



CURRITUCK COUNTY NORTH CAROLINA

April 4, 2016

Minutes – Regular Meeting of the Board of Commissioners

WORK SESSION

1. 4 PM Outdoor Tour Operators

The Currituck County Board of Commissioners held a work session at 4 PM in the Conference Room of the Historic Courthouse to discuss possible changes to the ordinance regulating Outdoor Tour Operators. Chairman David Griggs and Commissioners Paul O'Neal, Marion Gilbert, Paul Beaumont, Mike Hall and Mike Payment were present. Commissioner Aydlett did not attend. Planning and Community Development Director Ben Woody used a powerpoint to review feedback gathered from citizen and tour operator meetings and recommendations proposed by Commissioners during their January 2016 retreat. Mr. Woody reviewed the current ordinance as it pertains to horse tour operator licensing, permitting and fee requirements. Recommendations the Board agreed to move forward with included instituting a county provided driver training program, modification and clarification of language in the ordinance relating to stopping in roadways and impeding traffic, and requiring better markings for identification of vehicles. The Board chose not to increase fees, currently set at \$1,000 per vehicle, or set tour routes at this time. Commissioner O'Neal suggested that tour operators lessen their footprint, as they are victims of their own success and property owners in the four-wheel drive area are being watchful. The Board suggested designating a specific contact and providing that information to citizens for reporting violations or filing complaints.

5:00 CALL TO ORDER

The Currituck County Board of Commissioners met at 5 PM in the Historic Courthouse for its regular meeting. Chairman Griggs called the meeting to order.

Attendee Name	Title	Status	Arrived
David L. Griggs	Board Chairman	Present	
O. Vance Aydlett	Vice Chairman	Absent	
S. Paul O'Neal	Commissioner	Present	
Paul M. Beaumont	Commissioner	Present	
Marion Gilbert	Commissioner	Present	
Mike D. Hall	Commissioner	Present	
Mike H. Payment	Commissioner	Present	

Chairman Griggs announced the earlier work session to discuss horse tour ordinance amendments.

A) Invocation & Pledge of Allegiance-Bishop Emma Jones, Living Word Ministries

Bishop Emma Jones, Living Word Ministries, led the Pledge of Allegiance and gave the Invocation.

B) Approval of Agenda

Chairman Griggs amended the agenda removing item 5, Third Amendment to the Tower Lease Agreement, under Consent Agenda. Commissioner O'Neal moved to approve as amended. Commissioner Gilbert seconded and the motion carried unanimously.

Approved agenda:

Work Session

4 PM Outdoor Tour Operators

5:00 Call to Order

- A) Invocation & Pledge of Allegiance-Bishop Emma Jones, Living Word Ministries
- B) Approval of Agenda

Administrative Reports

- A) **Monitor National Marine Sanctuary Boundary Expansion-Will Sassorossi, Maritime Archaeologist, NOAA**

Public Hearings

- A) **Public Hearing and Action: PB 16-03 Countryside Estates:** Request for preliminary plat/use permit for a 62 lot residential subdivision in Moyock off Caratoke Highway, Tax Map 9, Parcel 79B, Moyock Township.

- B) **Public Hearing and Action: PB 16-04 Ecoplexus (Goose Creek):** Request a conditional rezoning from General Business (GB) to Conditional District-Agricultural (C- AG) for the purpose of a solar array, located at the eastern portion of the former Goose Creek Golf Course, Tax Map 108, Parcel 95F, Poplar Branch Township.

- C) **Public Hearing and Action: PB 15-25 Grandy Solar Farm:** Request for a use permit for a solar array located along the north side of Uncle Graham Road (former Goose Creek Golf Course), Tax Map 108 Parcel 95E, Poplar Branch Township.

- D) **Public Hearing and Action: PB 16-01 Guinea Mine:** Request for a use permit to operate a 9.5 acre sand mine at Tax Map 15, Parcels 34 and 35 in the Moyock Township.

- E) **Public Hearing and Action: PB 16-02 Jimmy Lewis Automobile Sales:** Request for a use permit for automobile sales at Tax Map 108, Parcel 94F, Poplar Branch Mainland Township.

Old Business

- A) Consideration and Action: PB 14-16 Lake View at Currituck Development Agreement Amendment: Request to amend the development agreement between Currituck County and Survey Road, LLC for property located in Moyock on Survey Road west of the intersection with Caratoke Highway, Tax Map 15, Parcels 83A, 83B, 83C, 83D, and 83E, Moyock Township.
- B) Consideration and Action: PB 07-10 Lake View at Currituck: Request to amend the sketch (master) plan, preliminary plat, and use permit to allow 13 additional residential lots in the planned unit development located off Survey Road in Moyock, Tax Map 15, Parcels 83A, 83B, 83C, 83D, and 83E, Moyock Township.

New Business

- A) Board Appointments
 - 1. Planning Board
 - 2. Economic Development Advisory Board
- B) Consent Agenda
 - 1. Approval Of Minutes from March 21, 2016
 - 2. Moyock Volunteer Fire Department Purchase-Approval Request
 - 3. Budget Amendments
 - 4. A Resolution Condemning the Action of the North Carolina Marine Fisheries Commission to Use the Supplement Process to Restrict Southern Flounder
 - 5. ~~Third Amendment to Tower Lease Agreement 734 Ocean Trail~~ ***Agenda was amended and this item was removed from Consent Agenda.***

C) Commissioner's Report**D)**

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nty Manager's

Report

Public**Comment**

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 5 minutes.

Adjourn

RESULT:	APPROVED [UNANIMOUS]
MOVER:	S. Paul O'Neal, Commissioner
SECONDER:	Marion Gilbert, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

ADMINISTRATIVE REPORTS

A. Monitor National Marine Sanctuary Boundary Expansion-Will Sassarossi, Maritime Archaeologist, NOAA

Will Sassarossi was unable to attend. David Alberg, Superintendent of the Monitor National Marine Sanctuary appeared instead to provide an update from a previous visit in the fall where he discussed the possible expansion of the Monitor National Marine Sanctuary. Mr. Alberg said the notice of intent and public comment period had been completed and National Oceanic and Atmospheric Administration (NOAA) will begin review and make recommendations regarding expansion. His primary goal tonight was to extend an invitation to visit their Newport News facility so they might explain the program in more detail. Mr. Alberg stated their area of concern is the protection of artifacts, with no imposed regulations on diving or fishing. He explained the proposed expansions and possible addition of other shipwrecks from World War II that could be included. He said Dare County opposed expansion due to their experience with the park service and creeping jurisdiction possibly opening the door for further restrictions and impacts on fishing. Mr. Alberg said he hopes both Dare and Currituck would take time to review the proposition. Commissioner O'Neal expressed his skepticism, referencing the fight we are in with Marine Fisheries and their regulations. Mr. Alberg said he hopes to have the opportunity to address the Board's skepticism in a positive way. Mr. Alberg said consideration is only in federal waters now, and Chairman Griggs, although also skeptical, said the county may benefit by providing input now.

The Board and Mr. Alberg discussed the possibility of a work session to gather more information and Mr. Alberg welcomed the opportunity.

PUBLIC HEARINGS

A. Public Hearing and Action: PB 16-03 Countryside Estates:

Parties were sworn in and Chairman Griggs opened the Public Hearing. Ben Woody, Planning and Community Development Director, presented the case using a powerpoint.

APPLICATION SUMMARY

Property Owner:

Countryside Estates, LLC
1492 South Independence Blvd.
Virginia Beach, VA 23462

Applicant:

Countryside Estates, LLC
1492 South Independence Blvd.

Virginia Beach, VA 23462

Case Number: PB 16-03

Application Type: Major Subdivision, Preliminary Plat/Use Permit (Type II)

Parcel Identification Number:

0009-000-079B-0000

Existing Use:

Undeveloped

Land Use Plan Classification: Full Service

Moyock Small Area Plan: Full Service

Parcel Size (Acres): 55.67 acres

Number of Units: 62 residential lots

Project Density: 1.1 units/acre

Required Open Space: 16.7 acres (30%)

Provided Open Space: 19.91 acres (35%)

SURROUNDING PARCELS		
	Land Use	Zoning
North	Residential	AG and GB
South	Farmland	GB and MXR
East	Undeveloped	GB
West	Farmland	AG

STAFF ANALYSIS

- After the initial submittal, the applicant requested the preliminary plat be reviewed under the UDO text amendment approved by the BOC on January 19, 2016. Staff commentary is provided in *italics* below to address the recent text amendment.
- The applicant is requesting preliminary plat/use permit approval of a 62 lot residential subdivision. The property is conditionally zoned C-MXR and contains the following conditions:
 - Use: Subdivision of 62 residential lots containing a minimum of 20,000 square feet that will front on 50' public streets. All lots will be served by public water and sanitary sewage.
 - The development will be in conformance with the attached land plan for Countryside Estates.
 - The 50' vegetated farmland buffer shall be dedicated on the adjacent property to the south owned by Currituck F & W Land Company, LLC as an easement (recorded document).
 - In the event the property to the south (N/F Currituck F & W Land Co., Inc.) remains in active cultivation at the time of final plat approval for Countryside Estates, the farmland buffer and 50' easement on the Currituck F & W Land Co., Inc. property shall be recorded.
- The applicant does propose deviations from the approved conceptual development plan. The UDO allows minor deviations provided they are limited to changes addressing technical considerations that could not reasonably be anticipated during the conditional zoning classification process, or any other change that has no material effect on the character of the approved development. The changes are as follows:
 - Slight shift in proposed lots, trail, and stormwater infrastructure (lots 53, 54, and 55).
 - Removal of the trail around the wetlands located on the western side of the property. A continuous sidewalk and trail system is proposed within the development. The applicant is recommending this change in order to reduce the potential environmental impacts adjacent to the wetlands.
- A payment in lieu of recreation and park area dedication will be accepted for this proposed

development since the offer of dedication (1.58 acres) does not provide adequate opportunities for on-site recreation and park areas. The recreation and park needs of the subdivision can be better met by site development outside of the subdivision but within the immediate area of the subdivision. Based on the current tax value of the property, the required payment in lieu of recreation and park area dedication for 62 lots is \$45,178.

- The application was reviewed under the current UDO, as amended.

INFRASTRUCTURE

WATER	PUBLIC
SEWER	PUBLIC
TRANSPORTATION	PEDESTRIAN: A COMBINATION OF SIDEWALKS AND TRAILS THROUGHOUT THE
DEVELOPMENT.	

CONNECTIVITY SCORE: 1.1 CONSIDERATION GIVEN FOR PROVIDING 3 INTERNAL ACCESS POINTS TO ADJACENT PROPERTIES. DUE TO THE WETLANDS AND DEVELOPED PROPERTIES THE DEVELOPMENT IS MEETING THE UDO AS REASONABLY PRACTICAL.

STORMWATER/DRAINAGE	CURB AND GUTTER WITH STORMWATER PONDS
SCHOOLS	ELEMENTARY STUDENTS GENERATED: 15 STUDENTS (159) MIDDLE SCHOOL STUDENTS GENERATED: 4 STUDENTS (251) HIGH SCHOOL STUDENTS GENERATED: 8 STUDENTS (89)

RECREATION AND PARK AREA DEDICATION 1.58 ACRES - PAYMENT IN LIEU OF DEDICATION WILL BE ACCEPTED IN THE AMOUNT OF \$45,178.

RIPARIAN BUFFERS	30' RIPARIAN BUFFER IS REQUIRED ADJACENT TO ALL 404 JURISDICTIONAL WETLANDS
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RECOMMENDATIONS

TECHNICAL REVIEW COMMITTEE

The Technical Review Committee recommends adoption of the use permit and approval of the preliminary plat subject to the following conditions of approval:

1. The application complies with all applicable review standards of the UDO provided the following items are addressed:
 - a. Walkways located within Zone 1 of the riparian buffer shall be of wood construction.
 - b. ~~The northern ditch located along the North Point lot boundary is considered US Army Corps of Engineers 404 jurisdictional wetlands. The preliminary plat shall delineate the riparian buffer zones (zones 1 and 2) located on this tract and proposed lots. Staff commentary: The northern ditch is considered man made and is not subject to the riparian buffer.~~
 - c. ~~The proposed 25' Type A bufferyard along the northern property boundary appears to be located within Zone 1 (undisturbed) of the riparian buffer (northern ditch). In order to meet the requirements of the UDO for both the perimeter buffer requirements and the riparian buffer requirements it is suggested that the 25' Type A bufferyard be shifted south to meet the 30' undisturbed requirement of the UDO. Staff commentary: The northern ditch is considered man made and is not subject to the riparian buffer. A Type B bufferyard is now required along the adjacent property line.~~
 - d. Site triangles shall be identified at property lines.
 - e. A deceleration lane is required on Caratoke Highway for the proposed subdivision. The lane will be located along the road frontage of N/F John W. Whitehurst, Jr. (PIN 000800000070000) and is currently undeveloped with existing access points on Caratoke Highway. NCDOT has identified two options for the developer.
 - i. Option 1 (NCDOT preferred) install the deceleration lane on Caratoke Highway and a new entrance for the lot on the internal subdivision street. A recorded agreement between Countryside Estates, LLC and John W. Whitehurst, Jr. securing the access on the internal Countryside Estates road.
 - ii. Option 2: Leave the existing access points on Caratoke Highway and when the Whitehurst property is developed in the future a new driveway permit would be required for a change in use.
 - f. The community meeting notes indicate that the community had concerns about drainage and the developer mentions de-mucking the property line ditch as a possible solution if necessary. The plans and narrative do not indicate any work being done to this property line ditch. We do recognize that details of the drainage design are not required to be shown on the plans until construction drawing submittal. The following are proposed conditions of approval:

- i. It appears that North Point subdivision has three drainage outlets through this parcel. Design of the subdivision shall accommodate the drainage for North Point.
- ii. North Point's drainage shall not be routed through this subdivisions stormwater system.
- iii. The property line ditch shall be graded to accommodate any revised/re-routed outlets through Countryside.
- iv. If any portion of this subdivision is proposed to drain to this property line ditch, it will be considered part of the stormwater system and will fall subject to the UDO section 7.3.4.6.: the existing ditch "shall be cleaned to remove drainage impediments."
- v. The design and proposed maintenance plan of this North Point outlet drainage shall be to the satisfaction of the County Engineer.
- g. The plat shall contain a note that indicates the designated needed fire flow for the subdivision. No construction may occur where the needed fire flow is greater than the available flow at the site.
- h. *The riparian buffer Zone 1 shall be illustrated as 30' (undisturbed) in all areas adjacent of wetlands, excluding the man made ditches.*
- i. *Sidewalks shall be a minimum of 5' in width and trails and pathways shall be a minimum of 8' in width.*

2. The applicant demonstrates the proposed use will meet the use permit review standards of the UDO.
3. The conditions of approval necessary to ensure compliance with the review standards of the UDO and to prevent or minimize adverse effects of the development application on surrounding lands include:
 - a. Plan corrections shall be submitted prior to issuance of the use permit.
 - b. The construction plans shall indicate a vehicle turning radius for the entrance road to ensure adequate area is provided for large trucks, including emergency vehicles.
 - c. Prior to construction drawing approval, the written agreement between Countryside Estates, LLC and John W. Whitehurst, Jr. shall be provided to the county. Prior to final plat approval, the agreement or deed of easement shall be recorded providing access to the John W. Whitehurst, Jr. and N/F Calvary Temple Church property through Homestead Lane.
 - d. The proposed construction drawing shall provide the following:
 - i. Design of the subdivision shall accommodate the drainage for North Point.
 - ii. North Point's drainage shall not be routed through this subdivisions stormwater system.
 - iii. The property line ditch shall be graded to accommodate any revised/re-routed outlets through Countryside.
 - iv. If any portion of this subdivision is proposed to drain to this property line ditch, it will be considered part of the stormwater system and will fall subject to the UDO section 7.3.4.6.: the existing ditch "shall be cleaned to remove drainage impediments."
 - v. The design and proposed maintenance plan of this North Point outlet drainage shall be to the satisfaction of the County Engineer.
 - e. A sidewalk connection to Caratoke Highway shall be provided. (MSAP Policy TR1 and TR2).

4. Planning Board

Mr. Craddock moved to approve PB 16-03 as presented due to the use will not endanger the public health or safety; the use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located; the use will be in conformity with the Land Use Plan; the use will not exceed the county's ability to provide adequate public facilities; and Technical Review Committee conditions of approval A-E. Mr. Bell seconded the motion and motion carried unanimously.

USE PERMIT REVIEW STANDARDS

A use permit shall be approved on a finding that the applicant demonstrates the proposed use will meet the below requirements. It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the preliminary staff findings

The use will not endanger the public health or safety.

Preliminary Applicant Findings:

1. To ensure public health and safety this subdivision will be designed to meet NCDOT standards for roadways.

2. Stormwater management and erosion and sediment control will meet all applicable NCDEQ standards.
3. State and county design standards will be followed with regards to utilities, fire protection, etc.

The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

Preliminary Applicant Findings:

1. The project, a 62 lot subdivision under MXR zoning will be the same character as the adjacent properties.
2. To the North is the North Point subdivision consisting of 74 residential lots.
3. To the south, the property is zoned MXR and GB indicating plans for future residential use.
4. This subdivision will accommodate major drainage conveyance from the existing North Point subdivision.

The use will be in conformity with the Land Use Plan or other officially adopted plans.

Preliminary Applicant Findings:

1. The use is in conformity with the land use plan or other officially adopted plans as it has not changed in character, use, or size from the approved rezoning plan.
2. The proposed subdivision will meet the required MXR design standards regarding lot coverage, open space, etc. set forth in the Currituck County UDO.

Relevant MSAP and 2006 LUP Policies:

1. 2006 LUP 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. For example, projects falling within the Full Services areas of the Future Land Use Map would be permitted a higher density because of the availability of infrastructure as well as similarity to the existing development pattern. Such projects could be developed at a density of two (2) or more dwelling units per acre. 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. Projects within areas designated as Rural or Conservation by the Future Land Use Plan would be permitted a much lower density of 1 dwelling unit per 3 acres because of the lack of infrastructure in the area, the existing low density development pattern, and presence of environmentally sensitive natural areas.
2. 2006 LUP POLICY WS3: Currituck County endorses UTILITIES EXTENSION POLICIES that focus water and sewer services (1) within existing developed areas and in nearby targeted growth areas identified as Full Service and Limited Service areas, (2) where development densities would make the provision of all public services more efficient, (3) where the land is particularly well suited for development and (4) away from environmentally sensitive areas, such as areas with extensive wetlands or the northern beaches of the Outer Banks.
3. MSAP Policy FLU 1: Promote compatibility between new development and existing development to avoid adverse impacts to the existing community. This is achieved through design and includes larger setbacks, landscaped or forested strips, transition zones, fencing, screening, density and/or bulk step downs, or other architectural and site planning measures that encourage harmony.
4. MSAP Policy TR 1: Design future transportation improvements that are consistent with Complete Streets Policy. Complete Streets Policy encourages design of transportation networks and facilities that safely accommodate pedestrians, bicyclists, rail, and vehicles.
5. MSAP Policy TR 2: Ensure that all development is designed with an interconnected, multi-modal transportation network between neighborhoods, activity centers, and other destinations to improve mobility and emergency access. Development of an interconnected road network east and west of Highway 168 that allows north-south movement for local residential traffic is strongly encouraged.

The 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.

Preliminary Applicant Findings:

1. The plan/use has not changed from the approved rezoning plan.
2. All applicable county guidelines regarding schools, fire and rescue, law enforcement, etc. will be followed.
3. A public pump station will be provided to accommodate the proposed subdivision and will be sized to accommodate a future subdivision to the south.

Concluding his presentation, Mr. Woody summarized that the Planning Board

recommended approval as did the Technical Review Committee, with conditions.

Bill Brumsey, on behalf of the applicant, stated their agreement and willingness to comply with the conditions as presented. John Napolitano, the applicant, addressed questions about the fire hydrants, confirming they would be corrected, and said they are providing access to two commercial properties owned by others.

With no others wishing to speak and no additional questions from the Board, Chairman Griggs closed the Public Hearing.

Commissioner Beaumont moved to approve PB 16-03 with staff recommendations due to the use will not endanger public health or safety, the use will not injure adjoining property, the use will be in conformity with the land use plan and the use will not exceed the county's ability to provide adequate public facilities.

Commissioner Gilbert seconded and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVED:	Paul M. Beaumont, Commissioner
SECONDER:	Marion Gilbert, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

B. Public Hearing and Action: PB 16-04 Ecoplexus (Goose Creek):

Chairman Griggs opened the Public Hearing. Ben Woody reviewed the request with the Board, beginning by explaining the conditional zoning, and the second quasi-judicial procedure to follow related to the same project.

APPLICATION SUMMARY

Property Owner:

Currituck Sunshine Farms
5504 N Prospect Rd
Peoria Heights IL 61616

Applicant:

Ecoplexus Inc
650 Townsend St #310
San Francisco CA 94103

Case Number: PB 16-04

Application Type: Conditional Rezoning

Parcel Identification Number:

0108-000-095F-0000

Existing Use: Vacant Golf Course

Land Use Plan Classification: Full Service

Parcel Size (Acres): 16.49

Zoning History: A-40 (1975); A (1989);

Note: In 2007 the property owner petitioned the BOC to rezone 67.07 acres from A to R and 11.41 acres from A to GB to reduce the golf course to an "Executive-style" with 9 holes plus housing and to expand the GB consistent with the GB to the north and allow compatible business uses. The BOC denied the 67.07 acre rezoning and approved the 11.41 acre rezoning.

Plan Request: Solar Array

Current Zoning: GB

Proposed Zoning: C-AG

SURROUNDING PARCELS

NORTH	SINGLE FAMILY DWELLINGS & RETAIL	AG AND GB
SOUTH	SINGLE FAMILY DWELLINGS & RETAIL	AG AND GB
EAST	SINGLE FAMILY DWELLINGS & RETAIL	GB
WEST	SINGLE FAMILY DWELLINGS	AG

STAFF ANALYSIS

The applicant originally applied for a solar array use permit for the entire project and it was determined that the property was split zoned with a portion zoned Agricultural (AG) and a portion zoned General Business (GB). A solar array is not an allowable use in the GB zoning district. A solar array requires a Conditional-AG (C-AG) zoning district, thus the reason for this rezoning request.

This conditional rezoning request for C-AG is reasonable because the property adjoins AG zoned property on three sides and this is an extension of the AG zoning district. The request allows for the use of a vacant piece of property as the property currently sits as a closed golf course. If the conditional rezoning is approved, the applicant plans to install a solar array on the property. Should the owner wish to redevelop the project as a residential use in the future, the solar array can be removed with minimal disturbance to allow the construction of dwelling units or other more traditional land uses. A portion of the GB zoned property will remain along Caratoke Highway to continue allowing commercial uses.

Water quality is a frequent concern of neighboring property owners. It is important to note that water quality testing is a UDO requirement for a solar array; however, was not a requirement when the property was used as a golf course (which typically requires routine application of chemicals). According to the Brookhaven National Lab and the Electric Power Research Institute, "Installed silicon-based cells pose minimal risks to human health or the environment. Because solar panels are encased in heavy-duty glass or plastic, there is little risk that the small amounts of semiconductor material present can be released into the environment." The applicant will provide additional evidence to this fact.

Fire hazard is also a frequent concern of neighboring property owners. According Electric Power Research Institute, "It is theoretically possible for hazardous fumes to be released and inhalation of these fumes could pose a risk to human health." However, the Union of Concerned Scientists state that "Researchers do not generally believe these risks to be substantial given the short-duration of fires and the relatively high melting point of the materials present in the solar modules. Moreover, the risk of fire at ground-mounted solar installations is remote because of the precautions taken during site preparation including the removal of fuels and the lack of burnable materials - mostly glass and aluminum - contained in a solar panel." The applicant must provide adequate firefighting strategies for the use.

RECOMMENDATIONS**Technical Review Committee**

THE TECHNICAL REVIEW COMMITTEE RECOMMENDS APPROVAL OF THE CONDITIONAL REZONING SUBJECT TO THE FOLLOWING CONDITIONS:

1. PRIOR TO SITE PLAN SUBMITTAL, THE DRAINAGE QUESTIONS FROM THE COUNTY ENGINEER AND SOIL AND WATER MUST BE ADDRESSED:
 - a. We can only assume from the site plan provided that there will be ponds filled in as a result of this development. Are there any state/federal permits required?
 - b. If the ponds are filled in, what will be done to deal with stormwater traversing the site?
 - c. If the ponds are filled in, what will be done to for stormwater storage onsite?
2. Prior to site plan submittal, the fire marshal concerns must be addressed:
 - a. I have concerns in regards to fire access and fire hydrant location.
3. The following use standards apply for a Solar Array (UDO Section 4.2.3.H):
 - a. Solar arrays shall be configured to avoid glare and heat transference to adjacent lands.
 - b. Appropriate ground cover/grass is required and shall be maintained as not to create a fire hazard.
 - c. The solar panels, equipment, and associated security fencing shall be located at least 300 feet from any perimeter property line abutting a residential dwelling, residential zoning district, religious institution, public school, state licensed day care center, public playground, public swimming pool, or public park. The solar panels, equipment, and associated security fence shall be screened from those uses/zoning districts by a Type D buffer. The buffer may be reduced to a Type C when abutting a right-of-way, use, or zoning district not listed above and the setback may be reduced to 100' in these instances.

- d. The total height of the solar energy system, including any mounts, shall not exceed 15 feet above the ground when orientated at maximum tilt.
- e. The solar energy system owner shall have 12 months to complete decommissioning of the facility if no electricity is generated for a continuous 12 month period.
- f. Operations, maintenance, and decommissioning plans are required.
- g. Ground water monitoring wells shall be installed prior to construction of the solar energy system and testing data shall be submitted annually to the Planning and Community Development Department until decommissioning occurs. Monitoring wells shall be located near the center of the site and along each exterior property line at approximately the lowest ground elevation point of each property line. Testing data shall be provided to the county indicating compliance with EPA National Primary Drinking Water Standards prior to construction and annually until decommissioning occurs.
 - i. Should the initial ground water testing indicate that the site is not in compliance with the EPA National Primary Drinking Water Standards, subsequent annual reports shall indicate no increase in noncompliance with those standards.
- h. Prior to the issuance of a building permit, the developer shall post a performance guarantee in the form of cash deposit with the county to ensure decommissioning funds are available in an amount equal to 115 percent of the estimated decommissioning costs minus salvageable value. Estimates for decommissioning the site and salvageable value shall be prepared and certified by a registered engineer or North Carolina licensed general contractor and submitted prior to building permit approval and verified by a registered engineer or North Carolina licensed general contractor and resubmitted every two years thereafter until decommissioning occurs.

Planning Board

THE PLANNING BOARD RECOMMENDS APPROVAL OF THE CONDITIONAL REZONING REQUEST SUBJECT TO THE SAME CONDITIONS OUTLINED IN THE TRC COMMENTS.

CONSISTENCY STATEMENT

THE CONDITIONAL ZONING REQUEST IS CONSISTENT WITH THE 2006 LAND USE PLAN BECAUSE:

- IT PROMOTES A NEW AND EXPANDING INDUSTRY THAT DIVERSIFIES THE LOCAL ECONOMY, TRAINS AND UTILIZES A MORE HIGHLY SKILLED LABOR FORCE, AND IS COMPATIBLE WITH THE ENVIRONMENTAL QUALITY OF THE COUNTY. (POLICY ED1)
- IT PROVIDES INDUSTRIAL DEVELOPMENT OPPORTUNITIES IDENTIFIED BY CURRITUCK ECONOMIC DEVELOPMENT. (POLICY ID1)
- DUE TO THE WATER QUALITY TESTING, IT HELPS PROTECT WATER QUALITY. (POLICY WQ3)

AND THE REQUEST IS REASONABLE AND IN THE PUBLIC INTEREST BECAUSE:

- IT PROMOTES ECONOMIC GROWTH.
- IT ALLOWS FOR THE RE-USE OF A VACANT GOLF COURSE.
- IT PRESERVES OR PERHAPS IMPROVES WATER QUALITY.

CONDITIONS OF APPROVAL

Suggested conditions of approval:

1. A preliminary drainage analysis be approved by the TRC prior to submittal of a site plan.
2. A narrative addressing fire prevention strategies be approved by the TRC prior to submittal of a site plan.

After Mr. Woody's review, Commissioner Payment noted an economic study still in progress for Lower Currituck. Commissioner O'Neal questioned how the rezoning would diversify the economy. Mr. Woody said the property would be given a use, stating it is being underutilized presently. Commissioner O'Neal also questioned the hiring of local contractors, believing the developer will bring their own contractors in and not use local labor. Taxes were discussed and Mr. Woody explained the personal property can only be taxed at 20% by the county and noted the state rescinded their tax incentives. Commissioner Hall asked about stormwater ponds and Mr. Woody said property wouldn't fall under the county stormwater ordinance due to the lack of impervious surfaces. Commissioner Beaumont raised questions on the impact the mid-Currituck

bridge might have on Grandy businesses.

Michael Fox of Greensboro, the Attorney representing the applicant, introduced Nathan Rogers of Ecoplexus and others presenting for the applicant. Mr. Fox distributed hardcopy backup for the presentation and Board review.

Nathan Rogers, Ecoplexus, used a powerpoint to provide a background and overview of the project. He described the equipment to be installed and showed a map noting the area to be rezoned. He said there would be 2.5 acres at the road that is not part of the request, but would be used as a staging area during construction.

Kim Hamby, Eastern Carolina Engineering, Camden, discussed the existing stormwater ponds within the site boundary totaling 6.5 acres. She noted drainage ditching, showed the proposed drainage design noting the additional 20 acres available to them to manage runoff. She said the applicant is not opposed to a drainage study. Miss Hamby said the goal is to leave the property as natural as possible and answered questions posed by Commissioners regarding the plan.

Tommy Cleveland, NC Clean Energy Technology Center at NC State University and licensed engineer in North Carolina, said the solar panels being installed would not be detrimental to the health or safety of residents and would help to reduce emissions from other types of plants located in North Carolina.

When Commissioner O'Neal asked about the benefit to residents, Nathan Rogers reviewed the health, community and economic benefits, providing statistical data on the economic impact for North Carolina and the local tax base. He said the project's goal would be to improve flooding conditions on Uncle Graham Road. He stated solar arrays are quiet, unobtrusive, do not strain infrastructure, and provide a stable predictable land use. Maintenance of the property was discussed and the Board asked questions about the leveling of hills on the golf course and how that will effect drainage. Commissioner Beaumont said he was still not convinced that drainage had been adequately addressed.

Commissioner O'Neal discussed the lack of jobs for Currituck residents, as applicants turn the projects over after approval.

Attorney Fox said the direct benefit is taking land that is not being used and getting the highest and best use of the property, believing the tax value would increase. He said the tax collected would be 20% of \$26.25 million and no services need be provided. He said there is no way to tell if there would be any decrease in utility costs for residents, stressing also that the return would not be immediately seen as with many infrastructure projects.

Mr. Rogers addressed the costs involved in development and compared the cost of solar with fossil fuels, highlighting fossil fuels' volatility. He said forward thinking policies are what draws alternative energy to North Carolina. Mr. Fox again noted that infrastructure projects do not show an immediate return.

Commissioner Payment asked that the conversation remain relative to the use permit,

noting that he has seen and heard recent concerns from residents regarding flooding on the property.

Fidel Escobar, Grandy, an adjacent landowner to the proposed facility, spoke against the project, believing the value of the property will go down. He expressed concerns with visual buffering and health, as how the solar farm will effect things over many years is still unknown.

Charles Lollar, Norfolk, VA, attorney on behalf of residents in opposition to the rezoning. He noted concerns with both the applicant's plan to fill the ponds on the property and the downzoning of the property from General Business to Agriculture within a full-service community. He said the Land Use Plan is a plan for the future which did not include a 30 year commitment to a static industrial use. Mr. Lollar said the project is not compatible with the surrounding residential use, nor the plan as stated in the land use plan and will hinder Grandy's ability to grow, particularly with the potential business growth with development of the Mid-Currituck bridge. Residents bought lots in anticipation of the expectation of the planning that was proposed, he said, and referred to several county policies contrary to the request. He noted that Ecplexus leaves at the design phase, stating the Shawboro solar farm looks completely different than what was proposed.

Gary Woodson, a local builder, said residential growth in Grandy is getting better, and believes development of business along the corridor is revenue that will come back to Currituck. Mr. Woodson provided a document denoting alternative locations for solar arrays in Currituck County. He believes it would not be fitting to go backward with zoning to accommodate a solar farm.

With no one else wishing to speak, Chairman Griggs closed the Public Hearing.

Commissioner Payment moved to deny PB 16-04 because the request is not consistent with the land use plan because the current Economic Development study for Lower Currituck has not been completed yet, the rezoning is not in the best interest for our business growth in the Grandy area, and the request is not reasonable and not in the public interest due to some insecurity of current drainage issues he is still hearing, and for any long term potential employment growth for the Grandy area.

Commissioner Hall seconded the motion and the motion carried unanimously.

Chairman Griggs called a five minute recess.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mike H. Payment, Commissioner
SECONDER:	Mike D. Hall, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

C. Public Hearing and Action: PB 15-25 Grandy Solar Farm:

Chairman Griggs reconvened the meeting after the brief recess.

Parties were sworn in and County Attorney, Ike McRee, explained the quasi-judicial nature of the proceeding and the findings the Board is required to make. Chairman Griggs opened the Public Hearing and asked the Board to disclose any ex parte communication. Commissioners Beaumont, Hall, Gilbert and Payment made their disclosures and assured their ability to make impartial decisions would not be impeded. Mr. Woody began his review of the application, summarizing that the Technical Review Committee did recommend approval, as did the Planning Board subject to conditions.

APPLICATION SUMMARY

Property Owner:

Currituck Sunshine Farms
5504 N Prospect Rd
Peoria Heights IL 61616

Applicant:

Ecplexus Inc.

650 Townsend St #310
San Francisco CA 94103

Case Number: PB 15-25

Application Type: Use Permit

Parcel Identification Number: 0108000095E0000

Existing Use: Closed Golf Course

Land Use Plan Classification: Full Service

Parcel Size (Acres): 101.53

Request: Solar Array

Note: In 2007 the property owner petitioned the BOC to rezone 67.07 acres from A to R and 11.41 acres from A to GB to reduce the golf course to an "Executive-style" with 9 holes plus housing and to expand the GB consistent with the GB to the north and allow compatible business uses. The BOC denied the 67.07 acre rezoning and approved the 11.41 acre rezoning.

Zoning: AG

SURROUNDING PARCELS		
	Land Use	Zoning
North	Single Family Dwellings & Retail	AG and GB
South	Single Family Dwellings & Retail	AG and GB
East	Single Family Dwellings & Retail	GB
West	Single Family Dwellings	AG

STAFF ANALYSIS

- Ecplexus, Inc. seeks a use permit for a 20 megawatt solar array on the abandoned Goose Creek Golf Course in Grandy. If approved, the applicant states that the facility would produce clean, renewable energy for an average of 1,900 local homes, in addition to providing short-term economic stimulus and job creation along with long-term tax revenue while requiring no provisions of additional services or infrastructure.
- The solar PV Facility will consist of direct current (DC) photovoltaic solar modules (panels) arranged in rows that are affixed to a metal racking structure and attached to the ground with either driven posts or helical ground screws. The whole concept of efficient solar power is to absorb as much light as possible while reflecting as little light as possible, so solar panels are designed to produce less glare and reflectance than standard window glass.
- Based on the limited amount of impervious coverage intended for this site, it will be exempted from the Stormwater Manual. It is anticipated that the amount of coverage created for this site will be below 10 percent of the site. Stormwater runoff will be handled by the existing ditch system on the site. Where necessary for placement of equipment or for access, existing ditches will be filled or rerouted and new grass lined drainage swells will be created as approved by Soil and Water.
- The following use standards shall apply (UDO Section 4.2.3.H).
 - Solar arrays shall be configured to avoid glare and heat transference to adjacent lands.

- Appropriate ground cover/grass is required and shall be maintained as not to create a fire hazard.
- The solar panels, equipment, and associated security fencing shall be screened from rights-of-way and developed land by a Type C buffer.
- The total height of the solar energy system, including any mounts, shall not exceed 15 feet above the ground when orientated at maximum tilt.
- The solar energy system owner shall have 12 months to complete decommissioning of the facility if no electricity is generated for a continuous 12 month period.
- Operations, maintenance, and decommissioning plans are required.
- All components of the solar array (including security fencing) shall be setback at least 300 feet from all exterior property lines.
- Ground water monitoring wells shall be installed prior to construction of the solar energy system and testing data shall be submitted annually to the Planning and Community Development Department until decommissioning occurs. Monitoring wells shall be located near the center of the site and along each exterior property line at approximately the lowest ground elevation point of each property line. Testing data shall be provided to the county indicating compliance with EPA National Primary Drinking Water Standards prior to construction and annually until decommissioning occurs.
 - Should the initial ground water testing indicate that the site is not in compliance with the EPA National Primary Drinking Water Standards, subsequent annual reports shall indicate no increase in noncompliance with those standards.
- Prior to the issuance of a building permit, the developer shall post a performance guarantee in the form of cash deposit with the county to ensure decommissioning funds are available in an amount equal to 115 percent of the estimated decommissioning costs minus salvageable value. Estimates for decommissioning the site and salvageable value shall be prepared and certified by a registered engineer or North Carolina licensed general contractor.

INFRASTRUCTURE

Stormwater/Drainage

The ponds on the property are to be filled in. They are nonjurisdictional wetlands. An Erosion and Sedimentation Control permit will be required from NCDEQ if more than one acre is disturbed. There will be no increase in stormwater runoff from the property, according to the applicant.

Lighting

The applicant proposes no exterior lighting to be included as part of the facility.

Landscaping

The solar panels, equipment, and associated security fence shall be screened from rights-of-way and developed land by a Type C buffer.

Water/Wastewater

The project will not use water or wastewater.

Transportation/Access

The property has road frontage/access on Uncle Graham Road (SR 1128).

Recommendations

The Technical Review Committee recommends adoption of the use permit subject to the following conditions of approval:

1. The application complies with all applicable review standards of the UDO provided the following outstanding items are addressed:
 - a. Appropriate ground cover/grass is required. (UDO Section 4.2.3.H) Please note the proposed groundcover.
 - b. Operations, maintenance, and decommissioning plans are required prior to issuance of a building permit.
 - c. Post a performance guarantee to ensure proper decommissioning prior to the issuance of a building permit.
 - d. Street address must be posted on the property.
 - e. Ground water monitoring wells shall be installed and initial testing data provided prior to the issuance of the building permit and then annually thereafter to show compliance with EPA Nation Primary Drinking Water standards. Please show well locations on the plan.

PLANNING BOARD

The Planning Board recommends adoption of the use permit subject to the same conditions outlined in the TRC comments and the following:

1. Uncle Graham Road shall not be used for construction and heavy equipment traffic, but may be used as the primary access to the site once construction is complete. Caratoke Highway is to be used for the construction and heavy equipment traffic.

2. They system shall be anchored to sustain 120MPH winds as called for in the building code.

USE PERMIT REVIEW STANDARDS

A use permit shall be approved on a finding that the applicant demonstrates the proposed use will meet the below requirements. It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the preliminary findings.

The use will not endanger the public health or safety.

Preliminary Applicant Findings:

1. The solar photovoltaic technology is an extremely safe for of electrical generation and has no pollutants, discharges, or emissions of toxic compounds during its use.
2. Security fencing will surround the site.
3. Code compliant wiring practices and materials will be used.
4. Bonding of all metals to prevent fire in the case of a ground fault.
5. The panels are rated to 150 MPH wind speeds.
6. The racking system will be engineered to withstand a minimum of 120 MPH three second wind gust.

The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

Preliminary Applicant Findings:

1. The solar facility is a very benign, innocuous land use. The facility will produce no odors, air emissions, or hazardous material. Additionally, it will not produce any noises that are discernible beyond the interior of the facility. Additionally, after construction of the facility is complete, vehicular trips to/from the site will consist of a single pickup truck several times a year for routine maintenance.
2. The solar facilities are generally considered to be less noxious uses than traditional agriculture, given that farming can create nuisance in the form of dirt kicked up by tractors, odors from fertilizer application, and migration of pesticides and herbicides from the soil into the groundwater.
3. Ecoplexus has commissioned a licensed real estate appraiser that performed a number of "matched pair analyses" for its solar developments in North Carolina. None of the analyses produced any evidence of deleterious impacts on property values due to the presence of the solar facility.
4. The proposed use will be in harmony with the surrounding area, noting that the proposed facility can actually enhance it. For example, while traditional agriculture produces dust and runoff, the proposed solar farm will produce neither. Nor is there any traffic created after the construction period has finished.
5. The proposed facility represents a consistent, predictable land use that will be in harmony with the surrounding area by not contributing to urbanization of the landscape.

The use will be in conformity with the Land Use Plan or other officially adopted plans.

Preliminary Staff Findings:

1. The Land Use Plan classifies this site as Full Service within the Grandy subarea. Areas designated as Full Service are those parts of the county where a broad range of infrastructure and service investments have been provided or will be made available by the public and/or private sectors. The proposed use is in keeping with the policies of the plan, some of which are:
 - a. **POLICY ED1:** New and expanding industries and businesses should be especially encouraged that: 1) diversify the local economy, 2) train and utilize a more highly skilled labor force, and 3) are compatible with the environmental quality and natural amenity-based economy of Currituck County.
 - b. **POLICY ID1** Provide industrial development opportunities for cluster industries identified by Currituck Economic Development such as defense aero-aviation, port and maritime related industries, alternative energy, agriculture and food, and local existing business support.

The 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.

Preliminary Staff Findings:

- a. The use will not create any burden on public facilities and will have no impact on schools.

Planning Board Discussion (3/8/16)

Mr. Cooper asked if the 300 foot setback is what is required and the 100 foot setback if there are no homes. Water monitoring is required annually and for the decommission plan, the owner has 12 months to complete decommission of the facility if no electricity is generated for a continuous 12 month period.

Mr. Fox said he is an attorney for the applicant and has a presentation for the board. Mr. Fox introduced his witnesses.

Mr. Rogers talked about the project, site plan and setbacks. The construction entrance will be off Caratoke Highway using the two acres zoned general business road frontage. Uncle Graham Road shall not be used for construction and heavy equipment traffic, but will be used as the primary access to the site once construction is complete. The system shall be anchored to sustain 120MPH winds as called for in the building code.

Ms. Hamby talked about the drainage plan and a drainage analysis which will be reviewed later by the Technical Review Committee at site plan submittal. Fire access will be addressed at site plan submittal also.

Mr. Cleveland said he is an independent expert and talked about the technology at the site and safety of the panels.

Mr. Kirkland said he is a state certified appraiser and discussed whether the solar farm would affect property values.

Mr. Rogers said there are trees encircling almost the entire property with the exception of the road frontage of Caratoke Highway and several parcels on the western side of the property. They will do a shading impact analysis and keep as many of these trees as they can. North Carolina has positioned itself as one of the leaders in the solar industry.

Ms. Bell said in the presentation it was mentioned that the facility would produce clean, renewable energy for an average of 1,900 local homes. Where does the electricity goes before it comes to the homes?

Mr. Rogers said Dominion Power electrical grid.

Mr. Cooper opened the public hearing.

Mr. Fentress provided a handout to the board. Mr. Fentress said a staging area is a place to store materials. Mr. Fentress pointed out in an article by Colin Campbell and Benjamin Brown in the State Politics dated January 15, 2016, Mr. Wood Farless, a Bertie County farmer said "if a hurricane comes in and wipes out one of the solar farms, it's categorized as a hazardous waste." Mr. Fentress talked about drainage, amount of fill that will be required to fill ponds, hazardous waste material in solar panels, aluminum frame resulting in galvanized corrosion over a period of time, staging area and access through Uncle Graham Road, number of trips to fill ponds, logging trucks, solar farm vs. Power plant, test wells around site, and zinc poisoning to water. Mr. Fentress says the solar farm will cause public health and safety concerns. Mr. Fentress said the county's 2006 Land Use Plan (LUP) classifies Grandy as a community. The LUP also identifies Grandy as a full service area. This request is not in harmony with the area in which it is located. Mr. Fentress said Grandy is a growth area and the solar farm will stunt the growth.

Mr. McColley said he is concerned that this request will devalue real estate values.

Mr. Proffitt said this project is supposed to be environmentally friendly, but many large trees will be cut down to accommodate the solar farm. Not all properties surrounding the golf course have natural buffers and should have buffering to protect them from the solar farm. Mr. Proffitt said just because you can do something doesn't mean you should. This request is not in harmony with the surrounding area.

Mr. Escobar is concerned with flooding and drainage issues this request may create.

Mr. Wierzbicki is concerned that this request will decrease property values and his property will be adversely impacted by the solar farm. Mr. Wierzbicki said no one in public office should forget that they are voters. Mr. Wierzbicki said when is enough an enough.

Mr. Bodino said the residents have the most at stake. The other two solar farms are not near residential areas and there is a remote chance that a solar panel/s could catch fire.

Mr. Fox reminded the board that their decision is based on competent evidence presented tonight. Mr. Fox said change is always difficult, but he feels this is appropriate use of the property.

Mr. Rogers said they do not want any homes to flood, but hopefully after the drainage study it will make drainage better in the area. Mr. Rogers said they are going to use the road frontage for heavy vehicle deliveries and not Uncle Graham Road.

Mr. Cleveland said they will not be using a toxic heavy metal for the post and it is not to be viewed as a safety issue.

Mr. Fox said the drainage is regulated by federal law, which is then delegated to enforce by DENR of North Carolina. This will all be done at the site plan stage which will be reviewed by the county.

Mr. Cooper closed the public hearing.

Mr. Cartwright asked if the hills on the golf course are a direct result of the ponds dug on the course. Could the material from the hills be used to fill in the ponds?

Ms. Hamby said yes and they will likely use some of the material.

Mr. Cartwright asked if the board should be looking at the drainage plan as part of the request before them tonight.

Ms. Glave said no that will be when the site plan is submitted.

Mr. Cooper asked staff if this would go by the county's new stormwater manual regulations.

Ms. Glave said yes.

Mr. Cooper asked if NCDOT reviewed this project.

Ms. Glave said they had no comments.

Mr. Cooper asked if the heritage trees ordinance would apply.

Ms. Glave said yes.

Mr. Cooper asked if the panels are 150MPH and framework is 110MPH.

Mr. Cleveland said yes, but said the assembly of the panels and rack are related to the local wind speed of 120MPH.

Mr. Cooper asked if this request was reviewed by the Chief Building Inspector and did he have any comments regarding onsite requirements.

Ms. Glave said yes and additional comments would be offered during the site plan review.

Mr. Cooper asked what is the height of the required buffer vs. the height of the proposed equipment.

Ms. Glave said 6 ft. for the buffer and 15 ft. for the equipment.
Mr. Craddock asked if the solar panels are stationary.

Mr. Rogers said yes. Mr. Rogers also stated they will try to keep as many of the exterior and interior trees as possible. Once the solar farm is completed, Uncle Graham Road will be used as the permanent access.

Mr. Cooper asked what is the proposed construction time.

Mr. Rogers said if the project is approved to start in June or July and be completed by the end of the year.

Mr. Craddock asked if the applicant has considered using the ponds for dry hydrants for fire suppression.

Mr. Rogers said they don't have onsite fire suppression.

Mr. Craddock asked Mr. Kirkland if he used any local data from local counties.

Mr. Kirkland said yes. The report will be submitted to the Board of Commissioners.

Mr. Cooper asked if there are inspections or maintenance that addresses the structural aspects of the components.

Mr. Rogers said there are routine visual inspections of the facility.

Mr. Fox said if there was an issue brought to the attention of the Utility Commission, then they do have the ability to make inspections.

Mr. Craddock asked who is the responsible party to have insurance to cover in the event of a hurricane.

Mr. Rogers said the owner of the facility and they carry one million for general liability.

Mr. Cooper thanked the public for their feedback and the board is working through answering those questions and concerns.

Mr. Craddock moved to approve PB 15-25 as presented as it will not negatively affect property values and it is in the public interest with the following conditions:

1. Uncle Graham Road shall not be used for construction and heavy equipment traffic, but will be used as the primary access to the site once construction is complete. Caratoke Highway is to be used for the construction and heavy equipment traffic.
2. The system shall be anchored to sustain 120MPH winds as called for in the building code.

Mr. Cartwright seconded the motion and motion carried unanimously.

Michael Fox of Greensboro, and attorney for the applicant, provided documents to the Board to be submitted into evidence and introduced his experts who would testify on behalf of the applicant.

Nathan Rogers, the applicant, gave the Board an overview of Ecoplexus and the project. He discussed the panels to be installed, agreeing to the crystalline silicon panels as an additional condition, the most benign, which the Board agreed to include as part of the

motion for approval. He noted the reduced acreage due to the denial of the rezoning, stating there is now 36 acres to address stormwater and mitigate concerns of adjoining properties. He reviewed the site plan, stating the 300' setback should allow the keeping of trees along the perimeter making the site largely invisible.

Kim Hamby, Licensed North Carolina Engineer specializing in Drainage Resources, reviewed existing ponds, current drainage patterns and preliminary site analysis, noting that the Department of Transportation water that runs through the property had not yet been studied but would be addressed as part of the full site plan design. She believes there are sufficient resources on site to fill ponds, and erosion control was discussed. Ms. Hamby said that new drainage would have to be installed before any discharge or filling of ponds would be allowed and they would be regulated by the state in that regard. She explained how the discharge of water would occur. She said landscaping and fencing would be part of the civil plan.

Tommy Cleveland, Professional Engineer, Independent Solar Expert, provided information on the crystalline-silicon panels, stating they are non-toxic. He described other equipment that would be installed including racking, junction boxes, inverters, and transformers. Mr. Cleveland discussed safety, hurricanes and addressed Electro Magnetic Frequency readings, believing them to not be an issue so long as the transformers are set appropriately well within the site. He addressed environmental concerns and concluded with his opinion that no health or safety concerns are present.

Commissioner Beaumont posed a question about the use of herbicides on the property, and Mr. Rogers said that herbicides may be used but he would prefer not. Mr. Cleveland described the differences between types of solar panels and addressed the reflective properties of the panels. Mr. Rogers explained that understanding concerns raised with cadmium panels, the crystalline-silicon panels were chosen for the site. He believes that even after 30 years they are still 75% viable and could be used elsewhere, perhaps in developing countries.

Rich Kirkland of Raleigh, a state certified appraiser, testified regarding property values and harmony of use, providing his analysis of other solar farms and their adjoining properties. Commissioner O'Neal noted the distances of homes from many on his analysis are much farther than what is being proposed. Mr. Kirkland's opinion is that the use is harmonious, and he presented housing value data from a similarly situated solar array in Goldsboro, NC. He answered questions regarding the matched pair analysis performed, addressing how similar the comparisons actually are.

Mr. Fox interjected, stating their requirement is to address the impact on value for this use. Mr. Kirkland said he has been to the site multiple times and answered questions relating to harmony with the surrounding property and the current market. Mr. Kirkland summarized his opinion that the use is a harmonious with no impact on adjoining property values.

Mr. Rogers thanked commissioners for the discussion, stating the use is a harmonious one, as it will not produce noise or smells and it is not an industrial facility. He restated the significant tax impact for the county.

Mr. Chuck Loller, attorney representing property owners living adjacent to the project, spoke of the uncertainties surrounding the project, noting that although the burden is with the applicant to show otherwise, they will demonstrate that the use will endanger public safety, will injure abutting lands and is not in harmony with the area nor in conformity with the land use plan. He said the state of North Carolina Division of Water Quality is just beginning to address the lack of oversight of solar farms and introduced experts that will testify.

Dr. Herb Eckerlin, professor of Mechanical and Aerospace Engineering at North Carolina State University, began by providing a summary of his qualifications related to solar energy. Dr. Eckerlin said he is a proponent of solar power, named the different types of solar energy, and explained the intermittent nature of a solar farm. He noted their average production of 5 hours a day with no production on rainy days or at night, and that they rely on traditional power. He spoke about subsidies and how they are what brings solar developers to North Carolina. He said Grandy and Currituck County would get very little benefit out of solar development, and talked of solar energy's impact on power bills by comparing local energy costs at 6.5 cents per kilowatt hour (kwh) with green energy areas such as California at .13 cents and Germany at .29 cents per kwh. He spoke to sustainability and the life of a solar farm, posing the question as to what happens after decommissioning. He referred to state legislation which provides for solar arrays to be treated as special projects, and said there is no state oversight or regulation. He said many panels come from China and no one really knows the composition. Dr. Eckerlin believes a moratorium should be placed on solar arrays until the state has had time to address issues.

Attorney Fox objected to portions of Dr. Eckerlin's testimony as being both irrelevant to the proceeding and hearsay. Chairman Griggs noted the objections for the record.

Dr. Eckerlin responded to questions posed by Mr. Fox pertaining to his previous testimony about the cost of energy in other states. Mr. Fox suggested the information was not based on personal knowledge and asked that the testimony be stricken. Attorney Fox suggested Mr. Eckerlin has a philosophical opposition to solar farms and is not relevant to the application. Attorney Lollar addressed the fact that the applicant's presentation was also based on hearsay, and Dr. Eckerlin's testimony rebuts the testimony given by the applicants experts related to value.

Dr. Ronnie Heiniger, Professor in Crop Soils at NC State University and Edenton resident, discussed the holding ponds on the property and their use in controlling and maintaining nutrients and removing pesticides from runoff, stating that as a central feature for development of the golf course the same feature is needed for the application of solar array due to the use of fertilizer, pesticides. He said the ponds are still necessary and removal would have an egregious impact on the surrounding environment. Dr. Heiniger pointed out that the US Department of Agriculture (USDA) will not approve solar farms on federal land in the southeast because the environmental impact is greater than the benefit of the solar farm. Responding to questions from the applicant, Dr. Heiniger described the types of federal lands located in North Carolina and confirmed that there were solar farms on some USDA lands located in the western US. He said he was not aware of a solar project being constructed at Camp LeJeune, noting his comments referred only to land owned by the USDA, not the Department of

Defense or Forest Service.

Bruce Sauter, a state Certified Appraiser from Greenville, introduced himself as a 38 year member of the appraiser institute. He began by noting the many Currituck County properties he has appraised. He discussed determination of the highest and best use of property is the most important part of the appraisal process. He recalled the appraisal he performed on the Goose Creek Golf Course prior to the foreclosure process, concluding at that time the highest and best use would be for single family residences. He reviewed Mr. Kirkland's analysis, stating he did not hear anything about an increase in value of homes and said because the jury is still out in Currituck County no empirical evidence is present. Mr. Sauter noted the potential for 150 homes on the property and with sewer there could be 300 homes. He noted there are plenty of alternative locations for solar in the county. When asked by Mr. Lollar, Mr. Sauter said the solar farm is not in harmony, defining it as a legal non-conforming use. Answering questions posed by the Board, he described harmony as blending with the neighborhood or that would enhance the public benefit, naming parks, a community club (tennis courts), or water features as examples. He referenced the Land Use Plan, and its allowing for solar arrays only in agricultural zoning. When asked by Attorney Fox, Mr. Sauter said he has not performed any professional appraisals of properties located next to solar farms.

Steve Fentress, a resident of Grandy and 32 years experience as a highway heavy marine construction contractor, asked Mr. Woody if there would be a drainage plan. Mr. Woody clarified that the site wouldn't fall under Currituck County's ordinance because it does not fall within the parameters. Mr. Fentress talked about the ponds which hold 12.5 million gallons of water and discussed drainage outlets and inlets, believing that it will take 79,000 cubic yards to fill the ponds. Mr. Fentress noted solar farms are classified as an industrial use in the UDO. He said no local contractors were used for the Shawboro solar facility and no inspections of connections by the inspections office, other than electrical were performed and asked the Board to address the lack of inspections at facilities and presented related documents to the Board for consideration.

Mr. Lollar closed by summarizing the testimony for the Board. He stated it is not the time to approve another solar power plant and the applicants have not met the burden of the required findings. He asked the board to deny the project.

Chairman Griggs called a brief recess. After reconvening, Attorney Fox raised an additional objection to a hardcopy powerpoint from the NC Department of Environmental Quality, which had been distributed earlier by the opposition, as hearsay. Chairman Griggs noted the objection.

Chairman Griggs asked Mr. Woody to address the inspections for solar property, which included electrical trenches, bondings and connections. Mr. Woody clarified an electrical permit would have been issued for the project, but not a traditional building permit.

Laura Darden, 214 Uncle Graham Road, said her property backs up to the proposed project. She referred to an envelope presented to the Board that contained pictures of flooding at her property. She noted the standing water on the golf course. Ms. Darden aid she is not opposed to solar energy but doesn't believe the location is the appropriate

place. She suggested a lack of care or concern on behalf of the developer, as she had contacted the applicant who said they would meet with her but never did.

The applicant had no rebuttal evidence to present. Thanking the Board, Mr. Fox reviewed the questions for which they are required to make their findings, and contended that the evidence presented by the opposition had not been sufficiently rebuked. He recalled the expert testimony presented, specifically expressing confidence that they would be able to improve drainage at the site, and recalled the testimony of Mr. Kirkland regarding appraisals and value. Believing they had met their burden, he asked the Board for approval.

Attorney Loller asked the Board to consider the lack of conformity, reiterating the industrial use that is not compatible or harmonious with the surrounding area.

With no one else wishing to speak Chairman Griggs closed the Public Hearing.

Beaumont moved to deny PB 15-25 as the applicant has not demonstrated the proposed use meets the use permit review standards of the Unified Development Ordinance (UDO), that the use will endanger the public health or safety of the community in that: water drainage has not been adequately addressed to ensure the amount of water that needs to vacate the property will be able to do so safely; there is a significant disparity with the amount of material that is available on the site for backfilling the ponds in the fill plan that was described, believing that evidence indicates an additional water drainage issue will be created; testimony provided by the applicant regarding the use of chemicals on the property, specifically herbicides, that their use and/or amounts are unspecified, and without some limitation as to the quantity of chemicals necessary to maintain the facility will be excessive and a health hazard to those around; use is not in harmony with the neighborhood beside it in that, based on expert testimony by Mr. Sauder, the property is not in harmony with adjacent residential neighborhoods and provides a stark contrast to the adjacent subdivision; finally, the use will not be in conformity with the land use plan it is a large facility that is being reverted to or used in a manner that would not be conducive in a full-service district.

Commissioner Payment seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Paul M. Beaumont, Commissioner
SECONDER:	Mike H. Payment, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

D. Public Hearing and Action: PB 16-01 Guinea Mine:

Parties were sworn in and Chairman Griggs opened the Public Hearing. Ben Woody reviewed the application with the Board. Both planning Board and the Technical Review Committee recommended approval.

APPLICATION SUMMARY

Property Owner: William H. Spruill

Applicant: Wayne Leary

Case Number: PB 16-01

Application Type: Use Permit

Parcel Identification Number: 001500000350000 & 001500000340000

Existing Use: Farmland

Land Use Plan Classification: Full Service

Parcel Size (Acres): 31.68 Total

Request: Use Permit, Extractive Industries

Zoning: Agriculture / General Business

SURROUNDING PARCELS

	Land Use	Zoning
North	Farmland	Agriculture (AG)
South	Single Family Dwelling	Agriculture (AG)
East	Farmland	General Business (GB)
West	Farmland	Single Family Mainland (SFM)

INFRASTRUCTURE**Transportation/Access**

Access will be achieved through the abandoned 30 foot right of way shown on the plan.

Landscaping

Type A buffers are required and will be indicated on a revised site plan.

Stormwater/Drainage

The plan includes a dewatering system

STAFF ANALYSIS

The applicant is requesting a use permit to operate a 9.5 acre sand mine. Applications for state permits include an additional 5.5 acres (shown as phase two on the site plan) which will not be excavated until the Board of Commissioners, or the planning director has granted approval of an expansion as allowed by the ordinance.

The majority of the site is adjoined by farmland with the some residential uses which are located several hundred feet away. A performance guarantee will be secured for one residential well located within 1500 feet of the proposed mine. The applicant has proposed having two forms of ingress to avoid traffic issues near the intersection of Caratoke Highway and Guinea Rd. when necessary.

The applicant is requesting a reduced setback for the existing excavated areas (ponds) that are within the 100 foot setback but adjacent to farmland. Application has been made for a driveway permit from NCDOT for improvement of the entrance road back to the intersection with Guinea Rd.

RECOMMENDATIONS**TECHNICAL REVIEW COMMITTEE**

The Technical Review Committee recommends **adoption** of the use permit subject to the following conditions of approval:

1. The application complies with all applicable review standards of the UDO provided the following outstanding items are addressed:
 - a. The ordinance requires type A buffer yards between certain portions of the site and the adjoining zoning districts. The applicant is aware of this requirement and the locations where buffers must be installed. The site plan shall be updated to reflect the required buffers.
2. The applicant demonstrates the proposed use will meet the use permit review standards of the UDO.
3. The conditions of approval necessary to ensure compliance with the review standards of the UDO and to prevent or minimize adverse effects of the development application on surrounding lands include:
 - a. For operations that generate more than five trips per peak hour, at least 200 feet of continuous pavement shall be required onsite starting at the point the access road intersects with a public street or highway unless such public street is not paved. All streets and roads utilized to access the mining site shall be maintained free of dust and sediment and shall be properly graded and drained.

- b. The application is for a 9.5 acre sand mine on a 31.68 acre parcel. The site plan shows an additional phase 2 consisting of 5.5 acres which was shown for the benefit of state permitting. Approval shall not be granted for any activity in phase two until such time the applicable requirements of UDO section 4.2.5.A.15 (Expansion) are met.
- c. A performance guarantee in the amount of \$3,000 is required for the well within 1500 feet of the mine.
- d. The use permit shall be valid for the same permit period as the State of North Carolina mining permit not to exceed ten years from the date of issuance or for a shorter duration as deemed appropriate by the Board of Commissioners. In the event the property owner desires to continue the mining operation thereafter, he shall again petition the Board of Commissioners for a new permit. The Planning Director may, upon receiving a written request for extension, grant an extension not to exceed ten years provided the existing mine has maintained compliance with all applicable state and local regulations. It is the responsibility of the applicant to renew the county permit in the event state permits expire.

PLANNING BOARD

Mr. Cartwright moved to approve PB 16-01 as presented due to the use will not endanger the public health or safety; the use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located; the use will be in conformity with the Land Use Plan; and the use will not exceed the county's ability to provide adequate public facilities. Mr. Bell seconded the motion and motion carried unanimously.

INFRASTRUCTURE

Transportation/Access	Access will be achieved through the abandoned 30 foot right of way shown on the plan.
Landscaping	Type A buffers are required and will be indicated on a revised site plan.

USE PERMIT REVIEW STANDARDS

A use permit shall be approved on a finding that the applicant demonstrates the proposed use will meet the below requirements. It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the preliminary findings.

The use will not endanger the public health or safety.

Preliminary Applicant Findings:

1. According to the applicant, "Mr. Spruill has operated sandpits in the immediate area for over 25 years without endangering the public health and safety. He will operate this mine as he has operated in the past.

The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

Preliminary Applicant Findings:

1. According to the applicant, "There is no reason to believe this mine will injure the value of adjoining or abutting lands and is in harmony with the area.

The use will be in conformity with the Land Use Plan or other officially adopted plans.

Preliminary Staff Findings:

1. The 2006 Land Use Plan identifies the site as a full service area.

POLICY ID8: MINING ACTIVITIES, or secondary impacts of mining activities not subject to permit approval by the State of North Carolina, may be subject to review and management by Currituck County. Activities to be addressed may include, but not be limited to, the adequacy of roads serving the mine site, visual impacts during operation and after closing of the mine site, noise and dust considerations, etc.

2. The Moyock Small Area Plan Identifies the area as limited service.

Policy BI 4 Provide industrial development opportunities for cluster industries identified by Currituck Economic Development such as defense aero-aviation, port and maritime related industries, alternative energy, agriculture and food, and local existing business support.

The 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.

Preliminary Staff Findings:

1. The use will not exceed the county's ability to provide adequate public facilities.

Mr. Woody and Wayne Leary, Consultant speaking for the applicant, answered questions about the ponds, setbacks and easement access. He said they would be operating within regulations regarding hours of operation, and had nothing to add to Mr. Woody's presentation.

With no one wishing to speak, Chairman Griggs closed the public hearing.

Commissioner O'Neal moved for approval with findings of staff and Planning Board. Commissioner Gilbert seconded and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVED:	S. Paul O'Neal, Commissioner
SECONDER:	Marion Gilbert, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

E. Public Hearing and Action: PB 16-02 Jimmy Lewis Automobile Sales:

Commissioner O'Neal requested to be excused from the vote on this item due to a possible conflict of interest. After an explanation by Attorney McRee of the process and reasons for recusal, Chairman Griggs moved to recuse Commissioner O'Neal, seconded by Commissioner Beaumont. The motion carried unanimously and Commissioner O'Neal was excused, stepping out of the room for the hearing.

Parties were sworn, Chairman Griggs opened the Public Hearing, and Mr. Woody presented the applicant's request to add used car sales to his current business site in Grandy, stating staff recommended approval.

APPLICATION SUMMARY

Property Owner: Jimmy (Clay) Lewis
Applicant: Jimmy (Clay) Lewis

Case Number: PB 16-02

Application Type: Use Permit

Parcel Identification Number: 0108000094F0000

Existing Use: Sale of Prefabricated Buildings

Land Use Plan Classification: Full Service

Parcel Size (Acres): 1.06

Request: Vehicle Sales as an additional use

Zoning: General Business

SURROUNDING PARCELS

North	Stateline Prefab Building Sales	General Business (GB)
South	Stateline Prefab Building Sales	General Business (GB)
East	Self-Serve Car Wash	General Business (GB)
West	Vacant Golf Course/Proposed Solar Array	General Business (GB)

STAFF ANALYSIS

The applicant is requesting a use permit to establish automobile sales as an additional use to the existing prefabricated building sales use. The site is surrounded by commercial uses and no changes to the buildings or site are proposed or required. All Technical Review Committee comments have been addressed.

INFRASTRUCTURE

Water	Public
Sewer	Septic
Transportation/Access	Access exists from Highway 168
Stormwater/Drainage	No improvements required

RECOMMENDATIONS

Technical Review Committee

The Technical Review Committee recommends **adoption** of the use permit subject to the following conditions of approval:

1. The applicant demonstrates the proposed use will meet the use permit review standards of the UDO.

PLANNING BOARD

Mr. Cooper moved to approve PB 16-02 as presented and the applicant demonstrates the proposed use will meet the use permit review standards of the UDO. Ms. Bell seconded the motion and motion carried unanimously.

USE PERMIT REVIEW STANDARDS

A use permit shall be approved on a finding that the applicant demonstrates the proposed use will meet the below requirements. It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the preliminary findings.

The use will not endanger the public health or safety.

Preliminary Applicant Findings:

1. According to the applicant, "No it will not"
2. The site is located on Caratoke Highway in a Full Service area where similar commercial uses exist. The site has adequate ingress and egress for emergency vehicles and the general public.

The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

Preliminary Applicant Findings:

1. According to the applicant, "the use will not harm any adjacent property and will only compliment the surrounding area."
2. The surrounding lands are all zoned General Business.
3. Two adjoining properties, north and south, are owned by the applicant and are part of the existing sales use.
4. The property to the east is a car wash
5. The property to the west is proposed to be a solar array.

The use will be in conformity with the Land Use Plan or other officially adopted plans.

Preliminary Staff Findings:

1. The 2006 Land Use Plan Classifies this area as Full Service in the Grandy subarea.

POLICY CD2: Commercial and office development of greater than a neighborhood scale shall be encouraged to cluster in COMMERCIAL OR MIXED-USE CENTERS to curtail the proliferation of strip development, and minimize traffic generation.

The 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.

Preliminary Staff Findings:

1. The proposed use will not impact the county's ability to provide adequate public facilities.

Jimmy Lewis, applicant, provided a history of the existing business, and said he is looking for a way to keep his doors open and allow his staff to keep his job. He said no

service would be done at the facility or junk cars would be stored.

With no one signed up to speak, Chairman Griggs closed the public hearing.

Commissioner Payment moved to approve PB 16-02 with staff recommendations, as the applicant meets all criteria and requirements. Commissioner Gilbert seconded and the motion carried unanimously.

After the vote Commissioner O'Neal rejoined the Board.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mike H. Payment, Commissioner
SECONDER:	Marion Gilbert, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

OLD BUSINESS

A. Consideration and Action: PB 14-16 Lake View at Currituck Development Agreement Amendment: Request to amend the development agreement between Currituck County and Survey Road, LLC for property located in Moyock on Survey Road west of the intersection with Caratoke Highway, Tax Map 15, Parcels 83A, 83B, 83C, 83D, and 83E, Moyock Township.

Chairman Griggs noted a public hearing, now closed, had been heard previously along with PB 07-10. The applicant is requesting the addition of thirteen lots, requiring a revised development agreement. Both items were continued pending the applicant's agreeing to the development transitioning to homeowners at 75% as provided for in the new ordinance. Mr. Woody reviewed the items briefly with the Board.

James O. Myers submitted an application for an amendment to the Development Agreement between Survey Road, LLC (the "Developer") and Currituck County to allow 13 additional residential lots within the proposed Lake View at Currituck subdivision located at 120 Survey Road in the Moyock Township. The use of a development agreement is authorized in North Carolina General Statutes 153A-379.1- 153A-379.13 and Section 2.4.18 of the Currituck County Unified Development Ordinance (UDO); the purpose and intent of a development agreement is to:

1. Encourage comprehensive planning and capital facilities planning;
2. Ensure the provision of adequate public facilities for development;
3. Encourage the efficient use of resources, while providing certainty in the process of obtaining development permits and approvals; and
4. Reduce the economic costs of development by providing greater regulatory certainty.

The Development Agreement between the Developer and Currituck County required the Developer to install a new public sewer force main to connect the Lake View at Currituck subdivision to the Moyock Central Sewer System. The force main is now installed. The sewer mains, pump stations, and appurtenances subject to the development agreement will be dedicated to the county upon completion and acceptance by the Technical Review Committee.

A summary of the proposed amendments included in the request are:

1. An assignment of the agreement from Survey Road, LLC to the new property owner Lake View Land Development, LLC.

2. Adding 13 residential lots identified in the proposed Phase 3A of the planned unit development.
3. An acknowledgement of the completed off-site public sewer infrastructure.
4. Removing the phasing reference from the 104 residential lots currently outlined as Phase 1 and 2 of the agreement. This change references the intermediate sewer payment (final plat).
5. Adding the 13 additional residential lots sewer tap reservation and payment schedule.
6. Adding one additional year to the term of the agreement.
7. Changes to the use permit conditions, amended sketch (master) plan, and preliminary plat (see attached amended sketch plan, and preliminary plat/use permit staff report).

Enclosed please find a draft version of the amendments to the Development Agreement that includes an amended sketch plan, preliminary plat and (special) use permit.

The TRC recommends **approval** because the proposed development agreement is consistent with the Moyock Small Area Plan since the subject property and sewer main extension are located in a Full Service area; is consistent with the Land Use Plan because it focuses sewer service in existing developed areas and in nearby targeted growth areas (POLICY WS3); and the development agreement demonstrates the impact on the future provision of public sewer capital improvements by the county.

Planning Board Recommendation:

Mr. Craddock moved to approve PB 14-16 as presented due to its consistency with the Moyock Small Area Plan since the subject property and sewer main extension are located in a Full Service area; is consistent with the Land Use Plan because it focuses sewer services in existing developed areas and in nearby targeted growth areas; and the development agreement demonstrates the impact on the future provision of public sewer capital improvements in the county. Mr. Bell seconded the motion and motion carried unanimously.

John Morrison, Attorney for the applicant, stated the applicant agreed to the transition at 75%.

Commissioner Hall moved to approve PB 14-16, with staff recommendations, because the request is consistent with the land use plan and it is reasonable and in the public interest to do so. Commissioner Gilbert seconded and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mike D. Hall, Commissioner
SECONDER:	Marion Gilbert, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

B. Consideration and Action: PB 07-10 Lake View at Currituck: Request to amend the sketch (master) plan, preliminary plat, and use permit to allow 13 additional residential lots in the planned unit development located off Survey Road in Moyock, Tax Map 15, Parcels 83A, 83B, 83C, 83D, and 83E, Moyock Township.

The request submitted by Lake View at Currituck, LLC is to amend the development agreement (separate submittal), sketch (master) plan, and the preliminary plat to add 13 residential lots in an area previously labeled as future development (5.81 acres). An amendment to the development agreement is required to increase the density and modify the future development area. Lake View at Currituck is a planned unit development and is subject to the transition standards of the UDO. The proposed changes to the approved plans are as follows:

- Modification of the phasing plan to include Phase 3A (13 lots) and relocation of phasing lines (strikethrough text is to be removed and underlined text is the proposed changes).
 - o Phase 1 49 single family lots (year 42)
 - o Phase 2 55 single family lots (year 23)
 - o Phase 3A 13 single family lots (year 4)
 - o Phase 3 42 single family lots (year 35)

- o Phase 4 7.21 acres commercial (years 4-86-9)
- An amendment to the development agreement (see attached memo for details).
- Extend the term of the development agreement for one additional year.
- Assignment of the development agreement between Currituck County and Survey Road, LLC to Lake View Land Development, LLC.
- Amendments to the use permit (see below)
- Relocation of one pocket park from the residential subdivision entrance to an area adjacent to the mail kiosk and associated parking area (Fountain Lake Way).
- Removal of the park equipment layout from the pocket parks which is replaced with a statement to allow design flexibility to meet the recreational needs of the community.
- An adjustment of lots 36-39 in Phase 2 for access to Phase 3A and to accommodate a small recreational vehicle parking area required for Phase 3A.
- Interconnectivity to the Jarvis property (western edge of Phase 3A).

RECOMMENDATIONS

TECHNICAL REVIEW COMMITTEE

THE TECHNICAL REVIEW COMMITTEE RECOMMENDS ADOPTION OF THE USE PERMIT AND APPROVAL OF THE AMENDED SKETCH (MASTER) PLAN AND AMENDED PRELIMINARY PLAT/USE PERMIT SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

1. The application complies with all applicable review standards of the UDO provided the following items are addressed:
 - a. The BOC entered into a development agreement with Survey Road, LLC on November 25, 2014 (recorded November 26, 2014) to develop the property in question. The proposed 13 residential lot addendum as shown on the amended sketch (master) plan and preliminary plat requires the BOC acceptance and approval of the amended development agreement (copy provided).
 - b. The amended preliminary plat indicates a typical lot that illustrates a pool setback to be five feet from the property lines. The current ordinance does not permit a five foot accessory structure setback.
 - c. Correct the development summary and phasing plan on sheet 7 of 7 of the amended sketch plan to reflect Phase 4 as commercial under development type.
2. The following conditions of approval necessary to ensure compliance with the review standards of the UDO and to prevent or minimize adverse effects of the development application on surrounding lands for all phases of the Lake View of Currituck (strikethrough text is requested removal and underlined text is requested to be added; renumber as appropriate):
 - a. ~~The pre-construction plans shall meet and address all NCDOT traffic engineer comments and recommended changes.~~ (Commentary: Removal requested by the applicant.)
 - b. ~~The proposed, improved access connection to the adjacent property does not extend to the property line. This access will not be used by a property owner until such time as the interconnection is made; staff recommends the developer posting a bond for installation in lieu of paving the connection to the property line. Fountain Lake Way and Green Lake Road connection stub and associated sidewalks shall terminate no more than five feet from the edge of the existing ditch or drainage easement and the developer shall post a performance guarantee with the county to ensure funds are available to complete the connections.~~ (Commentary: Fountain Lake Way now accesses a park and mail kiosk and shall be improved to terminate no more than five feet from the edge of the existing ditch or drainage easement).
 - c. Wheelchair ramps shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with NCDOT standards. Please provide a curb cut detail with the submittal pre-construction plans.
 - d. On street parking, if installed, shall be provided in accordance with the variance issued by the Board of Commissioners.
 - e. The pedestrian loop trail system must be located a minimum of 10 feet from all exterior property lines and shall be located such to provide safe movement.
 - f. A Dominion Power encroachment agreement is required to allow roads, pedestrian trails, required landscape buffers, and wastewater treatment infiltration pond within their 150 foot utility easement. The agreement must be provided at the pre-construction submittal.
 - g. Pedestrian easements shall be provided on the final plat where the sidewalk extends beyond the street right-of-way and on private lots. (Development Review Manual)

- h. Given the relatively small size of the proposed lots, deed restrictions or restrictive covenants shall restrict parking of boats and recreational vehicles on individual lots or a boat/rv parking area shall be provided.
- i. The development impact statement references the pedestrian related active recreation element. In the interest of providing a complete and safe active recreation system, the applicant shall provide sidewalks along Survey Road frontage, and between the proposed residential and nonresidential uses.
- j. The required improvements shall be installed and accepted prior to submission of final plat approval for each phase.
- k. The applicant shall submit a home and building design template that will be incorporated with the approval. Residential structures shall be designed with:
 - a. Variation in exterior architectural materials (siding, roofing);
 - b. Vertical and horizontal relief in buildings (roof lines, eaves, bump outs);
 - c. Variation in house styles/types;
 - d. Inclusion of front porches, projecting bays, vestibules; and,
 - e. The units shall have proportional attributes including overall height to width ratios of existing building facades, doors, windows, projecting canopies, and other architectural features within the vernacular of the area.
- l. All open space areas surrounding the lake shall be stabilized with grass, vegetation, and proposed landscaping prior to recordation of the first phase.
- m. All visual relief open space within each phase shall be stabilized and vegetated with grass and proposed landscaping buffer.
- n. Low impact development techniques should be integrated in the project to manage treatment of stormwater. (WQ3, WQ6, WQ7)
- o. Internal pedestrian circulation shall be required for all commercial areas through the use of clearly defined walkways. (CD8, CD9)
- p. In commercial areas, parking located between a commercial building and street rights-of-way shall be screened with a Type B Bufferyard. (CA3, CD7, CD8)
- q. Dumpsters or similar solid waste receptacles, HVAC equipment, commercial mechanical units, or similar appurtenances shall be screened from view using a combination of solid landscaping or opaque fencing. (LUP CA3)
- r. Landscape islands shall be incorporated into the commercial parking areas. (LUP CD7, CD8, CA3)
- s. In commercial areas pedestrian plazas or similar shaded outdoor seating areas shall be provided. (LUP CD7, CD8, CD9)
- t. Neighborhood serving commercial development shall integrate pedestrian scale and design (proportional relationship of buildings and spaces to pedestrians). Retail, office, and entertainment uses shall be appropriately designed, small-scale businesses. (LUP CD1, CD5, CD6, CD7, CD8, CD9).
- u. The maximum amount of pond aeration devices allowed by NC DWQ shall be installed.
- v. ~~A complete downstream analysis shall be included with the pre-construction submittal. (Commentary: Removal requested by the applicant. Stormwater infrastructure was approved without a complete downstream analysis for all phases except Phase 3A which will be subject to the stormwater manual).~~
- w. The driveways shall be two vehicle deep parking (including garage).
- x. ~~The slope of ponds shall be considered. (Commentary: Removal requested by the applicant).~~
- y. Cluster mailboxes shall be used.
- z. The building pad elevations shall be raised a minimum of 18 inches, above existing grade, except in Phase 3A where building pad elevations will meet current UDO and stormwater manual requirements in effect on (enter date of use permit amendment).
- aa. A solid vegetative buffer and fencing between shall be provided to the adjacent agricultural properties except in Phase 3A where the farmland buffer shall meet the UDO requirements in effect on (enter date of use permit amendment).
- bb. Phase 3A shall be subject to the development agreement and use permit, as amended.

USE PERMIT REVIEW STANDARDS

A USE PERMIT SHALL BE APPROVED ON A FINDING THAT THE APPLICANT DEMONSTRATES THE PROPOSED USE WILL MEET THE BELOW REQUIREMENTS. IT IS STAFF'S OPINION THAT THE EVIDENCE IN THE RECORD, PREPARED IN ABSENCE OF TESTIMONY PRESENTED AT A PUBLIC HEARING, SUPPORTS THE PRELIMINARY FINDINGS

The use will not endanger the public health or safety.

PRELIMINARY APPLICANT FINDINGS:

1. THE USE WILL ADHERE TO COUNTY HEALTH AND SAFETY STANDARDS, ALL LOTS WILL FRONT ON LOW-SPEED INTERIOR STREETS, AND WILL BE SERVED WITH PUBLIC WATER AND SEWER. THE PROJECT SHOULD NOT ADVERSELY AFFECT THE PUBLIC HEALTH OR SAFETY.

The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

PRELIMINARY APPLICANT FINDINGS:

1. LAND TO THE SOUTH AND EAST HAS BEEN DEVELOPED INTO SINGLE FAMILY HOMES; THE HOMES THAT WILL BE CONSTRUCTED IN THIS SUBDIVISION WILL BE OF SIMILAR VALUE TO EXISTING HOMES IN THE AREA; OVER 35% OF THE LAND WILL BE PRESERVED AS OPEN SPACE AND LANDSCAPING BUFFERS ARE PROVIDED. THE USE WILL NOT INJURE THE VALUE OF ADJOINING OR ABUTTING LANDS, AND WILL BE IN HARMONY WITH THE SURROUNDING AREA.

The use will be in conformity with the Land Use Plan or other officially adopted plans.

PRELIMINARY APPLICANT FINDINGS:

1. THE LAND USE PLAN CLASSIFIES THIS AREA AS RURAL BUT ADJACENT TO FULL SERVICE WITHIN THE MOYOCK SUBAREA.
2. THE MOYOCK SMALL AREA PLAN CLASSIFIES THE AREA AS FULL SERVICE. THE PROPOSED DEVELOPMENT DENSITY IS 2.37 UNITS PER ACRE, WHICH IS WITHIN THE RANGE OF DENSITIES ENVISIONED IN THE MOYOCK SMALL AREA PLAN.
3. THE FOLLOWING LAND USE PLAN POLICIES ARE RELEVANT TO AND SUPPORT THIS REQUEST:

POLICY HN1: CURRITUCK COUNTY SHALL ENCOURAGE DEVELOPMENT TO OCCUR AT DENSITIES APPROPRIATE FOR THE LOCATION.

POLICY HN2: THE COUNTY SHALL... ENCOURAGE ALTERNATIVES TO LARGE LOT DEVELOPMENTS THROUGH INNOVATIVE DEVELOPMENT CONCEPTS AND CORRESPONDING ZONING TECHNIQUES.

POLICY CD1: NEIGHBORHOOD SERVING COMMERCIAL DISTRICTS SHOULD BE ENCOURAGED TO LOCATE WHERE A COLLECTOR OR SECONDARY STREET INTERSECTS WITH A STREET OF EQUAL OR GREATER SIZE. APPROPRIATELY DESIGNED, SMALL-SCALE BUSINESSES MAY ALSO BE NEAR OTHER NEIGHBORHOOD SERVING FACILITIES SUCH AS SCHOOLS AND PARKS.

POLICY CD8: MIXED-USE DEVELOPMENTS, PROPERLY PLANNED FROM THE OUTSET, WHICH ALLOW FOR A COMPATIBLE MIXTURE OF RESIDENTIAL AND NON-RESIDENTIAL USES WITH A PEDESTRIAN SCALE AND DESIGN, ARE ENCOURAGED. SIMILARLY, BUSINESSES MAY BE ALLOCATED ADJOINING (AND THEREFORE CONVENIENT TO) AN EXISTING RESIDENTIAL AREA, WHEN SUCH BUSINESSES CAN BE SHOWN TO SATISFY DESIGN CONSIDERATIONS SIMILAR TO A NEWLY PLANNED, PEDESTRIAN-SCALED, MIXED USE DEVELOPMENT.

POLICY WS3: CURRITUCK COUNTY ENDORSES UTILITIES EXTENSION POLICIES THAT FOCUS WATER AND SEWER SERVICES (1) WITHIN EXISTING DEVELOPED AREAS AND IN NEARBY TARGETED GROWTH AREAS AND (2) WHERE THE LAND IS PARTICULARLY WELL SUITED FOR DEVELOPMENT AND AWAY FROM ENVIRONMENTALLY SENSITIVE AREAS, SUCH AS AREAS WITH EXTENSIVE WETLANDS.

POLICY PR6: ALL NEW RESIDENTIAL DEVELOPMENT SHALL PROVIDE FOR ADEQUATE OPEN SPACE AND RECREATION IMPROVEMENTS.

POLICY PP3: THE COSTS OF INFRASTRUCTURE, FACILITIES, AND SERVICES RELATED TO THE DEMAND CREATED BY NEW GROWTH AND DEVELOPMENT SHALL BE BORNE, IN EQUITABLE PROPORTION, BY THOSE CREATING THE DEMAND.

POLICY WQ3: CURRITUCK COUNTY SUPPORTS POLICIES, PLANS, AND ACTIONS THAT HELP PROTECT THE WATER QUALITY OF THE COUNTY'S ESTUARINE SYSTEM BY PREVENTING SOIL EROSION AND SEDIMENTATION, AND BY CONTROLLING THE QUANTITY AND QUALITY OF STORMWATER RUNOFF ENTERING THE ESTUARY.

The 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.

PRELIMINARY APPLICANT FINDINGS:

1. CURRITUCK COUNTY HAS ADEQUATE PUBLIC FACILITIES TO SERVE THE PROPOSED SUBDIVISION.

With the applicant agreeing to transition under the new ordinance requirement of 75%, Commissioner Gilbert moved to approve PB 07-10, Lake View at Currituck, to include the transition of 75% and that the roads are at North Carolina Department of Transportation standards at the time the transition takes place.

Commissioner Hall seconded and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Marion Gilbert, Commissioner
SECONDER:	Mike D. Hall, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

NEW BUSINESS

A) Board Appointments

1. Planning Board

Commissioner O'Neal carried his nomination to the next meeting.

2. Economic Development Advisory Board

Commissioner Payment nominated Al Marzetti for reappointment to the Economic Development Board. The nomination was approved unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

B) Consent Agenda

Commissioner O'Neal moved to approve as amended, seconded by Commissioner Hall. The motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	S. Paul O'Neal, Commissioner
SECONDER:	Mike D. Hall, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman

1) Approval Of Minutes from March 21, 2016

1. Approval of Minutes for March 21, 2016

2. Moyock Volunteer Fire Department Purchase-Approval Request

3. Budget Amendments

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10530-553000	Dues and Subscriptions		\$ 500
10530-514800	Fees pd to officials		\$ 500
10530-514000	Travel		\$ 1,000
10530-533900	Ambulance Supplies	\$ 2,000	
10530-590000	Capital Outlay		\$ 5,000
10530-561000	Professional Services	\$ 5,000	
		\$ 7,000	\$ 7,000

Explanation: Emergency Medical Services (10530) - Transfer funds for operations.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10530-516200	Vehicle Maintenance	\$ 15,000	
10530-533900	Ambulance Supplies	\$ 2,000	
10530-561000	Professional Services	\$ 5,000	
10530-514000	Travel		\$ 1,000
10530-514800	Fees pd to officials		\$ 500
10530-516000	Repairs and Maintenance		\$ 5,000
10530-531000	Gas		\$ 10,000
10530-553000	Dues and Subscriptions		\$ 500
10530-590000	Capital Outlay		\$ 5,000
		\$ 22,000	\$ 22,000

Explanation: Emergency Medical Services (10530) - Transfer funds for operations.

Net Budget Effect: Operating Fund (10) - No change.

Account Number	Account Description	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10796-516000	Repairs & Maintenance	\$ 5,500	
10796-513000	Utilities		\$ 1,000
10796-514500	Training & Education		\$ 500
10796-526000	Advertising		\$ 500
10796-532000	Supplies		\$ 3,500
		\$ 5,500	\$ 5,500

Explanation: Currituck County Rural Center (10796) - Transfer funds to cover tractor repairs.

Net Budget Effect: Operating Fund (10) - No change.

Account Number	Account Description	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
12546-511006	Telephone & Postage		\$ 1,000
12546-513006	Utilities		\$ 300
12546-516106	Building & Grounds	\$ 1,300	
12546-531006	Gas		\$ 1,000
12546-532006	Supplies		\$ 1,500
12546-532106	Fire Supplies		\$ 5,118
12546-536106	Personnel Protective Equipment		\$ 1,500
12546-553006	Dues & Subscriptions	\$ 500	
12546-554006	Insurance		\$ 800
12546-590000	Capital Outlay	\$ 9,418	
		\$ 11,218	\$ 11,218

Explanation: Corolla Volunteer Fire Department (12546) - Operating transfers per request of Volunteer Fire Department.

Net Budget Effect: Fire Services Fund (12) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10440-526000	Advertising	\$ 250	
10440-532000	Supplies	\$ 2,000	
10440-545000	Contract Services	\$ 2,000	
10440-514500	Training & Education		\$ 500
10440-535000	Safekeeping		\$ 250
10440-561000	Professional Services		\$ 1,500
10350-468000	Sale of Fixed Assets		\$ 2,000
		\$ 4,250	\$ 4,250

Explanation: Finance (10440) - Transfer budgeted funds for additional check stock needed for operations, to advertise unanticipated position vacancy and for increased Gov Deals auction sales.

Net Budget Effect: Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
12543-590003	Capital Outlay	\$ 3,166	
12543-531003	Gas		\$ 3,166
		\$ 3,166	\$ 3,166

Explanation: Moyock Volunteer Fire Department (12543) - Transfer budgeted funds to rework the pump and mount on the water tender for the fire department.

Net Budget Effect: Fire Services Fund (12) - No change.

4. A Resolution Condemning the Action of the North Carolina Marine Fisheries Commission to Use the Supplement Process to Restrict Southern Flounder

5. Third Amendment to Tower Lease Agreement-734 Ocean Trail

This item was removed from the agenda.

C) Commissioner's Report

Commissioner Hall announced the job fair at Currituck County High School will be held April 7 from 1:30 PM till 6:30 PM.

Commissioner Gilbert reported on her attendance at the Albemarle Commission's Regional Legislative Meeting, sitting on the panel with local representatives. She noted concern that support for the mid-county bridge was slipping among our region's representatives and asked everyone to continue to show their support for the bridge to local legislators.

D) County Manager's Report

No report.

PUBLIC COMMENT

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 5 minutes.

No one was signed up nor wished to speak.

ADJOURN**Motion to Adjourn Meeting**

With no further business, Commissioner Gilbert moved to adjourn. The motion was seconded by Commissioner Beaumont and carried unanimously. The meeting of the Currituck County Board of Commissioners was adjourned.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Marion Gilbert, Commissioner
SECONDER:	Paul M. Beaumont, Commissioner
AYES:	David L. Griggs, Board Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner
ABSENT:	O. Vance Aydlett, Vice Chairman