



**Planning Board
Agenda Packet**

May 9, 2017

Call to Order

- A) Pledge of Allegiance & Moment of Silence
- B) Ask for Disqualifications
- C) Announce Quorum Being Met
- D) Approval of Agenda

Approval of Minutes for April 11, 2017**Old Business****New Business**

- A) **PB 14-16 Lake View at Currituck, Development Agreement Amendment:** Request to amend the development agreement between Currituck County and Lake View Land Development, LLC for property located in Moyock on Survey Road west of the intersection with Caratoke Highway, Tax Map 15, Parcels 83B, 83C, 83D, and 83E and Tax Map 15C, Parcels 1-10, 68-88, and 129-146, and OSC, Moyock Township.
- B) Moyock Service District Maintenance Assessment - Ditches 1-6

Announcements**Adjournment**



**CURRITUCK COUNTY
NORTH CAROLINA**

April 11, 2017

Minutes – Regular Meeting of the Planning Board

CALL TO ORDER - 7:00 PM

Chairman Bell called the meeting to order at 7:00 PM.

Attendee Name	Title	Status	Arrived
Carol Bell	Chairman	Present	
Fred Whiteman	Vice Chairman	Absent	
C. Shay Ballance	Board Member	Present	
Steven Craddock	Board Member	Absent	
John McColley	Board Member	Present	
Jeff O'Brien	Board Member	Present	
Jane Overstreet	Board Member	Present	
J. Timothy Thomas	Board Member	Absent	
Ben Woody	Planning & Community Development Director	Present	
Jennie Turner	Planning and Community Development Planner II	Present	
Cheri Elliott	Clerk to the Board	Present	

A) Pledge of Allegiance & Moment of Silence

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

B) Announce Quorum Being Met

Chairman Bell announced a quorum being met with five board members present.

C) Approval of Agenda

Chairman Bell asked if there were any changes to the agenda for tonight's meeting. With no changes, Mr. Ballance moved to approve the agenda as presented, Mr. McColley seconded the motion and the motion carried unanimously.

Communication: PB Minutes April 11, 2017 (Approval of Minutes for April 11, 2017)

RESULT:	APPROVED [UNANIMOUS]
AYES:	Carol Bell, Chairman, C. Shay Ballance, Board Member, John McColley, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member
ABSENT:	Fred Whiteman, Vice Chairman, Steven Craddock, Board Member, J. Timothy Thomas, Board Member

D) Ask for Disqualifications

Chairman Bell asked if any board member had a conflict of interest with any matter coming before the board tonight. No conflicts were noted.

APPROVAL OF MINUTES FOR MARCH 14, 2017

Mr. McColley moved to approve the minutes for March 14, 2017 as presented. Ms. Overstreet seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Carol Bell, Chairman, C. Shay Ballance, Board Member, John McColley, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member
ABSENT:	Fred Whiteman, Vice Chairman, Steven Craddock, Board Member, J. Timothy Thomas, Board Member

E. PB Minutes March 14, 2017

OLD BUSINESS

There was no old business discussed.

NEW BUSINESS

A. PB 17-02 Currituck County Sign Ordinance Text Amendment:

Planner II, Jennie Turner, presented the staff report. The text amendment initiated by the Currituck County Planning and Community Development Department, is a substantial rewrite of the County's Signage regulations. The amendment is necessary to be consistent with the constitutional requirements. The proposed amendment complies with the Supreme Court decision in Reed v. Town of Gilbert which renders content-based regulations unconstitutional for non-commercial signage regulations. Commercial based distinctions are permitted. It should be noted, the Currituck County Board of Commissioners at the January 2017 retreat directed staff to allow one non-commercial sign per property, allow additional signage for road frontage and to allow an additional three non-commercial signs during election season. They also directed staff to continue to allow the commercial-based signage. Staff recommends adoption of the proposed text amendment because it complies with text amendment review standards of the Unified Development Ordinance (UDO), it is consistent with the 2006 Land Use Plan, and it is reasonable and in the public's best interest.

No one was present to speak in opposition of the proposed text amendment.

Chairman Bell opened the board discussion.

Discussion was held on how many special events signs were allowed. Mr. Woody said you could have up to four special events per year for a calendar year on the Mainland. Mr. O'Brien asked how many were allowed on the Outer Banks and Ms. Turner said none were allowed, although they are allowed to have special events. Ms. Turner said the Outer Banks is allowed one double sided sandwich board in the off season in front of business door on sidewalk.

Ms. Overstreet said she noticed Outer Banks signs for big events, weddings, etc being put up on the road's right of way and asked if this was legal and Ms. Turner said it is not. The board members said it was hard to enforce since the visitors putting these signs up are only here for one week.

Discussion was held about the Outer Banks being treated differently than the Mainland for the special events signs. Discussion was also held about the County not following the same rules and leaving signs up year around.

Mr. O'Brien said it seems that people are being punished for being on the Outer Banks and sees this as a recommendation that he would like to pursue. Chairman Bell agreed this is unfair since we all live in the same county, we should have the same rights.

Discussion was held on the high number of signs allowed for special events; the overall consensus with the planning board was 60 signs for 150 feet of road frontage seemed excessive. Mr. Woody gave some background information on how this number came into being when the non-profits asked the board for approximately 150 signs five years ago and the number was reduced to 60 signs.

Ms. Turner said it seems better to have fewer more strategically placed signs. Mr. Woody said the Ruritan Club does a really good job with the wild life festival. They put up 8-9 signs that are really well placed and seem to do a better job of advertising.

Discussion was held on setting a communal place for all businesses in the Outer Banks to be able to post their special events signs.

Discussion was held on existing signs that are not in compliance with the current rules for signage. Mr. Woody said, if needed, we will go out to the Outer Banks and evaluate the signs to make it a level playing field with this new signage text amendment.

Chairman Bell asked for a motion.

Mr. McColley motioned to approve PB 17-02 Sign Ordinance because the requested text amendment is consistent with the 2006 Land Use Plan:

It includes standards to enhance community appearance and create a quality business image by regulating sign quantity, area, height, lighting and maintenance. (LUP POLICY CA4)

It recognizes and protects the community image benefits of the Major Highway Corridors thorough continuing to incorporate sign number, area and height restrictions. (LUP POLICY CA1)

It continues to prevent the placement of additional Billboards. (LUP POLICY CA5)

And because the request is reasonable and in the public interest because:

It implements changes to unconstitutional ordinance provisions to comply with the Supreme Court's ruling in *Reed v. Town of Gilbert, Arizona*.

The proposed changes extend the protection of The First Amendment of the United States Constitution.

Included in the approval is a recommendation to the Board of Commissioners for G. Special Events Signs: 2, 3 & 4 for reinstatement and strike any reference to the Outer Banks.

Mr. O'Brien seconded the motion and the motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]
AYES:	Carol Bell, Chairman, C. Shay Ballance, Board Member, John McColley, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member
ABSENT:	Fred Whiteman, Vice Chairman, Steven Craddock, Board Member, J. Timothy Thomas, Board Member

ANNOUNCEMENTS

Chairman Bell thanked Cheri Elliott for providing the updated Planning Board Directories.

Chairman Bell discussed the importance of remaining fair and impartial and to keep opinions to ourselves in the public sector so that we do not sway the opinion of others unnecessarily. This is the duty of the Planning Board.

Mr. Woody said the next Planning Board Meeting on May 9, 2017 will include a Land Use Plan exercise and update. Also email any talking points or issues to be discussed to Cheri to include on the agenda.

Ms. Overstreet asked if the Planning Board and the Board of Adjustment were going to be combined as previously discussed. Mr. Woody said the Board of Commissioners declined the request.

Mr. Ballance asked if the starting time for the Planning Board Meeting would change from 7:00 PM to 6:00 PM. Mr. Woody said the Rules of Procedure for some of the boards are currently being revised and once they are complete we will put it on the next meeting agenda to be voted on.

ADJOURNMENT

With there being no further business, Ms. Overstreet motioned to adjourn, Mr. O'Brien seconded the motion. The motion carried unanimously and the meeting of the Currituck County Planning Board concluded at 8:15 PM.



**CURRITUCK COUNTY
NORTH CAROLINA**

March 14, 2017

Minutes – Regular Meeting of the Planning Board

NEW PLANNING BOARD MEMBER ORIENTATION - 6:00 PM

New Planning Board members Shay Ballance and Jeff O'Brien received training from Senior Planner, Donna Voliva, from 6:00 PM until 6:30 PM.

WORK SESSION - 6:30 PM

A work session was held from 6:30 PM until 7:00 PM.

CALL TO ORDER - 7:00 PM

Chairman Bell called the meeting to order at 7:00 PM.

Attendee Name	Title	Status	Arrived
Carol Bell	Chairman	Present	
Fred Whiteman	Vice Chairman	Present	
C. Shay Ballance	Board Member	Present	
Steven Craddock	Board Member	Present	
John McColley	Board Member	Present	
Jeff O'Brien	Board Member	Present	
Jane Overstreet	Board Member	Present	
J. Timothy Thomas	Board Member	Present	
Donna Voliva	Planning and Community Development Senior Planner	Present	
Jennie Turner	Planning and Community Development Planner II	Present	
Cheri Elliott	Clerk to the Board	Present	

A) Pledge of Allegiance & Moment of Silence

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

B) Announce Quorum Being Met

Chairman Bell announced a quorum was met with eight members present.

C) Approval of Agenda

Chairman Bell asked if there were any changes to the agenda for tonight's meeting. With no changes, Mr. Craddock moved to approve the agenda as presented, Mr. Thomas seconded the motion and motion carried unanimously.

Communication: PB Minutes April 11, 2017 (Approval of Minutes for April 11, 2017)

RESULT: **APPROVED [UNANIMOUS]**
AYES: Carol Bell, Chairman, Fred Whiteman, Vice Chairman, C. Shay Ballance, Board Member, Steven Craddock, Board Member, John McColley, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member, J. Timothy Thomas, Board Member

D) Ask for Disqualifications

Chairman Bell asked if any board member had a conflict of interest with respect to any matters coming before the board tonight.

Mr. Craddock spoke on behalf of all the Planning Board members and said numerous phone calls were received by members of the Planning Board from residents of Waterlily concerning PB 16-24 Blue Water Development Corporation, but it would not affect the members decision tonight.

APPROVAL OF MINUTES FOR FEBRUARY 14, 2017

Mr. Craddock moved to approve the minutes for February 14, 2017 as presented. Mr. Whiteman seconded the motion and motion carried unanimously.

RESULT: **APPROVED [UNANIMOUS]**
AYES: Carol Bell, Chairman, Fred Whiteman, Vice Chairman, C. Shay Ballance, Board Member, Steven Craddock, Board Member, John McColley, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member, J. Timothy Thomas, Board Member

OLD BUSINESS

There was no old business discussed.

NEW BUSINESS

A. PB 16-24 Blue Water Development Corp.

Senior Planner, Donna Voliva, presented the staff report. The text amendment to the Unified Development Ordinance (UDO) submitted by the applicant was initially a request to allow private campgrounds in the Single Family Residential-Mainland (SFM) zoning district, but was modified to only allow the expansion of existing campgrounds subject to specific standards. This will only affect two of the four campgrounds in Currituck County, Bells Island Campground and Hampton Lodge Campground. All campgrounds in Currituck are currently nonconforming since the 2013 UDO specified campgrounds as nonconforming uses and could no longer be expanded. Also, the 2006 Land Use Plan does not provide a direct policy statement to amending or expanding nonconforming uses in general. Planning staff is concerned with allowing the proposed density expansion of campgrounds without having enough buffering nor a compatible site design with the surrounding neighborhoods. Staff recommends denial of the proposed text amendment due to the proposed language not being consistent and in conflict with the Land Use Plan by having to access the campgrounds through local residential neighborhoods. Also, it is not reasonable and in the public interest by not provided adequate language that would reduce the potential impacts of

expanded campgrounds in neighborhoods where they currently exist and will not improve compatibility among uses for efficient development within the county.

Mr. Whiteman asked when talking about a nonconforming campground under the current UDO language and not being able to be expanded, is this only for number of campsites or does this include facilities and outbuildings. Ms. Voliva said you cannot expand the number of campsites or the land that was not undeveloped prior.

Mr. McColley asked if this could open the door for the Single-Family Residential-Isolated (SFI) zoning district and Ms. Voliva said it could possibly if there was interest in expansion for those campgrounds located in that district. They could request a text amendment.

Chairman Bell opened the public hearing.

Warren Eadus, President of Quible & Associates PC, appeared before the board to speak on behalf of Blue Water Development Corporation. He said they held a community meeting and the developer was there as well. We understand there are some issues that the citizens are concerned with, but we are trying to improve an existing campground that needs improvement. We know that the road leading into the campground is an issue in its current condition. The developer has spoken to Ed Nosing and they have said they are willing to try and improve the road, but not if they are not allowed to move forward with their plan. There are currently 250 electrical hook-ups and open areas within the campground. We are willing to work with the residents if they will allow us to. The advantages to our development would be an increase in occupancy tax and an increase in employment for Currituck. This would also increase tourism which is in keeping with the plan for Currituck. This development will not have an impact on our schools since this is seasonal campsites. This will also decrease the impact on our law enforcement with what currently goes on with the campground as it is now. There are permanent residents living there and school buses coming in to pick up children and this is not supposed to be allowed in the county. Our development would stop this. Also the development would stabilize some of the shoreline and marshes that have been historically used. The disadvantages would be an increase in seasonal traffic. There could be an increase in seasonal noise and there could be some road congestion. There opposition, we feel, are mainly based around the road.

John E. "Lucky" Pappas, the current owner and resident of Virginia, appeared before the board. He purchased the property 43 years ago with his partners. He and the co-owners of the property have all retired and he stated their ages are 77, 78 and 79 years old. He stated he does not have the time, resources or the energy to do justice to the property and thought this was a great opportunity for the county when Blue Water Development approached them. Mr. Pappas said everything around the Hampton Lodge has changed with the building of houses since the county brought water down Waterlily Road. He said Hampton Lodge had never changed, but now it is time.

Mr. Craddock asked what the initial capital outlay would be and the developer said, if the site plan was approved, it would be an 8 figure investment, plus the cost of the land.

Chairman Bell asked what the employment opportunities would be and Mr. Eadus said it would be seasonal employee and year round to maintain the campground.

Mr. McColley asked if the people that are currently living in the campground are employees and Mr. Eadus said some are employees, but some are not.

Mr. McColley asked if the people living there would be eliminated or reduced and Mr. Eadus said they would be eliminated because occupancy is seasonal and the campground is shut down in the winter months.

Eric Van Orden, with Blue Water Development Corporation, appeared before the board. He said they have tried to make themselves available to anyone who wanted to speak with them about the project. They have spoken with NCDOT about trying to get some improvements to the road and they will be bringing in rip rap for areas that was damaged by Hurricane Matthew and from various nor'easters. Also, in 2018 they are going to resurface the road. He stated they would really like the opportunity to work with the county and improve what is there now. We have taken into account the citizens concerns of the traffic on the road and have come up with a plan to have parked RV Models to reduce the amount of traffic coming in. He said if we were able to move forward we would eventually have 60 employees and would also have a bar and a restaurant. Just because the text amendment is approved doesn't mean that we could go ahead and build. There are issues that with water and electricity that need to be resolved first.

Chairman Bell asked for people speaking in support of the request.

Gregory Payne, 1548 Waterlily Road, appeared before the board. He said he and his wife live in the second to the last house before the entrance to the campground. We see what goes on in the campground as it is now and we don't like it. Mr. Payne said people that live further away are not aware of what goes on in the campground. We feel it is time to clean it up so we are in support of the text amendment.

Chairman Bell asked for people speaking in opposition of the request.

Mike Dahus, 1275 Waterlily Road, said he had been asked to speak on behalf of the citizens in opposition that live on Waterlily Road. We have 7 miles of road that is lined with several single family homes and this road will not withstand the amount of traffic that would be created by the campground. NCDOT does not make the improvements that are needed to the road. The road is 16 feet in width. RVs can be as much as 8 foot 6 inches in width which does not give enough room for passing vehicles. School buses and the RVs cannot coexist on the road, it could cause one to lay over on its side if one gets off the shoulder. Residents also walk down and across the road to get to the water and this would be dangerous with all the traffic. In three months time we have had four different text amendment changes and the last one is no better than the first one. The current management team would always let our residents freely walk and use the campground and the boat ramps and this would be stopped with the new development. We ask that you stay true to the current UDO and deny this request. We have serious concerns for the safety of our family, pet, along with the preservation of our lifestyle on Waterlily Road.

Paul O'Neal, 893 Waterlily Road, appeared before the board. He passed out a signed petition with 247 signatures from residents in opposition of the campground development and photographs of Waterlily Road. He said he knew the history of the road's condition going back many years since he had been a part of trying to get it fixed. He said the developer fixing the road or widening the road is not true since only NCDOT has the required rights to do that. Also, NCDOT has said when they can no longer keep fixing the road, they are going to have to move the road; they are not looking to upgrade the road. The current plan, as presented, is going to cater to large vehicles that are wider than the

road and unable to pass cars without going to the shoulder. This will cause someone to go into the sound or into someone's mailbox. This afternoon, there was a young man that went off the road into the canal. If this text amendment gets approved, Bells Island, which also is at the end of one narrow road, would have the same issues. Mr. O'Neal said this is where we live and the people that are proposing this do not live in this county or state. He said a special use permit is what allows the attorneys to dictate what happens instead of the people of Currituck County. It sets conditions and the citizens won't have the money or experts to fight and the other side will.

Three other residents of Waterlily Road appeared before the board and shared their concerns about the potential traffic congestion and losing the current peace in the neighborhood.

Mr. Eadus gave his rebuttal and said the road conditions are a problem that existed before our proposal. Also, this is not going to be a new campground, it is already an existing campground that predates many of the newer home on Waterlily. There is a right to use the campground as it is now and it's currently underused. We are offering to work with the county to improve the campground. This campground will be used and the county has an opportunity to dictate how it will get used.

Chairman Bell closed the public hearing.

Mr. Craddock said he appreciates the concerns of the community and we understand your feeling and concerns. I agree with many of the comments tonight and in my opinion it would be a detriment to allow the passage of this text amendment.

Mr. Whiteman said if you are a property rights person it is hard to not see how this could help the county, but at the same time the UDO was meant to protect areas like Waterlily.

Chairman Bell said she and her husband camped for twelve years and had previously stayed at Hampton Lodge years ago. She said it is a beautiful spot and is ashamed of its current condition.

Chairman Bell asked for a motion.

Mr. Craddock motioned to deny the text amendment since the proposed language is not consistent and in conflict with the purpose and intent of the current Land Use Plan by allowing the increase in size of campgrounds in the SFM zoning district. Also, it is not reasonable and not in the best interest of the public and has inadequate language the would cause a negative effect in the future. Ms. Overstreet seconded the motion and the motion carried unanimously.

Chairman Bell called for a short break to reconvene at 8:15 PM.

RESULT:	RECOMMENDED DENIAL [UNANIMOUS]	Next: 4/3/2017 6:00 PM
AYES:	Carol Bell, Chairman, Fred Whiteman, Vice Chairman, C. Shay Ballance, Board Member, Steven Craddock, Board Member, John McColley, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member, J. Timothy Thomas, Board Member	

B) Sign Ordinance Discussion

Jennie Turner, Planner II, presented a slide presentation for the Planning Board for sign ordinance discussion. Legal considerations are Reed v. Town of Gilbert: Limits when local governments may impose content based signage restrictions. If a sign has to be read in order to determine if a certain regulation applies, then that regulation is content-based and presumed unconstitutional (unless it withstands strict scrutiny). Options for regulation of non-commercial signs (content-neutral) would be time, place, manner, temporary verses permanent, property conditions (zoning, acreage, road frontage, etc).

Ms. Turner said the Board of Commissioners direction is to allow one non-commercial sign per lot, allow three additional non-commercial signs during election season, and allow additional signs for lot frontage with a minimum spacing requirement. Proposed UDO changes to sign definitions and to the Standardize Non Commercial/Temporary Signage Guidelines will make sure Currituck is in compliance with the clarification made by the United States Supreme Court in the Reed v. Town of Gilbert.

Board members discussed the reasoning for the sign ordinance and possibly following the NC General Statutes on signage.

ANNOUNCEMENTS

Mr. Craddock announced two upcoming meetings for the Land Use Plan Steering Committee on March 16th and March 27th. A presentation for the Planning Board may be held soon for an update on the progress of the Land Use Plan.

Mr. Whiteman made a proud announcement that his son's basketball team had won their championship and they have now been invited to play in China.

Mr. Craddock and Chairman Bell welcomed new Planning Board members, Jeff O'Brien and Shay Ballance.

ADJOURNMENT

Shay Ballance motioned to adjourn the meeting. Jeff O'Brien seconded the motion and the motion carried unanimously at 8:42 PM.


Currituck County

Planning and Community Development Department
 Planning and Zoning Division
 153 Courthouse Road Suite 110
 Currituck NC 27929
 252-232-3055 Fax 252-232-3470

To: Planning Board

From: Planning Staff

Date: April 4, 2017

Subject: PB 17-02 Currituck County Sign Ordinance Text Amendment

The enclosed text amendment, initiated by the Currituck County Planning and Community Development Department, is a substantial rewrite of the County's Signage regulations. The amendment is necessary to be consistent with constitutional requirements. The proposed amendment complies with the Supreme Court decision in *Reed v. Town of Gilbert, Arizona*. The decision in the *Reed* case renders content-based regulations unconstitutional. In essence, if a sign has to be read in order to determine whether a regulation applies, the regulation is most likely unconstitutional and illegal. The *Reed* case centered on non-commercial signage regulations. Commercial based distinctions are permitted.

Planning Staff presented options for amending the sign ordinance to the Board of Commissioners (BOC) at the January 2017 retreat. The BOC directed staff to allow one non-commercial sign per property, allow additional signage for road frontage and to allow an additional three non-commercial signs during election season. The BOC also directed staff to continue to allow the commercial, use-based signage.

Text Amendment Review Standards

The advisability of amending the text of the UDO is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the proposed text amendment:

- (1) Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;
 - a. *The amendment does not conflict with county-adopted plans.*
- (2) Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
 - a. *The amendment does not conflict with the County's ordinances.*
- (3) Is required by changed conditions;
 - a. *The amendment is required to comply with the U.S. Supreme Court decision in Reed v. Town of Gilbert, Arizona. And is required to correct unconstitutional provisions of the County's Unified Development Ordinance.*

PB 17-02 Currituck County Planning and Community Development
 Sign Ordinance Text Amendment
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- (4) Addresses a demonstrated community need;
 - a. *The amendment is required to assure that County ordinances are fair and in the public interest.*
- (5) Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the county;
 - a. *The proposed amendment is consistent with the purpose and intent of the zoning districts of the County's Unified Development Ordinance.*
- (6) Would result in a logical and orderly development pattern; and
 - a. *The proposed amendment will continue to result in a logical and orderly development pattern.*
- (7) Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
 - a. *The proposed amendment should have no effect on the natural environment.*

Land Use Plan Consistency and Reasonableness

The UDO requires the Board of Commissioners adopt a statement of consistency and reasonableness that describes whether the decision on the amendment is consistent with county adopted plans that are applicable and why the decision is reasonable and in the public interest. The 2006 Land Use Plan provides several policy statements in reference to this amendment request:

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

POLICY CA4: SIGN POLICIES AND STANDARDS should be established and periodically updated to enhance community appearance and create a quality business image. Such standards may be tailored to achieve different development characters for different parts of the county.

POLICY CA5: Currituck County recognizes that an attractive, less commercialized landscape, particularly along heavily traveled land and water routes, is essential to the tourist-based economy of the area. The placement of additional BILLBOARDS AND OFF-SITE ADVERTISING SIGNS shall not be permitted in Currituck County.

The requested text amendment is consistent with the 2006 Land Use Plan because:

- It includes standards to enhance community appearance and create a quality business image by regulating sign quantity, area, height, lighting and maintenance. (LUP POLICY CA4)
- It recognizes and protects the community image benefits of the Major Highway Corridors thorough continuing to incorporate sign number, area and height restrictions. (LUP POLICY CA1)

- It continues to prevent the placement of additional Billboards. (LUP POLICY CA5)

The request is reasonable and in the public interest because:

- It implements changes to unconstitutional ordinance provisions to comply with the Supreme Court's ruling in *Reed v. Town of Gilbert, Arizona*.
- The proposed changes extend the protection of The First Amendment of the United States Constitution.

Staff Recommendation

Staff recommends adoption of the proposed text amendment because it complies with text amendment review standards of the UDO, it is consistent with the 2006 Land Use Plan, and it is reasonable and in the public interest.

PB 17-02

CURRITUCK COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

Amendment to the Unified Development Ordinance Chapter 5: Development Standards, to revise the Signage Ordinance to be in compliance with *Reed v. Town of Gilbert, Arizona* and Chapter 10: Definitions and Measurement to provide consistency between the signage standards and the relevant definitions.

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

Item 1: That Chapter 5. Development Standards, Section 5.12.I. Purpose and Intent is amended by adding the following underlined language and renumbering accordingly:

5.12.1. Purpose and Intent

The purpose of this section is to support and compliment the various land uses allowed in Currituck County by the adoption of regulations concerning the placement, number, location, size, appearance, illumination, and animation of signs. The erection of signs is controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on streets, as well as protect the public investment in such streets. The provisions of this section are also intended to:

- A. Promote the reasonable, orderly, and effective display of signs, displays, and devices;
- B. Protect the public welfare as well as land values by preserving the aesthetic qualities of the unique natural environment;
- C. Preserve the county's environment from excessive and obtrusive signs;
- D. Promote the safety of persons and land by providing that signs do not create traffic hazards or hazards due to collapse, fire, collision, decay, or abandonment;
- E. Promote the efficient transfer of general public and commercial identification or information and maintain a viable business community throughout the year by improving the legibility and effectiveness of signs;
- F. Preserve the environment from excessive and obtrusive signs in support of the county's resort and tourism industry; and

- G. Enhance the image, appearance, and economic vitality of the community.
- H. Allow non-commercial speech anywhere that commercial, advertising or business signs are permitted.

Item 2: That Chapter 5. Development Standards, Section 5.12.2 Prohibited Signs is amended by adding the following underlined language and removing the strikethrough language:

5.12.2 Prohibited Signs

The following signs are prohibited:

- A. Off-premise advertising signs (billboards), including digital billboards, except as otherwise provided by this Ordinance;
- B. Signs located within the sight distance triangle or public right-of-way (without an approved NCDOT encroachment agreement);
- C. Signs attached to the structure of a lawfully permitted sign, without a permit, except as otherwise provided by this Ordinance;
- D. Signs attached to any traffic sign, utility pole, or tree, except as otherwise provided by this Ordinance;
- E. A sign that by its location, color, illumination, size, shape, nature, or message would obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies;
- F. Signs that emit a sound, odor, or visible matter such as smoke or vapor;
- G. Signs that exhibit statements, suggestive words, or pictures of an obscene or pornographic nature;
- H. Banners, inflatable signs or balloons, flags (except those exempted by this Ordinance), pennants, streamers, propellers, whirligigs, umbrellas with logos or commercial messages, and animated display boards;
- I. Signs or portions of signs designed to move by any means or give the appearance of movement in any manner except for suspended signs intended for pedestrians and flags as described in this Ordinance;
- J. Roof signs;
- K. Vehicle signs on vehicles or trailers that are not currently licensed and registered by the Department of Motor Vehicles;

- L. Internally-illuminated signs (other than window signs) on lots located on the Outer Banks; and
- M. ~~Portable signs and m~~ Mobile marquee signs on lots in the Outer Banks.

Item 3: That Chapter 5. Development Standards, Section 5.12.4 Signs Exempted from Sign Permit Requirements is amended by adding the following underlined language, removing the strikethrough language, and renumbering accordingly:

5.12.4 Signs Exempted from Sign Permit Requirements

~~The signs in Table 5.12.4,~~ The following signs are exempt from the requirements to obtain sign permit approval, but are subject to the standards in Section 5.12.8, Maintenance Standards, and the standards in this sub-section.

A. Non-Commercial Signs

- (1) One temporary sign may be placed on a property at any time provided the sign does not exceed eight square feet in area and four feet in height.
- (2) One additional temporary sign may be placed on a property that is actively listed or offered for sale for a period of five days following the sale date of the property. The sign shall not exceed eight square feet in area and four feet in height.
- (3) One additional temporary sign may be placed on a property where an active, unexpired building permit has been issued by the County. Such signs shall be removed within ten days after the issuance of a certificate of compliance. The sign shall not exceed eight square feet in area and four feet in height
- (4) A property owner may place wall signs on a building such that the signs shall not singularly or collectively exceed 14 square feet in area and 20 feet in height.
- (5) One additional temporary sign may be placed on a property with road frontage greater than 160 feet and an additional temporary sign may be placed for each additional 100 feet of road frontage provided that each additional sign shall not exceed 32 square

feet in area and 10 feet in height; and the signs maintain a minimum spacing of 50 feet.

- (6) One additional sign may be placed on a property with a compliant home occupation. The sign shall not exceed six square feet in area and four feet in height if freestanding or eight feet in height if wall-mounted.
- (7) Up to three additional signs may be placed on a property with sign area no larger than eight square feet in area and four feet in height for a period of 30 days prior to an election involving candidates or an issue on the ballot of an election. Such signs shall be removed within ten days of the conclusion of the election.
- (8) Flags and Banners
 - (a) Up to four flags are permitted per major subdivision, existing PUD or Planned Development entrance. Subdivision flags shall not exceed 24 square feet in area and 20 feet in height.
 - (b) Up to one additional flag and one banner, not to exceed 30 square feet in area or 10 feet in height is permitted at a model home location within a major subdivision, existing PUD or Planned Development.

B. On-Premise Signs located in Business and Mixed-Use Zoning Districts

- (1) Window Signs
 - (a) Window signs shall not exceed 25 percent of the total window area that contains the sign, except that trademark and merchandise displayed for sale shall not be included in the total window sign area.
- (2) Temporary Signs and Flags located on the Mainland
 - (a) Limited to a maximum of two per lot; sign area shall not singularly or collectively exceed 40 square feet; sign height shall not exceed ten feet; signs shall be setback ten feet from side and rear lot lines.
 - (b) Up to five flags are permitted per lot; each flag shall not exceed 20 square feet in area.

- (3) Temporary Signs and Flags located on the Outer Banks
- (a) Sign type shall be limited to sandwich board signs.
 - (b) Each business unit may have one temporary on-premise sandwich board sign.
 - (c) The sign shall not exceed eight square feet in area and four feet in height.
 - (d) The sign shall be located on an existing sidewalk or deck and immediately adjacent to the entrance of the business installing the sign.
 - (e) The sign shall comply with the outdoor display requirements of Section 4.3.3.P where applicable.
 - (f) The sign may be located adjacent to NC 12 from October 1 to May 15 provided it is located on the same parcel as the business or on shopping center property (including common area).
 - (g) The sign shall be removed if the business is closed on three or more consecutive days.
 - (h) One flag allowed per business. Flag shall be anchored to the wall, deck support post, or railing (if a support post is not available) of the building and shall not exceed 15 square feet in area or 20 feet in height.





C. Roadside Market Signs

- (1) May be erected up to 30 days before the seasonal opening of the establishment, and shall be removed within 30 days of the seasonal closing.
- (2) Sign area shall not exceed 32 square feet.
- (3) Sign height shall not exceed ten feet.

TABLE 5.12.4: SIGNS EXEMPTED FROM SIGN PERMITS

SIGN TYPE	EXAMPLE	APPLICABLE STANDARDS	MAXIMUM SIGN AREA (SQ. FT)	MAXIMUM HEIGHT (FEET)
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TABLE 5.12.4: SIGNS EXEMPTED FROM SIGN PERMITS

SIGN TYPE	EXAMPLE	APPLICABLE STANDARDS	MAXIMUM SIGN AREA (SQ. FT)	MAXIMUM HEIGHT (FEET)
Contractor Sign		Limited to one sign per lot. Must be removed prior to completion of construction or occupancy of the building or site. May not be installed prior to issuance of a building permit or commencement of work.	Mainland: 32 Outer Banks: 8	Mainland: 10 Outer Banks: 4
Cottage or House Name		Limited to one sign displaying the name of a cottage or house.	12	20
Development Entrance Sign		Limited to a maximum of two signs per entrance on the mainland and one sign per entrance on the Outer Banks.	Mainland: 60 Outer Banks: 48	Mainland: 15 Outer Banks: 6
Directional Sign, Institutional or Historic Property		Up to one off-premise directional sign (arrow type) may be placed at an intersection pointing toward the institutional or historic site. These signs may not be internally illuminated.	8	8
Flag, Commercial		Flags shall be anchored to the wall, deck support post, or railing (if a support post is not available).	Mainland: 5 per lot; 20 Outer Banks: 1 per business; 15	20





Communication: PB Minutes April 11, 2017 (Approval of Minutes for April 11, 2017)

TABLE 5.12.4: SIGNS EXEMPTED FROM SIGN PERMITS

SIGN TYPE	EXAMPLE	APPLICABLE STANDARDS	MAXIMUM SIGN AREA (SQ. FT)	MAXIMUM HEIGHT (FEET)
Flag, Subdivision		Up to four per major subdivision entrance. Up to one additional model home flag and one 30-square foot banner is allowed at a model home location.	24	20
Home Occupation		Limited to one sign per home occupation, and may only include business name, location, telephone number. Sign shall not be illuminated.	6	4
Incidental Sign		Limited to property numbers, post office box numbers, names of occupants of premises, or directions guiding traffic and parking on private property.	4	5
For Rent, Cottage		Limited to one on-premise "For Rent" sign.	2	20
Political Sign		May not be on site more than ten days following the election or conclusion of the campaign.	32	10

Communication: PB Minutes April 11, 2017 (Approval of Minutes for April 11, 2017)

TABLE 5.12.4: SIGNS EXEMPTED FROM SIGN PERMITS

SIGN TYPE	EXAMPLE	APPLICABLE STANDARDS	MAXIMUM SIGN AREA (SQ. FT)	MAXIMUM HEIGHT (FEET)
Real Estate, Subdivision		Must be located within the boundaries of the subdivision and be spaced at least 500 feet from another prospective development sign. No more than one sign shall be placed within a subdivision on the Outer Banks.	Mainland: 75 Outer Banks: 32	Mainland: 10 Outer Banks: 6
Real Estate, Commercial		Up to one on-premise, free-standing "For Sale" sign per lot.	32	8
Real Estate, Residential lot		Up to one on-premise, free-standing "For Sale" sign per lot.	8	4
Roadside Market Sign		May be erected up to 30 days before the seasonal opening of the establishment, and shall be removed within 30 days of the seasonal closing.	32	10
Sandwich/Tent Sign	 (delete photo)	Allowed only in the Outer Banks. Each business unit may have one temporary double-sided on-premise sign, provided: 1. The sign shall be located on an existing sidewalk or deck, and immediately adjacent to the entrance of the business installing the sign and comply with the outdoor display requirements of Section 4.3.3.P where applicable; 2. The sign may be located adjacent to NC 12 from October 1	8	4

Communication: PB Minutes April 11, 2017 (Approval of Minutes for April 11, 2017)

TABLE 5.12.4: SIGNS EXEMPTED FROM SIGN PERMITS

SIGN TYPE	EXAMPLE	APPLICABLE STANDARDS	MAXIMUM SIGN AREA (SQ. FT)	MAXIMUM HEIGHT (FEET)
		to May 15 provided it is located on the same parcel as the business or on shopping center property (including common area). 3. The sign shall be removed if the business is closed on 3 or more consecutive days.		
Temporary Sign (On Premise)		Limited to a maximum of two per lot on the mainland; prohibited on the Outer Banks. Must be 10 feet from side or rear lot lines and outside sight triangles.	Up to 40 total	10
Window Signs		Shall not exceed 25 percent of the total window pane area that contains the sign, except that trademark and merchandise displayed for sale shall not be included in the total window sign area.		

Item 4: That Chapter 5. Development Standards, Section 5.12.6 Specific Sign Standards is amended by adding the following underlined language, removing the strikethrough language, and renumbering accordingly:

5.12.6 Specific Sign Standards

The following signs are permitted with a valid sign permit (see Section 2.4.10):

A. Freestanding Signs

Freestanding signs for on properties with approved non-residential Agricultural, Commercial or Industrial uses shall comply with the standards in Table 5.12.6.A, Freestanding Signs:

TABLE 5.12.6.A: FREESTANDING SIGNS [1]		
STANDARD	ON MAINLAND [2]	ON OUTER BANKS

Maximum Number	1 per frontage of 500 feet or less; Up to 2 for frontages over 500feet	1 per lot
Minimum Spacing	100 feet between signs serving same development or approved access points	
Maximum Area [3]	128 square feet for frontages of 160 square feet or less; 160 square feet for frontages over 160 feet	48 square feet
Minimum Setback (from ROW)	10 feet for signs taller than 10 feet	
Maximum Height	20 feet	8 feet

NOTES:

[1] Freestanding signs shall be landscaped in accordance with Section 5.12.7

[2] Includes Knotts Island and Gibbs Woods

[3] Per individual sign

B. Institutional Signs

(1) ~~Schools, religious institutions, and other public uses~~ Institutional signs located in Business and Mixed-Use Zoning districts shall comply with the standards of Table 5.12.6.A. Institutional signs located in Residential and Special Base Zoning districts shall be limited to ~~may include~~ one freestanding on-premise sign not exceeding 48 square feet in area or 8 feet above natural grade.

(2) Up to one off-premise directional sign (arrow type) with a maximum sign area of 8 square feet and a maximum height of 8 feet may be placed at an intersection within one mile of the property. These signs shall not be internally illuminated.

C. Message Board Signs

Message board signs shall comply with the following standards:

- (1) Electronically-controlled signs are prohibited in the Outer Banks.
- (2) No more than 50 percent of a sign's maximum area can be occupied by a message board, reader board, or electronically controlled message sign.
- (3) Except for time and temperature signs, the message shall remain stationary for at least five seconds.

D. Off-Premise Directional Signs**(1) Applicability**

The standards in this section shall apply to businesses existing prior to January 1, 2013 located in a Business and Mixed-Use Zoning District adjoining the Currituck Sound or Atlantic Intracoastal Waterway that contain a use listed in Section 4.1.2 Use Table, Commercial Use Classification.

(2) Prohibited

Except as provided in Section 5.12.3 Signs Exempt from Signage Regulations,—and 5.12.4 Signs Exempted from Sign Permit Requirements, off-premise directional signs are prohibited for the following:

- (a) Commercial uses and properties located on the Outer Banks.
- (b) Commercial uses adjoining a major arterial street.

(3) General

- (a) Off-premise directional signs must be located on property within two miles of the intersection of a major arterial street and the collector street accessing the commercial use.
- (b) Off-premise directional signs must be located on property under the same ownership as the business to be identified on the sign.
- (c) Off-premise directional signs must be located in a Business and Mixed-Use Zoning District adjoining a major arterial street.
- (d) A maximum of one off-premise directional sign is permitted per business. A lot shall have a maximum of one off-premise directional sign.
- (e) Off-premise directional signs shall not exceed 64 square feet in area and 15 feet in height.
- (f) Off-premise directional signs shall not be located within the sight triangle.

- (g) Off-premise directional signs shall not contain an electronic message board.

E. Pennant, and Streamer and Banner Signs

- (1) ~~A sign permit (see Section 2.4.10) for the pennants, streamers, is required, at no cost, in order to establish the start/finish date of the display.~~
- (2) Pennant, and Streamer and Banner signs are prohibited on the Outer Banks.
- (3) Pennant, and Streamer and Banner signs shall not be attached to a street sign or telephone pole and shall not encroach into the street right-of-way.
- (4) Pennant, and Streamer and Banner signs are only permitted for maximum of 30 days for each of the following events:
 - (a) Grand openings;
 - (b) Seasonal openings (for those businesses who are closed during one or more seasons); or
 - (c) Going out of business.

F. Shopping Center Signs

Signs associated with a shopping center shall comply with the requirements in Table 5.12.6.F, Shopping Center Signs:

TABLE 5.12.6.F: SHOPPING CENTER SIGNS [1]			
STANDARD	ON MAINLAND [2]		OUTER BANKS
	Freestanding Signs	Freestanding Signs– Outparcels	Freestanding Signs
Maximum Number	1 per street frontage; up to 2 for frontages over 500 feet		
Minimum Spacing	100 feet between signs serving same development or approved access points		
Maximum Area [3]	3 to 10 establishments: 200 square feet; More than 10 establishments: 300 square feet	64 square feet	80 square feet; 24 square feet for secondary road frontages; 32 square feet for outparcels
Minimum	10 feet for signs taller than 10 12 feet		

TABLE 5.12.6.F: SHOPPING CENTER SIGNS [1]

STANDARD	ON MAINLAND [2]		OUTER BANKS
	Freestanding Signs	Freestanding Signs– Outparcels	Freestanding Signs
Setback (from ROW)			
Maximum Height	25 feet	10 feet	12 feet Outparcel: 6 feet

NOTES:

[1] Shopping center signs shall be landscaped in accordance with Section 5.12.7

[2] Includes Knotts Island and Gibbs Woods

[3] Per individual sign

G. Special Event Signs

~~A special event sign is for identifying a special event or other noncommercial event, on or off premise, and may be approved as part of a temporary use permit (see Section 2.4.11), subject to the following standards:~~

~~(1) The following shall be allowed on the mainland:~~

~~Up to 40 signs, each with a maximum area of 6 square feet and up to 10 signs, each with a maximum area of 32 square feet; or~~

~~Up to 60 signs, each with a maximum area of 6 square feet;~~

~~(2) Up to three signs, each with a maximum area of 32 square feet and a maximum height of six feet shall be allowed on the Outer Banks;~~

~~(3) On the mainland, such signs may be erected up to 17 days before the event, and shall be removed within 8 days after the event;~~

~~(4) On the Outer Banks, such signs may be erected up to three days before the event and shall be removed within two days after the event.~~

G. Wall Signs

Wall signs shall comply with the following standards:

(1) Wall signs shall be anchored directly to the wall, to the maximum extent practicable, and shall not be painted on a wall's surface.

- (2) Wall signs shall not project or be offset more than 12 inches from the wall it is mounted to.
- (3) Wall signs shall not extend above the roof line.
- (4) Wall signs shall be placed on a wall that is oriented toward a public street, public vehicular access, or public drive aisle leading to public parking or an entrance. In no instance shall a wall sign directly face adjacent a single-family dwelling located within a residential zoning district.
- (5) Maximum wall sign area shall be in accordance with Table 5.12.6.C, Wall Sign Area:

TABLE 5.12.6.C G: WALL SIGN AREA		
LOCATION	MAXIMUM SIGN AREA SIZE	
	SHOPPING CENTERS	ALL OTHER NONRESIDENTIAL USES
Mainland Currituck County, including Knotts Island and Gibbs Woods	20 percent of the wall area <u>to which the sign is fastened</u> , not to exceed 400 square feet	
Outer Banks	32 square feet per <u>wall of a business or business unit</u> ; 54 square feet for businesses over 5,000 square feet in area.	

H. Development Entrance Signs

Development Entrance Signs shall comply with the requirements in Table 5.12.6.H, Development Entrance Signs

TABLE 5.12.6.H : DEVELOPMENT ENTRANCE SIGNS [1]		
STANDARD	ON MAINLAND [2]	OUTER BANKS
<u>Maximum Number</u>	<u>2 per entrance</u>	<u>1 per entrance</u>
<u>Maximum Area [3]</u>	<u>60 square feet</u>	<u>48 square feet</u>
<u>Minimum Setback (from ROW)</u>	<u>10 feet for signs taller than 10 feet</u>	
<u>Maximum Height</u>	<u>15 feet</u>	<u>6 feet</u>

NOTES:

[1] Development entrance signs shall be landscaped in accordance with Section 5.12.7

[2] Includes Knotts Island and Gibbs Woods

[3] Per individual sign

Item 5: That Chapter 5. Development Standards, Section 5.12.8 Maintenance Standards is amended by adding the following underlined language, removing the strikethrough language, and renumbering accordingly:

5.12.8. Maintenance Standards

A. Sign Permit Required

- (1) Except as otherwise provided in this Ordinance, it shall be unlawful for any person to erect, construct, enlarge, move, illuminate, or replace any sign, without first having obtained a sign permit in accordance with Section 2.4.10.
- (2) No use shall arbitrarily attach a sign to the structure of a lawfully permitted sign without prior approval of a sign permit in accordance with Section 2.4.10.

B. Indemnification

All persons involved in the maintenance, installation, alteration, or relocation of any sign shall agree to hold harmless and indemnify Currituck County, its officers, agents, and employees against any and all claims of negligence resulting from such work.

C. Properly Secured

- (1) All signs shall be adequately secured to meet all applicable building code standards and shall be maintained in good structural condition.
- (2) All signs shall be adequately secured and stabilized to minimize the danger that either the sign or the supporting structure may be moved by the wind or other forces of nature and cause injury to persons or property.
- (3) Flags shall be attached to a singular pole or building and shall have no other means of support (i.e., be free-flying).

D. Illumination

- (1) Illuminated signs shall be designed, installed, and maintained in a manner that avoids glare or reflection on adjoining properties and does not interfere with traffic safety.

- (2) A sign shall not be erected that contains, employs, or utilizes lights or lighting which rotates, flashes, moves, or alternates.
- (3) Sign lighting shall not exceed 15 foot-candles at any location on the property and shall not exceed 1.5 foot-candles measured at ground level.
- (4) Sign lighting shall be full cut-off.

E. Durable Materials

- (1) All signs shall present a professional appearance by being designed and constructed using material, lettering, and graphic standards commonly used in the sign industry. Hand crafted and lettered signs are not prohibited in their entirety, but are subject to removal if, in the opinion of the Planning Director, the sign does not meet the spirit of this Ordinance.
- (2) Except for awnings, signs constructed with fabric, cardboard, or paper are prohibited.
- (3) Peeling or flaking paint, broken panels, missing letters, defective illumination, torn fabric, and other damage to a sign or sign structure shall be replaced or repaired. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair.
- (4) Flags that are shredded, torn, tattered, or frayed must be replaced or removed upon written notification from the Planning Director.

F. Clearing of Vegetation

No person shall, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

- (1) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the NCDOT;
- (2) On land that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located; or

- (3) In any area where trees or shrubs are required to be preserved, subject to the standards in this Ordinance or a prior development approval.
- (4) The area within ten feet in all directions of any part of a sign shall be kept clear of all debris.

G. Discontinuance

- (1) A sign ~~that includes a reference to a~~ located on the property of a closed establishment shall remove the sign copy ~~reference to the closed establishment~~ within 30 days of the date of business closure. The sign shall be altered in such a way as to not detract from the overall appearance of the sign. Exposed lighting, such as occurs with the removal of a transparent panel, is not acceptable under any circumstance.
- (2) If the message portion of a conforming sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign.
- (3) Signs unlawfully placed in any street right-of-way or on any public land, including signs affixed to street and traffic signs or public utility poles, may be removed by the Planning Director without notice in accordance with Section 9.6.1.H, Removal of Signs from Street Right-of-Way.

Item 6: That Chapter 10. Definitions and Measurement, Section 10.5 Definitions is amended by adding the following underlined language and removing the strikethrough language:

10.5 DEFINITIONS

SIGN, AWNING

Any message printed on an awning.

SIGN, BANNER

A sign constructed of plastic or fabric of any kind that is attached to supports, a framework or a flat surface.

SIGN, COMMUNITY EVENT

A temporary sign announcing a specific occurrence taking place within the overlay district.

SIGN, COMMUNITY IDENTIFICATION DEVELOPMENT ENTRANCE

A freestanding sign located at the entrance of a designated residential area identifying the name of the community.

SIGN, CONTRACTOR

A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

SIGN, COTTAGE

A sign placed on a dwelling displaying the name of the house or cottage.

SIGN, DIRECTIONAL

An on-premise sign that includes information assisting in the flow of pedestrian or vehicular traffic.

SIGN, FLAG OR FEATHERFLAG

Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device for the purpose of advertisement.

SIGN, FREESTANDING

A permanent sign that is attached to, erected on, or supported by some structure, such as pilings, that is not itself an integral part of a building or other structure.

SIGN, GOVERNMENTAL

A sign erected and maintained pursuant to and in discharge of any governmental functions or required by law, ordinance, or other governmental regulation.

SIGN, INFLATABLE

Any display capable of being expanded by air or other gas and used on a permanent or temporary basis to advertise a product or event.

SIGN, INSTITUTIONAL

A free-standing sign located on property that contains a use classified as an Institutional Use in Table 4.1.1.

SIGN, LANDSCAPING

~~A sign placed on the lawn of a residential or commercial property advertising the company that landscapes and maintains the property.~~

SIGN, MOBILE MARQUEE

Any sign mounted on wheels or built with axles to which wheels may be attached. A sign attached to a motor vehicle shall not be considered a mobile sign.

SIGN, NONCONFORMING

Any sign that does not meet one or more of the requirements of this Ordinance as of the effective date of this Ordinance.

SIGN, OFF PREMISE

A sign or structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold, offered, maintained or provided at a location other than on the premises where the sign is located. Several types of off-premises signs may exist or otherwise be subject to the requirements of this article. Billboards are examples of off-premises signs. This definition does not include governmental, traffic, directional, or regulatory signs or notices of the Federal, State, County government or their public agencies.

SIGN, OFF PREMISE DIRECTIONAL

An off-premise sign that displays the name of a business, institution, or other location or activity and the direction in which it is located.

SIGN, ON PREMISE

A sign or structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold, offered, maintained or provided on the premises or at the same location (site or tract) as that where the sign is located. Several types of on-premises signs may exist or otherwise be subject to the requirements of this article regarding such signs. Ground signs and directional signs are examples of on-premises signs.

SIGN, OPEN HOUSE

~~A sign placed along the highway pointing toward a model home or a home that is for sale or placed in front of the home for sale and open for public viewing.~~

SIGN, PENNANT OR STREAMER

Any lightweight plastic, fabric or other material, suspended from a rope, wire, or string, or supported by a pole usually in series designed to move in the wind.

SIGN, POLITICAL

~~A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.~~

SIGN, PORTABLE

~~A sign that is not permanent, affixed to a building, structure, or the ground (e.g., sandwich/tent signs).~~

SIGN, REAL ESTATE

~~A sign placed on a property for sale, identifying the real estate company or agent and a phone number.~~

SIGN, RENTAL

~~A sign placed on a residentially zoned building that is in a rental program offered by a rental company or private owner.~~

SIGN, ROADSIDE MARKET

A temporary sign located on property of approved roadside markets.

SIGN, ROOF

A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

SIGN, SANDWICH BOARD ~~TENT~~

A temporary sign regulated by season consisting of two sign faces placed together at an angle of ninety (90) degrees or less to form an "A" shape which tapers from a wide base to a narrow top.

SIGN, SUSPENDED

A sign hanging down from a marquee, awning, or porch that would exist without the sign.

~~SIGN, SECURITY~~

~~A sign placed on the lawn of a residential or commercial property advertising the company that provides security services for the property.~~

SIGN, TEMPORARY

A sign not permanently mounted to a building or into the ground. To be deemed permanently mounted, a sign must be (a) attached or secured by bolting, welding, molding, nailing, concrete or similar mechanisms; and (b) made of materials enabling the sign to maintain its structural integrity and the clarity of its graphics through the passage of time and weather. ~~or advertising display designed or intended to be displayed for a short period of time.~~

SIGN, WALL

A sign fastened to a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign. Railing, suspended and awning signs are also included in this definition.

SIGN, WINDOW

Any sign attached to the window glass of a commercial building.

Item 7: Statement of Consistency and Reasonableness

The requested text amendment is consistent with the 2006 Land Use Plan because:

- It includes standards to enhance community appearance and create a quality business image by regulating sign quantity, area, height, lighting and maintenance. (LUP POLICY CA4)
- It recognizes and protects the community image benefits of the Major Highway Corridors thorough continuing to incorporate sign number, area and height restrictions. (LUP POLICY CA1)
- It continues to prevent the placement of additional Billboards. (LUP POLICY CA5)

The request is reasonable and in the public interest because:

- It implements changes to unconstitutional ordinance provisions to comply with the Supreme Court's ruling in *Reed v. Town of Gilbert, Arizona*.
- The proposed changes extend the protection of The First Amendment of the United States Constitution.

Item 8: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Item 9: This ordinance amendment shall be in effect from and after the _____ day of _____, 2017.

Board of Commissioners' Chairman
Attest:

Leeann Walton
Clerk to the Board

DATE ADOPTED: _____
MOTION TO ADOPT BY COMMISSIONER: _____
SECONDED BY COMMISSIONER: _____
VOTE: _____AYES _____NAYS _____
.....

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

Communication: PB Minutes April 11, 2017 (Approval of Minutes for April 11, 2017)



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 1879)

Agenda Item Title

PB 14-16 Lake View at Currituck, Development Agreement Amendment:

Brief Description of Agenda Item:

Request to amend the development agreement between Currituck County and Lake View Land Development, LLC for property located in Moyock on Survey Road west of the intersection with Caratoke Highway, Tax Map 15, Parcels 83B, 83C, 83D, and 83E and Tax Map 15C, Parcels 1-10, 68-88, and 129-146, and OSC, Moyock Township.

Board Action Requested

Action

Person Submitting Agenda Item

Donna Voliva,

Presenter of Agenda Item

Donna Voliva


Currituck County

Planning and Community Development Department
 Planning and Zoning Division
 153 Courthouse Road Suite 110
 Currituck NC 27929
 252-232-3055 Fax 252-232302

To: Planning Board

From: Planning Staff

Date: April 25, 2017

Subject: PB 14-16 Lake View at Currituck, PUD Development Agreement

James O. Myers, Lake View Land Development, LLC, submitted an application for an amendment to the development agreement between Lake View Land Development, LLC (the "Developer") and Currituck County to modify the building elevation designs for single family dwellings in Lake View at Currituck, PUD off Survey Road in Moyock Township.

The use of a development agreement is authorized in North Carolina General Statutes 153A-379.1 and Currituck County Unified Development Ordinance (UDO), Section 2.4.18; 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.

Background

- County of Currituck (the "County") entered into a development agreement with Survey Road, LLC (the "Developer") on November 25, 2014 to complete the Lake View at Currituck development.
- Typical building elevations were included in Exhibit D of the agreement. The recitals in the agreement indicate the homes constructed should be similar to the elevations provided in the agreement but are not required to be exact.
- The development agreement between the Developer and the County required the Developer to install a new public sewer force main connecting the Lake View at Currituck development to the Moyock Central Sewer System. Phase 1 infrastructure is complete and the sewer mains, pump stations, and appurtenances subject to the development agreement were dedicated to the county upon completion.

- An amendment to the development agreement was recorded June 23, 2016 that permitted 13 additional units and, the agreement was assigned to Lake View Land Development, LLC (the “Developer”).

Amendment Request

The request submitted by the “Developer” provides sixteen two-story building elevations that will replace the building elevation exhibit in the recorded agreement. According to the applicant, the building elevations recorded with the 2014 development agreement are outdated and the architecture is proprietary to the builder that was in place at that time.

Attached please find a draft version of the development agreement amendment, a copy of the existing building elevations, the proposed building elevations, and the Architectural Standards Handbook for the Lake View at Currituck Owners Association.

Development Agreement Review Standards

The advisability of a development is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. For consideration of the county to participate in a development agreement, the development subject to the agreement must meet the following:

1. The property subject to the development agreement shall contain 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property that may be precluded from the property at the time of application).
2. The development shall demonstrate phasing, and participation in the proposed agreement shall not exceed 20 years.
3. The development shall demonstrate the impact on existing and future provisions of capital improvements by the county, including at least one of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreational, and health systems and facilities.

Recommendation

Although this amendment to the development agreement (building elevations) does not specifically address the three review standards outlined in the UDO, the Lake View at Currituck development agreement continues to meet the review standards of the UDO. The TRC recommends **approval** of the amendment because the 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.

NORTH CAROLINA
COUNTY OF CURRITUCK

DEVELOPMENT AGREEMENT

This Amendment of Development Agreement is made this _____ day of _____, 2017 by and between the County of Currituck, a body politic and political subdivision of the State of North Carolina ("County"), and Lakeview Land Development LLC, a Virginia limited liability company, as assignee from Survey Road, LLC, a North Carolina limited liability company ("Developer").

SECTION ONE **RECITALS**

1. Developer and County previously entered into a Development Agreement under date of November 25th, 2014, as amended by that certain amendment dated June 21, 2016, for the development property identified therein as "Tract 1".

2. Pursuant to that certain Assignment of Development Agreement dated June 21, 2016, Survey Road, LLC assigned the Development Agreement to Lake View Land Development, LLC.

3. Pursuant to SECTION 12 therein, the original agreement may be amended by mutual consent of the parties.

4. Developer desires, and County consents, to the amendment hereinafter stated.

NOW, THEREFORE, for and in consideration of the mutual promises subsequently appearing, it is agreed the Development Agreement of November 25th, 2014, as amended, is hereby amended in the following regards, and no other:

AMENDMENT TO SECTION THREE **DEFINITION OF "LAKE VIEW AT CURRITUCK, PUD"** **TYPICAL BUILDING ELEVATIONS**

The original Exhibit D referred to in Section Three, definition of "Lake View at Currituck, PUD", is hereby replaced with Exhibit D attached hereto and made a part hereof.

EXECUTION

This document having been carefully reviewed by the parties and their counsel, and it being determined such is in accord with applicable law and is in the interest of Developer, County and its citizens, each party does hereby bind itself to the other to carry out the terms herein by the execution of this document in duplicate originals.

PRE-AUDIT CERTIFICATION

This instrument has been pre-audited in the manner required by the Local Government Budget Fiscal Control Act.

By: _____
Finance Officer
Currituck County, North Carolina

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year indicated below:

ATTEST:**COUNTY OF CURRITUCK**

By: _____

By: _____

NORTH CAROLINA
COUNTY OF CURRITUCK

This is to certify that on the _____ day of _____, 2017, before me personally came _____, who, being by me duly sworn, says that she is the Clerk to the Currituck County Board of Commissioners and _____, who is the Chairman of the Currituck County Board of Commissioners, a North Carolina County possessing powers of a unified government pursuant to N.C.G.S. §153A-471, described in and which executed the foregoing; that she knows the corporate seal of said County, that the seal affixed to the foregoing instrument is said corporate seal, and the name of the County government was subscribed thereto by the said Chairman and that the said corporate seal was affixed, all by order of the governing body of said County, and that the said instrument is the act and deed of said County.

WITNESS my hand and official seal or stamp, this the _____ day of _____, 2017.

Notary Public

My Commission Expires _____

ATTEST:**LAKE VIEW LAND
DEVELOPMENT, LLC**

By: _____

By: _____

NORTH CAROLINA
COUNTY OF CURRITUCK

I, a Notary Public of Currituck County, North Carolina, do hereby certify that _____, personally came before me this day and acknowledged that he is the _____, of Lake View Land Development, LLC the foregoing instrument was signed in its name by its _____, sealed with its corporate seal, and attested by himself as its _____.

WITNESS my hand and official seal or stamp, this the _____ day of _____, 2017.

Notary Public

My Commission Expires _____

EXHIBIT D

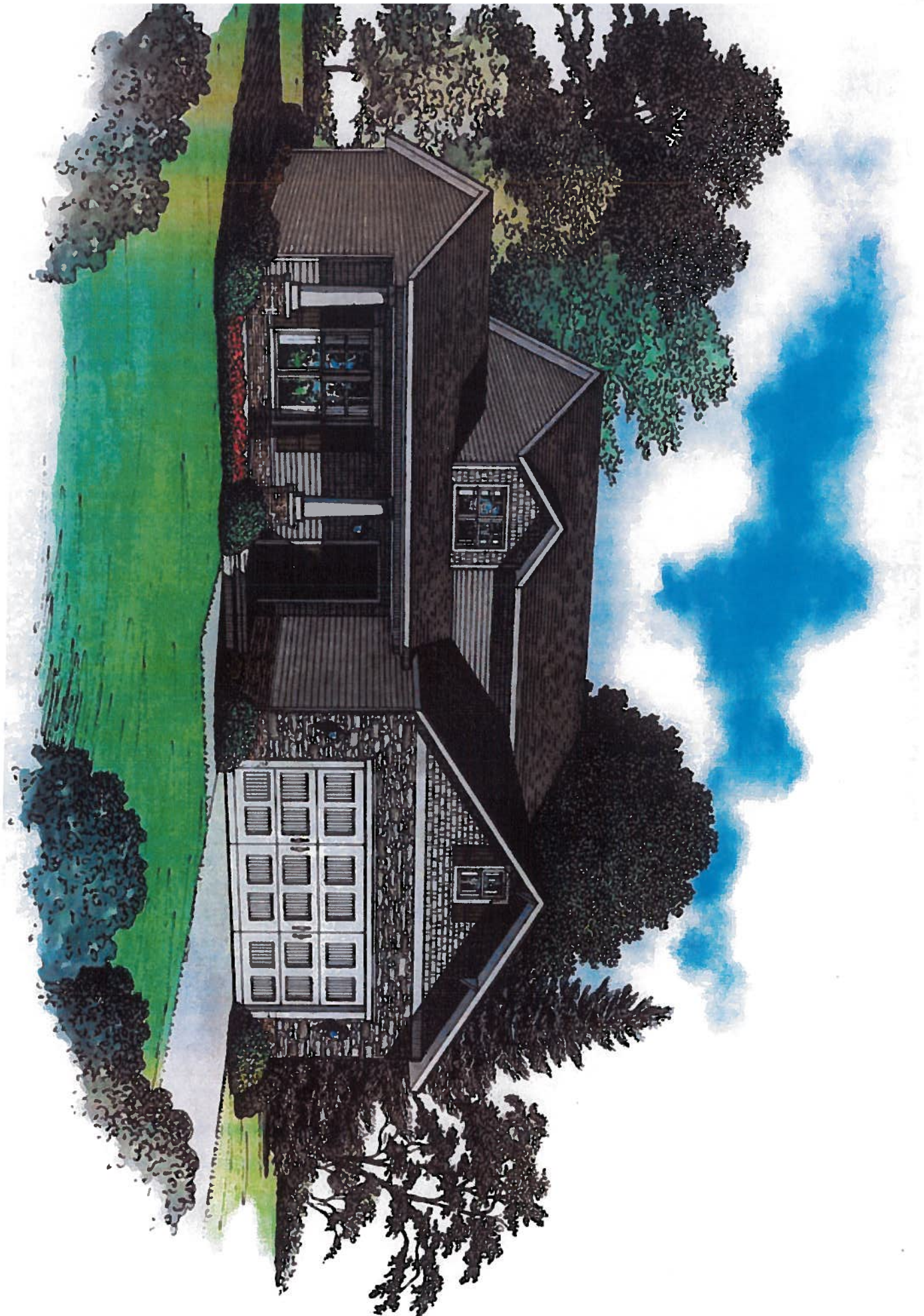
Exhibit D

Lakeview Architectural Standards and Elevations

All homes in Lakeview are to be built in substantial conformance with the attached elevations and strictly adhere to the architectural standards set forth below. A standard of homebuilding quality will be detailed in the Community's declaration of restricted covenants and appropriately governed by the Developer's appointed Architectural Review Committee. An example of the Architectural Review Committee's application can be found in the Development Agreement Amendment application and will be available for the Board of Commissioners of Currituck's review during the Public Hearing.

Product:

- I. All homes will be single family detached.
- II. Square feet will be measured by conditioned living area and will be a minimum of 1800 square feet for a two level home and 1600 for a one level ranch home.
- III. Each home will have a covered front porch or stoop.
- IV. The garage opening width will not exceed more than 60% of the total home's width





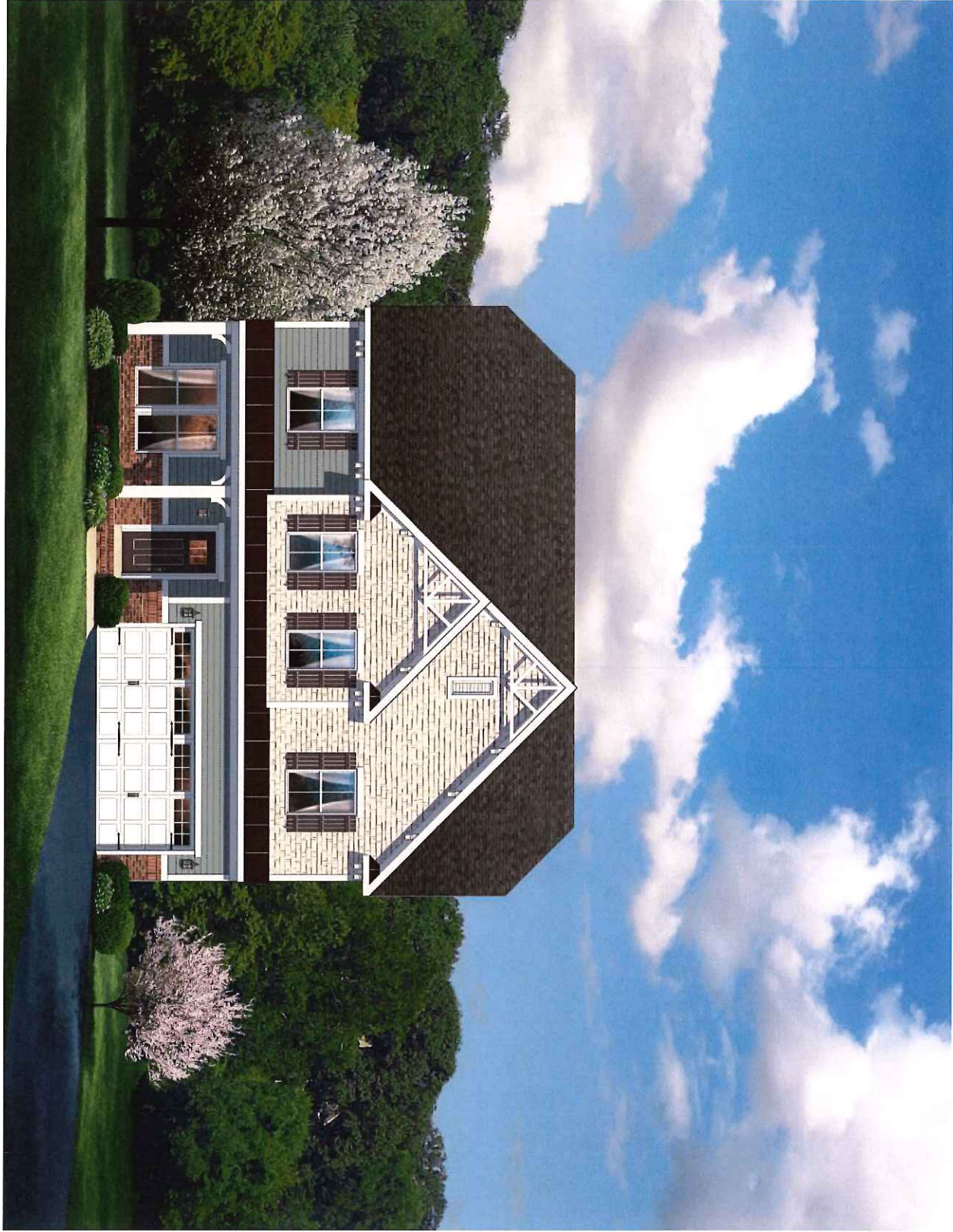


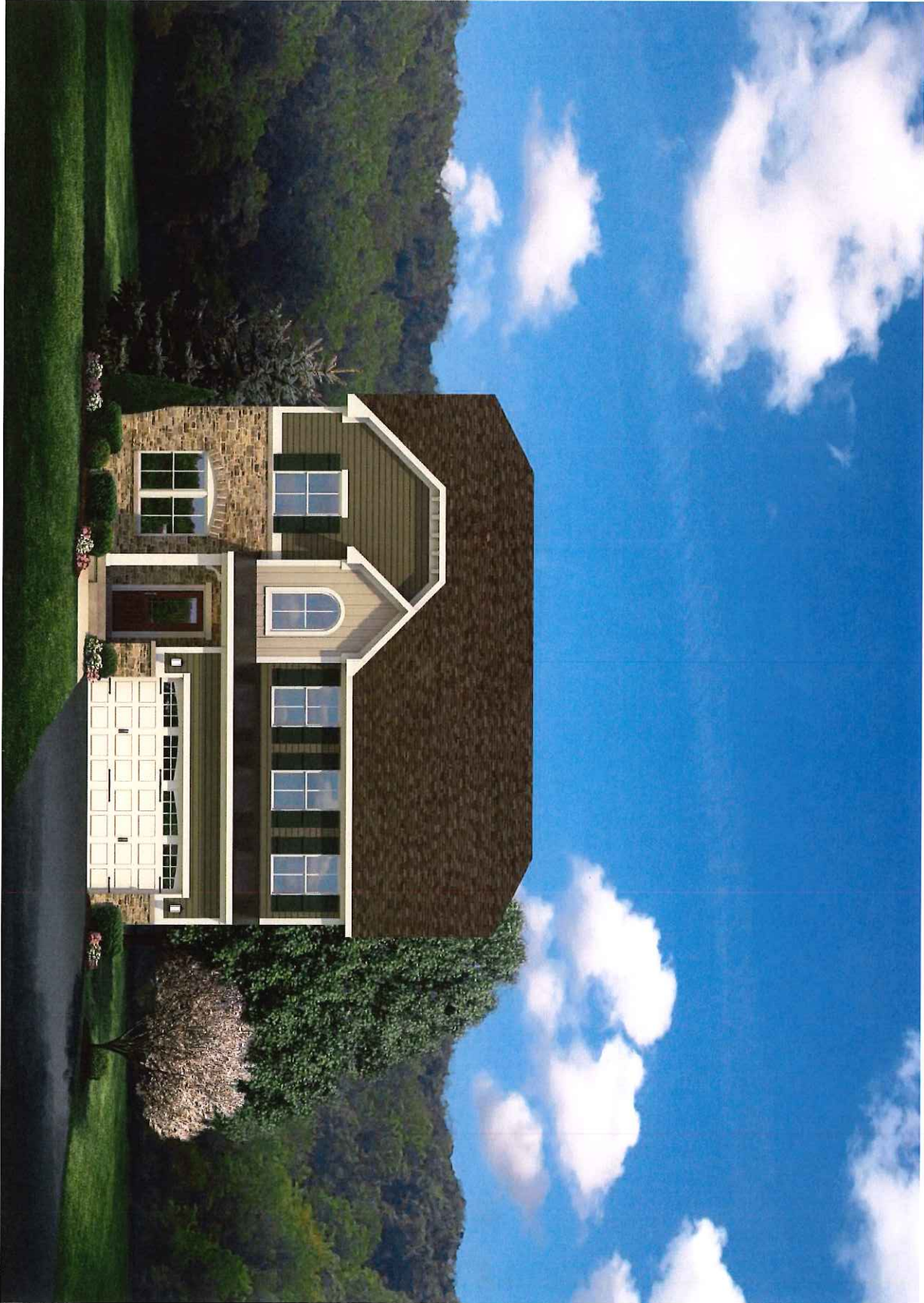
















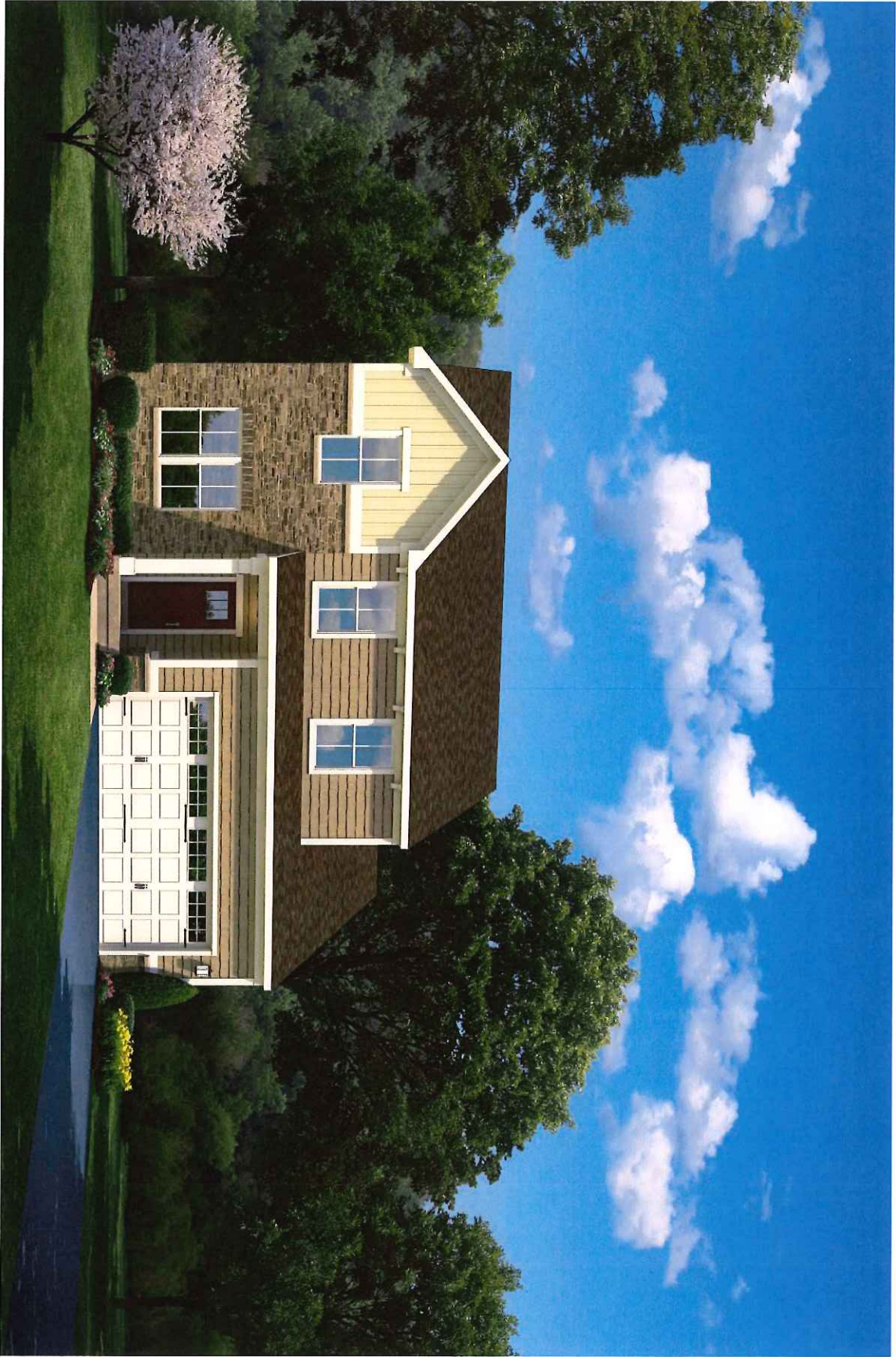


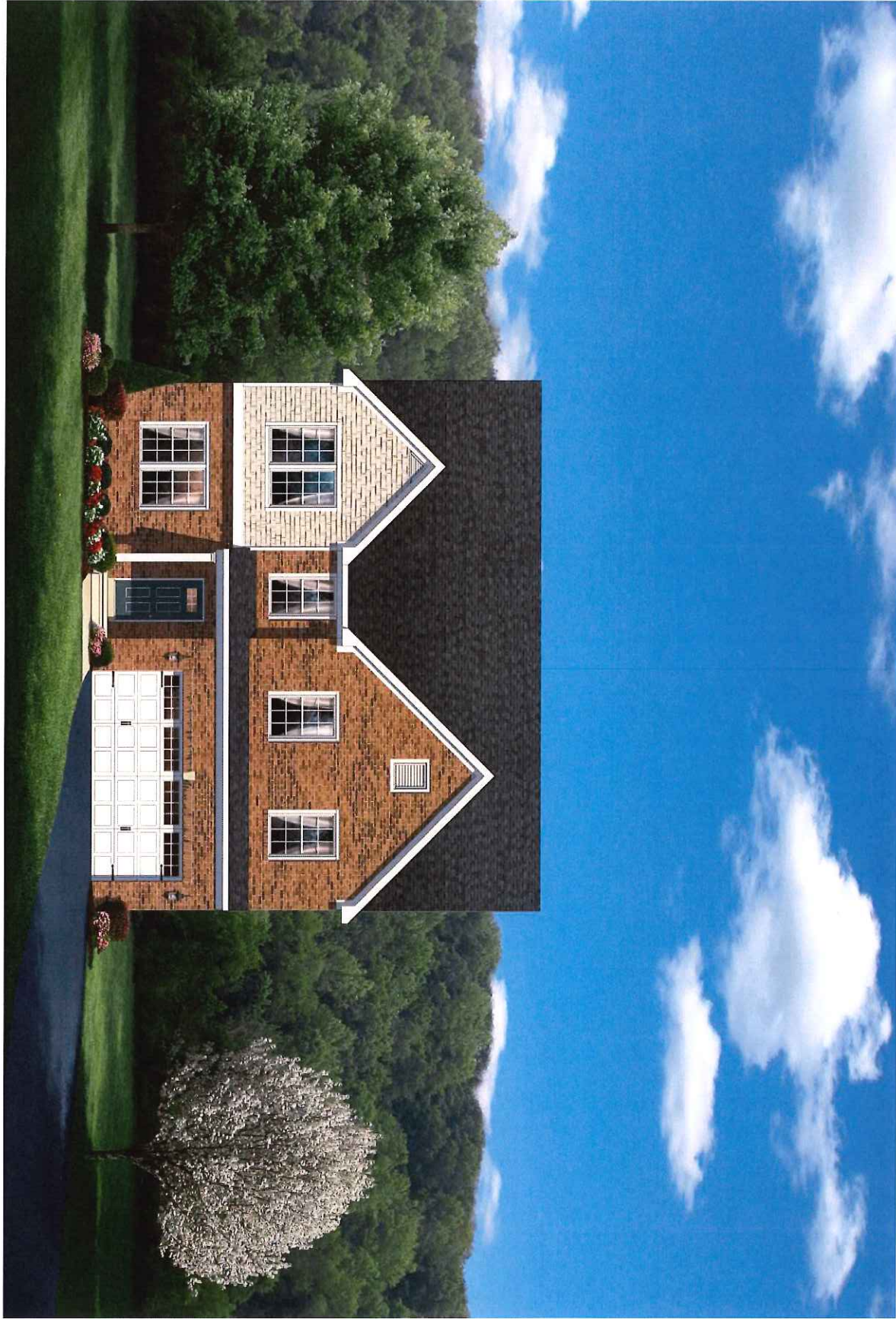






















Front Porch will be supported by columns as found elsewhere in the NVR Lakeview elevations