



**Planning Board
Agenda Packet**

August 10, 2021

Work Session

5:30 PM

Call to Order - 6:00 PM

- A) Pledge of Allegiance & Moment of Silence
- B) Ask for Disqualifications
- C) Announce Quorum Being Met
- D) Approval of Agenda
- E) Approval of Minutes for July 13, 2021

Old Business

- A) **PB 20-16 Currituck County Text Amendment Utility and Drainage Easements:**
Request to amend the Unified Development Ordinance, Section 7.3.4 to clarify that maintenance access drainage easements must be dedicated to the county and reduce the required easement width from fifty feet to twenty-five feet along major waterway conveyance systems.

New Business

- A) **PB 21-15 Windswept Pines, Phase 3:** Allied Properties, LLC requests conditional zoning of 15.55-acres from C-MXR (Conditional- Mixed Residential) to C-MXR, Alden Run in Windswept Pines development in Moyock Township.

Announcements**Adjournment**



**CURRITUCK COUNTY
NORTH CAROLINA**

July 13, 2021

Minutes – Regular Meeting of the Planning Board

CALL TO ORDER - 6:00 PM

The Planning Board met for a regular meeting in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina.

Attendee Name	Title	Status	Arrived
C. Shay Ballance	Chairman	Present	
Garry Owens	Vice Chairman	Present	
K. Bryan Bass	Board Member	Present	
David Doll	Board Member	Present	
Lynn L. Hicks	Board Member	Absent	
Thomas Hurley	Board Member	Present	
Juanita S. Krause	Board Member	Absent	
Kevin Kemp	Development Services Director	Present	
Jennie Turner	Planner II	Present	
Cheri Elliott	Clerk to the Board	Present	

Chairman Ballance called the meeting to order at 6:00 PM.

A. Pledge of Allegiance & Moment of Silence

Chairman Ballance asked everyone to stand for the Pledge of Allegiance and a moment of silence.

B. Ask for Disqualifications

Chairman Ballance asked if any board member had a conflict of interest with the item for consideration on the agenda. There were no conflicts noted.

C. Announce Quorum Being Met

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

D. Approval of Agenda

Chairman Ballance asked if there were any changes needed to the agenda tonight. Vice Chairman Owens motioned to approve as presented. Mr. Hurley seconded the motion and the motion carried unanimously.

Communication: Planning Board Minutes - July 13, 2021 (Approval of Minutes for July 13, 2021)

RESULT:	APPROVED [UNANIMOUS]
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Thomas Hurley, Board Member
ABSENT:	Lynn L. Hicks, Board Member, Juanita S. Krause, Board Member

APPROVAL OF MINUTES

Chairman Ballance asked if there were any changes needed for the June 8, 2021 meeting minutes. Mr. Doll motioned to approved as presented. Vice Chairman Owens seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Thomas Hurley, Board Member
ABSENT:	Lynn L. Hicks, Board Member, Juanita S. Krause, Board Member

E. Planning Board Minutes - June 8, 2021

OLD BUSINESS

There was no old business discussed.

NEW BUSINESS

A. PB 21-12 Currituck County Text Amendment:

Jennie Turner presented the staff report, gave the preliminary plat expiration and extension background from 1984 to present along with an example of how a past project was hindered from the current regulation. Ms. Turner read the added language to the subdivision expiration of development approval section 2.4.8.(d)(ii) making clear the two year start date for the extension begins with the date notice is provided to the applicant of the county utility being available. Ms. Turner gave the review standards and the statement of consistency showing the proposed text amendment is consistent with the 2006 Land Use Plan, Goal #10 and Policy PP2.

Chairman Ballance asked if any board members had questions. Vice Chairman Owens pointed out the use of the word "may" opposed to "shall" for the Director to approve the extension to the preliminary plat. Ms. Turner said this was intended so the Director could approve at their discretion for each situation. Mr. Bass asked if this text amendment would only apply to county water and sewer. Ms. Turner confirmed it would only pertain to county utilities.

Chairman Ballance closed the public hearing with no one present to speak.

Chairman Ballance asked for a motion.

Mr. Bass motioned to **approve PB 21-12** because the request is consistent with **Land Use and Development Goal #10** and **Policy PP2** of the 2006 Land Use Plan.

Mr. Doll seconded the motion and the text amendment was approved unanimously with a 5-0 vote.

Communication: Planning Board Minutes - July 13, 2021 (Approval of Minutes for July 13, 2021)

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 8/2/2021 6:00 PM
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Thomas Hurley, Board Member	
ABSENT:	Lynn L. Hicks, Board Member, Juanita S. Krause, Board Member	

ANNOUNCEMENTS

Chairman Ballance welcomed the new Development Services Director, Kevin Kemp. Mr. Kemp said he was looking forward to working with the board and it was a pleasure to meet everyone at tonight's meeting.

ADJOURNMENT

Vice Chairman Owens motioned to adjourn the meeting. Mr. Bass seconded the motion and the meeting adjourned at 6:14 PM.

Communication: Planning Board Minutes - July 13, 2021 (Approval of Minutes for July 13, 2021)



Currituck County Agenda Item Summary Sheet

Agenda ID Number – 3034

Agenda Item Title: PB 20-16 Currituck County Text Amendment Utility and Drainage Easements:

Submitted By: Jennie Turner – Planning & Community Development

Item Type: Legislative

Presenter of Item: Jennie Turner

Board Action: Action

Brief Description of Agenda Item:

Request to amend the Unified Development Ordinance, Section 7.3.4 to clarify that maintenance access drainage easements must be dedicated to the county and reduce the required easement width from fifty feet to twenty-five feet along major waterway conveyance systems.

Planning Board Recommendation:

Staff Recommendation: Approval

TRC Recommendation:



Currituck County

Planning and Community Development Department
Planning Division
 153 Courthouse Road, Suite 110
 Currituck, North Carolina, 27929
 252-232-3055 FAX 252-232-3026

To: Planning Board

From: Planning Staff

Date: July 28, 2021

Subject: PB 20-16 Currituck County – Text Amendment - **REVISED**
 Utility and Drainage Easements

Request

The original text amendment language submitted by the Planning and Community Development Department proposed revisions the UDO to:

- Require an access dedication to the county for easements on major drainage features. For **new** projects, maintenance access easements are required on ditches that drain more than five acres or along the major ditches listed in Section 7.3.4.
- Prohibit on-site wastewater systems in utility and maintenance access drainage easements on individual lots.

The Planning Board heard the text amendment request on February 9, 2021, it was tabled, and heard again on March 9, 2021. The Planning Board recommended approval of the text amendment as presented by staff. Following the Planning Board meeting, the Board of Commissioners held a work session with staff to review the proposed language. After discussion, the Board directed staff to make changes to the draft ordinance. The text amendment changes have been updated as part of this staff report. Specifically, the Board of Commissioners requested that the proposed ordinance prohibiting placement of septic systems in utility and maintenance access drainage easements be removed. With input from the County Engineer about sufficient width for a maintenance easement, the Board of Commissioners requested to change the required easement to 25' along major drainage features.

This revised text amendment provides that required maintenance access drainage easements be dedicated to the county and revises the required easement width from 50' to 25' along major drainage features.

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;
2. Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;

3. Is required by changed conditions;
4. Addresses a demonstrated community need;
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;
6. Would result in a logical and orderly development pattern; and
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.

Staff Recommendation

Staff recommends approval of the request as submitted and suggests the following Consistency Statement:

The requested zoning text amendment is consistent with the goals, objectives, and policies of the 2006 Land Use Plan including:

1. POLICY WQ6: Currituck County supports the retention or preservation of VEGETATED BUFFERS along the edge of drainage ways, streams and other components of the estuarine system as an effective, low cost means of protecting water quality.
2. POLICY WQ8: Currituck County shall support the development and maintenance of a countywide COMPREHENSIVE DRAINAGE AND FLOOD MANAGEMENT PLAN, including public and private actions in support of plan implementation. Currituck County shall support County, NCDOT and property owner cooperation in preventing and resolving stormwater problems.

The request is reasonable and in the public interest because:

1. It clarifies that required maintenance access drainage easements shall be dedicated to the county to ensure access to maintain drainage infrastructure.



**STAFF REPORT
PB20-16 CURRITUCK COUNTY
UTILITY & DRAINAGE EASEMENTS
REVISED TEXT AMENDMENT
PLANNING BOARD
AUGUST 10, 2021**

Currituck County requests an amendment to the Unified Development Ordinance, Chapter 7 Environmental Protection to clarify that drainage easements shall be dedicated to the county and to reduce the required drainage access easement area from 50' to 25' along major drainage features.

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 7 is amended by adding the following underlined language and deleting the strikethrough language:

7.3.4. Stormwater Management Standards

B. Drainage Requirements

- (10) Development subject to these standards shall provide maintenance access drainage easements and point of entry to the county in accordance with ~~Section 6.2.3.B, Utility Easements~~ and the following standards:
 - (a) Easements shall be provided along at least one side of waterway conveyance systems that drain more than five acres provided the waterway conveyance system is not part of a state permitted and functional stormwater management system. The easement shall include the conveyance and an additional twenty-five feet measured from the top of embankment.
 - (b) Easements shall be provided along both sides of the following waterway conveyance systems:
 - (i) Hog Bridge Ditch;
 - (ii) Guinea Mill;
 - (iii) Upper Guinea Mill;
 - (iv) Lateral "A";
 - (v) Lateral "B";
 - (vi) Lateral "C";

- (vii) Haywood Ditch;
- (viii) Rowland Creek Canal;
- (ix) Eagle Creek Canal (also known as Western Canal); and
- (x) Shingle Landing Creek Canal.

The easement shall include the conveyance and an additional twenty-five ~~fifty~~ feet measured from the top of each embankment.

Item 2: Consistency Statement:

The requested zoning text amendment is consistent with the goals, objectives, and policies of the 2006 Land Use Plan including:

1. POLICY WQ6: Currituck County supports the retention or preservation of VEGETATED BUFFERS along the edge of drainage ways, streams and other components of the estuarine system as an effective, low cost means of protecting water quality.
2. POLICY WQ8: Currituck County shall support the development and maintenance of a countywide COMPREHENSIVE DRAINAGE AND FLOOD MANAGEMENT PLAN, including public and private actions in support of plan implementation. Currituck County shall support County, NCDOT and property owner cooperation in preventing and resolving stormwater problems.

The request is reasonable and in the public interest because:

1. It clarifies that required maintenance access drainage easements shall be dedicated to the county to ensure access to maintain drainage infrastructure.

Item 3: 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 4: This ordinance amendment shall be in effect from and after the _____ day of _____, 2021.

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: _____



Text Amendment Application

OFFICIAL USE ONLY:
Case Number: PB 20-16Date Filed: 9/23/20Gate Keeper: C. C. C. C.Amount Paid: /
Contact Information
APPLICANT:
Name: County of CurrituckAddress: 153 Courthouse Road Suite 204
Currituck, NC 27929Telephone: 252-232-2075E-Mail Address: ben.stikeleather@currituckcountync.gov
Request

I, the undersigned, do hereby make application to change the Currituck County UDO as herein requested.

Amend Chapter(s) 6 & 7

6.2.3 Utility Standards &

Section(s) 7.3.4 Stormwater Management Standards

as follows: Prohibit on-site wastewater systems in all utility, maintenance and drainage

easements on individual lots.

Specify that required drainage easements shall be dedicated to the county.

*Request may be attached on separate paper if needed.

A handwritten signature in blue ink, appearing to read "Ben Stikeleather".

Petitioner

9/23/20
Date

Amend UDO by deleting the following struck-through language and adding the following underlined language:

6.2.3 Utility Standards

B. Utility Easements

- (1) Each subdivision shall provide utility easements in accordance with the following standards:
 - (a) Ten-foot-wide easements shall be provided along all rear and side lot lines.
 - (b) Fifteen-foot-wide easements shall be provided along all front lot lines.
 - (c) Alternative easement locations may be considered by the Planning Director as part of a planned development, conservation subdivision, or zero lot line development.
 - (d) On-site wastewater systems are prohibited in all utility easements on an individual lot.
- (2) Whenever a subdivision includes water, sewer, electrical power, telephone, or cable television utilities intended for operation by a public utility or entity other than the subdivider, the subdivider shall transfer all necessary ownership or easement rights to enable the public utility or other entity to operate and maintain the utilities.

7.3.4 Stormwater Management Standards

B. Drainage Requirements

- (10) Development subject to these standards shall provide maintenance access drainage easements to the county in accordance with ~~Section 6.2.3.B, Utility Easements~~ and the following standards:
 - (a) Easements shall be provided along at least one side of waterway conveyance systems that drain more than five acres. The easement shall include the conveyance and an additional twenty-five feet measured from the top of embankment.
 - (b) Easements shall be provided along both sides of the following waterway conveyance systems:
 - (i) Hog Bridge Ditch;
 - (ii) Guinea Mill;
 - (iii) Upper Guinea Mill;
 - (iv) Lateral "A";

- (v) Lateral "B";
- (vi) Lateral "C";
- (vii) Haywood Ditch;
- (viii) Rowland Creek Canal;
- (ix) Eagle Creek Canal (also known as Western Canal); and
- (x) Shingle Landing Creek Canal.

The easement shall include the conveyance and an additional fifty feet measured from the top of each embankment.

- (c) On-site wastewater systems are prohibited in all maintenance access drainage easements on an individual lot.



Currituck County Agenda Item Summary Sheet

Agenda ID Number – 3199

Agenda Item Title: PB 21-15 Windswept Pines, Phase 3:

Submitted By: Donna Voliva – Planning & Community Development

Item Type: Legislative

Presenter of Item: Donna Voliva

Board Action: Action

Brief Description of Agenda Item:

Allied Properties, LLC requests conditional zoning of 15.55-acres from C-MXR (Conditional-Mixed Residential) to C-MXR, Alden Run in Windswept Pines development in Moyock Township.

Planning Board Recommendation:

Staff Recommendation: Approval with Conditions

TRC Recommendation: Approval with Conditions



STAFF REPORT
PB 21-15 WINDSWEPT PINES, PHASE 3
(ALLIED PROPERTIES, LLC)
CONDITIONAL ZONING
PLANNING BOARD
AUGUST 10, 2021

APPLICATION SUMMARY

Property Owner: Allied Properties, LLC 417-D Caratoke Highway Moyock, NC 27958	Applicant: Allied Properties, LLC 417-D Caratoke Highway Moyock, NC 27958
Case Number: 21-15	Application Type: Conditional Rezoning
Parcel Identification Number: 0009-000-006A-0000	Existing Use: Undeveloped acreage within a residential subdivision
Land Use Plan Classification: Rural	Parcel Size (Acres): 15.55-acres includes 1.48-acre parcel split by the railroad right of way
Moyock Small Area Plan Classification: Full Service	Zoning History: A and GB (1989) C-MXR (2015) (2018)
Current Zoning: C-MXR	Proposed Zoning: C-MXR
Request: The request is to establish Windswept Pines Phase 3 - 14 residential lots and associated infrastructure in an undeveloped area of the subdivision.	

REQUEST HISTORY

A conditional zoning of this property was approved in 2015 that established the Conditional Mixed Residential (C-MXR) district known as Windswept Pines development. The 2015 approved development plan created 59 lots (including an existing parcel recombined to provide an entrance to Baxter Lane), 1.48-acres of commercial area, and area for a possible future development phase. The future development phase did not have a conceptual design layout that included pedestrian and vehicular circulation plans, drainage facilities or patterns, additional open space, or approximate location of jurisdictional wetlands. Since the 2015 conditional zoning approval, the applicant has designed, developed, and built out Windswept Pines, Phases 1 and 2. This application is for Phase 3 of the development.

The property in question is zoned C-MXR and at the time of the conditional zoning was identified as future development area with no identified lot or road layout. On November 5, 2018, the Board of Commissioners approved a conditional zoning amending the conditions and project area of the original approval to provide additional stormwater ponds for Phase 2 of the development.

A second amendment to the C-MXR was submitted in 2019 to add Phase 3 which included 14 residential lots. The Board of Commissioners voted to deny the request by a recorded vote of six to one at their October 21, 2019 meeting because

- The request is inconsistent with the 2006 Land Use Plan Policy PP2 in that it exceeds the County's ability to provide adequate public facilities, particularly school capacity. The proposed development, located in the Moyock Elementary School District, increases the number of projected students by three (based on the Student Generation Rate Study prepared by Tischler

and Associates, Inc (2004)). The Average Daily Membership (ADM) for Moyock Elementary School for August 2019 exceeds the actual school capacity adopted by the Currituck County Board of Education.

NARRATIVE

The North Carolina General Statutes (NCGS 160D-703) allows owners of individual parcels to apply for modification of the conditions provided the modification would not result in other properties failing to meet the terms of the conditional zoning.

The application is being resubmitted following the denial by the Board of Commissioners, as allowed per Section 2.3.16 of the UDO which allows the applicant to submit the same application upon waiting one year after the date of the denial (October 19, 2019).

This conditional zoning request for PIN 0009000006A0000 includes proposed phase 3 for 14 residential lots and proposed Phase 4 for the commercial tract located between Caratoke Highway and the railroad. There are no modifications proposed for the commercial tract. The road extension and access for this phase provides interconnectivity to adjacent lands to the north and east.

The development summary of the proposed phases is shown below:

Phase 3:

Total Area:	15.55-acres
Number of Lots:	14 residential lots
Open Space:	7.51-acres proposed, (4.67-acres required)

Phase 4:

Commercial Parcel:	1.48-acres with a 2,500 square foot building
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A summary of the entire Windswept Pines proposal is shown below:

Total Area:	66.87-acre development tract
Residential Lots:	73 lots (including the existing McCrary parcel)
Commercial Lot:	1 parcel with a 2,500 square foot building
Open Space:	
Proposed:	24.57-acres (residential) + 0.15-acres (commercial) = 24.72-acres total
Required:	19.62 acres required (residential) + 0.148-acres commercial = 19.77-acres total

COMMUNITY MEETING

The community meeting was held on May 25, 2021 at 6:00 pm at the Eagle Creek Outdoor Pavilion. The engineer reviewed the proposed development plan and the approval process. The comments received at the meeting included the association turn-over of the common areas, planned drainage improvements, maintenance of the subdivision and drainage infrastructure in the existing phases of Windswept Pines, and proposed developments in the vicinity. A summary of the community meeting is provided in this agenda packet.

APPLICANT PROPOSED ZONING CONDITIONS

1. Use: Subdivision
2. All lots to be greater than or equal to 20,000 square-feet.
3. The project engineer will model stormwater to 100-year storm event and stormwater will be managed from that 100-year storm.
4. The applicant will work with Soil and Water Conservation Department to explore improving the drainage outlet to the east of the development.
5. All residential development will be single-family and will conform to sample building elevations provided.

SURROUNDING PARCELS

	Land Use	Zoning
North	Residential/Woodland/Farmland/ Sand Mine	GB/AG
South	Residential/Business	GB/AG
East	Farmland	AG
West	Cemetery/Farmland Residential	GB/C-MXR

LAND USE PLAN

The 2006 Land Use Plan classifies this site as Rural within the Moyock subarea. The policy emphasis for the Moyock subarea is managing the increased urban level of growth that this area is sure to experience over the next decade and beyond. In areas where on-site wastewater is proposed, and other county services are limited development density should be limited to 1-2 units per acre. The proposed development plan may be considered consistent with the Moyock subarea emphasis, but this consideration does not change the 2006 Land Use Plan land use classification of the subject property. This signifies a discrepancy with the UDO dimensional standards for the MXR district. * **The following land use plan policies are relevant to the request:**

Policy HN1	Currituck County shall encourage development to occur at densities appropriate for the location. LOCATION AND DENSITY FACTORS shall include whether the development is within an environmentally suitable area, the type and capacity of sewage treatment available to the site, the adequacy of transportation facilities providing access to the site, and proximity of the site to existing and planned urban services.
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**Prior zoning map amendments (2015 and 2018) adopted by the BOC placed emphasis on the Moyock Small Area plan future land use map classifying this property as Full Service. A zoning map amendment, PB 18-23 effective May 6, 2019, placed emphasis on the CAMA Land Use Plan. The decision emphasizes the 2006 Land Use Plan as the controlling document and the relation to the UDO dimensional standards for the MXR district signifies a discrepancy between the two plans and requires a Land Use Plan map amendment.*

MOYOCK SMALL AREA PLAN

The Moyock Small Area Plan identifies this site as Full Service. Full-Service designations are focal points in the community where high amounts of activity occur. Typical densities in Full-Service designations range from 1.5 – 3 units per acre depending on surround land uses.

Policy FLU1	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.
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RECOMMENDATION

Technical Review Committee Comments

The Technical Review Committee reviewed this conditional zoning request and identified the following comments:

1. Adopted Plan Consistency:
 - a. The 2006 Land Use Plan identifies this property as Rural within the Moyock subarea. The policy's emphasis for the Moyock subarea is managing the increased urban level of growth that this area is sure to experience over the next decade and beyond. In areas where on-site wastewater is proposed, and other county services are limited development density should be limited to 1-2 units per acre.
 - b. The Moyock Small Area Plan identifies this site as Full-Service. This designation identifies areas where there will be significant public investment in infrastructure, and thus can support higher density of development.
 - c. The UDO dimensional standards in the MXR zoning district provide the maximum gross density of 2 units per acre in the Full-Service area and 1 unit per acre in the Limited-Service Area. The UDO does not provide density allocation for property in the Rural land use classification. The MXR zoning district purpose provides more intense development density and uses than the areas typically identified as the Rural land use classification.
 - d. Prior zoning map amendments, including the amendments in 2015 and 2018, placed emphasis on the Moyock Small Area plan allowing for the full-service development density of 2 units per acre. However, a zoning map amendment, PB 18-23 with an effective date of May 6, 2019, placed emphasis on the 2006 Land Use Plan as the approved CAMA plan. That decision, if applied to this property, would not meet the county UDO since this area is identified as Rural with no development density allocated.
 - i. Windswept Pines, as approved, has a development gross density of 0.88 dwelling units per acre (66.8 acres – including 1.48 acres commercial lot).
 - ii. The total gross development density for phases 1-3 is 1.09 dwelling units per acre.
 - e. Based on the 2019 decision, an amendment to the 2006 Land Use Plan land use map (Rural to Full-Service) is necessary for this increase in development density to be allowed under the UDO.
2. Smaller lots in the Moyock area, including Windswept Pines, generally meet the minimum off-street parking requirements, but some property owners are parking on the street. On-street parking is not permitted for this development. The applicant has agreed to installation of "No Parking" signage. The Board may wish to consider an agreed upon condition to address the parking issues.
3. Conditional zonings are legislative decisions of the board and not controlled by any one factor. In determining whether to adopt or deny a proposed request, the board may consider the

standards in UDO, Section 2.4.3.C. One of the factors is whether the proposed development is adequately serviced by public facilities.

- a. The Moyock Elementary School is currently over capacity*. This is a conditional zoning application and conditions that are agreed upon by the applicant and the county can be placed on the project to address timing of development and the completion of the proposed expansion of the Moyock Elementary School. Timing conditions could include phasing or the submittal of application (preliminary plat/use permit, construction drawings, or final plat).

****According to an email from the County Manager (June 7, 2021 and June 22, 2021), the contract for Moyock Elementary School expansion was executed by both parties with a substantial completion date of August 1, 2023. The expansion should increase the capacity of Moyock Elementary School to 750 students (529 current capacity).***

ADEQUATE PUBLIC FACILITIES – SCHOOLS ¹		
School	2021-2022 Actual Capacity ²	Committed Capacity ³
Moyock Elementary	116%	122%
Shawboro Elementary	99%	
Central Elementary	91%	
Griggs Elementary	61%	102%
Jarvisburg Elementary	91%	
Knotts Island Elementary	37%	37%
Moyock Middle	95%	91%
Currituck Middle	62%	
Currituck High	80%	99%
JP Knapp Early College	89%	

¹Does not include minor subdivisions, exempt subdivisions, and subdivisions approved prior to the adoption of the adequate public facilities ordinance (October 1994)

²Capacity percentages are based on 2021-2022 school year classroom standards and May 2021 ADM

³Capacity percentages are based on the 2021-2022 school year classroom standards and May 2021 ADM

4. Conditional zonings are not exempt from a spot zoning challenge. Given the size of this request the Board must be assured that all factors defining reasonable spot zoning are considered in their hearing and decision.

Technical Review Committee Recommendation

Provided adequate public facilities are available to serve the proposed development, the Technical Review Committee recommends approval of the conditional zoning application subject to the following conditions (must be agreed upon by the county and the applicant):

1. The 2006 Land Use Plan future land use map must be amended to identify the property as Full-Service as part of the motion for approval.
2. “No Parking” signage shall be installed in Phase 3 at locations suggested by the Fire Official (RECOMMENDED).

CONSISTENCY STATEMENT

A conditional zoning is a legislative decision of the Board of Commissioners. In determining whether to approve or deny a conditional rezoning the Board of Commissioners shall adopt a written statement of consistency.

The conditional zoning request is consistent with and amends the 2006 Land Use Plan by designating this property as Full-Service on the future land use map because the amendment recognizes and implements the Full-Service designation of the Moyock Small Area Plan adopted by the Board of Commissioners.

The request is reasonable and in keeping with the changed conditions acknowledged by the Moyock Small Area Plan and addresses the demonstrated community need of providing a Full-Service area that offers both residential and commercial uses in the development.

CONDITIONS OF APPROVAL

Only conditions mutually agreed to by the owner(s) may be approved as part of a conditional zoning district. Conditions shall be limited to those that address conformance of development and use of the site with county regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use. No condition shall be less restrictive than the standards of the parallel general use zoning district.

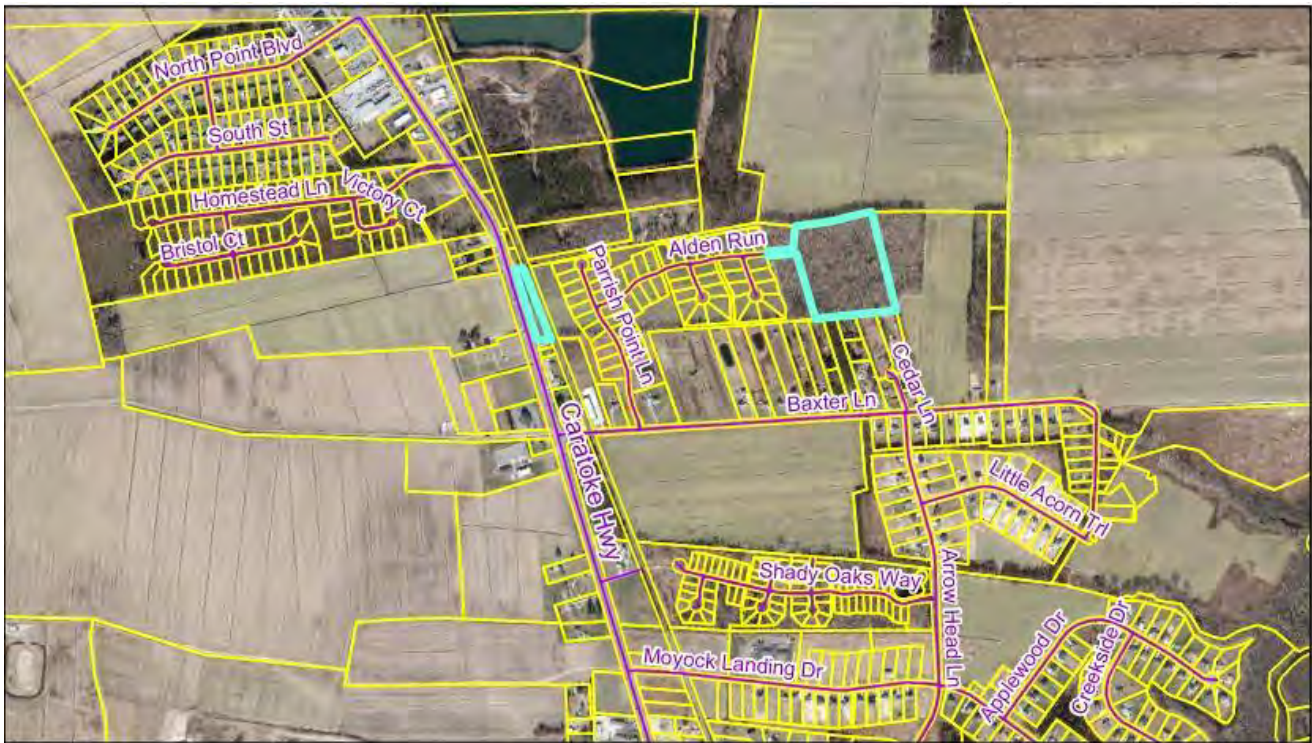
Agreed upon conditions of approval:

1. Use: Subdivision
2. All lots to be greater than or equal to 20,000 square-feet.
3. The project engineer will model stormwater to 100-year storm event and stormwater will be managed from that 100-year storm.
4. The applicant will work with Soil and Water Conservation Department to explore improving the drainage outlet to the east of the development.
5. All residential development will be single-family and will conform to sample building elevations provided.

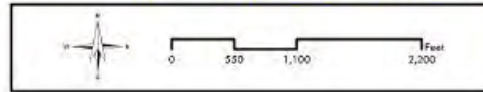
Technical Review Committee recommended condition that must be agreed upon by the applicant and the county:

1. "No Parking" signage shall be installed in Phase 3 at locations suggested by the Fire Official (RECOMMENDED).

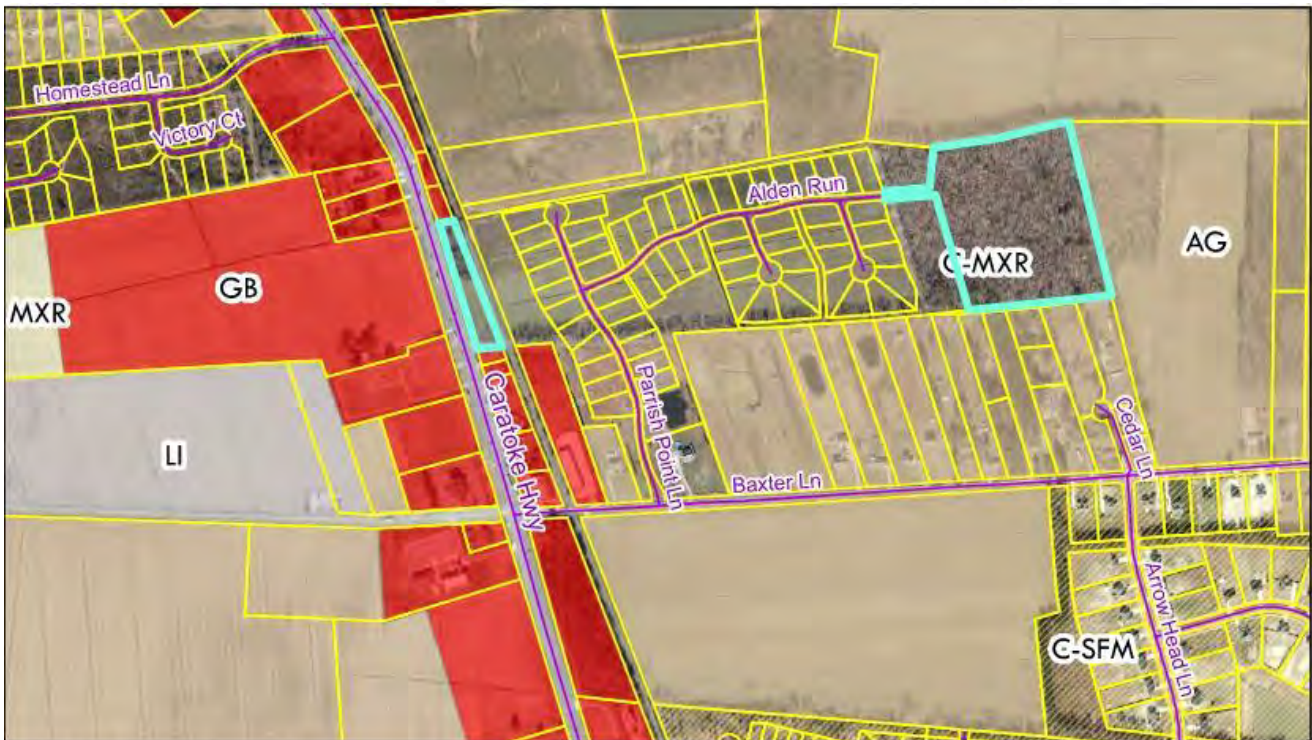
THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE
Planning Board: www.co.currituck.nc.us/planning-board-minutes-current.cfm



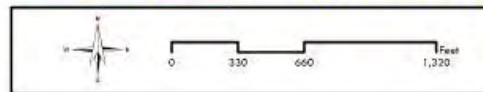
PB 21-15 Windswept Pines
Conditional Zoning
Aerial



 Currituck County
Planning and Community
Development



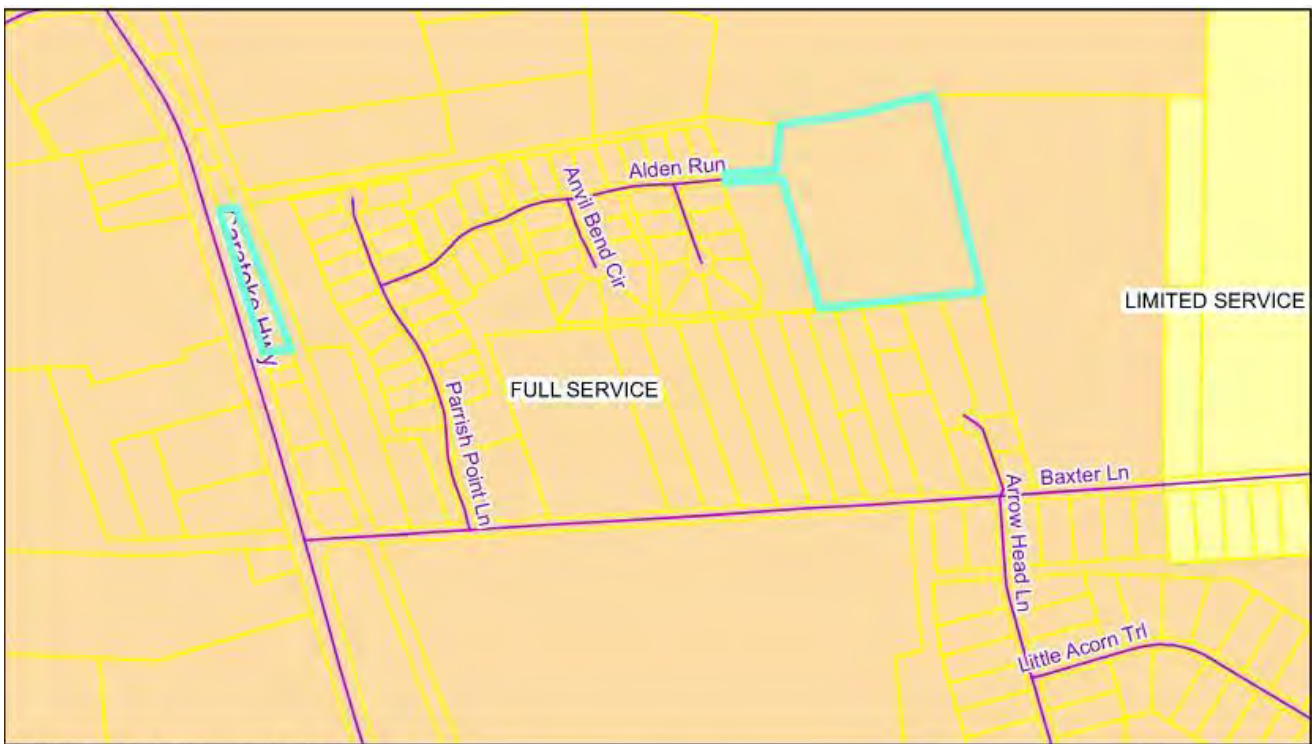
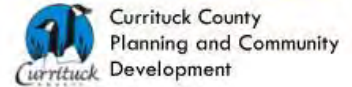
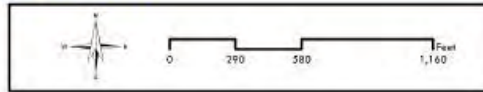
PB 21-15 Windswept Pines
Conditional Zoning
Zoning



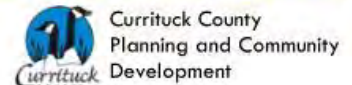
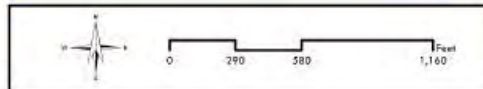
 Currituck County
Planning and Community
Development



PB 21-15 Windswept Pines
Conditional Zoning
2006 Land Use Plan



PB 21-15 Windswept Pines
Conditional Zoning
Moyock Small Area Plan





Conditional Rezoning Application

OFFICIAL USE ONLY:

Case Number: _____
 Date Filed: _____
 Gate Keeper: _____
 Amount Paid: _____

Contact Information
APPLICANT:

Name: Allied Properties, LLC
 Address: 417-D Caratoke Hwy.
Moyock, NC 27958
 Telephone: 252-
 E-Mail Address: jold

PROPERTY OWNER:

Name: Same
 Address: _____
 Telephone: _____
 E-Mail Address: _____
Same

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: _____

Property Information

Physical Street Address: Alden Run
 Location: Windswept Pines Phase 3
 Parcel Identification Number(s): 0009-000-006A-0000
 Total Parcel(s) Acreage: 15.55 ac
 Existing Land Use of Property: Vacant phase of MXR Development

Request

Current Zoning of Property: _____ Proposed Zoning District: _____

Community Meeting

Date Meeting Held: _____ Meeting Location: _____

Conditional Rezoning Request

To Chairman, Currituck County Board of Commissioners:

The undersigned respectfully requests that, pursuant to the Unified Development Ordinance, a conditional zoning district be approved for the following use(s) and subject to the following condition(s):

Proposed Use(s): Residential Subdivision

Proposed Zoning Condition(s):

1. - Proposed Use: Subdivision.
2. - All lots to be greater than or equal to 20,000 sq. ft.
3. - Model stormwater to 100 year storm event and manage stormwater from 100 year storm.
4. - Work with soil and stormwater department to explore improving drainage outlet to the east.
5. - All residential development will be single family and will conform to sample building elevations provided.

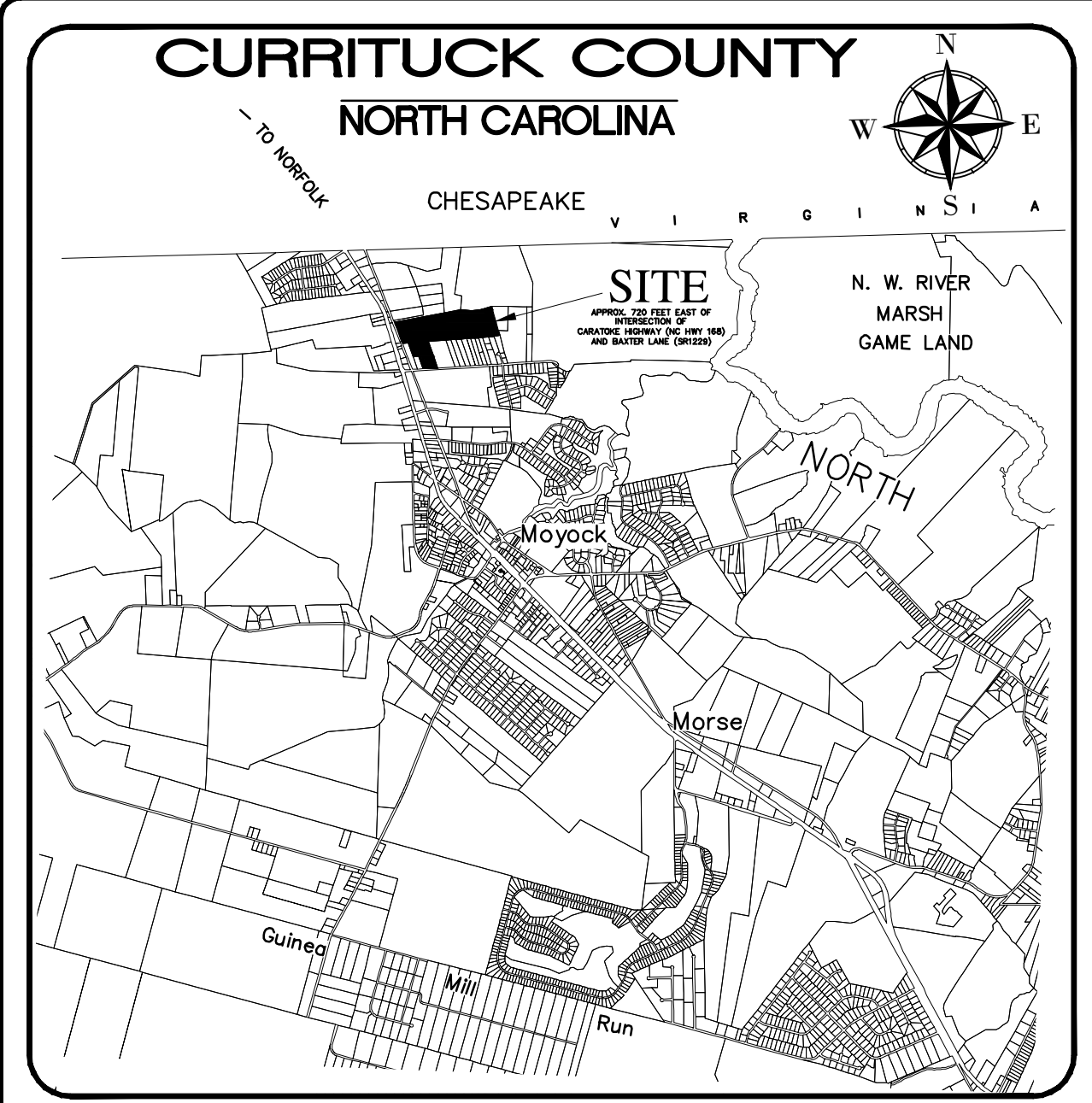
An application has been duly filed requesting that the property involved with this application be rezoned from:
to:

It is understood and acknowledged that if the property is rezoned as requested, the property involved in this request will be perpetually bound to the conceptual development plan, use(s) authorized, and subject to such condition(s) as imposed, unless subsequently changed or amended as provided for in the Currituck County Unified Development Ordinance. It is further understood and acknowledged that final plans for any development be made pursuant to any such conditional zoning district so authorized and shall be submitted to the Technical Review Committee.

Property Owner(s)

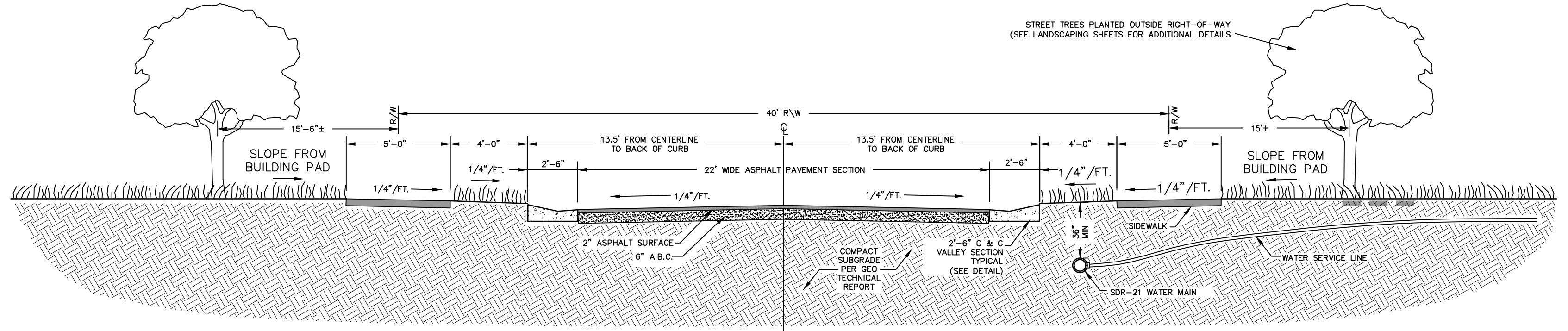
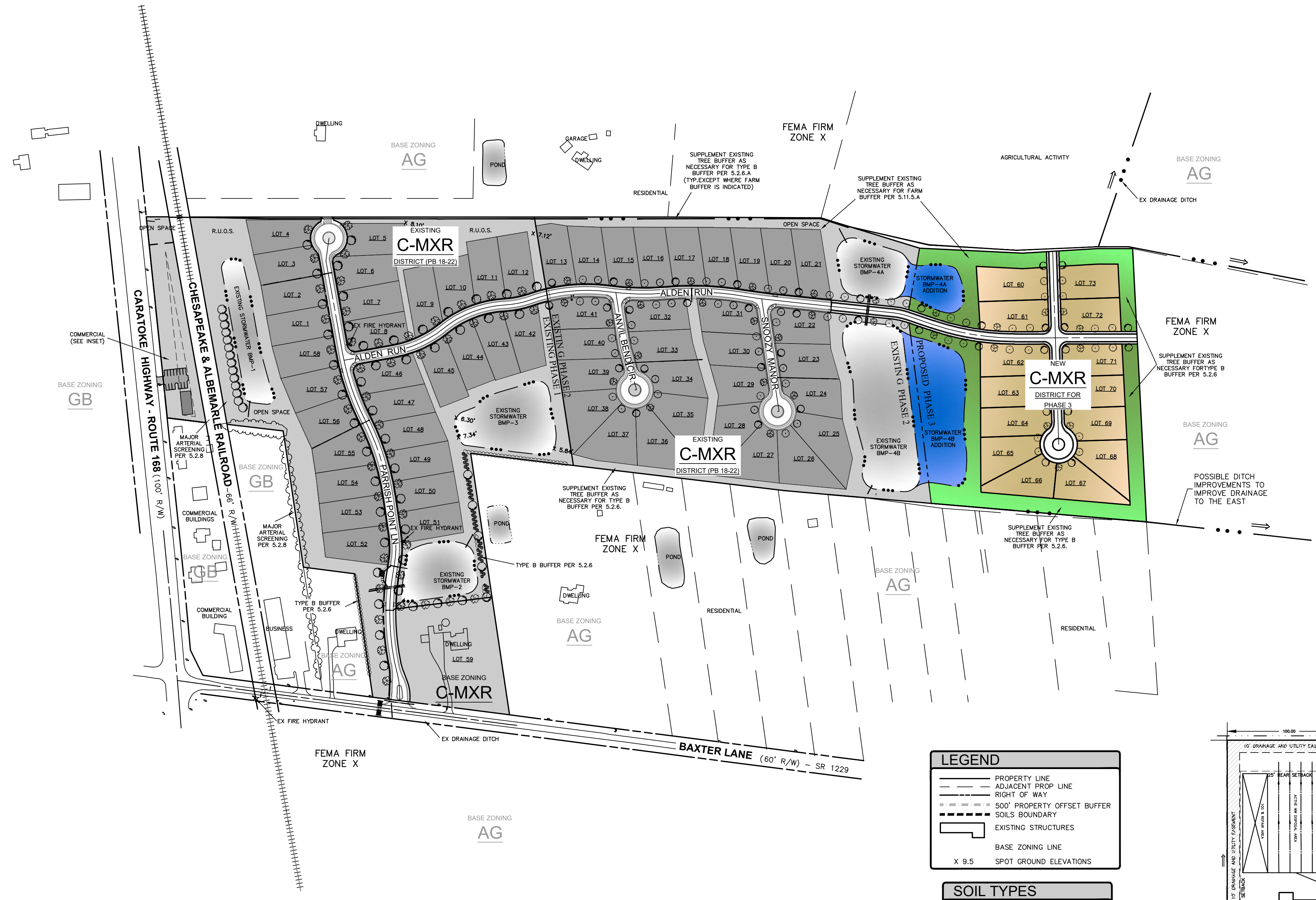
5/12/2021
Date

NOTE: Form must be signed by the owner(s) of record. If there are multiple property owners a signature is required for each owner of record.

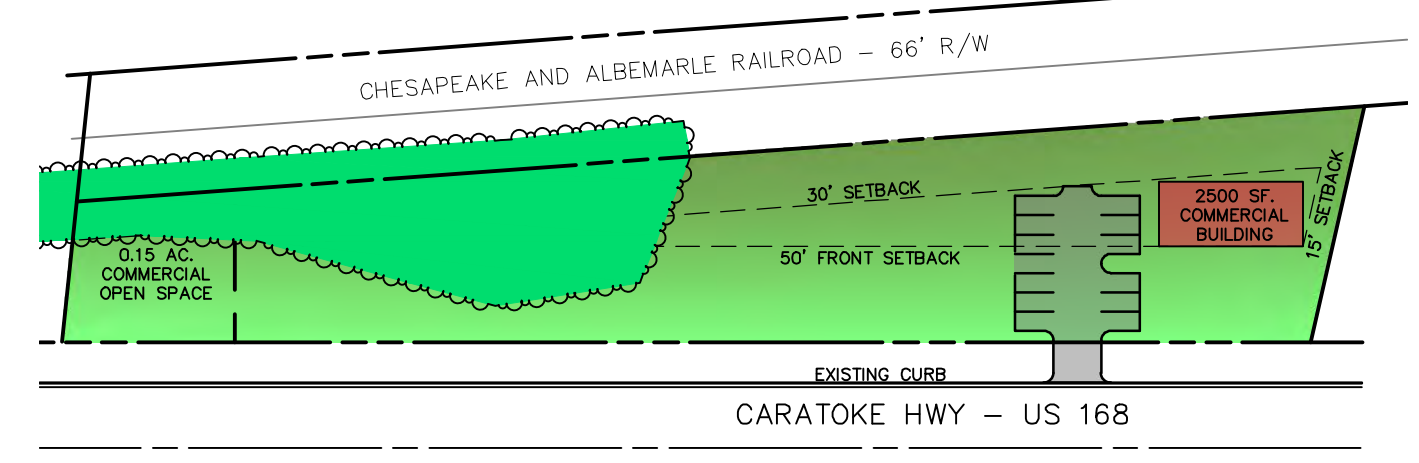
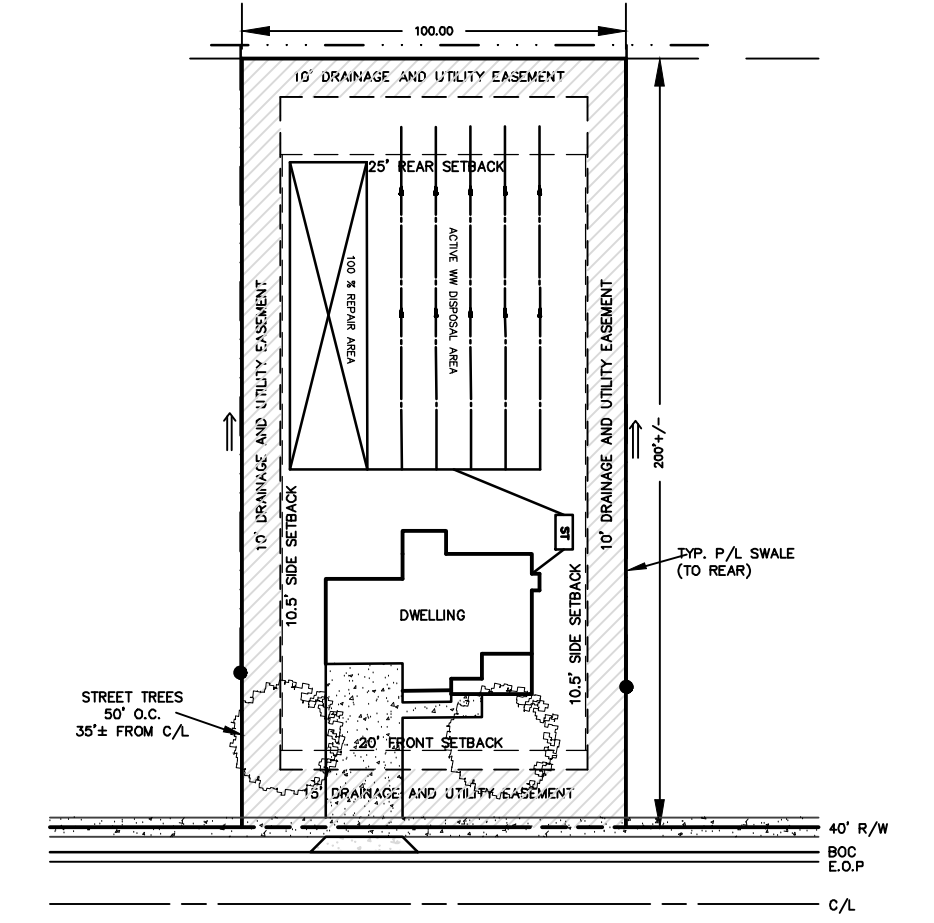
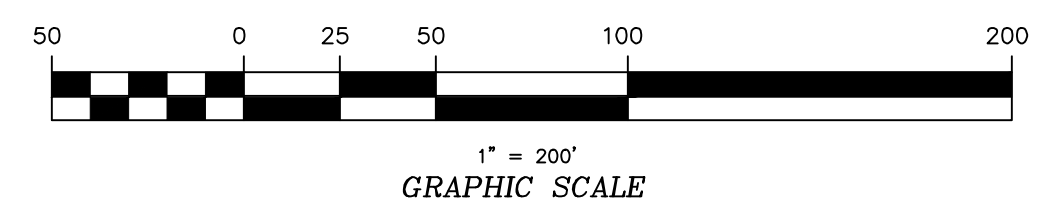


VICINITY MAP
SCALE: 1" = 5000'

PROPERTY OWNERS:	NAME	ADDRESS	PHONE NUMBER	EMAIL
ALLIED PROPERTIES, LLC	417 CARATOKE HWY UNIT D, MOYOCK, NC 27958	252-435-2718	jald@bqhcc.com	
SITE ADDRESS:	ALDEN RUN, MOYOCK, NC			
PARCEL ID:	0009-000-006A-0000			
EXISTING PROPERTY ZONING:	C-MXR			
INTENDED USE:	ADDITION OF 14 SINGLE FAMILY LOTS			
STREET CONNECTIVITY INDEX:	10/7 = 1.43			
AREA CALCULATIONS:				
1. TOTAL PROPERTY AREA:	66.87 AC.			
McCRARY LOT AREA:	2.50 AC.			
COMMERCIAL AREA:	1.48 AC.			
SUBDIVISION DEVELOPMENT AREA:	62.89 AC.			
2. DEVELOPMENT SUMMARY - PHASE 1				
LOT AREA:	13.41 AC.			
McCRARY LOT AREA:	2.50 AC.			
OPEN SPACE AREA:	10.47 AC.			
R/W AREA:	2.28 AC.			
TOTAL PHASE #1 AREA:	23.66 AC.			
# OF LOTS:	30 (INCLUDES McCRARY LOT)			
AVERAGE LOT AREA:	23,101 SQ. FT.			
3. DEVELOPMENT SUMMARY - PHASE 2				
PROPOSED LOT AREA:	14.30 AC.			
PROPOSED OPEN SPACE AREA:	6.59 AC.			
PROPOSED R/W AREA:	1.87 AC.			
TOTAL PHASE #2 AREA:	22.76 AC.			
# OF PROPOSED LOTS:	29			
AVERAGE LOT AREA:	21,322 SQ. FT.			
4. DEVELOPMENT SUMMARY - PHASE 3				
PROPOSED LOT AREA:	6.86 AC.±			
PROPOSED OPEN SPACE AREA:	7.51 AC.±			
PROPOSED R/W AREA:	1.44 AC.±			
TOTAL PHASE 3 AREA:	15.81 AC.±			
# OF PROPOSED LOTS:	14			
AVERAGE LOT AREA:	21,000 SQ. FT.±			
RIGHT-OF-WAY WIDTH:	40 FT.			
PAVED ROADWAY WIDTH:	27 FT. (W/ C&G)			
LINEAR FEET OF SUBDIVISION ROADWAY:	5,471 LF.±			
5. OPEN SPACE SUMMARY:				
REQUIRED:				
TOTAL SUBDIVISION AREA:	65.39 AC. ± 30% = 19.62 AC.			
TOTAL COMMERCIAL AREA:	1.48 AC. ± 10% = 0.15 AC.			
PROVIDED:				
TOTAL SUBDIVISION OPEN SPACE AREA:	24.57 AC.			
TOTAL COMMERCIAL OPEN SPACE AREA:	0.15 AC.			

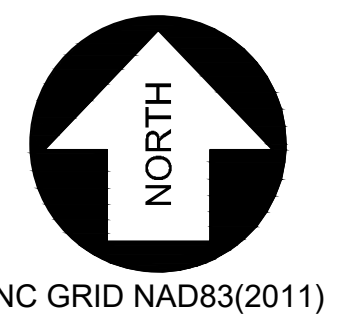


TYPICAL SUBDIVISION ROADWAY SECTION W/ UTILITIES
NOT TO SCALE SECTION VIEW



TYPICAL DIMENSIONAL STANDARDS
COMMERCIAL TRACT SIZE = 1.48 Acres
SCALE 1"=100'

NOTE:
LAYOUT IS CONCEPTUAL
ONLY AND SUBJECT TO
CHANGE IN FINAL
DEVELOPMENT SITE PLAN.



NC GRID NAD83(2011)

BISSELL
PROFESSIONAL GROUP
Engineers, Planners, Surveyors
and Environmental Specialists

Bissell Professional Group
Firm License # C-956
P.O. Box 1008
Moyock, North Carolina 27958
City Phone: 252-435-2718
City Fax: 252-435-2718

C-MXR DISTRICT PLAN
FOR PHASE 3

THIS DOCUMENT IS THE SOLE PROPERTY OF BISSELL PROFESSIONAL GROUP. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. NO PART OF THIS DOCUMENT OR THE INFORMATION CONTAINED HEREIN IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BISSELL PROFESSIONAL GROUP.

WINDSWEEP PINES
CURRITUCK COUNTY
MOYOCK TOWNSHIP

CONCEPTUAL DEVELOPMENT PLAN

NO.	DATE	DESCRIPTION	BY
1	6/29/18	AMENDED PHASE 3 TO ADD FLOODING	DMK
2	10/26/18	OPEN SPACE CALC.	DMK
3	11/26/18	BASE ZONING CALC.	DMK
4	7/23/19	BASE ZONING CALC.	DMK
5	5/27/21	2021 APPLICATION	DMK
6	6/22/21	TIC COMMENTS	DMK

DATE: 6/29/18 SCALE: 1"=200'

DESIGNED: BPG CHECKED: MSB

DRAWN: KFW/DMK APPROVED: BPG

SHEET: 1 OF 1

CAD FILE: 455800DSP2

PROJECT NO: 4558

Attachment: 3-Windswept Pines P3 Conceptual Plan (PB 21-15 Windswept Pines, Phase 3)





Attachment: 4-Windswept Pines P3 Typical Homes (PB 21-15 Windswept Pines, Phase 3)



Attachment: 4-Windswept Pines P3 Typical Homes (PB 21-15 Windswept Pines, Phase 3)



Attachment: 4-Windswept Pines P3 Typical Homes (PB 21-15 Windswept Pines, Phase 3)





Attachment: 4-Windswept Pines P3 Typical Homes (PB 21-15 Windswept Pines, Phase 3)



4558 Windswept Pines - Phase 3 Conditional Zoning Amendment and Amended Preliminary Plat

Community Meeting Minutes

Tuesday, May 25, 2021

Scheduled Time/Place: 6:00 pm, Eagle Creek Outdoor Pavilion, Moyock, NC

Meeting Began at 6:05 pm

**Attendees: Justin Old, Representing the Developer
Jason Litteral and Dylan Lloyd, Representing Currituck County
Mark Bissell, Representing the Engineering Firm
Nearby Community Residents (please refer to the
attached sign-in sheet)**

Summary:

An outline of the meeting presentation is attached. The residents were provided an overview of the review and approval process for this type of project, and were provided a description of the main elements of the development plan. A map showing the context of the site as well as the preliminary development plan were presented. It was explained that the community **meeting is intended to cover both the conditional zoning and preliminary plat applications.**

An overview of stormwater management was also presented, along with the developer's proposed zoning conditions to model and manage the 100-year storm event, and to work with the county in an effort to improve an off-site drainage way to the east.

The following comments and concerns were expressed by the Community members, and responses that were given are shown next to each comment below. The majority of the comments had to do with operation and maintenance of common areas and elements, and the schedule for HOA turnover.

Comments from the Community	How Addressed
Did the stormwater ordinance change?	The proposed changes were tabled for more study regarding upstream and downstream conditions.
When are the common areas being turned over to the association?	We are waiting for NCDOT to accept the roads. They have been very slow but have started to accept them again. An inspection took place recently and NCDOT is developing a punch list.
The home owners would like to do plantings in the cul-de-sac islands but have been told this cannot be done until turnover.	The developer will look into it.
Pond maintenance is needed on the Phase 2/3 pond.	The same routine maintenance is not being done there because they will be drained and reshaped as part of the Phase 3 development, but the developer will look into getting them treated.
There was discussion regarding the Baxter Station property on the other side of Baxter Lane. What is the schedule for that project, will there be stormwater retention ponds, and what about	The Baxter Station plan is expected to move forward in the next few months. There will be large stormwater basins along Baxter Lane if this plan is approved, and the developer will be work

other drainage improvements?	obtain permission to replace the culvert at the end of Baxter Lane that is currently a constriction with a larger pipe that is properly sized and graded.
What is the plan for the new stormdrain to the east?	(Most of the answer was provided by Dylan Lloyd) Easements are being obtained to improve the boundary ditch along Windswept Pines as well as a ditch that will run due east across a farm field and ultimately discharge to the creek. There is between 3 and 4 feet of fall available to accomplish that, which should provide a better stormwater outlet.
When will this all take place?	It is expected to be at least a year before all permits are in place for construction to begin.
Windswept Pines is not flooding anymore.	Cool.
We are gradually getting the maintenance improved.	The developer is working on getting it standardized.
Who maintains the ponds, weirs, ditches etc.?	The stormwater manager makes monthly visits.
What is the cost of a fountain and can one be added?	The cost between \$10,000 and \$15,000 including electrical work. We will look into providing one in Phase 3.
Is there routine maintenance scheduled for all ponds?	There's monthly treatment for algae in all except the back pond but an algae treatment will be performed there as an interim measure. After Phase 3 is developed that pond will get on the monthly maintenance schedule as well.
Material that was cleaned from the ditches was dumped in Phase 3 and smelled terrible.	It was primarily sand and silt, but there was some mud in there that did have an odor. This was put on the undeveloped Phase 3 property which is their custom.
Rather than fountains, aerators could be provided.	The developer will look into it.
What can be done to require dominion power to put in the power boxes correctly? They are tilted, encroaching into the sidewalks and not at proper grade.	There does not seem to be any accountability and it has been a frustrating experience for all.
Is any other internet provider going to be able to provide service?	Nothing is presently in the works.
What about Mediacom?	So far as we know they are only providing service in Lakeview right now, but keep providing marketing materials in the TRC responses.
How many lots can be served by a single road?	There are some subdivisions that have several hundred, but the UDO now has a schedule of how many connections are required for various numbers of lots. Future stub roads are counted as connectivity roads.
Will there be more development to the east?	There are no plans at this time to move to the east as there are numerous heirs who do not have the same objectives. If that land is developed it is possible that another connection could be made back to Baxter Lane. A road will be stubbed in that direction.

The main part of the meeting ended at approximately 7:10 PM; with a few of the community members staying to look at the maps and further discuss the details of the development after the regular meeting had adjourned, until about 7:40 PM.

Windswept Pines - Phase 3 Community Meeting

Outline of Presentation

May 25, 2021

6:00 PM

A. Housekeeping –

- Please sign-in
- A record of the Community meeting will be provided to Currituck County.
(concerns raised/ attempts to address concerns)

B. What is the Request?

- Amendments to Conditional Zoning and Preliminary Plat
- Next steps in the approval process –before construction plans

C. The Process:

- Pre-application meeting with County
- Community meeting (now)
- TRC review
- PB review
- BOC hearing/action

Then:

- Preliminary Plat Application, TRC & BOC Hearing
- Construction drawings
- State & local permitting & approvals
- Construction
- Final plat application

D. The Plan:

- The street and lot layout is unchanged (Still proposing 20,000 sq ft minimum lots – and most are larger)
- Increasing open space to provide more stormwater ponds
- 100-year storm event modeling & management
- Working with County on SW outlet to the west
- (future Baxter improvements)

E. Questions & Comments

Windswept Pines - Phase 3

Amended Conditional Rezoning

May 25, 2021

NAME	ADDRESS	TELEPHONE	E-MAIL
Mark Bissell	PO 1068 Kitty Hawk	(252) 261-3266	markb@bissellprofessionalgroup.com
Larry Towell	103 Anvil Bend Circle	(757) 615 1591	larry-towell@yahoo.com
Aaron Weaver	102 Anvil Bend Cir	757 374 9168	watkins1022@gmail.com
LARRY RUDS	108 SMOOZY MANOR LN	757 535 0464	homefront985@gmail.com
JASON ROONEY	103 SMOOZY MANOR LN	757-298-6290	jason.l.rooney@gmail.com
Greg Stallard	105 SMOOZY MANOR LN	360 979-6911	kylid2727@yahoo.com
Dylan Lloyd	Local Govt.	252 - 232-3360	dylan.lloyd@currituckcountync.gov
P. Tucker	121 Alden Run	757-	paratucker@verizon.net
JASON LITTELL	156 Courthouse Rd.	252-232-6052	jason.litell@currituckcountync.gov
Sheila York	104 SMOOZY MANOR LN	530-576-7567	sheilayork@hotmail.com
Ken Pollesel	" "	530-519-4546	kenpollesel@gmail.com
Chris Sager	116 PINEISH POINT LANE	(919) 774-3532	CHRIS.SAGER@NOAA.GOV



Currituck County

Department of Planning and Community Development
 153 Courthouse Road, Suite 110
 Currituck, North Carolina 27929
 252-232-3055
 FAX 252-232-3026

MEMORANDUM

To: Allied Properties, LLC
 Bissell Professional Group

From: Planning Staff

Date: June 10, 2021

Re: Windswept Pines, Phase 3 Conditional Rezoning TRC Comments

The following comments have been received for the June 9, 2021 TRC meeting. In order to be scheduled for the August 10, 2021 Planning Board meeting, please address and satisfy the comments and resubmit a corrected plan by 3:00 p.m. on June 24, 2021. TRC comments are valid for six months from the date of the TRC meeting.

Planning (Donna Voliva 252-232-6032)

Reviewed

1. A minor modification must be filed for the existing conditional district (C-MXR PB 18-22) to address the changes to the conceptual development plan (commercial building setback (30' to 15', pond expansion). Clarify if additional changes are needed to the conceptual development plan.
2. The application for Phase 3 shall include a conceptual development plan for the requested new district, phase 3, including phasing. The existing district can be shown on the Phase 3 plan, but would be identified as C-MXR (PB 18-22).
3. Can you describe the stormwater management infrastructure differences between the proposed 100 year storm event and the minimum stormwater detention requirements for a major subdivision?
4. The county GIS maps indicate the proposed development may contain wetlands (source: NC Division of Coastal Management). Can you provide a copy of the wetland delineation for this area?
5. This area is identified in the 2006 LUP as Rural and under this classification the UDO does not provide development densities in the MXR district. The Moyock Small Area plan identifies this area as full service. Previous approvals placed emphasis on the Moyock Small Area plan. During a BOC decision regarding a planned development application, the applicant's attorney indicated the CAMA adopted plan takes precedence over the Moyock Small Area Plan. The BOC adopted the map amendment with emphasis on the CAMA adopted plan. Additional time shall be given for advertisement necessary to amend the LUP. The board must include, as part of the motion, an amendment to the LUP.
6. In order to address on street parking violations, staff recommends including a zoning condition that requires no parking signage along the streets in this subdivision. County ordinance does not allow on-street parking for this type of development.
7. Conditional zonings are not exempt from a spot zoning challenge. Given the size of this request, the board must be assured that all factors defining reasonable spot zoning are considered in their hearing and decision.

8. Conditional zonings are legislative decisions of the board and not controlled by any one factor. In determining whether to adopt or deny a proposed request, the board may consider the standards in UDO, Section 2.4.3.C. One of the factors is whether the proposed development is adequately serviced by public facilities. The Moyock Elementary School is currently over capacity*. This is a conditional zoning application and conditions can be placed on the project (that are agreed upon by the applicant and the county) to address timing of development and the completion of the proposed expansion of the Moyock Elementary School. Timing conditions could include phasing or submittal of the preliminary plat/use permit application.
- *According to a January 15, 2021 email, the County Manager “expects to give the notice to proceed with the school expansion project by June 1st. The expansion should increase the capacity of Moyock Elementary School to 750 students. The project should be completed by the start of the 2023-2024 school session. Because of the expansion project this summer, we will have a solution to our adequate public facility issue regarding Moyock Elementary within two years (from June 1st – staff addition).”***

NC Division of Coastal Management (Charlan Owens, 252-643-3901)

No Comment

Currituck County GIS (Harry Lee, 252-232-2034)

Reviewed

Currituck County Parks and Recreation (Jason Weeks, 252-232-3007)

Reviewed

Currituck County Building and Fire Inspections (Bill Newns, 252-232-6023)

Reviewed

1. Fire hydrants must be within 500' of all road frontages.
2. Cul de sacs must be 96' in width curb to curb at the center of the cul de sac.
3. Provide “no street parking” signage at street entrances, cul de sacs, provide “no parking signage at fire hydrants”.
4. Mark fire hydrants locations in the center of road/street with blue reflectors, install no parking signage at hydrant locations.
5. Dwellings greater than 4800 sq. ft. and/or greater than 2 stories will be calculated using the ISO commercial method.
6. Dwellings 4800 sq. ft. and no greater than 2 stories may use setbacks as indicated in the ISO method to determine Needed Fire Flow.
7. Cluster mailbox units must be accessible (accessible route, reach ranges)
8. Accessible routes must be provided to all amenities such as pools, boardwalks, piers, docks, and other amenities within the development. Plans must be designed to the 2018 NC Building Code design loads and structures must meet ADA requirements.
9. Curb cuts at vehicular traffic areas and pedestrian crossings must be ADA compliant and have detectable warning devices installed.
10. Soil engineering reports for footings will be required for lots that have fill placed on them where the footings do not rest at a minimum of 12" below grade on undisturbed natural soil. Site preparation, the area within the foundation walls shall have all vegetation, topsoil and foreign material removed.
11. Compaction testing will be required for slabs and thickened footing areas that exceed 24" of fill. Fill material shall be free of vegetation and foreign material. The fill shall be compacted to ensure uniform support of the slab, and except where approved, the fill depths shall not exceed 24 inches for clean sand or gravel and 8 inches (203 mm) for earth.

Currituck Soil and Stormwater (Dylan Lloyd 252-232-3360)

Approved

1. Soil and Water is in talks with developer and engineer to provide alternate outlet for runoff by regrading ditch line at property boundary between Windswept Pines and Baxter Lane parcels. Ditch shall follow historic alignment eastward from the NE corner of 151 Baxter Ln to 249 Baxter Ln, then north until it intersects and follows existing drainage ways to Shingle Landing Creek.
2. Developer has agreed to regrade and improve ditch line as residents on Baxter lane have agreed to access for repairs. Easements of 25' on both sides of ditch shall be provided for maintenance.

Currituck County Public Utilities, Water (Dave Spence and Will Rumsey 252-232-2769)

No comment

Currituck County Engineer (Eric Weatherly, 252-232-6035)

No comment received

Albemarle Regional Health Services (Joe Hobbs, 252-232-6603)

Reviewed

1. Owner/developer needs to consult with Kevin Carver, RS (252-232-6603) for these lots that make up this proposed subdivision.

The following items are necessary for resubmittal:

- 2 - full size copies of revised plans.
- 1- 8.5"x11" copy of all revised plans.
- 1- PDF digital copy of all revised documents and plans.

U.S. ARMY CORPS OF ENGINEERS WILMINGTON DISTRICT

Action Id. SAW-2017-01621 County: Currituck U.S.G.S. Quad: Moyock SE

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Property Owner/Applicant: Windswept Pines / Allied Properties, LLC

Address: 417 Caratoke Hwy, Unit D

Moyock, North Carolina 27958

Telephone Number: 252-435-2718

Size (acres) 13.8-acres
Nearest Waterway Northwest River
USGS HUC 03010205

Nearest Town Moyock
River Basin Pasquotank
Coordinates Latitude: 36.543968 N
Longitude: -76.181195 W

Location description: Property is an approximate 13.8-acre parcel located at the terminus of Alden Run, in the Windswept Pines Subdivision, adjacent to Shingle Landing Creek, in the Town of Moyock, Currituck County, North Carolina. Currituck County Deed Book 1391. Pages 856 & 861. The Project Area includes drainage of 200 linear feet from each existing drainage ditch.

Indicate Which of the Following Apply:

A. Preliminary Determination

PWA There are waters, including wetlands, on the above described property that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). The waters, including wetlands, have been delineated, and the delineation has been verified by the Corps to be sufficiently accurate and reliable. Therefore this preliminary jurisdiction determination may be used in the permit evaluation process, including determining compensatory mitigation. For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a preliminary JD will treat all waters and wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). However, you may request an approved JD, which is an appealable action, by contacting the Corps district for further instruction.

There are wetlands on the above described property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). However, since the waters, including wetlands, have not been properly delineated, this preliminary jurisdiction determination may not be used in the permit evaluation process. Without a verified wetland delineation, this preliminary determination is merely an effective presumption of CWA/RHA jurisdiction over all of the waters, including wetlands, at the project area, which is not sufficiently accurate and reliable to support an enforceable permit decision. We recommend that you have the waters of the U.S. on your property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

B. Approved Determination

There are Navigable Waters of the United States within the above described property subject to the permit requirements of Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403) and Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

There are waters of the U.S., including wetlands, on the above described property subject to the permit requirements of Section 404 of the Clean Water Act (CWA) (33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

We recommend you have the waters of the U.S. on your property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

SAW-2017-01621 Windswept Pines Ditches

The waters of the U.S., including wetlands, on your project area have been delineated and the delineation has been verified by the Corps. If you wish to have the delineation surveyed, the Corps can review and verify the survey upon completion. Once verified, this survey will provide an accurate depiction of all areas subject to CWA and/or RHA jurisdiction on your property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.

The waters of the U.S., including wetlands, have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on Date. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- There are no waters of the U.S., to include wetlands, present on the above described property which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

PWS ☒ The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management in Elizabeth City, NC at 252-264-3901 to determine their requirements.

Placement of dredged or fill material within waters of the US, including wetlands, without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). Placement of dredged or fill material, construction or placement of structures, or work within navigable waters of the United States without a Department of the Army permit may constitute a violation of Sections 9 and/or 10 of the Rivers and Harbors Act (33 USC § 401 and/or 403). If you have any questions regarding this determination and/or the Corps regulatory program, please contact Raleigh W. Bland, PWS at (910) 251-4564 or Raleigh.w.bland@usace.army.mil.

C. Basis For Determination: The delineated wetlands on this site meets the wetland criteria as described in the 1987 Corps Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement to the 1987 Wetland Delineation Manual. The wetlands are a part of a broad continuum of wetlands connected to Shingle Landing Creek and the Northwest River.

D. Remarks: Department of the Army authorization is required to work within any jurisdictional waters and or wetlands on the property. There is a 200 linear foot drainage setback off of each of the existing drainage ditches in this wooded parcel in this area.

E. Attention USDA Program Participants

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. above)

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers
South Atlantic Division
Attn: Jason Steele, Review Officer
60 Forsyth Street SW, Room 10M15
Atlanta, Georgia 30303-8801

Attachment: 7-Windswept Pines P3 PJD (PB 21-15 Windswept Pines, Phase 3)

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Windswept Pines	File Number: SAW 2017-01621	July 9, 2018
Attached is:		See Section below
☐ INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
☐ PROFFERED PERMIT (Standard Permit or Letter of permission)		B
☐ PERMIT DENIAL		C
☐ APPROVED JURISDICTIONAL DETERMINATION		D
☒ PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the district engineer. This form must be received by the division engineer within 60 days of the date of this notice.

Attachment: 7-Windswept Pines P3 PJD (PB 21-15 Windswept Pines, Phase 3)

SAW-2017-01621 Windswept Pines Ditches

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

**District Engineer, Wilmington Regulatory Division,
Attn: Raleigh W. Bland, PWS
2407 West 5th Street
Washington, North Carolina 27889
910-252-4558**

If you only have questions regarding the appeal process you may also contact:

**Mr. Jason Steele, Administrative Appeal Review Officer
CESAD-PDO
U.S. Army Corps of Engineers, South Atlantic Division
60 Forsyth Street, Room 10M15
Atlanta, Georgia 30303-8801
Phone: (404) 562-5137**

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

For appeals on Initial Proffered Permits send this form to:

**District Engineer, Wilmington Regulatory Division, Raleigh W. Bland, PWS, 2407 West 5th Street
Washington, North Carolina 27889**

For Permit denials, Proffered Permits and approved Jurisdictional Determinations send this form to:

**Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Jason Steele,
Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801
Phone: (404) 562-5137**

U.S. ARMY CORPS OF ENGINEERS

WILMINGTON DISTRICT

Action Id. SAW-2017-01621 County: Currituck U.S.G.S. Quad: Moyock SE

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Property Owner/Applicant: **Windswept Pines / Allied Properties, LLC**

Address: **417 Caratoke Hwy, Unit D**

Moyock, North Carolina 27958

Telephone Number: **252-435-2718**

Size (acres) 13.8-acres
 Nearest Waterway Northwest River
 USGS HUC 03010205

Nearest Town Moyock
 River Basin Pasquotank
 Coordinates Latitude: 36.543968 N
 Longitude: -76.181195 W

Location description: Property is an approximate 13.8-acre parcel located at the terminus of Alden Run, in the Windswept Pines Subdivision, adjacent to Shingle Landing Creek, in the Town of Moyock, Currituck County, North Carolina. Currituck County Deed Book 1391. Pages 856 & 861. The Project Area consists of an approximate 6.2-acre area including several drainage ditches.

Indicate Which of the Following Apply:

A. Preliminary Determination

- There are waters, including wetlands, on the above described property that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). The waters, including wetlands, have been delineated, and the delineation has been verified by the Corps to be sufficiently accurate and reliable. Therefore this preliminary jurisdiction determination may be used in the permit evaluation process, including determining compensatory mitigation. For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a preliminary JD will treat all waters and wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). However, you may request an approved JD, which is an appealable action, by contacting the Corps district for further instruction.
- There are wetlands on the above described property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). However, since the waters, including wetlands, have not been properly delineated, this preliminary jurisdiction determination may not be used in the permit evaluation process. Without a verified wetland delineation, this preliminary determination is merely an effective presumption of CWA/RHA jurisdiction over all of the waters, including wetlands, at the project area, which is not sufficiently accurate and reliable to support an enforceable permit decision. We recommend that you have the waters of the U.S. on your property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

B. Approved Determination

- There are Navigable Waters of the United States within the above described property subject to the permit requirements of Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403) and Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

There are waters of the U.S., including wetlands, on the above described property subject to the permit requirements of Section 404 of the Clean Water Act (CWA) (33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

We recommend you have the waters of the U.S. on your property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

SAW-2017-01621 Windswept Pines

****It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.****

Corps Regulatory Official: _____

P.W.B. P.W.S.Date: March 1, 2019Expiration Date: March 1, 2024

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete our Customer Satisfaction Survey, located online at http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0.

Copy Furnished: CESA/RG-W/Bland

Attachment: 7-Windswept Pines P3 PJD (PB 21-15 Windswept Pines, Phase 3)

SAW-2017-01621 Windswept Pines

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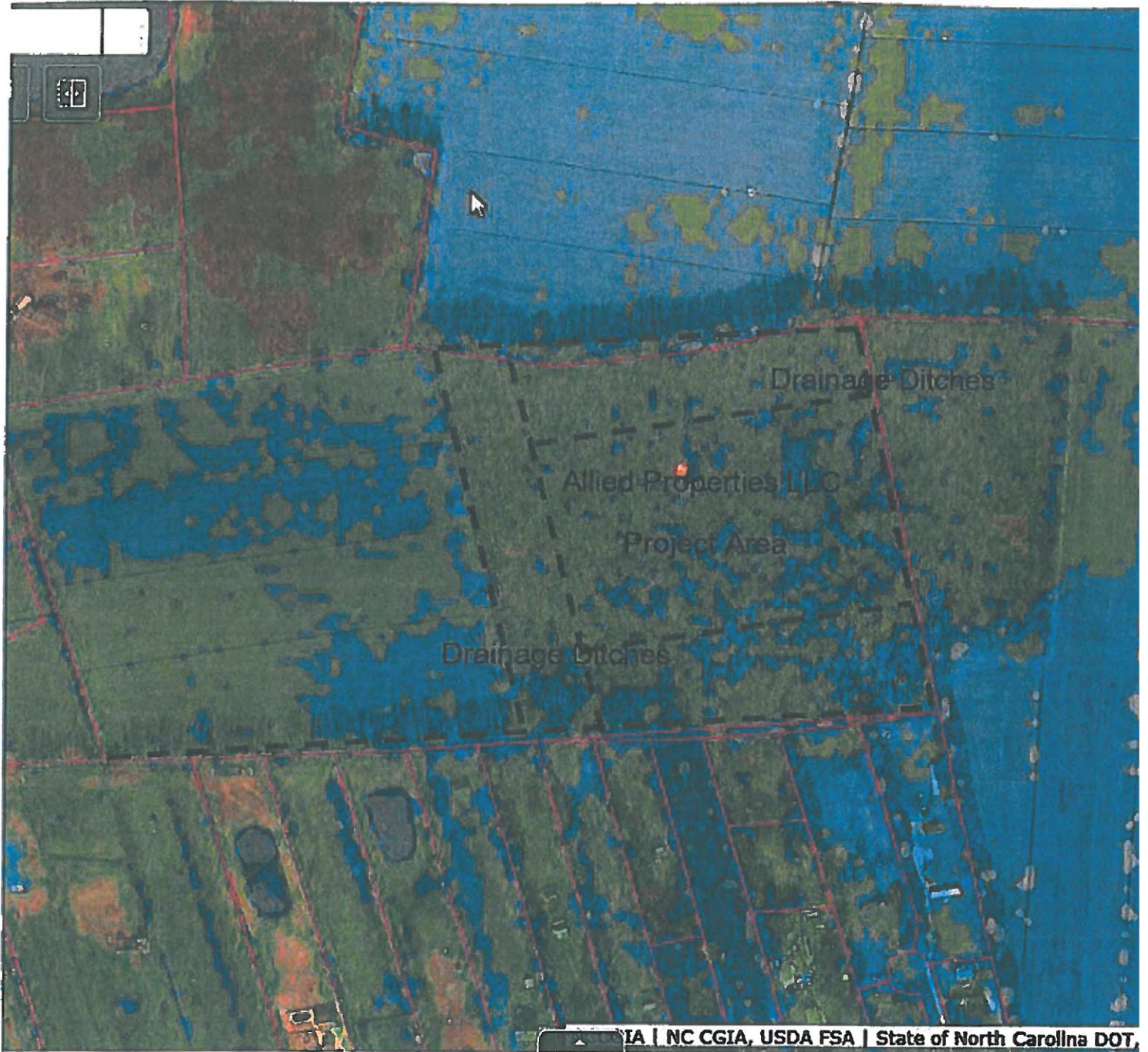
Signature of appellant or agent.	Date:	Telephone number:
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Allied Properties, LLC

Wayrock / Currituck County

Attachment: 7-Windswept Pines P3 PJD (PB 21-15 Windswept Pines, Phase 3)



Legend

- 6.2-acre Project Area
- Polygon Measure