

CURRITUCK COUNTY PLANNING BOARD

October 11, 2005

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 11, 2005. The following members were present: Alvin Keel, Forrest Midgette, Pat Riley, Joe Kovacs, Alvin Winter, Horace Bell, and Eddie Hawley. Cheryl Eggar, Planner, and Gary Ferguson, Planning Director, were also present. Absent: William Etheridge, Bobby Bell.

Planning Board Chairman Bell called the meeting to order, announced a quorum had been met. None of the members disqualified themselves from voting on any of the times on the agenda.

Rev. Todd Underwood, Currituck Christian Center, gave the invocation.

APPROVAL OF OCTOBER 11, 2005 AGENDA

Mr. Midgette motioned to approve the October 11, 2005 agenda with corrections noted. Mr. Riley seconded the motion. Motion passed unanimously.

APPROVAL OF SEPTEMBER 13, 2005 MINUTES

This item was tabled to the November meeting.

Edward Brooks appeared before the board

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

PB 05-28 Mildred Moore Rezone approximately 36 acres from Residential (R) to General Business (GB) on property located at the southwest side of Caratoke Highway approximately 400' south west of New Beach Rd. Tax Map 132, Lot 145, Poplar Branch Township.

Zoning Staff Report: PB 05-28

Mildred Griggs Moore Rezoning

TYPE OF REQUEST: Request for rezoning from A (Agricultural) to GB (General Business). The lot is "split zoned" and contains a total area of approximately 41 acres of which approximately 5 acres is zoned GB.

LOCATION: This site is located in Poplar Branch along the south side of Caratoke Highway (US 158) approximately 400' north of New Beach Road.

TAX ID: 0132-000-0145-0000

OWNER:
Mildred G. Moore
P.O. Box 130
Point Harbor, NC 27964

AGENT:
Edward J. Brooks Jr.
124 Ships Watch Dr.
Duck, NC 27949

ZONING:	<u>Current Zoning</u> Agricultural & General Business	<u>Proposed Zoning</u> General Business
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ZONING HISTORY: Property has been zoned Agricultural and General Business since 1989

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH:	Commercial – zoned GB
SOUTH:	Residential & Cropland - zoned R & A
EAST:	SFR and Holly Ridge Golf Course – zoned GB & R
WEST:	Cropland & Malco Mine - zoned GB & R

EXISTING LAND USE: Active Farmland

PROPOSED LAND USE: The front portion of the property, approximately 5 acres, is zoned General Business while the rear portion is zoned Agricultural. Applicant seeks to have the entire lot zoned General Business so that this tract can be consolidated with the adjacent tract to the south and create approximately a 65 acre commercial super center.

LAND USE PLAN: The 1990 Land Use Plan this property is designated Limited Transition and Rural. The Limited Transition class is intended for residential developments with densities of three units per acre or less, or the majority of the lots are 15,000 sf or larger. This class is also intended for nonresidential areas along major transportation routes. The "Rural" classification 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."

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

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- TRANSPORTATION:** The property has approximately 480' of frontage on Caratoke Highway which is classified as a Minor Arterial in the 1988 NCDOT Thoroughfare Plan. The Average Daily Traffic (ADT) Count according to NCDOT in 2003 along this section of Caratoke Highway was approximately 19,000 ADT. The 2003 Traffic Count reflects an ADT of approximately 17,000.
- FLOOD ZONE:** Approximately half of the property is located outside of the 100 year floodplain with the remaining portion within the 100 year floodplain.
- SOILS:** Approximately 70% to 80% of the site is favorable for septic systems. A small portion towards the front and rear of the site is unfavorable for septic systems while the remaining portion of the site is marginally favorable.
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STAFF COMMENTS:

- When the General Business (GB) zoning district was created along Caratoke Highway numerous lots ended up with split zoning. The depth of the GB zoning on the subject property and the adjacent lots ranges from about 500' to 1,500'
- The agent for this rezoning request has control of the adjacent 25 acre site which is zoned GB, which is adjacent to the Lowes tract. The plan is to consolidate these two tracts to develop a tract of approximately 65 acres for a super center.
- Currently there are plans for intensive development of the 20 acre Lowes tracts. Albemarle Regional Health Services states that soil evaluation has been performed for a Hampton Inn Suites hotel. Additional proposed development consists of a car dealership and a retail center.
- There are several commercial developments across Caratoke Highway from the site: Pan Ridge, Shores Point and Fred and Diane Hampton.
- The property is contiguous to land zoned GB which extends to the Wright Memorial Bridge, approximately 1.3 miles to the south and to Harbinger Park, approximately 1.7 miles to the north.
- The current Land Use Plan was approved in 1990 and is dated and is not consistent with this rezoning due to the characteristics stated for the Rural district. It should be noted that the majority of Caratoke Highway from Grandy north is designated Rural with Services.
- The Land Use Plan promotes commercial nodal development instead of having it stretched out along the highway. A goal of the 1994 Highway

Corridor Plan is to promote economic development along Caratoke Highway in such a manner to minimize the negative impacts to the traveling public.

- The purpose of the commercial nodes is to minimize the effects of strip commercial development. This rezoning will foster commercial nodal development on Caratoke Highway. When this site is developed with the adjacent property the site will be approximately 65 acres with about 1,600' of frontage along Caratoke Highway

STAFF RECOMMENDATION:

Staff recommends approval of this application for the following reasons:

- This property is surrounded by properties that are zoned General business and this would be an extension of the existing General Business zoning district.
- The site has approximately 480' of frontage on Caratoke Hwy. and will create a commercial node.
- This rezoning would promote commercial nodal development which is supported by the 1990 Land Use Plan and the 1994 Highway Corridor Plan.

DISCUSSION

Mr. Hawley asked where the mine operation is in relation to this parcel.

Ms. Eggar pointed out the areas behind the property as residential.

Mr. Midgette motioned to approve this request as presented. Mr. Keel seconded the motion. Motion passed unanimously.

George Phillips and Ray Hernandez appeared before the board.

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

PB 02-13 Creekside Estates Preliminary Plat for 62 residential lots at the intersection of Tulls Creek Rd. and Sawyertown Rd. Tax Map 14, Lots 8A and 9A, Moyock Township.

ANALYSIS FOR THE PLANNING BOARD MEETING DATE: OCTOBER 11, 2005

ITEM: **PB 02-13 CREEKSIDE ESTATES, PRELIMINARY PLAT FOR 62 RESIDENTIAL OPEN SPACE LOTS**

LOCATION: Moyock Township at the intersection of Tulls Creek Road and Sawyertown Road.

TAX ID: Tax Map 14, Parcels 8A & 9A

ZONING DISTRICT: Residential

OWNERS:
NCBC, LLC
1492 South Independence Rd., Ste 200
Virginia Beach, VA 23462

APPLICANT/AGENT
MSA, PC
5033 Rouse Drive
Virginia Beach, VA 23462

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Farmland - zoned A
SOUTH: Farmland, Residential – zoned GB & A
EAST: Residential (Cypress Landing) – zoned R
WEST: Moyock Elementary, Residential, Farmland – zoned R & A

NARRATIVE OF REQUEST:

NCBC, LLC is requesting Preliminary Plat approval for 62 single family lots located off Tulls Creek Road adjacent to Moyock Elementary School. The site is approximately 111 acres and is comprised of two parcels of approximately 42 acres and 69 acres. There are approximately 29 acres of wetlands located within the site. The proposed development is located at the intersection of Tulls Creek Road and Sawyertown Road.

The open space requirements mandate that a minimum 30% of the total tract(s) area be dedicated as open space. To meet the open space requirements, 44 acres, or 40% of the site, will be dedicated as open space.

In addition, 50% of the required open space shall be lands suitable for development and shall not include wetlands. The minimum required open space for this project is 33 acres with approximately 16 acres being located in uplands. The project is proposing to dedicate approximately 44 acres of open space with 16 acres of it being uplands.

The subdivision will have one point of entry from Tulls Creek Road. The revised Sketch Plan has the entry aligned with Sawyertown Road which both the Planning Board and Board of Commissioners supported. Due to the site being bordered by Shingle Landing Creek, the site does not offer any opportunities for future street connections. The lots will require individual septic systems and the developer will be required to install a waterline and fire hydrants.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

- STREETS:** All streets will be built to NCDOT design and construction standards. The developer expects to dedicate streets for maintenance by the NCDOT.
- WATER:** This development will be served by the County water system.
- FIRE:** Moyock Volunteer Fire Department provides fire coverage for the area. The development will have fire hydrants.
- 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.
- OPEN SPACE:** Under the open space provisions a minimum 30% of the total tract(s) must be set aside as open space. Approximately 44 acres has been provided as undivided open space, approximately 40% of the total site area.
- FLOOD ZONES:** The majority of the property is located within a 100 year floodplain with a base flood elevation of 6' (Flood Zone A3). A small portion of the site, adjacent to Tulls Creek Road, is located outside of the 100 year floodplain.

STAFF COMMENTS:

- In December 2003 the Planning Board approved the Sketch Plan for an 81 lot subdivision known as Poyner/Crossno. The approved Sketch Plan contained lots which averaged between 20,000 sf and 22,000 sf with a minimum 100' lot width. The larger lots within this development contained wetlands. Due to Board of Commissioners concerns, the site was reconfigured into a 62 lot subdivision with a minimum lot size of 40,000 sf and renamed to Napoitano III, LLC and NCBC, LLC Properties. Sketch plan approval was granted at the August 2, 2004 BOC meeting.
- On June 9, 2005, Technical Review staff reviewed this application. At the TRC meeting, the primary concerns were with the drainage plan, lack of pad elevations, need for additional drainage calculations, and fire hydrant spacing. The Preliminary Plat has been revised to address the major concerns expressed by the Technical Review staff.
 - (a) Planning Staff – additional corrections are required on the preliminary plat.
 - (b) County Engineer – reviewed & approved
 - (c) Soil & Water Conservation – reviewed & approved

- (d) Fire Marshal – reviewed & approved
 - (e) Health Services – reviewed & approved all lot for conventional on-site septic systems
 - (f) County Water Department – reviewed and approved
 - (g) County Mapper – reviewed and approved as is
 - (h) Moyock VFD Fire Chief – no comments received
 - (i) Emergency Management Services – reviewed and approved as is
 - (j) Recreation Department – no comments received
 - (k) NCDENR, Water Quality – reviewed and approved a Low Density Stormwater Permit
 - (l) NCDENR, Land Quality Section – reviewed and issued erosion & sedimentation control permit
 - (m) NCDENR, Public Water Supply Section – approved construction of the waterlines
 - (n) CAMA – reviewed with no comments
 - (o) NCDOT – driveway permits and encroachment agreements granted
 - (p) Phone Company – E911 addresses on final plat
 - (q) Superintendent of Schools - no comments received
 - (r) Dominion Power – no comments
 - (s) USACOE – reviewed and approved the wetland delineation.
- In August and September revised plans were submitted for review. The plans have been revised to reflect the required fire hydrant spacing. The concern with the discharge from the drainage basins has been resolved.
 - The following corrections shall be made to the plans:
 - Clarification of the front building setbacks
 - Clarification of the width of the pedestrian easement
 - Show a road cross section with the sidewalk
 - Show street and stop signs and both ends of N. Sawyer Town Road
 - Sheet C 3.2 call out Open Space Lot A and show the area
 - No monumentation is shown
 - Remove the water meters
 - Legend lacks symbols for top of bank, center of ditch, street signs and wetlands
 - Show the pavement radius in the cul-de-sac

STAFF RECOMMENDATION:

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

1. The following corrections shall be made to the Preliminary Plat:
 - (a) Clarification of the front building setbacks

- (b) Clarification of the width of the pedestrian easement
 - (c) Show a road cross section with the sidewalk
 - (d) Show street and stop signs and both ends of N. Sawyer Town Road
 - (e) Sheet C 3.2 call out Open Space Lot A and show the area
 - (f) No monumentation is shown
 - (g) Remove the water meters
 - (h) Legend lacks symbols for top of bank, center of ditch, street signs and wetlands
 - (i) Show the pavement radius in the cul-de-sacs
2. ***That the corrected Preliminary Plat be submitted and approved by the Planning Department prior to the Board of Commissioners meeting.*** To be scheduled for the first BOC meeting in November, the corrected plans must be submitted to the Planning Department by noon on the Monday October 17th.
 3. That required improvements be installed and accepted 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;
 5. Preliminary plat approval shall remain valid for 24 months. If after one year of approval, if no work has commenced, the preliminary plat will not retain a vested right against any amendment to the UDO which would cause the plat as approved to be in violation of any of the UDO provisions. The developer may request a maximum two year extension on the plat approval prior to the expiration of the preliminary plat approval;
 6. That applicant meet all requirements of the county's Unified Development Ordinance; and
 7. That should any conditions within this permit conflict with any other permit(s) issued for this activity, and then the more restrictive condition shall prevail.

DISCUSSION

Mr. Kovacs asked if there would be access to the cemetery at the rear.

Ms. Eggar said that there is direct access.

Mr. Kovacs asked what the access is now.

Ms. Eggar said that she did not believe there was a road, she could not access it due to field ditches.

Mr. Hawley asked about school impacts from this project.

Ms. Eggar said it should be less than 6 elementary school students from this project.

Mr. Bell asked if the Supt. Schools had contacted the dept. regarding this proposal.

Ms. Eggar said no.

Mr. Hawley motioned to approve the request as presented. Mr. Midgette seconded the motion. Motion passed unanimously.

Wesley Brown, Barnhill Contracting appeared before the board.

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

PB 05-26 Brumsey Mine Special Use Permit for a mining operation on property located on the west side of N. Currituck Rd. approximately 3,400 feet from Caratoke Hwy. Tax map 50, Lot 37G, Crawford Township.

**STAFF ANALYSIS FOR THE PLANNING BOARD
MEETING DATE: OCTOBER 11, 2005**

ITEM:	PB 05-26 SPECIAL USE PERMIT FOR MINING OPERATIONS AT THE BRUMSEY MINE	
LOCATION:	West side of North Currituck Road approximately 3,650' (7/10 th mile) south of Caratoke Highway	
ZONING DISTRICT:	Agricultural	
TAX ID:	Map 50 Parcel 37G	
OWNER:	APPLICANT/AGENT	
William Brumsey III	Barnhill Contracting Company	
PO Box 100	2311 N. Main Street	
Currituck, NC 27929	PO Box 1529	
	Tarboro, NC 27886	
LAND USE/ZONING OF SURROUNDING PROPERTY:		
NORTH:	Farmland / Agricultural	
SOUTH:	Farmland / Agricultural	
EAST:	Farmland / Agricultural	
WEST:	Farmland / Agricultural	

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PURPOSE OF REQUEST:

The applicant is requesting a Special Use Permit for sand mining operations on a 227 acre site known as the Brumsey Mine. This is permitted use within the Agricultural zoning district with a SUP. Applicant is requesting to expand an existing mine 24 acre mine by 14 acres for a total of 38 acres. This represents 17% of the total tract area (maximum allowed is 30%). Maximum depth to be mined at the pit is 20' below the natural grade. After completion of the project and reclamation, the pit will become a pond area with a minimum water depth of approximately 13'. The requested hours of operation are 6:30 am to 7:30 pm.

The mining methods of operation include excavating sand materials with hydraulic backhoes, loading the sand material into dump trucks and hauling it off the site. Dewatering of the mining area will be accomplished by pumping water into the existing sediment basin with an overflow pipe to drain into an existing duck pond. Overflow from the duck pond area drains into wetlands which eventually lead out to Buckskin Creek. The pump and housing from the existing mine area will be used for the new mine area. The project has a state NPDES permit for dewatering the excavated area.

Access to the site is will be from a 50' wide haul road on the west side of North Currituck Road, approximately 3,650' south of the intersection with Caratoke Highway. The estimated truck traffic will be between 10 to 50 trucks per day depending on the size of the project. According to the applicant, the intent of the site is to be used for special projects within the county and will not be in operation on a daily basis. The pit was originally established for the widening of Caratoke Highway, NC 168.

On February 20, 1995, Barnhill Contracting Company was granted a Special Use Permit (PB 95-04) by the Board of Commissioners for mining activities at the Brumsey Mine which was valid for 10 years. The state mining permit expired on April 11, 2005. On September 2, 2005, the state approved a modified mining permit for this project.

EXISTING CONDITIONS:

The site has an existing 24 acre located at the eastern portion of the property, and a 0.28 acre sediment pond located adjacent to the mine area. The remaining portion of the site contains woodland, woodland and wetlands. The site contains woodlands and vacated farmland. County Soil Maps indicate predominately three types of soils contained on the property: **BoA** (Bojac series) which consists of well drained soils that have moderately rapid permeability; **Ds** (Dragston series) which consists of somewhat poorly drained soils that have

moderately rapid permeability; and, **No** (Nimmo series) which consists of poorly drained soils that have moderate to moderately rapid permeability. County Flood Maps indicate this property to be in Flood Zone "C".

QUESTION(S) BEFORE THE BOARD:

- (1) *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit?*

The applicant proposes a sand mining operation which is a permitted use in A (Agricultural) zoned area with a Special Use Permit.

The proposed mining area for the site meets the required setbacks, (100' from property lines; 300' from nearest residence, industrial building, or public road). The proposed site has a 100' setback from the western, northern, and eastern property lines. The nearest residence is located in excess of 800' northeast of the proposed mine site, according to county Tax Maps and aerial photos.

Applicant is seeking to excavate a total 38 acres (Existing mine of 24 acres + 14 additional mining area). The UDO allows up to 30% of the site to be excavated (227 acres X 30% = 68.1 acres permitted).

According to the applicant there will be no off-site discharges. Dewatering of the mining area will be accomplished by pumping water into the existing sediment basin with an overflow pipe to drain into an existing duck pond. Overflow from the duck pond area drains into wetlands which eventually leads out to Buckskin Creek. The project has a state NPDES permit for dewatering the excavated area.

ADDITIONAL APPLICATION INFORMATION

Name of mine: Brumsey Pit

Mine manager, address and phone number:

Wesley Brown
Barnhill Contracting Company
2311 N. Main Street
Tarboro, NC 27886
(252) 823-1021

Mining methods:
Hydraulic backhoe for excavating

Steps taken to maintain haul road(s):

Applicant will bear the responsibility for maintenance of the haul road. Applicant will keep haul road watered down to keep amount of dust down to a minimum and will re-grade the road periodically as needed.

Description of day to day operations:

Excavate and haul sand. Hours of operation are requested to be 6:30 am to 7:30 pm Monday through Saturday. The applicant estimates that truck traffic will be between 10 to 50 loads per day.

Proposed use after mining and how is sewage being handled:

The pit will become a recreational pond. No sewage will be generated during this process.

Buffers, existing vegetation on-site and berms:

None required. There is an existing vegetated buffer along North Currituck Road, an existing tree line along the northern property line, and wooded wetlands to the west. A 10' unexcavated buffer will surround the mining area. No berms are proposed as a visual buffer for the mine site. Proposed mining area is well buffered by existing vegetation and cannot be seen by the traveling public along North Currituck Road (SR 1241).

(a) Will the proposed use materially endanger the public health or safety?

According to County Tax Maps, the nearest residential dwelling to the site is to the northeast in excess of 800'.

According to NCDOT, if the pavement fails on North Currituck Road as a result of the hauling operations, it may be necessary to post a bond for repairs.

A hydrogeological assessment was performed to evaluate the impact that dewatering of the mine might have on existing in-use wells. There is only one domestic use well within 2,000' of the mine site. The well and the site are owned by the mine owner, William Brumsey III. According to the assessment, the existing sand pit has an average depth of 15'. Future dewatering of the sand pit to a depth of 15' will cause a cone of depression which is expected to extend several hundred feet past the edge of the pit and may impact the drinking water well on the Brumsey property. Reduction of the storage capacity of the drinking water is likely to be only 5' to 10' given its distance from the 15' drawdown level from the pit. Since the owner of the well is the owner of the mine, the possible reduction of the well storage capacity may be found to be acceptable, thus not requiring mitigation.

The hydrogeological assessment states that groundwater pumped from the pit would be discharged into a sedimentation basin located at the

western edge of the pit. The water will then discharge into several ponds of man-made construction. The water is discharged into Cowell's Creek, a tributary of Tulls Creek. The discharge water is not expected to adversely impact the quality of the surface water, given that sediment will be allowed to drop-out in the basin before discharging to the surface water environment. The discharge is currently permitted under NPDES permit #NCG020291.

Access to the site will be limited and cables will be placed at the entrance to prohibit traffic. Upon exiting the haul road, trucks will travel an unimproved portion of a state maintained road. Applicant estimates approximately 10 to 50 loads a day at the site. The operations will not be on a daily basis.

"No Trespassing" signs must be posted at a minimum distance of 250' apart around the site to indicate a mining operation is being conducted on the property.

A risk engineering visit was conducted to evaluate sound level readings of the type of excavator to be used at the site. Two sites were visited and readings were taken at 15, 100 and 300 feet away from each piece of equipment while loading a dump truck. At a 15' distance the noise levels were 76 to 78 dba at one site and 82 to 84 at the second site. At 100' the readings were 66 to 68 dba and 69 to 71 dba. At 300' the levels dropped to 62 to 64 dba and 66 to 67 dba. The mining operation is 225 to the nearest property line. At the present time this is farmland and wood.

The Board of Commissioners shall establish the hours of operation for all mining activities on the site and may require additional buffers and screens in order to minimize negative impacts on adjoining properties and street right-of-ways.

- (b) *Will the proposed use substantially injure the value of adjoining or abutting property?*

The site has been mined for the past ten years. The property is surrounded by farmland, wetlands and one improved residential lots.

- (c) *Will the proposed use be in harmony with the particular neighborhood or area in which it is to be located?*

See the findings listed under Criteria "1", "a" and "b" above.

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

The 1990 Land Use Plan classifies this land as "Rural". The purpose of the rural classification is to provide for agriculture, forestry, mineral

extraction and other allied uses traditionally associated with an agrarian region. Areas meeting the intent of this classification are appropriate for, or presently used for, agriculture, forestry, mineral extraction, and other uses, that due to their hazardous or noxious nature, should be located in a relatively isolated and undeveloped area. Therefore this proposal is consistent with the Land Use Plan.

- (f) *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities.?*

Based on the proposed mining use, it will not exceed the county's ability to provide adequate public facilities.

STAFF RECOMMENDATION

Staff recommends **approval** with the following conditions:

1. The following corrections shall be made to the site plan:
 - a. Plan shall be at a scale of no less than 1" = 100'
 - b. Show a 10' unexcavated buffer around the perimeter of the mining operations;
 - c. Show the required 200 lineal feet of pavement from the entrance;
 - d. Clearly show the widths of all the haul roads; and
 - e. The total dimension along the western portion of the permit boundary is incorrect,
2. If at any time the State permit issued for this mining operation is suspended or revoked, the suspension or revocation shall cause this Special Use Permit to become void;
3. Any modifications to the State permits shall be filed within 10 working days of issuance or submittal in the Planning/Inspections Department of Currituck County;
4. This Special Use Permit shall be valid for a period of 10 years from the date it is granted;
5. That no more than 38 acres (17%) of the total tract shall be excavated for the purposes of mining under this permit;
6. That warning signs noting "Truck Entering Highway" be posted on Caratoke Highway before North Currituck Road;
7. The maximum dewatering depth shall be 15' below natural ground;
8. The maximum mining depth shall be 20' below natural ground;

9. The hours of operation of all mining related activities on this site, as determined by the Currituck County Board of Commissioners, shall be Monday through Friday from _____ a.m. to _____ p.m., Saturday from _____ a.m. to _____ p.m and no mining activity shall occur on Sunday;
10. The existing and proposed mine entrances shall be gated;
11. At least 200' of continuous pavement shall be required onsite starting at the point the access road intersects with a public street and shall be completed prior to the excavation of any fill material;
12. All roads utilized to access the mining site shall be maintained free of dust and sediment and shall be properly graded and drained in order to minimize potholes and standing water;
13. All trucks hauling mined materials shall be covered with a tarpaulin;
14. Mined materials shall not be stored in excess of 25' in height;
15. Stockpile areas and overburden to be used for future reclamation shall be placed where it will not be disturbed by normal mining activities and shall be stabilized to reduce wind and water erosion;
16. No bulk waste, hazardous waste, commercial waste, garbage, construction or demolition waste shall be placed on the site;
17. Discharging of water from the mine site is permitted under this permit. The County may take random samples and have the results tested for settleable solids, turbidity, and pH at the operator's expense. Such testing shall not exceed six tests per year;
18. "No Trespassing" signs shall be posted around the site being mined at a minimum distance of 250 feet apart indicating that a mining operation is being conducted on the property;
19. The local Volunteer Fire Department be allowed to utilize the pond for fire fighting purposes;
20. Reclamation shall be conducted simultaneously with mining operations. Annual reclamation reports shall be submitted to the Planning/Inspections Department of Currituck County within 10 days of being filed with the State;
21. Drainage patterns shall not be altered so as to cause flooding off-site while the permit is valid and after reclamation;
22. All provisions of State and local permits issued for the operation shall be met;
23. No mining activities shall adversely affect surrounding in use wells. Any person owning or operating a mining site in a manner that adversely affects an in use well through contamination or diminution of groundwater shall provide the well owner with a replacement water supply or equal quantity and quality;
24. A reserve fund shall be established, to be held by the property owner, to finance the initial capital expenses of establishing the anticipated future lake use of the property. At a minimum, the estimated capital expense shall be an amount

equal to \$1,000 times the number of acres in the total site. The reserve fund shall include an assumed inflationary rate of 5% per year for the expected life of the mining site. Any funds held by the State of North Carolina pursuant to G.S. 74-54 will be credited towards the required amount.

25. The owner shall place funds in the reserve annually in amounts equal to the capital cost estimates provided above divided by the number of years the mining site will be open.

- a. The annual amount shall be calculated as follows:

38 acres x \$1,000 = \$38,000 - \$0 State Bond= \$38,000 \$38,000/10 years = \$3,800;

Year + 5% Inflationary Rate:

Year 1	\$3,800.00
Year 2	\$3,990.00
Year 3	\$4,189.50
Year 4	\$4,398.98
Year 5	\$4,618.92
Year 6	\$4,849.87
Year 7	\$5,092.36
Year 8	\$5,346.98
Year 9	\$5,614.33
Year 10	\$5,895.05

26. The first payment shall be made prior to commencement of excavation activities and evidence of such payment, in the form of a notarized statement by the property owner, must be presented to the administrator. Such evidence shall be submitted annually, along with the total balance of reserve funds, to the administrator on or before the anniversary of the initial notarized statement. In the event the mining operation permanently discontinues before the expected timetable submitted, the owner shall pay all remaining amounts to the reserve fund as evidenced by a notarized statement to the administrator;
27. The reclamation shall be in accordance with the state approved reclamation plan; and
28. Should any conditions within this permit conflict with any other permit issued for this activity, then the more restrictive condition shall prevail.

DISCUSSION

Mr. Bell asked if there was already a mining permit in place.

Ms. Eggar said yes.

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

Bobby Outten appeared before the board.

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

PB 03-42 Cheshire Mine Special Use Permit for a mining operation on the north side of Shortcut Rd. approximately 0.9 miles northeast of Sanderline Rd. Tax Map 43, Lots 13 & 37C Crawford Township.

**STAFF ANALYSIS FOR THE PLANNING BOARD
MEETING DATE: OCTOBER 11, 2005**

ITEM: PB 05-26 SPECIAL USE PERMIT FOR MINING OPERATIONS AT THE CHESHIRE MEADOWS MINE

LOCATION: North side of Shortcut Road (US 158) 0.9 miles northeast of Sanderlin Road, Crawford Township

ZONING DISTRICT: Agricultural

TAX ID: Map 43 Parcels 13 and 37C

OWNER: James & Amy Innes PO Box 37 Moyock, NC 27958	APPLICANT Bissell Professional Group PO Box 168 Kitty Hawk, NC 27949
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LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Farmland & Woodland / Agricultural
SOUTH: Farmland & Woodland / Agricultural
EAST: Wetlands / Agricultural
WEST: Farmland & Woodland / Agricultural

PURPOSE OF REQUEST:

The applicant is requesting a Special Use Permit for sand mining operations which is a permitted use within an Agricultural zoning district with a SUP. The request is to mine 40.96 acres on parcels having a combined acreage of 137 acres which amounts to 29.96% of the 30% maximum allowed. Property is located on the north side of Shortcut Road approximately 2 miles west of the Currituck Airport.

The applicant is requesting a maximum mining depth of 30' below the natural ground with an average depth of 25'. The mining site is relatively level with existing grade of approximately 4' above Mean Sea Level (MSL). This equates to an average depth of -21' below MSL and a maximum of -26 MSL.

A 50' wide haul road shall provide access to the mining site. The requested hours of operation are Monday to Saturday dawn to dusk.

The mining methods of operation include excavating sand materials with a hydraulic dredge or dragline and truck below the water table. The mined material will be loaded into the dump trucks with an excavator or front end loader. There will be no dewatering of the mine site.

An 8' x 16' trailer will be placed on the site for use as an office. Dump trucks entering the mining area will be required to stop at the office trailer to receive load tickets and instructions upon entering and exiting the mining area. Speed limits will be posted along the access road to the mining area and will be strictly enforced.

Four monitoring wells will be placed on the site to assist in evaluating the mining operations effect on groundwater quality and quality.

There will be a 50' wide haul road looping the mine area and connects to Shortcut Road (US 158). A 6 foot vegetated berm will be constructed between the haul road and the site perimeter. Adjacent to the berm is a 50' undisturbed buffer area.

The estimated truck traffic will be average about 100 trucks per day or one truck every six minutes. For the occasional large jobs, it is anticipated that there will be as many as 200 trucks a day to the mine site with one truck leaving the site every three minutes.

EXISTING CONDITIONS:

The site contains woodlands and vacated farmland. Approximately 50 acres of the site is contained in wetlands. A wetland delineation map was prepared for the site and approved by the Army Corp of Engineers. County Soil Maps indicate predominately two types of soils contained on the property: **To** (Tomotley series) which consists of poorly drained soils that have moderate to moderately slow permeability; and **Ro** (Roanoke series) which consists of poorly drained soils that have slow permeability. County Flood Maps indicate this property to be within the 100 year floodplain.

QUESTION(S) BEFORE THE BOARD:

- (1) *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit?*

The applicant proposes a sand mining operation which is a permitted use in A (Agricultural) zoned area with a Special Use Permit.

The proposed mining area for the site meets the required setbacks, (100' from property lines; 300' from nearest residence, industrial building, or public road). The proposed site has over a 150' setback from the western, northern and southern property lines. There is a 50' setback from the haul road along the eastern boundary with 6' high earthen berm. The adjacent site is vacant wetlands. The UDO allows setbacks to be reduced by 50% when there is a complete visual screen at 6' in height and an intermittent visual screen to a height of 20' between the mining activity and the adjoining use. Further, the Board of Commissioners may reduce non-modified setbacks by 50% when the mining activity adjoins a vacant parcel or farmland. The nearest residence is located approximately 2,000' south of the proposed mine site, according to county Tax Maps and aerial photos.

Applicant is seeking to excavate a total 40.96 acres, or 29.96% of the tract area. The UDO allows up to 30% of the site to be excavated (137 acres X 30% = 41.1 acres permitted).

According to the applicant there will be no dewatering of the mine site or off-site discharges.

After reclamation, the site will be a pond and final slopes will be 3 to 1 to the water level and then 2 to 1 from the water level to the bottom of the pit. The water will be approximately 25' deep.

A state mining permit was issued on August 1, 2005.

ADDITIONAL APPLICATION INFORMATION

Name of mine: Cheshire Meadows Mine

Mine manager, address and phone number:

James Innes
257 Caratoke Highway, Suite B
Moyock, NC 27958
(252) 435-6000

Mining methods:

Hydraulic dredge or dragline and truck

Steps taken to maintain haul road(s):

Applicant will bear the responsibility for maintenance of the haul road. Applicant will keep haul road watered down to keep amount of dust down to a minimum and will re-grade the road periodically as needed.

Description of day to day operations:

Excavate and haul sand. Hours of operation are requested to be dawn to dusk Monday through Saturday. The applicant estimates that the average truck traffic will be between approximately 100 trucks per day. For the occasional large job, it is estimated that there will be as many as 200 trucks per day.

Proposed use after mining and how is sewage being handled:

The pit will become a recreational pond. No sewage will be generated during this process.

Buffers, existing vegetation on-site and berms:

A six foot high vegetated. Earthen berm will be constructed between the haul road and the property lines. Adjacent to the earth berm is a 50' wide undisturbed buffer area. The proposed mining area is well buffered by existing off-site vegetation and cannot be seen by the traveling public along Shortcut Road (US 158)

(a) Will the proposed use materially endanger the public health or safety?

According to County Tax Maps, the nearest residential dwelling to the site is approximately 2,000' south'.

According to NCDOT, there have been only two accidents near the curve on Shortcut Road (US 158) in the past five years. NCDOT is requiring that a deceleration land and a center turn lane be installed for site access.

A hydrological study was performed to evaluate the impact that the mine might have on existing in-use wells. It was determined that there may only be one possible active well within 2,000' of the proposed mine site. The application states that there will be no dewatering at the mine site.

Access to the site will be limited and a gate will be placed at the entrance. "No Trespassing" signs will be posted at a minimum distance of 250' apart around the site to indicate a mining operation is being conducted on the property.

There will be no bulk waste, hazardous waste, commercial waste, garbage, and construction or demolition waste placed on the site.

It is estimated that the noise levels at the exterior property lines will be approximately 68 decibels.

The Board of Commissioners shall establish the hours of operation for all mining activities on the site and may require additional buffers and screens in order to minimize negative impacts on adjoining properties and street right-of-ways.

- (b) *Will the proposed use substantially injure the value of adjoining or abutting property?*

The property is surrounded by farmland and wetlands.

- (c) *Will the proposed use be in harmony with the particular neighborhood or area in which it is to be located?*

See the findings listed under Criteria "1", "a" and "b" above.

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

The 1990 Land Use Plan classifies this land as "Rural". The purpose of the rural classification is to provide for agriculture, forestry, mineral extraction and other allied uses traditionally associated with an agrarian region. Areas meeting the intent of this classification are appropriate for, or presently used for, agriculture, forestry, mineral extraction, and other uses, that due to their hazardous or noxious nature, should be located in a relatively isolated and undeveloped area. Therefore this proposal is consistent with the Land Use Plan.

- (g) *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities.?*

Based on the proposed mining use, it will not exceed the county's ability to provide adequate public facilities.

STAFF RECOMMENDATION

Staff recommends **approval** with the following conditions:

29. The following corrections shall be made to the site plan:

- a. Remove note #10
- b. Correct typographical errors in note #14, operation summary note #2, #3 , #4 and #5;

- c. Show the tax id for the parcels
 - d. Show the 50' setback to the haul road along the eastern property line
 - e. Entry haul road – a 6' high berm is not required along the western side of the road
 - f. Clarify what is proposed along the eastern property line where the proposed entrance is connecting to the existing dirt road.
30. If at any time the State permit issued for this mining operation is suspended or revoked, the suspension or revocation shall cause this Special Use Permit to become void;
 31. Weekend operations shall be prohibited between Memorial Day and Labor Day;
 32. That warning signs noting "Truck Entering Highway" be posted on Shortcut Road (US 158);
 33. That no more than 40.96 acres (29.96%) of the total tract shall be excavated for the purposes of mining under this permit;
 34. Any modifications to the State permits shall be filed within 10 working days of issuance or submittal in the Planning/Inspections Department of Currituck County;
 35. This Special Use Permit shall be valid for a period of 10 years from the date it is granted;
 36. The maximum mining depth shall be 30' below natural ground or an elevation of -26 below MSL;
 37. A benchmark shall be set proximate to the mining area to establish the elevation of the natural ground. The benchmark location shall be shown on the mining site plan;
 38. The hours of operation of all mining related activities on this site, as determined by the Currituck County Board of Commissioners, shall be Monday through Friday from _____ a.m. to _____ p.m., Saturday from _____ a.m. to _____ p.m. and no mining activity shall occur on Sunday;
 39. No mining activity shall take place in the 120' VEPCO power easement until a written agreement has been reached. The agreement shall be filed within 10 working days of issuance with the Planning/Inspections Department of Currituck County;
 40. The proposed mine entrance shall be gated;
 41. The existing entrance to the site shall be barricaded or have the culvert pipe at Shortcut Road removed;
 42. The berm placed between the haul road and the eastern property line where the setback is less than 100' shall be planted with trees to create an intermittent visual screen to a height of 20';

43. At least 200' of continuous pavement shall be required onsite starting at the point the access road intersects with a public street and shall be completed prior to the excavation of any fill material;
44. All roads utilized to access the mining site shall be maintained free of dust and sediment and shall be properly graded and drained in order to minimize potholes and standing water;
45. All trucks hauling mined materials shall be covered with a tarpaulin;
46. Mined materials shall not be stored in excess of 25' in height;
47. Stockpile areas and overburden to be used for future reclamation shall be placed where it will not be disturbed by normal mining activities and shall be stabilized to reduce wind and water erosion;
48. No bulk waste, hazardous waste, commercial waste, garbage, construction or demolition waste shall be placed on the site;
49. "No Trespassing" signs shall be posted around the site being mined at a minimum distance of 250 feet apart indicating that a mining operation is being conducted on the property;
50. Reclamation shall be conducted simultaneously with mining operations. Annual reclamation reports shall be submitted to the Planning/Inspections Department of Currituck County within 10 days of being filed with the State;
51. Drainage patterns shall not be altered so as to cause flooding off-site while the permit is valid and after reclamation;
52. All provisions of State and local permits issued for the operation shall be met;
53. No mining activities shall adversely affect surrounding in use wells. Any person owning or operating a mining site in a manner that adversely affects an in use well through contamination or diminution of groundwater shall provide the well owner with a replacement water supply or equal quantity and quality;
54. A reserve fund shall be established, to be held by the property owner, to finance the initial capital expenses of establishing the anticipated future lake use of the property. At a minimum, the estimated capital expense shall be an amount equal to \$1,000 times the number of acres in the total site. The reserve fund shall include an assumed inflationary rate of 5% per year for the expected life of the mining site. Any funds held by the State of North Carolina pursuant to G.S. 74-54 will be credited towards the required amount.
55. The owner shall place funds in the reserve annually in amounts equal to the capital cost estimates provided above divided by the number of years the mining site will be open.
 - a. The annual amount shall be calculated as follows:

$$40.96 \text{ acres} \times \$1,000 = \$40,960 - \$92,740 \text{ State Bond} = \text{-\$51,780}/10 \text{ years} = \$0$$

56. The reclamation shall be in accordance with the state approved reclamation plan; and
57. Should any conditions within this permit conflict with any other permit issued for this activity, then the more restrictive condition shall prevail.

DISCUSSION

Mr. Bell asked if there would be flashing lights installed, as there will be so much more traffic in the area.

Ms. Eggar said that the PB could make that recommendation.

Mr. Hawley asked if there was access at the far west corner of the property as well.

Ms. Eggar said that there was a small piece of property that separates this portion of the property from Shortcut Rd.

Mr. Outten said that all conditions have been met, DOT has required the deceleration lanes and turn lanes, but is concerned about the PB making the lights a condition because that would be out of the control of the developer if DOT doesn't require the light.

Mr. Ferguson asked if there were reservations with the Memorial Day to Labor Day conditions.

Mr. Outten said the conditions were satisfactory.

Mr. Hawley said that he thinks that the hours should be an hour after dawn and an hour before dusk because of the school traffic.

Mr. Outten said that if the trucks got in early, they would be out of the area before school buses come through.

Mr. Hawley motioned to approve the request as presented and addition of the condition of flashing warning lights on the signs and the hours of operation being changed to one hour after dawn to one hour before dusk. Mr. Kovacs seconded the motion. Motion passed unanimously.

David Ryan appeared before the board.

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

PB 01-08 Kilmarlic Club Amended Preliminary Plat for property located at the Kilmarlic entrance Rd. approximately 400' north of West Side Lane. Tax Map 124, lots 57C, 57D, and 57E, Poplar Branch Township.

**ANALYSIS OF ITEMS FOR THE PLANNING BOARD
MEETING DATE: OCTOBER 11, 2005**

ITEM: PB 01- 08 KILMARLIC CLUB – AMENDED PRELIMINARY PLAT FOR NEW ENTRY ROAD

OWNER:
Kilmarlic Residential, LLC
759 S. Bayview
Jarvisburg, NC 27947

APPLICANT/AGENT:
Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

ORIGINAL TAX ID: Tax Map 124, Parcels 52A, 52B, 57, 132, 134, 135, & 136

LOCATION: Located on the west side of Caratoke Hwy. (US 158) along West Side Lane (SR 1112).

LAND USE/ZONING OF SURROUNDING PROPERTY:

- NORTH:** Fire Station, Residential, Woodlands, sludge disposal site - zoned A
- SOUTH:** Mining, demolition landfill (incinerator), Residential, Wetlands - zoned HM & C
- EAST:** Residential and Commercial - zoned GB
- WEST:** Albemarle Sound

PURPOSE OF REQUEST:

The applicant requests an Amended Preliminary Plat approval for the new entry road into Kilmarlic Club from Caratoke Highway. The entry road is located approximately 380' north of the intersection of West Side Lane and Caratoke Highway.

Kilmarlic Club received initial Sketch Plan approval for a 143-lot residential and golf course Common Open Space Subdivision from the Board of Commissioners on May 21, 2001. Minimum lot sizes range from 15,000 to 17,000 sf. On July 6, 2004 the BOC approved an Amended Sketch Plan for the location of the new entry road. Conditions of the approval were that the developer installs a 10" waterline down the new entry road. Due to the entry road crossing through the Reserve County Facilities lot, the BOC

*Minutes are not official until approved by the board.

required the exchange of the fire station properties and the construction of a new fire station on this site prior to Final Plat recordation. Since the approval date staff has been informed that the fire station exchange is no longer a condition for Final Plat recordation.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

- STREETS:** The new entry road and deceleration lane have been installed and certified as meeting NCDOT pavement requirements based upon pavement density testing.
- WATER:** A new 10" waterline has been installed from Caratoke Highway down to West Side Lane and is served by the county's water system. As-Built plans for the waterline have been submitted.
- FIRE:** Lower Currituck Volunteer Fire Department provides fire coverage to the area. No fire hydrants were installed with the waterline extension.

STAFF COMMENTS:

1. The development is lacking the Corp of Engineers approval for some wetland mitigation work that is being performed in the development.
2. A new deceleration lane from Caratoke Highway into the development was constructed.
3. An Erosion & Sedimentation Control Plan was approved.
4. The state stormwater permit did not require a formal permit modification from the existing permit.
5. Final approval was granted from the state for the waterline extension.
6. NCDOT approved an encroachment agreement for the deceleration lane and utility work on Caratoke highway and a driveway permit for the new entry road.
7. NCDOT has certified that the pavement meets the state standards.
8. Technical Review staff reviewed this application. The following corrections shall be made to the as-built plans:
 - a. Need to show the ties for all of the water valves.
 - b. Show a north arrow.
 - c. Correct the scale of the drawings to 1"=50'.
 - d. Show a pavement cross section
9. The following corrections shall be made to the Amended Preliminary Plat:
 - a. Correct the sheet numbering;

- b. Correct the note numbering on sheet 1
- c. Sheet 2 – show the width of the landscape, signage and utility easement along Caratoke Highway; and
- d. Remove the residual area in right-of-way on Tax Map 124 Parcel 54

STAFF RECOMMENDATION:

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

8. Require Army Corp of Engineers approval for the mitigation work within Phase 1 by October 4, 2005 prior to going before the Planning Board and Board of Commissioners;
9. The following corrections shall be made to the as-built plans:
 - (a) Ties shown for the waterline improvements.
 - (b) A north arrow shall be shown on the plans.
 - (c) Correct the drawing scale to 1" = 50'.
10. The following corrections shall be made to the Amended Preliminary Plat:
 - (a) Correct the sheet numbering;
 - (b) Correct the note numbering on sheet 1
 - (c) Sheet 2 – show the width of the landscape, signage and utility easement along Caratoke Highway; and
 - (d) Remove the residual area in right-of-way on Tax Map 124 Parcel 54
11. ***That the corrected Preliminary Plat be submitted and approved by the Planning Department prior to the Board of Commissioners meeting.*** To be scheduled for the first BOC meeting in November, the corrected plans must be submitted to the Planning Department by noon on the Monday October 17th;
12. That applicant meet all requirements of the county's Unified Development Ordinance; and
13. That should any conditions within this permit conflict with any other permit(s) issued for this activity, and then the more restrictive condition shall prevail.

DISCUSSION

Mr. Hawley said that there is no turn lane on the map the board received.

Ms. Eggar said those are not shown on a final plat.

Mr. Ryan stated that the Army Corp of Engineers was rescheduled to Monday, October 17 for their approval on the mitigation work.

Mr. Hawley asked if Mr. Ryan anticipated any issues.

Mr. Ryan said no.

Mr. Midgette motioned to approve this request as presented. Mr. Riley seconded the motion. Motion passed unanimously.

PB 01-08 Kilmarlic Club Amended Final Plat for property located at the Kilmarlic entrance Rd. approximately 400' north of West Side Lane. Tax Map 124, lots 57C, 57D, and 57E, Poplar Branch Township.

**ANALYSIS OF ITEMS FOR THE PLANNING BOARD
MEETING DATE: OCTOBER 11, 2005**

**ITEM: PB 01- 08 KILMARLIC CLUB – AMENDED FINAL PLAT FOR
NEW ENTRY ROAD**

OWNER:
Kilmarlic Residential, LLC
759 S. Bayview
Jarvisburg, NC 27947

APPLICANT/AGENT:
Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

ORIGINAL TAX ID: Tax Map 124, Parcels 52A, 52B, 57, 132, 134, 135, & 136

LOCATION: Located on the west side of Caratoke Hwy. (US 158) along West Side Lane (SR 1112).

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Fire Station, Residential, Woodlands, sludge disposal site - zoned A
SOUTH: Mining, demolition landfill (incinerator), Residential, Wetlands - zoned HM & C
EAST: Residential and Commercial - zoned GB
WEST: Albemarle Sound

PURPOSE OF REQUEST:

The applicant requests an Amended Final Plat approval for the new entry road into Kilmarlic Club from Caratoke Highway. The entry road is located approximately 380' north of the intersection of West Side Lane and Caratoke Highway.

Kilmarlic Club received initial Sketch Plan approval for a 143-lot residential and golf course Common Open Space Subdivision from the Board of Commissioners on May 21, 2001. Minimum lot sizes range from 15,000 to 17,000 sf. On July 6, 2004 the BOC approved an Amended Sketch Plan for the location of the new entry road. Conditions of the approval were that the developer installs a 10" waterline down the new entry road.

Due to the entry road crossing through the Reserve County Facilities lot, the BOC required the exchange of the fire station properties and the construction of a new fire station on this site prior to Final Plat recordation. Since the approval date staff has been informed that the fire station exchange is no longer a condition for Final Plat recordation.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: The new entry road and deceleration lane have been installed and certified as meeting NCDOT pavement requirements based upon pavement density testing.

WATER: A new 10" waterline has been installed from Caratoke Highway down to West Side Lane and is served by the county's water system. As-Built plans for the waterline have been submitted. Water system has received state approval.

FIRE: Lower Currituck Volunteer Fire Department provides fire coverage to the area. No fire hydrants were installed with the waterline extension.

STAFF RECOMMENDATION:

Staff recommends conditional approval for the following reasons:

1. The application is complete. Based on staff review all required information has been submitted for review and has been approved.
2. The application is in substantial conformance to the approved Preliminary Plat. Lot layouts, utilities, drainage and streets conform with the approval given at Amended Sketch Plan.
3. The applicant meets the standards and requirements within the County's UDO for Final Plat approval. Based upon staff's review, the applicant has met the standards and requirements within the UDO, except for the posting of a street maintenance bond.

This recommendation is based upon the following conditions:

1. Require Army Corp of Engineers approval for the mitigation work within Phase 1 by October 4, 2005 prior to going before the Planning Board;
2. The following corrections shall be made to the Amended Final Plat:
 1. Correct the sheet numbering;
 2. Correct the note numbering on sheet 1

3. Sheet 2 – show the width of the landscape, signage and utility easement along Caratoke Highway; and
4. Remove the residual area in right-of-way on Tax Map 124 Parcel 54
3. That a Street Maintenance Bond in the amount of **\$13,737** (1,373 LF roadway X \$50 = \$68,685 X 20% = \$13,737) be submitted and held by the County for a minimum period of at least 18 months and then the bond will only be released at such time as the streets are turned over to either a property owners association or NCDOT;
4. That applicant meet all requirements of the County's Unified Development Ordinance; and
5. That should any conditions within this permit conflict with any other permit(s) issued for this activity, then the more restrictive condition shall prevail.

DISCUSSION

There was no separate discussion on the final plat.

Mr. Midgette motioned to approve the request as presented. Mr. Winter seconded the motion. Motion passed unanimously.

Starkey Sharp appeared before the board.

Ms. Eggar presented the following case analysis.

PB 05-24 Younts Rezone approximately 19 acres from Agricultural to Residential on property located at the end of West Side Lane adjacent to Kilmarlic Club. Tax Map 124, Lot 133, Poplar Branch Township.

Zoning Staff Report: PB 04-24 Charles E. Younts, Jr. Rezoning

TYPE OF REQUEST: Request for rezoning 19 acres of a 50 acre site from Agricultural (A) to Residential (R).

LOCATION: This site is located in Spot at the terminus of West Side Lane adjacent to the Kilmarlic Club development; Poplar Branch

TAX ID: TM 124 Parcel 133

OWNER:
Charles E. Younts, Jr
7764 Caratoke Hwy.
Powells Point, NC 27966

APPLICANT:
Seagrass, LLC
PO Box 1600
Kitty Hawk, NC 27949

AGENT:
Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

ZONING:	<u>Current Zoning</u> Agricultural	<u>Proposed Zoning</u> Residential
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ZONING HISTORY: Property has been zoned Agricultural since 1989.

SURROUNDING ZONING / LAND USE:

NORTH: Agricultural /Wetlands
SOUTH: Agricultural /North River
EAST: Agricultural /Kilmarlic Residential Lots & Golf Course
WEST: Agricultural /Woodland & Wetlands

EXISTING LAND USE: Commercial Septage

PROPOSED LAND USE: The agent has stated that the desire is to develop the site as Phase 2 of Kilmarlic Club with 20 residential lots. The site is proposed to be developed as an Open Space Subdivision.

LAND USE PLAN: The 1990 Land Use Plan classifies this site as Conservation. The purpose of the Conservation designation 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. The proposed density for this development is 0.95 units per acre. This rezoning slightly exceeds the density recommended with the Conservation classification.

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

TRANSPORTATION: Property has approximately 770' of frontage onto West Side Lane. This street is a residential street and is not classified in the 1999 NCDOT Thoroughfare Plan.

FLOOD ZONE: The property is located within the 100 year floodplain

*Minutes are not official until approved by the board.

SOILS: The portion of the site included in this rezoning request is the upland portion of the site and the soils are favorable for septic systems. The remaining land area is composed of wetlands and soils unfavorable for septic systems.

STAFF COMMENTS:

- The land is currently being used as commercial septage site. Staff has concerns about the environmental health risks that might be associated with the conversion of this site to residential lots. Staff has requested a letter from DEHNR concerning the acceptability of this property for residential purposes.
 - Based upon preliminary information from the agent, the federal regulations require that "public access to land with a high potential for public exposure shall be restricted for one year after the application of sewage sludge". This restriction appears to also apply to septage.
 - Septage operations are not permitted in a residential zoning district. Once the property is rezoned, the operations will have to halt to be in conformance with the new zoning.
 - The rezoning is for a 19 acre portion of a 50 acre site. Based on the USDA Soils Survey and the wetland delineations, it appears that this is the only portion of the site which is acceptable for development.
 - The site is designated as Conservation area in the 1990 Land Use Plan. A purpose of this designation to preserve wetlands and areas of environmental importance.
 - Under the proposed rezoning, single family density would increase from 1 unit every 3 acres to 1 unit every 40,000 square feet.
 - The site abuts the golf course for the Kilmarlic Club, a residential development. It should be noted that the majority of the Kilmarlic Club is zoned Agricultural.
 - The nearest residential zoned land is a portion of the Kilmarlic Club which is approximately 1,700' away. Additional residential zoned land is located about 0.9 miles away off of Caratoke Highway.
 - Since 1990 there have been only two approved rezonings from Agricultural to Residential
 - The Winslow Farms – Approximately 145 acres
 - Tuckers Lair – Approximately 2 acres
-

STAFF

RECOMMENDATION: This property is not contiguous with a Residential zoning district yet the proposed use conforms to the surrounding land use found at the Kilmarlic Club. Staff does have concerns with the environmental safety regarding the

conversion of the septage field into a residential development. Staff recommends delaying approval of the rezoning request until such time that it can be verified by the state that there will be no environmental hazards with the use of the site as a residential development. If a written verification from DEHNR that the proposed residential use will not result in any public health concerns, then staff supports this rezoning.

To be in conformance with the new zoning designation and the residential development, the existing state permit will be required to be revoked and all septage operations halted. Proof of the revocation of the permit and cessation of operations shall be submitted to the Planning Staff within 30 days of approval, or the property will revert back to the agricultural zone.

DISCUSSION

Mr. Bell asked why this is on the agenda if the staff is recommending delay.

Ms. Eggar stated that some of the information is convoluted and is waiting for a letter from DENR regarding the one year waiting period in converting the septic field.

Mr. Bell stated that if this item was tabled, it still would not meet the one year requirement.

Mr. Sharp said that Mr. Younts has a state permit, the understanding is that there is a one year waiting period after the operations have stopped. Mr. Younts is willing to stop operation immediately if this is approved and by the time the appropriate approvals are all obtained, the year time requirement will be met. He described the development of Kilmarlic Club and said that this project is consistent with that approval. He said that the move to residential is favorable.

Mr. Kovacs asked if there would be topsoil added.

Mr. Mark Bissell said that there is a minimum PH level required, but no additional treatment is required, only that the property lie dormant for a one year period and spoke of the State and Federal EPA guidelines on dormancy periods.

Mr. Hawley asked if this approval will affect the plan for Kilmarlic.

Mr. Ferguson said yes. If the property is rezoned the septage operation would have to cease. It would create a non conformity if they did not stop the disposal. One year would have to pass prior to housing being built in this high exposure area.

Mr. Bell asked if the property is rezoned and the state after a year doesn't approve the soil.

Mr. Ferguson said that he spoke with Mr. Scott and that he was told that there hasn't been an issue of a property having more than a year waiting period. The unanswered question is whether roads and utilities can be installed within that year.

Mr. Riley asked if the condition was based on environmental hazard.

Mr. Ferguson said that the regulations are difficult, but that the property would only be required to remain dormant for a year. The year will begin when the septage operations stop.

Mr. Riley motioned to approve the request as presented. Mr. Kovacs seconded the motion. Motion passed 6-1 with Mr. Bell voting no.

Mark Bissell and David Ryan appeared before the board.

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

PB 01-08 Kilmarlic Club Phase 2 Amended Sketch Plan for 32 lots at the end of West Side Lane adjacent to the Golf Course. Tax Map 124, Lot 133, Poplar Branch Township.

**ANALYSIS OF ITEMS FOR THE PLANNING BOARD
MEETING DATE: OCTOBER 11, 2005**

ITEM: PB 01- 08 KILMARLIC CLUB – AMENDED SKETCH PLAN

LOCATION: This site is located in Spot at the terminus of West Side Lane adjacent to the Kilmarlic Club development; Poplar Branch

TAX ID: TM 124 Parcel 133

OWNER:
Charles E. Younts, Jr
7764 Caratoke Hwy.

APPLICANT:
Seagrass, LLC
PO Box 1600

AGENT:
Bissell Professional Group
PO Box 1068

Powells Point, NC 27966

Kitty Hawk, NC 27949

Kitty Hawk, NC 27949

SURROUNDING ZONING / LAND USE:

NORTH: Agricultural /Wetlands
SOUTH: Agricultural /North River
EAST: Agricultural /Kilmarlic Residential Lots & Golf Course
WEST: Agricultural /Woodland & Wetlands

PURPOSE OF REQUEST:

Applicant is seeking Amended Sketch Plan to allow the addition of 12 lots to the original development for a total of 155 lots within the original community. In addition the applicant proposes to add an additional 49.7 acres to the site to create Kilmarlic Phase 2 with 20 home sites. Phase 2 is located adjacent to the western edge of the tract next to the existing golf course hole #3 and is know as the Younts tract.

The Younts property a 49.7 acre tract with approximately 19 acres of upland. Concurrent with this approval, the applicant is requesting the rezoning of this site from Agricultural to Residential. The property is currently being used as a commercial septage disposal site. If the rezoning is approved, the septage operations will no longer be a permissible use of the land (i.e. only allowed in the "a" zone).

HISTORY OF DEVELOPMENT:

When the original Sketch Plan/Special Use Permit approval was granted on May 21, 2001, the approved yield plan was for 155 lots. Due to the amount of land involved with the development of the golf course and conservation areas, only 143 lots were developed.

On July 6, 2004 the BOC approved an amended sketch plan for the location of a new entry road into the development.

During the initial sketch plan approval process, the developer, The Golf Course Collaborative, was in negotiations with Charles Edward Younts Jr. to purchase the adjacent 49.7 acre tract. At that time the Younts property was being used as a sludge disposal site. At the present time the site is used as a commercial septage disposal site. The intent of the land acquisition is to develop Phase 2 of the Kilmarlic Club.

PROJECT DESCRIPTION:

Kilmarlic Club is currently developed as an up-scale golf course community with a typical lot size of 15,000 sf where all of the lots front on a golf course or open space. The lots are served by individual septic systems and county water. There are two points of ingress/egress to the site from Caratoke Highway. A sound access area and contractual provisions that provide for access to the golf course by lot owners are included as recreational amenities.

According to the Development Impact Statement, the typical homes will average 2,500 to 3,000 sf and will be a four bedroom three bath design with a mixture of “modern-styled upscale home features”. The developer anticipates building the homes and estimates the buildout value of the home/lot combinations for the 32 lots to be approximately \$16 million, or an average of \$500,000 per package.

For the addition of Phase 2 a yield plan was prepared which revealed an allowable density of 20 lots on the 19 acre upland portion of the Younts tract. Since there are only 20 lots, no open space is required. Due to the lot size reduction to 20,000 sf, the tract will be developed as an Open Space Subdivision where the lot size reduction becomes dedicated open space in the amount of 4.85 acres.

The applicant has presented two alternatives for the expansion of this development. Alternative A depicts 12 additional lots being located within the original Phase 1 tract where the existing golf course hole #3 is currently located. Hole #3 is then relocated onto the Younts tract and is surrounded by the additional 20 residential lots. In Alternate B golf hole #3 remains in its current location and the 12 lots from the original development are moved to the Phase 2 tract. Each alternative has its pros and cons.

Alternate A:

The 12 additional lots to the original Phase 1 development will be typically 15,000 sf. The lots will be placed where the current golf hole #3 is sited. These lots will front on the existing golf course and a new road located within Phase 2.

Under this plan, hole #3 will be relocated to the center of Phase 2 with home sites surrounding the golf course. The home sites in Phase 2 will typically be 20,000 sf in size. Due to the lot size reduction approximately 9 acres of open space is required. Under this scenario there are 7 acres of upland open space and 36 acres of wetlands being dedicated.

The streets will be cul-de-sacs so as to not create a conflict with the golf course. Staff would prefer looping the streets to avoid the two cul-de-sacs and improve the traffic flow. It appears that if the road were looped that it would create a conflict with the use of the golf course and the road.

This alternative is in harmony with the existing Kilmarlic community where every lot has frontage on either the golf course or open space. The relocation of the golf hole ties this phase into the rest of the development. Staff supports this alternative.

Alternate B:

Under this scenario, the 12 lots allocated to the original development will be placed in Phase 2. All 32 lots in this scheme are a minimum of 20,000 sf with an average lot size of approximately 21,200 sf. 11 of the lots will front on the existing hole #3 and five lots will front along the wetlands.

There is only 1.29 acres of upland open space being dedicated within Phase 2. Due to the lot size reduction approximately 9 acres of open space dedication is required, 50% of which can be wetlands. To make up for the open space deficiency, a portion of the hole #3 fairway is being allocated to the Phase 2 open space requirement. When the open space requirements for the development as a whole are reviewed, there is ample dedicated open space to serve this configuration.

This street layout has two points of entry, one being a loop road which ties into the main road serving the lots. Staff prefers this street layout over the two cul-de-sacs proposed in Alternate A.

Due to the lack of the golf course amenity in this phase, staff feels that this alternative is not in keeping with the original development. Since Phase 2 is not affiliated with any portion of the golf course, and staff has concerns that if Phase 2 is not directly linked with the original Kilmarlic, it may become a separate entity.

The proposed development in Phase 2 under this alternative would not be permissible under the current UDO regulations if this tract were to stand on its own (i.e. exceeds allowable density and inadequate open space dedication). Staff has concerns with the ownership of Phase 2 and the lack of any proposed golf course improvements since it will be owned by a separate entity, separate from the Kilmarlic community and is not directly linked with the original development.

STAFF COMMENTS:

1. The additional 32 lots will generate approximately 12 additional elementary school students, two junior high students and five high school students.
2. According to the January 2005, school population projections, Griggs Elementary School will be -129 over capacity after full development of approved subdivisions within Poplar Branch Township. The proposed subdivision is **not** reflected in the student population count nor is the proposed elementary school for Jarvisburg. Once the new 300 student school is in operation the student count will be an additional capacity of 159 students.
3. According to the Land Use Plan, Conservation areas (if developable) should be done at densities of less than one unit per gross acre. The proposed density for this development is 0.95 units per acre. This rezoning is slightly exceeds the density recommended with the Conservation classification
4. Since Phase 2 is currently a septage site, staff has concerns about the environmental health risks that might be associated with the conversion of this site to residential lots. Staff has requested a letter from DEHNR concerning the acceptability of this property for residential purposes be submitted for review. The agent has supplied staff with some of the federal guidelines, which the state follows. The federal regulations require that "public access to land with a high potential for public exposure shall be restricted for one year after the application of sewage sludge". This restriction appears to also apply to septage.

5. Under Alternate B, where there are no golf course improvements proposed, staff will require assurances that Phase 2 is a part of the Kilmarlic Club and under the same HOA.
6. Alternate A is in harmony with the layout of the original development and incorporates golf course improvements in Phase 2.
7. State permits, including but not limited to, stormwater, wastewater, erosion & sedimentation control permits will be required in addition to authorization to construct the waterlines.
8. That the following corrections shall be made to the plans:
 - a. Use the following approved street names:
 - i. Brae Burn Drive
 - ii. Hillock Drive
 - iii. Kilmarnok Drive
 - iv. Fortune Bay Drive
 - b. Alternate A Development Summary Table:
 - i. Show area of right-of-way dedications for both phases
 - ii. Total lot area – clarify by indicating the new lot area and the total lot area for Phase 1
 - iii. Correct the lot size reduction to 8.46 acres and required open space requirements for Phase 2
 - c. Alternate B Development Summary Table
 - i. Show the minimum required open space and open space upland requirement for Phase 1
 - ii. Show the right-of way areas for both phases and the total area
 - iii. Show the wetland area in Phase 2
 - iv. The open space calculation is double counting the open space from Phase 1 being allocated to Phase 2. Total open space should be 505.69 acres
 - v. Show the totals for lot area and open space area

STAFF RECOMMENDATION:

Staff recommends **approval**, subject to the Board of Commissioner's determination that adequate water and school facilities exist, or will exist, to meet the demands generated by this subdivision. If the Board of Commissioners so finds, staff also recommends the following conditions:

1. Proof of the revocation of the septage permit and the date that the operations ceased shall be submitted to the Planning Staff within 30 days of the Younts property rezoning.
2. Phase 2 shall be required to be a part of the Kilmarlic Homeowners Association at the time of Final Plat
3. If Alternate B is chosen, a recombination plat shall be required combining Phase 2 with Phase1 prior to the submission of the Preliminary Plat
4. Prior to the Board of Commissioners meeting a letter from DEHNR shall be submitted to the staff clearly stating the requirements for converting the existing sludge/septic disposal area into a residential development.
5. NCDOT approval is required for the hammerhead intersections
6. That the following corrections shall be made to the plans:
 - a. Use the following approved street names:
 - i. Brae Burn Drive
 - ii. Hillock Drive
 - iii. Kilmarnok Drive
 - iv. Fortune Bay Drive
 - b. Alternate A Development Summary Table:
 - i. Show area of right-of-way dedications for both phases
 - ii. Total lot area – clarify by indicating the new lot area and the total lot area for Phase 1
 - iii. Increase the lot area and decrease the open space to reflect the lots created at hole #3.
 - iv. Correct the lot size reduction to 8.46 acres and required open space requirements for Phase 2
 - c. Alternate B Development Summary Table
 - i. Show the minimum required open space and open space upland requirement for Phase 1
 - ii. Show the right-of way areas for both phases and the total area
 - iii. Show the wetland area in Phase 2
 - iv. The open space calculation is double counting the open space from Phase 1 being allocated to Phase 2. Total open space should be 505.69 acres
 - v. Show the totals for lot area and open space area
7. ***That corrected plans be submitted to the Planning Department for review and approval;*** To be scheduled for the first BOC meeting in

November, the corrected plans must be submitted to the Planning Department by noon on the Monday October 17th.

8. That the applicant shall be required to meet all requirements of the UDO including, but not limited to the planting of street trees along all newly paved streets; installation of a water line; water services, and adequate drainage facilities to serve the development.
9. That a Preliminary Plat shall be submitted for review within 24 months from the date the Sketch Plan is approved by the Board of Commissioners; and
10. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

DISCUSSION

Mr. Hawley asked if the staff recommendation is Alternative A.

Mr. Ferguson said that 'A' keeps the development more simple and conforming with the UDO. There are open space and density issues with Alternative B. To adhere to the rules, Alternative A is a better choice.

Mr. Sharp stated that to go with Alternative A, they would have to destroy a golf hole and can't project the issues from that change. The developer intends to add these lots to the HOA, and Alternative B would not make this area a separate part of the subdivision and the developer prefers this option.

Mr. Denny Horgan, adjoining property owner, said that he was concerned with whether the developer was required to pave the road and whether he would have access to his property. He said that he would like to use the road in Alternative A.

Mr. Ferguson said that all roads are required to be paved and meet DOT standards. He asked Mr. Horgan to show the board where his property would abut the road in Alternative A. He said that the developer would pave to the property line on West Side Land. He spoke to the issue of when the road would become State maintained.

Mr. Horgan said that Mr. Younts has given him a letter with permission to access his property.

Mr. Sharp said the developer is agreeable to Mr. Horgan using this access to his property.

Mr. Kovacs said that people want to buy houses on a golf course. Option B doesn't afford this to the buyer, and the property may not have as high a value.

Mr. Riley said that Alternate A would tie the development together.

Mr. Hawley said that option B would give larger lots, it may also lessen drainage and septic issues. He also stated a concern with other developers coming forward to add lots to their developments.

Mr. Kovacs motioned to approve the request with Alternative A as presented. Mr. Riley seconded the motion. Motion passed 5 -2 with Mr. Hawley and Mr. Keel voting no.

Todd Ottenstein, Buck Thornton, and Mark Bissell appeared before the board.

Ms. Eggar stated that an adjacent property owner called to state that the post mark on the notice was October 6 and should have been September 30 and did not have adequate notice to be present at the meeting.

Mr. Bissell stated that this property owner spoke with him and her concerns were buffering, noise, etc.

Mr. Ferguson said that there would be a public hearing at the BOC meeting.

Ms. Eggar described the conversation she had with the property owner regarding her concerns.

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

PB 84-11 Corolla Light PUD Amended Sketch Plan to allow 6 apartments on property located in Phase 3 Corolla Light Town Center. Tax Map 115B, Lot 2P2B, Fruitville – Outer Banks Township.

**ANALYSIS OF ITEMS FOR PLANNING BOARD
MEETING DATE: OCTOBER 11, 2005**

ITEM: **PB 84-11 COROLLA LIGHT PUD – AMENDED SKETCH PLAN**

LOCATION: Phase 3 – on the east side of Ocean Trail, NC 12, centered within the Corolla Light Town Center formerly known as the Corolla Light Village Shops commercial area.

TAX ID: 115B-000-2P2B-0000

ZONING DISTRICT: RO1/PUD Commercial

OWNER: Corolla Light Town Center, LLC PO Box 303 Corolla, NC 27927	APPLICANT: R.A. Brindley 215 Brooke Ave # 1001 Norfolk, VA 23510	AGENT: Bissell Professional Group PO Box 1068 Kitty Hawk, NC 27949
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ADJACENT LAND USE:

NORTH:	State of North Carolina property – zoned RO1
SOUTH:	Whalehead Subdivision/Monteray Shores PUD – zoned RO1/PUD
EAST:	Atlantic Ocean
WEST:	Currituck Sound

PURPOSE OF REQUEST:

Applicant is seeking amended Sketch Plan approval to allow the addition of six two bedroom apartment units within Phase 3, Corolla Light Town Center, for a total of 37 apartment units within the PUD.

STAFF COMMENTS:

1. The property is classified as “Limited Transition” in the County’s 1990 Land Use Plan. PUD’s are appropriate in this class.
2. Residential density under this plan will increase from a total of 450 units to 456 units or 2.52 units/acre. For the overall project to 2.55 units/acre. PUD developments are permitted at a residential density of 3 units/acre.
3. The Corolla Light Town Center currently has 26 two bedroom apartment units. This amended sketch plan increase the total to 32 apartments within this phase for a total of 37 apartments within the PUD.
4. When the PUD was originally established, the total number of apartments allowed was 30 unit.
5. According to Mr. Robert Tankard with the state’s wastewater division, the existing wastewater treatment facility has the additional capacity for these units. This will be verified by the state at time of the preliminary plat/site plan review.

6. In regards to the water capacity the average daily summer demand is 67% of the production capacity. The state is concerned that the peak demand is 91% of the production capacity and allows only a small margin for line breaks, fires, or other unusual water usage.

STAFF RECOMMENDATION:

Staff recommends for **approval** of the request subject to the following conditions:

1. That the following corrections be made to the amended sketch plan:
 - (a) That the Density Table be changed to show a the allowed density to be 3 units/acre;
 - (b) That the Phasing in Beacon Hill be corrected to Phase 7D and removed the note about combining Phases 7B and 7C into Phase 7D
 - (c) Phase 2F – remove the notes for existing and proposed phase lines and show the current revised phase line.
 - (d) Phase 3 and 2B – show the pond and building 8.
2. ***That the corrected amended sketch plan be submitted and approved by the Planning Department prior to the Board of Commissioners meeting.*** To be scheduled for the first BOC meeting in November, the corrected plans must be submitted to the Planning Department by noon on the Monday October 17th;
3. That the applicant meet all requirements of the county's Unified Development Ordinance;
4. That should any conditions within this permit conflict with any other permit(s) issued for this activity, then the more restrictive condition shall prevail; and
5. That as a continuing condition to this approval, the applicant will continue to meet all requirements of the county's Unified Development Ordinance.

DISCUSSION

Mr. Ottenstein said that two other adjoining property owners called regarding the item two weeks ago. He said that Ms. Wittersheim's property will be completely buffered.

Mr. Bissell stated that they are trying to get the project back to what was approved in the late 1980's. There were always 13 buildings, 30 apartments on the plan. The skatepark was added instead of the 13th building.

Mr. Hawley asked if the original sketch plan showed these apartments.

Ms. Eggar said it was approved for 30 apartments, they are asking for 32 for a total of 37 in the entire P.U.D. Mr. Ferguson asked where the other multi family units are.

Mr. Bissell named the sections where the other units are currently.

Mr. Hawley asked Mr. Bissell to address the water concerns.

Mr. Bissell said that they are in the process of receiving those approvals.

Mr. Hawley asked if the adjoining property owner's concerns were addressed.

Ms. Eggar pointed out the trees that would be taken out for parking.

Mr. Ottenstein stated that other trees have been removed, but Ms. Wittersheim's property is still buffered and can't be seen from the area.

Mr. Ottenstein spoke to the importance of housing to the business owners in the area and the addition of the apartments would aid in housing workers.

Mr. Hawley asked whose property the trees are on.

Ms. Eggar once again demonstrated the trees and the buildings surrounding the area in question.

Mr. Hawley asked if the property owners were notified in time.

Ms. Eggar said that Ms. Wittersheim has not faxed the envelope with the postmark showing the delay in the notices.

Mr. Bissell said that she will be able to be heard at the Public Hearing.

Mr. Bell stated that the adjoining property owners have a right to be here as tax payers and should be notified appropriately.

Mr. Kovacs motioned to table the request. Mr. Riley seconded the motion. Motion passed unanimously.

Mark Bissell appeared before the board.

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

PB 03-28 Waterside Villages Phase 1 Final Plat for 34 residential lots at the east end of Waterfront Dr. approximately 2,000 feet east of Caratoke Highway. Tax Map 108, Lots 20, 21, 22B, 22C, and 22D, Poplar Branch Township.

**ANALYSIS OF ITEMS FOR THE PLANNING BOARD
MEETING DATE: OCTOBER 11, 2005**

ITEM: **PB 03-28 WATERSIDE VILLAGES – PHASE 1, FINAL PLAT FOR 34 SINGLE FAMILY PLANNED ADULT RETIREMENT RESIDENCES**

LOCATION: Off of NC 158 (Caratoke Highway) just south of Soundside Estates, Poplar Branch Township.

TAX ID: **Tax** Map 108 Parcels 20, 21, 22B, 022C and 22D

ZONING DISTRICT: Agricultural and General Business with an overlay zoning for Planned Adult Retirement Community

OWNER:
VOC, LLC
P.O. Box 147
Harbinger, NC 27941

APPLICANT/AGENT
Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

LAND USE/ZONING SURROUNDING PROPERTY:

NORTH: Residential / Agricultural
SOUTH: Vacant / Agricultural
EAST: Currituck Sound
WEST: Residential, Commercial, Vacant /General Business

NARRATIVE OF REQUEST:

VOC, LLC is seeking Final Plat approval for Phase 1 which consists of 34 single family lots, the entry road and the wastewater treatment site within a Planned Adult Retirement Community in Grandy. Waterside Villages received initial Sketch Plan approval for 232 adult retirement residences from the Board of Commissioners on September 15, 2003. In October 2004, an Amended Sketch Plan was approved which increased the total number of units to 250 and increase the green area for the wastewater treatment plant. Part of the Amended Sketch Plan required that the new wastewater treatment facility for the

development will provide treatment for all of the Walnut Island camper lots in exchange for the 4.73 acre Walnut Island wastewater treatment site. Preliminary Plat approval for Phases 1 to 6 was granted by the Board of Commissioners on October 4, 2004.

All lots front on improved private subdivision roads built to state standards. The lots will be connected to a centralized wastewater treatment system provided by the developer and to the county's water system.

The total acreage of the entire development is 72.3 acres. The development is setting aside 45% of the total site area as open space where the UDO only requires 35%. The development includes sound access with a marina, pier, nature trails, indoor/outdoor swimming pools and a clubhouse as recreational amenities.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: All streets have been built to NCDOT Design and Construction Standards. The streets will be private and will be maintained the Homeowners Association.

A deceleration lane has been installed from Caratoke Highway into the project.

WATER: The County is providing water to this development. The water line, water services, and fire hydrants have been installed. Water connection fees will be paid prior to the recordation of the Final Plat.

FIRE: This development is served by fire hydrants and is located within the Lower Currituck Volunteer Fire Department, which currently has a State ISO rating of 9.

WASTEWATER: A permit has been issued by the Division of Water Quality for a 90,000 gallons per day wastewater treatment and disposal area. The disposal area is 6.5 acres. The sewer district is in the process of being formed to service this community as well as the camper lots within Walnut Island

OPEN SPACE: A minimum 35%, or 25.3 acres, of the total tract must be set aside as open space. A total of 32.71 acres, or 45% of the site, will be dedicated open space once the development is completed.

There is 0.98 acres of open space being dedicated in Phase 1 which will be maintained by the Homeowners Association.

DRAINAGE:

Drainage swales, structures and pipes have been constructed though out Phase 1 in addition to two detention ponds at the site entrance.

STAFF COMMENTS:

1. The following corrections shall be made to the Final Plat:
 - a) Show assigned street addresses
 - b) Show correct Tax ID's
 - c) Note 8 references existing easements and right-of-ways. Show them and show the easements and R/Ws to be vacated including the the ones from the exempt subdivision
 - d) Note 10 states that the property is subject to the existing CC&R's
 - e) Note 14 – show the total lot area of Phase 1 and the WWTP – show the open space area in Phase 1
 - f) Show the right-of-ways as being private
 - g) Sheet 3 – show a lot designation and size for the pond areas beside the road. Show who it is to be dedicated to.
 - h) Sheet 3 – type along Caratoke Hwy is upside down – show a survey tie
 - i) Sheet 5- easement crossing through Lots 144 and 146 – show ties to property lines
 - j) Add the Stormwater Certification
 - k) Add the open space, ponds and drainage facilities note

STAFF RECOMMENDATION:

Staff recommends **conditional approval** for the following reasons:

1. Developer has installed all of the necessary waterlines, water services, and required fire hydrants and is connected to the county water system;
2. Pavement acceptance letter has been submitted by NCDOT;
3. Stormwater drainage as-built plans have been submitted;
4. Waterline as-built plans have been submitted;
5. The HOA documents address the responsible party for the stormwater drainage facilities;
6. The formation of the sewer district will be heard by the Board of Commissioners at the October 17, 2005;

7. The application is in substantial conformance to the approved Preliminary Plat. Lot layouts, utilities, drainage and streets conform with the approval given at Amended Sketch Plan; and
8. The applicant meets the standards and requirements within the County's UDO for Final Plat approval. Based upon staff's review, the applicant has met the standards and requirements within the UDO, except for the posting of required bonds and the payment of the water connection fees.

Staff recommends **conditional approval** with the following conditions:

1. Corrected copies of the Final Plat shall be submitted to the Planning Department for review and approval; (see staff comments)
2. The wastewater treatment plant shall service the existing customers of the Walnut Island Sanitary District as per the acquisition agreement with the Walnut Island Sanitary District dated September 14, 2004 and shall have the capacity to serve the remaining phases of Waterside Villages;
3. The developer shall pay **\$102,000** (\$3,000 x 34) for water connections fees;
4. Inspection of the waterline installation revealed that several items are outstanding prior to acceptance into the county water system;
5. The developer shall enter into a relinquishment agreement with the County Water Department for the waterlines;
6. That a Maintenance Bond in the amount of **\$ 80,163** (\$534,420 x 15%) for the WWTP be submitted to and held by the county for at least 18 months and at that point the amount will be released only when the maintenance responsibilities are turned over to the newly formed sewer district;
7. A street maintenance bond in the amount of **\$14,261** (\$95,070 x 15%) shall be posted and will be held by the County for a minimum period of 18 months and then the bond will only be released at such time as the streets are turned over to either a property owners association with the financial responsibility for maintenance or to NCDOT;
8. That Performance Bonds in the following amounts shall be posted with the county until such time as construction and/or installation has been completed and properly certified and inspected:
 - Entry Light - \$2,400 X 115% = **\$2,760**
 - Concrete sidewalks in R/W - \$39,360 x 115% = **\$45,299**
 - Asphalt Trails - \$39,580 x 115% = **\$45,417**
 - Street trees - \$58,640 X 115% = **\$67,436**
9. The drainage swales and structures shall be stabilized;
10. That a key or access code shall be provided to Fire and Rescue personnel for the entrance gate. In addition, the gates must be designed in a way that a fire truck or emergency vehicle could trigger the automatic opening when leaving the subdivision;

11. The applicant **conditionally** meets the standards and requirements within the County's UDO for Final Plat approval; and
12. That should any conditions within this permit conflict with any other permit(s) issued for this activity, then the more restrictive condition shall prevail.

DISCUSSION

Mr. Hawley asked how close this phase is to the waterfront.

Ms. Eggar demonstrated the plan for the development.

Mr. Hawley asked about the sewer district approval.

Ms. Eggar said that the approval should be in place prior to the item being presented to the Chairman of the Board of Commissioners for signature.

Mr. Ferguson explained the concept of the service district and that should not be a condition of approval. This is to be certain that the facility will be replaced should it be damaged.

Mr. Kovacs asked when the amenities are required to be completed.

Mr. Ferguson said there are no rules as to when these are to be complete.

Mr. Bissell said that the clubhouse has been refurbished.

Mr. Ferguson said that Mr. Bissell is in the process of obtaining a CAMA major permit.

Mr. Hawley asked if there are sidewalks in this project.

Mr. Bissell said that there will be sidewalks on one side of the street and several trails not shown on the final plat.

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

OLD BUSINESS

Mr. Bell stated his concern that adjacent property owner notifications be sent out on time. Mr. Kovacs mentioned requiring certified letters as proof.

Mr. Bell also stated his concern with errors in the Agenda and said it should be proof read to match packet information. He discussed making sure that there is a complete packet with minutes and mentioned his concerns with revisions to UDO and other documents being distributed at the meetings.

The board requests 11x17 maps in the agenda packet.

ADJOURNMENT

There being no further business to discuss, Mr. Riley motioned for adjournment. Mr. Keel seconded the motion and the motion passed unanimously. The meeting adjourned at 9:40 p.m.

Respectfully Submitted,

Tammy J. Underwood /s/

Tammy J. Underwood
Clerk to the Board