

CURRITUCK COUNTY PLANNING BOARD
September 13, 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 September 13, 2005. The following members were present: Bobby Bell, Alvin Keel, Forrest Midgette, Pat Riley, Joe Kovacs. Cheryl Eggar, Planner, and Gary Ferguson, Planning Director, were also present. Absent: Alvin Winter, Horace Bell, William Etheridge, and Eddie Hawley

Planning Board Vice Chairman Midgette 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.

APPROVAL OF SEPTEMBER 13, 2005 AGENDA

Mr. Keel motioned to approve the September 13, 2005 agenda. Mr. Riley seconded the motion. Motion passed unanimously.

APPROVAL OF AUGUST 9, 2005 MINUTES

Mr. Kovacs motioned to approve the August 9, 2005 minutes with corrections noted. Mr. Riley seconded the motion and the motion passed unanimously.

Eddie Hyman appeared before the board.

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

PB 05-25 Waterlily Ridge Sketch Plan for 11 lots on the east side of Waterlily Rd. approximately 500;' north of Scoggin Ct. Tax Map 80, Lot 63D, Poplar Branch Township.

LOCATION: West side of Waterlily Road approximately 450' north of Scoggin Court, Poplar Branch Township.

TAX ID: 0080-000-063D-0000

ZONING DISTRICT: Residential

OWNER:
Island Haven, Inc
PO Box 100
Currituck, NC 27929

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

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Residential - zoned R

SOUTH: Residential - zoned R
EAST: Residential, Hampton Cemetery & Currituck Sound – zoned R
WEST: Wetlands & Cedar Island Bay - zoned R

NARRATIVE OF REQUEST:

Island Haven is seeking Sketch Plan/Special Use Permit approval for 11 single family lots through the major subdivision process. The acreage of the entire development is approximately 12 acres contained within a 136 acre site.

This property is zoned Residential. Since the subdivision consists of less than 20 lots, no open space is required or provided. Eight of the lots within this development are proposed to be approximately 40,000 sq. ft. with the remaining three lots ranging from approximately 42,000 sf to 48,600 sf.

The subdivision will have one point of entry from Waterlily Road. Due to the existing development surrounding the property, future street connectivity is limited to the 124 acre residual parcel of this development. The lots will be served by individual septic systems and county water.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: All streets will be built to NCDOT Design and Construction Standards. The developer expects the street will be dedicated for maintenance to the NCDOT.

WATER: This development will be served by county water. The developer needs to demonstrate that the 6” line servicing the site has adequate pressure and flow and if upgrades are necessary to service the development.

FIRE: This development is located between the Crawford and Lower Currituck Fire Districts. The site is most proximate to the Crawford Volunteer Fire Department.

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

SOILS: The majority of the soils found on the site are favorable for septic systems.

SCHOOL CAPACITIES: Using national averages for school age student generation from the *1987 American Housing Study*, one can expect 0.4243 elementary students, 0.084 Jr. High students and 0.1568 High school students per dwelling unit. (*Note: These figures were verified by a field check of Currituck subdivisions in 1994*). Poplar Branch Township has an occupancy rate of 0.7764

Based on these pupil generation figures, Currituck can expect three elementary students, one junior high student, and one high school student from this development.

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 171 students.

OPEN SPACE: No open space is required or provided.

DRAINAGE: Roadside and property line swales/ditches tying into an existing ditch system will be used to address drainage for this property.

FLOOD ZONES: The property is located outside of the 100 year floodplain (flood zone C).

LAND USE PLAN: The property is classified as "Rural with Services" in the 1990 Land Use Plan. Low intensity residential uses with a gross density of approximately one unit per acre, where lots sizes are large and where the provision of services will not disrupt the primary rural character of the landscape are consistent with the intent of the rural with services class. Proposed density for the total 11 lot subdivision is 1 unit per gross acre which is consistent with the Land Use Plan.

STAFF COMMENTS:

- On August 11, 2005, Technical Review staff reviewed this application. Staff's concerns included the following:
 1. The primary concern was with the low water pressure and flow in the area. The Water Department is requesting a flow test and calculations. The water system may need to be upgraded to service this development.
 2. No future street connectivity is being offered. Staff requests a future street connection to the remaining 123 acre residual parcel.
- In response to concerns expressed by the TRC, a flow and pressure test was performed on the existing waterline. The pressure and flow proved to be adequate for water service and fire flow.

QUESTION(S) BEFORE THE BOARD:

1. *Is the application complete?*

Based on staff review all required information has been submitted for review.

2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?*

The proposal complies with all UDO requirements for Sketch Plan approval.

3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*

(a) *Will not endanger the public health or safety.*

Public health and safety issues including, stormwater management, wastewater disposal, and access for emergency services have been adequately addressed within this proposal. A flow test was performed and the water pressure and flow was found to be adequate for fire protection.

(b) *Will not injure the value of adjoining or abutting property.*

The proposed residential subdivision should not have a negative impact on adjoining properties;

(c) *Will be in harmony with the area in which it is located.*

The subdivision will consist of residential properties that will be in harmony with the surrounding residential area and land uses;

(d) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.*

The proposal will be consistent with the CAMA Land Use Plan and with the Thoroughfare Plan;

(e) *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within 2 years after the initial approval of the sketch plan. In the case of subdivision and multifamily development at the sketch plan/special use, preliminary plat, or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in accordance with Section 2015.*

Currituck can expect three elementary students, one junior high student, and one high school student from this development.

According to the current school population projections Griggs Elementary School has (-129) additional student capacity after full development of the currently approved subdivisions. The proposed subdivision is **not** reflected in the student population count.

A school site for the new Jarvisburg Elementary School has been located. Once the 300 student school is completed and in operation, the student count will be an additional capacity of 171 students.

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. That future street connectivity be provided to the 123 acre remnant parcel at the end of Cedar Bay Court;
2. 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.
3. 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
4. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

DISCUSSION

There was brief discussion regarding the street interconnectivity.

Mr. Kovacs asked who would maintain the 20 feet of street access.

Mr. Hyman described how the developer is offering access to the cemetery.

Mr. Hyman said that the owners asked this request to be approved without interconnectivity. There is a hedge row and behind the row there is a drop in the property and the soils are poor. The owners have no intention of developing this area at this time.

Mr. Keel asked if the cul de sac could be moved if the interconnectivity is required.

Mr. Bill Boyd said that the water pressure in the area is horrible. He also asked when the school will be built in Jarvisburg. He mentioned a concern with the stability of the road and concern for safety of the kids on the buses because of the road.

Mrs. Anna Boyd, stated that the road is caving in because of traffic.

Mr. Hyman said that NCDOT will be involved in the development process.

Mr. Keel asked when the water test was performed.

Mr. Hyman said it was done at 8:30 a.m.

Mr. Kovacs motioned to approve the request with the condition that the cul de sac be moved closer to the property line and the water pressure be retested in the evening after 5. Mr. Keel seconded the motion. Motion passed unanimously.

Donnie Wood appeared before the board.

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

PB 03-46 Owens Beach Estates Final Plat for 10 lots on property located at 307 Reggie Owens Dr. in Harbinger. Tax Map 125, Lot 35D, Poplar Branch Township.

LOCATION: In Harbinger at 307 Reggie Owens Drive, Poplar Branch Township.

TAX ID: 0125-000-035D-0000

ZONING DISTRICT: Residential

OWNER:
North Beach Development
4826 N. Croatan Highway
Kitty Hawk, NC 27949

APPLICANT/AGENT
North Beach Development
4826 N. Croatan Highway
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Residential - zoned R
SOUTH: Residential - zoned R
EAST: Residential - zoned R
WEST: Residential - zoned R

NARRATIVE OF REQUEST:

North Beach Development is seeking Final Plat approval for 10 single family lots off of Reggie Owens Drive. The total acreage of the entire development is approximately 11 acres.

This property is zoned Residential. Since the subdivision consists of less than 20 lots, no open space is required or provided. Lots within this development range from approximately 40,000 sq. ft. to 51,800 sq. ft with an average lot size of about 44,300 sf.

The subdivision has one point of entry onto Reggie Owens Drive. The lots will require individual septic systems. At the present time county water is not available to this subdivision. It is expected that by mid-September that the county will have completed the waterline extension which will connect to this development.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

- STREETS:** All streets have been constructed to NCDOT Design and Construction Standards. The streets will be dedicated for maintenance to the NCDOT.
- WATER:** This development will be served by County water. The water line, water services, and fire hydrants have been installed. All water connection fees have been paid. At the present time the county water is not available to the site and therefore the waterlines have not been tested and analyzed. The developer will place \$2,000 in an account with the County to guarantee the waterlines are accepted into the state system. The monies will be held until the developer tests and does a bacteriology analysis on the waterlines. If the waterlines do not pass the testing and analysis the developer will use the funds to make the necessary repairs.
- FIRE:** This development will be served by fire hydrants and is located within the Lower Currituck Volunteer Fire Department.
- WASTEWATER:** All of the individual lots have been tested and were classified as provisionally suitable for septic systems with fill by Albemarle Regional Health.
- OPEN SPACE:** No open space is provided, nor required, within the proposed development.
- DRAINAGE:** Drainage swales have been constructed along the exterior north and southwestern property lines of the development in addition to roadside swales. The stormwater from this site is discharging to Reggie Owens Drive.

STAFF COMMENTS:

1. The Sketch Plan/Special Use Permit for this development was approved by the Board of Commissioners on December 1, 2003 for 10 lots.
2. Preliminary Play approval was granted by the Board of Commissioners in August 2004.
3. Developer has installed all of the necessary waterlines, water services, and required fire hydrants. This system will connect to the county water system once the county waterline expansion is completed.
4. Inspection of the waterline installation revealed that a portion of the 6" line along the back of the cul-de-sac was installed at a depth of less than 3' and is required to be lowered as is one of the fire hydrant legs.
5. Technical Review Staff:
The Waterline As-Built was not submitted in time to be reviewed by the TRC Committee.
The following corrections shall be made to the Final Plat:

1. Add the Stormwater Certification
2. Add the open space, ponds and drainage facilities note

STAFF RECOMMENDATION:

Staff recommends **conditional approval** for the following reasons and subject to the following conditions:

1. A corrected Final Plat shall be submitted for approval;
2. Pavement acceptance letter has been submitted by NCDOT;
3. Street trees have been planted;
4. Stormwater drainage As-Built plans have been submitted and approved;
5. Waterline, services and fire hydrants have been installed;
6. Water connections fees have been paid - **\$30,000** (\$3,000 x 10);
7. That a Street Maintenance Bond in the amount of **\$5,000** shall be posted and will be 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;
8. The HOA documents need to address the responsible party for the stormwater drainage facilities;
9. That the developer shall post a **\$2,000** bond with the County to guarantee the waterlines are accepted into the state system;
10. That the developer shall enter into a relinquishment agreement with the County Water Department for the waterlines;
11. Testing and bacteriology analysis shall be completed by the developer after the system is connected to the county waterline. If the waterline fails, it shall be the developer's financial responsibility to correct the defects;
12. The engineer shall submit a waterline certification letter;
13. State and County acceptance of the waterline construction shall be required;
14. Submittal and acceptance of the waterline As-Built;
15. Corrected copies of the Final Plat shall be submitted to the Planning Department for review and approval; and
16. The applicant **conditionally** meets the standards and requirements within the County's UDO for Final Plat approval.

DISCUSSION

Mr. Wood stated that the waterline is being tested first thing tomorrow morning and said that there is no Home Owners Association.

Mr. Ferguson said that there must be someone responsible for the drainage ditches.

Mr. Jimbo Ward said that the ditch is on one piece of property. They were told to split the ditch between Mrs. Lynn and Owens Beach. He wanted to know how they are responsible for a ditch that is not on their property. The ditch has been regraded and cleaned up. There are drainage easements on each side of the ditch.

Mr. Ferguson asked if Mr. Ward wants the county to ask the individual home owners to maintain the ditch.

Mr. Kovacs asked if this will be a DOT road.

Ms. Eggar said it will be taken over by DOT after the appropriate number of houses are built.

Mr. Ferguson said that the UDO mandates a Home Owners Association.

Mr. Ward asked if they could find a way without a homeowner's association.

Mr. Ferguson said that it could be a deed restriction.

Brenda Kleman asked if no one maintains the ditch how that will affect drainage for Cypress Point.

Mr. Ward said that the land is flat there, and there is now a ditch that is on the north boundary line to Owens Beach Estates that drains back into the road.

Mr. Ferguson said the county wants certainty in maintenance of the ditch. He said that the question is whether making each home owner responsible is better than making a Home Owner's Association that will not be responsible. There is more legal recourse if there is individual responsibility.

Mr. Ferguson asked the board to let the staff explore the options for Mr. Ward.

Mr. Kovas motioned to approve this request with condition that the staff look into the options for this drainage issue with approval by the county attorney. Mr. Keel seconded the motion. Motion passed unanimously.

PB 05-29 Currituck County Amendment to update the Flood Damage Prevention sections and adopt the new Flood Insurance Rate Maps.

August 26, 2005

To: Planning Board
Board of Commissioners

From: Planning Staff

Re: Flood Damage Prevention Ordinance, PB 05-29

Currituck County participates in the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Agency. One of the components of our UDO is Article 16, Floodplains, Drainage, Storm Water Management, which contains the "flood regulations." Since the county participates in the NFIP and enforces the regulations contained in Article 16, a fifteen per cent (15%) flood insurance premium discount is given to county residents.

The State of North Carolina is now a Cooperating Technical State that is producing new Flood Insurance Rate Maps (FIRM). The NC Mapping program began the mapping process for Currituck County in 2001. The county received preliminary maps for review on August 31, 2004. The Federal Emergency Management Agency has determined that all of the appeals have been addressed and set a date of December 16, 2005 for the new FIRMs to become effective. Part of the county's obligation for participation in the program is to update the local flood damage prevention ordinance to reflect changes in federal and state regulations.

To insure communities that receive flood hazard mapping have a compliant ordinance, the NC Division of Emergency Management developed a model. Staff has adapted the NC model ordinance to reflect the requirements that are currently in the Currituck UDO. The proposed changes would maintain the standards needed in the local ordinance to maintain the 15% discount on flood insurance. If the Board fails to adopt the maps and an updated ordinance, 4574 policy holders in the county would have their National Flood Insurance Program policies jeopardized. The federal flood insurance in force for the county equals \$1, 141,974,500.00 (as of August 24, 2005)

Staff requests the Board to also consider a higher standard in the ordinance of a 2 foot freeboard. For every 1 foot of freeboard required, the county receives 100 points of Community Rating System credit. The county received 1507 credit points in the 2002 renewal. To become a Class 6 community, with a 20% policy discount, 500 more CRS credits are needed.

The main changes from the current ordinance are:

1. Requires that communities prohibit new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities in Special Flood Hazard Areas.
2. Cost limits for accessory structures have been changed to a size limitation. Accessory structures less than 150 square feet do not require elevation certificates if specific criteria are met.
3. Manufactured home requirements have been simplified by requiring elevation of all new and replaced units to be elevated to the Regulatory Flood Protection Level.
4. Standards for Additions and Improvements to both pre-FIRM and post-FIRM structures have not changed but have been clarified in a separate section of the ordinance.
5. Coastal High Hazard Area sections have been expanded and clarified throughout the ordinance. For example, the updates mirror the NC CAMA regulations on placement of structures landward of the first line of stable natural vegetation.
6. The placement of fill in Coastal High Hazard Areas requires: A) Volume and distribution of fill will not cause wave deflection to adjacent properties; and, B) Slope of fill will not cause wave run-up or ramping

7. Changes the requirement to submit the first elevation certificate within 7 days instead of 21 days after establishment of the reference level elevation.
8. The Preliminary FIRMs will be used to determine the Flood Hazard Areas when the Board adopts the ordinance updates.
9. The revision separates the Floodplain Development Permit from the current Zoning Permit. This will give staff a checklist for information that needs to be submitted for review to build in a Special Flood Hazard Area.
10. Allows the Board of Commissioners to create a separate permit fee for a Floodplain Development Permit.

Item 8, Delete the existing Article 16, Part I and replace it with the following:

Article 16
FLOODPLAINS, DRAINAGE, STORM WATER MANAGEMENT

Part I. Flood Damage Prevention

Section 1601 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

PART A. STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Board of Commissioners of the County of Currituck, North Carolina, does ordain as follows:

PART B. FINDINGS OF FACT.

1. **The flood prone areas within the jurisdiction of the County of Currituck are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.**
2. **These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.**

PART C. STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- 1) **restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;**
- 2) **require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;**
- 3) **control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;**
- 4) **control filling, grading, dredging, and all other development that may increase erosion or flood damage; and**
- 5) **prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.**

PART D. OBJECTIVES.

The objectives of this ordinance are:

1. **to protect human life and health;**
2. **to minimize expenditure of public money for costly flood control projects;**
3. **to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;**
4. **to minimize prolonged business losses and interruptions;**
5. **to minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;**
6. **to help maintain a stable tax base by providing for the sound use and development of flood prone areas; and**
7. **to ensure that potential buyers are aware that property is in a Special Flood Hazard Area.**

Section 1602 DEFINITIONS.

Unless specifically defined below, words or phrases used in Article 16 shall be interpreted so as to give them the meaning they have in common usage and to give its most reasonable application. Were defined differently from Article 25

(Section 2501), Definitions, the following definitions shall apply for floodplain management purposes only.

“Accessory Structure (Appurtenant Structure)” means a structure, which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Appeal” means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination as published in the Flood Insurance Study of the water surface elevations of the base flood. This elevation establishes the “Regulatory Flood Protection Elevation”.

“Breakaway Wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

“Building” see “Structure”

“CAMA” – North Carolina’s Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources’ (NCDENR’s) Division of Coastal Management (DCM).

“CBRS” means Coastal Barrier Resources System.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Coastal Barrier Resources System (CBRS)” consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

“Coastal High Hazard Area” means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 1603, Part B of this ordinance, as Zones VE or V1-30.

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Disposal” defined as in NCGS 130A-290(a)(6).

“Elevated Building” means a non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and/or

(2) the unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Floodplain” or “Flood Prone Area” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Freeboard” means the height added to the Base Flood Elevation (BFE) to account for watershed development as well as limitations of the engineering methodologies for the determination of flood elevations. The freeboard plus the Base Flood Elevation establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

- (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Lowest Adjacent Grade (LAG)” means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building. For Zones A and AO, use the natural grade elevation prior to construction.

“Lowest Floor” means the subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market Value” means the building value, excluding the land value and that of any accessory structures or other improvements on the lot, established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (Actual Cash Value), or adjusted tax assessed values.

“Mean Sea Level” means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the original version of this ordinance and includes any subsequent improvements to such structures.

“Nonconforming Building or Development” means any legally existing building or development which fails to comply with the current provisions of this ordinance.

“Non-Encroachment Area” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“OPA” means an Otherwise Protected Area.

“Post-FIRM” means construction or other development which started on or after the effective date of the initial Flood Insurance Rate Map for the area.

“Pre-FIRM” means construction or other development which started before the effective date of the initial Flood Insurance Rate Map for the area.

“Primary Frontal Dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

1. built on a single chassis;
2. four feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. not designed for use as a permanent primary dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Reference Level” is the portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO, the reference level is the top of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower. For structures within Special Flood Hazard Areas designated as zones VE or V1-V30, the reference level is the bottom of the lowest horizontal structural member of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower.

“Regulatory Flood Protection Elevation” means the elevation, in relation to mean sea level, to which the reference level of all structures and other development located within Special Flood Hazard Areas must be protected. Where no BFE has been established, this elevation shall be at least 2 feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with State and Community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

“Repetitive Loss” means flood-related damages sustained by a structure on two (2) separate occasions during any 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” defined as in NCGS 130A-290(a)(36).

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section 1603, Part B of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground. For floodplain management purposes, principally above ground means that at least 51% of the actual cash value of the structure is above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the

improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- any correction of existing violations of State or Community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 1604 and Section 1605 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level (existing grade in case of Zone AO), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Section 1603 GENERAL PROVISIONS.

PART A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the County of Currituck.

PART B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Hazard Boundary Map (FHBM) or Flood Insurance Study (FIS) and its accompanying flood maps such as the Flood Insurance Rate Map(s) (FIRM) and/or the Flood Boundary Floodway Map(s) (FBFM), for Currituck County dated December 16, 2005, which, with accompanying supporting data, and any revision thereto, including Letters of Map Amendment or Revision, are adopted by reference and declared to be a part of this ordinance. The Special Flood Hazard Areas also include those defined through standard engineering analysis

for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to:

1. detailed flood data generated as a requirement of Section 1604, Part C(11 & 12) of this Ordinance;
2. preliminary FIRMs where more stringent than the effective FIRM; or
3. post-disaster Flood Recovery Maps.

PART C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas as determined in Section 1603, Part B.

PART D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

PART E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

PART F. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

1. considered as minimum requirements;
2. liberally construed in favor of the governing body; and
3. deemed neither to limit nor repeal any other powers granted under State statutes.

PART G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Currituck County or

by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

PART H. PENALTIES FOR VIOLATION.

See Article 23, Enforcement and Review for a complete description of Enforcement procedures.

Penalties and Remedies for Violations are as follows (also in Section 2304)

1. Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use or conditional use permits, shall constitute a misdemeanor, punishable by a fine of up to five-hundred (500) dollars or a maximum thirty (30) days imprisonment as provided in G.S. 14-4.

2. Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use or conditional use permits, shall also subject the offender to a civil penalty of one-hundred (100) dollars for each day the violation continues. If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the county in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with Section 2303 and did not take an appeal to the Board of Adjustment within the prescribed time.

3. This Ordinance may also be enforced by any appropriate equitable action.

4. Each day that any violation continues after notification by the Administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

5. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

Section 1604 ADMINISTRATION.

PART A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Planning Director or their designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

PART B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

1. Application Requirements. Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

- a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - i) *the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;*
 - ii) *the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 1603, Part B, or a statement that the entire lot is within the Special Flood Hazard Area;*
 - iii) *flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 1603, Part B;*
 - iv) *the boundary of the floodway(s) or non-encroachment area(s) as determined in Section 1603, Part B;*
 - v) *the Base Flood Elevation (BFE) where provided as set forth in Section 1603, Part B; Section 1604 , Part C(11 & 12); or Section 1605, Part D;*
 - vi) *the old and new location of any watercourse that will be altered or relocated as a result of proposed development;*
 - vii) *the boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable;*
 - viii) *Lots 20,000 square feet or smaller, shall require a professional survey/site plan, excluding the placement of mobile homes in mobile home parks and accessory structures.*
- b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - i) *Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;*
 - ii) *Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed;*

iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

- c) If floodproofing, a Floodproofing Certificate (*FEMA Form 81-65*) along with detailed back-up computations and operational plans that specify the location on a FIRM panel of floodproofing measures, the entity responsible for transportation and installation according to the design within the warning time available, and maintenance of floodproofing measures assuring their effectiveness when installed. Floodproofing certificate and back-up computations and operational plans shall be certified by a registered professional engineer or architect to ensure that the non-residential floodproofed development will meet the floodproofing criteria in Section 1605, Part B(2).
- d) A Foundation Plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);**
 - ii) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with 1605, Part B(4), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;**
 - iii) The following, in Coastal High Hazard Areas, in accordance with Section 1605, Part B(4) and Section 1605, Part G:**
 - (1) V-zone Certification form with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs;**
 - (2) Plans for open wood latticework or insect screening, if applicable;**
 - (3) Plans for non-structural fill, if applicable.**
- e) Usage details of any enclosed areas below the regulatory flood protection elevation.
- f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- g) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.)
- h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 1605, Part B(6 & 7) of this ordinance are met.
- i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream

and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

2. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

- a) A description of the development to be permitted under the floodplain development permit.
- b) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 1603, Part B.
- c) The regulatory flood protection elevation required for the reference level and all attendant utilities.
- d) The regulatory flood protection elevation required for the protection of all public utilities.
- e) All certification submittal requirements with timelines.
- f) A statement that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- g) The minimum opening requirements, if in Zone A, AO, AE or A1-30.
- h) Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).
- i) A statement, if in Zone VE or V1-30, that there shall be no alteration of sand dunes which would increase potential flood damage.
- j) A statement, if in Zone VE or V1-30, that there shall be no fill used for structural support.

2) Certification Requirements.

- a) Elevation Certificates:
 - i) ***An Elevation Certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator or their designee shall review the certification of the elevation of the reference level, in relation to mean sea level. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator or their designee shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.***

- ii) ***A Final As-Built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator or their designee a certification of final as-built construction of the elevation of the reference level and all attendant utilities. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. The floodplain administrator or their designee shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.***

- b) If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 1605 , Part B(3).

- d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

- e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:
 - i) ***Recreational Vehicles meeting requirements of Section 1605, Part B(6)(a);***
 - ii) ***Temporary Structures meeting requirements of Section 1605, Part B (7); and***
 - iii) ***Accessory Structures less than 150 square feet meeting requirements of Section 1605, Part B (8).***

- f) A completed V-Zone Certification form with back up design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high

hazard areas. It shall be the duty of the permit applicant to submit to the floodplain administrator said certification data to ensure the design standards of this ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance. This certification is not a substitute for an Elevation Certificate.

PART C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The floodplain administrator shall perform, but not be limited to, the following duties:

1. **Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.**
2. **Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.**
3. **Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).**
4. **Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.**
5. **Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 1605, Part E are met.**
6. **Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 1604 , Part B(3).**
7. **Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been floodproofed, in accordance with Section 1604, Part B(3).**
8. **Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Section 1604, Part B(3).**
9. **When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 1604, Part B(3) and Section 1604, Part B(2).**
10. **Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary**

interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.

- 11. When Base Flood Elevation (BFE) data has not been provided in accordance with Section 1603, Part B, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 1605, Part D(2)(b), in order to administer the provisions of this ordinance.**
- 12. When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 1603, Part B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.**
- 13. When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.**
- 14. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.**
- 15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.**
- 16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.**
- 17. Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.**
- 18. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of**

his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

19. Follow through with corrective procedures of Section 1604, Part D.
20. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and/or other official flood maps /studies adopted under Section 1603, Part B of this ordinance, including any revisions thereto including Letters of Map Change, issued by State and/or FEMA. Notify State and FEMA of mapping needs.

PART D. CORRECTIVE PROCEDURES.

1. **Violations to be Corrected:** When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.
2. **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) that the building or property is in violation of the Flood Damage Prevention Ordinance;
 - (b) that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - (c) that following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
3. **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) days, nor more than one-hundred eighty (180) days. Where the floodplain administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

4. **Appeal:** Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

5. **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, he or she shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

PART E. VARIANCE PROCEDURES

1. **The Board of Adjustment as established by Currituck County, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.**

2. **Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.**

3. **Variances may be issued for:**
 - (a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

 - (b) functionally dependant facilities if determined to meet the definition as stated in Section 1602 of this ordinance.

 - (c) any other type of development, provided it meets the requirements stated in this section.

4. **In reviewing variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:**
 - (a) the danger that materials may be swept onto other lands to the injury of others;

 - (b) the danger to life and property due to flooding or erosion damage;

 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

 - (d) the importance of the services provided by the proposed facility to the community;

- (e) the necessity to the facility of a waterfront location as defined under Section 1602 of this ordinance as a functionally dependant facility, where applicable;
- (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (g) the compatibility of the proposed use with existing and anticipated development;
- (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

5. A written report addressing each of the above factors shall be submitted with the application for a variance.

6. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

7. Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.

8. Conditions for Variances:

- (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- (b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (c) Variances shall only be issued upon:
 - i. a showing of good and sufficient cause;*
 - ii. a determination that failure to grant the variance would result in exceptional hardship; and*
 - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or*

victimization of the public, or conflict with existing local laws or ordinances.

- (d) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.
- (e) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

9. A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

- a) The use serves a critical need in the community.
- b) No feasible location exists for the use outside the Special Flood Hazard Area.
- c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
- d) The use complies with all other applicable Federal, State and local laws.
- e) The Currituck County Board of Adjustment) has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to consider a variance at least thirty (30) calendar days prior to granting the variance.

Section 1605 PROVISIONS FOR FLOOD HAZARD REDUCTION.

PART A. GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

- 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.**
- 2. All new construction and substantial improvements below the regulatory flood protection elevation shall be constructed with materials and utility equipment resistant to flood damage.**
- 3. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.**
- 4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.**

These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.

- 5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.**
- 6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.**
- 7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.**
- 8. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.**
- 9. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.**
- 10. New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in Special Flood Hazard Areas, except by variance as specified in Section 1604, Part E(9). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Section 1604, Part B(3) of this ordinance.**
- 11. All development proposals shall be consistent with the need to minimize flood damage.**
- 12. All development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.**
- 13. All development proposals shall have adequate drainage provided to reduce exposure to flood hazards.**

PART B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 1603, Part B, or Section 1604, Part C(11 & 12), the following provisions, in addition to Section 1605, Part A, are required:

1. **Residential Construction.** New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 1602 of this ordinance.
2. **Non-Residential Construction.** New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 1602 of this ordinance. Structures located in A, AO, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure below the required flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 1604, Part B(3), along with the operational and maintenance plans.
3. **Manufactured Homes.**
 - a. New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 1602 of this ordinance.
 - b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement in accordance with the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to NCGS §143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - c. All foundation enclosures or skirting shall be in accordance with Section 1605, Part B(4).
 - d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.
4. **Elevated Buildings.** Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation:
 - a. shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area

shall not be partitioned or finished into separate rooms, except to enclose storage areas;

- b. shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- c. shall include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria;
 - i. Provide a minimum of two openings on different sides of each enclosed area subject to flooding;***
 - ii. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;***
 - iii. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;***
 - iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade;***
 - v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and***
 - vi. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.***
- d. shall allow, in Coastal High Hazard Areas (Zones VE and V1-30), breakaway walls, latticework or insect screening below the regulatory flood protection elevation, provided it is not part of the structural support of the building and is designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the structural integrity of the building on which they are to be used, provided the following design specifications are met:
 - i. Material shall consist of open wood latticework or insect screening; or***
 - ii. Breakaway walls shall meet the following design specifications:***
 - 1. Design safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot; or***
 - 2. Breakaway walls that exceed a design safe loading resistance of more than 20 pounds per square foot (either by***

design or when so required by State or local codes) shall be certified by a registered professional engineer or architect certifying that the designed wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

5. Additions/Improvements.

- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.***
 - ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.***
- b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.***
 - ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.***
- d. Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

6. Recreational Vehicles. Recreational vehicles placed on sites within a Special Flood Hazard Area shall either:

- a. be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its

wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

- b. meet all the requirements for new construction, including anchoring and elevation requirements of Section 1604, Part B and Section 1605, Parts A and B(3).

7. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, applicants must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;

- a. a specified time period for which the temporary use will be permitted. Time specified should be minimal with total time on site not to exceed one year;
- b. the name, address, and phone number of the individual responsible for the removal of the temporary structure;
- c. the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- d. a copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
- e. designation, accompanied by documentation of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

8. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- b. Accessory structures shall not be temperature-controlled;
- c. Accessory structures shall be designed to have low flood damage potential;
- d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e. Accessory structures shall be firmly anchored in accordance with Section 1605, Part A(1);
- f. All service facilities such as electrical shall be installed in accordance with Section 1605, Part A(4); and

- g. Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with Section 1605, Part B(4)(a).
- h. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 1604, Part B(3).

PART C. RESERVED.

PART D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas established in Section 1603, Part B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 1605, Part A, shall apply:

- 1) **No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.**
- 2) **The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:**
 - a) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Section 1604, Part C(11 & 12).
 - b) All subdivision, manufactured home park and other development proposals located within Special Flood Hazard Areas shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 1603, Part B to be utilized in implementing this ordinance.
 - c) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated above the highest adjacent grade as required in the regulatory flood protection elevation definition.

PART E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- 1) **Standards outlined in Section 1605, Parts A and B; and**
- 2) no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

PART F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 1603, Part B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 1605, Parts A and B, shall apply to all development within such areas:

- 1) **No new structures shall be permitted in areas designated as floodways or non-encroachment areas.**
- 2) **Substantial improvements, new encroachments, other than structures, including fill, and other developments shall not be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the floodplain administrator prior to issuance of floodplain development permit.**
- 3) **If Section 1605, Part F(2) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.**
- 4) **No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:**
 - a) the anchoring and the elevation standards of Section 1605, Part B(3); and
 - b) the no encroachment standard of Section 1605, Part F(2) are met.

PART G. COASTAL HIGH HAZARD AREAS (ZONES VE and V1-30).

Coastal High Hazard Areas are Special Flood Hazard Areas established in Section 1603, Part B, and designated as Zones VE or V1-30. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all other provisions in this ordinance with the exception of floodway and non-encroachment area provisions, the following provisions shall apply:

1) All development shall:

- a) be located landward of the reach of mean high tide;
- b) be located landward of the first line of stable natural vegetation; and
- c) comply with all applicable CAMA setback requirements.

2) All new and substantial improved structures shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is located no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.

3) All space below the regulatory flood protection elevation shall be open so as not to impede the flow of water with the following exceptions:

- a) Open wood latticework or insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with Section 1605, Part B(4)(b). Design plans shall be submitted in accordance with Section 1604, Part B(1)(d)(iii); or
- b) Breakaway walls may be permitted below the regulatory flood protection elevation provided they meet the criteria set forth in Section 1605, Part B(4)(b). Design plans shall be submitted in accordance with Section 1604, Part B(1)(d)(iii).

4) All new and substantial improved structures shall be securely anchored on pilings or columns. All pilings and columns and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

(1) Water loading values used shall be those associated with the base flood.

(2) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

5) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in Section 1604, Part B, Section 1605, Part G(3)(a&b), Section 1605, Part G(4) and Section 1605, Part G(6) of this ordinance on North Carolina's "National Flood Insurance Program V-Zone Certification" form dated May 1992 or newer.

6) Fill shall not be used for structural support. Limited non-compacted and non-stabilized fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. Design plans shall be submitted in accordance with Section 1604, Part B(1)(d)(iii). The floodplain administrator may approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist which demonstrates that the following factors have been satisfied:

- a) Particle composition of fill material does not have a tendency for excessive natural compaction;
 - b) Volume and distribution of fill will not cause wave deflection to adjacent properties; and
 - c) Slope of fill will not cause wave run-up or ramping.
- 7) There shall be no alteration of sand dunes which would increase potential flood damage.**
- 8) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards are in compliance with this section of ordinance.**
- 9) Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Section 1605, Part B(6)(a) and the Temporary Structure provisions of Section 1605, Part B(7).**

Section 1606 Special Provisions for Subdivisions.

1. An applicant for a special use permit authorizing a major subdivision and an applicant for minor subdivision final plat approval shall be informed by the Administrator of the use and construction restrictions contained in Sections 1602, 1603, and 1604 if any portion of the land to be subdivided lies within a floodplain.
2. Final plat approval for any subdivision containing land that lies within a floodway or floodplain may not be given unless the plat shows the boundary of the floodway or floodplain and contains in clearly discernible print the following statement: "Use of land within a floodway or floodplain is substantially restricted by Article 16 of the Currituck County Unified Development Ordinance."
3. Subject to the following sentence, a major development permit for a major subdivision and final plat approval for any subdivision may not be given if:
 - (a) the land to be subdivided lies within a zone where residential uses are permissible and it reasonably appears that the subdivision is designed to create residential building lots; and,
 - (b) any portion of one (1) or more of the proposed lots lies within a floodway or floodplain; and,
 - (c) it reasonably appears that one (1) or more lots described in subdivisions (a) and (b) of this Subsection could not practicably be used as a residential building site because of the restrictions set forth in sections 1602, 1603 and 1604. The foregoing provision shall not apply if a notice

that the proposed lots are not intended for sale as residential building lots is recorded on the final plat, or if the developer otherwise demonstrates to the satisfaction of the authority issuing the permit or approving the final plat that the proposed lots are not intended for sale as residential building lots.

SECTION 1607 LEGAL STATUS PROVISIONS.

PART A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted July 18, 1984 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Currituck County enacted on July 18, 1984, as amended, which are not reenacted herein are repealed.

PART B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION C. EFFECTIVE DATE.

This ordinance shall become effective upon adoption.

PART D. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the BOARD OF COMMISSIONERS of CURRITUCK COUNTY, North Carolina, on the _____ day of _____, 200__.

WITNESS my hand and the official seal of _____, this the day of _____, 200__.

Section 1608 RESERVED

Section 1609 RESERVED

Section 1610 RESERVED

Section 1611 RESERVED

Section 1612 RESERVED

Item 9 This ordinance amendment shall be in effect from and after the ____ day of _____, 200__.

Board of Commissioners' Chairman

Attest:

Gwen Tatem,
Clerk to the Board

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

PLANNING BOARD DATE: __ _____
PLANNING BOARD RECOMMENDATION: _____
VOTE: AYES: __ NAYS: _____
ADVERTISEMENT DATE OF PUBLIC HEARING: _____
BOARD OF COMMISSIONERS PUBLIC HEARING: _____
BOARD OF COMMISSIONERS ACTION: _____
POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
AMENDMENT NUMBER: _____

DISCUSSION

Mr. Riley stated that people are enclosing the bottom of their houses.

Mr. Ferguson said that the bottom floor will still have to be above base flood elevation.

Mr. Kovacs said that this was discussed during the Land Use Plan process.

Mr. Ferguson said that approval with increase to the base flood elevations will increase the cost of the house, but will save the homeowner in flood insurance rates long term.

*Minutes are not official until approved by the board.

Ms. Eggar said the current subdivision regulations require 18” above base flood.

Mr. Ferguson said that improvements must be above base flood elevation.

Mr. Riley motioned to approve the request with an increase of 2’ to the free board. There was no second. Motion failed

Mr. Kovacs motioned to approve with 1’ addition to free board. Mr. Riley seconded the motion. Motion passed unanimously.

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

PB 05-30 Currituck County: Amendment to Article 2, section 204, to require a vehicular setback for residential lots within planned unit developments.

CURRITUCK COUNTY
PB 05-30
UDO AMENDMENT REQUEST

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

PB 05-30 CURRITUCK COUNTY: Amendment to Article 2, section 204, to require a vehicular setback for residential lots within planned unit developments.

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

Item 1. That the following section be amended:

Article 2, section 204

(a) Table of Setback Requirements **(Amended 1/20/98,11/01/04)**

STREET SETBACK		LOT BOUNDARY SETBACK		
Zone	Vehicular	Structure		Vehicular Area Side and Rear
	and Structure	Side Line	Rear Line	
All Districts	20' ^{1,5}	15' ^{2,3,4}	25' ^{2,3,4}	10' ^{3,4,6}

6 Residential driveways located in planned unit developments shall maintain a five (5) foot side setback at the front property lines when possible and may taper back to no less than one (1) foot off side property lines twenty (20) feet back of the front property line.

*Minutes are not official until approved by the board.

Item 2. That the following section be amended:

Article 4, section 414

Section 414 Driveways, . ~~Excluding Residential Lots within Planned Unit Developments.~~

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

5. Residential driveways located in planned unit developments shall maintain a five (5) foot side setback at the front property lines when possible and may taper back to no less than one (1) foot off side property lines twenty (20) feet back of the front property line.

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

Board of Commissioners' Chairman

Attest:

Gwen H. Keene
Clerk to the Board

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

PLANNING BOARD DATE: _____
PLANNING BOARD RECOMMENDATION: _____

*Minutes are not official until approved by the board.

VOTE: _____AYES_____NAYS_____

ADVERTISEMENT DATE OF PUBLIC HEARING: _____

BOARD OF COMMISSIONERS PUBLIC HEARING: _____

BOARD OF COMMISSIONERS ACTION: _____

POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____

AMENDMENT NUMBER: _____

There was a brief discussion on the driveway set backs in PUD's

Mr. Riley motioned approval. Mr. Bell seconded the motion. Motion passed unanimously.

**PB 87-56 Monterey Shores (Corolla Bay) Section III, PUD Preliminary Plat approval
Phase I.**

**STAFF ANALYSIS FOR THE PLANNING BOARD
MEETING DATE: SEPTEMBER 13, 2005**

ITEM: **PB 87-56 MONTERAY SHORES (COROLLA BAY)
SECTION III, PUD PRELIMINARY PLAT APPROVAL
PHASE I.**

LOCATION: Immediately north of Monterey Shores Phase 1, Section 3, and west of Whalehead Club Section 7, Poplar Branch – Outer Banks Township.

ZONING DISTRICT: RO1

OWNER:
Corolla Bay, LLC
821 Ocean Trail
Corolla, NC 27927

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

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Corolla Light PUD – zoned RO1
SOUTH: Buck Island – zoned RO1
EAST: Whalehead Subdivision – zoned RO1
WEST: Currituck Sound

PURPOSE OF REQUEST:

On November 15, 2004 the BOC approved an Amended Sketch Plan for Corolla Bay, formerly Section III of Monterey Shores which included the following changes from the previous submittal:

1. Phasing lines within Corolla Bay;
2. Approval for 36 single family home sites located in Phase 1; and

3. To show the location of the wastewater treatment system. The wastewater treatment facility will serve the 36 home sites in Phase 1 in addition to the 7.32 acre Commercial Site #1 in Phase 1, and the future Food Lion site in Phase V. The water for the development will be provided by Currituck County from the new SOBWS plant.

THE APPLICANT IS NOW SEEKING PRELIMINARY PLAT APPROVAL FOR THE FOLLOWING:

1. 36 Residential lots located on the west side of NC 12;
2. 7.32 acre site located on the East side of NC-12 to be developed commercially;
3. Construction of an 83,600 GPD wastewater treatment and disposal system to serve 24 eight bedroom homes, 12 seven bedroom homes, 30,000 sq. ft. retail space, and two 150 seat restaurants, and re-proposed Food Lion site in Phase V.
4. The construction of 1,700 linear feet of roadway called Cruz Bay; 280 linear feet of roadway called Devils Bay and approximately 970 feet of roadway called Herring Street which will tie into Corolla Drive in the Whalehead subdivision.

The wastewater treatment plant is designed in accordance with the new guidelines requiring 200 gallons per day per bedroom for resort oriented housing in addition to providing sufficient capacity for the two commercial areas. The plant will be designed to produce an effluent quality that meets or exceeds the reclaimed water standards, yet it is not permitted as a reclaimed water system. This plant will be expandable to handle future demands as they arise. It must be noted that the initial wastewater treatment plant will not have the capacity to serve all of the proposed development in Corolla Bay. The plant will require expansion as future areas are developed.

In conjunction with the wastewater treatment system, and because no holding pond is proposed, a low-flow spray bed area is required. It is proposed to locate the spray bed in a temporary disposal area over 21 home sites which were originally allocated to Phase 3. The term “temporary” might become permanent.

As noted on previous sketch plans, Herring Street is proposed to be improved and continue through Whalehead Club subdivision for vehicular traffic.

OTHER IMPORTANT ELEMENTS OF THIS PLAN:

STREETS: All lots will front on proposed roads built to NCDOT standards. However, these roads will remain private and be maintained by the Corolla Bay Homeowners Association.

WATER: Water will be provided by the County’s Southern Outer Banks Water System (SOBW) the waterlines are specified as 8 inch PVC.

FIRE: The development will be served by the Corolla Fire & Rescue Station and fire hydrants will be installed in accordance with Volume 5 of the NC Building Code.

WASTEWATER: The proposal is to construct an 83,600 GPD wastewater treatment and disposal system to serve Phase I only of this subdivision. The plant is designed in accordance with the new guidelines requiring 200 gpd per bedroom for resort oriented housing and will also be providing capacity for both the commercial area located in Phase I as well as the future Food Lion site designated as Phase V . The plant will produce re-use of quality water but will be spray irrigated (low rate infiltration) in 4.11 acre site located between NC 12 and Whalehead Subdivision.

OPEN SPACE: Open space in Phase 3 of Monterey Shores now called Corolla Bay has been reduced from 23.67 acres to 14.28 acres. Under this proposal the total amount of open space for all of Monterey Shores will be 124.46 acres which meets the 35% minimum required.

DRAINAGE: DWQ issued a “low density” permit for this development on June 27, 2005. The system of disposal will be by local infiltration within proposed swales which will also be augmented by a detention pond to insure a higher level of drainage.

FLOOD ZONES: The property is located in a F.I.R.M. zone AE (El. 5) and X dated May 2003.

STAFF COMMENTS:

- Sketch plan/Special Use Permit was issued on November 15, 2004.
- The proposed wastewater treatment plant will only have capacity to serve Phase I and the Food Lion site. The developer continues to work with the state and Carolina Water Service to expand the existing treatment plant service Sections I and II so that it will accommodate Section III as well.

TRC approvals and comments:

County Engineer – reviewed and approved

Soil & Water Conservation - reviewed and approved

Fire Marshall – reviewed and approved

Health – DWQ approved central wastewater permit

County Water Department – reviewed and approved

DENR – Public water supply section – reviewed and approved

DENR – Land Quality – reviewed and approved (Low Density)

NCDOT – Approved intersection created at NC 12 awaiting approval to connect to Corolla Drive which is also a state maintained road.

CAMA – no permit required as the project is outside the A.E.C.

USACOE – 404 delineation approved on 8/22/05 – no filling of wetlands may occur.

STAFF RECOMMENDATION: Staff recommends approval subject to the following conditions:

1. That the preliminary plat be corrected as per the attached review comments dated 8/29/05 prior to September 21, 2005 in order to be on the BOC agenda for October 4, 2005.
2. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners;
3. Preliminary plat approval shall remain valid for 24 months. If after one year of approval, 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;
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, and then the more restrictive condition shall prevail.

DISCUSSION

Mr. Bell asked about the size of the streets.

Mr. Ferguson said that the PUD's typically have 30 foot right of ways.

Mr. Kovacs asked about temporary disposal area.

Mr. Avery said it is a spray field, has a 6' fence and will be heavily landscaped.

Mr. Kovacs asked if this is temporary until phase 2.

Mr. Avery said yes, but the hope is to finalize agreement with Carolina water to end moratorium in Monterey Shores (corolla Bay) and Buck Island.

Mr. Kovacs motioned to approve the request subject to staff recommendations Mr. Bell seconded the motion. Motion passed unanimously.

OLD BUSINESS

Mr. Kovacs stated that there has been a contract agreement for the Land Use Plan telephone survey.

ADJOURNMENT

There being no further business to discuss, Mr. Riley motioned for adjournment. Mr. Hawley seconded the motion and the motion passed unanimously. The meeting adjourned at 8:55 p.m.

Respectfully Submitted,

Tammy J. Underwood /s/

Tammy J. Underwood
Clerk to the Board