



## **CURRITUCK COUNTY PLANNING BOARD September 9, 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: Bren Robbins, Elizabeth Turner, Manly West, Alvin Keel, Joe Kovacs, Bobby Bell, William Etheridge, and Forrest Midgette. Absent: Arthur Winter

David Webb, Senior Planner, Ben Woody, Planning Director, Holly White, Senior Planner, 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. Bell motioned to approve the agenda as presented. Mr. West seconded the motion. Motion carried unanimously.

6:00 p.m. Work Session (2<sup>nd</sup> Floor Kitchen)

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

Item 1 Approval of Agenda

Item 2 Approval of August 12, 2008 Minutes

### **PLEASE LIMIT PUBLIC COMMENTS TO THREE MINUTES**

Item 3 **PB 08-38 Horatio Newbern:** Request to rezone 61.87 acres from Agricultural (A) to Residential (R). The property is located at 168 Buster Newbern Road, Tax Map 122, Parcel 5A, Poplar Branch Township.

Item 4 **PB 08-39 Horatio Newbern:** Request to rezone 18.87 acres from Agricultural (A) to Conditional District – General Business (CD-GB). The property is located at 231 Buster Newbern Road, Tax Map 110, Parcel 43, Poplar Branch Township.

Item 5 **PB 08-40 Horatio Newbern:** Request to rezone 51.99 acres from

Agricultural (A) to Conditional District – Heavy Manufacturing (CD-HM).  
The property is located at 134 Buster Newbern Road, Tax Map 110,  
Parcel 43, Poplar Branch Township.

- Item 6      **PB 06-45 Currituck Crossing Conservation Subdivision, Phase 1:**  
Final Plat for 26 lots. The properties are located on Aydlett Road adjacent  
to the Currituck Sound, approximately 400 ft. north of intersection with  
Caroon Rd., Tax Map 93, Parcels 1 and 95, Poplar Branch Township.
- Item 7      **PB 08-30 Weeping Radish Brewery:** Request for a Special Use Permit  
to operate a temporary indoor recreational facility and an outdoor  
recreational facility at the Weeping Radish Brewery located in Jarvisburg  
at 6810 Caratoke Highway, Tax Map 108, Parcel 52C, Poplar Branch  
Township.
- Item 8      **PB 08-43 Beach Mart, Inc.:** Request for Special Use Permits for  
outdoor storage and display for five locations in the Corolla area. The  
properties are located at 807 Ocean Trail, 812 Ocean Trail, 813 Ocean  
Trail, 818 Ocean Trail, and 610 Currituck Clubhouse.
- Item 9      **PB 84-11 Corolla Light PUD, Phases 10-14:** Amended Sketch Plan/  
Special Use Permit to add 100 residential dwellings and rezone 4 parcels  
to General Business (GB) for Commercial/Mixed Use. The properties are  
located in Corolla north of Monterey Shores and adjacent to NC12 and  
the Whalehead Subdivision, Tax Map 11B, Parcels P2AV, P2AU, 0P5I,  
P5HC and P5HD, Poplar Branch Township.
- Item 10     **PB 08-41 Bissell Professional Group - Text Amendment for RO2  
Roads and Lots:** Request to amend UDO Chapter 9: Infrastructure;  
Chapter 2: Zoning Districts; and Chapter 10: Subdivision Requirements  
to allow existing larger parcels to be re-subdivided into open space  
subdivisions in the RO2 zoning district with sand roads that follow the  
configurations of previously approved roads and lots (Carova Beach,  
Swan Beach, etc.)
- Item 11     **PB 08-49 Currituck County:** Request to amend the Currituck County  
Unified Development Ordinance for a series of ordinance corrections and  
updates.
- Item 12     **Development Review Process:** Discussion of proposed changes.
- Item 13     **ADJOURNMENT**

### **APPROVAL OF MINUTES**

Mr. Keel motioned to approve the Planning Board minutes for August 12, 2008 as  
presented. Mr. Etheridge seconded the motion. Motion carried unanimously.

**NEW BUSINESS:**

**PB 08-38 Horatio Newbern:** Request to rezone 61.87 acres from Agricultural (A) to Residential (R). The property is located at 168 Buster Newbern Road, Tax Map 122, Parcel 5A, Poplar Branch Township.

H.D. Newbern appeared before the board.  
Ms. White presented the following case analysis to the board.

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**TYPE OF REQUEST:** To rezone 61.87 acres from “Agricultural (A) to Residential (R)”

**LOCATION:** This property is located at 168 Buster Newbern Road.

**TAX ID:** Tax Map 122, Parcel 5A  
0122000005A0000

**OWNER/APPLICANT:** Horatio D. Newbern III  
Finley S. Newbern  
7519 A Caratoke Hwy.  
Jarvisburg, NC 27947

**AGENT:** Same

**CURRENT ZONING:** Agricultural (A)

**PROPOSED ZONING:** Residential (R)

**ZONING HISTORY:** The property was zoned Agricultural (A) on April 2, 1989.

**SURROUNDING PROPERTY:**

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Agricultural/Undeveloped	A
<b>SOUTH:</b>	Residential/Agricultural	A/HM
<b>EAST:</b>	Agricultural/Residential	A/R
<b>WEST:</b>	Business/Agricultural/Residential	GB/A

**EXISTING LAND USE:** Agricultural/Undeveloped

**PROPOSED LAND USE:** Residential

**LAND USE PLAN**

**CLASSIFICATION:** The 2006 Land Use Plan classifies this site 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. While low-density development may continue to locate in these areas, it is recognized that soil limitations, flood prone areas, and a lack of infrastructure and services may prevent these areas from ever reaching an urban level of development. Because many of the areas identified for Limited Service also include prime farmland efforts should be made to ensure that thriving agricultural operations are protected from encroaching development through the use of buffering, landscaping, and conservation oriented design.

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. Similar to the Grandy area, but at a lower overall density, new residential 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 ID2: Industrial uses should not be located in areas that would diminish the desirability of existing and planned NON-INDUSTRIAL DEVELOPMENTS, nor shall incompatible non-industrial uses be allowed to encroach upon existing or planned industrial sites.

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 (1) to one and one half (1.5) units per acre depending upon the surrounding development pattern and availability of resources.

POLICY HN9: Proposed residential development that would expose residents to the harmful effects of INCOMPATIBLE LAND USES or to ENVIRONMENTAL HAZARDS shall be prohibited. This would include, for example, residential development in locations adversely impacted by proximity to the airport or to activities involving excessive noise, light, odors, dust, fertilizers and insecticides (e.g. certain farm operations, mining activities, etc.).

**PUBLIC SERVICES  
AND UTILITIES:**

The Lower Currituck Volunteer Fire Department provides fire protection for this area. Electric, telephone and cable television are available. Public water is not available.

**TRANSPORTATION:**

The site is accessible from Buster Newbern Road and Jarvisburg/Bayview Road. The property is located at the intersection of Buster Newbern Road and Jarvisburg/Bayview Road.

**FLOOD ZONE:**

This majority of this site is located in an AE flood zone with a base flood elevations (BFE) ranging from five to seven feet. A small portion of the property near the waterfront is located in a VE flood zone with a BFE of seven. There is also a small percentage of property in the shaded "X" flood zone. This property is located in the 100 year flood zone.

**WETLANDS:**

There are approximately 3.2 acres of potential wetlands on-site.

**SOILS:**

The Currituck County Soils map indicates the property contains primarily marginal soils for on-site septic systems with a small percentage of suitable soils.

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**STAFF  
RECOMMENDATION:**

Staff recommends approval of the request to establish 61.87 acres from "Agricultural (A) to Residential (R)"

Reasons for approval: The following points support the approval of this request as presented.

1. The proposed request is in general compliance with Limited Service designation of the 2006 Land Use Plan and the Jarvisburg Sub-Area Policy Emphasis.
2. The proposed zoning conditions are consistent with the objectives of the Currituck County Unified Development Ordinance and 2006 Land Use Plan and promote compatibility between the subject property and surrounding area.
3. The property just to the north of the subject property is zoned Residential (R).

## **DISCUSSION**

Mr. Newbern stated that he and his brother are dividing property and everything on Buster Newbern Road to the south is full service and to the north is zoned agricultural. Mr. Newbern stated that at this time he has no plans for the property.

## **ACTION**

Mr. West motioned to recommend approval with staff recommendations to rezone 61.87 acres from Agricultural (A) to Residential (R) according to the 2006 Land Use Plan. Mr. Bell seconded the motion. Motion carried unanimously.

**PB 08-39 Horatio Newbern:** Request to rezone 18.87 acres from Agricultural (A) to Conditional District – General Business (CD-GB). The property is located at 231 Buster Newbern Road, Tax Map 110, Parcel 43, Poplar Branch Township.

H. D. Newbern appeared before the board.  
Ms. White presented the following case analysis to the board.

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**TYPE OF REQUEST:** To rezone 18.87 acres from “Agricultural (A) to Conditional District General Business (CD-GB)”

**LOCATION:** This property is located at 231 Buster Newbern Road.

**TAX ID:** Tax Map 110, Parcel 43  
[011000000430000](#)

**OWNER/APPLICANT:** Horatio D. Newbern III  
Finley S. Newbern  
7519 A Caratoke Hwy.  
Jarvisburg, NC 27947

**AGENT:** Same

**CURRENT ZONING:** Agricultural (A)

**PROPOSED ZONING:** Conditional District- General Business (CD-GB)

**ZONING CONDITIONS:** The applicant has developed the following condition that will apply to this property:

- Outdoor storage of materials and equipment shall be fully screened from adjacent properties and Buster Newbern Road.

**ZONING HISTORY:** The property was zoned Agricultural (A) on April 2, 1989.

**SURROUNDING PROPERTY:**

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Agricultural/Undeveloped	A
<b>SOUTH:</b>	Residential/Agricultural	A/HM
<b>EAST:</b>	Agricultural/Residential	A/R
<b>WEST:</b>	Business/Agricultural/Residential	GB/A

**EXISTING LAND USE:** Agricultural/Undeveloped

**PROPOSED LAND USE:** Conditional District General Business (CD-GB)

**LAND USE PLAN  
CLASSIFICATION:**

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

The purpose of the Limited Services classification is to provide for primarily residential development at low densities. While low-density development may continue to locate in these areas, it is recognized that soil limitations, flood prone areas, and a lack of infrastructure and services may prevent these areas from ever reaching an urban level of development. Because many of the areas identified for Limited Service also include prime farmland efforts should be made to ensure that thriving agricultural operations are protected from encroaching development through the use of buffering, landscaping, and conservation oriented design.

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. Similar to the Grandy area, but at a lower overall density, new residential 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 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. (See esp., Policy CD9 below concerning connected parking areas.)

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. (Also see Policy HN9)

POLICY CD6: Appropriate OFFICE AND INSTITUTIONAL DEVELOPMENT, such as professional offices, small churches, individual medical offices, and

the like, shall be encouraged to locate as a transitional land use between residential areas and commercial or industrial activities of higher intensity. "Activities of higher intensity" are typically large-scale commercial uses or automobile-oriented commercial development but may also include major thoroughfares.

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.

**PUBLIC SERVICES  
AND UTILITIES:**

The Lower Currituck Volunteer Fire Department provides fire protection for this area. Electric, telephone and cable television are available. Public water is not available.

**TRANSPORTATION:**

The site is accessible from Buster Newbern Road.

**FLOOD ZONE:**

This site is not located in a special flood hazard area.

**WETLANDS:**

There are no wetlands onsite.

**SOILS:**

The Currituck County Soils map indicates the property contains primarily marginal soils for on-site septic systems with a small percentage of suitable soils.

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**COMMUNITY  
MEETING:**

No community meeting was held.

**STAFF  
RECOMMENDATION:**

Staff recommends conditional approval of the request to establish 18.87 acres from "Agricultural (A) to Conditional District General Business (CD-GB)"

Reasons for approval: The following points support the approval of this request as presented.

4. The proposed request is in general compliance with Limited Service designation of the 2006 Land Use Plan and the Jarvisburg Sub-Area Policy Emphasis.

5. The proposed zoning conditions are consistent with the objectives of the Currituck County Unified Development Ordinance and 2006 Land Use Plan and promote compatibility between the subject property and surrounding area. (LUP Policy CA3)
6. The adjacent property just to the north and west of the subject property are zoned General Business (GB).
7. There is a Full Service area immediately south of the requested property across Buster Newbern Road. If approved as a CD-GB district with a limited range of permitted uses and design requirements, the subject property would serve as a transitional area for the Limited Service area to the north.

Outstanding Staff Concerns: The conditional zoning process provides an opportunity for an applicant to propose use limitations or development conditions that ensure development proposals are consistent with the policies set forth in adopted plans. Staff feels the following concerns could be appropriately addressed through the conditional zoning process.

1. Staff recommends that the following GB uses shall be excluded from the property to promote more neighborhood serving commercial areas:
  - Automotive services, repair, sales and rental
  - Boat services, repair, sales, and rental
  - Heavy equipment services, sales, repair, and rental
  - Retail sales of manufactured/modular homes
  - Landfills- demolition and reclamation
  - Light manufacturing
  - Wholesale Trade
  - Airport (private)
  - Bars/nightclubs
  - Tattoo and body piercing studio
  - Shopping center
  - Hotel/motel
  - Carwash
  - Mini warehousing
  - Wholesale trade
  - Mobile homes
2. A minimum 25 foot buffer must be provided between the proposed development and all adjacent properties of residential use. The buffer shall be opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion. The intermittent

buffer shall be planted with vegetation of a minimum two inch caliper and eight feet in height (Currituck County UDO Section 5.5).

3. Staff recommends that the property be subdivided according to the proposed zoning in order to have a surveyor certify the official zoning line, size of the property, and eliminate split zoned property.
4. UDO Section 12.5.2 B states, "Areas zoned for non-residential purposes along the county's major arterials have been carefully selected, taking into account existing needs and uses. Additional areas along these major arterials shall not be rezoned to non-residential districts except upon an extraordinary showing of public need or demand and then only to expand an adjacent zoning district of the same classification as the district requested."

Currently, the county has:

- a. A total GB zoned property = 4,278 acres (2.6% of all zoning)
- b. A total GB zoned property developed for commercial use = 1,167 acres
- c. A total percentage of GB zoned property actively used as commercial = 27%

## **DISCUSSION**

Mr. Kovacs asked for clarification on the eastern lot line.

Mr. Newbern asked Mr. Woody if you would need a conditional use permit under general business.

Mr. Woody stated that it would depend on what you would be doing with the property.

Ms. White stated that in the Unified Development Ordinances there are 115 uses for general business.

Mr. Midgette asked why this was not filed as a straight rezoning or did the applicant request this to be filed as a Conditional District Zoning Map Amendment.

Mr. Woody stated that staff asked this to be filed as a Conditional District Zoning Map Amendment because this parcel is designated limited service. Staff does not know what the property will be used for.

Ms. Turner stated it is hard to issue an approval for general business rezone without knowing what the property will be used for because you cannot protect the residential properties.

Mr. Newbern stated that more than likely the property would be kept as farm use because of the cost of taxes.

Mr. Woody stated that in the conditional zoning process additional zoning conditions are just recommendations by the staff. Any restrictions on the zoning request would have to be agreed upon by the applicant and the Board of Commissioners.

Mr. Newbern stated he will exclude the following from his property:

- Retail sales of manufactured/modular homes
- Landfills – demolition and reclamation
- Airport (private)
- Bars/nightclubs
- Tattoo and body piercing studio
- Hotel/motel
- Carwash

Mr. Woody stated that in the general business zoning district the county has 4,000 acres which approximately 75% of it is vacant.

Mr. West asked if restrictions were put on a conditional rezoning request and then you wanted to come back and do one of the restrictions; would you have to start the process all over.

Mr. Woody stated yes.

Ms. White stated that staff could work with the applicant before this goes to the Board of Commissioners meeting.

### **ACTION**

Mr. Bell motioned to recommend approval with staff recommendations; to exclude retail sales of manufactured/modular homes, landfills-demolition and reclamation, airport (private), bars/nightclubs, tattoo and body piercing studio, hotel/motel, and carwash from the property according to the 2006 Land Use Plan to rezone 18.87 acres from Agricultural (A) to Conditional District-General Business (CD-GB). Mr. West seconded the motion. Motion carried unanimously.

**PB 08-40 Horatio Newbern:** Request to rezone 51.99 acres from Agricultural (A) to Conditional District – Heavy Manufacturing (CD-HM). The property is located at 134 Buster Newbern Road, Tax Map 110, Parcel 43, Poplar Branch Township.

H.D. Newbern and Ashley Broaddus appeared before the board.  
Ms. White presented the following case analysis to the board.

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**TYPE OF REQUEST:** To rezone 51.99 acres from "Agricultural (A) to Conditional District Heavy Manufacturing (CD-HM)"

**LOCATION:** This property is located at 134 Buster Newbern Road.

**TAX ID:** Tax Map 110, Parcel 43  
[011000000430000](#)

**OWNER/APPLICANT:** Horatio D. Newbern III  
Finley S. Newbern  
7519 A Caratoke Hwy.  
Jarvisburg, NC 27947

**AGENT:** Same

**CURRENT ZONING:** Agricultural (A)

**PROPOSED ZONING:** Conditional District- Heavy Manufacturing (CD-HM)

**ZONING CONDITIONS:** The applicant has developed the following conditions that will apply to this property:

1. The applicant has excluded the use of landfills on this property.
2. A 30 foot undisturbed buffer shall be maintained along the interior of the property where existing vegetation does not provide an adequate buffer.

**ZONING HISTORY:** The property was zoned Agricultural (A) on April 2, 1989.

**SURROUNDING PROPERTY:**

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Agricultural/Undeveloped	A
<b>SOUTH:</b>	Residential/Agricultural	A/HM
<b>EAST:</b>	Agricultural/Residential	A/R
<b>WEST:</b>	Business/Agricultural/Residential	GB/A

**EXISTING LAND USE:** Agricultural/Undeveloped

**PROPOSED LAND USE:** Conditional District Heavy Manufacturing (CD-HM)

**LAND USE PLAN  
CLASSIFICATION:**

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

The purpose of the Limited Services classification is to provide for primarily residential development at low densities. While low-density development may continue to locate in these areas, it is recognized that soil limitations, flood prone areas, and a lack of infrastructure and services may prevent these areas from ever reaching an urban level of development. Because many of the areas identified for Limited Service also include prime farmland efforts should be made to ensure that thriving agricultural operations are protected from encroaching development through the use of buffering, landscaping, and conservation oriented design.

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. Similar to the Grandy area, but at a lower overall density, new residential 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 HN9: Proposed residential development that would expose residents to the harmful effects of INCOMPATIBLE LAND USES or to ENVIRONMENTAL HAZARDS shall be prohibited. This would include, for example, residential development in locations adversely impacted by proximity to

the airport or to activities involving excessive noise, light, odors, dust, fertilizers and insecticides (e.g. certain farm operations, mining activities, etc.).

POLICY ID2: Industrial uses should not be located in areas that would diminish the desirability of existing and planned NON-INDUSTRIAL DEVELOPMENTS, nor shall incompatible non-industrial uses be allowed to encroach upon existing or planned industrial sites.

POLICY ID3: Industrial development shall be located on land that is physically suitable and has unique locational advantages for industry. Advanced planning for the identification of such land shall be encouraged. Designation of "CERTIFIED" INDUSTRIAL SITES shall be especially pursued.

POLICY ID7: Facilities for the disposal of HAZARDOUS WASTE, whether chemical, biological, radioactive or other, shall not be located in Currituck County.

**PUBLIC SERVICES  
AND UTILITIES:**

The Lower Currituck Volunteer Fire Department provides fire protection for this area. Electric, telephone and cable television are available. Public water is not available.

**TRANSPORTATION:**

The site is accessible from Buster Newbern Road.

**FLOOD ZONE:**

This site is not located in a special flood hazard area.

**WETLANDS:**

Approximately 2.2 acres of potential wetlands are located on the site.

**SOILS:**

The Currituck County Soils map indicates the property contains primarily marginal soils for on-site septic systems.

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**COMMUNITY  
MEETING:**

No community meeting was held.

**STAFF  
RECOMMENDATION:**

Staff recommends denial of the request to establish a 51.99 acres from "Agricultural (A) to Conditional District Heavy Manufacturing (CD-HM)"

Reasons for denial: The following points support the denial of this request as presented.

8. The proposed request is not in general compliance with Limited Service designation of the 2006 Land Use Plan or the Jarvisburg Sub-Area Policy Emphasis.
9. The proposed use does not promote compatibility between the subject property and surrounding area. (LUP Policy ID-2)
10. In August 2007, neighboring parcel 011000000010000 to the north east was rezoned from Agricultural to Residential.
11. The subject property is 1.3 miles south of the Jarvisburg Elementary School site.
12. Heavy Manufacturing (HM) zoning could substantially injure the value of adjoining residential zoned and used properties.

Outstanding Staff Concerns: The conditional zoning process provides an opportunity for an applicant to propose use limitations or development conditions that ensure development proposals are consistent with the policies set forth in adopted plans. Staff feels the following concerns could be appropriately addressed through the conditional zoning process.

1. In an effort to buffer adjacent residential properties from the harmful effects of noise, intense, heavy manufacturing uses, and incompatible land uses staff recommends that structures shall be setback a minimum of 150 feet from any street right-of-way and 100 feet from all other property lines.
2. It is suggested that a fifty foot opaque screen be installed to shield neighboring property from the view of any building. If a fence is used to accomplish the opaque screen, evergreen vegetation should be planted outside of the screen such that within six years the fence will not be visible from a distance of at least 10 feet. A 15 foot semi-opaque, similar to a type B screen, shall be required along all street right-of-ways. Existing vegetation shall be preserved where feasible.
3. The proposed use will not require and will not allow truck pick-up or delivery traffic before 7:00 a.m. or after 7:00 p.m. All parking and loading areas shall be located on the side or rear of the structure. All parking and loading areas shall be setback a minimum of 75

feet from any side or rear property line. Only one driveway shall be permitted per site unless public safety would be better served with a second driveway.

4. All structures should be constructed in a manner so as to blend in with the character of the area taking into consideration height, size, exterior materials, windows, doors, and other related exterior features. All applications should be accompanied by building elevations of proposed structures and a lighting plan.
5. All refuse containers should be screened and located a minimum of 50 feet from any property line.
6. The applicant has excluded the use of landfills on the property. Staff would also recommend that the following uses be excluded due to potential secondary impacts on adjoining residential properties (LUP Policies HN 9, ID 2, ID 3):
  - Asphalt plant
  - Concrete plant
  - Junkyard/salvage yard
  - Incinerator
  - Meat processing plant
  - Animal feed processing plant
  - Adult establishments
  - Bars & nightclubs
7. Staff recommends that the property be subdivided according to the proposed zoning in order to have a surveyor certify the official zoning line, size of the property, and eliminate split zoned property.

## **DISCUSSION**

Mr. West asked that since staff is recommending denial, why in the case analysis it had conditions for approval.

Ms. White stated that if this was to get approved, these are staff recommended conditions.

Mr. Newbern stated he and his brother are planning on separating the property. The property on the Southside doesn't have any restrictions on it. Mr. Newbern stated that in the uses of Heavy Manufacturing (HM) he wants to make sure he can do his wood grinding.

Mr. Kovacs stated that there is a dividing line between a full service district and a limited service district. The applicant's property is not in a full service district.

Mr. Woody stated that when staff makes recommendations they use the 2006 Land Use Plan which has been adopted by the Board of Commissioners as their guideline. The planning staff works with the applicant to help them bring forth an application that staff thinks would increase their chances of getting approved by the Board of Commissioners.

Mr. Webb stated that there are 101 uses for HM in the Unified Development Ordinances.

The Board discussed the advantages and disadvantages of this parcel being rezoned to HM. They discussed a Day Care ½ mile and the Jarvisburg Elementary School 1.3 miles from the subject property.

Ms. Broaddus stated she is the owner of the Day Care and she is concerned with this being approved as a Heavy Manufacturing district.

#### **ACTION**

Mr. Etheridge motioned to recommend denial with staff recommendations to rezone 51.99 acres from Agricultural (A) to Conditional District-Heavy Manufacturing (CD-HM). Ms. Turner seconded the motion. Ayes: Ms. Turner, Ms. Robbins, Mr. Keel, Mr. Etheridge, and Mr. Kovacs. Nays: Mr. Bell, Mr. West, and Mr. Midgette. Motion carried.

**PB 06-45 Currituck Crossing Conservation Subdivision, Phase 1:** Final Plat for 26 lots. The properties are located on Aydlett Road adjacent to the Currituck Sound, approximately 400 ft. north of intersection with Caroon Rd., Tax Map 93, Parcels 1 and 95, Poplar Branch Township.

Jon Hain, Albermarle and Associates appeared before the board.  
Mr. Webb presented the following case analysis to the board.

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Currituck Crossing, LLC is requesting Final Plat approval for 26 lots, Phase 1 of the Currituck Crossing Conservation Subdivision. All improvements have been installed and certified by Technical Review staff. Tap fees were paid 8-14-08 totaling \$78,000 (\$3000 each lot). The following bonds/letters of credit have also been submitted and filed with the Finance Department:

Street maintenance: \$48,045.33- Gateway Bank #7110396302

Stormwater pond and swales: \$27,744.68- Gateway Bank #7110396221

Because this project has met all of the requirements for a Final Plat, staff recommends approval with the following conditions:

1. The conservation easement for the primary conservation open space and homeowners association documents shall be recorded with 30 days of recordation of the Final Plat.
2. The developer shall be responsible for the continued maintenance of the open space, roads and stormwater systems until such time as they are conveyed to the homeowners association or NCDOT for maintenance.

Attached is the information for this project.

**LOCATION:** The property is located on Aydlett Road, Approximately 400ft north of intersection with Caroon Rd., Poplar Branch Township. The property has approximately 1,680 feet of frontage on the Currituck Sound.

**TAX ID:** Tax Map 93, Parcels 1 and 95

**ZONING DISTRICT:** Residential and Agricultural

**OWNER:**  
Currituck Crossing, LLC  
8150 Leesburg Pike, Suite 810  
Vienna, VA 22182

**ENGINEER:**  
Albemarle and Associates  
PO Box 3989  
Kill Devil Hills, NC 27948

**SIZE OF SITE:** 166.97 Acres Total, Phase I: 30.02 Acres

**SCHOOL DISTRICT:** Poplar Branch (Griggs)

**NUMBER OF LOTS:** 26 in Phase 1 (106 total approved on the Sketch Plan)

**DENSITY:** 0.64 unit/ acre

**MINIMUM LOT SIZE:** 20,000 square feet

**STREETS:** The streets are built to NCDOT Design and Construction standards. The developer expects the streets will be dedicated to NCDOT for maintenance.

**WATER:** This development will be served by county water.

**FIRE:** This development is located within the jurisdiction of the Lower Currituck Volunteer Fire Department. Fire hydrants are installed for this development.

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

**DRAINAGE:** The applicant installed roadside ditches and property line swales to drain into on-site ponds and wetlands.

### **DISCUSSION**

Mr. West asked if this is the development that has a historical site on it.

Mr. Webb stated it had an Indian shell midden which has been fully excavated. The area where this shell midden is located will be preserved as conservation open space. A bulk head has been installed all the way down to prevent future erosion.

Mr. Hain stated it will be a beautiful subdivision which will be an asset to the area.

### **ACTION**

Mr. Kovacs motioned to approve with staff recommendations the final plat for Currituck Crossing Conservation Subdivision, Phase I for 26 lots. Ms. Turner seconded the motion. Motion carried unanimously.

**PB 08-30 Weeping Radish Brewery:** Request for a Special Use Permit to operate a temporary indoor recreational facility and an outdoor recreational facility at the Weeping Radish Brewery located in Jarvisburg at 6810 Caratoke Highway, Tax Map 108, Parcel 52C, Poplar Branch Township.

Rich Cubin and John Chapman appeared before the board.  
Mr. Woody presented the following case analysis to the board.

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**ITEM:** **SPECIAL USE PERMIT FOR A TEMPORARY INDOOR RECREATION FACILITY AND AN OUTDOOR RECREATION FACILITY**

**LOCATION:** 6810 Caratoke Highway, Jarvisburg

**ZONING DISTRICT:** Light Manufacturing (LM)

**TAX ID:** Tax Map 108, Parcel 52C  
0108-000-052C-0000

**OWNER:** Currituck Eco Brewery  
PO Box 1909  
Manteo, NC 27954

**APPLICANT:** Weeping Radish Brewery  
6810 Caratoke Highway  
Jarvisburg, NC 27947

**LAND USE/ZONING OF SURROUNDING PROPERTY:**

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Farmland	Zoned LM
<b>SOUTH:</b>	Farmland	Zoned LM
<b>EAST:</b>	Convenience Center/Farmland/Woodland	Zoned GB
<b>WEST:</b>	Farmland	Zoned LM

**NARRATIVE:**

1. The Weeping Radish is requesting a special use permit for the following uses:
  - a. Privately owned outdoor recreational facility. The proposed use will include an outdoor ice slide.
  - b. Temporary indoor recreational facility. The proposed use will include a temporary tent for recreation uses.
2. The property contains 7.5 acres zoned Light Manufacturing.
3. Currituck Eco Brewery submitted a text amendment to allow temporary indoor recreational facilities as a special use permit. The Planning Board recommended approval of the text amendment, and the Board of Commissioners will take action on September 2, 2008.
4. The Board of Commissioners issued a special use permit for the Weeping Radish Brewery to operate special events on April 2, 2007. A three year extension was granted by the Board of Commissioners on March 17, 2008.

**SPECIAL USE PERMIT CRITERIA:**

Special use permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. In order to approve a special use permit, certain criteria must be satisfied. The criteria are outlined as follows:

1. *COMPLETENESS OF THE APPLICATION*  
**Suggested Findings:**
  - a. Based on staff review all required information has been submitted.
2. *COMPLIANCE WITH ORDINANCE REQUIREMENTS*  
**Suggested Findings:**

- a. The proposed development generally complies with the provisions of the UDO.
3. The applicant's proposal will be required to maintain compliance with all UDO requirements and any additional requirements of the Board of Commissioners.
  - a. *The proposed use **will not** materially endanger the public health or safety for the following reasons:*  
**Suggested Findings:**  
Public health and safety issues including stormwater management, wastewater disposal and access for emergency services have generally been addressed for this development.
  - b. *The proposed use **will not** substantially injure the value of adjoining or abutting property for the following reasons:*  
**Suggested Findings:**  
The proposed development should have no negative impact on adjoining property. The adjoining uses include farmland and a county convenience center. The proposed development is consistent with the objectives of the Currituck County Unified Development Ordinance and promotes compatibility between the subject property and surrounding area.
  - c. *The proposed use **will** be in harmony with the particular neighborhood or area in which it is to be located.*  
**Suggested Findings:**  
The proposed recreational uses should be compatible with the neighborhood, and have no negative impact on the adjoining property.
4. *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.*  
**Suggested Findings:**  
The 2006 Land Use Plan classifies the site as **Full Service** within the **Jarvisburg** sub-area.

The purpose of the Full Service classification is to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping and site design. Commercial uses may include clusters of businesses serving the immediate area and, where appropriate, a more extensive market territory.

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

**POLICY PR7:** New park and recreation facilities, as well as improvements to existing facilities, shall give special consideration to the needs of HANDICAPPED PERSONS.

**POLICY ED4:** In addition to the recruitment and expansion of major new industries, the considerable value of SMALL BUSINESS START-UPS, EXPANSIONS AND SPIN\_OFFS shall also be recognized.

The proposed development is consistent with the objectives of the Currituck County Unified Development Ordinance, 2006 Land Use Plan, and promotes compatibility between the subject property and surrounding area.

5. *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 two 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 the UDO.*

**Suggested Findings:**

Approval of this request should have no negative impact on public facilities.

**TECHNICAL REVIEW COMMENTS:**

**Fire Marshal Comments (James Mims 252-232-6641):**

1. The applicant must establish if the structure will be temporary or a permanent membrane structure as defined by the building code.
2. The applicant must submit a copy of the manufacture's specifications.
3. The applicant must submit a statement identifying the use of the structure, using the definitions from the building code.
4. Any permanent structure, as defined by the building code, will require a fire hydrant to be located within 400 feet of all portions of all structures on the property.

**Building Inspector Comments (Spence Castello 252-232-6020):**

Approved with the following conditions and comments:

1. Must have approved lighting in the membrane structure.
2. Handicap accessibility required.

**Soil Conservation Comments (Mike Doxey 252-232-3360):**

Approved as is.

**County Engineer Comments (Eric Weatherly 252-232-6035)**

Approved as is.

**Public Works, Utilities, Comments (Pat Irwin 252-232-2769):**

Approved with the following conditions and comments:

1. The water department will move the water service with a cost of materials and labor to the Weeping Radish out of the animal pen or the Weeping Radish can move the fence from around the meter.
2. Chapter 13, Section 13-4 Consumer's Responsibility rules require:
  - a. Where a meter is placed on the premises of a consumer, a suitable place shall be provided by the consumer for placing the meter, unobstructed and accessible at all times to the meter reader.

Albemarle Regional Health Services (David Sweeney):

No comment received regarding the relocation of the septic repair area.

NCDOT Comments (Roger Ward) 252-331-4737:

No comment.

County Manager, Dan Scanlon

No comments received.

## **STAFF RECOMMENDATION**

The proposal appears to meet the criteria for granting a Special Use Permit and staff recommends **APPROVAL** with the following conditions:

1. A site plan and landscape plan must be submitted that meets the requirements of the UDO and the Technical Review Staff (TRC) prior to issuance of a zoning permit, building permit, and commencement of any recreation use authorized by this special use permit.
2. The proposed outdoor recreation area, ice slide, must be identified on the site plan. All equipment, including slides, shall be located a minimum 20 feet from any street right-of-way and maintain all accessory structure setbacks.
3. The applicant shall continue to meet all conditions of the Weeping Radish Brewery special use permit for outdoor events.
4. The special use permit for private outdoor recreation and shall remain valid for five years.
5. The temporary tent shall be subject to the following conditions:
  - A. Temporary tents shall only be utilized for temporary purposes and shall not be used as a permanent principal structure or permanent accessory structure.
  - B. Temporary tents shall be constructed of fire retardant materials. All tents shall display a fire retardant certificate and be inspected by the fire marshal, building inspector, or his designee prior to occupancy.
  - C. Temporary Tents shall be setback not less than ten feet from any property line. Tents shall not be located in any easement, existing or future right-of-

way, vehicular access area, required vehicular parking space, sight-distance area, septic area or other similar area.

- D. Temporary tents shall be adequately braced and anchored to prevent weather related collapse and shall not contain a permanent foundation.
- E. Temporary tents shall be maintained in good condition. Damaged tents shall be repaired, replaced or removed.
- F. When applicable, all tents shall meet North Carolina Fire Code and North Carolina Building Code.
- G. Temporary tents must be placed on property that contains a permanent principle structure with a minimum enclosed area of 10,000 square feet.
- H. A special use permit will be required for such tents erected on a property for a period of time that exceeds 30 days. The special use permit issued for the temporary structure shall expire in five years and may not be renewed.
- I. All such tents shall maintain a minimum setback of 20 feet from any street right-of-way and meet all other accessory structure setbacks for the property.
- J. The maximum building coverage including principle structures, accessory structures, and the temporary tent shall not exceed 10 percent of the property. The tent shall not exceed the total square footage of the existing principle structure.
- K. Tents located within 50 feet of a public street shall provide a semi-opaque landscape buffer between the right-of-way and the tent. The screen or barrier shall meet the following minimum requirements:

Minimum Plant Materials			
Minimum Width	Plant Material Required Per 100 Linear Feet of Street Frontage	Minimum Planting Height or Caliper	Maximum Spacing
10 Feet	3 Large Shade Trees 30 Evergreen Shrubs	Large Shade Trees: 2 Inch Caliper Evergreen Shrubs: 24 Inch Height	Trees: 50 Feet Shrubs: 6 Feet

**DISCUSSION**

Mr. Midgette asked if this request should be tabled until the text amendment goes through the Board of Commissioners (BOC) meeting on 9/15/08.

Mr. Woody asked that the board make a recommendation contingent upon the approval of the text amendment. If the BOC denies the text amendment this request would not need to go forward.

Mr. Cubin stated they are trying to move the project forward and to get open by Thanksgiving.

Mr. Kovacs asked Mr. Cubin to provide more information on the outside recreation slide.

Mr. Cubin showed the location of the slide and provided specs on the slide.

### **ACTION**

Mr. Kovacs motioned to recommend approval with staff recommendations and contingent that the text amendment is approved at the Board of Commissioners meeting on September 15, 2008 for a Special Use Permit to operate a temporary indoor recreational facility and an outdoor recreational facility. Ms. Turner seconded the motion. Motion carried unanimously.

**PB 08-43 Beach Mart, Inc.:** Request for Special Use Permits for outdoor storage and display for five locations in the Corolla area. The properties are located at 807 Ocean Trail, 812 Ocean Trail, 813 Ocean Trail, 818 Ocean Trail, and 610 Currituck Clubhouse.

Linda Goodwin appeared before the board.

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

### **MEMORANDUM**

**To:** Planning Board

**From:** Planning Department

**Date:** August 28, 2008

**Re:** PB 08-43 Beach Mart, Inc. – Outdoor Display

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The Planning Department has recently received five applications from Beach Mart, Inc. for the issuance of special use permits to allow for the outdoor display of merchandise. It is expected other similar requests for special use permits will be filed in the coming months.

Traditionally the Board of Commissioners, and when applicable the Board of Adjustment, has granted special/conditional use permits for outdoor display with an expiration of two years. This means the re-issuance of use permits must be processed on a frequent basis. As has become standard practice, the use permits for outdoor display are typically approved with the same conditions.

Considering the frequency with which these types of permits are approved, and the amount of staff resources that are required to process and monitor these requests, Staff is asking the Planning Board consider an alternate means to regulate outdoor display. It is recommended that a text amendment to the Unified Development Ordinance be considered rather than proceeding with the repeated issuance of special/conditional use permits. The language for the

text amendment would include provisions for administrative approval with the standard conditions that have accompanied previous issuances of use permits. Additional language could be developed to provide for unique issues that may be relevant to outdoor display in the Outer Banks area.

Should the Planning Board endorse this approach, Staff would then prepare a text amendment request for the October meeting. Otherwise, the special use permit applications will be rescheduled.

## **DISCUSSION**

Mr. Kovacs asked if the initial request would come to the Planning Board or if it would be handled administratively.

Mr. Woody stated it would be handled administratively. If approved it would be part of the Unified Development Ordinances, but also there would be a review process by staff.

Ms. Robbins asked if there would be public input on the text amendment.

Mr. Woody stated that with the text amendment he would approach the Chamber of Commerce and citizens groups in Corolla to get feed back. Mr. Woody stated that once this would become part of the ordinances, it would be standard guidelines which would be used by staff. If the ordinance was adopted by the BOC it would be re-evaluated in 6 to 12 months to see how it is working.

Mr. West asked what are the advantages and disadvantages of still having the Special Use Permit. Initially they would come before the Planning Board unless it was a complaint or a modification to the permit it would be administratively approved.

Mr. Woody stated that some of the disadvantages are the BOC set expiration dates on the SUP and they will need to be reprocessed; and the Special Use permits may not have continuity.

## **ACTION**

Mr. West motioned to recommend approval for staff to prepare a text amendment to the Unified Development Ordinance to allow outdoor display of merchandise with an administrative approval. Mr. Keel seconded the motion. Motion carried unanimously.

**PB 84-11 Corolla Light PUD, Phases 10-14:** Amended Sketch Plan/ Special Use Permit to add 100 residential dwellings and rezone 4 parcels to General Business (GB) for Commercial/Mixed Use. The properties are located in Corolla north of Monterey Shores and adjacent to NC12 and the Whalehead Subdivision, Tax Map 11B, Parcels P2AV, P2AU, 0P5I, P5HC and P5HD, Poplar Branch Township.

Carlos Gomez, Coastal Engineering, Rick Willis, Robert Burgin, Burgin Engineering, and Herb Robbins appeared before the board.  
Mr. Webb presented the following case analysis to the board.

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**ITEM:** PB 84-11 Corolla Light PUD, Phases 10-14: Amended Sketch Plan/ Special Use Permit to add 100 residential dwellings and rezone 4 parcels to General Business (GB) for Commercial/ Mixed Use. The properties are located in Corolla north of Monterey Shores and adjacent to NC12 and the Whalehead Subdivision, Tax Map 11B, Parcels P2AV, P2AU, 0P5I, P5HC and P5HD, Poplar Branch Township.

**LOCATION:** The properties are located in Corolla north of Monterey Shores and adjacent to the Atlantic Ocean, Currituck Sound and Whalehead Subdivision, Tax Map 11B, Parcels P2AV, P2AU, 0P5I, P5HC and P5HD, Poplar Branch Township.  
Parcel ID Numbers:  
115B000P2AVOPEN  
115B000P2AU0000  
115B0000P5I0000  
115B000P5HC0000  
115B000P5HD0000

**ZONING DISTRICT:** RO1/ PUD/ GB

**OWNER:** Outer Banks Ventures, LLC  
Attn: Rick Willis  
215 Brooks Ave., Unit 1001  
Norfolk, VA 23510  
757-286-5859

**ENGINEER:** Coastal Engineering  
Carlos Gomez, P.E.  
PO Box 1129  
Kitty Hawk, NC 27949  
252-261-415

**Narrative:**

- Outer Banks Ventures, LLC (Richard Brindley and Rick Willis) is requesting sketch plan approval to convert four existing utility sites to commercial areas with retail shops, offices, restaurants and add 100 attached residential dwellings for a total of 563 dwellings in the subdivision. The design and mix of uses for each parcel has not been determined at this time.
- UDO Section 4.3.4 PUD Overlay Special Requirements states: A special use permit may be approved showing the portion of the tract proposed for

commercial uses reserved for future development. No construction on any land may take place within such areas until the special use permit is amended to approve specific plans for such areas.

- Each mixed use area will require an additional site specific plan approval from the Board of Commissioners as each is designed.
- The utility sites are currently two wastewater treatment plants and the Corolla Light water treatment plant.
- The proposal is to make the golf course site a commercial area and relocate two existing wastewater treatment plants to one site adjacent to NC12 and Shad Street.
- The Sketch Plan amendment approved by the Board of Commissioners on October 21, 2002 indicated 13.03 acres (4.88%) of commercial areas in Corolla Light after the 4.52 acres of the Beacon Hill section were changed to a residential area.
- This proposal seeks to increase the commercial areas by 18.48 acres, resulting in a total of 29.88 acres of commercial or 11.1%.
- The maximum allowed commercial area in a PUD is 10%. The applicant will have to reconcile the plan with previous approvals or apply for a PUD Variance to be heard by the Board of Commissioners (4.3.6 PUD Variances)

**Total area of Corolla Light = 267.05 acres**

<u>Residential Density for Corolla Light</u>		<u>Units</u>
Existing Single Family units	=	316
Existing Multi-Family Units	=	110
Existing Apartments	=	26
Proposed Apartments (Phase 3-Town Center)	=	11
Proposed Future Multi-Family (Phases 10, 13 and 14)	=	100

Total Residential Units \_\_\_\_\_ 563 or 2.37 units per acres

<u>Commercial Density for Corolla Light</u>		<u>Acres</u>
Phase 2A (Exist. Parking Lot Easement and Maint Bldg)	=	1.03
Phase 3 (Exist. Corolla Light Town Center)	=	6.83
Phase 4 (Exist. Corolla Inn)	=	1.66
Phase 4A (Exist. Retail- Outdoor Recreation)	=	0.39
Phase 4B (Exist. Restaurant, Retail, Apartments)	=	0.63
Phase 5G (Exist. Area of Pro-Shop & Parking)	=	0.16
Phase 5J (Exist. Professional/ Office Use)	=	0.70
Phase 10 (Proposed Commercial)	=	6.88
Phase 11 (Proposed Commercial Use Only)	=	0.87
Phase 13 (Proposed Commercial)	=	4.86
Phase 14 (Proposed Commercial)	=	5.87

Total Proposed Commercial = 29.88 or

11.2 % of 267.05 AC

**LAND USE/ZONING OF SURROUNDING PROPERTY:**

<b>NORTH:</b>	Residential/ Heritage Park	Zoned: RO1 and RO1/ PUD
<b>SOUTH:</b>	Vacant- Future Corolla Bay Commercial and Food Lion	Zoned: GB/ PUD
<b>EAST:</b>	Whalehead Subdivision	Zoned: RO1
<b>WEST:</b>	Wetlands Open Space, Currituck Sound	Zoned: RO1

**ELEMENTS OF THIS PLAN:**

- STREETS:** All lots will front on existing roads built to NCDOT standards.
- WATER:** Water will be provided by the County's Southern Outer Banks Water System (SOBW). A capacity of 75,000 GPD was granted on August 29, 2008 from the SOBWS to serve the new development.
- FIRE:** The development will be served by the Corolla Volunteer Fire Department and fire hydrants will be installed in accordance with Volume 5 of the NC Building Code.
- WASTEWATER:** Corolla Light is proposing to close the two existing wastewater treatment plants and build a new plant with a capacity of 500,000 GPD.
- OPEN SPACE:** The total open space is 131.83 acres or 49.37 %, which exceeds the minimum required open space or 35%. No changes to open space are proposed.
- DRAINAGE:** Drainage improvements will be required to meet state and local requirements when the buildings are designed.
- FLOOD ZONES:** The subject properties are in a Shaded X zone, outside of the 100 year flood plain.

**SPECIAL USE PERMIT CRITERIA:**

Through the special use permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties. In order to approve a special use permit, certain criteria must be satisfied. The criteria are outlined as follows (Section 11.7(F)(12)):

- a. *The application is complete.*  
 Based on staff review all required information has been submitted for review.

- b. *The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".*  
A Planned Unit Development is a permitted use in the RO1 overlay zoning district.
- c. *The conditions proposed meet or exceed the minimum requirements of this ordinance and are agreed to by the applicant.*  
The ordinance can be met if the required changes are made to the plan.
- d. *The special use will not endanger the public health or safety.*  
Public health and safety will be addressed through the Preliminary Plat permitting process as required by the UDO and NC laws.
- e. *The special use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.*  
The proposed mixed use development will be compatible with adjacent residential and commercial uses.
- f. *The special use will be in conformity with the Land Use Plan, Thoroughfare Plan, or other officially adopted plan.*  
The 2006 Land Use Plan classifies this area as Full Service within the Corolla Sub Area.

The policy emphasis of the Land Use Plan for the Corolla Subarea is to allow for predominantly medium density residential development (2 to 3 units per acre) with minimal commercial development arranged in clusters. An overall density of no more than 3 units per acre should also apply to PUDs, the prevailing development form in the Corolla area. PUDs should also have a mandated 30% permanent open space requirement. Strip commercial development is to be avoided for both aesthetic as well as traffic moving considerations. Development and redevelopment should be capable of being supported by the area's infrastructure and services—particularly drinking water, sewage treatment, road capacity, parking areas, and required fire suppression capabilities.

The proposed density of this development is 2.37 units per acre. Because the sketch plan density is lower than the recommended density and complies with the Corolla sub-area statements, this application **complies** with the 2006 Land Use Plan.

- g. *The special use 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 two years after the initial approval of the plan (sketch plan in the case of major subdivisions).*

This development will not exceed the county's ability to provide services. School seats allocation for the Outer Banks area was not calculated due to the low year round occupancy rate of the area.

**TECHNICAL REVIEW STAFF:**

On August 20, 2008 Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – Disapproved, resubmit with the following: Provide method to supply potable water in the analysis. (Currituck County has allocated 75,000 GPD from the SOBWS)
2. **Currituck Soil & Water Conservation** - Approved as is.
3. **Currituck County Fire Services**—Approved as is.
4. **Currituck County Southern Outer Banks Water System**- Approved with the following conditions and comments:

At build out of the new commercial/residential area there is an estimated need for 0.24MGD. The SOBWS Water Plant can produce 2 MG and the highest system usage is 1.936 MG. When the new section is built out there will be a potential system demand of 2.176 MG and this is 0.176 MG over the ability of SOBWS Plant to produce water. Currently there is an understanding with the County that SOBWS provides water to Corolla Light and a negotiation for the purchase of that system by the County. If these negotiations end without a resolution and the County no longer sells water to Corolla Light where is the additional water coming from?

**(Currituck County allocated 75,000 GPD from the SOBWS on August 29, 2008)**

5. **Currituck County Inspections Department**-Approved as is.
6. **Currituck County GIS** – No Comment
7. **County Parks & Recreation Department** - No comments received.
8. **Currituck County Emergency Management** – No comments received.
9. **NC Department of Transportation**: Disapproved, resubmit with the following information:

Additional information will be needed for each site, would prefer access to be from secondary roads and internally. Traffic Engineer will review traffic analysis section of impact statement.

**10. NC Division of Coastal Management** (Charlan Owens)- Indicate the discharge location for the new WWTP proposed on the Phase 12 site. Please email me the applicant's response.

**11. US Army Corps of Engineers** (Tom Steffens)- Approved with the following conditions: May require USACE Section 404 verification of jurisdictional wetlands onsite before construction begins.

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

**Code Requirements:**

1. The applicant will have to reconcile the commercial area allocation of the plan with previous approvals or apply for a PUD Variance to be heard by the Board of Commissioners (4.3.6 PUD Variances). The UDO allows 10% commercial, but this plan proposes 11.2% commercial areas.
2. The residential density shall be corrected to reflect the 11 apartments that were approved in Phase 3 by the Board of Commissioners on November 7, 2005. The total residential density proposed is 2.37 units per acre or 563 units.
3. No land disturbance activities including clearing or grading shall take place prior to the Planning Department issuing the authorization to construct after Preliminary Plat/ Site Plan approval is granted.
4. NCDOT will determine access for each site after the NCDOT Traffic Branch reviews the proposal. Access should be from secondary roads and internally.
5. At the Preliminary Plat stage, all permits for construction of infrastructure including water, wastewater, stormwater controls shall be submitted.
6. The proposed wastewater plant shall receive an authorization to construct from NC DWQ prior to submittal of any Preliminary Plat/ Site Plans for review.

**Staff Recommend Conditions:**

- (1) The applicant shall submit a design palate for all structure types to be built. Compliance with the approved designs must be demonstrated at building permit application by submission of a certification that the Corolla Light Architectural Review Committee has approved the design.

- (a) The design palates shall be submitted for Planning staff review and approval prior to submission of Preliminary Plat.
- (b) With respect to the proposed single-family detached dwellings, staff suggests the following criteria:
  - (i) Variation in exterior architectural materials (siding, roofing);
  - (ii) Vertical and horizontal relief in buildings (roof lines, eaves, bump outs);
  - (iii) Variation in house styles/types; and
  - (iv) Inclusion of front porches, projecting bays, vestibules.

(2) Commercial Architecture

With respect to the nonresidential structures, staff suggests the following elements be considered:

- (i) Facades of new buildings shall incorporate, but not mimic, the sense of lightness or weight exhibited in the architecture of existing buildings on neighboring properties or the vernacular of the general area and shall incorporate similar proportions of solids (i.e. siding, blank walls, etc.) to voids (i.e. windows, door openings, etc.);
- (ii) The principal building façade of proposed buildings shall be oriented toward the primary street frontage and in the same direction as the majority of existing buildings on the frontage street. Proposed buildings on corner or dual frontage properties shall reflect a public façade on both streets.
- (iii) Facades shall be designed to reduce the massive scale and the one dimensional appearance of large retail buildings and to provide visual interest.
- (iv) The street facing elevations shall incorporate functioning windows into the overall design concept. Functioning windows are defined as those windows which let light into the interior of the structure and are integrated and related to the interior layout of the space.
- (v) In addition to functioning windows, the corridor elevations shall contain at least two of the following elements:
  1. A primary entrance door or doors (except for loading doors).
  2. A primary entrance feature, such as a porch, portico, awning, entrance walk, or other similar feature.
  3. Landscaping integrated into the building design concept.
  4. Architectural or urban design elements, which link adjacent structures together, such as plazas, walkways, colonnades, or similar features.
  5. Architectural relief, such as vertical and horizontal off-sets in exterior wall elevations, band courses, lintels and sill courses, cornices and the like to create shadow lines.

- (vi) Large expanses of blank walls shall be avoided. The public facade shall incorporate windows and primary doorway entrances along the street frontage as well as projecting elements such as eaves, cornices, canopies, projecting bays, shadow lines, and overhangs.
- (vii) The plan shall incorporate durable exterior surface materials complementary with the color, texture, size, and scale of exterior materials reflected on a historical Currituck County vernacular that shall be developed as part of a pattern book.
- (viii) The general roof shape, ridge and eave heights, and material characteristics proposed shall be visually compatible with these same attributes expressed in existing buildings in the immediate vicinity or in keeping with the historical vernacular of the Currituck County Outer Banks.
- (ix) Building materials include brick, wood, fiber-cement siding, stone textured split face block, tinted and textured concrete masonry, or synthetic stucco. Metal building materials shall only be permitted on elevations not visible from the public right-of-way or used as accent materials.
- (x) A landscape plan shall be submitted in conjunction with the preliminary plan showing the location, spacing, caliper dimension, and species of proposed landscaping materials.

(3) Commercial Parking.

- (i) No parking lot shall be designed to be within the front building setback and shall instead be located behind the front building line. This allows front parking, but increases the space from the street property line.
- (ii) Parking lots shall be arranged in such a manner so that not more than twenty (20) parking spaces in a row shall be permitted without a landscaped island. Parking lot landscape islands shall be a minimum of ten (10) feet wide.
- (iii) Five (5) percent of the interior area of a parking lot shall be reserved for landscape purposes. This provision shall include the landscaping of all required parking islands and medians. Shade trees shall be incorporated within the landscaped islands whenever and wherever practicable.
- (iv) Install interior landscaped islands in the parking lot. The number of islands shall be determined at the site plan review stage.

(4) Commercial Area Landscaping

- (i) Staff recommends a landscape plan be submitted in conjunction with the preliminary plat showing the location, spacing, caliper dimension, and species of proposed landscaping materials.

- (ii) Identify all existing trees in the potential buffer areas and design the site to preserve this existing buffer to the maximum extent possible.
- (iii) If additional trees are needed, they should have a minimum caliper of 2 inches, shall be 8-10 feet in height at installation. Shrubs shall be evergreen and 3 feet in height when installed and are expected to reach a minimum height of 6 feet at maturity.
- (iv) Parking lot screening is required adjacent to public rights-of-way - Low profile screening shall be installed when parking spaces would result in vehicles facing onto the roadway in addition to the requirements of Chapter 5 Bufferyard and Shading Requirements. Screening may consist of a low wall, evergreen hedge with minimum height of two (2) feet at time of planting planted three (3) feet apart on center and a maximum height of three (3) feet at maturity, or earth berm. Should a low wall be used, such wall shall be accompanied by evergreen shrub plantings on the roadway side of the wall and spaced ten (10) feet apart on center.

(5) Outdoor Display Areas.

- (i) All outdoor display areas, including garden centers and any seasonal sales, shall be enclosed on all sides with high-quality fencing such as fencing resembling wrought iron, (chain link fencing is prohibited).
- (ii) All outdoor display areas shall be designated on the site plan and must not extend into parking areas.
- (iii) Mechanical or HVAC equipment shall not be installed at ground level along any portion of a building facing a state maintained street or road or internal street or way unless such location is necessitated by the nature and design of the building it serves. Roof top installation may be allowed provided that such equipment is concealed behind a parapet wall.
- (iv) A solid fence or wall and native plants shall screen any ground level equipment. Block or brick enclosures, if used, may include decorative openings within the block or brick pattern.

**DISCUSSION**

Mr. Midgette stated that the case is asking for an Amended Sketch Plan/Special Use Permit to add 100 residential dwellings and rezone 4 parcels to General Business (GB) for Commercial/Mix Use. Mr. Midgette asked why these were not introduced as two separate items on the agenda.

Mr. Webb stated because the applicant is proposing a mixed use development. They will have residential and commercial on the same parcel which will be condos that may have a business on the first floor and residential on the second floor.

Mr. West asked what phases have already begun.

Mr. Webb stated Phases 1-9.

Mr. West stated that the applicant is requesting to take two wastewater treatment plants that consist of 6.75 acres and put it on one location that consists of 3 acres.

Mr. Webb stated this is what they are proposing.

Mr. Gomez stated that the old system will be replaced with a state of the art system and technology on these systems has greatly improved. They will be required to get a state permit.

Mr. West asked what is the size of the old system.

Mr. Gomez stated 260,000 gallons and they are proposing a new system up to 500,000 gallons.

Ms. Robbins asked if any thought had been given to replace or upgrade the existing wastewater treatment plant at the north end of the development and leave it at its existing site instead of relocating it. Ms. Robbins has concerns for the residents in Whalehead and in Corolla Light along Morris Drive that will become neighbors of this new wastewater treatment plant.

Ms. Turner stated that it will impact a lot people who brought residential property with no intention of being next to a wastewater plant.

Ms. Turner asked if the proposed new system could be built on the existing site so it would not need to move.

Mr. Gomez stated it could be done, but it is not in the plan. Presently there is a wastewater treatment plant in Phase 10 and Phase 13 and the new treatment plant is being proposed for Phase 12.

The board expressed their concerns with relocating the wastewater treatment plant from Phase 10 and moving it to Phase 12 which is a smaller lot. The board discussed the impact it would have on residents who brought residential property with no intention of being next to a wastewater treatment plant.

Mr. Burgin provided an overview of the new wastewater treatment system. The new site was chosen for the geological features.

Ms. Robbins asked what are some of the factors that influenced one site from another.

Mr. Burgin stated type of ground, soil type, clay and silk contents, hydraulic of the area, but mostly soil type. Mr. Burgin stated that Phase 12 is the best site for a wastewater treatment system.

Mr. Gomez stated that the homeowners of Corolla Light have been made aware of the proposed plan.

Mr. Herb Robbins stated he is on the Board of Directors at Whalehead Property Owners Associations and they have some real concerns with what is being proposed. Mr. Robbins stated that an area along Corolla Drive is part of a wastewater tax district and the residents at Whalehead are paying 4 cents per 100 to have a storm water system put in. Mr. Robbins stated they have a major concern with storm water run off in the area. Mr. Robbins stated that the developers are moving the wastewater plant from Phase 10 to Phase 12 because they are running out of space in Corolla Light and they want to build more housing units. Mr. Robbins stated that when the bridge is built from the mainland to Corolla, you will need public access to the beach and a bathhouse for the public. Mr. Robbins stated he would like to see the wastewater treatment plant to remain in Phase 10 and not in Phase 12.

Rick Willis, Outer Banks Venture stated that one of the reasons this development has been successful is that they have stood by the development and participated with the community and association. Mr. Willis stated circumstances are different today than what they were in 1984 in Currituck County. Mr. Willis stated that Phase 10 was chosen for the wastewater site in 1984 because of the height of the property. Mr. Willis stated that the plant is not in the best location now because it is next to Heritage Park and the Lighthouse. It would be a mistake from a land planning standpoint to put the wastewater plant on this site, Phase 10. Mr. Willis stated that one wastewater plant is 21 years old and the other is 24 years old. The developer at their own cost will replace these plants. This is a reasonable request and would like the board to consider this request.

Mr. West stated in the Technical Review comments that Public Works disapproved the request stating they need to resubmit a plan to provide a method to supply potable water in the analysis. (Currituck County has allocated 75,000 GPD from the SOBWS). A recommendation from the Department of Transportation (DOT) for disapproval and NC Division of Coastal Management had some concerns. Mr. West still has a question on how this treatment plant can be put on three acres. Mr. West stated there are still some unanswered questions.

Mr. Webb stated that the water question has been answered and they have not heard anything back from DOT.

Mr. Gomez stated this is the Amended Sketch Plan/Special Use Permit and once it goes to the Preliminary Plat stage, DOT will be deeply involved with it.

Mr. Midgette asked Mr. Woody if the board could request that the applicant have a public meeting to address some of these concerns.

Mr. Woody stated that there is no requirement to have a public meeting for a Sketch Plan/SUP and the applicant has submitted a request that meets the UDO requirements.

Mr. Woody stated that you could ask them if they would be willing to have one, but would ask the board to go ahead and make a recommendation.

### **ACTION**

Ms. Turner motioned to recommend denial because the special use permit criteria will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located. Ms. Robbins seconded the motion. Motion carried unanimously.

### **PB 08-41 Bissell Professional Group - Text Amendment for RO2 Roads and Lots:**

Request to amend UDO Chapter 9: Infrastructure; Chapter 2: Zoning Districts; and Chapter 10: Subdivision Requirements to allow existing larger parcels to be re-subdivided into open space subdivisions in the RO2 zoning district with sand roads that follow the configurations of previously approved roads and lots (Carova Beach, Swan Beach, etc.)

Mark Bissell appeared before the board.

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

### **MEMORANDUM**

**To:** Planning Board, Board of Commissioners

**From:** Planning Department

**Date:** August 27, 2008

**Re:** PB 08-41 Bissell Professional Group- RO2 Roads and Lots

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Bissell Professional Group is proposing a series of amendments that will affect road and subdivision standards for the RO2 (Outer Banks Limited Access Residential District) area. The purpose is to allow existing larger parcels to be re-subdivided into open space subdivisions in the RO2 zoning district that follow the configurations of previously approved roads and lots. The request seeks to change three UDO standards for the RO2 district:

- 1) Change the road standard from NCDOT minimum requirements to graded, sand roads;
- 2) Allow lots to have a 7:1 depth to width ratio in RO2 open space subdivision;
- 3) Use lots in other areas of a subdivision to allow a transfer density to ocean front lots. The minimum lot size would remain at 1.5 acres for an open space subdivision.

Staff concurs with the following assessment by Bissell Professional Group that these changes conform to the 2006 Land Use Plan.

Bissell Professional Group Submitted the following narrative with their application:

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### Submitted by Bissell

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REQUEST FOR  
UNIFIED DEVELOPMENT ORDINANCE  
TEXT AMENDMENTS FOR  
ZONING, INFRASTRUCTURE, AND SUBDIVISION REQUIREMENTS

**Item 1:**

Several Currituck County UDO references to street and road standards for the RO2 district conflict with the Currituck Land Use Plan as well as current CAMA regulations for the district. Paragraphs pertaining to RO2 within the UDO include requirements for paved or gravel road surfaces.

The Currituck Land Use Plan policies in regard to road construction within the RO2 district state the following:

**POLICY OB6:**

Concerning the OFF-ROAD AREAS OF THE OUTER BANKS, Currituck County shall not permit or encourage the provision of growth-inducing facilities and services to these areas, including for example, commercial services, centralized sewage treatment and hard surface roads.

**POLICY OB8:**

In order to protect WILD HORSES, Currituck County shall not permit nor encourage the provision of hard surface roads in the off-road area of Carova.

The UDO requirements for road surfaces within the RO2 district are also in conflict with CAMA regulations within the district, which prohibit hardened and gravel surfaced roadways.

The UDO requirements of a 45' minimum right-of-way is deemed unnecessary for the vehicle beach accesses within the RO-2 district. The 45' minimum width is in accordance with the current *Subdivision Roads Minimum Construction Standards*, established for the particular type of street in question by the North Carolina Department of Transportation, Division of Highways (NCDOT). Streets within the RO-2 district will not be dedicated to the NCDOT, therefore future vehicle beach accesses within the RO-2 district should not be required to meet the 45' minimum width, but should meet a minimum 30' R/W width.

**Item 2:**

The Currituck County UDO references to lot geometry require lots in all subdivisions, in every district, to have a single restrictive width-to-depth ratio with a maximum of 1:4, which was designed for mainland Currituck with 40,000 sq.ft. lots, providing for a 100' minimum lot width in an open space subdivision. The RO-2 district allows for a minimum lot size of 65,340 sq.ft. in an open space subdivision. Due to some of the irregular parcel arrangements, varying shorelines, as well as existing topography, drainage and ecological features within the RO-2 district, adhering to this ratio would not be in the best interest for preserving the unique qualities of this district. For these reasons as well as for the purpose of maximizing transfer and tax base values, a less restrictive width-to-depth ratio would be more appropriate for the RO-2 district, while still providing a minimum 100' front lot width.

**Item 3:**

Due to the existing parcel configuration within the RO-2 district, issues of providing the required open space and transferring the development densities across right-of-ways between adjacent parcels have been problems for the design of open space subdivisions within the district. It is desired to have a mechanism for the creation of larger contiguous open space areas to maximize their potential usage and enjoyment by the population of proposed developments, with the possibility of public dedication of these areas.

To alleviate the above conflicts, Bissell Professional Group requests the following amendments to the Currituck County Unified Development Ordinance:

**RO2 Roads and Lots  
PB 08-41  
UDO AMENDMENT REQUEST  
Bissell Professional Group**

Request to amend UDO Chapter 9: Infrastructure; Chapter 2: Zoning Districts; and Chapter 10: Subdivision Requirements to allow existing larger parcels to be re-subdivided into open space subdivisions in the RO2 zoning district with sand roads that follow the configurations of previously approved roads and lots (Carova Beach, Swan Beach, etc.)

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 section 9.1.8 Street Standards within the RO2 District be amended as follows by deleting the strike though text and adding the underlined text:

~~A. The streets constructed in a major subdivision shall comply with all of the standards as set forth by the North Carolina Department of Transportation and~~

~~other applicable state regulations with regards to the construction of roads and streets intended to be dedicated for assumption for maintenance by the North Carolina Department of Transportation.~~

- A. It is not the intent of Currituck County to require hard surfaced roads and streets in the RO2 district. Roads in RO2 district are therefore exempt from NCDOT design and construction standards, but shall be graded, drained and stabilized in accordance with the provisions of this ordinance. The design of such roadways shall be reviewed approved by the County Engineer or his their designee.
- B. The developer shall stabilize and maintain the rights-of-way so established outside of the ~~paved portion~~ travelway of such street by establishment of vegetation or other means to the extent reasonably possible under the circumstances.
- C. The developer shall comply with all the rules, regulations and requirements of Chapter 10 of this Ordinance with regard to major subdivisions.
- D. If access to the beach requires crossing a dune line, the developer shall obtain all proper CAMA Permits and if legally possible, establish a beach ramp.
- E. The developer shall stabilize and maintain the rights-of-way adjoining and along the ~~paved or gravel portions~~ travelways of the road or street by establishment of vegetation or other means to the extent ~~reasonable~~ reasonably possible.
- F. Whenever a developer wishes to subdivide a tract or parcel of land which is within the future alignment of Ocean Pearl, Ocean Trail, Sandfiddler, and/or Sandpiper, the developer shall comply with the following regulations:
1. Establish a right-of-way of a minimum width of 100 feet that is capable to connect to and follow the lines of the roads mentioned above;
  2. All streets shall be oriented/designed to connect with existing or proposed streets shown on previously recorded plats to provide for a continuous right-of-way to adjoining properties;
  3. No developer shall be required to maintain more than one major access street or road of 100 feet in width through his subdivision to adjoin with adjoining properties. Any streets which are not necessary for continuous access through the developer's property and which may have been shown on previously recorded plats, may be abandoned or deleted by the developer so long as one continuous access of 100 feet in width is maintained through his property to adjoin the neighboring properties to provide for continuous and contiguous access north and south parallel with the Atlantic Ocean.
- G. The amount of the security shall be determined by the board in all subdivisions in the RO2 District including private access subdivisions and major subdivisions.

- H. In the RO2 District, the board shall determine the amount of such bond in view of all of the surrounding conditions and circumstances.
- I. The developer shall demonstrate to the reasonable satisfaction of the Board of Commissioners that the private roads proposed in such development will be properly maintained. Such demonstration shall include a written plan that explains who will maintain the streets, how they will be stabilized and maintained, and how such maintenance shall be financed.
- J. When a private road is created under this section, the developer shall establish a homeowners association that satisfies the criteria spelled out in Section 10.6, convey to that association title to the right-of-way of such streets and roads, and obligate the homeowners association to maintain such streets.
- K. No final plat that shows lots served by roads or streets authorized under this section may be recorded unless the final plat contains the following notation:

"Further subdivision of any lot shown on this plat as served by a road or street may be prohibited by the Currituck County Unified Development Ordinance unless the roads or streets shown on this plat are improved to state standards. These roads do not meet state standards for the assumption of maintenance due to inadequate right-of-way and/or construction or lack of public dedication. It is not the function of county government in the State of North Carolina to construct or maintain roads. There may be areas of standing water on the lots after ocean overwash or periods of heavy rains that may impede access to the individual homesites. It is the sole responsibility of the owners to provide an improved access to their properties."
- L. Developer shall furnish the initial purchaser of a newly created lot in the RO2 District a disclosure statement outlining the maintenance responsibilities for the road as provided in GS 136-102.6(f) and as set forth in this section. Said disclosure statement shall fully and completely disclose the status (whether public or private) of the street upon which the house or lot fronts. If the street is designated by the developer and seller as a private street, the developer and seller shall include in the disclosure statement an explanation of the consequences and responsibility as to maintenance of a private street, and shall fully and accurately disclose the party or parties upon whom responsibility for construction and maintenance of such street or streets shall rest, and shall further disclose that the street or streets will not be constructed to minimum standards, sufficient to allow their inclusion on the State highway system for maintenance.
- M. In order to minimize the flooding of streets and to assure proper drainage within the RO2 zoning district, all subdivision plats, including private access subdivisions shall submit a drainage plan prior to final plat approval.

- N. The developer shall comply with the following regulations for creation of a private access subdivision in the RO2 District in addition to the other requirements of private access subdivisions in other districts:
1. When possible, a 45 foot right-of-way shall be given, but in no event shall the access be less than 20 feet in width; and,
  2. The right-of-way serving the lots must have a graded and drained surface ~~stabilized with a minimum of three inches of gravel or aggregate all weather base.~~ and stabilized shoulder area.
- O. No single right-of-way may serve more than five lots, including any residual parcels, if any, regardless of size and require plat approval by the administrator.
- P. All proposed Vehicle Right-of-Ways east of Sandfiddler Road within the RO-2 district shall meet a minimum 30' width.

**Item 2:** That section 2.6.3(G) Lot Requirements, be amended as follows by adding the underlined text:

- G. Lots in all subdivisions, except lots within major open space subdivisions in the RO-2 District, shall not have a depth greater than four times the width measured at the front building setback line except where the board finds that the physical dimensions of the tract provide no other practical alternative. Lots within major open space subdivisions in the RO-2 District shall not have a depth greater than 7 times the width measured at the front building setback line.

**Item 3:** That section 10.4 Open Space Standards, be amended as follows by adding the following new underlined text:

#### **10.4.1 Applicability and Definition**

- A. All major subdivisions shall provide permanent open space. This shall not apply to subdivisions with 20 lots or less or where all the lots are 5 acres or larger.
- B. The location of open space shall be consistent with the policies contained in these provisions and other long range documents adopted by the Currituck County Board of Commissioners.
- C. For purposes of this section, open space means an area that:
1. Is not encumbered with any structure unless such structure is for recreational purposes available and accessible to all residents of the subdivision or general public, including indoor tennis courts, swimming pool and other facilities;

2. Is not contained within a street right-of-way or otherwise devoted to use as a roadway, parking area not associated with the use of open space or above ground waste disposal facilities;
3. Is legally and practicably accessible to the residents of the development out of which the open space is taken;
4. Is not encumbered by underground septic lines, any part of a sewage disposal system, or any above ground or below ground structure;
5. May include farmland and tree farms;
6. Is capable of being used and enjoyed for passive recreation, such as walking, jogging, or being improved for more active recreational use;
7. Does not include any CAMA wetlands; and,
8. Includes any part of any man-made or natural lakes or ponds provided they are completely surrounded by the development and under the ownership of the developer or homeowners association.

D. Within the RO-2 district in major open space subdivisions, the transfer of development densities as well as open space areas is permitted across right-of-ways between adjacent undeveloped parcels in order to facilitate subdivision design that is appropriate for the district.

**Item 4:** The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

**Item 5:** This ordinance amendment shall be in effect from and after the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
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\_\_\_\_\_

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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. West stated that the existing lot lines are parallel to the ocean; with this text amendment it will extend the lot lines. Will this create any restrictions to access up and down the beach?

Mr. Webb stated no, the beach is a state declared public access way.

Mr. Keel asked if people who own lots in the same area could they extend their property line.

Mr. Webb stated yes.

Mr. West stated he was not thinking so much as building, but ownership of the property if the property line was extended. Mr. West asked about the transfer density to ocean front lots.

Mr. Webb stated they will still remain at 1.5 acres lots. The minimum lot size in the RO2 area is a 120,000 sq. ft. which is just under three areas.

Mr. West asked what is the benefit of transferring open space?

Mr. Webb stated if they had to do a lot depth to width ratio 4:1 then the lots would be about 260 feet wide instead of the 100 feet.

Mr. Woody stated that many times wetlands do get put in open space and one advantage of this is that you do promote preservation of wetlands.

Ms. Turner asked if the lot that they want to make open space is it already open space.

Mr. Webb stated no that it is a developable lot.

Ms. Turner stated they aren't trading open space for open space when they are creating open space and taking the density from the open space and applying it to the ocean front lots.

Mr. West stated that on the mainland often times open space that is designated open space is wetlands, and he agrees with Mr. Woody that the land should be preserved for a quality of water, but it has to be preserved anyways because it is wetlands.

Mr. Keel stated that this text amendment will affect many people.

Mr. Webb stated it will have a direct affect on Swan Beach.

Mr. Woody stated he went to a community meeting at the Carova Fire Department to review what is being proposed. There are three things, street closings, text amendment and the subdivision proposal. The people are still learning about these issues and there is some concern.

Mr. Kovacs stated he has some concerns with the lot depth to width ratio. One reason the county went to a 1:4 ratio is because of the long narrow lots that the developer tries to get the most for their profit.

Ms. Turner stated that ocean front lots tend to be long and narrow, but would not want to see everywhere.

Mr. Kovacs stated if you have 7:1 ratio this will take away from street access for the internal lots.

Mr. Bissell stated that the way the UDO is written now there are some internal conflicts with hard surface roads. Mr. Bissell stated it will create a standard for non paved roads. A 30 ft. standard for beach access has been addressed. Mr. Bissell asked if the board had any questions.

Mr. Kovacs asked who will maintain these roads.

Mr. Bissell stated that an association will be set up and they will be responsible.

Mr. Bissell stated they requested the text amendment go to the TRC, for which text amendments don't typically go, so they can get input from staff members. Mr. Bissell provided an overview of the 7:1 ratios. Mr. Bissell stated they are proposing an open space subdivision. Mr. Bissell stated that based on a previous interpretation a few years ago by the Board of Adjustment, they could probably do this by right because the board stated that the creation of roadways across a parcel doesn't necessarily create separate parcels. With this text amendment it makes it clearer that the UDO allows it.

Ms. Turner stated it makes sense with the oceanfront lots, but not the inland lots.

The Planning Board is concerned with changing the UDO and the impact it will have. They want staff to review it more.

Mr. Midgette asked if the applicant could proceed without the text amendment.

Mr. Woody stated the owner of the property can create a subdivision without the text amendment, but to what extent he is not sure.

### **ACTION**

Mr. West motioned to table the text amendment for RO2 roads and lots and that board members email Mr. Woody their questions so they can be addressed by staff. Mr. Keel seconded the motion. Motion carried unanimously.

**PB 08-49 Currituck County:** Request to amend the Currituck County Unified Development Ordinance for a series of ordinance corrections and updates.

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

### **MEMORANDUM**

**To:** Planning Board

**From:** Ben E. Woody, AICP  
Planning Director

**Date:** August 27, 2008

**Re:** PB 08-49 Currituck County Text Amendment

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The enclosed text amendment submitted by the Currituck County Planning Department is intended to clarify and revise miscellaneous sections of the Unified Development Ordinance (UDO). In December of 2007, the Board of Commissioners (BOC) adopted a reformatted and reorganized version of the UDO. This was done in an effort to make the document more user-friendly. During the rewrite and adoption process, it was not the intention of the BOC to make significant policy changes to any zoning or subdivision ordinances.

Subsequently staff has identified inconsistencies between the recently adopted UDO and its predecessor. Most of these discrepancies have been documented during application of the UDO and compiled over the course of the previous year. Some of the proposed changes are as minor as an incorrect cross reference, while others represent the inclusion of ordinance language that was not carried over during the reorganization.

This request also includes Items 18 and 19 as requested by the Planning Board and Commissioner Etheridge respectively.

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

**Currituck County  
 PB 08-49  
 UDO AMENDMENT REQUEST**

An amendment to Chapter 2: Zoning Districts; Chapter 3: Special Requirements; Chapter 4: Overlay Districts; Chapter 9: Infrastructure; Chapter 10: Subdivision Requirements; Chapter 11: Permit and Site Plan Requirements; and, Chapter 12: Map and Text Amendments.

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 Chapter 2: Zoning Districts, Section 2.5 Permitted Uses Table is amended by adding the following underlined language in alphabetical order:

**Section 2.5 Permitted Uses Table**

Use	LUC	Zoning Districts											Special Requirements
		A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM	
<u>Pawn Shops</u>	<u>IV</u>								<u>S</u>		<u>S</u>	<u>S</u>	

**Item 2:** That Chapter 2: Zoning Districts, Section 2.6.3 is amended by deleting the strikethrough language and adding the following underlined language:

**2.6.3 Lot Requirements**

H. Double frontage lots shall establish a ~~are permitted where there is a prohibition to the most traveled road (Poplar Branch Rd. SR 1131, Tulls Creek Rd SR 1222, US 158, NC 168, NC 34 and NC 12).~~ A five foot non ingress/egress easement shall be provided along the rear lot lines abutting arterial streets on the most traveled roadway.

**Item 3:** That Chapter 2: Zoning Districts, Section 2.7.1 Dimensional Tables, Table of Area, Separation and Height is amended by deleting the strikethrough language and adding the following underlined language:

**TABLE OF AREA, SEPERATION AND HEIGHT**

(4) See Section 10.54 for density bonuses.

**Item 4:** That Chapter 2: Zoning Districts, Section 2.7.1 Dimensional Tables, Table of Area, Separation and Height is amended by deleting the strikethrough language and adding the following underlined language:

**TABLE OF AREA, SEPERATION AND HEIGHT**

<b>Min. Setbacks (feet) <sup>(7)</sup></b>		
<b>Front</b>	<b>Side (7)</b>	<b>Rear</b>

(7) ~~Ten foot side yard setbacks shall apply to a~~ Any lot shown within a subdivision or PUD granted a minimum of sketch plan approval from the Planning Board prior to April 2, 1989 shall: (i) have a ten foot side yard setback; and, (ii) have a ten foot rear setback where the rear lot line abuts a common open space area.

**Item 5:** That Chapter 3: Special Requirements, Section 3.6.1(C) is amended by deleting the following strikethrough language:

**3.6.1 Automotive/Boat/Heavy Equipment/Manufactured and Modular Home Sales and Service**

C. All outdoor vehicle and boat display areas shall be graded and paved ~~with concrete, asphalt or gravel.~~

**Item 6:** That Chapter 4: Overlay Districts, Table of Contents, Section 4.1 Purpose, and Section 4.2 Planned Residential Development (PRD) Overlay, are amended by deleting the strikethrough language and adding the following underlined language, as well as deleting Section 4.2 in its entirety:

**Chapter 4: Overlay Districts**

<b>Section</b>	<b>Page</b>
<b>4.1</b> Purpose .....	4-2
<b>4.2</b> <del>Planned Residential Development Overlay</del> <u>RESERVED</u> .....	4-2
<b>4.3</b> Planned Unit Development Overlay.....	4-4

### Section 4.1 Purpose

Overlay districts are created to provide additional development standards for specially identified areas. Overlay districts combine with the regulatory provisions of the underlying base zoning district to provide additional or supplementary standards. The following overlay districts are created for this purpose:

- ~~PRD~~ ~~Planned Residential Development Overlay~~
- PUD Planned Unit Development Overlay
- RAD Residential Airpark Development Overlay
- RET Planned Adult Retirement Overlay
- RMF Residential Multi-family Overlay
- OB Outer Banks Overlay

### Section 4.2 RESERVED

**Item 7:** That Chapter 4: Overlay Districts, Section 4.3.3(C) is amended by adding the following underlined language:

#### 4.3.3 Dimensional & Density Requirements

C. The below dimensional requirements shall apply to individual lots within the PUD Overlay:

PUD Overlay	Density	Minimum Lot Size		Minimum Yard Requirements			Max. Height	<u>Min. Lot Width</u>
		Min. Lot Size (with centralized water & on-site sewer)	Min. Lot Size (with centralized water & sewer)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)		
<b>R, RA, RO1 components</b>	Max. Density							
	3 DUA	20,000sf	10,000sf*	20	15	25	35	<u>65</u>
<b>LBH Component</b>	<b>See Base Zoning District Requirements</b>							

\*may be reduced to 7,500 square feet if lot size reduction is added to open space per requirements in Section 10.5.4

**Item 8:** That Chapter 6: Environmental Protection, Section 6.3 Floodplain Administration is amended by adding the following underlined language and sequentially renumbering subsections:

### **6.3.5 Certification Requirements**

#### **A. Elevation Certificates**

1. **An Elevation Certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) is required after the reference level is established. Within seven 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 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.**
  2. **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.
- 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 above:
1. ***Recreational Vehicles meeting requirements of Section 6.4.2;***
  2. ***Temporary Structures meeting requirements of Section 6.4.2; and***
  3. ***Accessory Structures less than 150 square feet meeting requirements of Section 6.4.2.***
- 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.

### **6.3.56 Corrective Procedures**

**Item 9:** That Chapter 9: Infrastructure, Section 9.1.8.3 is amended by deleting the strikethrough language and adding the following underlined language:

#### **9.1.8.3 Dedication**

All streets shall be designated as being intended for dedication to NCDOT for maintenance or for maintenance by an established homeowners association in accordance with the provisions of this ordinance. A maintenance guarantee of fifteen percent of the construction cost is required to cover maintenance expenses until the streets are accepted by NCDOT. If the street is to be dedicated to a homeowners association, refer to Section 10.65 for maintenance requirements.

**Item 10:** That Chapter 9: Infrastructure, Section 9.1.8.5 is amended by deleting the strikethrough language and adding the following underlined language:

#### **9.1.8.5 Sidewalks**

Within all residential subdivisions over 19 lots, the subdivider shall be required to install concrete sidewalks along ~~one~~ both sides of all proposed streets in accordance with NCDOT regulations, except in the RO2 District.

**Item 11:** That Chapter 9: Infrastructure, Section 9.2.6.4 is amended by deleting the strikethrough language and adding the following underlined language:

#### **9.2.6.4 Fees**

All connection fees shall be paid for each residential lot that is required to be connected to the county water system ~~as a condition of~~ prior to final plat approval. All connection fees shall be paid for each commercial lot required to be connected to the county water system at the time of issuance of the building permit authorizing construction to begin.

**Item 12:** That Chapter 10: Subdivision Requirements, Section 10.1.2(B) and Section 10.1.2(B)(2) are amended by adding the following underlined language:

### **10.1.2 Applicability**

B. A 'subdivision' is the division of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose, whether immediate or in the future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets. The following types of

subdivisions shall not be subject to the review process established within this ordinance; however, any map or plat to be recorded pursuant to any such exclusion shall bear the notation "no approval required" and the signature of the subdivision administrator or his designee prior to being presented for certification by the review officer:

2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved. Each resultant parcel must be greater than ten acres;

**Item 13:** That Chapter 10: Subdivision Requirements, Section 10.2.1(B)(4) is amended by adding the following underlined language:

#### **10.2.1 Review Process**

B. The review process is administrative as follows. The numbers in the flow chart correspond to the numbered details below the chart.

4. TRC Review

The technical review committee shall review the plat in accordance with the requirements of this ordinance if required by Administrator.

**Item 14:** That Chapter 10: Subdivision Requirements, Section 10.2.4(A) is amended by deleting the strikethrough language and adding the following underlined language:

#### **10.2.4 Family Subdivisions**

Family subdivisions (FS's) are a type of minor subdivision and shall meet the following requirements in addition to all other applicable requirements of this ordinance:

- A. FS's shall be developed exclusively for single-family dwellings located on individual lots fronting on a private access-way or a public street, but shall not ~~be front~~ on an arterial or major arterial. If the lot has frontage on two streets, one of which is an arterial or major arterial, a five foot non-access easement is required along the arterial/major arterial property line.

**Item 15:** That Chapter 10: Subdivision Requirements, Section 10.4.2 is amended by adding the following underlined language:

#### **10.4.2 Minimum Open Space Requirements (not including Conservation Subdivisions)**

Open space shall be dedicated in accordance with the table below. Percentages are based on total development area. At least 50 percent of the open space required shall be lands suitable for development and shall not include, among other things, wetlands

(CAMA, 404, 401) and swamps. Recreational amenities, such as water front access sites and picnic areas, shall be allowed within required open space areas. Portions of required open space shall also be allowed for dedication to the county for the development of necessary public facilities such as schools.

**Item 16:** That Chapter 10: Subdivision Requirements, Section 10.5.1(B) is amended by deleting the following strikethrough language:

#### **10.5.1 Surety Guarantee Required for Maintenance**

B. The surety guarantee shall contain provisions granting the county, or other designated agency, the authority to go onto the property and upgrade/maintain the common areas. The total amount of the surety guarantee shall be estimated by the developer and approved by county staff, in consultation with local and state officials, to cover the amount such improvements would cost to bring them up to required standard based upon a ~~cost plus~~ 20 percent formula.

**Item 17:** That Chapter 12: Map and Text Amendments, Table of Contents is amended by deleting the strikethrough language and adding the following underlined language:

#### **Chapter 12: Map and Text Amendments**

<b>Section</b>	<b>Page</b>
<b>12.5</b> Map Amendment Process.....	12-6
<b><u>12.76</u></b> Resubmission of Request.....	12-10

**Item 18:** That Chapter 11: Permit and Site Plan Requirements, Section 11.7.1(E)(2); Chapter 12: Map and Text Amendments, Section 12.4.1(D)(1) and Section 12.5.1(D)(2) are amended by deleting the strikethrough language and adding the following underlined language:

#### **11.7.1 Review Process**

E. Planning Board Review & Recommendation

- The Planning Board shall have ~~60 days~~ two months from the ~~date of its first hearing by the Planning Board~~ initial referral of the request by the administrator to forward its recommendation to the Board of Commissioners. ~~Failure to transmit their recommendation within the allotted time shall have the same effect as a recommendation for approval. If the Planning Board should fail to act on any proposed amendment within two months after it is~~

referred to the board the request shall be forwarded to the Board of Commissioners without a recommendation. In addition, at the request of the Planning Board, the board may continue the public hearing to allow more time to consider the application.

#### **12.4.1 Review Process**

##### **D. Planning Board Review and Recommendation**

1. The Planning Board shall have ~~60 days~~ two months from the initial referral of the request by the administrator to either recommend in favor of an amendment or in opposition to an amendment in writing by simple majority vote of those present and voting. If the Planning Board should fail to act on any proposed amendment within ~~60 days~~ two months after it is referred to the board the request shall be forwarded to the Board of Commissioners without a recommendation. However, if the Planning Board is not prepared to make recommendations at the public hearing, it may request the board to delay final action on the amendment until such time as the Planning Board can present its recommendations. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

#### **12.5.1 Review Process**

##### **D. Planning Board Review and Recommendation**

2. The Planning Board shall have ~~60 days~~ two months from the initial referral of the request by the administrator to either recommend in favor of an amendment or in opposition to an amendment in writing by simple majority vote of those present and voting. If the Planning Board should fail to act on any proposed amendment within ~~60 days~~ two months after it is referred to the board the request shall be forwarded to the Board of Commissioners without a recommendation. However, if the Planning Board is not prepared to make recommendations at the public hearing, it may request the board to delay final action on the amendment until such time as the Planning Board can present its recommendations. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

**Item 19:** That Chapter 2: Zoning Districts, Section 2.3.4 is amended by deleting the strikethrough language and adding the following underlined language:

#### **Section 2.3 Conditional Zoning**

##### **2.3.4 Community Meeting ~~Recommended~~ Required**

Before a hearing is held on an application for a conditional zoning district, it is ~~recommended~~ required that the applicant hold at least one community meeting. The

applicant shall indicate on the application, or at the hearing, ~~whether~~ that a community meeting was held and ~~if so~~, file a report with the application. The report should include, among other things, the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning application made by the applicant as a result of the meeting.

**Item 20:** The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

**Item 21:** 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: \_\_\_\_\_  
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. West stated that in #5 not to use gravel and put concrete and asphalt.

Ms. Turner stated that in #16 to take out cost plus and request to put 20% of the improvement of the cost.

## **ACTION**

Ms. Turner motioned to recommend approval of the text amendment to clarify and revise miscellaneous sections of the Unified Development Ordinance (UDO) as presented with the noted changes to #5 and #16. Mr. Etheridge seconded the motion. Motion carried unanimously.

**Development Review Process:** Discussion of proposed changes.

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

## **MEMORANDUM**

**To:** Planning Board

**From:** Ben E. Woody, AICP  
Planning Director

**Cc:** Tammy Glave  
Planner I

**Date:** August 28, 2008

**Re:** Development Review Process Update

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As directed by the Board of Commissioners, the Planning Department is in the process of updating the Development Review Process (DRP). The purpose of the DRP is to provide a framework that allows reasonable oversight by county staff and officials while ensuring development projects are consistent with the Unified Development Ordinance and adopted plans. This process provides an opportunity to not only protect the public health, safety, and welfare; but also allows the county to coordinate development impacts with the provision of services. The objective of the DRP update is to consolidate the process and promote efficiency.

Thus far the following public input opportunities have been included in the update process:

- An initial survey mailed to 38 developers/engineers/surveyors and 36 government agencies or representatives.
- A public meeting/luncheon where the survey results were reviewed and additional comments were accepted.
- A draft Development Review Manual was released on July 17, based on the survey results and public comments.

- Additional written comments on the draft document were accepted through the end of July.

Staff is recommending the following actions related to the update of the DRP as a result of public input, benchmarking against other communities, and local conditions:

- Establishment of a Development Review Manual as an aid for citizens, public officials, engineers, and developers. The manual includes information on review processes, submittal procedures, and design/review requirements. It also provides an overview of county zoning districts, including common uses and residential densities. The basic intent of the manual is to consolidate the zoning review and decision making processes outlined in the Unified Development Ordinance in an easy to use and understandable document.
- An update of plan submission requirements and deadlines. This includes revising submittal checklists and establishing a gatekeeper function to ensure plan submittals are complete. Electronic/digital submissions will also be required to ease communication and lessen printing and postage costs.
- Centralization of plan distribution and adjacent property notices. Currently applicants are responsible for distributing a portion of the plans to review agencies, as well as mailing public notices to adjacent property owners. To ensure timelier plan distribution and increase the ability of Staff to track review comments, it is more efficient for the Planning Department to coordinate these functions. This will likely require a revision in the fee schedule to reflect additional costs incurred by the county.
- Streamlining the public hearing/approval process for subdivision plans to promote efficiency, make wiser use of staff resources, and ensure legal vesting of plans is consistent with State statutes. An important component of streamlining the process is to reduce the total number of public hearings and provide for a less rigorous administrative review of the sketch plan. This will allow staff to function more efficiently and provide additional resources to other planning efforts without impacting the overall integrity of the development review process. It is also critical the Board of Commissioners begin approving the preliminary plat with the special use permit to ensure legal vesting of a plan is consistent with State law. The proposed changes to the approval process are as follows:

<b>Proposed Approval Process</b>			
	TRC	Planning Board	Board of Commissioners
Sketch Plan	X		
Preliminary Plat/ SUP	X	X	X
*Preconstruction Drawings	X		
Final Plat	X		
<b>Existing Approval Process</b>			
Sketch Plan/ SUP	X	X	X
Preliminary Plat	X	X	
Final Plat	X	X	

\*Preconstruction drawings are currently reviewed simultaneously with the preliminary plat. The proposed process would allow this review to occur simultaneously or separate from the preliminary plat approval.

A more detailed presentation will be provided at the September 9 Planning Board meeting. Should you have any questions, do not hesitate to contact me at 232-6029

## **DISCUSSION**

Mr. Woody provided an overview of the Development Review Process. Mr. Woody will present this to the Board of Commissioners on Monday, September 15, 2008 during a work session for their review. Mr. Woody asked if any of the board members would like to attend this session. This is a tentative scheduled to go to the Planning Board in October and then to the Board of Commissioners in November. If approved it would have an effective date of February 2009.

Mr. West stated that if plans are on the website you may not be able to read because of the size of the document and some people may not have the capability to print them out.

Mr. West stated this will put more responsible on the staff when they approve these items administratively.

## **ADJOURNMENT**

With there being no further business to discuss, Mr. Kovacs motioned for adjournment. Mr. West seconded the motion and the motion carried unanimously. The meeting adjourned at 10:27 p.m.

Respectfully Submitted,

Susan M. Tanner/s/

Susan M. Tanner  
Clerk to the Board