

CURRITUCK COUNTY PLANNING BOARD
November 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 October 12, 2004. The following members were present: Horace Bell, Bobby Bell, Eddie Hawley, Alvin Keel, Forrest Midgette, Pat Riley, Joe Kovacs, and Arthur Winter. Gary Ferguson, Planning Director, and Cheryl Eggar, Planner, were also present. Absent: William Etheridge.

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. Mr. Bob Coler gave the invocation.

APPROVAL OF AGENDA

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

APPROVAL OF OCTOBER 12, 2004 MINUTES

Mr. Riley motioned to approve the October 12, 2004 minutes as presented. Mr. Winter seconded the motion and the motion passed unanimously.

PB 04-62 Linda Kay Cole and Macon Brock Rezoning 1.1 acres from Residential Outer Banks Standard (RO1) to General Business (GB) on property located in Ocean Hill Section 1, lots 112 and 113 located at the intersection of Ocean Trail and Coral Lane. Tax Map 114C, Lots 112, 113 Poplar Branch Township.

Linda Kay Cole appeared before the board.

This site is located in Popular Branch along the west side of Ocean Trail (SR 12) North of the Corolla Commercial Center. There is an undeveloped road between these two lots.

TAX ID: Parcel Number – 114C-000=0113-0001 & 114C-000-0112-001.

PROPERTY OWNER: Linda Kay Cole and Macon Brock

APPLICANT: Linda Kay Cole

TRANSPORTATION: Property has 303 +/- feet of frontage on SR 12 – Ocean Trail Highway. This highway is classified as a Major Arterial in the Unified Development Ordinance.

FLOOD ZONE: According to FEMA maps, the property is located within the 100 year floodplain.

SOILS: According to the Currituck County Soil Survey, the property consists of Osier (Os) fine sand is a poorly drained soil found along the edge of freshwater marshes and is poorly suited to urban and recreational uses because of wetness, flooding and sandy material.

STAFF COMMENTS:

- Directly South of the site is commercial land use. North is zoned residential but used for a landscape business. Property to the East contains residential lots in the Ocean Hill Subdivision. Granting of this zoning request allows continuation of commercial development along the West side of NC 12.
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STAFF

RECOMMENDATION: Staff recommends approval from RO1 to GB for the following reasons:

- Property to the South is contiguous with the General Business (GB) zone.
- Property to the West is a wastewater disposal site for waste water created by the Villages at Ocean Hill.
- The lots front on a State Maintained Highway with more than adequate access and full services.
- This rezoning is consistent with the Land Use Plan.

Although staff recommends approval we do have reservations regarding the conflict between the rezoning and the restrictive covenants as provided in the Ocean Hill Property Owners Association documents. We also have concerns with the possibility of this proposed zoning district "leapfrogging" across Ocean Trail (NC-12) to

capture other residential lots. In addition there is a strong opposition to any new commercial districts being created in the community of Corolla.

DISCUSSION

Mr. Hawley asked if the east side of NC 12 is zoned residential.

Mr. Kear said yes.

Mr. Hawley asked how the Restrictive Covenants of Ocean Hill Subdivision affect the county.

Mr. Kear said they do not affect the county at all.

Mr. Ferguson said that Ocean Hill covenants prohibit commercial uses.

Ms. Cole said that she has no plans in the immediate future to do anything but live on this property. She described the surrounding properties with their zoning being commercial. She is asking to conform to the properties contiguous to hers.

Mr. Kovacs asked if she had had contact with the home owner's association.

Ms. Cole said that this issue was brought before the association four years ago and they approved of the rezoning, but have since lost the minutes to that meeting.

Mr. Hawley asked if the division between the properties is an easement.

Mr. Ferguson said that it was a proposed road.

Mr. Hawley asked what the reason is for the rezoning.

Ms. Cole said it is to conform to the adjacent properties.

Mr. John Schrote VP of the Ocean Hill Home Owners Association said the association recommends denial. He read from a copy of the covenants of Ocean Hill, stating that all property be used for residential purposes. He said Mr. Brock has not discussed with the Association that he would like to rezone the property.

Mr. Hawley asked if the Association had opposed any other rezoning requests in this area.

Mr. Schrote said yes.

Mr. Hawley asked if there is any other area zoned commercially.

Mr. Ferguson said in this area there are none.

Mr. Hawley asked Mr. Schroeder if his concern was that there may be other properties rezoned commercial in the future.

Mr. Schrote said yes.

Mr. Hawley motioned to approve the request as presented. Mr. Winter seconded the motion. The motion passed unanimously.

PB 04 - 68 Heirs of RO Givens Sr. Rezoning 1.5 acres from Agriculture (A) to General Business (GB) on property located on the west side of Caratoke Hwy (US 158) at intersection with Danruth Ln. Tax Map 94, Lot 76. Poplar Branch Township.

Mr. Brock Mitchell, appeared before the board.

This site is located in Popular Branch along the West side of Caratoke Highway (US 158) on a corner lot adjacent to Danruth Lane – a private access drive.

TAX ID: Parcel Number – 0094-000-0076-0000

PROPERTY OWNER: Heirs of R.O. Givens, Sr., c/o R.O. Givens, Jr. (See attached list).

APPLICANT: W. Brock Mitchell, Attorney

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

ZONING HISTORY: Property has been zoned Agricultural since 1989.

SURROUNDING ZONING/LAND USE:	<u>Zoning</u>	<u>Land Use</u>
NORTH:	A	Residential – Low Density
SOUTH:	A	Residential - Low Density
EAST:	A	Woodland – Residential
WEST:	A	Farmland & Woodland

EXISTING LAND USE: Woodland

PROPOSED LAND USE: The applicant has stated that the reason for the request is to improve the value of the property.

LAND USE PLAN: The 1990 Land Use Plan shows this property as Limited Transition. The purpose of this class is “to

*Minutes are not official until approved by the board.

provide for development in areas that have some services, but are suitable for lower densities than those associated with the urban transition class, and/are geographically remote from existing towns and municipalities. This class is intended for residential developments with densities of three units per acre or less. This class is also intended for nonresidential areas along major transportation routes. This class also contains nonresidential areas along major transportation routes. This rezoning request **is** consistent with the Land Use designation.

**PUBLIC SERVICES
AND UTILITIES:**

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

TRANSPORTATION: Property has 350 +/- feet of frontage on US 158 - Caratoke Highway which 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 property consists of Portsmouth fine sandy loam which consists of very poorly drained soils that are unfavorable for septic systems due to wetness.

STAFF COMMENTS:

- The property could be considered as spot zoning;
- Across the Caratoke Highway the properties are zoned Agricultural as all the properties located west, east and south.
- Property has direct access and frontage on Caratoke Highway (US 158) with approximately 350 feet of frontage.

STAFF

RECOMMENDATION: The proposed rezoning is consistent with the Land Use Plan, but is .07 miles from the closest GB Zone to the South and .08 miles from the closest GB Zone to the North. Staff recommends denial of this application on the basis of spot zoning.

DISCUSSION

Mr. Mitchell agrees that this is spot zoning, but feels it is reasonable and consistent with the Land Use Plan. It is not a large parcel, but has 350' road frontage.

Mr. Hawley asked what is on the site at this time.

Mr. Kear said there is a Mel's Diner sign on the property.

Mr. Kovacs motioned to deny the request as presented. Mr. Midgette seconded the motion. The motion passed unanimously.

PB 04-67 Frank and Maria Mashuda Rezoning 15.8 acres from Agriculture (A) to Residential (R) on property located at the end of Patriot Way Tax Map 60, Lot 99E, Crawford Township.

Mr. Larry Gaither appeared before the board.

This site is located in Crawford Township at the end of Patriot Way which is off Short Cut Road (US 158) near the County Airport and the Central Elementary School.

TAX ID: Parcel Number – 0060-000-0099E 0000.

PROPERTY OWNER: Frank and Maria Mashuda

APPLICANT: Same

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Agricultural	Residential

ZONING HISTORY: Property has been zoned Agricultural since 1989.

SURROUNDING

ZONING/LAND USE:

	<u>Zoning</u>	<u>Land Use</u>
Airport	NORTH: Ag. & Heavy Manuf.	Ag. &
	SOUTH: Ag.	Residential
	EAST: Ag.	Agricultural
Agricultural/School	WEST: Ag.	

EXISTING LAND USE: Woodland

PROPOSED LAND USE: The applicant has stated they would like to develop the property into a subdivision of less than 15 lots.

LAND USE PLAN: The 1990 Land Use Plan shows this property as Rural with Services in the 1990 Land Use Plan. Low density residential uses with a gross density of approximately one unit per acre, where lot sizes are large and where the provision of services will not disrupt the primary rural character of the landscape.

PUBLIC SERVICES AND UTILITIES:

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

TRANSPORTATION:

Property has access on Shortcut Road (US 158) via Patriot Way. Patriot Way is a private access road approved as a minor subdivision of four lots in April 2003 under the name of Freedom Forest. Average Daily Traffic Count per NCDOT in 2002 on US 158 near the entrance to Patriot Way was approximately 7500 vehicles per day.

FLOOD ZONE:

According to FEMA maps, the property is located within the 100 year floodplain.

SOILS:

According to the Currituck County Soil Survey, the property consists of Portsmouth (Pt), Statefine (Sta),

Dragston (Ds) Soils. Statefine soils are well drained and favorable for septic systems. The Portwsmouth soils are very poorly drained soils that are unfavorable for septic systems. Dragston soils are loamy fine sands that is sowewhat poorly drained soil which requires drainage and site modifications to improve the potential for septic systems. .

STAFF COMMENTS:

- The proposed rezoning is consistent with the Land Use Plan.
 - Residential uses have been approved dirrectly to the South of the parcel along Patriot Way, 2500 feet to the West and 1500 feet to the East of the site along the Shortcut Road.
 - To the East, West North and South the contiguious properties are zoned Agricultural.
 - Property has access to Shortcut Road (US 158) via Patriot Way.
 - The property is approximately 1000 feet East of the new new Elementary School.
 - The parcel if developed as a residential subdivision will not interfere with the County Airport Operations now or in the future.
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STAFF

RECOMMENDATION: Staff recommends approval from Agricultural to Residential zoning for the following reasons:

- Property is consistent with the Land Use Plan.
- The parcel has good access to Shortcut Road (US 158).
- There have been residential developments approved directly to the South along Patriot Way, 1500 feet to the East and 2500 feet to the West.

DISCUSSION

Mr. Hawley asked if the heavy manufacturing behind the property is owned by the airport.

Mr. Ferguson said that is part of the airport itself. The county has interest in developing that area.

Mr. Hawley said he is concerned about having residential area so close to a heavy manufacturing area if the county did decide to develop the area in the future.

Mr. Hawley asked how close the elementary school is to this area.

Mr. Gaither said 1500 feet.

Mr. Bobby Bell asked if the current lot owners were told that there could be future development behind the subdivision.

Mr. Gaither said he is not aware, as the property was sold by an agent at William E. Wood.

Mr. Kovacs asked if there is a de-acceleration lane required by DOT.

Mr. Ferguson said there is no de-acceleration lanes are required under 20 lots.

Mr. Keel motioned to approve the request as presented. Mr. Riley seconded the motion. The motion passed unanimously.

OLD BUSINESS

PB 04-62 Amendment to UDO prohibiting billboards and off-premise signs in Currituck County.

DISCUSSION

Mr. Ferguson summarized the proposed amendment information, saying that the amendment will not eliminate the signs that already exist, but is meant to limit new signs. He asked the board for direction on special event signs, seasonal farm market and directional signs to home occupations, and asked if these signs should be allowed or prohibited.

Mr. Hawley asked about repairing non-conforming signs after they are damaged.

Mr. Ferguson said that most communities require a non-conforming sign that is damaged to conform in order to be replaced.

Mr. Hawley said that if DOT takes part of the property, it is not the sign owner's fault that the sign is no longer conforming. Mr. Hawley said he would rather not address the non-conforming issue at this time.

Mr. Ferguson stated that 12 months of no advertisement on sign, it is considered blank and abandoned.

Mr. Hawley said that if there is a 'For Rent' sign on the billboard, the billboard is actually in use.

Mr. Ronnie Cooper made a statement to the board regarding his family's sign business. He described how the sign committee that he was involved with involved the different boards and citizens to make changes. He said that his business will be hurt by the proposal as will the property owners that rely on the rental income.

John Snowden said that as a newspaper owner, he likes the proposal because it eliminates his competition. However, he said that if people can't make money on their land with billboards, they will have to start developing their land and the county will have to spend money on schools. He addressed the messages on some of the boards and said that they are free speech and the signs should be left as is, even if they are offensive.

Harvey Roberts, farmer, said that he feels that this proposal is taking people's land without compensation.

Ms. Eddie Jo Powell said that billboards are essential to her livelihood as a farmer. There are restrictions for farm market signs and her business adheres to the regulations. If billboards are taken, she feels her business will decrease.

Karen Peters said that the billboards are not causing harm to the county.

Jerry Wright, farmer and owner of the Cotton Gin, said that farm revenue is declining steadily and people are relying on other sources for income. The roads have increased the speed of traffic and billboards are the most effective way to get people to stop in the local businesses and spend money.

Colin Grandy said that he is surprised by this proposed amendment. His billboards supplement his income by giving directions to his farm market. He said that when a storm destroys a home, it is rebuilt, so a sign should be allowed to be repaired as well. A sign doesn't cost the taxpayers money and there are other issues that he feels are more important.

John Cooper said that he feels that his billboard has given his business the most response. There aren't many empty billboards, so they must be serving their purpose, as they aren't inexpensive. He asked the board not to focus on the concerns of a few at the expense of many, the current regulations are very restrictive and he feels this is a 'back door' and sneaky way to eventually eliminate billboards altogether.

Mabel Cooper said that the county has made an effort to bring business to the county, but it will be harmful to tell those businesses that they cannot advertise when they are established.

Jayne Newbern said that small signs are important, as she gets numerous phone calls on rental property through small signs, and feels that billboards would be even more effective. She said that if there are concerns about specific signs and their verbage, that issue should be addressed.

Robert Sikes, said that there are billboards that do go away, but they aren't noticed as much as the new ones.

Mr. Hawley stated that he is on the sign committee and that he is surprised by the proposal and he thinks it should be addressed because it affects a lot of people in the county.

Mr. Ferguson said that the directive from the Commissioners was to address new billboards. . The Board wants a recommendation concerning construction of new billboards, all the other issues are secondary.

Mr. Kovacs said that the greatest number of concern is about damaged billboards and the board is not addressing that issue.

Mr. Keel said that an off premise sign is helpful to a business owner off the highway.

Mr. Roberts stated that there are a lot of people that have commercially zoned property that don't know they could have a billboard and if they did, they would be at the meeting addressing the board.

Mr. Midgett asked if the board could appoint a committee to come back with a recommendation before a decision is made.

Mr. Ferguson said that the Board is anxious to hear this item.

Mr. Larry Gaither said that commercial lots are selling for \$300,000 in Moyock, there is a tremendous interest in development in the county. The businesses are allowed to be built, but they should also be allowed to sell their business.

Mr. Grandy asked if there is a restriction of 1500' between billboards.

Mr. Ferguson said yes.

Mr. Midgett recommended that the Planning Board form a committee to study the impact of this proposal.

Mr. Hawley motioned to deny the proposal as presented and ask the Commissioners to form a committee to study this item further.

Mr. Midgett seconded the motion. Motion passed unanimously.

OTHER OLD BUSINESS

Mr. Bell asked Mr. Ferguson to discuss the meeting on the NC Sea Grant.

Mr. Ferguson discussed the presentation and said that the Division of Coastal Management wants emphasis placed on water quality and improvement. During this meeting D.W.Q. representatives

informed attendees that Water Quality Designations (SA-SB-DC) were assigned to different bodies of water depending on how the water was used and not simply by the quality of the water.

Mr. Hawley asked if the designation is changed, could the county get grants to bring in items to enhance water quality.

Mr. Ferguson said yes, the Land Use Plan committee would be looking further into this area and perhaps setting a higher standard for water quality than its current SC classification.

Mr. Roberts stated his concerns about adopting higher water quality standards with regard to the impact on farmers.

Mr. Bell asked again for the NCDOT driveway workshop.

ADJOURNMENT

There being no further business to discuss, Mr. Hawley motioned for adjournment. Mr. Riley seconded the motion and the motion passed unanimously. The meeting adjourned at 9:25p.m.

Respectfully Submitted,

Tammy J. Underwood /s/

Clerk to the Board