



CURRITUCK COUNTY PLANNING BOARD June 10, 2008

WORK SESSION

A work session was held prior to the meeting to discuss items on the agenda.

REGULAR MEETING

The Currituck County Planning Board met in the Board Room of the Historic Courthouse. The following members were present: Manly West, Alvin Keel, Joe Kovacs, Bobby Bell, William Etheridge, Arthur Winter, Bren Robbins, Elizabeth Turner and Forrest Midgette.

David Webb, Senior Planner, Ben Woody, Planning Director, and Susan Tanner, Clerk to the Planning Board were also present.

Planning Board Chairman Midgette called the meeting to order.

Everyone stood for the Pledge of Allegiance and a moment of silence.

APPROVAL OF AGENDA

Mr. West motioned to approve the agenda as presented. Ms. Turner seconded the motion. Motion passed unanimously.

6:15 p.m. Work Session

7:00 p.m. Call to Order
Pledge of Allegiance and Moment of Silence

Item 1 Approval of Agenda

Item 2 Approval of May 13, 2008 Minutes

PLEASE LIMIT PUBLIC COMMENTS TO THREE MINUTES

Item 3 **PB 08-25 Katie Dozier Hill:** Request to rezone 14.31 acres from Agricultural (A) to Residential (R). The property is located in Jarvisburg on the north side of Fisher Landing Road approximately .11 miles east of the intersection with Caratoke Highway, Tax Map 109, Parcel 145L, Poplar Branch Township.

Item 4 **PB 08-26 Paula Lipman:** Request to rezone 7.81 acres from Agricultural (A) to General Business (GB). The property is located on the east side of Caratoke Highway approximately 500 feet south of Forbes Road, Tax Map 109, Parcel 57A, Poplar Branch Township.

- Item 5 **PB 08-27 Paula Lipman:** Request to rezone 37.53 acres from Agricultural (A) to Residential (R). The property is located west of Caratoke Highway approximately 1000 feet south of Fisher Landing Road, Tax Map 109, Parcel 122, Poplar Branch Township.
- Item 6 **PB 08-24 Gregory Wisniewski:** Text amendment to Section 2.5 of the UDO to permit a Taxi Service as a permissible use.
- Item 7 **PB 08-22 Currituck Marina:** Request to amend the Currituck County Land Use Plan to designate approximately 40 acres of the Future Land Use map from Conservation Area to Full Service Area. The property is located at 291 West Side Lane, Tax Map 112, Lot 3C, Poplar Branch Township.
- Item 8 **PB 08-28 Currituck County:** Request to amend the Currituck County Land Use Plan to designate portions of the Future Land Use map from Limited Service Area to Full Service Area. The proposed amendment areas are located in the Jarvisburg Sub-Area and Point Harbor Sub-Area.
- Item 9 **ADJOURNMENT**

APPROVAL OF MINUTES

Ms. Turner motioned to approve the Planning Board minutes for May 13, 2008 as presented. Mr. Etheridge seconded the motion. Motion passed unanimously.

NEW BUSINESS:

PB 08-25 Katie Dozier Hill: Request to rezone 14.31 acres from Agricultural (A) to Residential (R). The property is located in Jarvisburg on the north side of Fisher Landing Road approximately .11 miles east of the intersection with Caratoke Highway, Tax Map 109, Parcel 145L, Poplar Branch Township.

C.A. Howard appeared before the board.

Mr. Woody presented the following case analysis to the board.

TYPE OF REQUEST: Request to rezone 14.31 acres from Agricultural (A) to Residential (R).

LOCATION: The property is located in Jarvisburg on the north side of Fisher Landing Road, approximately 1/10 mile east of the intersection with Caratoke Highway, Poplar Branch Township.

TAX ID: 0109-000-145L-0000

OWNER: Katie Dozier Hill

7245 Caratoke Highway
Jarvisburg NC 27947

APPLICANT: C.A. Howard, Jr.
PO Box 94
Currituck NC 27929

ZONING: Current Zoning Proposed Zoning
Agricultural (A) Residential (R)

ZONING HISTORY: The property was zoned Agricultural (A) on the 1989 zoning atlas.

SURROUNDING PROPERTY:

| | Use | Zoning |
|---------------|---------------------------------|---------------|
| NORTH: | Vacant Farmland | A |
| SOUTH: | Single Family Dwelling | A |
| EAST: | Vacant Farmland | A |
| WEST: | Radio Tower and Vacant Farmland | A |

EXISTING LAND USE: Vacant

PROPOSED LAND USE: To allow single family development.

DENSITY: Approximate number of lots allowed with existing A zoning: 7
Approximate number of lots allowed with requested R zoning: 15

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as Limited Service Area within the Jarvisburg sub-area.

The purpose of the Limited Services Area class is to provide for primarily residential development at low densities (one unit per acre). With respect to nonresidential uses, it is essential that the existing community character be preserved.

The policy emphasis of this plan is to allow the Jarvisburg area to accommodate quality residential development at low densities while preserving the rural landscape between such developments.

The following policies are also relevant to this request:

POLICY ES1: New development shall be permitted to locate only in areas with SUITABLE SOIL and where ADEQUATE INFRASTRUCTURE is available.

POLICY AG3: County ACTIONS CONCERNING INFRASTRUCTURE (e.g. schools, parks, and utilities) and regulations shall serve to direct new development first to targeted growth areas near existing settlements identified as Full Service Areas on the Future Land Use Map.

POLICY AG4: County growth management tools, including particularly zoning, should provide PROTECTION TO AGRICULTURE and other RESOURCE BASED ACTIVITIES from incompatible land uses, such as a residential subdivision in the midst of generally uninterrupted farm land.

POLICY HN4: Currituck County shall discourage all forms of housing from "LEAPFROGGING" INTO THE MIDST OF FARMLAND and rural areas, thereby eroding the agricultural resource base of the county.

TRANSPORTATION: The site has approximately 1026 linear feet of frontage on Fisher Landing Road.

FLOOD ZONE: X (Outside of 100 year floodplain).

PUBLIC SERVICES AND UTILITIES: The Lower Currituck Volunteer Fire Department provides fire protection for this area. Electric service and telephone. County water is not available to this lot (currently located along Caratoke Highway, approximately 1/10 mile from subject property).

SOILS: The Currituck County Soils map indicates the property contains NOT SUITABLE soils for on-site septic.

STAFF RECOMMENDATION: Upon evaluating the application, staff concludes that the proposed rezoning **does not** satisfy the above-referenced criteria and for the reasons listed below staff recommends **denial**:

1. The rezoning is in conflict with Policies ES1, AG3, AG4, and HN4 of the Land Use Plan.

2. There is no R zoned property adjacent to this parcel. The closest R zoned property is approximately .35 miles to the south of this parcel. Fisher Landing Road can be viewed as the break between the cluster of R zoned property to the south and A zoned property to the north. Encouraging rezoning to the north of Fisher Landing Road would expand residential density in a primarily agricultural area that is potentially incompatible with the Land Use Plan.
3. This section of the county serves as a transition point between the Grandy Full Service area and the emerging growth area around Jarvisburg Elementary School. Until development further intensifies in Grandy and the area surrounding the elementary school, it is important to maintain the rural nature between these growth areas and avoid a “leap frog” development pattern.

DISCUSSION

Mr. Howard stated that he did have the soil checked by Albemarle Regional and the soil is suitable with the exception of the eastern end. Mr. Howard stated with the right engineering suitable soil could be put in the backyard and the septic system in the front. Mr. Howard stated that on the western side of the property it is zoned agricultural, but is used as residential. There is also a commercial tract that is being used as residential. This needs to be taken into consideration that even though it may be zoned agricultural this doesn't mean that is what it is being used for. Mr. Howard stated that they are not taking a 100 acre tract of farmland and taking 10 acres from the center to have it rezone to residential. Mr. Howard stated that his request is not taking away from the farmland of the community because this property fronts a road. He stated that they would be conforming to the use in the area which is being used for residential. They are not looking for high density and looking at 14 housing units on this property. Mr. Howard stated that the property owner does not wish to farm these 14.31 acres because it is not conducive to get into the farming business with only 14 acres.

Mr. West asked what the current use of the property.

Mr. Howard stated farm.

Mr. Kovacs stated that he was a part of the Land Use Plan (LUP) committee which discussed the “leap frog” development pattern. The committee felt like boundaries were needed to prevent leapfrogging in the midst of farmland. Another recommendation of the LUP committee was to have Transfer of Development Rights (TDR), which would give the property owners outside these full service areas some benefits to sell these property rights to another property owner.

| | | |
|--------------|------------------------------------|---------|
| EAST: | Single Family Dwelling | A |
| WEST: | Single Family Dwelling/Undeveloped | A and C |

EXISTING LAND USE: Undeveloped

PROPOSED LAND USE: No specific plans were presented with the application. The application states the purpose of the request is to change zoning from Agricultural to Residential to seek the highest and best use for the land over time.

**LAND USE PLAN
CLASSIFICATION:**

The 2006 Land Use Plan classifies the subject property as **Limited Service** within the **Jarvisburg Sub-Area**.

The purpose of the Limited Services Area class is to provide for primarily residential development at low densities. With respect to nonresidential uses, it is essential that the existing community character be preserved. Design criteria should be established to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping, and site design. In general, neighborhood commercial uses are more appropriate than large scale commercial complexes. However, business designed to serve the tourist industry such as small gift shops or agri-tourism related uses should not be prohibited provided the character and intensity of the use is in keeping with the character of the surrounding area.

The policy emphasis of the 2006 plan is to allow the Jarvisburg area to accommodate quality residential development at low densities while preserving the rural landscape between such developments.

The following Land Use Plan policies are also relevant to this request:

POLICY CA1: The important economic, tourism, and community image benefits of attractive, functional MAJOR HIGHWAY CORRIDORS through Currituck County shall be recognized. Such highway corridors, beginning with US 158 and NC 168, shall receive priority attention for improved appearance and development standards, including driveway access, landscaping, buffering, signage, lighting and tree preservation.

POLICY CD4: HIGHWAY ORIENTED COMMERCIAL USES should be clustered along segments of highways and contain land uses which are mutually compatible and reinforcing in use and design; they should be designed in such a way as to minimize signage, access points, and to prevent unsightly, dysfunctional STRIP DEVELOPMENT.

POLICY CD5: Incompatible or poorly planned COMMERCIAL ENCROACHMENT within or immediately adjoining existing residential areas shall be prohibited. Such incompatible encroachments often include, but are not limited to, large-scale commercial uses or automobile-oriented commercial uses such as service stations, car lots, car washes, drive through restaurants, and the like.

POLICY CD7: Attractive, environmentally beneficial LANDSCAPING shall be provided by new commercial or office developments, and in the rehabilitation and upgrading of existing developments. Appropriate BUFFERING or other effective DESIGN FEATURES may be employed to allow less intensive forms of commercial and office development to adjoin existing or planned residential uses.

POLICY TR4: ACCESS TO THE COUNTY'S MAJOR ROADWAYS shall be managed so as to preserve the intended purpose of the highway, protect taxpayer dollars invested, and minimize hazardous turning movements in and out of traffic flows. Methods may include, for example, limits on the frequency of driveway cuts, shared driveway access, minimum lot frontages, connections between adjoining parking lots, central medians, etc.

**PUBLIC SERVICES
AND UTILITIES**

The Lower Currituck Volunteer Fire Department provides fire protection for this area. Public water is also available.

TRANSPORTATION:

The property has 845 feet of frontage along Caratoke Highway.

FLOOD ZONE:

The property is located outside of the 100 year floodplain.

SOILS:

The Currituck County Soils map indicates the property contains approximately 4.83 acres of marginally suitable and 2.98 acres of non-suitable soils for septic systems. The non-suitable soils are located on the eastern portion of the property.

WETLANDS: The property contains approximately 2.45 acres of Managed Pineland and Swamp Forest wetlands.

STAFF RECOMMENDATION: Staff recommends **denial** of the request to rezone 7.81 acres from Agricultural (A) to General Business (GB) for the following reasons:

- 1) There appears to be ample land zoned General Business in the county to meet existing needs and uses. This request does not appear to comply with Section 12.5.2 of the UDO, which requires an extraordinary showing of public need or demand.
 - a. Total GB zoned property = 4,278 acres
 - b. Total GB zoned property developed for commercial use = 1,167 acres (27%)
 - c. Percentage of GB zoned property currently vacant or not used for commercial purposes = 73%
- 2) The proposed rezoning does not comply with the 2006 Land Use Plan designation of Limited Service due to the range of uses permitted by right in a General Business zone that may not be compatible with the surrounding area. Staff suggested a conditional zoning application to alleviate this concern.
- 3) While the properties to the north and south are currently zoned General Business, many of these are platted as smaller lots and are occupied by existing single family dwellings and a small medical office. Considering the comparatively large size of the subject property in relation to its immediate surroundings, the establishment of unconditioned General Business zoning would allow incompatible commercial development. As a result, issues of commercial encroachment within an established residential development pattern should be considered (Policies CD5, CD7).
- 4) Considering the economic importance of the US 158 corridor, measures should be taken when possible to ensure development is of a high quality. Additionally, the Land Use Plan discourages strip development along the corridor and places priority on the clustering of commercial uses. Development standards addressing

improved appearance, landscaping, buffering, and access should always be carefully considered through the use of conditional zoning (Policies CA1, CD4, TR4).

DISCUSSION

Mr. Bell asked about the business to the north and south.

Mr. Woody stated most of the land use is residential and a small medical business is to the north.

Mr. Woody stated that staff made a recommendation to the applicant to submit this as a conditional zoning request.

Ms. Lipman stated that there is a long line of general business to the north and south of this property, as well as general business and commercial across the highway to the north and south. Ms. Lipman stated at this time there are no plans to sell the property in the immediate future. The only reason it would be sold is for a medical center.

Mr. Kovacs asked Ms. Lipman since she knows what she would like to see on this property wouldn't conditional zoning be the appropriate zoning request?

Ms. Lipman stated that this would have limited her when everything else around her is unlimited. What will go on this property is controlled by a large degree by what is around you.

Mr. Kovacs stated that conditional zoning only came in affect this year so they cannot control previously rezoning.

Ms. Lipman stated she should not be penalized to have conditions since all the other properties around her can do what they want.

Mr. West asked if all the property around the subject property is all General Business with no conditions.

Mr. Woody stated yes.

Mr. West stated it would be hard to put conditions on properties which have already been approved for rezoning.

Mr. Woody stated you could amend the UDO to establish development standards for the individual zoning districts. The other way would be to do an overlay district. The Planning Board has approved one conditional zoning request this year and two other requests are pending which are in the Jarvisburg area.

Mr. Keel stated that neither of the requests is in the middle of a General Business (GB) section.

Mr. Sawyer stated that there are a lot of businesses in the area.

Mr. Keel stated that he has a problem with the properties on both sides with no conditions, but put conditions on this property.

Mr. Midgette asked Mr. Woody if the board could add conditions.

Mr. Woody stated that the only way the board could add conditions would be if it was a conditional zoning request.

ACTION

Mr. Kovacs motion to recommend approval to rezone 7.81 acres from Agricultural (A) to General Business (GB) because it is consistent with the Land Use Plan because the surrounding properties are zoned General Business. Mr. Etheridge seconded the motion. Ayes: Mr. Kovacs, Mr. Bell, Mr. West, Mr. Keel, Mr. Midgette and Mr. Etheridge. Nays: Ms. Robbins, Ms. Turner and Mr. Winter Motion carried 6-3.

PB 08-27 Paula Lipman: Request to rezone 37.53 acres from Agricultural (A) to Residential (R). The property is located west of Caratoke Highway approximately 1000 feet south of Fisher Landing Road, Tax Map 109, Parcel 122, Poplar Branch Township.

Paula Lipman appeared before the board.

Mr. Woody presented the following case analysis to the board.

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| TYPE OF REQUEST: | Rezone approximately 37 acres from Agricultural (A) to Residential (R). |
| LOCATION: | Located west of Caratoke Highway approximately 1000 feet south of Fisher Landing Road |
| TAX ID: | Map 109, Parcel 122, Poplar Branch Township |
| OWNER/APPLICANT: | Pauline C. Wright, Trustee & Paula W. Lipman, Trustee PO Box 9 Jarvisburg, NC 27947 |
| AGENT: | Same |

development should be encouraged to locate in compact, village like clusters, preferably near existing, non-agricultural activities and services. An example might be a new compact, walkable neighborhood of homes built near an existing or proposed church, school or compatibly designed general store.

The following Land Use Plan policies are also relevant to this request:

POLICY HN1: Currituck County shall encourage development to occur at densities appropriate for the location. LOCATION AND DENSITY FACTORS shall include whether the development is within an environmentally suitable area, the type and capacity of sewage treatment available to the site, the adequacy of transportation facilities providing access to the site, and the proximity of the site to existing and planned urban services. Projects within areas designated as Limited Service would be permitted a density of one to one and one half units per acre depending upon the surrounding development pattern and availability of resources.

POLICY AG6: For areas experiencing intense development pressure, new residential development may be allowed to locate in COMPACT, VILLAGE-LIKE CLUSTERS, PREFERABLY NEAR EXISTING, NON-AGRICULTURAL ACTIVITIES AND SERVICES, or in other locations that will not interfere with resource production activities. Overall density shall remain very low, with permanent open space, dedicated during the development review process, surrounding such clusters of homes.

**PUBLIC SERVICES
AND UTILITIES:**

The Lower Currituck Volunteer Fire Department provides fire protection for this area. Public water is also available.

TRANSPORTATION:

The property is only accessible from Caratoke Highway via adjacent parcels. This does present a potential concern as staff feels proper access should be established prior to the development of the subject property. The property also presents an opportunity to establish future street connections to the north and south.

FLOOD ZONE:

The property is located outside of the 100 year floodplain.

SOILS: The Currituck County Soils map indicates the property contains marginally suitable soils for septic systems.

WETLANDS: There are no wetlands present on the property.

STAFF

RECOMMENDATION: Staff recommends **approval** of the request to rezone 37 acres from Agricultural (A) to Residential (R) for the following reasons:

- 1) The request is in general compliance with the Limited Service designation and Jarvisburg Sub-Area policy emphasis of the 2006 Land Use Plan.
- 2) The Jarvisburg Sub-Area, while primarily zoned Agricultural, is emerging in a suburban low-density residential development pattern. The permitted density in the Residential (R) zoning district of approximately one unit per acre is consistent with the objectives of the Currituck County Unified Development Ordinance and 2006 Land Use Plan, and promotes compatibility between the subject property and immediately surrounding area (Policies HN1, AG6).
- 3) New residential development should be encouraged to locate near an existing or proposed church, school, or compatibly designed general store. The subject property is in close proximity to the Jarvisburg elementary school and a county recreation facility (Jarvisburg Sub-Area Policy Emphasis).

DISCUSSION

Mr. West asked does the accessibility of the property play into the rezoning of residential.

Mr. Woody stated that it does not prohibit you from rezoning the property, but access will have to be worked out before it is developed.

Mr. West stated it is one thing to access through property for farming, but when you have access through property which is a subdivision, he was concerned with this.

Mr. Woody stated that the applicant could have access from a track just south of the property.

Mr. Etheridge asked where the county recreation facility is located.

Mr. Woody stated adjacent to the school site.

Mr. Etheridge expressed a concern about too many residential subdivisions and meeting the needs of the subdivisions with county services, i.e. schools, fire departments.

Mr. Woody stated that one thing the planning staff tries to do on these large tracks is to make sure they include the non-residential components. It is important to integrate commercial that is compatible with residential.

Ms. Lipman stated a deed of easement was created by herself, her mother and Shirley Webber whereby either one of them can reopen the road which will give her access to Caratoke Hwy. at anytime. This will take care of the access to this property. She has no immediate plans to sell.

ACTION

Mr. Bell motioned to recommend approval with staff recommendations and a note from the owner to ensure access to the property to rezone approximately 37 acres from Agricultural (A) to Residential (R) according to the 2006 Land Use Plan. Ms. Robbins seconded the motion. Motion passed unanimously.

PB 08-24 Gregory Wisniewski: Text amendment to Section 2.5 of the UDO to permit a Taxi Service as a permissible use.

ACTION

Mr. Midgette motioned to table this item since no one was present to represent the case. Ms. Turner seconded the motion. Motion passed unanimously.

PB 08-22 Currituck Marina: Request to amend the Currituck County Land Use Plan to designate approximately 40 acres of the Future Land Use map from Conservation Area to Full Service Area. The property is located at 291 West Side Lane, Tax Map 112, Lot 3C, Poplar Branch Township.

Tim Morrison, Fred Myers and Jerry Wright appeared before the board.
Mr. Webb presented the following case analysis to the board.

MEMORANDUM

To: Planning Board

From: Ben E. Woody, AICP
Planning Director

Cc: Charlan Owens, AICP
DCM Elizabeth City District Planner

Date: May 30, 2008

Re: PB 08-22 Currituck Marina Land Use Plan Amendment

Michael E. Perry of MSA, P.C. is requesting an amendment to the Currituck County Land Use Plan to designate approximately 40 acres of the Future Land Use map from Conservation area to Full Service area. This request is intended to accommodate an upland marina with direct access to the Albemarle Sound.

As required by the Coastal Area Management Act (CAMA), the Board of Commissioners must approve a local resolution of adoption which includes findings that demonstrate this amendment is consistent with the policy objectives of the Plan. Additionally, the County must demonstrate the amendment will not adversely affect the provision of services and infrastructure. Once the appropriate findings and local resolution of adoption are approved, the amendment will then be considered by the Coastal Resources Commission (CRC) for formal certification.

Enclosed please find maps of the amendment area, planning staff case analysis, survey of the subject property, copy of the amendment application, and a narrative of the request as submitted by the applicant.

This request is tentatively scheduled to be heard by the Board of Commissioners at their July 21 meeting and considered by the CRC at their September meeting.

Should you have any questions, do not hesitate to contact me at 232-6029.

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|-------------------------|---|
| TYPE OF REQUEST: | To amend the Currituck County Land Use Plan to designate approximately 40 acres of the Future Land Use map from Conservation Area to Full Service Area. |
| LOCATION: | Located at 291 West Side Lane, adjacent to Kilmarlic. |
| TAX ID: | Tax Map 112, Parcel 3C, Poplar Branch Township |
| OWNER: | Denny Horgan 291 West Side Lane Powells Point, NC 27966 |

AGENT/APPLICANT: Michael E. Perry of MSA, P.C.
5033 Rouse Drive
Virginia Beach, VA 23462

CURRENT LAND USE CLASSIFICATION: Conservation Area

PROPOSED LAND USE CLASSIFICATION: Full Service Area

CURRENT ZONING: Agricultural (A)

SURROUNDING PROPERTY:

| | Land Use | LUP Classification |
|---------------|-----------------------|---------------------------|
| NORTH: | Undeveloped | Conservation |
| SOUTH: | Albemarle Sound | N/A |
| EAST: | Kilmarlic Subdivision | Limited Service |
| WEST: | Undeveloped | Conservation |

LAND USE PLAN ANALYSIS:

CLASSIFICATIONS

Conservation Area – The purpose of the Conservation class is to provide for the long-term management and protection of significant, limited, or irreplaceable areas. Proper management is needed to conserve the natural, cultural, recreational, scenic or biologically productive values of these areas. The Conservation class should be applied to areas that should not be developed at all (preserved), or if developed, done so in a very limited manner characterized by careful planning and cautious attention to the conservation of environmental features. Infrastructure and services, public or private, should not be provided in these areas as a catalyst that could stimulate development.

Due to the low-lying nature of much of Currituck County, and the prevalence of wetlands in the County, the Conservation class is the most extensive of the four land classes. Oftentimes, the scattered, widespread nature of such areas (e.g. 404 wetlands) precludes their mapping except at a very generalized level of detail. In such instances, the standards of the Conservation class shall be applied in accordance with the site specific information made available during special studies and/or the land development process.

Full Service Area – Areas designated as Full Service are those parts of the county where a broad range of infrastructure and service investments have been provided or will be made available by the public and/or private sectors. Infrastructure investments may include, for example, community level or centralized water, parks, schools, fire and rescue facilities. Central wastewater treatment and disposal whether public or community is considered reasonable in the Full Service Areas.

Point Harbor Sub-Area – Require vegetated buffers along shorelines to preserve public access and open space at the waters edge and to protect water quality in the sound.

SUPPORTIVE POLICIES

POLICY PA1: Public access to the sound and ocean waters of Currituck County is essential to the quality of life of residents and visitors, as well as the economy of the area. The County supports the establishment of ADDITIONAL PUBLIC AND PRIVATE ACCESS opportunities to the waters of Currituck County.

POLICY PA2: The County supports MANY FORMS OF “ACCESS” to the water, including scenic outlooks and boardwalks, boat ramps, marinas and docks, fishing piers, canoe and kayak launches, and other means of access. Whenever possible, such facilities shall be designed to accommodate the needs of handicapped individuals.

POLICY PA5: PUBLIC AND PRIVATE MARINAS offering access to area waters should be encouraged when developed in accordance with the CAMA specific use standards for marinas (i.e. docks for more than 10 vessels). Marinas shall not be approved, however, that are incompatible with nearby land uses or whose designs fail to meet the environmental quality and development standards of the County’s Unified Development Ordinance.

POLICY ES4: In approving new developments, Currituck County shall support the retention or creation of a vegetated buffer area along ESTUARINE SHORELINES as a simple, effective and low-cost means of preventing pollutants from entering estuarine waters.

POLICY PP2: Currituck County shall continue to implement a policy of ADEQUATE PUBLIC FACILITIES, sufficient to support associated growth and development. Such facilities may include but not be limited to water supply, school capacity, park and open space needs, fire fighting capability, and law enforcement.

POLICY WQ6: Currituck County supports the retention or preservation of VEGETATED BUFFERS along the edge of drainage ways, streams and other components of the estuarine system as an effective, low cost means of protecting water quality.

POLICY ML3: The interests of Mainland Area residents in having ACCESS TO THE AREA'S OCEAN AND ESTUARINE WATERS shall be fostered through County actions to increase the number of additional public access sites at a rate commensurate with the population growth of the Currituck County. Included in the actions taken to increase public access shall be a consideration given to transportation needs, including boat docks and ferry services.

UNSUPPORTIVE POLICIES

POLICY ES2: NON-COASTAL WETLANDS, including FRESHWATER SWAMPS, AND INLAND, NON-TIDAL WETLANDS, shall be conserved for the important role they play in absorbing floodwaters, filtering pollutants from stormwater runoff, recharging the ground water table, and providing critical habitat for many plant and animal species.

POLICY TR11: ACCESS TO HIGHER INTENSITY DEVELOPMENT shall generally not be permitted through an area of lower intensity development. For example, access to a multi-family development, a major park facility or other large traffic generator shall not be permitted through a local street serving a single-family residential neighborhood.

CAMA LAND SUITABILITY:

According to the land suitability analysis included in the Land Use Plan, the site is primarily classified as least suitable for development. There are limited amounts of the site classified as low suitability (upland areas).

PUBLIC SERVICES AND UTILITIES:

The site is located within the Jarvisburg Elementary School District. The Lower Currituck Volunteer Fire Department provides fire protection for this area. Public water is available to this site from the Kilmarlic Subdivision.

TRANSPORTATION:

The site is accessible by vehicle from West Side Lane and by boat from the Intracoastal Waterway.

FLOOD ZONE:

The entire site is located in Flood Zone AE(7).

WETLANDS:

Approximately 95 acres of wetlands are located on the site (including the existing lake and canal). The remaining 23

acres primarily consists of uplands and comprises the majority of the request for Full Service designation.

SOILS:

The Currituck County Soils map indicates the property contains primarily non-suitable soils. There are limited amounts of suitable soils which comprise the majority of the request for Full Service designation.

STAFF

RECOMMENDATION:

Staff recommends **conditional approval** of the request subject to the following:

- In order to maintain balance in Land Use Plan classifications, adjacent wetlands currently designated as Limited Service should be incorporated into this amendment request and designated as Conservation. Considering the intensity of development allowed by the proposed Full Service designation, staff would recommend a 2/1 ratio for exchanging Conservation areas (i.e., for every 1 acre of Full Service created, 2 acres of Conservation is created).
- Future development proposals for the subject property must maintain public access to the Albemarle Sound (Policies PA1, PA2, PA5, ML3).
- Delineated wetlands must remain undisturbed as much as reasonably possible (Policy ES2).
- Future development proposals for the subject property must demonstrate that water quality is not adversely impacted. The establishment or preservation of vegetative buffers adjacent to the shoreline should be given high priority (Policies ES4, WQ6, and Point Harbor Sub-Area description).

Amendment Application

Land Use Plan Amendment Chapter 11 Section (s) 3 as follows:

Full service area district

Property Information (if amending a LUP map)

Street Address: 291 West Side
Lane

Parcel ID Number(s): 0112000003c0000

Deed Reference: Book 398 Page 694

Township: Powells Point

Description of Property (if amending a LUP map)

Size (in acres): ±123.1 Ac

Size of Area for Amendment ±40 Ac Upland

Street Frontage (feet): 60 ft

Current Zoning District: N/A

Current Land Use of Property: Residential

Surrounding Land Use:

North Fortune Bay Golf Club

South Albemarle Sound

East Kilmarlic Golf Community

West Property of Robert E. Wells &

Ronald K. Bennett ("Joyce Christiansen TRACT")

Current Future Land Use map designation: Conservation Area District

Proposed Future Land Use map designation: Full Service Area District

Pre-application Conference Information

Date of pre-application conference: April 10, 2008

Applicant/ representative in attendance: Mike Perry, Fred Myers

Planning Department staff in attendance: David Webb

Justification

Please provide sufficient information to explain and justify how the Land Use Plan Amendment request satisfies the following questions. Attach additional sheets if necessary.

1. Will the proposed amendment support uses that are suitable in view of the use and development of adjacent and nearby properties? **Yes.**

2. Will the proposed amendment adversely affect the existing use or usability of adjacent or nearby properties? **No.**

3. Would the proposed amendment support uses that could result in an excessive or burdensome use of existing public facilities such as streets, schools, transportation facilities, or utilities? **No.**

4. How does the proposed amendment conform to the recommendations of the Future Land Use Plan, and any other applicable long range plans? **The Kilmarlic Golf Club property is located to the east of the proposed Currituck Marina project. The land use of Kilmarlic Golf Club was amended from a conservation district to a full-service area district and thus, the Kilmarlic community accommodates single-family homes. This area has illustrated growth on its long range plan. By amending the Land Use Plan for Currituck Marina, this will leave a ±68.51% conservation area district, and a ±19.48% full-service area district within the boundaries of the subject property. (See Section II, Attachment B)**

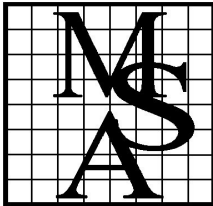
5. Are there any existing or changing conditions affecting the use or development of the property which justifies either approval or disapproval of the request? **No.**

6. Is there a public need for additional land space to be classified to this request? **Yes, Upland Marina: used for the public as a hurricane evacuation marina.**

7. How does this request relate to the land suitability analysis found in the Land Use Plan? Are there factors that have changed since the suitability analysis was

completed? **This area is medium suitability to low suitability with wetlands.
(See Section II, Attachment C)**

Amendment Narrative



**Narrative
Currituck Marina
Powell's Point, NC
MSA Project No. 07177**

The baseline purpose of the CAMA is to protect valuable natural heritage assets. These are uniquely valuable, coastal ecosystems. They are complex with regard to habitats and the biota that rely on these areas for survival. This project, Currituck Marina, honors that important commitment, through avoidance, minimization and conservation. It seeks to maintain the assets that make this as such a beautiful area, by developing areas that are upland, while capturing any runoff that could adversely affect the receiving waters.

By using cluster development and smaller footprints, the amount of impervious surface is kept to a minimum. Adjacent properties include single family development and a golf course, which will not be affected by this amendment. In fact, the golf course would be considered an amenity for this project and our project, potential income source for the golf course.

As a Community that targets "Active Adults" and is basically self contained. There would be minimal impact on County resources. There would be no affect on the local school system. While there would be a need to have public utilities, these would be consistent with existing demand. What makes this project truly unique and of public benefit is the opportunity to offer safe harbor to local and transient boaters. It is the intent of the developers to allow the general boating public to use the inland harbor in the event of foul weather. This is an unparalleled opportunity for the intracoastal boater. This change of use for the project and an identified public need truly justifies its approval and its land space to be reclassified.

Reviewing the County's Land Use Plan, indicates that is a conforming use. While there is a development aspect of the proposed project, the conservation component is a significantly larger area. The use of upland areas, translates into the honoring of the AECs to the maximum extent practicable. Additionally, it appears as if this area is designated to be acceptable as a "Full Service Area", under the Guidelines.

This project and project location offer a unique opportunity for public benefit. It is a

positive mix of upland and coastal habitat. This applicant is committed to conserving the ecological benefits, while creating a safe harbor for the boating public.

DISCUSSION

Mr. West stated that this is not part of the Kilmarlic property but access would need to go through a portion of the Kilmarlic property.

Mr. West asked how can wetlands in the Kilmarlic Club be designated to an conservation area if they are already designated to another subdivision.

Mr. Webb stated the county has sole authority to amend the plan if, the state certifies the change, and determine the outlook of the Future Land Use Plan.

Mr. West asked if public access would be available to the marina.

Mr. Webb stated the West Side Lane is a public road and the applicants have indicated there would be public marina access.

Mr. Morrison stated they think this is a great project for the citizens of Currituck having direct access to the Albemarle Sound. They have been in contact with the Kilmarlic golf course and they are working with them because this project will help their project.

Mr. Midgette asked Mr. Morrison if they are in agreement with staff recommendations.

Mr. Morrison stated yes.

Ms. Turner asked Mr. Morrison if he was okay with public access to sound and boat launch.

Mr. Morrison stated yes.

Mr. Bell asked who is responsible for checking the water quality?

Mr. Webb stated that a CAMA permit is reviewed by 12 different state agencies and a thorough review is done.

Mr. Kovacs asked if the Board of Commissioners are the only ones that can make changes to the Land Use Plan since they approve it.

Mr. Webb stated this is an amendment to a county planning document and staff would want a recommendation from the Planning Board.

Mr. West asked how does the next item on the agenda, which is a Currituck County request to amend the Land Use Plan, impact this request which is also a request to amend the Land Use Plan.

Mr. Webb stated that the applicants are asking the Planning Board to consider immediate action on this request tonight. What will be reported next is a report on the process the county is looking for a much wider area.

Mr. Woody stated that this request is totally separate from the County's request.

Mr. Midgette asked with this being an amendment to the Land Use Plan will this have an affect on any other conversation areas in the county.

Mr. Webb stated no.

Mr. Keel stated that since another Town Meeting is scheduled on June 17, 2008 for the citizens in the Crawford Township to offer comments on the proposed amendment and learn more about the County's Land Use Plan, wouldn't it be better to do the two amendments at the same time.

Mr. Woody stated he would encourage the board to consider this entirely separate from what the county is requesting.

Ms. Turner asked if the only reason they want to get the amendment is so they can obtain the CAMA permit.

Mr. Webb stated that this was the county's view. Mr. Webb stated that whatever action the county takes, The Division of Coastal Management will make a recommendation from the county's action afterwards or before it goes to Coastal Resources Commission (CRC).

Mr. West asked Mr. Morrison where they are with the project, i.e. permits, etc.

Mr. Morrison stated they have been working on this project for approximately three years which included all the engineering and surveying.

Mr. West stated that if this was put off for another month since the county is going through this Town Meeting process looking at the LUP and this could or could not have an impact on it.

Mr. Morrison stated he attended and participated at the Town Meeting on June 5, 2008 and thought it was fantastic to understand the LUP which is totally different and separate from what they are requesting. Mr. Morrison is asking the board to make a recommendation on their request and look at it as an individual project.

Mr. Webb stated that the LUP map is not the only component of the Land Use Plan, this is why we look at the polices.

Mr. West stated this will add 40 acres of full service to the LUP.

Mr. Woody stated it will add 40 acres of full service and 40 acres of conservation to the LUP.

Mr. Webb stated that there were no potential marina sites on the map when the LUP Committee met in 2006.

Mr. West stated that there is no opposition to the marina but with the Town Meetings still taking place he feels they should wait until they have taken place before the board makes a recommendation. Mr. West stated that it is not the marina that is requiring an amendment to the LUP, but the density of the property surrounding the marina to full service.

Mr. Midgette asked why the county has conservation areas.

Mr. West stated that the definition in the case analysis states "the purpose of the Conservation class is to provide for the long-term management and protection of significant, limited, or irreplaceable areas".

Mr. Midgette stated that the board has approved projects with conservation areas and now they would be going back on what has been done in the past. Mr. Midgette stated he has no problem with the marina but feels if they were to make a recommendation then other citizens within the county could do the same thing.

Mr. Morrison stated that the county would be gaining an extra 40 acres of conservation area.

Ms. Turner asked if this request is allowed to change, is it a way to ensure that the county doesn't lose conservation land?

Mr. Webb stated that what the board is looking at is the Future LUP and the other would be mitigation.

Ms. Turner stated if the board moves forward she would like to see keeping the same amount of conservation area.

Mr. Kovacs asked for clarification on the 2/1 ratio for exchanging Conservation area (i.e., for every 1 acre of Full Service created, 2 acres of Conservation is created.)

Mr. Webb stated the plan would change to add 40 acres of land to the conservation class.

Mr. West asked if the full service would be county wide for every 1 acre.

Mr. Webb stated it would be just for this property.

Mr. Wright stated he served on the LUP committee and one of the things they were concerned with was accessibility of the Albemarle Sound, which is one of great water resources of North Carolina and the nation. Currituck does not have any public access from Point Harbor to Coinjock to get to the Albemarle Sound. Mr. Wright feels that this proposal would give the public access to the Albemarle Sound. Mr. Wright stated he also has concerns. When Kilmarlic was done it was titled a great conservation, open space subdivision. Much of the open space in Kilmarlic was put under conservation easement to Ducks Unlimited. Mr. Wright asked if the land are already on a permanent easement for Ducks Unlimited. Mr. Wright is also concerned with the amount of density in an important wetlands area. He feels a lot of people will get confused with the whole process until the Town Meetings are done and the general question about unlimited vs. full services. Mr. Wright recommends the board table this request.

Mr. Morrison states he agrees with what Mr. Wright stated. Mr. Morrison did state this should be viewed separately from the Currituck County's LUP amendment. He is asking that the planning board make a recommendation on this request tonight so it can move to the June's Board of Commissioners meeting.

Ms. Turner stated that the marina is a positive project but she is concerned with the density and with one Town Meeting just taking place to discuss the LUP and another 2 weeks away, she feels it would be good to table this item.

ACTION

Mr. Keel motioned to table the request to amend the Currituck County Land Use Plan to designate approximately 40 acres of the Future Land Use map from Conservation Area to Full Service Area. Mr. West seconded the motion. Motion passed unanimously.

PB 08-28 Currituck County: Request to amend the Currituck County Land Use Plan to designate portions of the Future Land Use map from Limited Service Area to Full Service Area. The proposed amendment areas are located in the Jarvisburg Sub-Area and Point Harbor Sub-Area.

Mr. Woody provided an overview of the results from the Town Meeting on Thursday, June 5, 2008 at the Kilmarlic Clubhouse.

ACTION

No board action was taken.

ADJOURNMENT

With there being no further business to discuss, Mr. West motioned for adjournment. Ms. Turner seconded the motion and the motion passed unanimously. The meeting adjourned at 9:00 p.m.

Respectfully Submitted,

Susan M. Tanner/s/

Susan M. Tanner
Clerk to the Board