

Planning Board Agenda Packet

**December 13, 2022** 

#### 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 September 13, 2022

#### **Old Business**

#### **New Business**

- A) **PB 22-13 Ashbrook Estates, LLC:** Request to rezone 130.73 acres from Agriculture to Mixed Residential for property located on Maple Road, Tax Map 52, Parcel 12, Crawford Township.
- B) **PB 22-14 Porpoise, LLC:** Request for conditional rezoning of 1.29 acres from Single Family Mainland to Conditional-Light Industrial for property located at 8778 Caratoke Highway, Harbinger, Poplar Branch Township.
- C) **PB 22-16 Currituck County:** Request to amend the Unified Development Ordinance, Chapter 4. Use Standards, to change campground access requirements.

#### **Announcements**

#### **Adjournment**



September 13, 2022 Minutes – Regular Meeting of the Planning Board

#### **WORK SESSION - 5:30 PM**

The Currituck County Planning board held a work session at 5:30 PM in the Conference Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina, with five board members present. Staff members present were Kevin Kemp, Development Services Director; Tammy Glave, Senior Planner; and Cheri Elliott, Clerk to the Planning Board. The board members were briefed on the new business agenda item. Board members received a Ryan Homes/County of Currituck Encounters Log which summarized all communications from November 3, 2021 to June 28, 2022 concerning the Fost Planned Development. Board members also received a copy of the Currituck County Project Approval document dated February 11, 2022 with a copy of the Building 1 (Lots T20 - T25) Site Development Plan with last revision date of February 10, 2022 showing the maximum mean roof height requirement of 35 feet. The work session ended at 5:55 PM.

#### **CALL TO ORDER - 6:00 PM**

The Currituck County Planning Board met for a regular meeting in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina at 6:00 PM.

Attendee Name	Title	Status	Arrived
Michael Corbell	Board Member	Present	
C. Shay Ballance	Chairman	Present	
Garry Owens	Vice Chairman	Present	
K. Bryan Bass	Board Member	Present	
David Doll	Board Member	Present	
Thomas Hurley	Board Member	Absent	
Juanita S. Krause	Board Member	Absent	
Kevin Kemp	Development Services Director	Present	
Tammy Glave	Senior Planner	Present	
Cheri Elliott	Clerk to the Board	Present	

Chairman Ballance called the meeting to order at 6:01 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 for any disqualifications. No conflicts of interest were 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 for the agenda. Mr. Doll motioned to approve the agenda as presented. Mr. Corbell seconded the motion and the motion carried unanimously.

RESULT: APPROVED [UNANIMOUS]
MOVER: David Doll, Board Member
SECONDER: Michael Corbell, Board Member

AYES: Michael Corbell, Board Member, C. Shay Ballance, Chairman, Garry Owens, Vice

Chairman, K. Bryan Bass, Board Member, David Doll, Board Member

**ABSENT:** Thomas Hurley, Board Member, Juanita S. Krause, Board Member

#### E. Approval of Minutes

Chairman Ballance asked if there were any changes needed for the June 14th, 2022 meeting minutes. Mr. Corbell motioned to approve as presented. Vice Chairman Owens seconded the motion and the motion carried unanimously.

RESULT: APPROVED [UNANIMOUS]

MOVER: Michael Corbell, Board Member

SECONDER: Garry Owens, Vice Chairman

AYES: Michael Corbell, Board Member, C. Shay Ballance, Chairman, Garry Owens,

Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member

**ABSENT:** Thomas Hurley, Board Member, Juanita S. Krause, Board Member

#### 1. Planning Board Minutes - June 14, 2022

#### **OLD BUSINESS**

No old business was discussed.

#### **NEW BUSINESS**

#### A. PB 22-11 Bissell Professional Group:

Tammy Glave presented the staff report and gave the background with reasons why the height text amendment has been requested. Ms. Glave said the text amendment applies countywide, but Fost is the only Planned Development-Residential (PD-R) Legacy District affected by the text amendment. Ms. Glave said three of the multi-family units in Fost were built above the maximum 35-foot building height set by the developer but building three was corrected by changing the roofline to a lower pitch. Ms. Glave said this maximum height includes a minimum ground floor elevation of two feet above finished grade and the applicant would like to exclude this requirement from the measurement. Ms. Glave said due to calls from board members asking how this happened, she pulled the conversation logs with customers to create the timeline of

events for communications with the developer. She said Mr. Kemp has his own separate spreadsheet that's available if the board would like to view it. Ms. Glave reviewed some specific dates on the communication log saying January 5th of this year the model townhome building permit was put on hold because it didn't meet the multifamily design standards; it was inconsistent with the Board of Commissioners approved plans for the architectural and design standards. Ms. Glave said the meeting held in January which included her, Ryan Homes, the County Manager, and Mr. Kemp had discussions concerning the two-foot elevation requirements and that the two-foot elevation did count towards the height measurement. Ms. Glave said through several renderings the plan was brought into compliance with the exception of that two-foot required elevation so the developer added a note to the plan for the elevation requirement and on February 10th there was a condition put on the front of that building permit noting the maximum roof height was 35 feet and a height certification would be required because it appeared to be fairly close and typically require those height certifications if it's going to be within a foot of maximum height. To expedite review staff did not require the builder to redraw the plans but allowed the note with the condition to be placed on the building permit. In mid-April a building inspector was concerned the building was too tall; a measurement was taken with the assistance of Fost's Building Site Manager. In June, Ryan Homes' staff contacted the county about a way forward since they were unable to get the Certificate of Occupancy. County staff went over several options: Amend the Terms and Conditions, Preliminary Plat/Special Use Permit, and Final Plat. The developer did not want to do this since it would take too much time and decided to request a Text Amendment. Ms. Glave reviewed the Unified Development Ordinance's requirements for measurement and showed a rendering for the proper way to measure from grade to the mean point of the highest roof surface. Ms. Glave also reviewed language from the Imagine Currituck 2040 Vision Plan showing the height text amendment would be inconsistent with this land use plan. Ms. Glave went over the review standards and gave staff's recommendation of denial with reasons for the denial.

Mark Bissell, Bissell Professional Group, 3512 North Croatan Highway, Kill Devil Hills, came before the board to present his case for the height text amendment. Mr. Bissell presented a PowerPoint presentation showing pictures of the townhomes and said a lot of attention to detail has been done to the buildings. Mr. Bissell said the terms and conditions for the first building was approved in June 2019 and the County approved the two-foot elevation requirement in June 2020. Mr. Bissell said no one was aware of the two-foot elevation requirement for Fost until early 2022 after building one and building two were near completion. He said staff believes they explained the measurements with his client, but they would have made the changes had they known at an earlier date. The problem was discovered when the first two buildings were ready for the application of the Certificate of Occupancy. Mr. Bissell said they tried to meet the 35-foot building height requirement but were unable to find a solution. Had they known about the two-foot elevation requirement, they would have set the building height at 37 or 38 feet.

Greg Knapp, Ryan Homes Division Manager, 4525 South Boulevard, Virginia Beach, came before the board. He said they met with staff several times to get the right building aesthetics and he believes it is a nice result. Mr. Knapp said discussions in meetings were about architecture and not about building height. He said the building

height issue was not discovered until April with one building finished and building two was only two weeks behind the first one. He said building three was in framing, so they had the ability to change the roof. Mr. Knapp said we have had buildings under construction since February and as of today we are without an active sale, so we are asking for the text amendment to be granted. Mr. Knapp said we have a situation that occurred by accident.

Board discussion was held on whether there were any other options to meet the height requirement.

Adam Beck, Ryan Homes' Project Foreman, 1624 Bay Ridge Drive, Virginia Beach, came before the board. Mr. Beck said he thought they were meeting the height requirements since the height on the plans were showing 33 feet, 11 inches; the oversight made was the additional two-foot elevation requirement. Mr. Beck said they would have made the adjustment had they been aware of the elevation requirement.

Mr. Bass said it sounds like the two-foot elevation was put on Fost retroactively. Ms. Glave said this statement is incorrect. The building permits were pulled after the two-foot elevation requirement went into effect, so they were required to meet this standard.

Chairman Ballance opened the public hearing. With no one present to speak, the public hearing was closed.

Chairman Ballance asked for a motion.

Mr. Doll moved to recommend **denial of <u>PB 22-11 Bissell Professional Group</u>** (Multi-Family Height in PDR) because the request is not consistent with the adopted plans because:

- Allowing Developments in the PD-R district to exceed the height standards without including going through the public hearing process like the original plan did could create a conflict with adjoining property owners.
- · If this text amendment passes, the Fost Development would not comply with the design standards set by the developer and enforced through the Terms and Conditions documents, preliminary plat/use permit, and final plat.

And the request is not reasonable and not in the public interest because:

- The proposed text amendment is not due to changed conditions, as the maximum building height of thirty-five feet was established by the developer.
- Because the Fost PD-R zoning district has height requirements solely for that district set by the developer, exceeding the maximum defined height as is currently measured in the UDO is not consistent with the intent that was established in the Terms and Conditions document, which limits the height to thirty-five feet.

Chairman Ballance asked for a second. Hearing no second on the motion the motion failed.

September 13, 2022

The board had further discussion.

Mr. Bass moved to recommend approval of <u>PB 22-11 Bissell Professional Group</u> (<u>Multi-Family Height in PDR</u>) because the request is reasonable and in the public interest because it would be an undue burden on the builder to make the necessary adjustments to the structure and it is the quickest remedy.

Chairman Ballance seconded the motion and the motion carried 3-2 with Mr. Corbell and Mr. Doll voting nay.

Ms. Glave announced the text amendment will be heard at the October 3<sup>rd</sup> Board of Commissions' meeting.

RESULT: RECOMMENDED APPROVAL [3 TO 2] Next: 10/3/2022 6:00 PM

MOVER: K. Bryan Bass, Board Member SECONDER: C. Shay Ballance, Chairman

AYES: C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass,

**Board Member** 

NAYS: Michael Corbell, Board Member, David Doll, Board Member

**ABSENT:** Thomas Hurley, Board Member, Juanita S. Krause, Board Member

#### **ANNOUNCEMENTS**

Mr. Kemp announced the Development Services Department is accepting applications for the Development Technician position in our Corolla office and a Code Enforcement Officer position for the mainland office.

#### **ADJOURNMENT**

Vice Chairman Owens motioned to adjourn the meeting. Mr. Doll seconded the motion and the meeting adjourned at 7:01 PM.



## Currituck County Agenda Item Summary Sheet

Agenda ID Number – 3606

Agenda Item Title: PB 22-13 Ashbrook Estates, LLC:

Submitted By: Tammy Glave – Planning & Community Development

**Item Type:** Legislative

Presenter of Item: Tammy Glave

**Board Action:** Action

#### **Brief Description of Agenda Item:**

Request to rezone 130.73 acres from Agriculture to Mixed Residential for property located on Maple Road, Tax Map 52, Parcel 12, Crawford Township.

#### **Planning Board Recommendation:**

Staff Recommendation: Denial

TRC Recommendation: Denial



## STAFF REPORT PB 22-13 ASHBROOK ESTATES REZONING PLANNING BOARD DECEMBER 13, 2022

APPLICATION SUMMARY					
Property Owners:	Applicant:				
Ashbrook Estates LLC	Ashbrook Estates LLC				
PO Box 85	PO Box 85				
Moyock NC 27958	Moyock NC 27958				
Case Number: PB 22-13	Application Type: Zoning Map Amendment				
Parcel Identification Number:	Existing Use: Cultivated farmland				
0052-000-0012-0000					
Imagine Currituck Classification: O-2 (Reserved Lands)	Parcel Size (Acres): 130.73 (Application)				
/					
Small Area Plan: Maple-Barco					
Current Zoning: Agricultural (AG)	<b>Zoning History:</b> A-40 (1974); A (1989); AG (2013)				
Request: Request for a conventional (not	Proposed Zoning: MXR				
conditional) rezoning					
Overlay: Airport Overlay District					

#### **REQUEST**

#### **Narrative**

The applicant is requesting a conventional rezoning of approximately 130 acres from Agricultural (AG) to Mixed Residential (MXR). The applicant is submitting the application to be allowed to develop the property with all specific uses that are allowed in the MXR zoning districts.

A list of all uses allowed in MXR zoning districts is included at the end of this report for reference.

#### Community Meeting

A community meeting was held June 29, 2022, at the COA Maple Campus. There were four people in attendance. Most questions were concerning density and drainage. Other topics included minimum one acre lot size preferences, water pressure, undersized culverts under Maple Road, traffic concerns, infrastructure capacity, and school capacity.

SURROUNDING PARCELS							
	Land Use	Zoning					
North	Low Density Single Family Dwellings, Vacant Wetlands	AG					
South	County Water Plant	AG					
East	Low Density Single Family Dwellings, NCDOT Yard	AG					
West	Vacant Wetlands	AG					

#### LAND USE PLAN

Imagine Currituck classifies this property as O-2 Reserved Lands. The O-2 classification is comprised of wetlands, environmentally sensitive areas, significant natural heritage areas, sensitive habitat areas, and prime agricultural lands that should be targeted for conservation or farmland preservation. The O-2 classification also allows for limited development of low-density single family residential. This area should not be targeted for public or private water and sewer infrastructure or other growth inducing activities. Appropriate Land Uses and Development Types: County parks, public water access, and related amenities; greenways; forestry; cultivated farmland and accessory agricultural structures; low-density single family rural residential that prioritizes preservation of open space and natural landscapes.

Since this is a conventional rezoning and a plan is not required as is with a conditional rezoning, it is not possible to determine if the following policies relevant to the zoning map amendment request are being met:

INFRASTRUCTURE AND COUNTY SERVICES	GOAL AND POLICY 1: Ensure sufficient provision of services to support associated growth and development and continue to enforce the adequate public facilities ordinance.  GOAL 8: Ensure that all public services remain at sufficient level to provide superior service to the growing population.
TRANSPORTATION	GOAL AND POLICY 1: Improve safety, traffic flow, access, and appearance of major highways and roads.
ENVIRONMENT	GOAL AND POLICY 1: Preserve and protect the county's environmentally significant and sensitive lands and surrounding areas.  GOAL AND POLICY 2: Ensure the protection and preservation of prime agricultural lands to the extent possible.  GOAL AND POLICY 3.1: Preserve riparian buffers along canals,
	wetlands, sounds, rivers, and the Atlantic Ocean.

#### **MAPLE-BARCO SMALL AREA PLAN**

The Maple-Barco Small Area Plan designates this property as Conservation, Rural, and Transitional. The purpose of the Maple-Barco Small Area Plan is to balance growth and economic expansion with the integrity and character of the existing community. This includes taking into account the growth of the airport facility, protecting county resources such as adrinking water, preserving the agrarian heritage of the area, and maintaining a high quality of life for current and future residents.

Since this is a conventional rezoning and a plan is not required as is with a conditional rezoning, it is not possible to determine if the following polies relevant to the zoning map amendment request are being met:

•	Dravida for vary law density development in along provimity to the cirport facility
LU1	Provide for very low density development in close proximity to the airport facility and in designated approach zones. Additionally, promote an appropriate mix of development types in the Maple/Barco area.
LU3	Encourage and allow neighborhood serving commercial in the 158/168 area.
LU4	Encourage and allow small, locally, owned businesses to locate in the area.
LU5	Preserve and promote agricultural related operations/businesses in the airport approach zones, along Maple Road, and 168.
LU6	Encourage buffers for uses that are developing adjacent to environmentally sensitive areas.
LU9	Evaluate development proposals using the future land use map and policies for the Maple-Barco study area to determine the desired density, character of growth, and level of services appropriate for the study area.
TR4	Integrate infrastructure into new developments that promote multimodal transportation interconnecting employment centers, businesses, and neighborhoods.
EN2	Stormwater should be treated prior to entering environmentally sensitive areas including but not limited to wetlands, canals, creeks, swamps, and the Currituck Sound.
EN3	In approving development within the study area, water quality and ground water recharge should be of the utmost importance.
CH2	Preserve open space, agricultural lands, and waterfront view sheds within the study area.
CH4	Preserve and encourage use of local architectural vernacular (homestead) that promotes and enhances compatible development.
SD1	Explore ways to encourage and incentivize the use of sustainable development techniques in commercial/industrial development.

#### **AIRPORT OVERLAY DISTRICT**

The purpose of the Airport Overlay District is to protect and preserve the Currituck County Regional Airport and surrounding land from incompatible land uses and to:

- (1) Protect and promote the general health, safety, welfare, and economy of the airport area;
- (2) Promote and encourage aviation related industries and compatible nonresidential uses to locate in close proximity to the airport;
- (3) Protect the character and stability of existing land uses in the vicinity of the airport;
- (4) Promote interconnectivity among parcels that encourages the use of multimodal transportation and creates an integrated transportation network;
- (5) Preserve natural resources that may be affected by harmful land uses or airport operations;
- (6) Promote sustainable development patterns that are consistent with the Maple-Barco Small Area Plan and Airport Layout Plan Update.

This property is in Airport Overlay District Compatibility Use Zone 3. Zone 3 allows subdivisions of land for residential purpose subject to the maximum gross density requirements of the base zoning district (Current zoning - AG = 1 unit/3 acres) and that the allowable uses be limited to those permitted in the base zoning district.

Since this is a conventional rezoning and a plan is not required as is with a conditional rezoning, it is not possible to determine if the above purposes of the Airport Overlay District are being met.

#### UDO

In North Carolina, it is illegal to impose conditions on rezonings to conventional zoning districts; therefore, this conventional zoning map amendment is a legislative decision of the Board of Commissioners and is not controlled by any one factor.

For reference, Section 2.4.3.C of the UDO advises that an amendment to the Official Zoning Map 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 a proposed map amendment, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the proposed amendment:

- 1. Is consistent with the goals, objectives, and policies of the Land Use Plan, other applicable county-adopted plans, and the purposes of this Ordinance;
- 2. Is 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 compatible with existing and proposed uses surrounding the land subject to the application, and is the appropriate zoning district and uses for the land;
- 6. Adversely impacts nearby lands;
- 7. Would result in a logical and orderly development pattern;

- 8. Would result in significant 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;
- 9. Would result in development that is adequately served by public facilities (e.g., streets, potable water, sewerage, stormwater management, solid waste collection and disposal, schools, parks, police, and fire and emergency medical facilities);
- 10. Would not result in significantly adverse impacts on the land values in the surrounding area; and,
- 11. Would not conflict with the public interest, and is in harmony with the purposes and intent of this Ordinance.

#### **RECOMMENDATION**

#### **PLANNING STAFF**

Beginning in 2007, conditional zoning has been a tool to help guide development to align with the community values and character recognized in officially adopted plans. Conditional zoning applications are generally preferred because it allows the applicant to impose conditions or restrictions to the property that are mutually agreed upon by the Board to more appropriately address the impacts expected to be generated by the development. It provides predictability in the rezoning application to ensure that the development and use will conform to the county's adopted plans including the Imagine Currituck goals and policies listed above. This request does not allow for conditions to be placed that would ensure that the result of development of these parcels will be compatible development.

A conventional rezoning application is only required to meet the minimum standards of the UDO. The purpose of the Mixed Residential (MXR) zoning district is to accommodate a wide variety of residential use types at moderate densities as well as very low intensity neighborhood-serving commercial, personal service, and institutional uses outside of community and village centers on the mainland and the outer banks. The district is intended to provide moderate-cost housing options for county residents within well-designed neighborhoods and developments that incorporate open space resources and may also include limited nonresidential uses proximate to housing. The district accommodates all forms of residential development, including detached dwellings, apartments, townhouses. manufactured homes on individual lots (only on the mainland), accessory dwelling units, and live/work developments. The district also accommodates offices, neighborhood-oriented personal service uses, and retail uses (subject to maximum tenant size limits). In addition, the district allows neighborhood-supporting institutional uses like parks, marinas, religious institutions, schools, recreational facilities, and utilities. Development in the MXR district is subject to various design standards, including community compatibility standards applied to multi-family and nonresidential uses proposed adjacent to existing single-family dwellings.

The conditional zoning process can tailor a permitted use in such a way as to accommodate the property owner's interest, community values, and neighborhood character. It can also address impacts that may be associated with the particular property and intended land use. Since the adoption of the 2013 UDO, conventional rezoning approvals included properties that are downzoned to a less intense zoning district, properties that contain bifurcated districts, and one property adjoining the same district on all sides.

In order to subdivide any lot below three acres, the BOC must first approve an amendment to Imagine Currituck's O-2 classification to a classification suitable to whatever plan density the applicant has in mind. This conventional rezoning request results in a substantial density increase for the property. Assumptions below approximate maximum lot count comparison calculations:

- Approval by the BOC of amendment to Imagine Currituck LUP FLUM classification from O-2 to a classification suitable for the proposed development.
- 130.73 acres
- 10% acreage reduction to account for infrastructure (13.07 ac)
- Roughly 18 acres of wetlands based on soils map at the rear of the property
- Suitable soils for septic systems
- NOTE: These numbers are merely rough estimates as true lot counts can only be rendered by a design professional with all known factors provided in a master plan.

	AG (Existing)							
Tradition	nal Development Conservat	tion Subdivision						
Single Family	<ul> <li>43 lots</li> <li>Minimum lot size 30,000 sf</li> <li>50% open space (58.5 ac)</li> <li>Max Density: .33 u/ac</li> </ul>	<ul> <li>52 lots</li> <li>Minimum lot size 30,000 sf</li> <li>60% open space (83.319 ac)</li> <li>Max Density: .4 u/ac</li> </ul>						
Multi-Family	• 0 Lots	• Wax Delisity+ u/ac						
Nonresidential	0 Lots							
amendment requ These numbers a *The applicant h multip	MXR (Requested)  *Without knowing the requested Imagine Currituck LUP classification amendment requested, it is not possible to give an accurate estimate. These numbers are using the G-2 Controlled Growth classification that adjoins this property.  *The applicant has indicated a mixed-use development comprised of multiple components of the classifications below.							
Single Family	<ul> <li>Single Family</li> <li>130 Traditional Subdivision lots</li> <li>15,000 sf minimum lot size</li> <li>30% open space (39.22 acres)</li> <li>Max Density: 1 du/ac</li> </ul>							
Multi-Family	<ul> <li>Max Density: 1 du/ac</li> <li>175 units</li> <li>Minimum lot size: N/A</li> <li>30% open space (39.22 ac)</li> <li>Max Density: 1.5 u/ac</li> </ul>							

Nonresidential	<ul> <li>229 Lots</li> <li>20,000 sf minimum lot size</li> <li>10% open space (13.07 acres)</li> </ul>
	Max Floor Area Ratio: .4     (up to 8,000 sf commercial on each lot)

There are also school capacity concerns since the September 2022 report shows that Committed Capacity for Moyock/Shawboro/Central Elementary schools is at 135% and the high schools are at 106% committed capacity.

To provide assurances that address the Imagine Currituck Plan, Maple-Barco Small Area Plan, and the purpose of Airport Overlay District, staff recommends the applicant submit a conditional zoning application with a development plan that is conceptual in nature. The conceptual plan could provide desired flexibility for the applicant with assurances that the application maintains the community values and consistency with the officially adopted plans, policies, and standards.

Also, the Board may determine that the location, size of the property, and general district allowable uses are consistent with plans and compatibility can adequately be addressed through the site plan and subdivision review process and requirements of the UDO.

#### **CONSISTENCY AND REASONABLENESS STATEMENT**

A zoning map amendment is a legislative decision of the Board of Commissioners. In determining whether to approve or deny a zoning map amendment the Board of Commissioners shall adopt a written statement of consistency and reasonableness.

It is staff's opinion that in the absence of a development plan, it is not possible to determine consistency and reasonableness of the proposed development with adjoining properties, the neighborhood, Imagine Currituck, the Maple-Barco Small Area Plan, the UDO, including the Airport-Overlay District in place to protect the airport and its associated uses.

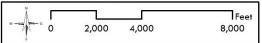
	USE COMPARISON
	U=Use Permit CZ=Conditional Zoning
Uses Allowed in AG	Uses Allowed in MXR
Agriculture/Horticulture	Agriculture/Horticulture
Animal husbandry	Agricultural processing (U)
Agri-education	Siviculture
Agri-entertainment	Dwelling, duplex
Agricultural processing	Dwelling, live/work
Agribusiness	Dwelling, mansion apartment (CZ)
Equestrian facility	Dwelling, manufactured
Farmers market	Dwelling, multi-family (CZ)
Nursery, production	Dwelling, single-family detached
Roadside market	Dwelling, townhouse (CZ)
Agricultural research facility	Dwelling, upper story
Distribution hub for agricultural	Dormitory
and agronomic products	Family care home
Farm machinery sales, rental, and	Rooming or boarding house
service	Community center
Agricultural retail facility	Cultural facility
Stockyard/Slaughterhouse (U)	Library
Silviculture	Museum
Dwelling, manufactured	Senior Center
Dwelling, single-family detached	Youth club facility
School, elementary	Adult day care center
School, middle	Childcare center
Government office	School, elementary
Religious institution	School, middle
Arboretum or botanical garden	School, high
Community garden	Government office
Park, public or private	Assisted living facility
Law enforcement, fire, or EMS	Club or lodge (U)
facility	Halfway house (U) Nursing home
Security training facility (U) Airport (U)	
Solor energy facility (U)	Psychiatric treatment facility (U) Religious institution
Telecommunications antenna	Arboretum or botanical garden
collection on tower or building	Cemetery, columbaria, mausoleum
Telecommunications tower,	Community garden
freestanding (U)	Park, public or private
Utility, major (U)	Law enforcement, fire, or EMS facility
Utility, minor	Telecommunications antenna collocation on tower
Kennel (U)	or building
` '	
` '	
<b>5 5</b> ,	
Veterinary clinic (U) Outdoor shooting range (U) Outdoor tour operator, Aviation	Utility, major (U) Utility, minor Restaurant, with indoor or outdoor seating

LIGE COMPARIOON
USE COMPARISON
U=Use Permit CZ=Conditional Zoning
Specialty eating establishment Business and sales Professional services Fitness center Recreation, indoor Theater Athletic facility Golf course (U) Golf driving range Marinas (U) Recreation, outdoor (U) Convenience store Drug store or pharmacy Entertainment establishment Financial institution Grocery store Laundromat Personal services establishment Retail Sales establishments Shopping center Bed and breakfast inn Hunting lodge Crabshedding Public convenience center/transfer station (U)

THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE Board of Commissioners: <a href="https://www.co.currituck.nc.us/planning-board-minutes-current.cfm">www.co.currituck.nc.us/planning-board-minutes-current.cfm</a>

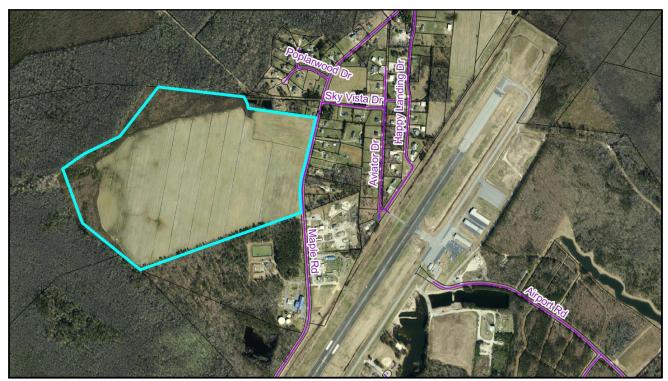


PB 22-13 Ashbrook Estates Rezoning Context Map





Currituck County Planning and Community Development



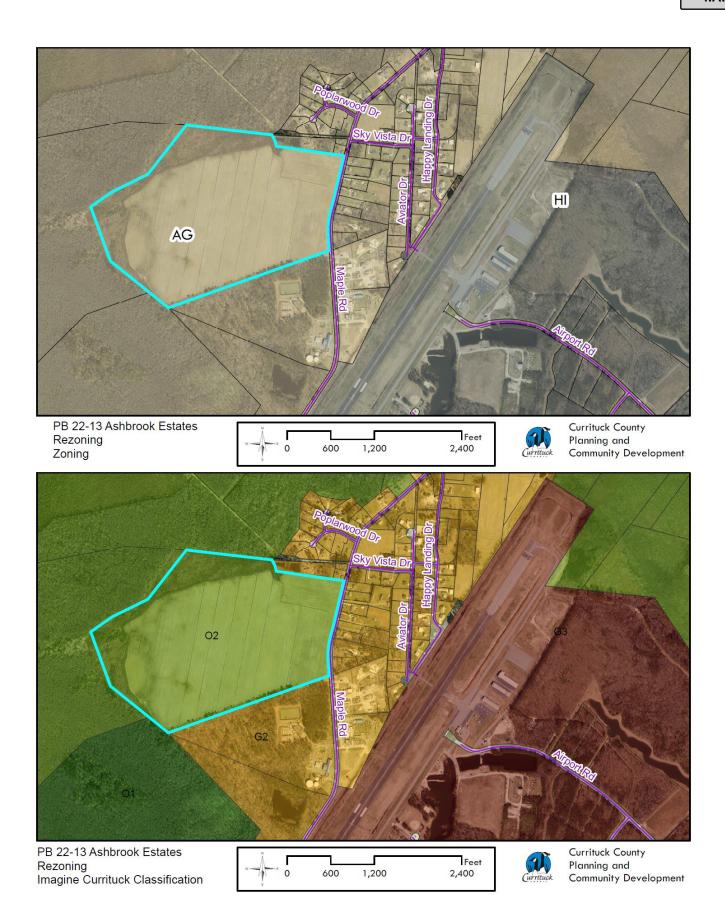
PB 22-13 Ashbrook Estates Rezoning 2020 Aerial Photography



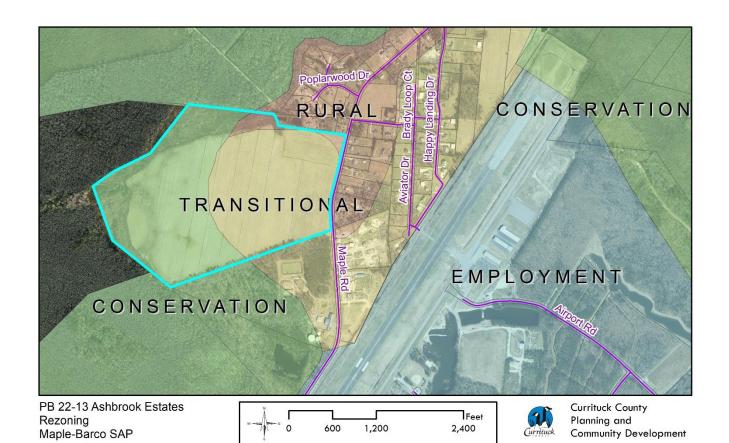


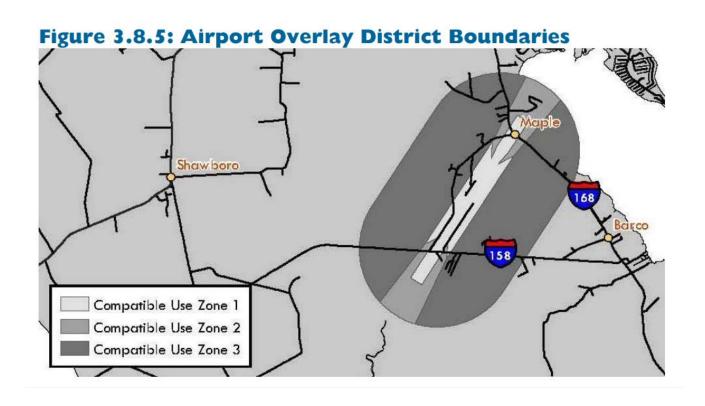
Currituck County Planning and Community Development

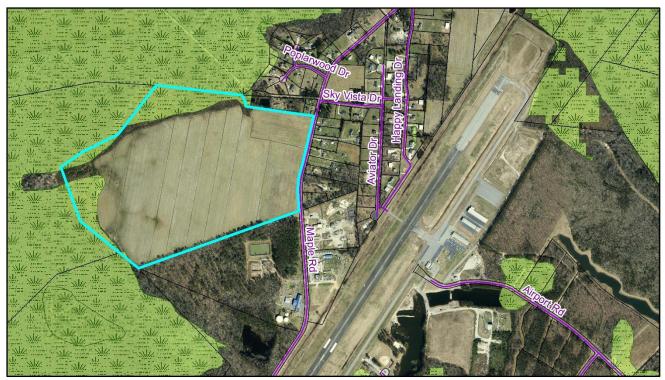
PB 22-13 Ashbrook Estates Zoning Map Amendment Page **10** of **13** 



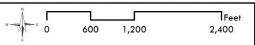
PB 22-13 Ashbrook Estates Zoning Map Amendment Page **11** of **13** 







PB 22-13 Ashbrook Estates Rezoning Wetlands Layer



Currituck County
Planning and
Community Development



#### **Currituck County**

Department of Planning Post Office Box 70 Currituck, North Carolina 27929 252-232-3055 FAX 252-232-3026

#### **MEMORANDUM**

To: Ashbrook Estates, LLC

Jason Mizelle, Timmons Group

From: Planning Staff

Date: September 15, 2022

**Re:** PB 22-13 Ashbrook Estates Rezoning, TRC Comments

The following comments were received for the September 14, 2022, meeting. Please address all comments and resubmit a corrected plan as necessary. TRC comments are valid for six months from the date of the TRC meeting.

#### Planning, Tammy Glave, 252-232-6025

#### Resubmit

- 1. The application is incomplete. Please add the telephone number and email address of the applicant to the application.
- Any subdivision of this property with lots that go below three acres in size will
  require an amendment to the Image Currituck LUP as the entire property is
  classified as O-2 (Reserved Lands) with a density limit of 1 du/3 acres.
- 3. This conventional rezoning request results in a residential and nonresidential density increase and to ensure the development will be a compatible and well-planned development, it is staff's opinion that a conditional zoning application should be submitted and reviewed. Assumptions for below approximate maximum lot count comparison calculation:
  - Approval by the BOC of amendment to Imagine Currituck LUP FLUM classification from O-2 to a classification suitable for the proposed development.
  - 130.73 acres
  - 10% acreage reduction to account for infrastructure (13.07 ac)
  - Roughly 18 acres of wetlands based on soils map at the rear of the property
  - Suitable soils for septic systems
  - NOTE: These numbers are merely rough estimates as true lot counts can only be rendered by a design professional with all known factors provided in a master plan.

AG (Existing)										
Single Family	<ul> <li>43 lots</li> <li>Minimum lot size 30,000 sf</li> <li>50% open space (58.5 ac)</li> <li>Max Density: .33 u/ac</li> </ul>	<ul> <li>52 lots</li> <li>Minimum lot size 30,000 sf</li> <li>60% open space (83.319 ac)</li> <li>Max Density: .4 u/ac</li> </ul>								
Multi-Family	0 Lots									
Nonresidential	0 Lots									
	MXR (Requested)									

\*Without knowing the requested Imagine Currituck LUP classification amendment requested, it is not possible to give an accurate estimate. These numbers are using the G-2 Controlled Growth classification that adjoins this property.

\*There applicant has indicated a mixed-use development comprised of multiple components of the classifications below.

multiple components of the classifications below.						
Single Family	130 Traditional Subdivision lots					
	15,000 sf minimum lot size					
	• 30% open space (39.22 acres)					
	Max Density: 1 du/ac					
<b>Multi-Family</b>	• 175 units					
	Minimum lot size: N/A					
	30% open space					
	(39.22 ac)					
	Max Density: 1.5 u/ac					
Nonresidential	• 229 Lots					
	20,000 sf minimum lot size					
	• 10% open space (13.07 acres)					
	Max Floor Area Ratio: 4					
	(up to 8,000 sf commercial on each lot)					

- 4. Without a master plan, as required with a conditional zoning request, it is not possible to verify that Imagine Currituck policies are being met and compatibility with surrounding uses. For example:
  - a. INFRASTRUCTURE AND COUNTY SERVICES
    - GOAL AND POLICY 1: Ensure sufficient provision of services to support associated growth and development and continue to enforce the adequate public facilities ordinance.
    - ii. GOAL 8: Ensure that all public services remain at sufficient level to provide superior service to the growing population.
  - b. TRANSPORTATION:

i. GOAL AND POLICY 1: Improve safety, traffic flow, access, and appearance of major highways and roads.

#### c. ENVIRONMENT

- GOAL AND POLICY 1: Preserve and protect the county's environmentally significant and sensitive lands and surrounding areas.
- ii. GOAL AND POLICY 2: Ensure the protection and preservation of prime agricultural lands to the extent possible.
- iii. GOAL AND POLICY 3.1: Preserve riparian buffers along canals, wetlands, sounds, rivers, and the Atlantic Ocean.
- 5. The property is entirely within Airport Overlay District Compatibility Use Zone 3. Without a master plan, as required with a conditional zoning request, it is not possible to verify that the purpose of the Airport Overlay District is met (UDO Section 3.8.5):
  - a. Protect and promote the general health, safety, welfare, and economy of the airport area.
  - b. Promote and encourage aviation related industries and compatible nonresidential uses to locate in close proximity to the airport.
  - c. Protect the character and stability of existing land uses in the vicinity of the airport.
  - d. Promote interconnectivity among parcels that encourage the use of multimodal transportation and crates an integrated transportation network.
  - e. Preserve natural resources that may be affected by harmful land uses or airport operations.
  - f. Promote sustainable development patterns that are consistent with the Maple-Barco Small Area Plan and Airport Layout Plan Update.
- 6. The property is designated as Conservation, Rural, and Transitional in the Maple-Barco Small Area Plan. Without a master plan, as required with a conditional zoning request, it is not possible to verify that Maple-Barco Small Area Plan policies are being met and compatibility with surrounding uses. For example:
  - a. LU1: Provide for very low density development in close proximity to the airport facility and in designated approach zones. Additionally, promote an appropriate mix of development types in the Maple/Barco area.
  - b. LU3: Encourage and allow neighborhood serving commercial in the 158/168 area.
  - c. LU4: Encourage and allow small, locally, owned businesses to locate in the area.
  - d. LU5: Preserve and promote agricultural related operations/businesses in the airport approach zones, along Maple Road, and 168.
  - e. LU6: Encourage buffers for uses that are developing adjacent to environmentally sensitive areas.
  - f. LU9: Evaluate development proposals using the future land use map and policies for the Maple-Barco study area to determine the desired density, character of growth, and level of services appropriate for the study area.

- g. TR4: Integrate infrastructure into new developments that promote multimodal transportation interconnecting employment centers, businesses, and neighborhoods.
- h. EN2: Stormwater should be treated prior to entering environmentally sensitive areas including but not limited to wetlands, canals, creeks, swamps, and the Currituck Sound.
- i. EN3: In approving development within the study area, water quality and ground water recharge should be of the utmost importance.
- j. CH2: Preserve open space, agricultural lands, and waterfront view sheds within the study area.
- k. CH4: Preserve and encourage use of local architectural vernacular (homestead) that promotes and enhances compatible development.
- I. SD1: Explore ways to encourage and incentivize the use of sustainable development techniques in commercial/industrial development.
- 7. Without a master plan, it is not possible to verify that the zoning map amendment review standards are being met. For example:
  - a. Is consistent with the goals, objectives, and policies of the Land Use Plan, other applicable county-adopted plans, and the purposes of this UDO;
  - b. Is in conflict with any provision of the UDO or the County Code of Ordinances;
  - c. Is compatible with existing and proposed uses surrounding the land subject to the application, and is the appropriate zoning district and uses for the land:
  - d. Would result in a logical and orderly development pattern; and,
  - e. Would result in significant 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.
- 8. Staff does not support a conventional rezoning of this property from AG to MXR. According to Section 3.4.6.A of the UDO "The MXR district is established to accommodate a wide variety of residential use types at moderate densities as well as very low intensity neighborhood-serving commercial, personal service, and institutional uses outside of community and village centers on the mainland and the outer banks. The district is intended to provide moderate-cost housing options for county residents within well-designed neighborhoods and developments that incorporate open space resources and may also include limited nonresidential uses proximate to housing. The district accommodates all forms of residential development, including detached dwellings, apartments, townhouses, manufactured homes on individual lots (only on the mainland), accessory dwelling units, and live/work developments. The district also accommodates offices, neighborhood-oriented personal service uses, and retail uses. In addition, the district allows neighborhood-supporting institutional uses like parks, marinas, religious institutions, schools, recreational facilities, and utilities. Development in the MXR district is subject to various design standards. including community compatibility standards applied to multi-family and nonresidential uses proposed adjacent to existing single-family dwellings."

- request does not provide enough detail, as is required by a conditional zoning request, to ensure that the result of the development of this parcel will be compatible development.
- 9. The conditional zoning process was established in 2007 to offer an option to promote orderly growth in the county by providing tools to help guide development to be in line with the community values recognized in officially adopted plans. Conditional zoning applications are generally preferred because it allows the applicant to impose conditions or restrictions to the property that are mutually agreed upon by the Board of Commissioners to tailor a development in such a way as to accommodate the property owner's interest, community values, and neighborhood character.
- 10. Since the adoption of the 2013 UDO, conventional rezoning approvals typically include properties that are downzoned to a less intense zoning district or properties that contain bifurcated districts.
- 11. Staff recommends the applicant submit a conditional zoning application with a conceptual plan. The conceptual plan could provide desired flexibility for the applicant with assurances that the application maintains compatibility, the community values, and consistency with the officially adopted plans.
- 12. There are also general school capacity concerns since the Committed Capacity for Moyock/Shawboro/Central Elementary schools was at 122% last school year and expected to be higher this school year. The high schools were at 99% committed capacity last school year. We are expecting updated school counts from the school system soon for this school year's enrollment numbers at each school.

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

Reviewed without comments.

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

Reviewed without comment.

### <u>Currituck County Utilities, Will Rumsey & Dave Spence (Will Rumsey 252-232-2769; Dave Spence 252-232-2769)</u>

Reviewed without comment.

### Currituck County Water/Backflow, Chas Sawyer (252-202-1692)

Reviewed without comment.

#### Currituck County GIS, Harry Lee (252-232-4039)

Reviewed without comment.

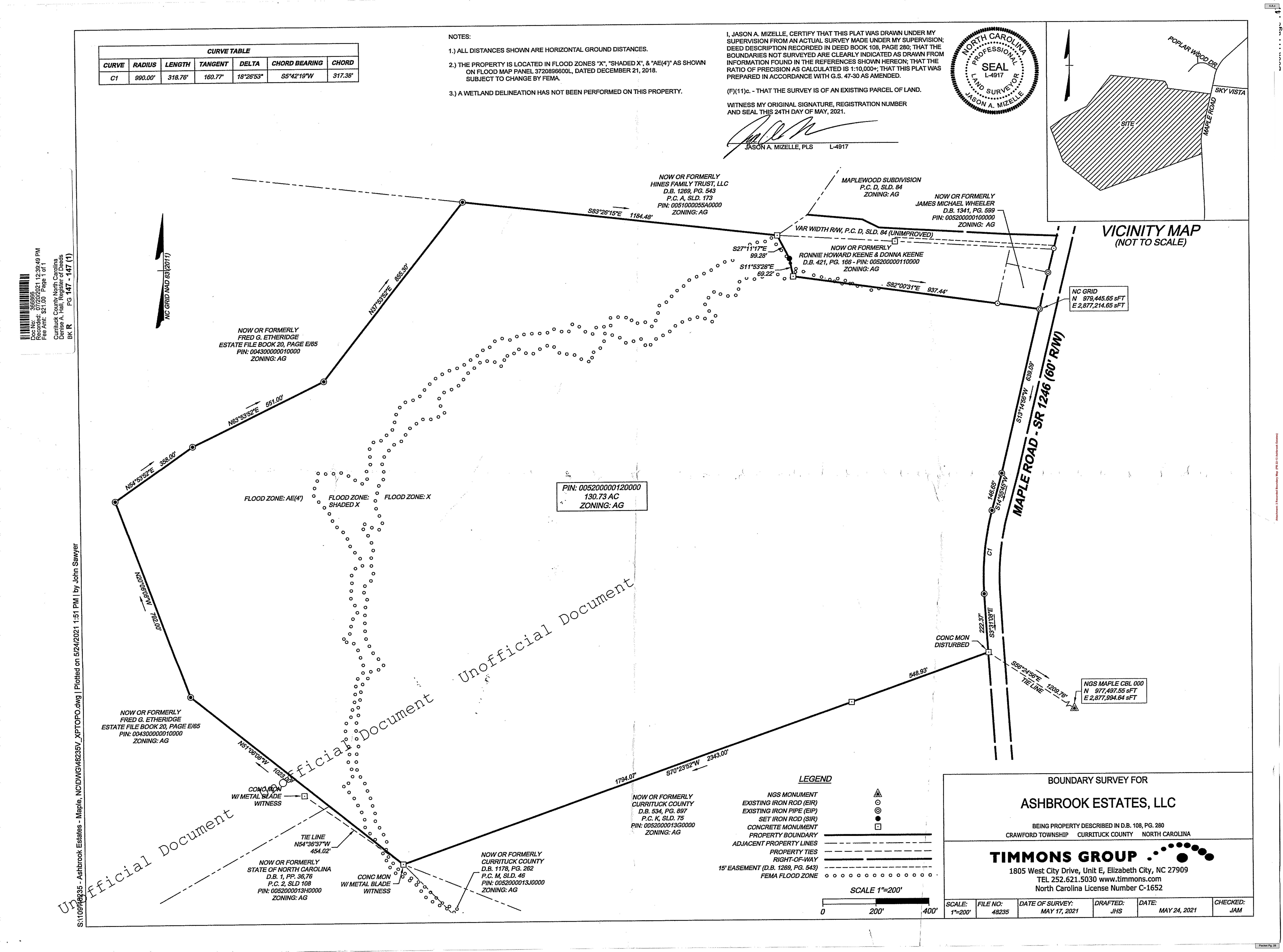
#### Currituck County Parks and Recreation, Jason Weeks (252-232-3007)

Reviewed without comment.

#### NC Department of Transportation, David Otts (252-331-4737)

Reviewed without comment.

<u>Comments Not Received From</u> Currituck County Engineer, Eric Weatherly (252-232-6035) NC Division of Coastal Management, Charlan Owens (252-264-3901)





1805 West City Drive Unit E Elizabeth City, NC 27909

P 252.621.5030 F 252.562.6974 www.timmons.com

#### COMMUNITY MEETING REPORT FOR ASHBROOK ESTATES, LLC

Project: Rezoning 130.73-Acres on Maple Road, Maple

Facilitator: Jason Mizelle – Timmons Group Date & Time: June 29. 2022 @ 7:00 PM

Location: COA – 107 College Way, Barco, NC

In preparation for the Community Meeting, twenty-seven notices were mailed out notifying the adjoining property owners & the County Staff about the meeting. Four residents, Donna & Ronnie Keene (324 Maple Road), Matt Birchfield (339 Maple Road) and Elisa Burch (no address given) were in attendance. Also, in attendance were Tammy Glave of the Currituck County Planning Department, as well as myself.

I opened the meeting with an explanation of the rezoning process and what the specific differences were between the existing Agriculture (AG) zoning and the MXR classification including uses and density. I discussed the potential uses that were being investigated for the property which included single-family residences, offices, small retail and potentially some multi-family parcels. It was further explained that since there was not a firm commitment from interested parties at this time, no formal plan was available and a conditional zoning was not being pursued.

The most concerning questions were regarding density and drainage. I asked the group in attendance for their input on historical rainfall events and what they had seen of the property and surrounding area. We discussed the current main drainage ditch running through the parcel and that it would not be encumbered by any proposed development as it was a main drain for the NCDOT road.

As for density, it was explained that the MXR zoning would allow for increased density above that of the AG zone, but that the physical restraints of the property (wetlands, flood zone, open space & buffer requirements) would prohibit the full use of the allowed density. It was also relayed that any development, residential or commercial in nature would still require approval through the County Planning department and strict adherence to the County's UDO and Drainage Manual.

We concluded the meeting at 8pm. No additional inquiries have been made post-meeting.

Respectfully submitted,

Jason A. Mizelle, PLS

Cc: Currituck County Planning

TIMMONS GROUP YOUR VISION ACHIEVED THROUGH OURS. Timmons Group Sign-In Sheet	Timmons Group Sign-In Sheet Currituck County Community Meeting Ashbrook Estates June 29, 2022	Email Address	Jason, nizelle Himmers Trumons Group		mattbirely; eld @gmail.con	elion-gantorn Quana tom	dinteenegolognail con					
F	YOUR VI	Timn Currituck	Phone Number	252 621 5028	Stalk	757-435-7286	197,003,02,64	4533187				
			Name (Printed)	JASUN MIZEZLE	Tammy Glaw	Matt Birchti. 2/6/	E. Burdh	Donna + Rannie Keene 453 3187				

Attachment: 5 Meeting Attendance Sheet (PB 22-13 Ashbrook Estates)



1805 West City Drive Unit E Elizabeth City, NC 27909

P 252.621.5030 F 252.562.6974 www.timmons.com

June 16, 2022

RE: Community Meeting Regarding Proposed Rezoning

#### To Whom It May Concern:

This notice is being sent to you and all landowners adjacent and/or near to a parcel of land proposed for rezoning as required by the Unified Development Ordinance of Currituck County, NC. The applicant is requesting to rezone the property from Agriculture to Mixed Residential. Keeping the community in mind, a "community meeting" has been planned to give an opportunity for neighbors to ask questions and to resolve any concerns prior to the application package going to hearings before the Currituck County Planning Board and Board of Commissioners. A report of the meeting's content will be prepared and submitted to the County. A representative(s) of Currituck County will be invited to this meeting.

Attached is a map that outlines the parcel proposed to be rezoned.

The community meeting will be held on Wednesday, June 29th from 7pm to 8pm at the College of the Albemarle Aviation Building located in Currituck Community Park at 107 College Way in Barco.

Should any change in meeting date, time, or location occur before this scheduled date you will be renotified as to the new date, time, and place of meeting.

If you have any questions or are unable to attend the meeting and would like to discuss the project prior to the meeting, please do not hesitate to call our office at (252) 621-5030.

Sincerely,

Jason Mizelle, PLS

Cc: file

Ashbrook Estates, LLC

**Currituck County Planning Department** 

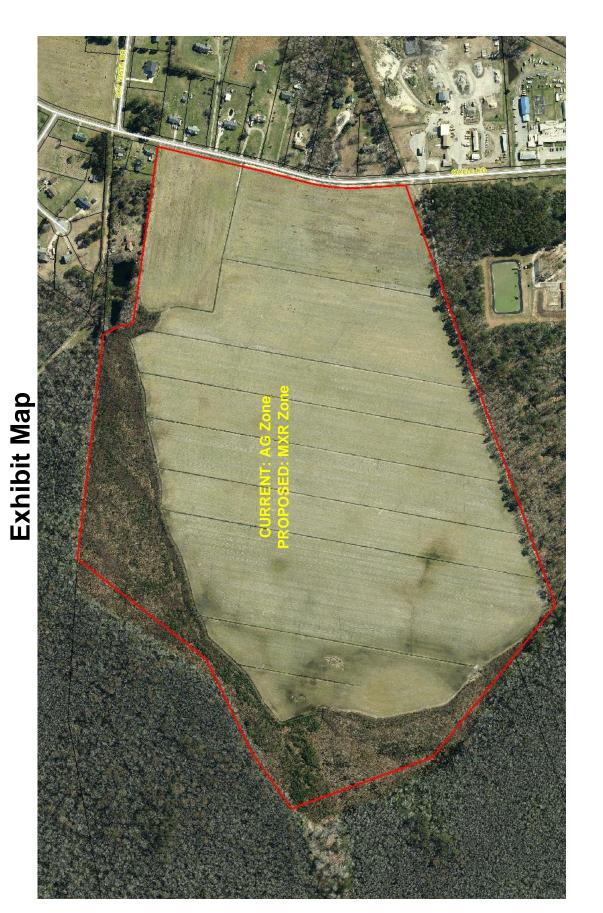
Attachment: 6 Community Meeting Letter (PB 22-13 Ashbrook Estates)

**TIMMONS GROUP** 

Elizabeth City, NC 27909 Unit E

1805 West City Drive

www.timmons.com P 252.621.5030 F 252.562.6974



ENGINEERING | DESIGN | TECHNOLOGY



## **Zoning Map Amendment** Application

OFFICIAL USE ON	LY:
Case Number:	
Date Filed:	
Gate Keeper:	
Amount Paid:	

Contact Inform	ation		
APPLICANT:		PROPERTY OWNER:	
Name:	Ashbrook Estates, LLC	Name:	Same
Address:	P.O. Box 85	Address:	
	Moyock, NC 27958		
Telephone:	252-435-2531	Telephone:	
E-Mail Address	stuartinnes1@gmail.com	E-Mail Address	S:
LEGAL RELATION	DNSHIP OF APPLICANT TO PROPERT	Y OWNER: Propert	y Owner
Property Inform	nation		
Physical Street	Address: * Maple Road		
Location: We	st side of Maple Road, 0.17 mi	les south of Sky	Vista Drive.
Parcel Identific	ration Number(s): <u>005200000120</u> 0	000	
	Acreage: 130.73		
	Use of Property: Agriculture		
Request			
Current Zoning	of Property: AG	Proposed Zoni	ng District: MXR
Total Acreage for Rezoning: 130.73			ing the entire parcel(s): Yes No
Metes and Bou	nds Description Provided: Yes No		
Community Me	eting, if Applicable		
Date Meeting I	Held: June 29, 2022	Meeting Locati	on: COA Maple Campus
Further, I here compliance. A record.	ned, do certify that all of the information, and belief.  by authorize county officials to entire and required and required er(s)/Applicant*	ter my property fo	r purposes of determining zoning

\*NOTE: Form must be signed by the owner(s) of record, contract purchaser(s), or other person(s) having a recognized property interest. If there are multiple property owners/applicants a signature is required for each.

Zoning Map Amendment Application



## Currituck County Agenda Item Summary Sheet

**Agenda ID Number** – 3635

Agenda Item Title: PB 22-14 Porpoise, LLC:

Submitted By: Cheri Elliott – Planning & Community Development

**Item Type:** Legislative

Presenter of Item: Jason Litteral

**Board Action:** Action

#### **Brief Description of Agenda Item:**

Request for conditional rezoning of 1.29 acres from Single Family Mainland to Conditional-Light Industrial for property located at 8778 Caratoke Highway, Harbinger, Poplar Branch Township.

**Planning Board Recommendation:** 

**Staff Recommendation:** 

TRC Recommendation: Approval with Conditions



# STAFF REPORT PB 22-14 PORPOISE, L.L.C. CONDITIONAL ZONING PLANNING BOARD DECEMBER 13, 2022

Property Owner: Porpoise, L.L.C.	Applicant: Porpoise, L.L.C.
Case Number: PB 22-14	Application Type: Conditional Rezoning
Parcel Identification Number: 013200000080000	Existing Use: Manufacturing
Imagine Currituck Classification: G-3 Mixed Use Centers and Corridors	Parcel Size (Acres): 1.29 acres
	Zoning History: General Business - 1989
Current Zoning: SFM – with valid use permit	Proposed Zoning: Conditional - LI

Request: The applicant is requesting to conditionally rezone 1.29 acres from Single Family

Mainland to Conditional Light Industrial.

#### **REQUEST**

#### **NARRATIVE**

The applicant is requesting a conditional rezoning of a 1.29-acre parcel from Single Family Mainland to Conditional-Light Industrial district. The parcel was granted a Use Permit for light manufacturing by the board of Adjustment in 1986. The business has been continuously operating on the subject parcel since that time. The parcel is currently zoned residentially making the existing manufacturing use nonconforming. The applicant wishes to expand the business with the development of an additional building. Therefore, the proposed expansion of the use requires a conditional rezoning.

The proposed building will be located in the front of the site between the existing building and Caratoke Highway. Parking area will be added to the site to provide the required parking.

#### **COMMUNITY MEETING**

The community meeting was held on August 9, 2022 in the meeting area of the office of Quible & Associates P.C. The meeting began with an "open house" viewing of the exhibits involving the proposed conditional rezoning. The applicant's representative, Michael Strader from Quible & Associates, then discussed county procedures and the scope of work of the project. It was emphasized by the applicant that the proposed development will be consistent with allowed uses and requirements of the Light Industrial zoning district.

Throughout the presentation, the floor was open for questions and comments from the audience. Comments and questions received during the meeting were as follows:

- 4. A concern was raised by county staff in regard to the land use classification of the parcel and whether it is in compliance with the new Imagine Currituck plan. The new land use plan was briefly discussed and it was confirmed the parcel is located within the G-3 Mixed Use
- 2. The applicant's engineer inquired if legal council and expert testimony is required. County staff addressed this stating that though some hearings have encountered issues in the past,

this application is not a Special Use Permit, and therefore would not be required to meet SUP review standards. It was assured that the owner and engineer would be present at the hearing.

- 3. County staff noted that substantial changes from the submitted site plan may require the project to go back through the Board of Commissioners for review and approval.
- 4. All community members present expressed support for the application. Additionally, one member provided an email in support.

An additional site visit was conducted on August 16, 2022. In attendance was the applicant's engineer, Michael Strader from Quible and Associates, and Ryan Thibodeau who represented Big Box, LLC who is the property owner of the adjoining properties. The proposed additional development and potential activities on the site were discussed. Upon completion of the site visit, Mr. Thibodeau expressed his support of the application.

#### CONDITIONS OF APPROVAL

The applicant proposed the following condition:

All proposed development will be consistent with and as allowed within the LI zoning, including uses, dimensional standards, dimensional standards, and County Land Use Plan.

SURROUNDING PARCELS			
Direction	Land Use	Zoning	
North	Vacant	General Business (GB)	
South	Outdoor Storage	Light Industrial (LI)	
East	Residential (Across Highway)	General Business (GB)	
West	Vacant/Large Pond	Single Family Mainland (SFM)	

#### LAND USE PLAN

Imagine Currituck classifies this site as G-3 Mixed Use Centers and Corridors within the Point Harbor subarea. The G-3 Transect Profile lists light industrial facilities as appropriate land uses. The point harbor sub area encourages incentivizing revitalization of existing businesses to achieve a higher quality business image. The proposed plan is consistent with the Goals and Policies of the plan, some of which are:

Land Use	Goal 3 - Support new and existing commercial developments that adhere to quality community appearance and design standards, including landscaping improvements
	and signs tailored to achieve a unique community character.
Economic Development	<b>Goal 1</b> - Support the retention and expansion of existing businesses and promote the development of new businesses, especially those that help diversify the local
Вотоюриюн	economy and are compatible with the county's natural amenities and environment.

# **RECOMMENDATION**

# **Technical Review Committee**

The Technical Review Committee recommends approval of the conditional rezoning subject to the following conditions:

1. The building design standards of the Unified Development Ordinance shall be met or exceeded to ensure consistency with Land Use Goal 3.

# **CONSISTENCY AND REASONABLENESS 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 and reasonableness.

This conditional zoning request is:

- 1) consistent with the goals, objectives, and policies of the Land Use Plan, other applicable county-adopted plans, and the purposes of this Ordinance.
- 2) is compatible with existing and proposed uses surrounding the land subject to the application and is the appropriate zoning district and uses for the land.

It is reasonable and in the public interest because it:

- 1) would result in a logical and orderly development pattern.
- 2) would not conflict with the public interest and is in harmony with the purposes and intent of this Ordinance.

# **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. All proposed development will be consistent with and as allowed within the LI zoning, including uses, dimensional standards, dimensional standards, and County Land Use Plan.

THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE Board of Commissioners: <a href="https://www.co.currituck.nc.us/board-of-commissioners-minutes-current.cfm">www.co.currituck.nc.us/board-of-commissioners-minutes-current.cfm</a>



Porpoise LLC 8778 Caratoke Hwy Aerial



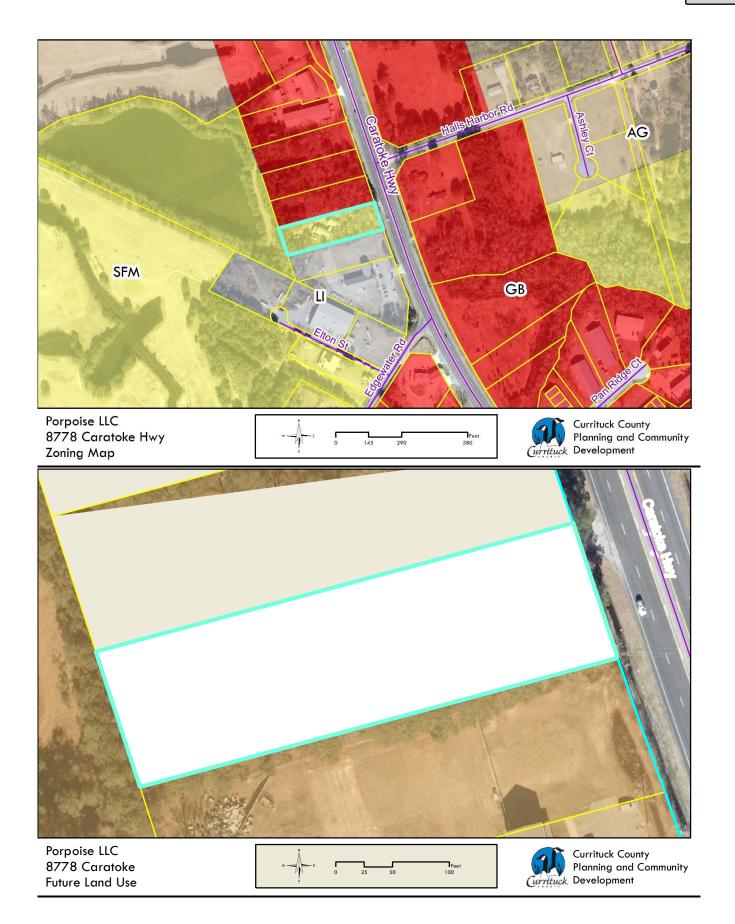


Porpoise LLC 8778 Caratoke Hwy Vicinity Map

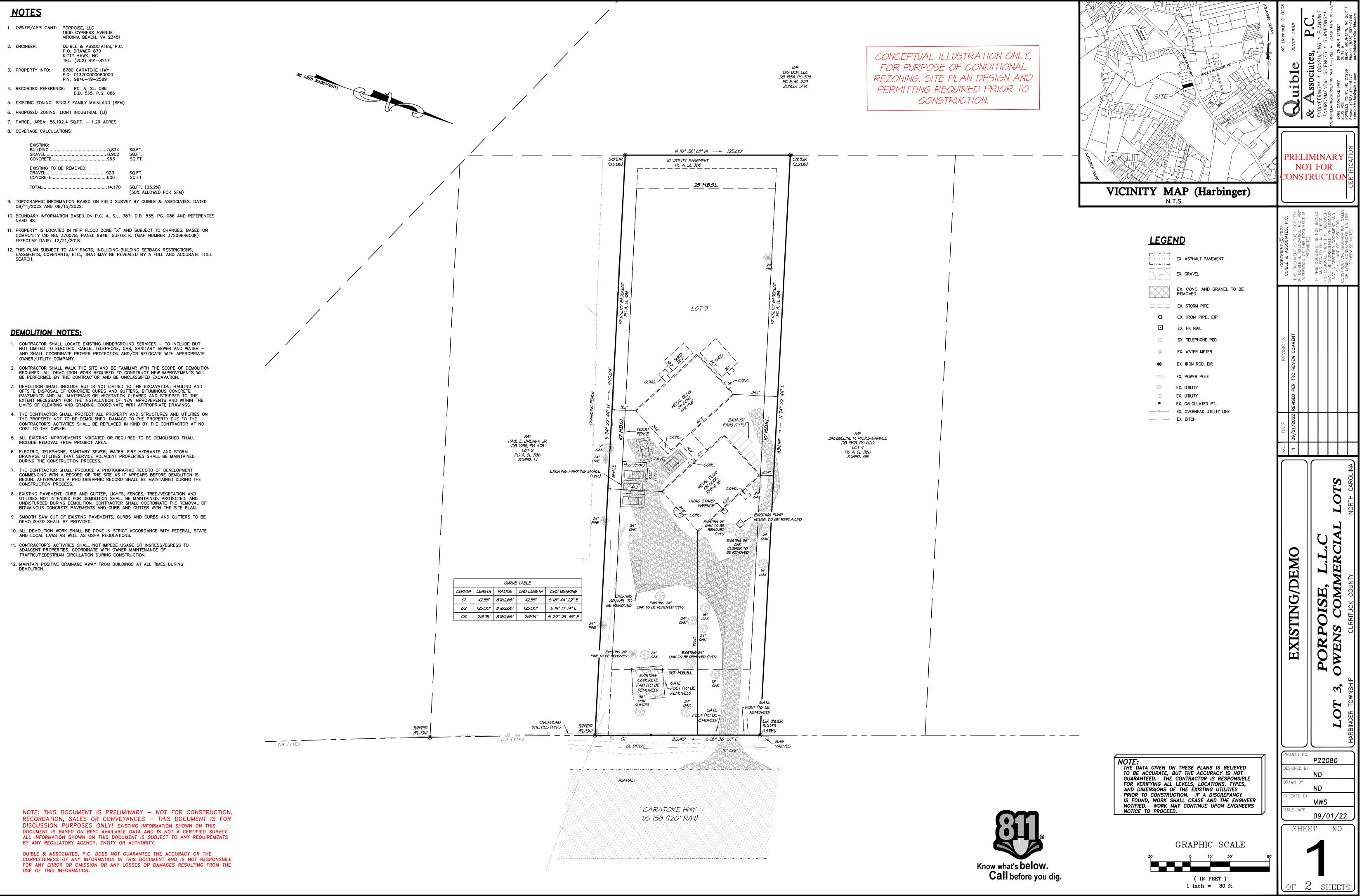


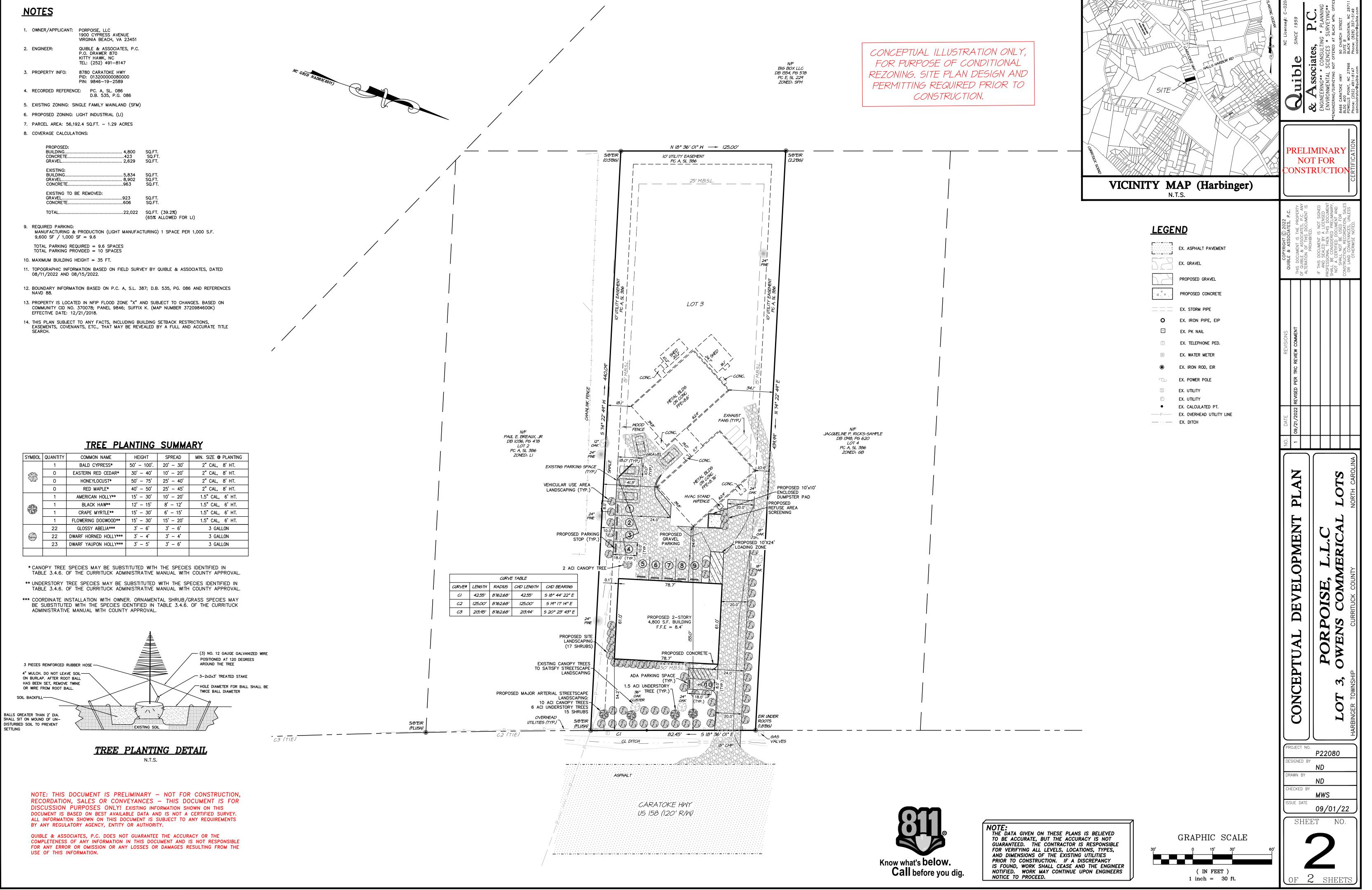
Currituck County
Planning and Community
Currituck
Development

PB 22-14 Porpoise LLC Conditional Rezoning Page **4** of **5** 



PB 22-14 Porpoise LLC Conditional Rezoning Page **5** of **5** 





# Quible

Quible & Associates, P.C.

ENGINEERING • ENVIRONMENTAL SCIENCES • PLANNING • SURVEYING
SINCE 1959

P.O. Drawer 870 Kitty Hawk, NC 27949 Phone: 252-491-8147 Fax: 252-491-8146 web: quible.com

October 27, 2022

Mr. Jason Litteral, CFM

Currituck County Planning & Zoning
153 Courthouse Road, Suite 110

Currituck, NC 27929

Re: Conditional Rezoning Application TRC Comments Response
Porpoise, LLC

Harbinger, Currituck County, North Carolina

Mr. Litteral,

Thank you for the TRC review comments for the Conditional Rezoning Application submittal of the above referenced project dated October 17, 2022. On behalf of Porpoise, LLC, Quible & Associates, P.C., hereby submits, for your review and approval, the following documentation:

- Three (3) full size (24"x36") copies of the revised Plan Set and supporting documents;
- One (1) 8.5"x11" copy of the revised Plan Set;
- One (1) PDF digital copy of the revised Plan Set.

Please find our responses listed below in blue to your review comments.

# Planning, Jason Litteral

structures.

- Building elevations are required as part of a conditional rezoning in order to show character and design.
  - Acknowledged. Please see attached building elevations provided.
- 2. Please indicate septic location.
  - Acknowledged. Approximate septic location has been provided on the attached revised Conceptual Development Plan.
- Please provide a parking calculation showing the provided number of spaces falls between the minimum required and the maximum allowed.
   Acknowledged. Please see the attached revised conceptual development plan that shows the parking calculations for both the existing and proposed building
- 4. Please provide an easement for the driveway on the adjacent parcel or consider removing it.
  - Acknowledged. The driveway on the adjacent parcel has been removed from the revised Conceptual Development Plan.

- The address is 8778 Caratoke on our GIS system, but the plan shows 8780.
   Acknowledged. The conceptual development plan has been corrected to show what is currently on the GIS.
- 6. The national wetlands inventory shows riverine and freshwater wetlands in the development area. Has a delineation been performed?
  Based on previous experience of the parcel, we knew that the entirety of the Site consists of uplands. However, Quible field evaluated site conditions on October 19, 2022 for potential Section 404 wetlands, based upon the National Wetland Inventory Mapping (NWIM). Based on our site review that included shallow soil borings, there are no locations on the property that meet either soils or hydrology parameters of a wetland. In order to have a Section 404 wetland, both of those parameters must be met (along with vegetation indicative of a wetland).
- 7. The new zoning district, C-LI, will require type C buffer yards along the northern and western property lines.
  Acknowledged. Please see the revised Conceptual Development plan that shows the required type C buffer yard along the northern and western property lines.

# **Bill Newns**

Fire access to rear building and fire flow.
 The conceptual development plan allows for fire apparatus to reach the proposed drive aisle as well as have 150 ft apparatus access to existing and proposed structures. The hybrid fire turnaround will need to be reviewed by the County Fire Code Official.

Sincerely,

Quible & Associates, P.C.

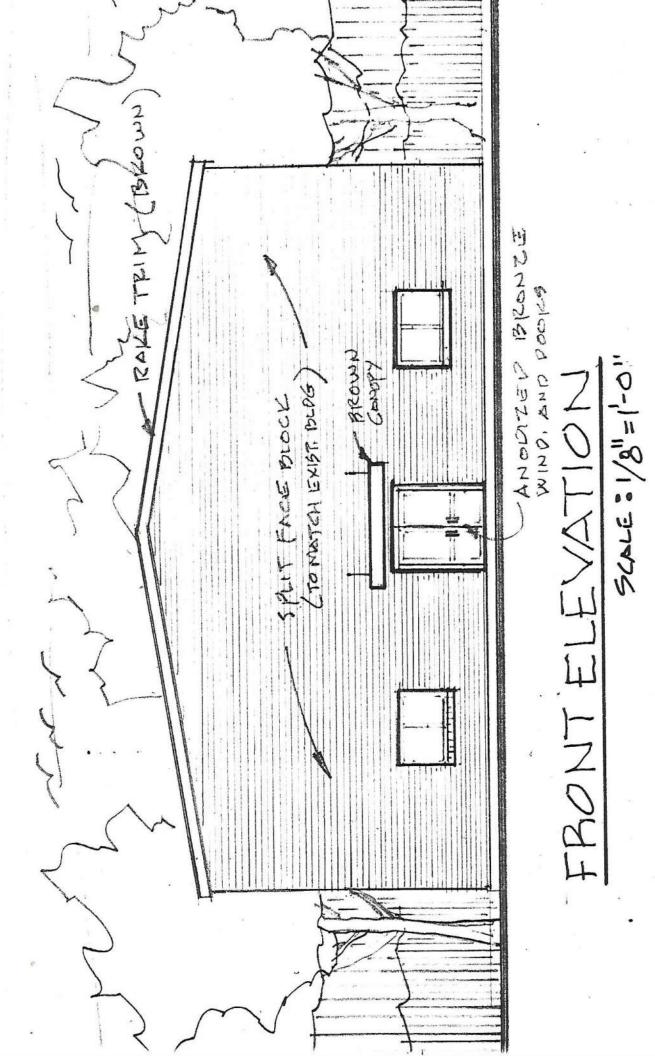
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Nadeen Dashti, E. I.

Encl.: As stated Cc: Porpoise, LLC

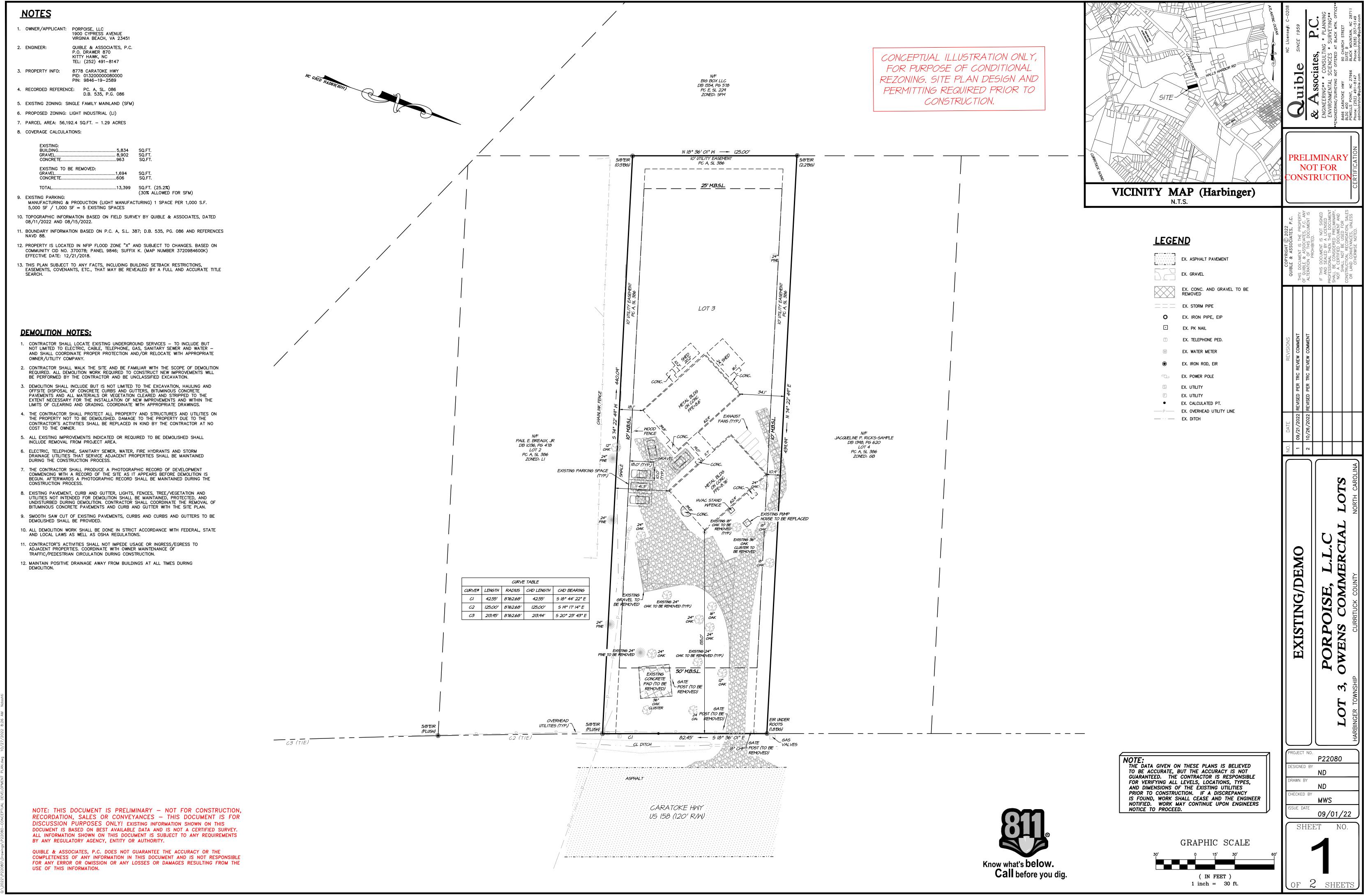
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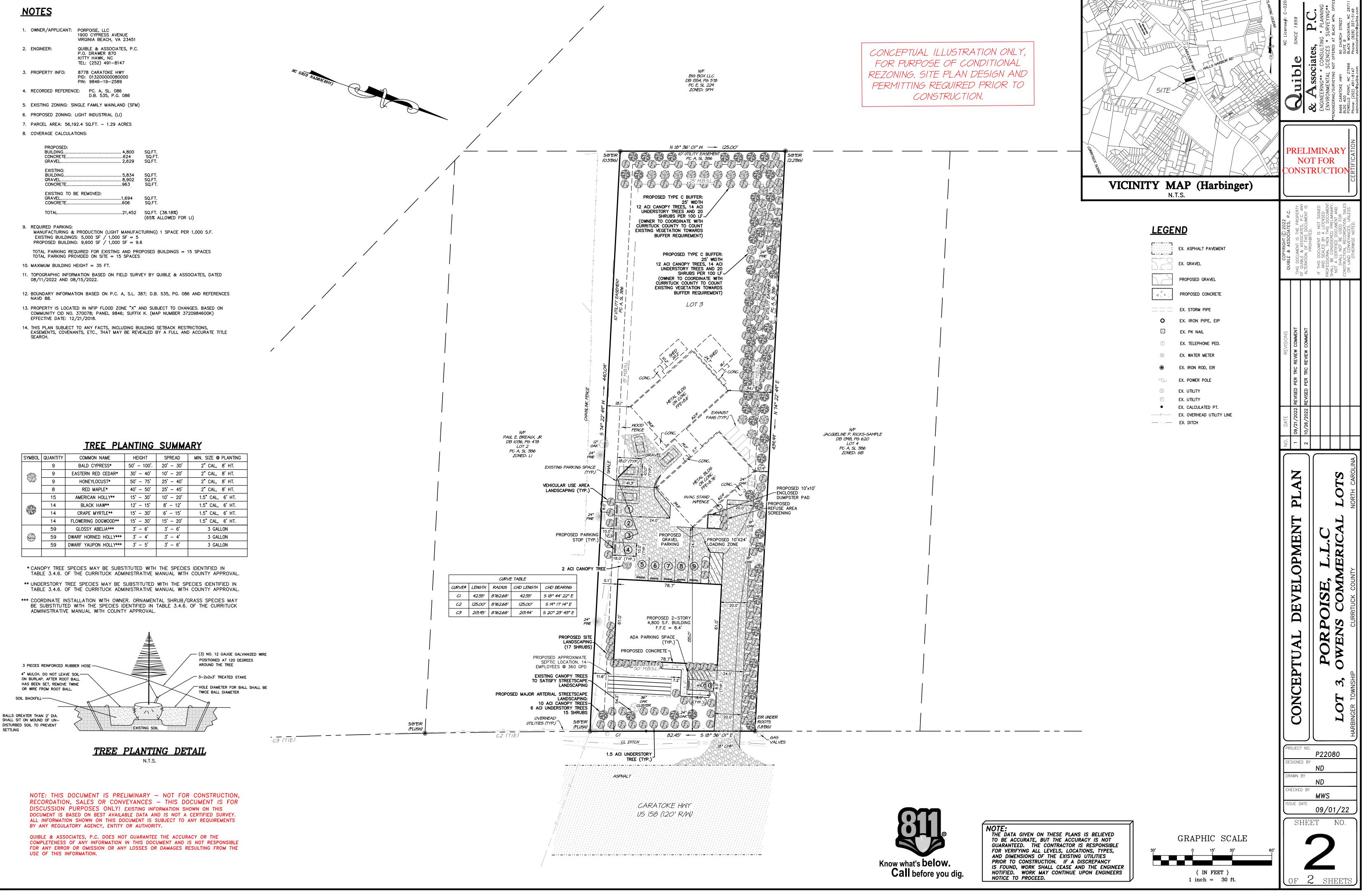




Attachment: 3-TRC Response Resubmittal (PB 22-14 Porpoise, LLC)

Packet Pg. 44





Quible

Quible & Associates, P.C.

ENGINEERING • ENVIRONMENTAL SCIENCES • PLANNING • SURVEYING
SINCE 1959

P.O. Drawer 870 Kitty Hawk, NC 27949 Phone: 252-491-8147 Fax: 252-491-8146 web: guible.com

August 24, 2022

Mr. Jason Litteral, CFM Currituck County Planning and Zoning 153 Courthouse Rd., Suite 110 Currituck, NC 27929

**RE:** Community Meeting Report

Conditional Rezoning Application for Porpoise, LLC

Parcel ID No. 001320000080000 Harbinger, Currituck County, NC

Mr. Jason Litteral,

A community meeting for the proposed Conditional Rezoning Application of the above referenced parcel was held on Tuesday, August 9, 2022 at 4:00 p.m. at Quible & Associates, P.C. The meeting was conducted by Quible & Associates, P.C. (Quible) on behalf of Porpoise, LLC (WRV), with representatives from Porpoise, LLC, Currituck County, and members of the local community in attendance.

# **Purpose**

The purpose of the meeting was to inform the community in the vicinity of the subject parcel of the intent to apply for a Conditional Rezoning to LI to allow for continued operation of the existing light manufacturing activities that have been ongoing since approved in the 1980's. It was explained that the proposed expansion of the light industrial activity consists primarily of surfboards and all associated improvements.

# **Meeting synopsis**

The community meeting presentation documents were set up within the meeting area of Quible & Associates P.C. by 3:30pm. The office of Quible & Associates P.C. was open to the public and attendees began arriving at approximately 3:45 pm. Prior to beginning the community meeting, an "Open House" viewing of the conditional rezoning exhibit, along with the existing zoning exhibit, Conditional Rezoning Application, surrounding property owner notification letters, County Conditional Rezoning Review Process and Procedures and the County Application Submittal Schedule were available to the public. The conditional rezoning exhibit and existing zoning exhibit were mounted on poster boards and placed on an easel for ease of viewing.

As attendees arrived, they were asked to provide their contact information on the sign-in sheet at the check in table and were advised to please utilize the provided comment sheets to remit comments. Attendees were also advised that comments could be received by Quible & Associates, P.C. either by email or telephone.

At 4:00 pm a presentation for the proposed conditional rezoning and continued operation of the existing LI activities as well as expansions within lot 3 was provided by Quible & Associates, P.C. A copy of the agenda was distributed to everyone in attendance and the sign-in sheet was

Community Meeting Report Conditional Rezoning Application for Porpoise, LLC Parcel ID No. 0013200000080000 August 24, 2022

routed throughout the room. The presentation setting was as casual as possible and loosely followed the Agenda (Exhibit 1), to allow for a comfortable atmosphere allowing the community to ask questions throughout the meeting.

Quible & Associates (Michael W. Strader, Jr., P.E.) began with a brief discussion about the County procedures for reviewing and approving the proposed project and purpose for the community meeting and the proposed development.

The parcel proposed for conditional rezoning and expansion of light industrial activities was described and identified on the exhibits. The proposed conditional rezoning exhibit and Conditional Rezoning application were described as in compliance with the current Currituck County UDO requirements and in keeping with the surrounding neighborhoods and County Land Use Plan. It was also reiterated during the meeting that the proposed development will be consistent with and as allowed within the LI zoning, including uses, dimensional standards, and County Land Use Plan. The importance and need for expanding and continuing light industrial activities within lot 3 was expressed.

Throughout the presentation, the floor was open for questions and comments from the audience. Comments and questions received during the meeting were as follows:

- A concern was raised by Jason Litteral about what class the parcel was in and compliance with the new land use plan. The recently adopted Land Use Plan was briefly discussed and it was thought that the subject parcel was located within the G-3 Mixed Use Centers and Corridor within the Point Harbor Subarea, which encourages this type of development. This was later confirmed.
- 2. A question was raised by Michael Strader about having LG Shaw or Quible representing Porpoise, LLC (WRV) at the Board meetings and hearing, or whether legal council may be required. The potential need for having expert testimony such as an appraiser at the hearing was raised. Jason Litteral mentioned that while some hearings have encountered issues and have been continued in the past, the subject application is not seeking a Use Permit and therefore does not require the Board to review the project for compliance with the Use Standards which would require expert testimony; assuring that the Owner and Engineer may present.
- 3. A note was made to include reference as to whether the conditional rezoning would be in compliance with the most current land use plan within the application, and to address any potential conceptual site plan issues. It was stated that substantial deviations from the presented conceptual development plan could require the project to come back through the Boards for review.
- 4. Members of the community present at the meeting all expressed their support of the subject application, some offering the best of support. One member provided documentation of their support via email. It was explained that if the application review process goes as planned, that there would be a public hearing at the December 5, 2022 Board of Commissioners meeting.

Upon the conclusion of the discussions, attendees were again reminded that any further questions or comments not addressed at the meeting can be forwarded to Quible & Associates and the meeting was adjourned. There did not seem to be any opposition or adversity to the application, but rather inquisitiveness. No written comments were received.

P.O. Drawer 870 • Kitty Hawk, NC 27949 Telephone (252) 291-8147 • Fax (252) 491-8147 Community Meeting Report Conditional Rezoning Application for Porpoise, LLC Parcel ID No. 0013200000080000 August 24, 2022

Following the community meeting, an on-site visitation and walk-through of the subject parcel was conducted on Tuesday, August 16, 2022 at 2:00 p.m. In attendance were Michael Strader, LG Shaw and Monica and Ryan Thibodeau representing Big Box, LLC, who are the rear, western and adjoining property owners. The purpose of the walk-through was to inform Big Box, LLC of the intent to apply for a Conditional Rezoning and explain the proposed expansion of the light industrial activities as well as the current and potential future impacts. Upon completion of the site visitation, Big Box, LLC expressed their support of the subject application and provided documentation of their support via email. It was also explained that if the application review process goes as planned, there would be a public hearing at the December 5, 2022 Board of Commissioners meeting.

Copies of all handouts, exhibits, and other documents are provided in attachments to this document.

Please do not hesitate to contact me at (252) 491-8147 or Ndashti@quible.com should you have any questions and/or concerns.

Sincerely,

Quible & Associates, P.C.

Nadeen Dashti, E. I.

cc: file

Porpoise, LLC



# Conditional Rezoning Application

OFFICIAL USE ONL	V
	. 7 1
Case Number:	
Date Filed:	
Gate Keeper:	
Amount Paid:	

Contact Inform	action		
	MINION	PROPERTY OV	VNED.
APPLICANT:	Porpoise, L.L.C.	Name:	Porpoise, L.L.C.
Name:	1900 Cypress Avenue	Address:	1900 Cypress Avenue
Address:	Virginia Beach, VA 23451	Address:	Virginia Beach, VA 23451
T. 1 1	757-422-0423	Telephone:	757-422-0423
Telephone:	LG@WaveRidingVehicles.com	F Mail Address	s: LG@WaveRidingVehicles.com
			əi
LEGAL RELATION	ONSHIP OF APPLICANT TO PROPERTY	OWNER: same	
B . 1.1			
Property Infor	0770 Carataka Huni		
Physical Stree	t Address: 8778 Caratoke Hwy		<u> </u>
Location: Ha	Location: Harbinger, NC 27941		
Parcel Identifi	cation Number(s): <u>013200000800</u>	00	
	Acreage: <u>1.29</u>		
Existing Land	Use of Property: Manufacturing		
Request			
	sem	Proposed Zoni	ing District. L
Current Zoning	g of Property: SFM	Proposed Zolli	ing District:
Community M	eeting		
		At action I cont	ion: 8466 Caratoke Hwy
Date Meeting	Held: 8/9/2022	Meeting Locat	Bldg 400, Powells Point

# **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):
Continued operation of the existing light manufacturing activities that have been on-going since approved in the 1980's.
Proposed expansion of the light industrial activity, which consists primarily of surfboards, and all associated improvements
Proposed Zoning Condition(s):
All proposed development will be consistent with and as allowed within the LI zoning, including uses, dimensional standards
and County Land Use Plan.
An application has been duly filed requesting that the property involved with this application be rezoned from:  SFM  to: Ll
It is understood and acknowledged that if the property is rezoned as requested, the property involved in this reque will be perpetually bound to the conceptual development plan, use(s) authorized, and subject to such condition(s) of 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.  Porpoise, L.L.C.
Property Owner (c)

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.

Conditional Rezoning Application Page 6 of 8

# **Conditional Rezoning Design Standards Checklist**

The table below depicts the design standards of the conceptual development plan for a conditional rezoning application. Please make sure to include all applicable listed items to ensure all appropriate standards are reviewed.

# **Conditional Rezoning**

Conceptual Development Plan Design Standards Checklist

Date Received:	TRC Date: 9/14/2022
Project Name: WRV, Harbinger	
Applicant/Property Owner: Porpoise, L.L.C.	

Con	nditional Rezoning Design Standards Checklist	
1	Property owner name, address, phone number, and e-mail address.	
2	Site address and parcel identification number.	
3	A scaled drawing showing existing boundary lines, total acreage, adjacent use types, location	
	of streets, rights-of-way, and easements.	
4	North arrow and scale to be 1" = 100' or larger.	
5	Vicinity map showing property's general location in relation to streets, railroads, and	
	waterways.	
6	Existing zoning classification of the property and surrounding properties.	
7	Approximate location of the following existing items within the property to be rezoned and	
	within 50' of the existing property lines:	
	Pathways, structures, septic systems, wells, utility lines, water lines, culverts, storm drainage	
	pipes, ditches, canals, streams, wooded areas, ponds, and cemeteries.	
8	Approximate Flood Zone line and Base Flood Elevation as delineated on the "Flood Insurance	
<u> </u>	Rate Maps/Study Currituck County."	
9	Approximate location of all designated Areas of Environmental Concern or other such areas	
	which are environmentally sensitive on the property, such as Maritime Forest, CAMA, 404, or	
	401 wetlands as defined by the appropriate agency.	
10	Proposed zoning classification and intended use of all land and structures, including the	
	number of residential units and the total square footage of any non-residential development.	
11	Proposed building footprints and usages.	
12	Proposed traffic, parking, and circulation plans including streets, drives, loading and service	
	areas, parking layout, and pedestrian circulation features.	
13	Approximate location of storm drainage patterns and facilities intended to serve the	
	development.	
14	Proposed common areas, open space set-asides, anticipated landscape buffering, and fences	
	or walls (if proposed).	
15	Architectural drawings and/or sketches illustrating the design and character of the proposed	
	uses.	
16	Proposed development schedule.	

Conditional	Rezonina	Submittal	Checklist
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Staff will use the following checklist to determine the completeness of your application within ten business days of submittal. Please make sure all of the listed items are included. Staff shall not process an application for further review until it is determined to be complete.

# **Conditional Rezoning**

Submittal Checklist

Date	e Received: TRC Date: <u>9/14/2022</u>
Proj	ect Name: WRV, Harbinger
Арр	olicant/Property Owner: Porpoise, L.L.C.
• •	
Cor	nditional Rezoning Submittal Checklist
1	Complete Conditional Rezoning application
2	
	Application fee (\$200 plus \$5 for each acre or part thereof)
3	Community meeting written summary
4	Conceptual development plan
5	Architectural drawings and/or sketches of the proposed structures.
6	2 copies of plans
7	2 hard copies of ALL documents
8	1 PDF digital copy of all plans AND documents (ex. Compact Disk — e-mail not acceptable)
For S	Staff Only
Pre-	application Conference
	application Conference was held on and the following people were present:
Com	nments

Conditional Rezoning Application Page 8 of 8

Revised 7/1/2018



# Currituck County Agenda Item Summary Sheet

Agenda ID Number - 3617

**Agenda Item Title:** PB 22-16 Currituck County:

Submitted By: Tammy Glave – Planning & Community Development

**Item Type:** Legislative

Presenter of Item: Tammy Glave

**Board Action:** Action

# **Brief Description of Agenda Item:**

Request to amend the Unified Development Ordinance, Chapter 4. Use Standards, to change campground access requirements.

# Planning Board Recommendation:

Staff Recommendation: Approval

TRC Recommendation: Approval



### **Currituck County**

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

To: Planning Board

**Board of Commissioners** 

From: Planning Staff

Date: December 13, 2022

Subject: PB 22-16 Currituck County Campgrounds - Access

# **Background**

The enclosed text amendment submitted by Currituck County Board of Commissioners is intended to revise Chapter 4, Sections 4.2.4.J.3.(b) and (c) of the Unified Development Ordinance (UDO) as it relates to accessing a campground.

At its July 18, 2022, meeting the BOC directed staff to work with the parties involved with the H2OBX Campground rezoning application to find a compromise so the paved shared access easement currently in use could continue to be used by all parties using the easement and as the access point for the waterpark as well as the access point for the campground. At that time of the rezoning, the access for the campground had to be on the H2OBX property, so plans were shown to create a new access driveway and abandon the use of the existing easement. After discussion with all parties involved and to meet the intent of the campground text amendment adopted by the BOC, it was determined that the best option would be to still require campgrounds to abut a major arterial street but allow access from an easement.

It should be noted that text amendments apply countywide and are not specific to one property. Staff does not foresee an issue with this text amendment countywide.

# **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 <u>may</u> 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 this request as submitted and suggests the text amendment is consistent with the goals, objectives, and policies of Imagine Currituck including:

# **Goals and Policies**

Land Use 2: Carefully consider the design and location of intensive and potentially incompatible and uses to mitigate compatibility issues such as environmental quality, safety, overburdening local infrastructure, scale, use, design, location, and adverse effects.

**Economic Development 1:** Support the retention and expansion of existing businesses and promote the development of new businesses, especially those that help diversity the local economy and are compatible with the county's natural amenities and environment.

**Transportation 1:** Improve safety, traffic flow, access, and appearance of major highways and roads.



# PB 22-16 CURRITUCK COUNTY BOARD OF COMMISSIONERS CAMPGROUNDS - ACCESS TEXT AMENDMENT PLANNING BOARD DECEMBER 13, 2022

Currituck County Board of Commissioners request an amendment to the Unified Development Ordinance, Chapter 4 Use Standards, to amended campground access requirements.

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 4 is amended by deleting the following underlined strikethrough language and adding the underlined bold language in Section 4.2.4.J.3:

- b. **Except access**, all land used for the campground must be one parcel and under the same ownership.
- c. Campground shall be accessed from abut a major arterial street.

Item 2: Staff suggested Statement of Consistency:

The requested zoning text amendment is consistent with the goals, objectives, and policies of Imagine Currituck including:

### **Goals and Policies**

**Land Use 2:** Carefully consider the design and location of intensive and potentially incompatible and uses to mitigate compatibility issues such as environmental quality, safety, overburdening local infrastructure, scale, use, design, location, and adverse effects.

**Economic Development 1:** Support the retention and expansion of existing businesses and promote the development of new businesses, especially those that help diversity the local economy and are compatible with the county's natural amenities and environment.

**Transportation 1:** Improve safety, traffic flow, access, and appearance of major highways and roads.

**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
	, 2022.	-

Board of Commissioners' Chairman

Attest:
Leeann Walton Clerk to the Board
DATE ADOPTED: MOTION TO ADOPT BY COMMISSIONER: SECONDED BY COMMISSIONER: VOTE: AYESNAYS
PLANNING BOARD DATE: <u>December 13, 2022</u> PLANNING BOARD RECOMMENDATION:
VOTE:AYESNAYS 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:	:
Date Filed:	
Gate Keeper:	
Amount Paid:	

Contact Inform	nation		
APPLICANT:			
Name:	CURRITUCK COUNTY		
Address: 153 COURTHOUSE RD SUITE 204			
	CURRITUCK NC 27929		
Telephone:	252-232-2075		
E-Mail Addre	ss; IKE.MCREE@CURRITUCKCOUNTYNC.GOV		
Request			
the undersia	ned, do hereby make application to change the Currituck County UDO as herein requested.		
	er(s) 4 Section(s) <u>4.2.4.J.3.b and c</u> as follows:		
b. <u>Except acc</u>	ess, all land used for the campground must be one parcel and under the same ownership.		
-,-			
	to the second se		
	**************************************		
'Request-may be a	fached on separate paper if needed.  Augment 9/19/2022		

Text Amendment Application Page 3 of 4