an easement or maintained the site. The grave stones are gone. It was the opinion at a legal

meeting with the County attorney that it is not the county's responsibility to determine grave location. That burden would be the applicants.

John Snowden said he had identified the burial plot and the name of the person buried on the lot within five minutes. He suggested that a GIS layer be created to identify all burial plots.

ADJOURNMENT

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

Respectfully Submitted,

Tammy D. Glave /s/

Tammy D. Glave
Clerk to the Board

Attachment #1

Currituck County
Department of Planning and
Inspections
Post Office Box 70
Currituck, North Carolina 27929
ATT: Shelley Cox, Chief Planner
Currituck County Planning
Board

Mrs. Kathleen J. Page
7406 Windy Hill Court
McLean, VA 22102

RE: Special Use Application and
Text Amendment - Pine Island
Airstrip

Dear Currituck County Planning Board:

We have received notice from Quible & Associates, P.C. regarding the Special Use Application from Turnpike Properties for the Pine Island Airstrip. We are property owners in the Pine Island subdivision in Corolla and are very concerned about ANY and ALL development/enhancement of this airstrip or its increased use. This private airstrip was built and lengthened before any significant development was around it. Turnpike Properties developed their oceanside property, Pine Island, with Phases 5, 6 and 7 parallel to the airstrip and some homes quite close. When we purchased our lot (167) and built our home in 1997, we were assured by Turnpike Properties' representatives that the private airstrip would remain undeveloped and for private use. Route 12 separates our home from the airstrip, so you can understand our response. Over the past six years we have seen an increase in the air traffic. In February, we received a flyer from SeaAir advertising:

"...on demand charter flights with convenient arrival and departures from 7NC2 to and from most airports on the east coast or westerly to Charlotte/Raleigh/Greensboro.
...Rental cars will be available through Enterprise (252 480-1838). They will drop-off and pick-up your reserved rental car at the airstrip."

This advertisement reflects the development of commercial air traffic into a private airstrip. It signals an increase in safety concerns, noise and potential for further capital developments. We did not expect to live next to a commercial airport. At what point is this private airstrip considered a commercial one by the FAA and the NCDOT? Currituck County has a responsibility to the now existing development near this airstrip to ensure their safety and quality of life.

March 3, we requested a copy of the Special Use Permit and Text Amendment to review from the Currituck County Planning Department but have not yet received them. We contacted the Pine Island Property Owners Association but they did receive notice even though there is adjoining common property. I have been researching through NCDOT and FAA what regulations and definitions would apply to safety, noise and commercial traffic into private

airstrips. We ask that the Currituck County Planning Board deny a Special Use Permit, which would permit commercial use of this private airstrip and development of the facility.

Sincerely,

Mrs. Kathleen J. Page

**Cc: Pine Island Property Owners Association, Inc
NCDOT – Division of Aviation, Mr. Jay Pate**