

CURRITUCK COUNTY PLANNING BOARD
October 12, 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, William Etheridge, Eddie Hawley, Alvin Keel, Forrest Midgette, Pat Riley, Joe Kovacs, and Arthur Winter. Gary Ferguson, Planning Director, and Cheryl Eggar, Planner, were also present.

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

APPROVAL OF AGENDA

Mr. Riley motioned to approve the agenda as presented, with item 8 removed. Mr. Keel seconded the motion. Motion passed unanimously.

APPROVAL OF SEPTEMBER 14, 2004 MINUTES

Mr. Midgette motioned to approve the September 14, 2004 minutes as presented. Mr. Winter seconded the motion and the motion passed unanimously.

Drainage Discussion with Mike Doxey.

Mike Doxey, Currituck County, appeared before the board to answer questions regarding drainage issues. Allen Russell, NCDOT, also appeared before the board.

DISCUSSION

Mr. Bells stated that on several occasions the board has seen combination roadside and side lot swells discharging water, and asked if that was appropriate.

Mr. Doxey said that typically the majority of drainage may or may not go to DOT right of way, but in some instances that is the only outlet for the water

Mr. Russell said that DOT is involved in drainage because of ditches on the side of the road. They look at how much water is coming into the right of way. In most cases DOT will accept the amount of water that was existing before development and a reasonable amount after development. Mr. Russell also stated that it is a misconception that DOT takes care of all ditches in the State.

Mr. Bell asked Mr. Russell to come back and give a review of NCDOT driveway workshop.

Mr. Bell brought up Snowden Rd. drainage issues with regard to the new development and stated there was concern from residents that drainage was inadequate in the area. He asked who is responsible for correcting the drainage problem should one actually occur.

Mr. Doxey said that if it is in DOT right of way, it is DOT's responsibility.

Mr. Bell asked whose responsibility it is when a developer disturbs the natural drainage flow in the ditches.

Mr. Doxey said that is a major concern everywhere. Historically, DOT and the farmers took care of the drainage. Right now, the developers are pushing responsibility off on the new property owners.

Mr. Doxey said that the problems arise when maintenance needs to happen. Neither the developer nor property owners want to be responsible. His department is currently in the process of looking at the possibility of a new storm water management plan for the whole county. That will entail breaking the county up into 'watershed' type areas and draining to a certain point and a large service districts that may have storm water tax to defer the cost of drainage improvements.

Mr. Bell asked if service districts are a good thing.

Mr. Doxey said yes, service districts will allow drainage to a certain point and will give land owners more responsibility for drainage.

Mr. Hawley asked Mr. Doxey if his department looks at upstream, downstream and 100 year storm considerations when he looks at a minor subdivision.

Mr. Doxey said that there is no requirement for him to look at minor subdivisions, but he has been working with Ms. Eggar on drainage easement on some of them.

Mr. Keel asked if minor subdivisions had regulations regarding drainage.

Mr. Ferguson said that the requirement is that roads in subdivisions be constructed to DOT standards. Family subdivisions are the only instance that is not held to the standard, but they still have to provide a drainage plan.

PB 04-66 Currituck County amendment to UDO sections 204, 405, 414, 1617, 1618, 2501 to provide requirements for fill and grading

Memo

To: Planning Board
Board of Commissioners

From: Donna Voliva, Planner
Tammy Glave, Planner

Date: October 26, 2004

Re: Fill/Grading Ordinance

Attached please find a draft fill/grading ordinance amendment as requested by the Board of Commissioners. This is an attempt to address the fill concerns recognized by the Board.

Following is a brief summary of the changes:

- The setback requirements in Article 2 were amended to prohibit fill within 10' of all property lines, with the exception of driveway improvements and lots within Planned Unit Developments.
- Article 4 was amended to show maximum driveway widths, driveway, and vehicular setbacks.
- Article 16 was amended to prohibit fill within 10' of all property lines, with the exception of driveway improvements and lots within Planned Unit Developments.
- Two new sections were added to Article 16 creating the standards for land disturbance activities and land disturbance permits. These new sections establish the maximum amount of fill allowed on a site; an allowance for fill above adjacent grades when the County Engineer approves an engineered stormwater plan; requirements for a Land Disturbance Permit and Plan.
- The definitions in Article 25 were amended to include definitions for Adjacent Grade and Fill.

It is very important to realize that while this fill/grading ordinance may offer some relief with fill issues, it does not address the larger concerns expressed by staff and Pat McDowell, County Engineer, of adequate drainage and stormwater management on each lot. It is our understanding that these issues will be addressed at a later date.

Purpose and Intent

The county is experiencing a substantial and sustained growth in population, in significant part due to the proliferation of residential subdivisions. Growth as experienced by the county may jeopardize the county’s ability to protect private property owners from stormwater runoff resulting from excessive filling and grading. The purpose and intent of the following ordinance amendment is to help alleviate the drainage problems occurring in the county as a result of excessive filling and grading.

Article 2, Section 204

1. Subject to Section 205, Section 206, the bufferyard provisions of Article 5, and the other provisions of this Ordinance, no portion of any structure may be located on any lot closer to any lot line or to a street than is authorized in the Table set forth below: **(Amended 1/20/98)**

(a) Table of Setback Requirements **(Amended 1/20/98)**

STREET SETBACK		LOT BOUNDARY SETBACK		
Zone	Vehicular and Structure	Structure		Vehicular Area Side and Rear
		Side Line	Rear Line	
All Districts	20' ¹⁵	15' 2,3,4	25' 2,3,4	10' 3, 4

⁴ There shall be a 10 (ten) feet no fill area from the side and rear property lines, excluding lots within Planned Unit Developments.

⁵ Residential drive aisles and parking spaces may be located 10 (ten) feet from the front property line.

3. Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the structure, excluding:

(a) the outermost three (3) feet of any uncovered porch, step, eaves, gutter, canopy, concrete or wooden deck, patio and sidewalk extending more than twelve (12) inches above the ground or similar fixture. **No encroachments are allowed within ten feet of all property lines, excluding lots within Planned Unit Developments; (Amended 3/19/01, 7/2/01)**

(b) the outermost five (5) feet of any concrete or wooden deck, patio and sidewalk if no portion of the same extends more than twelve (12) inches above the ground. **No encroachments are allowed within ten feet of all property lines, excluding lots within Planned Unit Developments; (7/2/01)**

~~(c) driveways for single family and two family dwellings; (Amended 3/19/01)~~

~~(d)~~any structure that is not a part of the building itself but is a mere appendage to it, such as a flagpole, etc. **No encroachments are allowed within ten feet of all property lines, excluding lots within Planned Unit Developments;**

(ed) handicapped ramps. **No encroachments are allowed within ten feet of all property lines, excluding lots within Planned Unit Developments;**

(fe) public walkways, neighborhood walkways and walkways shared between 2 or more property owners that extend more than twelve (12) inches above the ground and that may contain a dune deck or gazebo authorized by CAMA; **(Amended 8/21/95, 1/2/96)**

(gf) piers, walkways, dune deck or gazebo authorized by CAMA. **(Amended 1/2/96, 3/19/01)**

13. ~~No fill of any kind shall be allowed within ten (10) feet of any property line except as associated with a driveway, bulkhead or other setback encroachments as provided in subsection 3 above and as provided in subsection (a) below. Further, driveways shall maintain a five (5) foot side setback at the front property lines when possible and may taper back to no less than one (1) foot off property lines twenty (20) feet back of the front property line. **(Amended 12/4/00, 3/19/01, 7/2/01)** Fill is not allowed within ten feet from side and rear property lines. Fill is not allowed within ten feet from the front (street) property line except for driveway improvements. Lots within Planned Unit Developments are exempt from these regulations. Board may wish to consider limiting fill to drainfield and building pad only.~~

~~(a) fill on lots may be located within two (2) feet of a property line provided a licensed North Carolina engineer designs a stormwater retention plan to capture a 1 year storm (3½ inches) from all impervious areas, the plan is implemented and the lot is stabilized. Stormwater retention areas may be located up to property lines provided no fill is located within two (2) feet of the property lines. **(Amended 7/2/01)**~~

14. **Driveways shall maintain a minimum ten (10) foot setback from all side and rear property lines, except for required shared driveways and cul-de-sac lots where it is determined by the Zoning Administrator that the setbacks can not reasonably be meet. Driveways shall be in accordance with the bufferyards established in Article 5 of this ordinance.**

Section 405 Required Widths of Parking Area Aisles and Driveways.

3. **Residential driveways shall not exceed 24 feet in width measured at the front (street) property line. Commercial and manufacturing driveways shall not exceed 36 feet in width measured at the front (street) property line. The maximum driveway width shall not apply to fire stations.**

4. **Drive aisles and parking spaces shall meet the vehicular setback requirement in Article 2, Section 204 (1)(a), excluding lots within Planned Unit Developments.** *Staff has concerns with applying this rule to smaller lots (PUD's).*

35. The provisions of the Section shall apply so long as they do not conflict with any fire safety regulations.

Section 414 Driveways.

4. **Residential driveways shall not exceed 24 feet in width measured at the front (street) property line. Commercial and manufacturing driveways shall not exceed 36 feet in width measured at the front (street) property line. Driveways shall maintain a ten (10) foot setback from all side and rear property lines, except for required shared driveways and cul-de-sac lots where it is determined by the Zoning Administrator that the setbacks can not reasonably be meet. Residential driveways shall extend ten (10) feet into the property before establishing drive aisles and parking spaces. Commercial and manufacturing driveways shall extend 20 feet into the property before establishing drive aisles and parking spaces. The maximum driveway width shall not apply to fire stations.**

Section 1615 Storm Water Management.

2. A topographic plan (shown in 1 foot intervals) shall be required for all development where changes in the natural grade of the property is proposed ~~or has taken place in the past six months~~. The plan shall indicate the location and elevation changes above or below natural grade and contain the following certificate: **(Amended 12-4-00)**

I, _____, owner/agent do hereby certify that I will develop the property in accordance with the approved plans which will be constructed or maintained so that surface waters from such development are not unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties. In addition, the development will be constructed or maintained so that it will not unreasonably impede the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.

Date: _____ Owner/Agent: _____

3. No fill of any kind shall be allowed within ten (10) feet of any property line except as associated with a driveway **and/or a bulkhead for shoreline protection, with the exception of lots within Planned Unit Developments.** ~~or other setback encroachments as provided in Section 240(3) and as provided in subsection (a) below. Further, driveways shall maintain a five (5) foot side setback at the front property lines when possible and may taper back to no less than one (1) foot off property lines twenty (20) feet back of the front property line. (Amended 12/4/00, 7/2/01)~~
 - (a) ~~fill on lots may be located within two (2) feet of a property line provided a licensed North Carolina engineer designs a stormwater retention plan to capture a 1 year storm (3½ inches) from all impervious areas, the plan is implemented and the lot is stabilized. Stormwater retention areas may be located up to property lines provided no fill is located within two (2) feet of the property lines. (Amended 7/2/01)~~

Section 1617 Mandatory Standards for Land Disturbance Activities.

1. **The provisions of this section shall apply to all land disturbance activity, except for lots within Planned Unit Developments, regardless of the size of the disturbed area. A Land Disturbance Permit (Section 1618) is required when filling/grading above adjacent grades.**
2. **Land disturbing activities, excluding clearing and grubbing but including landscaping, shall not be permitted within ten feet (10') from all property lines with the exception of drainage and stormwater improvements, underground utilities, and**

grass. Fences located within this area are permitted as long as it does not impede the flow of stormwater. Land disturbance on front (street) property lines for driveways shall be limited to culvert, drainage, and surface material improvements and shall comply with all provisions of this ordinance.

- 3. Fill is not allowed within ten feet from side and rear property lines. Fill is not allowed within ten feet from the front (street) property line except for driveway improvements and as approved by the county engineer. *Board may wish to consider limiting fill to drainfield and building pad only.***
- 4. Stormwater ponds, either wet or dry, shall not be located within the ten feet (10') no fill zone, except as approved by the County Engineer.**
- 5. A lot shall not be filled/graded higher than the adjacent grades except for the following:**
 - (a) When ARHS determines that fill is necessary for a septic system to function properly, the maximum fill for the septic system shall not exceed 24".**
 - (b) An additional 12" of fill above the septic system fill may be allowed for the house pad to ensure adequate flow from the building to the septic system.**
 - (c) When fill is required to raise the lot elevation to the base flood elevation.**
 - (d) When fill is essential to meet the required pad elevation as shown on an approved Preliminary Plat/Grading Plan.**
- 6. In cases of substantial natural grade differences from adjoining lots of the subject property, the county engineer may accept a certified, engineered stormwater plan that deviate from these requirements. The stormwater plan shall verify that the proposed development will not create flooding or nuisance conditions on the lower adjacent lots. In no case shall the rear and side yard no fill zones be encroached upon with fill.**
- 7. All fill shall be established at a slope not to exceed 3:1, (3) three feet horizontal run for every one (1) foot vertical rise. The toe of the slope shall maintain a ten (10) foot setback from all property lines. A permanent ground cover, sufficient to prevent erosion, must be established on all fill slopes as follows:**
 - (a) prior to issuance of the certificate of compliance for construction projects; or,**
 - (b) for projects where land disturbance activity has ceased for more than six (6) months, whichever occurs first.**
- 8. Bulkheads or retaining walls shall not be allowed as a method to stabilize or contain fill, except bulkheads for shoreline protection. This shall not include retaining walls used to stabilize or contain existing natural grade when a driveway or walkway is cut into a lot at an elevation lower than existing natural grade. *Staff has a concern with bulkheads used for shoreline protection and associated fill being elevated above an adjacent property owner.***
- 9. All lots requiring a land disturbance permit shall install erosion and sediment control measures to prevent sediment from leaving the site. The erosion and sediment control measures shall be implemented on the site prior to the commencement of land disturbing activities and shall be continuously maintained during the land disturbance phase of development.**

3. **Prior to issuance of the land disturbance permit, an on-site inspection of the project site shall be scheduled with the county engineer or his designee to evaluate the pre-disturbed conditions of the site and, review and discuss the proposed land disturbance activity.** *Mike Doxey is concerned that a site visit is required when an engineer has already certified the plan.*

4. **After issuance of the land disturbance permit, an on-site inspection shall be conducted by the county engineer or his designee to ensure adequate erosion control measures and project activities are in compliance with this ordinance. When the county engineer or his designee determines that erosion and sedimentation will likely continue, despite installation and maintenance of protective practices, the person conducting the land disturbance activity will be required to take additional protective action.**

Section 2501 Definitions of Basic Terms.

Adjacent Grade. The highest grade measured within thirty feet from the subject property lines into the adjoining lots.

Fill. Organic material, excluding trash and debris, placed or graded on a lot where the material has the effect of either replacing or changing the elevation of any portion of the lot.

Currituck County Land Disturbance Permit Application

<i>PROPERTY DATA</i>	
Owner Name	
Owner Address	
Owner Phone Number	
Location of Property	
Parcel Id Number	
<i>APPLICANT DATA</i>	
Name	
Address	
Phone Number	
<i>SCOPE OF WORK</i>	
Lot Area (square feet)	
Area of Disturbance (sf)	
Description of Land Disturbance Activities	

--	--

Currituck County Land Disturbance Permit Application

Authorization

Authorization:

I / We, _____ hereby certify that I / we are the legal owner(s) of the property located at _____ and recorded in Deed Book _____ at page(s) _____ as recorded in the Currituck County Register of Deeds, do hereby give, grant and/or convey unto Currituck County the right to enter upon or across said property for the purpose of ensuring the compliance with county codes and ordinances.

In witness whereof, I / we have hereunto set our hand(s) and affixed our seal(s) this the _____ day of _____, _____.

Owner Date

Witness Date

Owner Date

Witness Date

Owner Date

Witness Date

DISCUSSION:

Mr. Ferguson asked the board for direction on the following items relative to this amendment:

- 1. limiting fill to only the septic system and house pad areas.

*****2. determining adjacent grade: by Albemarle Regional Health dept. or with a survey? whether the County wants to require another survey and who is responsible for determining the adjacent grade.

3. whether the County Engineer should inspect prior to any earthwork when there is an engineered storm water plan.

Mr. Hawley said that he thinks that fill should be for the pad and septic only the survey would take care of any legal issues, and an inspection by the County engineer could help alleviate legal issues as well.

Mr. Hawley asked about major development 140+ lots, for example. If first house built doesn't need much fill, will that first house set elevation at a low level?

Mr. Ferguson said that the hope would be that the entire development would have the same pad. *****They could always put their house at grade or below base flood as long as 1st floor joist is above base flood elevation.

Mr. Hawley said that the County should look at the lowest lot as a benchmark for minimum fill for the entire development.

Mr. Hawley motioned to approve the amendment and require limiting fill only to the required house pad and septic, requiring a survey from an outside source to determine adjacent grades, and having the County Engineer or his designee to sign off on storm water plan as presented.

There was a brief discussion on the cost of multiple surveys. Mr. Doxey said that typically the surveyor could do all the surveys at once, there shouldn't be a monetary issue of an additional survey.

Mr. Keel asked if the County was requiring the survey to be separate.

Mr. Ferguson said no. It will still cost a little more, but could be done at the same time as the other survey.

Mr. Hawley made the motion again.

Mr. Riley seconded the motion. Motion passed 8-1.

PB 04-18 Amendment to section within Article 9 and Article 20 to require only Planning Board approval for Preliminary Plats.

Ms. Eggar presented the following amendment to the board.

Memorandum

To: Planning Board
Board of Commissioners

From: Planning Staff

Date: September 30, 2004

Subject: PB 04-18 Currituck County Planning Staff Amendment

To assist in streamlining the county's review process for subdivisions larger than five lots (a.k.a. Major Subdivisions), the Planning Staff has developed the following amendments to eliminate the required Board of Commissioners review and approval for Preliminary Plats. The Sketch Plan and Final Plat stages of the review process remain unchanged. These amendments will assist in lightening the cumbersome agendas that the Board of Commissioners handle with Major Subdivisions.

Following is a description of the requested amendments and the reason for it:

- Item 1. This amendment to Section 903, Approval Levels, clarifies the process of approval for Amended Sketch Plans in addition it eliminates the requirement of review and approval by Board of Commissioners for Preliminary Plats.
- Item 2. Similar to the above item, this amendment to Section 907, Subdivisions Greater Than Five Lots, eliminates the requirement for Board of Commissioners review and approval of Preliminary Plats.
- Item 3. The amendment to Section 910, Preliminary Plat Review process once again reiterates the required Board of Commissioner review and approval for Preliminary Plats. It should be noted that the Board of Commissioners can regulate the number of lots approved or the requirement of a phased development at the Sketch Plan stage.
- Item 4. This amendment allows the Board of Commissioners to set a time limit for the number of lots to be plated based on adequate public facilities at the sketch plan/special use permit stage.
- Item 5. To reflect the change in the approval process, Figure 1.2, Approval Process for Subdivisions Greater Than Five Lots, found in Appendix 9-C, was updated to reflect the elimination of the required Board of Commissioners review and approval of Preliminary Plats.

Recommendation

Staff recommends approval of these amendments.

CURRITUCK COUNTY PB 04-18 UDO AMENDMENT REQUEST

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

PB 04-18 CURRITUCK COUNTY: Amendment to sections within Article 9 and Article 20 to require only Planning Board approval for Preliminary Plats.

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 That the following section be amended for approval process for subdivision plats:

Section 903 Approval Levels

Approval levels for subdivisions shall be as follows;

4. Amended Sketch Plan/Special Use Permit – Technical Review Committee and Staff approval **for minor changes. Major design modifications or changes shall require approval by the Board of Commissioners. For additional requirements refer to Section 2021.**
5. Preliminary Plat – ~~Board of Commissioners on recommendation by the~~ Planning Board **and on recommendation by the** Technical Review.

Section 904 General Provisions

2. Any expenses involved in the improvement of any property prior to the written receipt of

Preliminary Plat approval by the Currituck County ~~Commissioners~~ **Planning Board** shall be

incurred solely at the risk of the owner/developer. Preliminary Plat approval shall in no way

be construed as constituting an official action of approval for recording of the subdivision as

required by this Ordinance.

8. Modification or Waiving Subdivision Requirements: In approving a Sketch Plan ~~or Preliminary Plat~~ the Board of Commissioners may at its own discretion, or upon request from the subdivider, modify any standard or requirement of this Article where it is determined that an equal or better performance will result. In modifying any standard or requirement, the evaluation shall be made

with regard to the overall performance in carrying out the purposes of these regulations. In approving a modification, the Board of Commissioners may attach additional conditions or requirements that will, in its judgment, secure the objectives, standards, or requirements so varied or modified. Modifications shall not include varying zoning provisions. Any modifications or waivers shall require findings of fact issued by the Board of Commissioners.

Item 2. That the following section be amended for approval process for subdivision plats:

Section 907 Subdivisions Greater Than Five Lots

2. Preliminary Plat Submission and Review:

- (a) Submission of Preliminary Plat and Application to Planning Staff and members of the Technical Review Committee,
- (b) Technical Review Committee meeting,
- ~~(c) Planning Board review and recommendation,~~
- (d) ~~Board of Commissioners public hearing~~ **Planning Board** for review and approval,
- (e) The Planning and Inspections Department issues a Construction Permit/Letter authorizing the commencement of land disturbing activity.

Item 3. That the following section be amended for approval process for subdivision plats:

Section 910 Preliminary Plat Review Process

3. Once the Technical Review Committee has reviewed the Preliminary Plat, it shall be placed on the next regularly scheduled Planning Board meeting agenda for review and comment. Planning Board members shall discuss with the subdivider any and all changes deemed advisable and the kind and extent of improvements to be made to the parcel of property. Upon reviewing the comments of the Staff, the Technical Review Committee, and the subdivider the Planning Board shall approve, approve conditionally, or disapprove the Preliminary Plat.

- ~~(a) If the Preliminary Plat is approved, the Planning Board will forward the Plat along with its recommendations, including any conditions or modifications to the Board of Commissioners for review and comment;~~
- ~~(b) If approved conditionally, the conditions shall be stated, and if necessary, the Planning Board may require the subdivider to submit a revised plat before a recommendation is forwarded to the Board of Commissioners;~~
- ~~(c) If the Planning Board should disapprove the preliminary plat, the reasons for such action shall be stated and recommendations made on the basis of which the proposed subdivision would be approved;~~

~~(d) Failure on the part of the Planning Board to act within 60 days after the initial review of the preliminary plat shall constitute approval. The Plat shall then be forwarded to the Board of Commissioners for review and comment.~~

(a) The Planning Board Chairman, or their designee, shall note on two copies of the Preliminary Plat the decision of the Planning Board to approve or approve conditionally the Preliminary Plat. If approved conditionally, the conditions shall be stated, and if necessary a the Planning Board may require the subdivider to submit a revised plat. One copy shall be returned to the subdivider and one copy shall be retained by the Planning and Inspections Department.

(b) If the preliminary plat is disapproved, the Planning Board Chairman or his designee shall specify the reasons for such action in writing. One copy will then be attached and forwarded to the subdivider and one copy will be retained by the Planning and Inspections Department.

~~4. The Board of Commissioners shall review the Preliminary Plat during the first regularly scheduled meeting of the month following the review of the Preliminary Plat by the Planning Board. The Board of Commissioners shall hear any and all remarks presented by the subdivider, Staff comments, and the recommendation of the Planning Board. The Board of Commissioners may approve, approve conditionally, disapprove, or table the application.~~

~~(a) The Chairman of the Board of Commissioners, or their designee, shall note on two copies of the Preliminary Plat the decision of the Board of Commissioners to approve or approve conditionally the Preliminary Plat. One copy shall be returned to the subdivider and one copy shall be retained by the Planning and Inspections Department. As a condition of approval the Board of Commissioners may limit the number of lots approved or require phased development in order to prevent the overburden of public facilities as provided for in Section 1402, Conditional and Special Uses;~~

~~(b) If the preliminary plat is disapproved, the Board of Commissioners Chairman or his designee shall specify the reasons for such action in writing. One copy will then be attached and forwarded to the subdivider and one copy will be retained by the Planning and Inspections Department.~~

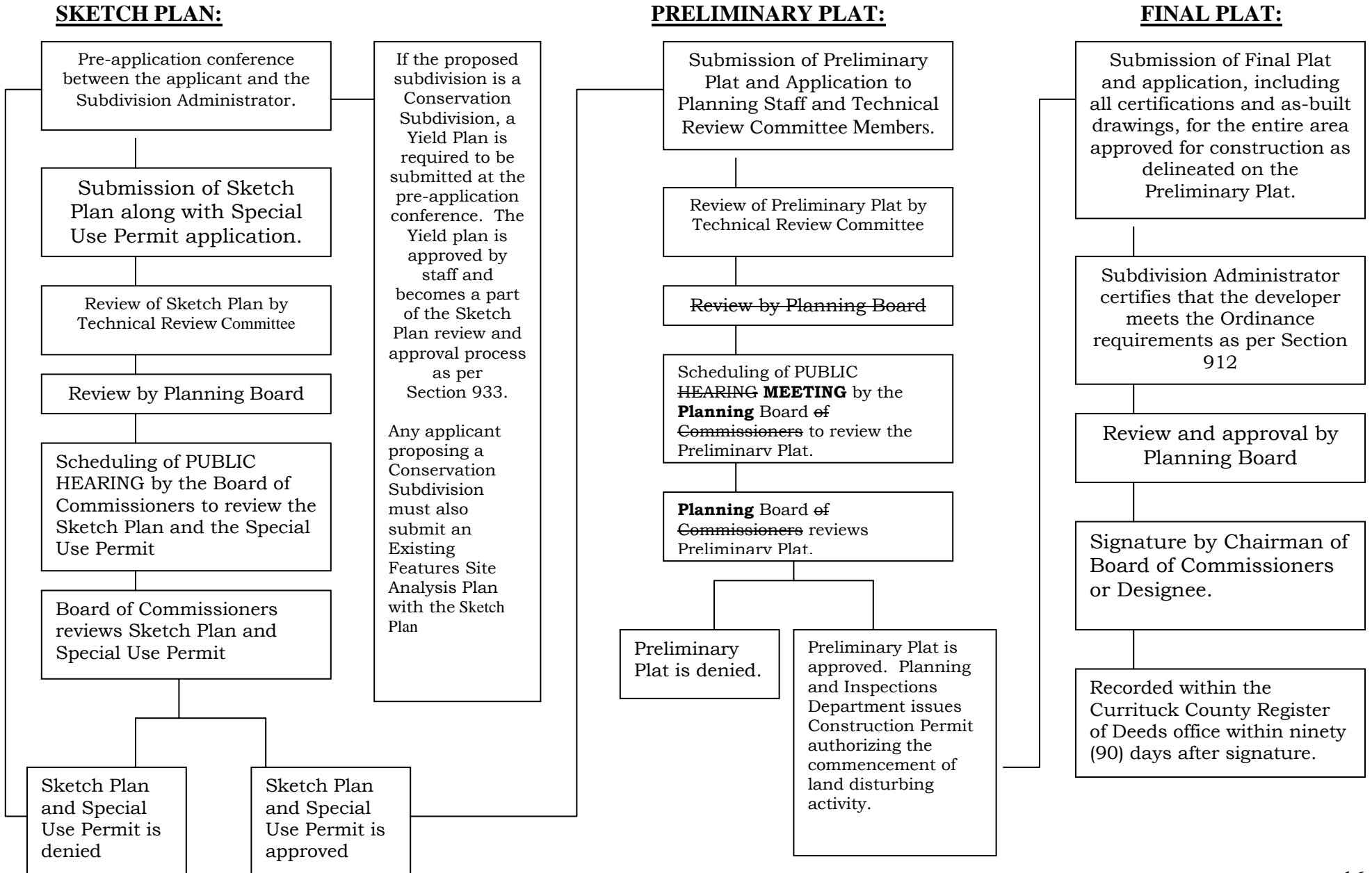
Item 4. That the following section be amended for approval process for subdivision plats:

Section 2015 Additional Requirements on Special Use and Conditional Use Permits.

3. In the case of a subdivision ~~and or~~ a multifamily development at the sketch plan/special use ~~stage, 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. (Amended 10/2/95)

Item 5. That the following section be amended for the approval process of subdivision plats:

FIGURE 1.2 – APPROVAL PROCESS FOR SUBDIVISIONS GREATER THAN FIVE LOTS:



Item 6. This ordinance amendment shall be in effect from and after the ____ day of _____, 2004.

Chairman, Board of Commissioners

Attest:

Gwen Tatem,
Clerk to the Board

DATE ADOPTED: _____
MOTION TO ADOPT BY COMMISSIONER: _____
SECONDED BY COMMISSIONER: _____

VOTE: _____ AYES _____ NAYES

PLANNING BOARD DATE: _____
PLANNING BOARD RECOMMENDATION: _____
Ayes ___ Nays _
ADVERTISEMENT DATE OF PUBLIC HEARING: _____
BOARD OF COMMISSIONERS PUBLIC HEARING: _____
BOARD OF COMMISSIONERS ACTION: _____
POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
AMENDMENT NUMBER: _____

DISCUSSION:

There was no discussion on this item.

Mr. Riley motioned to approve this amendment as presented.

Mr. Keel seconded the motion. Motion passed unanimously.

PB 04-57 John Leatherwood Rezone .53 acres from Mixed Residential (RA) to General Business (GB) on property located at the intersection of Bells Island Rd and Caratoke Highway. Tax Map 58, Lot 23, Crawford Township.

John Leatherwood appeared before the board.

*Minutes are not official until approved by the board.

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

This site is located at the southeast corner of intersection of Caratoke Highway (NC 168) and Bells Island Road; Crawford Township.

TAX ID: TM 58, Parcel 23
PROPERTY OWNER: John S. Leatherwood
APPLICANT: John S. Leatherwood

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

ZONING HISTORY: Property has been zoned Agricultural since 1989.

SURROUNDING ZONING/LAND USE:	<table border="0"> <tr> <td style="padding-right: 10px;">NORTH:</td> <td>General Business/Retail</td> </tr> <tr> <td style="padding-right: 10px;">SOUTH:</td> <td>Mixed Residential/Farmland</td> </tr> <tr> <td style="padding-right: 10px;">EAST:</td> <td>Mixed Residential/Vacant Residential</td> </tr> <tr> <td style="padding-right: 10px;">WEST:</td> <td>Mixed Residential & General Business/Residential & Farmland</td> </tr> </table>	NORTH:	General Business/Retail	SOUTH:	Mixed Residential/Farmland	EAST:	Mixed Residential/Vacant Residential	WEST:	Mixed Residential & General Business/Residential & Farmland
NORTH:	General Business/Retail								
SOUTH:	Mixed Residential/Farmland								
EAST:	Mixed Residential/Vacant Residential								
WEST:	Mixed Residential & General Business/Residential & Farmland								

EXISTING LAND USE: Vacant

PROPOSED LAND USE: The applicant has stated that he wishes to rezone his property so that uses in the General Business zoning district would be allowed.

LAND USE PLAN: The 1990 Land Use Plan shows this property is designated Rural with Services. The purpose of the Rural with Services class is to provide for low density land uses, including residential, where limited water services are provided. Development within this class should be low intensity to maintain a rural character. This rezoning is consistent with the Rural with Services classification.

PUBLIC SERVICES AND UTILITIES: Crawford Volunteer Fire Department provides fire protection for this area. County water, electric, telephone and cable are currently available at this location.

TRANSPORTATION: Property has direct access onto Caratoke Highway (US 168) classified as a Minor Arterial classified as a in the 1988 NCDOT Thoroughfare Plan and Bells Island Road.

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

SOILS: According to the Currituck County Soil Survey, the site is composed of Altavista fine sandy loam, a moderately well drained soil and is considered unfavorable for septic systems due to soil wetness.

STAFF COMMENTS:

- The site is located at the southeast corner of the intersection of Caratoke Highway and Bells Island Road and is currently vacant.
- There are several General Business (GB) parcels located near the intersection of Bells Island Road and Caratoke Highway.
- There is approximately 15 acres of GB zoned land across Bells Island Road. The site is approximately 150' away from several GB zoned properties on the west side of Caratoke Highway with an area of about 25 acres.
- The property has approximately 160' of frontage on both Caratoke Highway and Bells Island Road.
- The adjacent property to the east was improved with a single family home which was destroyed by fire in 2003.
- The property is in a designated business node as shown on the map for the Business Nodal Areas Designated in 1986 by the Board of Commissioners.
- This could be considered as spot zoning since the property is only 22,276 sf and is not contiguous to GB zoned land.

STAFF

RECOMMENDATION:

This property is not contiguous with the General Business zoning district yet is proximate to several General Business parcels. This rezoning represents an expansion of an existing commercial zone at the intersection of Caratoke Highway and Bells Island Road. The proposed land use conforms to the existing commercial use found in the area. Staff recommends approval of the rezoning request.

DISCUSSION:

Mr. Bell asked Mr. Leatherwood what he would use the property for.

Mr. Leatherwood said that he originally had nothing specific in mind, but has decided to put an office building with several small leased spaces.

Mr. James Allen, who owns the property across the highway, said that he doesn't want the intersection to get so busy that it would require a street light.

Mr. Kovacs motioned to approve this request as presented.

Mr. Riley seconded the motion. Motion passed unanimously.

PB 04-58 Mickey and Julia Loening Rezone 1.5 acres from Agricultural (A) to Commercial (C) on property located at the intersection of Barnard Rd. and Caratoke Highway. Tax Map 94, Lot 25, Poplar Branch Township.

Mickey Loening appeared before the board.

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

This site is located at the northeast corner of intersection of Caratoke Highway (NC 168) and Barnard Road (SR 1132); Poplar Branch Township.

TAX ID: TM 94, Parcel 25
PROPERTY OWNER: Matthias & Julia Loening
APPLICANT: Matthias & Julia Loening

ZONING: Current Zoning Agricultural Proposed Zoning Commercial

ZONING HISTORY: Property has been zoned Agricultural since 1989.

SURROUNDING ZONING/LAND USE: NORTH: General Business/Residential & Woodland
 SOUTH: Agricultural/Residential & Woodland
 EAST: Agricultural/Residential & Woodland
 WEST: Agricultural & General Business/Residential, Farmland & Commercial

EXISTING LAND USE: Vacant Church

PROPOSED LAND USE: The applicants have stated that they wish to rezone their property so that it will be uniformly zoned throughout this area. Their intention is to possibly redevelop the site into a medical facility.

LAND USE PLAN: The 1990 Land Use Plan shows this property is designated Rural with Services. The purpose of the Rural with Services class is to provide for low density land uses, including residential, where limited water services are provided. Development within this class should be low intensity to maintain a rural character. This rezoning is consistent with the Rural with Services classification.

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

TRANSPORTATION: Property has direct access onto Caratoke Highway (US 168) classified as a Minor Arterial in the 1988 NCDOT Thoroughfare Plan and Barnard Road.

*Minutes are not official until approved by the board.

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

SOILS: According to the Currituck County Soil Survey, the site is composed of Conetoe loamy sand which consists of well drained soils and are generally favorable for septic systems.

STAFF COMMENTS:

- The site is a corner lot which is improved with a church.
- There are GB zoned parcels located contiguous to the subject property, across Caratoke Highway and approximately 700' south on the east side of Caratoke Highway.
- The property has approximately 280' of frontage on Caratoke Highway and 255' along Barnard Road.
- According to the 1994 Corridor Plan, the property is in a designated business node as shown on the map for the Business Nodal Areas Designated in 1986 by the Board of Commissioners.

STAFF

RECOMMENDATION: This property is contiguous with the commercial zoning district, General Business, and is proximate to several General Business parcels. This rezoning represents an expansion of an existing commercial zone at the intersection of Caratoke Highway and Barnard Road. The proposed land use conforms to the Land Use Plan and the Corridor Plan. Staff recommends approval of the rezoning request.

DISCUSSION

Mr. Hawley asked if the property south of this is GB as well.

Ms. Eggar said that it is zoned Agriculture at this time.

Mr. Hawley asked if there is a reason that Mr. Loening didn't ask for General Business zoning instead of Commercial.

Mr. Loening said he didn't know how to respond.

Mr. Ferguson explained that in a Commercial setting there is no residence allowed, and that in General Business, a residence is allowed.

Mr. Loening said he is interested in the property for a medical center.

Mr. Keel motioned to approve the request as presented.

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

ITEM 8 REMOVED FROM AGENDA

PB 04-61 AKE Properties LLC/FORBES HEIRS Rezone 143 acres from Agricultural (A) to Residential (R) on property located on the west side of Harbinger Ridge Rd. approximately 800' S. of W. Mobile Rd. Tax Map 125, Lot 31, Poplar Branch

Eddie Hyman appeared before the board.

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

This site is located on the west side of Harbinger Ridge Road approximately 800' south of West Mobile Road; Poplar Branch Township.

TAX ID: TM 125, Parcel 31

PROPERTY OWNER: AKE Properties under contract with Filena G. Forbes Heirs

APPLICANT: Hyman & Robey

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

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

SURROUNDING ZONING/LAND USE: NORTH: Commercial & Agricultural/Woodland
 SOUTH: Agricultural/ Residential & Woodland
 EAST: Agricultural/ Residential, Woodland
 WEST: Albemarle Sound

EXISTING LAND USE: Vacant – woodlands and fields

PROPOSED LAND USE: Development of a major residential subdivision

LAND USE PLAN : The property is classified as both "Rural" and "Conservation" in the 1990 Land Use Plan. 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 are appropriate." 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.

This rezoning is consistent with the Rural classification. The current Land Use Plan is dated. Staff has concerns about this plan guiding the future development of the County

*Minutes are not official until approved by the board.

**PUBLIC SERVICES
AND UTILITIES:**

Lower Currituck South 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 from Harbinger Ridge Road which is not classified 1988 NCDOT Thoroughfare Plan.

SOILS:

On the eastern portion of the site a majority of the soils are favorable for septic systems while the remaining eastern portion is only marginal. The soils in the western portion of the site are inadequate for septic systems. This western portion is composed of Swamp Forest wetlands and Salt/Brackish marsh.

FLOOD ZONE:

According to FEMA maps, the property 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 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. Because of this staff recommends no action be taken on this request until the Land Use Plan is officially adopted by the Board of Commissioners.
- Under the proposed rezoning, single family density would increase from 1 unit every 3 acres to 1 unit every 40,000 square feet.
- There are several single family homes surrounding the site in addition to numerous vacant residential lots ranging in size from approximately 0.5 acres to about 2 acres.
- This site is approximately 1,600' away from Residential zoned land which is located on Harbinger Ridge Road. The site is less than one mile away from major subdivisions currently under review, Albemarle Estates, Owens Beach Extended and Owens Beach.
- The county will be bringing water into the area to service the above mentioned subdivisions. The waterline extension will be approximately 0.7 miles away from this potential subdivision.
- The western portion of the site classified as Conservation is intended for protection of irreplaceable areas for protection of natural, scenic, cultural, or recreational resources.
- Due to the size of the tract, 143 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 eastern portion of the site by Harbinger Ridge Road 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.

STAFF

RECOMMENDATION: This property is not contiguous with the Residential zoning district yet there have been numerous minor and major subdivisions in the area creating many smaller residential lots. The proposed land use conforms to the existing and proposed land use found in the area.

Staff is concerned with the impact that increasing density through residential rezoning may have on school and water capacities in addition to being in conformance with the updated Land Use Plan. Staff recommends delaying approval of the rezoning request until such time that it can be verified that the rezoning request will be in conformance with the updated Land Use Plan.

DISCUSSION:

Mr. Bell asked when the County water will be available to this area.

Ms. Eggar said that she understands it to be in January, 2005.

Mr. Hawley asked when the Land Use Plan would be complete.

Ms. Eggar said Summer, 2005.

Mr. Bell asked Mr. Hyman if he was aware that this property was not consistent with the current Land Use Plan and there could be a delay.

Mr. Hyman said that he knew the County was working on a new Land Use Plan, but he felt that this development would be consistent with the new Land Use Plan and waiting for the new plan was not really what he wanted to hear.

Mr. Bell asked Mr. Hyman if it was too much to ask for the rezoning to wait to next summer.

Mr. Hyman said that he feels that this development will be consistent with the new Plan, he would like a decision now if possible.

Mr. Hawley asked if the new Land Use Plan would have any major changes in classification for this site.

Mr. Ferguson said that the committee hadn't gotten into the policy development yet but has developed a Land Suitability Analysis map and explained what the different areas that it takes into consideration. This area is somewhat suitable for designating as Residential, but the staff would prefer to wait on this approval until the Land Use Plan is completed and there is more input from the community in that area.

Mr. Hyman said that by the time the request goes to the Board Of Commissioners and the Sketch plan and Preliminary Plat are designed, the Land Use Plan should be well under way and the County would know if the project is contiguous with the new plan.

Mr. Hawley asked about access to this area.

Ms. Eggar said that it would be from Harbinger Ridge Rd.

Mr. Hawley asked if the board approves the zoning request, are they committed to the project.

Mr. Ferguson said yes.

Mr. Hawley asked Mr. Hyman if delaying the approval would be a hardship.

Mr. Hyman said that there would be other projects would push his project behind. There are 65 acres to work with.

Dennis Speight, property owner across Harbinger Ridge Rd. asked if there is a chance of this subdivision cutting down to 20000 square feet lots, resulting in more lots and more homes.

Mr. Ferguson said no.

Mr. Owens, adjoining property owner said that his great grandparents used to own the property and wondered why it isn't the same amount of acres that they owned. Also said that there is a State drain ditch that goes across the marsh and a 50 x 50 graveyard he would like to be considered during this decision making.

Fred Dant, adjoining property owner, helped Mr. Owens and Mr Hyman locate the Cemetary on the property. Said that the drainage ditch Mr. Owens spoke of runs directly across his property and into the sound.

Mr. Hyman said that he is aware of the drainage ditch and is required to consider and maintain the drainage.

Mr. Hawley asked if Mr. Owens and Mr. Dant are opposed to the subdivision or are just concerned with the development.

Mr. Dant said he is not opposed to the three acre tracts.

Mr. Kovacs motioned to delay the request as presented.

Mr. Riley seconded the motion. The board voted 2-7 not to delay the request.

Mr. Kovacs and Mr. Riley voted to delay the request, the rest of the board voted against delay of the request.

Mr. Ferguson asked for a motion either for or against the request because the planning board is not authorized to delay a request for more than 60 days.

Mr. Midgette asked why the staff asked for delay. Is it fair to the developer delay the project because the county doesn't have a Land Use Plan yet?

Mr. Ferguson said that the magnitude of the rezoning is significant and the staff thinks it should wait until the Land Use Plan is ready so the County doesn't jump ahead of itself.

Mr. Midgette said that it isn't fair to the developer to make the project wait until the Land Use Plan is complete.

Mr. Bell said that this item puts the board in an awkward situation by keeping the item on the agenda and then asking for it to be delayed.

Mr. Ferguson said that it would help the staff to hear from the public in this area concerning the Land Use Plan.

Mr. Midgette asked why the County didn't impose a Moratorium before this item was brought before the board.

Mr. Ferguson said that was a good point.

Mr. Hawley asked if the Planning Board denied to delay, if the developer could move on to the Commissioners for a decision.

Mr. Ferguson said yes asked for another motion.

Mr. Bell and Mr. Midgette said the item should not be on the agenda.

Mr. Hawley motioned to deny the rezoning request and let the Board of Commissioners decide.

Mr. Etheridge seconded the motion.

Motion passed 8-1 with Mr. Midgette voting against denying the rezoning.

PB 04-04 OWENS BEACH EXTENDED Preliminary Plat/Final Plat for 5 lots on property located at the end of Owens Beach Rd. Extended approximately 800' from Owens Beach Rd. Tax Map 125, Lot 135E, Poplar Branch Township.

Mr. Lynn appeared before the board.

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

At the end of Owens Beach Road Extended, approximately 800' from its intersection with Owens Beach Road, Poplar Branch Township.

TAX ID: 0125-000-035E-0000

ZONING DISTRICT: Residential

OWNER:	APPLICANT/AGENT
Shirley Lynn	Donnie Wood
105 S. Spot Road	P.O. Box 433
Powells Point, NC 27966	Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH:	Residential - zoned R
SOUTH:	Residential - zoned R
EAST:	Proposed Owens Beach Estates, Residential – zoned R
WEST:	Residential - zoned R

NARRATIVE OF REQUEST:

Shirley Lynn is seeking Preliminary Plat approval for five single family lots through the major subdivision process. The total acreage of the entire development is approximately 5.15 acres.

This property is zoned Residential. Since the subdivision consists of less than 20 lots, no open space is required or provided. Lots within this development are 44,866 sf.

All of the lots front on Owens Beach Road Extended. The lots will require individual septic systems. The county will be installing a waterline to service this development.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: Lots front on Owens Beach Road Extended, an existing NCDOT right-of-way.

WATER: This development will be served by County water.

FIRE: This development is located within the jurisdiction of the Lower Currituck Volunteer Fire Department.

WASTEWATER: Individual, on-site septic systems have been approved for the lots.

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 Poplar Branch occupancy rate is 0.7764. Based on these pupil generation figures, Currituck can expect 2 elementary students, 1 junior high student and 1 high school student from this development.

OPEN SPACE: No open space is required or provided within this development.

DRAINAGE: Roadside and rear property line swales/ditches will be used to for the drainage.

FLOOD ZONES: This development is within the 100 year floodplain with a base flood elevation of 8' (zone A4).

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

landscape are consistent with the intent of the rural class This proposal is consistent with the Land Use Plan.

STAFF COMMENTS:

- The Sketch Plan/Special Use Permit for this development was approved by the Board of Commissioners on February 2, 2004 for 5 lots.
- Due to all the proposed subdivisions in the vicinity of this development, the county will be bringing a waterline into the neighborhood to service these developments.
- The county will be installing a waterline down Owens Beach Road Extended to service the lots within this development. This waterline will be extended to the adjacent subdivision to the east, Owens Beach Estates, where it will loop back up to the waterline on Harbinger Ridge Road.
- To connect to Owens Beach Estates, the County Engineer is requesting that the waterline be placed on the property line between Lots 1 and 2 with a 30' easement.
- The Lynn's object to any waterline being placed between their lots and the requirement of a 30' easement.
- It should be noted that all lots in the county currently are platted with a 10' drainage and utility easement along the side property lines give a total easement width of 20'. The purpose of the easement is to allow utilities to connect to other properties and for drainage.
- The Director of the Water Dept. states that a 20' waterline easement is adequate.
- On August 12, 2004 Technical Review staff reviewed this application. Areas of concern were showing ditch inverts and the waterline easement between Lots 1 and 2. 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.

STAFF RECOMMENDATION:

Staff recommends approval with the following conditions:

1. That street trees shall be planted along the street prior to submission for final plat approval.
2. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners and which may be amended from time to time per UDO provisions.

DISCUSSION

Mr. Lynn said that he and his wife were not willing to give the easement for County water lines through their property because they would lose too much money by losing two lots.

Mr. Ferguson said that the department would find another way if Mr. Lynn didn't want the easement there and that Mr. Lynn wouldn't get water there, he would have to bond the water line in front of his property and pay the connection fees to connect to the county water.

Mr. Bell asked what the purpose of the easement is.

Mr. Ferguson said that the purpose is to loop the water lines together between developments to keep water quality improved. Mr. Ferguson said that there is an effort to look into the area where the power lines are to loop the water lines.

Mr. Keel asked if the utilities were already on the property would the county have the right to put the water there with the other utilities.

Mr. Ferguson said yes, but that the County didn't want to upset Mr. Lynn.

Mr. Terry Lynn asked Mr. Ferguson if there was another option for the water down Owens Beach Extended.

Mr. Ferguson said that the Engineer is attempting to do just that.

Mr. Lynn said that the County should be asking Cypress Point to give some easement as well instead of asking them for easement between lots 1 and 2.

Mr. Ferguson said that the County has no easement on the adjoining lot lines in Cypress Point.

Mr. Terry Lynn asked the County to look at other options.

Mr. Ferguson said that the County is actively pursuing other options.

Mr. Bell asked Mr. Lynn if he would like the board to table the item until next meeting so that he can meet with the Engineer.

Mr. Kovacs said he understands Mr. Ferguson to be satisfied with the item without the easement.

Mr. Midgette said that he felt that Mr. Ferguson was saying that since the County can't have the easement, the Lynn's can't have water.

Mr. Ferguson said that he disagreed with him and restated his position. If the Lynn's don't agree to the easement, they will just have to pay the impact fees to connect. This is an effort to bring water to the development at the Water Department's expense.

Mr. Hawley said that if this request is approved without easement, maybe the Board Of Commissioners can decide what the solution is.

Mr. Kovacs motioned to approve the request without the water loop.

Mr. Keel seconded the motion. Motion passed unanimously.

PB 04-04 OWENS BEACH EXTENDED Final Plat for 5 lots on property located at the end of Owens Beach Rd. Extended approximately 800' from Owens Beach Rd. Tax Map 125, Lot 135E, Poplar Branch Township.

Mr. Lynn appeared before the board.

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

At the end of Owens Beach Road Extended, approximately 800' from its intersection with Owens Beach Road, Poplar Branch Township.

TAX ID: 0125-000-035E-0000

ZONING DISTRICT: Residential

OWNER:
Shirley Lynn
105 S. Spot Road
Powells Point, NC 27966

APPLICANT/AGENT
Donnie Wood
P.O. Box 433
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

- NORTH:** Residential - zoned R
- SOUTH:** Residential - zoned R
- EAST:** Proposed Owens Beach Estates, Residential – zoned R
- WEST:** Residential - zoned R

NARRATIVE OF REQUEST:

Shirley Lynn is seeking Preliminary Plat approval for five single family lots through the major subdivision process. The total acreage of the entire development is approximately 5.15 acres.

This property is zoned Residential. Since the subdivision consists of less than 20 lots, no open space is required or provided. Lots within this development are 44,866 sf.

All of the lots front on Owens Beach Road Extended. The lots will require individual septic systems. The county will be installing a waterline to service this development.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: Lots front on Owens Beach Road Extended, an existing NCDOT right-of-way.

WATER: This development will be served by County water.

- FIRE:** This development is located within the jurisdiction of the Lower Currituck Volunteer Fire Department.
- WASTEWATER:** Individual, on-site septic systems have been approved for the lots.
- 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 2 elementary students, 1 Jr. high student and 1 high school student from this development.
- OPEN SPACE:** No open space is required or provided within this development.
- DRAINAGE:** Roadside and rear property line swales/ditches will be used to for the drainage.
- FLOOD ZONES:** This development is within the 100 year floodplain with a base flood elevation of 8' (zone A4).
- LAND USE PLAN:** The 1990 Land Use Plan classifies this site as Rural. Low intensity residential uses with a gross density of approximately one unit per acre, where lots sizes are large and where the provision of services will not disrupt the primary rural character of the landscape are consistent with the intent of the rural class This proposal is consistent with the Land Use Plan.

STAFF COMMENTS:

- The Sketch Plan/Special Use Permit for this development was approved by the Board of Commissioners on February 2, 2004 for 5 lots.
- Due to all the proposed subdivisions in the vicinity of this development, the county will be bringing a waterline into the neighborhood to service these developments.
- The county will be installing a waterline down Owens Beach Road Extended to service the lots within this development. This waterline will be extended to the adjacent subdivision to the east, Owens Beach Estates, where it will loop back up to the waterline on Harbinger Ridge Road.
- To connect to Owens Beach Estates, the County Engineer is requesting that the waterline be placed on the property line between Lots 1 and 2 with a 30' easement.
- The Lynn's object to any waterline being placed between their lots and the requirement of a 30' easement.
- It should be noted that all lots in the county currently are platted with a 10' drainage and utility easement along the side property lines give a total easement width of 20'. The purpose of the easement is to allow utilities to connect to other properties and for drainage.

- The Director of the Water Dept. states that the required 20' easement is adequate.
- On August 12, 2004 Technical Review staff reviewed this application. Areas of concern were showing ditch inverts and the waterline easement between Lots 1 and 2. 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.

STAFF RECOMMENDATION:

Staff recommends approval with the following conditions:

3. That the following corrections be made to the plat:
 - (a) The waterline easement be reduced to 20' between lots 1 and 2 and be shown on the plat.
 - (b) Street addresses shall be shown for each lot.
 - (c) All required monumentation shall be depicted on the plat.
4. That a check in the amount of **\$15,000.00** ($\$3,000 \times 5 = \$15,000$) submitted to the County's Water Department for the payment of water connection fees prior to recordation of the Final Plat.
5. That applicant meet all requirements of the County's Unified Development Ordinance.

There was no discussion on the matter.

Mr. Hawley motioned to approve the request as presented.

Mr. Riley seconded the motion. Motion passed unanimously.

PB 04-28 GRANDY WOODS PHASE 2 Preliminary Plat for 5 lots on property located on the west side of Grandy Rd. approximately 1/3 miles north of Garrenton Rd. Tax map 95, Lots 64A and 64F, Poplar Branch Township.

CA Howard appeared before the board.

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

Off of Grandy Road, approximately one third mile from its intersection with Garrenton Road,
Poplar Branch Township.

TAX ID: 0095-000-064A-0000 & 0095-000-064F-0000

ZONING DISTRICT: Agricultural

OWNER:
C.A. Howard, Jr.
P.O. Box 94
Currituck, NC 27959

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

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Low Density Residential, Farmland & Woodland - zoned A
SOUTH: Farmland & Woodland - zoned A
EAST: Low Density Residential & Farmland - zoned A
WEST: Woodland - zoned A

NARRATIVE OF REQUEST:

C.A. Howard is seeking Preliminary approval for five single family lots, with a residual parcel, through the major subdivision process. The total acreage of the entire development is approximately 29.61 acres.

This property is zoned Agricultural. In the Agricultural zoning district the minimum lot size is three acres, with an exception that allows the creation of up to five 40,000 sf lots. The lot sizes within this development range from 1.47 acres to 4.07 acres with a 15.07 acre residual parcel.

In April 2004, the property owner did a minor subdivision, Grandy Acres, to create the first four lots of this subdivision. Three of these lots were less than 3 acres. Under the exception rule found in Section 202, the property as it existed in March 1995 is permitted to have two more additional lots less than three acres in size. The proposed subdivision includes one lot that is less than three acres in size.

The lots will be served by individual septic systems and will be connected to the county's water system. The lots will front on Grandy Road, an existing improved state road.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: All of the proposed lots will front on Grandy Road, an existing NCDOT maintained right-of-way.

WATER: A 4" waterline currently exists on Grandy Road with the line ending at the southern end of the subdivision. The 4" line can adequately provide drinking water, however it will not be adequate

for the installation of fire hydrants as required by Section 916 of the UDO.

FIRE: This development is located within the jurisdiction of the Lower Currituck Volunteer Fire Department.

WASTEWATER: Individual, on-site septic systems are approved.

SOILS: The majority of the property contains Conetoe loamy sand with Dragston loamy fine sand found at the western edges of the proposed lots. The Conetoe soil is well drained with a moderate permeability and is well suited for development. The Dragston is a somewhat poorly drained soil with a moderately rapid permeability and is poorly suited for development. In the western 2/3's of the residual parcel are 404 wetlands with Dorovan mucky peat soils.

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 two elementary students, one junior high student, and one high school student from this development.

According to the January 2004, school population projections, Griggs Elementary School has (-41) additional student capacities after full development of approved subdivisions within Poplar Branch Township. The proposed subdivision is **not** reflected in the student population count.

OPEN SPACE: No open space is required or provided.

DRAINAGE: Property line swales will be used to address drainage for this property.

FLOOD ZONES: A majority of the property is located outside of the 100 year floodplain (flood zone C) with the residual parcel and the western edge of the lots located within the 100 year floodplain (flood zone A4) with a base flood elevation of 6'.

LAND USE PLAN: The 1990 Land Use Plan classifies this site as 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 residential uses on lots

approximately one unit per gross acre with on-site water and sewer are consistent with the intent of the rural class. The proposed density for the five lot subdivision is approximately 0.3 units per gross acre. This proposal is consistent with the Land Use Plan.

STAFF COMMENTS:

- In July 2004, the Sketch Plan/Special Use Permit for this five lot development was approved by the Board of Commissioners.
- Developer will connect the subdivision to the county water system according to county requirements.
- On September 9, 2004, Technical Review staff reviewed this application. Staff's concerns included the following:
 1. That a stormwater narrative be provided.
 2. A drainage swale shall be provided along the property line between Lots 4 & 5.
 3. All drainage swales shall have rip-rap installed at the discharge point.
 4. That the water service connections be shown and be paired.
 5. The owner is to hire a licensed utility contractor to install the water services, pay the required tap fees and deliver the water meters to the water plant.
 6. Provided verification of the 404 wetland delineation.
 7. A recombination plat for Lot 4 of Grandy Woods Phase 1 shall be recorded to agree with the lot configuration shown on the approved sketch and preliminary plat.
- The Preliminary Plat has been revised to address concerns expressed by the Technical Review staff and the drainage issues have been resolved to the satisfaction of the County Engineer and the Soil & Water Conservation District.
 - (a) County Engineer - reviewed & approved
 - (b) Soil Conservation Service - reviewed & approved
 - (c) Fire Marshal – reviewed & approved
 - (d) County Water Department - reviewed & approved
 - (e) Health Services – reviewed & approved
 - (f) Lower Currituck VFD Fire Chief – no comments received
 - (g) County Mapper – addresses were assigned
 - (h) Emergency Management – no comments received
 - (i) County Dept. of Recreation – reviewed with no comments
 - (j) Superintendent of Schools – reviewed with no comments
 - (k) NCDOT –driveway permit applied for temporary construction entrance; drainage plans must be submitted and approved prior to final plat approval.
 - (l) US Army Corp of Engineers – reviewed and issued a Notification of Jurisdictional Determination.
 - (m) NCDEHNR, Land Quality – an approved Erosion and Sedimentation Control permit will be required.

- (n) NCDEHNR, Water Quality – review not required
- (o) NCDEHNR, Public Water Supply Section – review not required
- (p) Cable Company – approved as is
- (q) Power Company – reviewed with no comments
- (r) Phone Company – reviewed with no comments

STAFF RECOMMENDATION:

Staff recommends approval with the following conditions and suggested Staff Findings of Fact:

1. That a recombination plat for Lot 4 of Grandy Woods Phase 1 be recorded prior to submissions for final plat approval.
2. That water services shall be installed and accepted prior to submission for final plat approval.
3. That drainage improvements shall be installed and certified prior to submission for final plat approval.
4. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners and which may be amended from time to time per UDO provisions, a current copy of which will be filed in the office of the Planning and Inspections Department

DISCUSSION

Mr. Hawley asked if Mr. Howard was planning to build the homes be on the back side of the property because of the power easement.

Mr. Howard said yes.

Mr. Hawley asked where the access to the easement was.

Mr. Howard pointed out the easement access on the map.

Mr. Keel motioned to approve the request as presented.

Mr. Bobby Bell seconded the request. Motion passed unanimously.

PB 03-43 ALBEMARLE ESTATES Preliminary Plat for 35 lots on the south side of Harbinger Ridge Rd. approximately 650' east of Owens Beach Rd. Tax Map 132, Lots 155, and Lots 179-184, Poplar Branch Township.

Mark Bissell and Bobby Allen appeared before the board.

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

On the south side of Harbinger Ridge Road (SR 1103) approximately 650 feet east of the intersection with Owens Beach Road (SR 1408), Poplar Branch Township.

TAX ID: Tax Map: 132 Parcels: 155, 179, 180, 182, 183 & 184

ZONING DISTRICT: Residential

OWNER:
Wilko Development, LLC
6405-G Dickens Place
Richmond, VA 23230

APPLICANT/AGENT
Bissell Professional Group
4417 N. Croatan Hwy.
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

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

NARRATIVE OF REQUEST:

Wilko Development is seeking Preliminary Plat approval for 27 single family lots through the major subdivision process. In addition, there are three lots proposed as a minor subdivision and five lots through parcel recombinations for a total of 35 lots. The total acreage of the development is approximately 41.26 acres, not including the lot recombinations.

This property is zoned Residential. Since the subdivision consists of over 20 lots, the required open space dedication is 20% of the total tract area, or a minimum of 8.25. The developer is providing 8.62 acres of open space in order to fulfill this requirement.

The subdivision will have one point of entry from Harbinger Ridge Road. The lots will require individual septic systems and the developer will be required to install a waterline and fire hydrants. The county will be installing a waterline down Harbinger Ridge Road to service this development.

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 Lower Currituck Volunteer Fire Department.
- WASTEWATER:** Individual on-site septic systems are proposed. All of the individual lots have been tested and were classified as provisionally suitable for septic systems.
- 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 Poplar Branch Township is 0.7764. Based on these pupil generation figures, Currituck can expect 12 elementary students, 2 junior high students, and 4 high school students from this development.
- OPEN SPACE:** 8.62 acres of open space (21% of the total tract area) is provided within the proposed development.
- DRAINAGE:** Infiltration swales will be installed as needed along lot lines. Stormwater will be retained in accordance with the NC Division of Water Quality and the Currituck County Soil and Water Conservation office. 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 (not within the 100 year flood area) and A4 (within the 100 year flood area, 4 foot elevations).
- LAND USE PLAN:** The 1990 Land Use Plan classifies this site as 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. Proposed density for the total 35 lot subdivision is approximately

0.8 units per gross acre and therefore the development is consistent with the Land Use Plan.

STAFF COMMENTS:

1. The Sketch Plan/Special Use Permit for this development was approved by the Board of Commissioners on December 15, 2003 for a 27 lot major subdivision. It was presented to the Board of Commissioners that the developer intended on creating additional lots through reconfiguring five existing lots and the minor subdivision review process. The total number of lots at that time was 35.
2. Since the Sketch Plan approval, the county has agreed to install a waterline down Harbinger Ridge Road to service the development. The developer will connect to the county water system and install fire hydrants according to county requirements.
3. As of September 9, 2004, the developer has not yet applied for the necessary state permits for the waterline construction. These permits will be required prior to the construction of the waterlines.

4. Technical Review Staff:

On May 13, 2004, Technical Review staff reviewed this application. At the TRC meeting, the primary concern was with the drainage outfall and protecting the adjacent property owner from the pond overflow. 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. The revised plat did not address the Water Departments request of the necessary spec and details for the waterline construction.

- (s) County Engineer - reviewed & approved
- (t) Soil & Water Conservation - reviewed & approved
- (u) Fire Marshal – reviewed & approved
- (v) County Water Department – requires that the state application together with the water plans, specifications, and details be submitted to the water superintendent for review and approval.
- (w) Health Department – all lots have been evaluated and approved for conventional septic systems.
- (x) Lower Currituck VFD Fire Chief – no comments received
- (y) Recreation Department – reviewed with no comment
- (z) NCDENR, Land Quality – reviewed and approved the Erosion and Sedimentation Control Plan; letter of approval has been issued
- (aa) NCDENR, Water Quality – reviewed and approved a Low Density Stormwater Permit
- (bb) NCDENR, Water Quality – reviewed and approved a 401 Water Quality Certification
- (cc) NCDENR and Coastal Resources – reviewed and development within the Area of Environmental Concern for bulkhead and a drainage corridor.
- (dd) NCDENR, Public Water Supply Section – no comments received
- (ee) NCDOT – reviewed and approved driveway permit
- (ff) Phone Company - no comments received
- (gg) Superintendent of Schools - no comments received

- (hh) N C Power - no comments received
 - (ii) USACOE - no comments; not within USACOE jurisdiction
6. The following corrections shall be made to the preliminary plat:
- (a) Street names shall be corrected to reflect approved names.
 - (b) A landscape plan shall be submitted for review and approval.
 - (c) Sheet 1:
 - (1) Note #4 clarify if this acreage includes the recombination lots and minor subdivision lots.
 - (d) Sheet 2:
 - (1) The street cross sections shall be revised to reflect the waterline placement 3' off the edge of pavement.
 - (e) Sheet 4:
 - (1) The buffer along Owens Beach Road and the Common Open Space Lot shall be called a 10' non-access buffer.
 - (f) Sheet 5:
 - (1) The buffer along Owens Beach Road and the Common Open Space Lot shall be called a 10' non-access buffer.
 - (g) Sheet 6:
 - (1) Sight triangles shall be shown at the intersection of the cul-de-sac called Albemarle Estates Court and Albemarle Estates Drive.
7. The following corrections shall be made to the construction drawings:
- (a) The street names shall be corrected to reflect only approved street names.
 - (b) Correct the street names shown in the title blocks to agree with the street names shown on the plans.
 - (c) Correct the street names shown in the profile to agree with the street names shown in the plan view.
 - (d) Throughout the plans the swale inverts off the correct stations in the profiles.
 - (e) Sheet 3 – correct the Match line to reflect sheet 4 and show the swale invert at the intersection.
 - (f) Sheet 6:
 - (1) Scale of 1" = 120' is unacceptable. Revise scale to a maximum of 1" = 100'.
 - (2) Common Open Space lot along Owens Beach Road – change note to 10' non-access buffer.

STAFF RECOMMENDATION:

Staff recommends approval with the following conditions:

1. A landscape plan shall be submitted for review and approval.
2. The following correction shall be made to the preliminary plat:
 - (a) Street names shall be corrected to reflect approved names.
 - (b) A landscape plan shall be submitted for review and approval.
 - (c) Sheet 1:

- (1) Note #4 clarify if this acreage includes the recombination lots.
 - (d) Sheet 2:
 - (1) The street cross sections shall be revised to reflect the waterline placement 3' off the edge of pavement.
 - (e) Sheet 4:
 - (1) The buffer along Owens Beach Road and the Common Open Space Lot shall be called a 10' non-access buffer.
 - (f) Sheet 5:
 - (1) The buffer along Owens Beach Road and the Common Open Space Lot shall be called a 10' non-access buffer.
 - (g) Sheet 6:
 - (1) Sight triangles shall be shown at the intersection of the cul-de-sac called Albemarle Estates Court and Albemarle Estates Drive.
3. The following corrections shall be made to the construction drawings:
- (a) The street names shall be corrected to reflect only approved street names.
 - (b) Correct the street names shown in the title blocks to agree with the street names shown on the plans.
 - (c) Correct the street names shown in the profile to agree with the street names shown in the plan view.
 - (d) Throughout the plans the swale inverts off the correct stations in the profiles.
 - (e) Sheet 3 – correct the Match line to reflect sheet 4 and show the swale invert at the intersection.
 - (f) Sheet 6:
 - (1) Scale of 1" = 120' is unacceptable. Revise scale to a maximum of 1" = 100'.
 - (2) Common Open Space lot along Owens Beach Road – change note to 10' non-access buffer.
4. Prior to the construction of any waterline improvements, the state application together with the water plans, specifications, and details be submitted to the water superintendent for review and approval.
6. That required improvements be installed and accepted prior to submission for final plat approval.
7. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners and which may be amended from time to time per UDO provisions.

DISCUSSION

Mr. Hawley asked when the water lanes would be in place.

Ms. Eggar said early 2005.

Mr. Outen said that the property owners are in agreement with all of the staff conditions.

Mr. Hawley asked if the Sound side lot owners had decided not to give access to the Sound to the other lot owners.

Mr. Outen said the only access agreed was shown on the plat.

Mr. Bissell said that the access is about half an acre and was put where the staff had asked for it.

Mr. Ferguson said it is closer to three quarters of an acre.

Mr. Terry Lynn said this project joins his property. He showed photos of his driveway to the board and said that his headlights would shine directly into the new homes and that there is 400 feet of his property that would be affected by traffic from the development. This driveway is his only access to his property. He recommended altering the open space on the proposed development to make boundary lines to protect his property from traffic.

Mr. Lynn said that the plat was approved pending putting fence on property line and he put the required fencing in and paid for it himself. He would like the fence to be extended by the developer to give him his privacy.

Mr. Lynn also addressed drainage issues and showed photos to the board regarding his property line before and after development and culverts. He said that there is a retaining pond proposed that will have to curve to the sound and he is concerned that the water will flow directly into his property and increase his water table.

Mr. Hawley said he wanted to be sure he understood that Mr. Lynn's concerns were to have a larger buffer on driveway, to have the developer extend the fence, and the water runoff.

Mr. Lynn said yes.

Mr. Outen said that there is a storm water management plan by a certified Engineer that is the same as the plan approved by the State of NC, that meet County of Currituck requirements and they have addressed all concerns so that they may move forward with the project. They have no problem with doing what UDO requires. The builder should not have to continue fence, buffers, or anything else that the Ordinance does not require. The Commissioners requested the fence, but it is not required by the Ordinance.

Mr. Bell asked Mr. Doxey if he had reviewed this request.

Mr. Doxey said that the developer is proposing an impermeable bulkhead system on the property line 6' deep to keep the stormwater from Mr. Lynn's property. Mr. Doxey believes that this idea is adequate.

Mr. Hawley asked if projects of this size are considered low density for stormwater permit purposes.

Mr. Doxey said yes. Anything less than 30 % coverage is considered low density.

Mr. Lynn asked how far back the bulkhead was going to be from his property.

Mr. Doxey said that the top elevation was approximately 4' and even with Mr. Lynn's rip rap and would extend to higher elevation.

Mr. Lynn asked why the graveyard wasn't indicated.

Mr. Outen said that there is no graveyard there. The area had been inspected and radar was used and there were no human remains, caskets, etc. found in the area in question.

Mr. Lynn insisted that his father in law owns the graveyard and it did exist.

Mr. Bell instructed Mr. Lynn that the public hearing was over on the graveyard issue and that he should take his seat.

Mr. Etheridge motioned to approve the request as presented.

Mr. Riley seconded the motion. Motion passed unanimously.

PB 04-63 Currituck County amendment to UDO section 811 and Article 25 to allow family and church cemeteries in all zoning districts.

Mr. Ferguson presented the following amendment to the board.

Department of Planning and Inspections
Post Office Box 70
Currituck, North Carolina 27929

MEMORANDUM

TO: Planning Board
FROM: Planning Staff
DATE: September 15, 2004

SUBJECT: Family Cemeteries

The proposed ordinance amendment is to clarify the definition of cemeteries that is consistent with state law and to allow family and church cemeteries in all zoning districts as a use permitted by right (zoning permit).

The Unified Development Ordinance permits cemeteries located on the same property as a church (use classification 21.200) in all zoning districts. However, cemeteries that are not on a same lot that contains a church, including a family cemetery, are currently permitted in the Agricultural (A) and Mixed Residential (RA) zoning districts with a conditional use permit and in the Light and Heavy Manufacturing (LM) (HM) zoning districts by right. More often than not, situations of a family cemetery necessitate immediate action by the county and are not in a position to obtain either a rezoning or conditional use permit. The proposed amendment will reduce the time necessary to establish family and church cemeteries.

In addition, the North Carolina Cemetery Act regulates all cemeteries that operate for profit. All family and church cemeteries, non-profit, are exempt from the Act which was the basis for establishing the proposed ordinance amendment.

SEE ATTACHMENT 1 FOR AMENDMENT INFORMATION

DISCUSSION

Mr. Kovacs asked if there would be allowed a graveyard in a subdivision.

Mr. Ferguson said yes, that the covenants would have to prevent it.

Mr. Hawley asked if this would be allowed in A, R/A, and light/heavy manufacturing development.

Mr. Ferguson said yes.

Mr. Hawley said he wasn't comfortable with the idea of his neighbors burying their loved ones in their yard. He said that he had spoken to people in the community and they agreed that there should be a designated place for a cemetery.

Mr. Etheridge said that his family has a designated place on their property for a cemetery.

Mr. Hawley stated that he is concerned that someone will try to bury someone in a subdivision.

Mr. Keel said that he didn't feel that would happen because people would sell their houses and it wasn't family property.

Mr. Keel asked what state laws were regarding cemetery.

Mr. Ferguson said that those are described in the amendment.

Mr. Hawley asked if there was a restriction on the number of people buried on the property.

Mr. Ferguson said no.

Mr. Hawley said that he is concerned that people will try to take money to bury people on their land.

Mr. Ferguson said that would become a commercial venture at that point.

Mr. Hawley motioned to table the amendment as presented to look at changing the zoning.

No one seconded the motion. Motion died due to lack of a second.

Mr. Hawley motioned to deny the amendment.

Mr. Kovacs 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 asked for the amendment to be set aside for now.

Mr. Keel motioned to table this item.

Mr. Etheridge seconded the motion.

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: 10/12/04
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: _____

OLD BUSINESS

Mr. Bell asked for a driveway workshop from someone at NCDOT.

Resolution of Appreciation for Tammy Glave from the board for her years of service.

Mr. Kovacs motioned to have a resolution signed by all members of the board approve this request.

Mr. Keel seconded the motion. Motion passed unanimously.

Land Use Plan meeting date is October 25.

ADJOURNMENT

There being no further business to discuss, Mr. Keel motioned for adjournment. Mr. Etheridge seconded the motion and the motion passed unanimously. The meeting adjourned at 10:15 p.m.

Respectfully Submitted,

Tammy J. Underwood /s/

Clerk to the Board