



CURRITUCK COUNTY NORTH CAROLINA

October 9, 2018
Minutes – Regular Meeting of the Planning Board

WORK SESSION

The Currituck County Planning Board held a work session at 5:00 PM in the Historic Courthouse Conference Room. Staff members Donna Voliva, Tammy Glave, and Jennie Turner briefed the board members on the five items of new business listed on the agenda for the Planning Board Meeting. The work session adjourned at 5:55 PM.

CALL TO ORDER - 6:00 PM

The Planning Board met in a special session at 6:00 PM in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina. The meeting was held one hour earlier than the regular session to allow the time needed for the five items of new business.

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

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

A. Pledge of Allegiance & Moment of Silence

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

B. Ask for Disqualifications

Chairman Whiteman asked if any board member had a conflict of interest with the matters coming before the board. There were no conflicts noted.

C. Announce Quorum Being Met

Chairman Whiteman announced a quorum being met with six board members present.

D. Approval of Agenda

Chairman Whiteman asked if there were any changes needed to the agenda for tonight's meeting. With no changes noted, Mr. Craddock motioned to approve the agenda as presented. Mr. Ballance seconded the motion and the motion carried unanimously.

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

APPROVAL OF MINUTES FOR AUGUST 14, 2018

Chairman Whiteman asked if any changes were needed for the meeting minutes of August 14, 2018. Mr. Craddock motioned to approve the minutes as presented. Mr. O'Brien seconded the motion and the motion carried unanimously.

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

E. PB Minutes August 14, 2018**OLD BUSINESS**

There was no old business discussed.

NEW BUSINESS**A. PB 18-21 Grout Text Amendment:**

Jennie Turner, Planner II, presented the staff report. The text amendment to the Unified Development Ordinance (UDO) is being requested by Stephen and Rachael Grout to allow temporary residences for new construction subject to the conditions already in place for temporary residences for expansion or replacement of existing facilities. Ms. Turner said provisions changed in 2013 which removed the use of a temporary residence on property that did not have an existing residence from the UDO, but continued to allow temporary residences in the cases of an existing residence being damaged and a temporary residence was needed for repairs to be made to the home. Staff recommended denial since this request is inconsistent with the Land Use and Development Goal of the 2006 Land Use Plan: 7. To exercise caution, foresight, and common sense in dealing with the risks of coastal development. Temporary residences are not as safe as permanent dwellings and they are not necessary for new construction. It is reasonable and in the public interest to

allow a temporary residence in the case of an established dwelling where occupants are temporarily displaced

Applicant, Stephen Grout came before the board and stated his address as 2195 Ocean Pearl Road, Corolla. Mr. Grout said he and his wife are constructing another home in Corolla and they have had theft of construction materials due to them not being on the property. He said they are using their own money so it will take awhile to construct the new house and will need to sell their current residence. They are requesting the text amendment to be able to reside in a camper on the property while construction continues.

Laurie LoCicero, Planning Director, instructed the board members of the option to allow Use Permits for the temporary residences. These would go before the Board of Commissioners for approval and would cost the applicants \$300 for consideration.

Board members agreed this would be a good option for approvals of temporary residences on a case by case basis and would help the county control the use of campers as temporary residences.

Chairman Whiteman asked for a motion. Mr. Ballance motioned to approve PB 18-21 Grout Text Amendment to allow temporary residences with the conditions of a required Use Permit and all eight staff recommendations required as conditions. Mr. Thomas seconded the motion. Mr. Craddock asked for discussion before voting.

After board discussion the motion originally made by Mr. Ballance was modified to the following:

Mr. Ballance motioned to approve PB 18-21 Grout Text Amendment to allow temporary residences on lots with ongoing construction of a new dwelling with the condition of a required Use Permit (approved by the Board of Commissioners) and conditions #1 through #7 of the staff recommendations with #7 being modified to include Single Family Residential - Outer Banks (SFO) zoning district:

Temporary residences for new construction shall:

1. Be limited to a six month period during construction of a dwelling unit on the same lot.
2. Allow that one additional period not to exceed three months may be approved if it is determined by the Planning Director that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the new construction.
3. Obtain a building permit for the principal dwelling unit prior to issuance of a temporary use permit.
4. Obtain all building and health permits for the inspection of the water supply, waste discharge system and electrical installation for the temporary residence prior to issuance of a temporary use permit.
5. Not use a generator to provide power.
6. Be removed from the lot or disconnected from water supply, waste discharge system and electrical supply within 30 days of issuance of the certificate of occupancy or upon expiration of the temporary use permit, whichever occurs first.

7. Be allowed in all zoning districts that allow single family dwellings.
8. Not be permitted in LI or HI zoning districts.

Mr. Thomas seconded the motion and the motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 10/15/2018 6:00 PM
AYES:	Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member, J. Timothy Thomas, Board Member	
ABSENT:	Carol Bell, Board Member	

B. PB 18-20 Ponderosa Enterprises Inc:

Tammy Glave, Senior Planner, presented the staff report along with the proposed plans, current zoning map, explaining the proposed changes. Ms. Glave also showed examples of design features for the building's architectural design elements. The canopy for the gas station will be to the side and facing to the back of the building. Also a sidewalk will be made from the mobile home park to the building. The owner will not use the property for ministorage and a Type A landscape buffer will be provided between the two General Business uses (the proposed building and the existing mobile home park). Staff recommends approval of the conditional rezoning since it is consistent with the Full Service Plan of the 2006 Land Use Plan and the Maple/Barco Small Area Plan. The Technical Review Committee recommends approval with the suggested conditions listed in the staff report.

Board discussion was held over item #6 in the suggested conditions and what the minimum and maximum building square footage would be. Mr. Craddock asked staff in their opinion what is an acceptable minimum and maximum square footage. Ms. Glave said approximately 5,000 to 7,000 would be acceptable.

Eddie Hyman came before the board to represent Ponderosa Enterprises, Inc. He said they have worked with staff to come up with some plans that would be an asset to the ball fields across the street.

Mr. Craddock asked Mr. Hyman if they were willing to accept all of the conditions in the staff report. Mr. Hyman said he would not have a problem with it, but he needed to ask Mr. Sawyer (Ponderosa Enterprises, Inc.) before he could answer for him. Mr. Craddock asked if the board needed to wait on Mr. Sawyer to arrive to get an answer for agreement to the conditions set by the Technical Review Committee (TRC) and staff. Mr. Sawyer entered the meeting.

Chairman Whiteman called for a recess while Mr. Hyman had a discussion with Mr. Sawyer.

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

Mr. Hyman and Mr. Sawyer came back before the board. Mr. Sawyer agreed to discuss the conditions at the Board of Commissioners (BOC) Meeting.

Chairman Whiteman asked for a motion

Mr. Craddock motioned to approve PB 18-20 Ponderosa Enterprises Inc. requested Conditional Rezoning since it is consistent with the adopted plans of the Land Use Plan policies CD1, CD2, CD4, CD9, ED1 and the Maple-Barco Small Area Plan policies LU4, LU9 and TR4. This conditional zoning request is consistent with the goals, objectives, and policies of the Land Use Plan and Maple-Barco Small Area Plan and is compatible with existing and proposed uses surrounding the land subject to the application, and it is an appropriate zoning district and use for the land. The conditions to be discussed at the BOC will be:

1. The property will not be used for mini-storage.
2. A Type A landscape buffer will be provided between the two GB uses.

And also conditions:

1. Building architecture and design features shall be consistent with the photographs submitted with the application to provide consistency and compatibility with the nearby county complex. (See Attached)
2. Residential uses shall only be allowed through a mixed use building to limit the density allowed in the airport approach zone to an appropriate level.
3. Place the fueling station/canopy to the side and/or rear of the fuel and convenience center building and move the building closer to Shortcut Road. This building front will be the most visible in the complex and should set the architectural tone and campus like setting of the proposed development along Shortcut Road, a major arterial street.
4. Provide a central courtyard with pedestrian features (i.e. benches, water feature) with buildings oriented inward towards the central courtyard to mimic the campus like feel and pedestrian activity between employment areas and the other uses as required by the Maple Barco Small Area Plan.
5. Provide a handicap accessible pedestrian connection to the mobile home park to encourage pedestrian activity between the uses.
6. Provide a minimum and maximum building square footage to ensure compatibility with the area.
7. Impose the suggested two story limit on all buildings because of the project's location in the airport approach zone.

Mr. Thomas seconded the motion and the motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 10/15/2018 6:00 PM
AYES:	Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member, J. Timothy Thomas, Board Member	
ABSENT:	Carol Bell, Board Member	

C. PB 18-22 Allied Properties, LLC

Donna Voliva, Assistant Planning Director, presented the staff report. Since the original 2015 conditional zoning, the applicant has designed and developed Windswept Pines. Windswept Pines Phase 1 is recorded and homes are under construction. As part of the construction drawing application, the engineered stormwater plans were completed that resulted in additional stormwater retention area for Phase 2. The request for conditional rezoning would allow two ponds that are necessary for this stormwater retention.. A

community meeting was held and several people attended with concerns about the existing drainage, road interconnectivity, NCDOT road right of way and maintenance.

Mr. Craddock asked Ms. Voliva why the open space was exceeded and she replied that it was a minor error.

Mr. Bissell with Bissell Professional Group came before the board to represent Allied Properties, LLC. Mr. Bissell explained the calculations of water drainage in the ditches. Ditch F was the only one that carried a lot of water and was backing up in the ditch and on the site. The plan was to construct a new ditch along the west side and since the three existing ponds are insufficient, we will need to construct 2 additional ponds to allow for proper drainage. The storm water will be divided between the two new ponds.

Board members asked questions about the ditches locations, where the ditches drained to and if additional ponds beyond the two requested ones will be needed. Mr. Bissell said they plan on doing a Phase 3 and the ponds would then need to be enlarged.

No other persons were signed up to speak. Chairman Whiteman asked for a motion.

Mr. Ballance motioned to approve PB 18-22 Allied Properties, LLC for the requested conditional rezoning to allow for the two additional ponds because the request is in compliance with the 2006 Land Use Plan and it is in the public interest with the added agreed upon conditions of approval 1 through 5 as stated in the staff report:

1. Proposed Use: Subdivision
2. All lots to be greater than or equal to 20,000 square feet.
3. Install a new culvert under Baxter's Lane to improve off-site drainage, size to be determined after engineering evaluation.
4. Explore the possibility of routing a portion of stormwater runoff to the northeast.
5. All residential development will be single family and will conform to sample building elevations provided.

Also, the calculation correction shall be included.

Ms. Overstreet seconded the motion and the motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 11/5/2018 6:00 PM
AYES:	Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member, J. Timothy Thomas, Board Member	
ABSENT:	Carol Bell, Board Member	

D. PB 17-14 Currituck County - Solar Text Amendment:

Tammy Glave, Senior Planner, presented the staff report. The Board of Commissioners directed staff in 20017 to draft a text amendment to allow solar energy facilities with standards that make the use compatible with adopted plans while protecting the health, safety, and general welfare of nearby uses. This text amendment has been through many changes after hours of research, staff attending solar workshops, multiple work sessions with the Board of Commissioners, and a final review by the county attorney. Ms. Glave summarized the changes in the solar ordinance including location, maximum size, setbacks, height & configuration, sound (hours of operation during construction being Monday through

Friday, 7 AM to 7 PM and if located within 1500' of a school, no pile driving during school hours.), buffers and screening, as well as many standards were added for testing water in well before starting construction and testing each year thereafter. Staff was also directed to remove all wind energy facility, large. Ms. Glave reminded the board members to read the Statement of Consistency and Reasonableness should they recommend approval of the text amendment.

Board members had questions concerning the maximum size allowed and the sound restrictions limiting the operations during construction for Monday through Friday. Some board members believed they should be allowed to work on weekends. Ms. LoCicero said this restriction resulted from previous complaints made by residents, particularly in the Ranchland area, who said construction on the solar farm there on weekends negatively affected their quality of life. Board members asked if they were ever cited or fined and Ms. LoCicero said they were not. Code Enforcement investigated and did not find any violation at the time of the onsite visit, also, the Sheriff's Department measured the sound and found they were not in violation.

Discussion was held on the Decommissioning Performance Guarantee requirements.

Mr. Ballance asked if accessory use wind mills would still be allowed and Ms. Glave said they would be.

Adam Forrer, Atlantic Region Manager with the Raleigh based Southeast Wind Coalition came before the board. Mr. Forrer spoke about the benefits of wind energy and about interactions with the military concerning wind mills. He believes Currituck County should not ban wind mill farms entirely, but to use the Department of Defense (DoD) Siting Clearinghouse, Office of the Assistant Secretary of Defense for Energy, Installations, and Environment to allow developers to request a mission compatibility evaluation of proposed energy projects. He said the Department of Defense is supportive of renewable energy when it is compatible with the military's mission to test, train, and operate. Mr. Forrer said the Clearinghouse mitigates to find solutions for energy projects and he only recalls one time that the Clearinghouse found a project could not be built in Eastern North Carolina.

The board asked questions about radars, the interference caused by windmills, and questions concerning the DoD Clearinghouse. Mr. Forrer said the Clearinghouse was formed in 2011 and upgraded this year with the National Defense Authorization Act. Chairman Whiteman asked if he had a copy of this act with him concerning the Clearinghouse section. Mr. Forrer said he did not have it with him, but would email it to the board members tomorrow morning.

Chairman Whiteman called the next speaker to the stand.

Jim Martin with First Solar came before the board. He said their company constructs and own several solar farms. Mr. Martin said they are concerned with this text amendments requirements for solar farms; specifically the maximum size, setbacks and buffers. He said large companies like Amazon, Facebook and Walmart are demanding solar power and their company cannot provide it for them under the conditions being set by Currituck County. He also said farmers should not be limited to the amount of land they wish to use for solar power.

Chairman Whiteman called the next speaker to the stand.

Harrison Cole with Cypress Creek Renewables said solar projects use a lot of metal and valuable materials. He asked the board to consider allowing the salvage cost of those materials to be counted toward the performance guarantee. Cole said one of the major materials used in solar farms is aluminum, which has a lot of salvage value.

Chairman Whiteman called the next speaker to the stand.

Andy White with First Solar said solar panels have been tested and are safe. They meet both American and European standards. He also said First Solar in their 20 years of observations with 17,000 mega watts and 200 square miles of panels have never had any ground water problems. The panels pass 10 safety protocols and meet the EPA requirements if they are exposed.

Chairman Whiteman said he would like to know what solar panels are made out of and needs details on a groundwater test at a solar facility site so that he could see what experts are looking for. Mr. Craddock said testing is a good way to confirm whether any contaminants have been emitted or leached from solar panels' supporting structures. Mr. White said ground water is free flowing between properties and is hard to monitor with exact certainty of a related cause if there was a problem with it.

The board members asked various questions concerning bonds, decommissioning, components in the panels, as well as questions about the zinc in the galvanized steel posts.

Chairman Whiteman again requested the DoD regulation for the Clearinghouse and Mr. Forrer said he would forward it early tomorrow morning.

Chairman Whiteman said he would like to table the text amendment until we see some of the requested items, the DoD regulation, etc. Mr. Craddock listed several concerns and questions that need to be answered.

Chairman Whiteman instructed staff to draft a list of questions to be answered at the next meeting. Ms. Glave said she would create the draft and send to the board members.

Chairman Whiteman motioned to table PB 17-14 Currituck County - Solar Energy Facilities. Mr. Craddock seconded the motion and the motion carried unanimously.

Chairman Whiteman called a 10 minute recess.

RESULT:	TABLED [UNANIMOUS]	Next: 11/13/2018 7:00 PM
AYES:	Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member, J. Timothy Thomas, Board Member	
ABSENT:	Carol Bell, Board Member	

E. PB 18-24 Currituck County Flood Maps and Ordinance:

Donna Voliva, Assistant Planning Director, presented the staff report. Currituck County received modified flood hazard determinations on June 21, 2018; to remain in good standing with the National Flood Insurance Program (NFIP), the county is required to adopt the

effective Flood Insurance Study (FIS) report and Flood Insurance Rate Maps (FIRM) prior to December 21, 2018. Also, the county is required to adopt floodplain management regulations that meet the standards of the NFIP. Within the floodplain management regulations, the state regulations use criminal for enforcement. We feel that civil citations works best for us and we are hoping the NFIP will accept our use of civil instead of criminal for enforcement.

Board members asked staff questions concerning the amount of properties in special flood zone areas and whether there was an increase or decrease in the amounts. Ms. LoCicero said there was a 90% decrease in our V zone properties with the new flood maps.

Mr. Craddock asked about the effective date of the changes in flood zones and Ms. LoCicero said December 21, 2018 for insurance purposes.

Ms. LoCicero stated along with this text amendment for changes in the flood maps, staff recommends an increase to our current regulatory flood protection elevation (RFPE). The current freeboard is one foot and staff suggests raising this requirement to two feet. This will give us added protection against structures flooding within the special flood hazard area and will also decrease flood insurance premiums for property within the special flood hazard area.

Ms. Voliva asked Ms. Turner to talk about bulkheads and staff's concerns over not limiting the height of bulkheads used for non-shoreline protection.

Discussion was held on bulkheads, FEMA technical bulletins, grade requirements for V zones in the ocean hazard areas verses the mainland and freeboard.

Chairman Whiteman asked for a motion.

Mr. Craddock motioned to approve PB 18-24 Currituck County Flood Maps and Ordinance because the requested text amendment, adoption of the FIRM, and FIS are consistent with the goals, policies, and objectives of the 2006 Land Use Plan because:

- It will conserve the floodplains and other coastal features for their natural storm protection functions and their natural resources giving recognition to public health, safety, and welfare issues. (Natural Hazards Area CAMA Management Goal)
- It includes requirements for development and redevelopment within special flood hazard areas to meet the standards of the NFIP and the flood damage prevention ordinance. (LUP POLICY NH2)
- It recognizes the potential risks to life and properties within the special flood hazard areas and the implements measures to mitigate the risks. (LUP POLICY NH1)

The request is reasonable and in the public interest because:

- It continues the county's participation in the National Flood Insurance Program that enables property owners in participating communities to purchase insurance protection against losses from flooding.
- Minimizes damage to public and private property due to flooding.

And this will possibly changed if the staff receives notice about criminal verses civil and the Planning Board recommends a freeboard of two feet.

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

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 11/5/2018 6:00 PM
AYES:	Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member, J. Timothy Thomas, Board Member	
ABSENT:	Carol Bell, Board Member	

ANNOUNCEMENTS

Chairman Whiteman expressed concern over the number of board members scheduled to leave the Planning Board at the end of this year and having replacements.

Mr. Craddock asked Ms. LoCicero to give an update on the new Land Use Plan. Ms. LoCicero said questions have been sent and discussion was held with Destination by Design this week.

ADJOURNMENT

Mr. Craddock motioned to adjourn the meeting. Mr. O'Brien seconded the motion and the motion carried unanimously. Meeting adjourned at 9:33 PM.



**CURRITUCK COUNTY
NORTH CAROLINA**

August 14, 2018
Minutes – Regular Meeting of the Planning Board

WORK SESSION

The Currituck County Planning Board held a work session at 6:30 PM in the Historic Courthouse Conference Room. Jason Litteral, Planner II, reviewed the text amendment request submitted by David Stumph to modify Chapter 4 of the Unified Development Ordinance to allow veterinary clinics with no outdoor facilities to locate on lots smaller than two acres.

Discussion was held for the text amendment minimum square feet lot size to match the requirement to the General Business (GB) zoning district minimum lot size of 40,000 square feet.

The work session adjourned at 6:55 PM.

CALL TO ORDER

The Planning Board met in a regular session at 7:00 PM in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina.

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

Chairman Whiteman called the meeting to order.

A. Pledge of Allegiance & Moment of Silence

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

B. Ask for Disqualifications

Chairman Whiteman asked if any board member had a conflict of interest with the matter coming before the board. There were no conflicts noted.

C. Announce Quorum Being Met

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

D. Approval of Agenda

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

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

APPROVAL OF MINUTES FOR JULY 10, 2018

Mr. Whiteman asked if any changes were needed for the meeting minutes of July 10, 2018. Mr. McColley noted he had voted nay for PB 18-17 Jay Winslow and Jason Graham, a text amendment to the Unified Development Ordinance to allow paint/body shops in the General Business (GB) zoning district and his vote was recorded incorrectly. Cheri Elliott, Clerk to the Board, will make the correction to the minutes. Mr. Craddock motioned to approve the minutes with the change. Mr. Thomas seconded the motion and the motion carried unanimously.

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

E. PB Minutes July 10, 2018

OLD BUSINESS

There was no old business discussed.

NEW BUSINESS

A. PB 18-18 David Stumph, Veterinary Clinics:

Chairman Whiteman asked the applicant to come before the board to state their name and address. David Stumph appeared and stated his address as 3916 Tabor Ridge Drive, Kitty Hawk. Chairman Whiteman asked the applicant to take a seat while staff presented his case.

Jason Litteral, Planner II, presented the staff report. The text amendment is requesting to modify Chapter 4 of the Unified Development Ordinance (UDO) to allow veterinary clinics with no outdoor facilities to locate on lots smaller than two acres.

Planning Board members were concerned with the repercussions of an applicant choosing a nonconforming lot. Mr. Litteral said there is a section in the UDO concerning the nonconforming lots with the purpose of providing a means whereby the county may require certain nonconforming site features to be brought into compliance.

Mr. Craddock asked which zoning districts currently allow veterinary clinics. Mr. Litteral said they are allowed in the Agriculture (AG) zoning district with a Use Permit and in the General Business (GB), Limited Business (LB) and Light Industrial (LI) zoning districts without a Use Permit.

David Stumph introduced himself and his wife Jessica Stumph, who is also a veterinarian. He said she runs a mobile service, but it is getting increasingly more difficult with more cliental. They had started looking for a site to locate their business in Currituck County and found the rules as stated in the UDO made it difficult for new veterinary clinics.

Mr. McColley asked if they had a site in mind for the business and Mr. Stumph said the 1,100 square foot space was located beside the Post Office in Point Harbor.

Mr. Litteral noted this text amendment would also be an opportunity to bring the two existing veterinary clinics in the county into compliance since they do not have dog runs.

Chairman Whiteman asked if other businesses were located in the building they are considering and what is the zoning district. Mr. Stumph said the post office and an antique store are in the same connected building. Mr. Litteral said it is zoned GB.

Mr. Craddock noted the discussion in the work session to change the minimum lot size requirement for the veterinary clinic to match the requirements of the zoning districts it is located in. Chairman Whiteman asked the applicant if they were okay with the noted change and Mr. Stumph said the change was acceptable to their requested text amendment. Mr. Litteral said he will modify the text amendment as noted.

The board asked staff the minimum lot size requirements for the allowed zoning districts for veterinary clinics. Mr. Litteral gave the following minimum lot sizes:

Agriculture - 30,000 (on county water supply)

General Business - 40,000

Limited Business - 40,000

Light Industrial - 60,000

Mr. Craddock motioned to approve PB 18-18 David Stumph, Veterinary Clinics text amendment for the requested change to the UDO to allow veterinary clinics with no outdoor facilities to locate on lots smaller than two acres provided they meet the minimum lot size requirements for the zoning district. A line item #2 shall be added to the text amendment for the minimum lots size requirement. The requested text amendment is in the public's interest; it will not injure adjoining property owners and public facilities are adequate for the change. Mr. McColley seconded the motion and the motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 9/4/2018 6:00 PM
AYES:	Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, John McColley, Board Member, J. Timothy Thomas, Board Member	
ABSENT:	Carol Bell, Board Member, Jeff O'Brien, Board Member, Jane Overstreet, Board Member	

ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

Mr. McColley motioned to adjourn the meeting. Mr. Thomas seconded the motion and the motion carried unanimously. The meeting adjourned at 7:40 PM.



Currituck County

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

To: Board of Commissioners
 From: Planning Staff
 Date: October 15, 2018
 Subject: PB 18-21 Stephen and Rachael Grout, Text Amendment, Temporary Residence for New Construction

The enclosed text amendment submitted by Stephen and Rachael Grout revises Chapter 4 of the Unified Development Ordinance as it pertains to temporary uses for New Construction. The UDO distinguishes temporary uses permitted for "New Construction" and "Expansion or Replacement of Existing Facilities". The use of a **temporary residence** is not an allowed temporary use for new construction. For instance, a property owner cannot live in camper while building a new house on the same lot; however, a property owner may live in a camper while rebuilding a damaged home on the same lot. This text amendment proposes to allow temporary residences for new construction subject to the conditions already in place for temporary residences for expansion or replacement of existing facilities.

Background

The provision that allowed temporary residences for new construction was removed when the County rewrote and adopted the UDO effective January 1, 2013.

Prior to the 2013 UDO update, temporary residences were allowed for new construction:

3.2.7 Temporary Emergency, Construction or Repair Residences

- A. Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.
- B. Permits for temporary residences to be occupied by persons intending to live in such permanent residence pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the administrator may renew such permit for one additional period not to exceed three months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation or restoration work necessary to make such building habitable.
- C. Temporary emergency, construction, or repair residences shall consist of campers, travel trailers, recreational vehicles and Class "B" mobile homes.

PB 18-21 Stephen and Rachael Grout, Temporary Residence for New Construction
 Text Amendment
 Page 1 of 5

Staff reviewed permits issued for temporary residences from 2005 through the end of August 2018. Six permits were issued: one for use of a temporary residence for new construction (2010), four for use during repair of fire damaged structures and one for use while raising a flood prone structure.

Benchmarking

Staff reviewed other coastal North Carolina communities' ordinances to determine common practice related to the use of a temporary residence during construction of a new dwelling. Dare, Pasquotank, Perquimans, Brunswick, Pender and New Hanover Counties prohibit the use for new construction. Camden County allows the use for a six month period which may be extended up to three months. Carteret County allows the use for a nine month period with no extensions. Chowan County allows the use for one year and the permit may be renewed for another year.

Land Use Plan Consistency

The UDO requires that the Board of Commissioners adopt a statement of consistency and reasonableness that describes whether the decision on the amendment is consistent with county adopted plans that are applicable and why the decision is reasonable and in the public interest.

The request is inconsistent with the following Land Use and Development Goal of the 2006 Land Use Plan:

7. To exercise caution, foresight, and common sense in dealing with the risks of coastal development.

Temporary residences are not as safe as permanent dwellings and by continuing to limit the number of allowable temporary residences, the county will exercise caution by reducing the number of dwellings subject to a higher risk.

The use of a temporary residence for new construction is not a necessary use. It is reasonable and in the public interest to allow a temporary residence in the case of an established dwelling where occupants are temporarily displaced (ex: dwelling sustained damage or construction or additions that render an existing dwelling uninhabitable). It is not reasonable and in the public interest to allow use of a temporary residence when it is not necessary. The County should continue to allow temporary residences only when absolutely necessary. With the current and projected increase of building permits, there is greater potential to result in more temporary residence permits for new construction. Additionally, the request is not in the public interest as evidenced by the lack of permits issued over an 8 year period for this particular use.

Text Amendment Review Standards

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

- (1) Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;

- a. *The proposed text amendment is in conflict with Goal 7 of the Land Use Plan.*
- (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;
 - a. *The proposed text amendment does not address a demonstrated community need as evidenced by the issuance of one permit over an 8 year period.*
- (5) Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the county;
 - a. *The proposed text amendment does not improve compatibility among uses.*
- (6) Would result in a logical and orderly development pattern; and
 - a. *The proposed text amendment does not result in a logical and orderly development pattern as the permanent use (dwelling) should be established prior to the temporary use (temporary residence).*
- (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 denial of this text amendment due to its inconsistency with the Land Use Plan and because the use is not reasonable and in the public interest.

If the Planning Board recommends adoption of the text amendment, staff requests that consideration be given to the following:

Temporary residences for new construction shall:

1. Be limited to a six month period during construction of a dwelling unit on the same lot.
2. Allow that one additional period not to exceed three months may be approved if it is determined by the Planning Director that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the new construction.
3. Obtain a building permit for the principal dwelling unit prior to issuance of a temporary use permit.
4. Obtain all building and health permits for the inspection of the water supply, waste discharge system and electrical installation for the temporary residence prior to issuance of a temporary use permit.
5. Not use a generator to provide power.
6. Be removed from the lot or disconnected from water supply, waste discharge system and electrical supply within 30 days of issuance of the certificate of occupancy or upon expiration of the temporary use permit, whichever occurs first.
7. Be limited to AG, SFM, and SFI zoning districts.
8. Not be permitted in SFO (Single Family Residential – Outer Banks), Commercial or Industrial zoning districts.

***Carefully consider whether the use should be permitted in the SFR (Single Family Residential – Outer Banks Remote) zoning district. Parking of major recreational equipment is not permitted in the SFR zoning district. ***

Planning Board Recommendation 10/9/2018: Approval (Unanimous) with a condition of a required Use Permit and with modified staff recommendation conditions listed in the motion

Motion:

Mr. Ballance motioned to approve PB 18-21 Grout Text Amendment to allow temporary residences on lots with ongoing construction of a new dwelling with the condition of a required Use Permit (approved by the Board of Commissioners) and with conditions below:

Temporary residences for new construction shall:

1. Be limited to a six month period during construction of a dwelling unit on the same lot.
2. Allow that one additional period not to exceed three months may be approved if it is determined by the Planning Director that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the new construction.
3. Obtain a building permit for the principal dwelling unit prior to issuance of a temporary use permit.
4. Obtain all building and health permits for the inspection of the water supply, waste discharge system and electrical installation for the temporary residence prior to issuance of a temporary use permit.
5. Not use a generator to provide power.
6. Be removed from the lot or disconnected from water supply, waste discharge system and electrical supply within 30 days of issuance of the certificate of occupancy or upon expiration of the temporary use permit, whichever occurs first.
7. Be allowed in all zoning districts that allow single family dwellings.
8. Not be permitted in LI or HI zoning districts.

Mr. Thomas seconded the motion and the motion carried unanimously.

Planning Board Discussion

Jennie Turner, Planner II, presented the staff report. The text amendment to the Unified Development Ordinance (UDO) is being requested by Stephen and Rachael Grout to allow temporary residences for new construction subject to the conditions already in place for temporary residences for expansion or replacement of existing facilities. Ms. Turner said provisions changed in 2013 which removed the use of a temporary residence on property that did not have an existing residence from the UDO, but continued to allow temporary residences in the cases of an existing residence being damaged and a temporary residence was needed for repairs to be made to the home. Staff recommended denial since this request is inconsistent with the Land Use and Development Goal of the 2006 Land Use Plan: 7. To exercise caution, foresight, and common sense in dealing with the risks of coastal development. Temporary residences are not as safe as permanent dwellings and they are not necessary for new construction. It is reasonable and in the public interest to allow a temporary residence in the case of an established dwelling where occupants are temporarily displaced

Applicant, Stephen Grout came before the board and stated his address as 2195 Ocean Pearl Road, Corolla. Mr. Grout said he and his wife are constructing another home in Corolla and they have had theft of construction materials due to them not being on the property. He said they are using their own money so it will take a while to construct the new

house and will need to sale their current residence. They are requesting the text amendment to be able to reside in a camper on the property while construction continues.

Laurie LoCicero, Planning Director, instructed the board members of the option to allow Use Permits for the temporary residences. These would go before the Board of Commissioners for approval and would cost the applicants \$300 for consideration.

Board members agreed this would be a good option for approvals of temporary residences on a case by case basis and would help the county control the use of campers as temporary residences.

Chairman Whiteman asked for a motion.

**PB 18-21 STEPHEN & RACHAEL GROUT
TEMPORARY RESIDENCE FOR NEW CONSTRUCTION**

Amendment to the Unified Development Ordinance, Chapter 4: Accessory Use Standards, to allow temporary residences for new construction.

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 of the Unified Development Ordinance is amended by adding the following underlined language.

4.4.2 Table of Permitted Temporary Uses and Structures

Table 4.4.2, Permitted Temporary Uses and Structures, summarizes the temporary uses and structures that are allowed within the county and any general or specific standards that apply. Temporary uses or structures not listed in Table 4.4.2, Permitted Temporary Uses and Structures, are not allowed by this Ordinance.

TABLE 4.4.2: PERMITTED TEMPORARY USES AND STRUCTURES

TEMPORARY USE OR STRUCTURE	MAXIMUM ALLOWABLE TIME FRAME [I]	SPECIFIC REGULATIONS
Construction-Related Activities for New Construction (including temporary residences)	(A)	4.4.6.A
Expansion or Replacement of Existing Facilities (including temporary offices or temporary residences)	(B)	4.4.6.B
Garage and/or Yard Sales	(C)	
Outdoor Seasonal Sales	(D)	4.4.6.C
Real Estate Sales Office/Model Sales Home	(B)	4.4.6.D
Temporary Campground	(E)	4.4.6.E
Temporary Keeping of Livestock	(F)	4.4.6.F
Temporary Storage in a Portable Shipping Container	(G)	4.4.6.G
Temporary Tent	(G)	4.4.6.H
Special Events	(H)	4.4.6.I
TIME FRAMES:		
(A) Such structures may be in place for no more than 30 days following issuance of a certificate of occupancy		
(B) Such structures may remain in place for one year		
(C) Such sales are limited to a maximum of three occurrences per parcel per year		
(D) Such sales are limited to a maximum of 30 days per calendar year and no more than three occurrences per parcel, per year		
(E) Such events are permitted once a year for a maximum duration of two weeks		
(F) Such activities shall be limited to the period from December 1 until April 30 of the following year		
(G) Such structures may be in place for no more than 30 days per calendar year, and no more than three occurrences per parcel, per year		
(H) Such events are limited to a maximum of four occurrences per parcel, per year. Events held on county or State owned property are exempted from maximum allowable time frames.		
NOTES:		
[I] Regardless of the maximum allowable timeframe, temporary uses or structures located within a special flood hazard area shall not remain on site for more than three months.		

4.4.6. Specific Regulations for Certain Temporary Uses and Structures

A. Construction-Related Activities for New Construction

(1) General

Temporary construction-related activities for new construction, including construction offices, storage buildings, outdoor storage, and employee parking areas, may occur on the same site as the construction activity without obtaining a temporary use permit. Such uses shall be removed within 30 days after issuance of a Certificate of Occupancy.

(2) Adjacent Site

Because of site constraints, construction-related activities may need to occur on a site that is adjacent to or nearby the construction site. In such cases, a temporary use permit is required (see Section 2.4.11). Such uses shall be removed within 30 days after occupancy, and the site restored to its previous condition.

(3) Temporary Residence

Temporary residences are allowed (subject to Standards in Section 4.4.6.B.2) provided the county has issued a building permit for new construction and the temporary residence is connected to water and sanitation with a source for electrical power (either grid or generator) before use.

Item 2: 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 3: This ordinance amendment shall be in effect from and after the _____ day of _____, 2018.

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:
Date Filed:
Gate Keeper:
Amount Paid:

LY: PB 17-21
17-21
\$300 7/11/50 91
20,000 5/11/50

Contact Information

APPLICANT:

Name:	Stephen and Rachael Grout
Address:	2195 Ocean Pearl Road
	Corolla, NC 27927
Telephone:	252-457-7433
E-Mail Address:	sgrout1@hotmail.com

Request

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

Amend Chapter(s) 4 Section(s) 4.4.6.A as follows:

Please see attached letter.

*Request may be entered on separate paper if needed.

Petitioners

7/18/2018

Date _____

Text Amendment Submittal Checklist

Staff will use the following checklist to determine the completeness of your application. Only complete applications will be accepted.

Text Amendment

Submittal Checklist

Date Received: 7/26/2018

Project Name: Grout - Text Amendment - Temporary Residence

Applicant/Property Owner: Grout

Text Amendment Submittal Checklist

1	Complete Text Amendment application	<input checked="" type="checkbox"/>
2	Application fee (\$300)	<input checked="" type="checkbox"/>
3	2 hard copies of ALL documents	<input checked="" type="checkbox"/>
4	1 PDF digital copy of all documents (ex. Compact Disk – e-mail not acceptable)	<input checked="" type="checkbox"/>

For Staff Only

Pre-application Conference

Pre-application Conference was held on 7/26/2018 and the following people were present:

Stephen Grout, Teamie Turner, Nick Aistorage

Comments

Proposed Text Amendment Currituck County UDO Section 4.4.6.A**7/18/2018****Property Owners:**

Stephen and Rachael Grout
2195 Ocean Pearl Road
Corolla, NC 27927
(252) 457-7433

We are proposing a text amendment to the Currituck County Unified Development Ordinance (UDO) Chapter 4, Section 4.4.6.A that covers the entire off road area north of Corolla known as Fruitville Beach.

In 2003 when we built our current residence in Carova, we were permitted to reside in an RV on site for 11 months during construction. Ms. Jennie Turner (Currituck County Planner II) indicated that it was most likely an oversight in the adoption of the new UDO in 2013 that omitted this temporary residence provision in the "New Construction" section (4.4.6.A).

In addition to the temporary uses and structures already allowed by the UDO we propose an additional section for a temporary residence as defined in Section 4.4.6.B. It is currently acceptable under UDO Section 4.4.6.B to have an RV on site for "Expansion or Replacement of Existing Facilities" and we feel that this provision for a temporary residence should be the same regardless of whether it is "New Construction" or "Expansion or Replacement of existing facilities."

Proposed Text:**4.4.6.A.3****(3)Temporary Residence**

Temporary residences will be allowed with an approved Temporary Use Permit during the new construction of a primary residence for which the county has already issued a building permit. Temporary residences will be connected to water and sanitation with a source for electrical power (either grid or generator) before they can be utilized.

(a) Standards (quoted from 4.4.6.B.2)

In addition to meeting the general standards of Section 4.4.5, General Standards for Temporary Uses and Structures, all temporary structures approved in accordance with this section shall meet the following standards:

- (i) The structure may be located anywhere on the site except within the Following areas:**

- (a) Existing required landscaping or perimeter buffer areas;
- (b) Areas designated as future required landscaping areas, whether or not vegetation currently exists; and
- (c) Other areas designated on the site for open space, vehicular use, or ingress/egress

(ii) The temporary structure shall be factory-fabricated and transportable. Allowable structures include campers, travel trailers, recreational vehicles, FEMA trailers, or similar structures, but shall not consist of a class "B" or class "C" manufactured home;

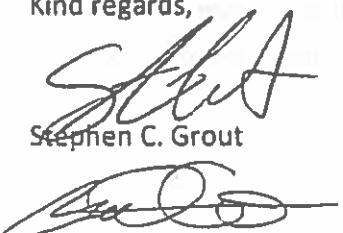
(iii) The temporary residence may only be occupied by persons intending to reside in the permanent dwelling as a primary residence.

(iv) In addition to any other off-street parking required on the site in accordance with Section 5.1, Off-Street Parking and Loading, adequate off-street parking shall be provided for the temporary use;

(v) All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained prior to installation of the temporary structure; and

(vi) The temporary structure shall be compatible with the existing buildings on the site in terms of exterior color, design, and placement, to the maximum extent practicable.

Kind regards,



Stephen C. Grout



Rachael W. Grout



**STAFF REPORT
PB 18-20
PONDEROSA ENTERPRISES, INC.
BOARD OF COMMISSIONERS
OCTOBER 15, 2018**

APPLICATION SUMMARY

Property Owner: Ponderosa Enterprises Inc 613 Shortcut Road Barco NC 27917	Applicant: Ponderosa Enterprises Inc 613 Shortcut Road Barco NC 27917
Case Number: PB 18-20	Application Type: Conditional Rezoning
Parcel Identification Number: 0052000022B0000	Existing Use: Agricultural
Land Use Plan Classification: Full Service	Parcel Size (Acres): 11.6
Maple/Barco Small Area Plan Classification: Employment	Airport Compatibility Use Zone: 1, 2, and 3
Zoning History: A-40 (1974); A (1989)	
Current Zoning: GB and AG with Airport Overlay District (AO)	Proposed Zoning: C - GB

SURROUNDING PARCELS

	Land Use	Zoning
North	Airport/Maple Campus	HI/GB
South	Woodland/Cultivated Farmland	HI
East	Mobile Home Park/Self-Storage	GB
West	Cultivated Farmland/Woodland	HI

STAFF ANALYSIS

REQUEST

The property owner is requesting a conditional rezoning from AG (Agricultural) to C-GB (Conditional-General Business). At this time, there is not a specific user for the property. According to the applicant, the proposed uses include "only uses compatible with GB zoning, office, commercial, personal services, institutional, etc. Uses that provide Employment opportunities for county residential and goods and services to county residents and visitors." The owner proposes the following zoning conditions:

- The property will not be used for ministorage.
- A Type A landscape buffer will be provided between the two GB uses.

A community meeting was held at Ponderosa Enterprises, Inc. on July 23, 2017 with no one in attendance.

The conceptual plan for the property includes a fuel and convenience store and four multipurpose buildings (office, mixed use residential/commercial, and commercial). The buildings range in size

from approximately 7,000 sf to 10,000 sf. The plan indicates green spaces and a sidewalk connecting the buildings. There is one entrance to the development off of Shortcut Road.

The applicant previously submitted a straight rezoning from AG to GB for the property, but withdrew that application and submitted this conditional rezoning from AG to C-GB request.

UDO

The applicant owns a neighboring 30 acre tract zoned GB and contains Ponderosa Mobile Home Park. On the north side of Shortcut Road is the county airport and community center in Maple. The airport is zoned HI and the community center is zoned GB.

The area of the request is also located within the Airport Overlay District (AO) and Compatibility Use Zones 1, 2, and 3.

- Compatible Use Zone 1 limits uses to single-family detached dwellings, aviation related uses, nonresidential uses that do not exceed an occupancy of ten people per acre, or conservation.
- Compatible Use Zone 2 limits uses to single-family detached dwellings, agricultural, agriculture support and services uses, nonresidential uses that do not exceed an occupancy of 40 people per acre, or conservation.
- Compatible Use Zone 3 limits uses to those permitted in the base zoning district.

The ability to increase residential density within the GB zoning district is limited by Airport Overlay District (AO) that will remain on the property.

2006 Land Use Plan

The proposed rezoning to C-GB appears to be consistent with the Full Service designation identified in the 2006 LUP. The listed uses include retail (fuel and convenience), mixed use retail/commercial, and multipurpose business spaces. With agreed upon assurances applied through the conditional zoning district demonstrating general land uses, architectural design, and site features, it is possible to determine consistency with the policies identified in the plans approved by the county such as the Land Use Plan. The proposed architectural renderings are compatible with the county complex across Shortcut Road.

The Maple-Barco Small Area Plan

The Future Land Use Map identifies the property as Employment, which anticipates land uses that will generate economic activity or job growth. The proposed rezoning to C-GB appears to be consistent with the Employment land use designation. The MBSAP suggests areas should be encouraged to develop in mixed use or campus like settings with generous, linked open space to maximize value, promote visual quality, and encourage pedestrian activity between employment areas and areas of supporting uses such as retail, restaurants, and residential. The proposed development plan and site design are consistent with the desired density, character of growth, and level of services appropriate for the study area.

RECOMMENDATION

TECHNICAL REVIEW COMMITTEE

The Technical Review Committee recommends approval of the conditional rezoning.

ADOPTED PLANS

The 2006 Land Use Plan classifies this site as Full service within the Barco-Coinjock-Airport subarea. The policy emphasis for the Barco-Coinjock-Airport subarea is for the area to emerge as the principle community center serving the central areas of the mainland. The proposed plan is in keeping with the policies of the plan, some of which are:

Policy CD1	Neighborhood serving commercial districts shall be encouraged. Appropriately designed, small-scale business should locate near neighborhood serving facilities such as schools and parks.
Policy CD2	Commercial or mixed use centers should be clustered to prevent strip development and minimize traffic generation.
Policy CD4	Highway oriented commercial uses should be clustered along the highway to minimize signage, access points, and prevent strip development.
Policy CD9	Businesses must coordinate their site design with other nearby uses.
Policy ED1	New and expanding business are encouraged that diversify the local economy, train and use a more highly skilled labor force, and are compatible with the environmental quality and natural amenity-based economy of Currituck County.

The Maple-Barco Small Area Plan classifies this site as Employment. The plan states that the area should be developed in mixed use or campus like setting with generous, linked open space to maximize value, promote visual quality, and encourage pedestrian activity between employment areas and areas of supporting uses such as retail, restaurants, and residential. The proposed plan is in keeping with the policies of the plan, some of which are:

Policy LU4	Encourage and allow small, locally owned businesses to locate in the area.
Policy LU9	The density, character of growth, and level of service must be appropriate for the study area.
Policy TR4	Infrastructure must be integrated into new developments that promote multimodal transportation, interconnecting employment centers, business, and neighborhoods.

The Connect Currituck Pedestrian Master Plan calls for a multi-modal side-path/trail along Shortcut Road. NCDOT's road widening project places the multi-modal side-path/trail on northern side of Shortcut Road, opposite this project.

CONSISTENCY STATEMENT

This conditional zoning request is consistent with the goals, objectives, and policies of the Land Use Plan and Maple-Barco Small Area Plan and is compatible with existing and proposed uses surrounding the land subject to the application, and it is an appropriate zoning district and use for the land.

CONDITIONS OF APPROVAL

Only conditions mutually agreed to by the owner 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. The property will not be used for ministorage.
2. A Type A landscape buffer will be provided between the two GB uses.

Suggested conditions of approval that must be agreed to by the owner:

1. Building architecture and design features shall be consistent with the photographs submitted with the application to provide consistency and compatibility with the nearby county complex. (See Attached)
2. Residential uses shall only be allowed through a mixed use building to limit the density allowed in the airport approach zone to an appropriate level.
3. Place the fueling station/canopy to the side and/or rear of the fuel and convenience center building and move the building closer to Shortcut Road. This building front will be the most visible in the complex and should set the architectural tone and campus like setting of the proposed development along Shortcut Road, a major arterial street.
4. Provide a central courtyard with pedestrian features (i.e. benches, water feature) with buildings oriented inward towards the central courtyard to mimic the campus like feel and pedestrian activity between employment areas and the other uses as required by the Maple Barco Small Area Plan.
5. Provide a handicap accessible pedestrian connection to the mobile home park to encourage pedestrian activity between the uses.
6. Provide a minimum and maximum building square footage to ensure compatibility with the area.
7. Impose the suggested two story limit on all buildings because of the project's location in the airport approach zone.

PLANNING BOARD RECOMMENDATION

The Planning Board recommended approval of this request subject to the consistency statement and the following conditions:

Agreed upon conditions of approval:

1. The property will not be used for ministorage.
2. A Type A landscape buffer will be provided between the two GB uses.

Suggested conditions of approval that must be agreed to by the owner:

3. Building architecture and design features shall be consistent with the photographs submitted with the application to provide consistency and compatibility with the nearby county complex. (See Attached)
4. Residential uses shall only be allowed through a mixed use building to limit the density allowed in the airport approach zone to an appropriate level.

5. Place the fueling station/canopy to the side and/or rear of the fuel and convenience center building and move the building closer to Shortcut Road. This building front will be the most visible in the complex and should set the architectural tone and campus like setting of the proposed development along Shortcut Road, a major arterial street.
6. Provide a central courtyard with pedestrian features (i.e. benches, water feature) with buildings oriented inward towards the central courtyard to mimic the campus like feel and pedestrian activity between employment areas and the other uses as required by the Maple Barco Small Area Plan.
7. Provide a handicap accessible pedestrian connection to the mobile home park to encourage pedestrian activity between the uses.
8. Provide a minimum and maximum building square footage to ensure compatibility with the area.
9. Impose the suggested two story limit on all buildings because of the project's location in the airport approach zone.

Planning Board Discussion 10/9/2018

Tammy Glave, Senior Planner, presented the staff report and showed the proposed plans, current zoning map, explaining the proposed changes. Ms. Glave also showed examples of design features for the building's architectural design elements. The canopy for the gas station will be to the side and facing to the back of the building. Also a sidewalk will be made from the mobile home park to the building. The owner will not use the property for ministorage and a Type A landscape buffer will be provided between the two General Business uses (the proposed building and the existing mobile home park). Staff recommends approval of the conditional rezoning since it is consistent with the Full Service Plan of the 2006 Land Use Plan and the Maple/Barco Small Area Plan. The Technical Review Committee recommends approval with the suggested conditions listed in the staff report.

Board discussion was held over item #6 in the suggested conditions and what the minimum and maximum building square footage would be.

Chairman Whiteman asked for a motion.

Mr. Craddock motioned to approve PB 18-20 Ponderosa Enterprises Inc. requested Conditional Rezoning since it is consistent with the adopted plans of the Land Use Plan policies CD1, CD2, CD4, CD9, ED1 and the Maple-Barco Small Area Plan policies LU4, LU9 and TR4. This conditional zoning request is consistent with the goals, objectives, and policies of the Land Use Plan and Maple-Barco Small Area Plan and is compatible with existing and proposed uses surrounding the land subject to the application, and it is an appropriate zoning district and use for the land. The conditions of approval shall be:

1. The property will not be used for ministorage.
2. A Type A landscape buffer will be provided between the two GB uses.

And also conditions:

1. Building architecture and design features shall be consistent with the photographs submitted with the application to provide consistency and compatibility with the nearby county complex. (See Attached)
2. Residential uses shall only be allowed through a mixed use building to limit the density allowed in the airport approach zone to an appropriate level.
3. Place the fueling station/canopy to the side and/or rear of the fuel and convenience center building and move the building closer to Shortcut Road. This building front will be the most

visible in the complex and should set the architectural tone and campus like setting of the proposed development along Shortcut Road, a major arterial street.

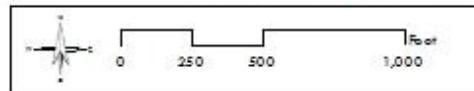
4. Provide a central courtyard with pedestrian features (i.e. benches, water feature) with buildings oriented inward towards the central courtyard to mimic the campus like feel and pedestrian activity between employment areas and the other uses as required by the Maple Barco Small Area Plan.
5. Provide a handicap accessible pedestrian connection to the mobile home park to encourage pedestrian activity between the uses.
6. Provide a minimum and maximum building square footage to ensure compatibility with the area.
7. Impose the suggested two story limit on all buildings because of the project's location in the airport approach zone.

Mr. Thomas seconded the motion and the motion carried unanimously.

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



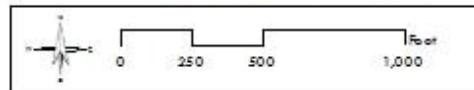
PB 18-20 Ponderosa Enterprises Inc
Conditional Rezoning
2016 Aerial Photography



Currituck County
Planning and
Community Development



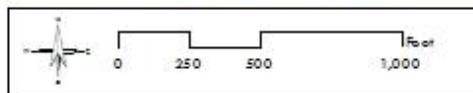
PB 18-20 Ponderosa Enterprises Inc
Conditional Rezoning
Zoning



Currituck County
Planning and
Community Development



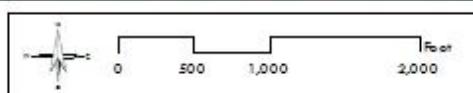
PB 18-20 Ponderosa Enterprises Inc
Conditional Rezoning
LUP Classification



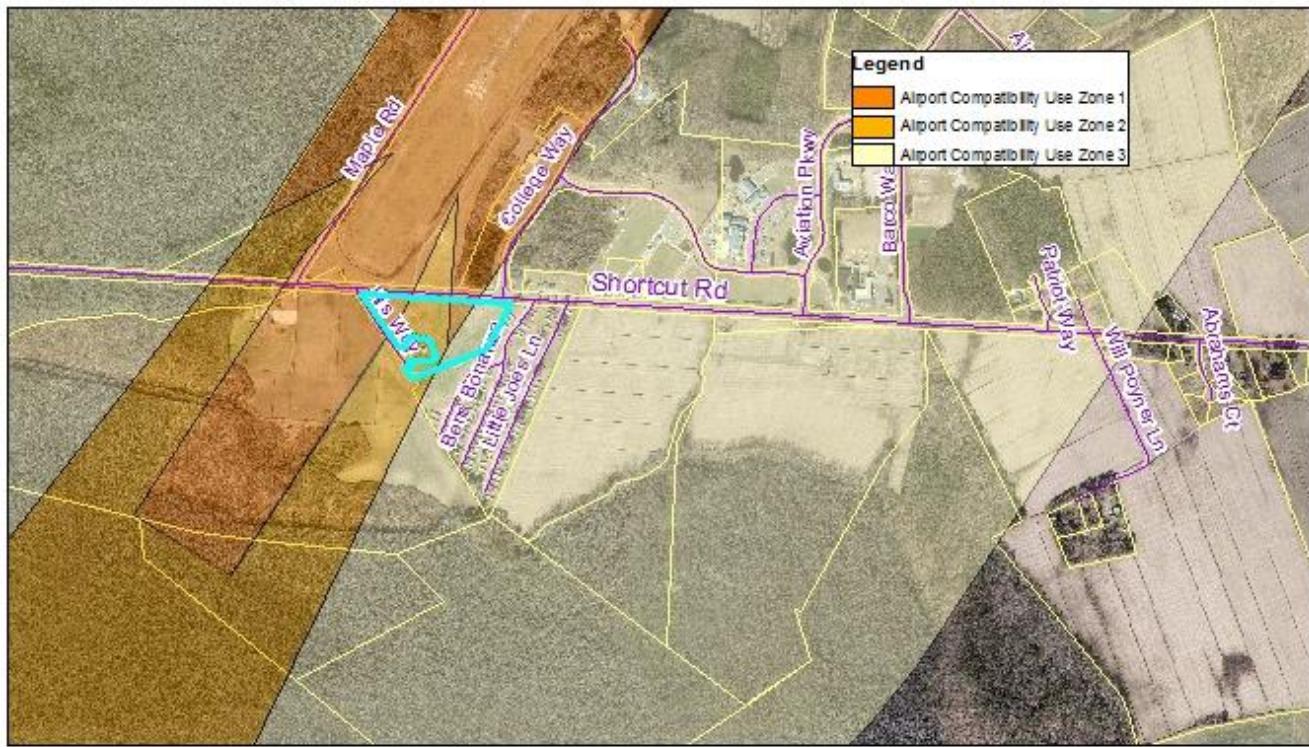
Currituck County
Planning and
Community Development

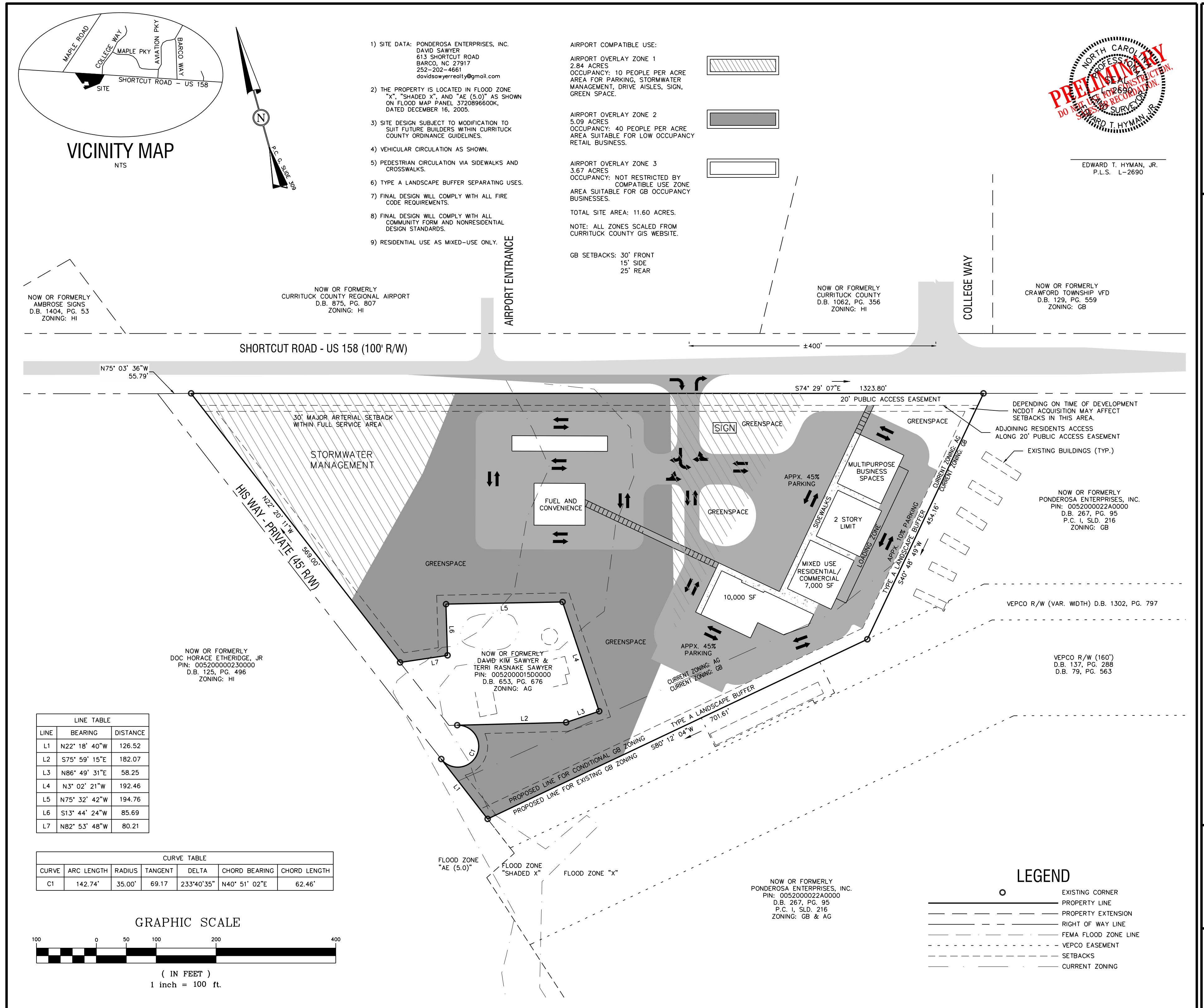


PB 18-20 Ponderosa Enterprises Inc
Conditional Rezoning
Maple-Barco SAP Classification



Currituck County
Planning and
Community Development





A.E.T. HYMAN
SURVEYING, PC

133 US Hwy 158 West, Suite E
Camden, NC 27921, License C-4161
(252) 338-2913 - (252) 338-5552 Fax

PRELIMINARY
DO NOT USE FOR CONSTRUCTION
SOLICIT SURVEYOR'S RECORDATION

EDWARD T. HYMAN, JR.
P.L.S. L-2690



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: Eddie Hyman
 Ponderosa Enterprises Inc.

From: Tammy D. Glave, CZO
 Senior Planner

Date: August 9, 2018, 2018

Re: Ponderosa Enterprises Inc., Conditional Rezoning Request

Following are the comments received to date for Ponderosa Enterprises Inc. for the August 15, 2018 Technical Review Committee (TRC) meeting. In order to be placed on the September 11, 2018 Planning Board agenda, all outstanding TRC comments must be received by August 20, 2018. TRC comments are valid for six months. Please let me know if you have any questions. Thanks.

Planning (Tammy Glave, 252-232-6025)

Reviewed with comment:

1. The Maple Barco Small Area Plan (MBSAP) suggests areas should be encouraged to develop in mixed use or campus like settings with generous, linked open space to maximize value, promote visual quality, and encourage pedestrian activity between employment areas and areas of supporting uses such as retail, restaurants, and residential.
 - a. The site plan presented does not appear to be a campus like setting, but rather a convenience store and a mini-mall/strip-type building.
 - b. A campus is traditionally:
 - A collection of buildings and grounds that belong to one individual/entity with common architecture, landscaping, and site features;
 - The collection of buildings is connected through open space, sidewalks and other pedestrian features (i.e. park-like setting with benches, water feature, etc.); and,
 - The collection of buildings is oriented inward towards a central courtyard, etc.
2. Please show the entrance to the airport on the opposite side of Shortcut Road. Is it possible to align proposed entrance with that entrance? If not, is driveway spacing adequate according to the UDO?
3. The site appears to have wetland characteristics as delineated on the GIS map. Please provide USACE documentation that jurisdictional wetlands are not present on the site or provide a delineated map approved by the USACE and method of preserving delineated wetlands.
4. Additional potential conditions to consider:
 - No dwelling units.

- Architectural features will be consistent with those proposed in the application submittal.
- Minimum/maximum building square footages
- Infrastructure
- Building story limits
- Non-access easement along the length of His Way to better control access to the site.
- Provide pedestrian connection to the mobile home park.

5. It is important to note in the planning stage that Community Form and Nonresidential Design Standards apply to the development at site plan submittal.

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

Reviewed with comment:

Fire

1. Fire apparatus must not have to back up on an access road greater than 150' without a turnaround as indicated in appendix D of the NC Fire Code. The back of 150' should be measured in a straight line.
2. Fire apparatus access must be at least 20' wide 13' 6" in height.
3. Maximum slope shall not exceed 10%.
4. All portions of the fire apparatus access must be capable of 75,000lbs under all weather conditions.
5. Fire hydrants must be within 500' of all road frontages.
6. Cul de sacs must be 96' in width curb to curb at the center of the cul de sac.
7. Dwellings greater than 4800 sq. ft. and/or greater than 2 stories will be calculated using the ISO commercial method.
8. Dwellings 4800 sq. ft. and no greater than 2 stories may use set-backs as indicated in the ISO method to determine Needed Fire Flow.

Inspections

1. Provide detailed drawing for clustered mailbox unit on plan, if required by the US Post Office.

Currituck County Code Enforcement (Stacey Smith, 252-232-3027)

Reviewed without comment.

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

Reviewed without comment.

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

Reviewed without comment.

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

Reviewed with comment:

1. Please consult with Kevin Carver RS at 252-232-6603 concerning wastewater treatment and disposal approval for proposed businesses on site plan proposed. Thank You.

NC Division of Coastal Management (Charlan Owens, 252-264-3901)

Reviewed without comment.

US Post Office (Barco)

Please contact the US Post Office to determine method of mail delivery.

Comments Not Yet Received from:

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

Currituck Soil and Stormwater (Will Creef, 252-232-3360)

Currituck County Water Department (Yama Jones, 252-232-2769)

The following items are necessary for resubmittal:

- 3 - full size copies of revised plans
- 1 – 8.5 x 11" reduced copy
- 1- PDF digital copy of all revised or new documents and plans.

3.B.d



Attachment: 4

Packet Pg. 40



3.B.e

Attachment: 5

Packet Pg. 41



3.B.f

Attachment: 6

Packet Pg. 42



3.B.g

Attachment: 7

Packet Pg. 43



3.B.h

Attachment: 8

Packet Pg. 44



3.B.i

Attachment: 9

Packet Pg. 45



3.B.j

Attachment: 10

Packet Pg. 46



3.B.k

Attachment: 11

Packet Pg. 47



3.B.I

Attachment: 12

Packet Pg. 48



Conditional Rezoning Application

OFFICIAL USE ONLY:

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

Contact Information

APPLICANT:

Name: Ponderosa Enterprises, Inc.
 Address: 613 Shortcut Road
Barco, NC 27917
 Telephone: 252-202-4661
 E-Mail Address: davidsawyerrealty@gmail.com

PROPERTY OWNER:

Name: Ponderosa Enterprises, Inc.
 Address: 613 Shortcut Road
Barco, NC 27917
 Telephone: 252-202-4661
 E-Mail Address: davidsawyerrealty@gmail.com

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: Owner

Property Information

Physical Street Address: 613 Shortcut Road, Barco, NC 27917Location: Across US HWY 158 from Currituck County Regional AirportParcel Identification Number(s): 0052000022A0000Total Parcel(s) Acreage: 11.60 acExisting Land Use of Property: Agricultural

Request

Current Zoning of Property: AG Proposed Zoning District: GB

Community Meeting

Date Meeting Held: 07-23-18 Meeting Location: Ponderosa Enterprises

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):

ONLY USES COMPATIBLE WITH GB ZONING, OFFICE COMMERCIAL, PERSONAL SERVICE, INSTITUTIONAL, ETC.
USES THAT PROVIDE EMPLOYMENT OPPORTUNITIES FOR COUNTY RESIDENTS AND GOODS AND SERVICES TO COUNTY RESIDENTS AND VISITORS,

Proposed Zoning Condition(s):

THIS PROPERTY WILL NOT BE USED FOR MINI STORAGE.
A TYPE A LANDSCAPE BUFFER WILL BE PROVIDED BETWEEN THE TWO GB USES.

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

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)

7-25-18

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.

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: _____

Project Name: Ponderosa Enterprises, Inc.Applicant/Property Owner: David Sawyer

Conditional 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 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 Rezoning Submittal Checklist

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 Received: _____

TRC Date: _____

Project Name: Ponderosa Enterprises, Inc.Applicant/Property Owner: David Sawyer

Conditional Rezoning Submittal Checklist		
1	Complete Conditional Rezoning application	
2	Application fee (\$150 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 Staff Only

Pre-application Conference

Pre-application Conference was held on _____ and the following people were present:

Comments



**STAFF REPORT
PB 18-22 ALLIED PROPERTIES
PLANNING BOARD
OCTOBER 9, 2018**

APPLICATION SUMMARY

Property Owner: Allied Properties, LLC 417 Caratoke Hwy, Unit D Moyock, NC 27958 QHOC of Windswept Pines LLC 417 Caratoke Hwy, Unit D Moyock, NC 27958	 MCQ Builders, LLC-2 1060 Laskin Rd, Suite 15B Virginia Beach, VA 23454 Mark & Penny McCrary 131 Baxter Ln. Moyock, NC 27958	Applicant: Allied Properties, LLC 417 Caratoke Hwy, Unit D Moyock, NC 27958
Case Number: 18-22		Application Type: Conditional Rezoning
Parcel Identification Number: 0009000011L0000, 0009000006A0000, 009H0000OSA-C0000, 009H0000001-120000, 009H000042-580000		Existing Use: Residential Subdivision
Land Use Plan Classification: Rural		Parcel Size (Acres): 66.8 acres
Moyock Small Area Plan Classification: Full Service		Zoning History: A and GB (1989) C-MXR (2015)
Current Zoning: C-MXR		Proposed Zoning: C-MXR

STAFF ANALYSIS

REQUEST

The applicant is requesting an amendment to a 2015 conditional zoning approval to add stormwater retention areas. The original conditional rezoning request approved by the Board of Commissioners involved the properties that are included in this application. The 2015 approved conditions and development plan indicated 59 total lots (including one existing parcel recombined to provide an entrance to Baxter Lane), commercial area, and a possible future development phase. The future development phase did not have a conceptual design layout, pedestrian and vehicular circulation plans, drainage facilities or patterns, additional open space, or approximate location of jurisdictional wetlands.

Since the 2015 conditional zoning, the applicant has designed and developed Windswept Pines. Windswept Pines Phase 1 is recorded and several homes are under construction. As part of the construction drawing application, the engineered stormwater plans were completed that resulted in additional stormwater retention area for Phase 2. The increased stormwater storage is proposed in the possible future development area of the 2015 conceptual development plan. The proposed changes are considered a material change and require a new conditional zoning application and conceptual development plan. The proposed plan identifies new stormwater facilities, slightly

modifies the open space layout for the development, and recognizes shifts in open space and road layout for the subdivision.

The summary of the new conceptual development plan is as follows:

Total Area: 66.87 acre rezoning

59 residential lots (including the existing McCrary parcel)

Open Space - Required

15.39 acres required residential open space (51.32* acres x 30%)

0.148 acres required commercial open space (1.48 acres x 10%)

* 14.07 acres future development excluded from the open space calculation

Open Space – Provided

17.06* acres residential open space*

0.15 acres commercial open space

*14.07 acres future development not included in open space calculation

A request to develop the area identified on the proposed plan as *Future Development Phase* will require an amendment to the conditional zoning plan and the preliminary plat.

EXISTING ZONING CONDITIONS

1. Proposed Use: Subdivision
2. All lots to be greater than or equal to 20,000 square feet.
3. Install a new culvert under Baxter's Lane to improve off-site drainage, size to be determined after engineering evaluation.
4. Perform an evaluation of existing main ditch along Truran/Ward property line from site to Baxter's Lane and if warranted, seek permission to improve ditch cross-section.
5. Explore the possibility of routing a portion of stormwater runoff to the northeast.
6. All residential development will be single family and will conform to sample building elevations provided.

The applicant proposes to remove condition 4.

COMMUNITY MEETING

A community meeting was held August 17, 2018 at the Moyock Library. Several comments were made regarding the existing drainage, road interconnectivity, and NCDOT road right of way and maintenance. A meeting summary is provided in the agenda packet.

RECOMMENDATIONS

TECHNICAL REVIEW COMMITTEE

The Technical Review Committee recommends approval of the conditional rezoning subject to the following conceptual development plan correction:

1. The Area Calculations on the conceptual development plan shall reflect the McCrary property in the required open space calculations as provided in the conceptual development plan summary above.

SURROUNDING PARCELS

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

ADOPTED PLANS

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 plan is in keeping with the policies of the plan, some of which are:

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. (summary)
Policy FLU1	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. The proposed plan is in keeping with the policies of the plan, some of which are:

CONSISTENCY AND REASONABLENESS STATEMENT

This conditional zoning request is consistent with the Moyock Small Area Plan in that it is compatible with the future land use map Full Service designation and densities (FLU1). In addition, the request is reasonable and in the public interest because the request is similar to the existing development plan and results in an orderly and logical development pattern.

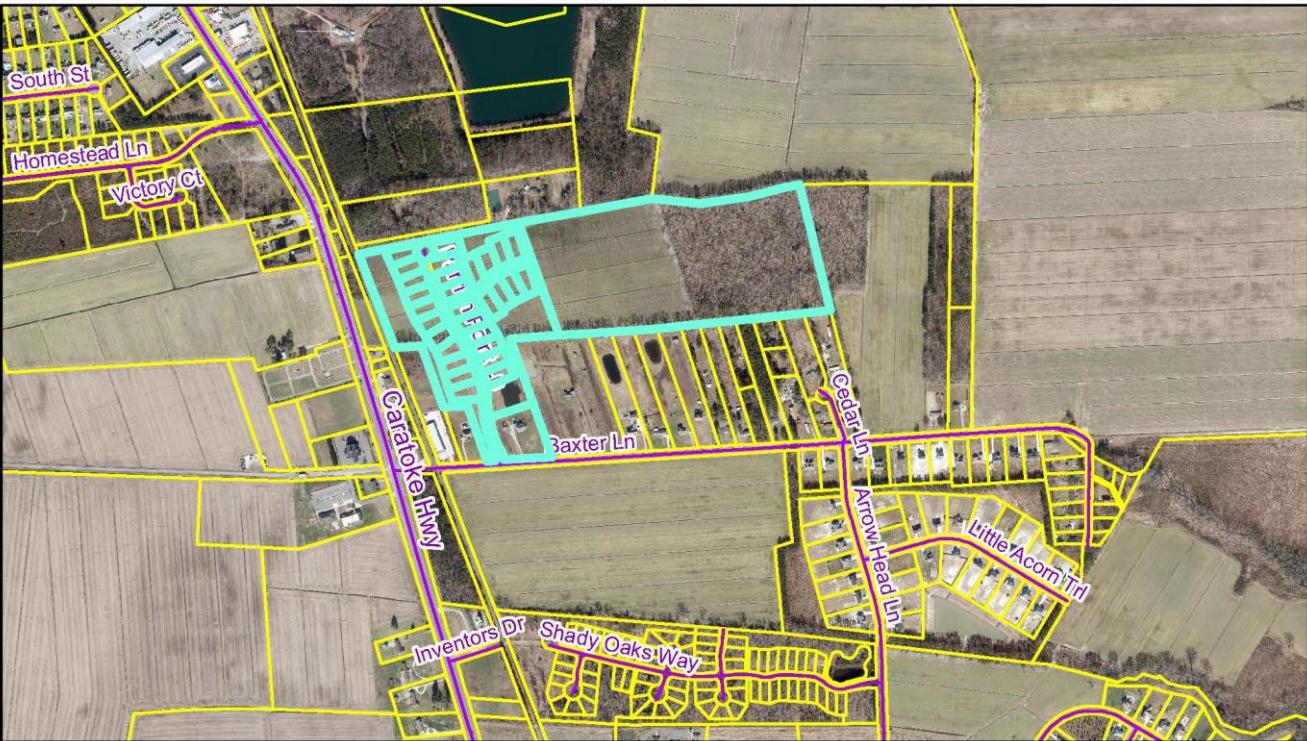
CONDITIONS OF APPROVAL

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.

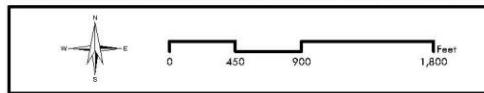
Agreed upon conditions of approval:

1. Proposed Use: Subdivision
2. All lots to be greater than or equal to 20,000 square feet.
3. Install a new culvert under Baxter's Lane to improve off-site drainage, size to be determined after engineering evaluation.
4. Explore the possibility of routing a portion of stormwater runoff to the northeast.
5. All residential development will be single family and will conform to sample building elevations provided.

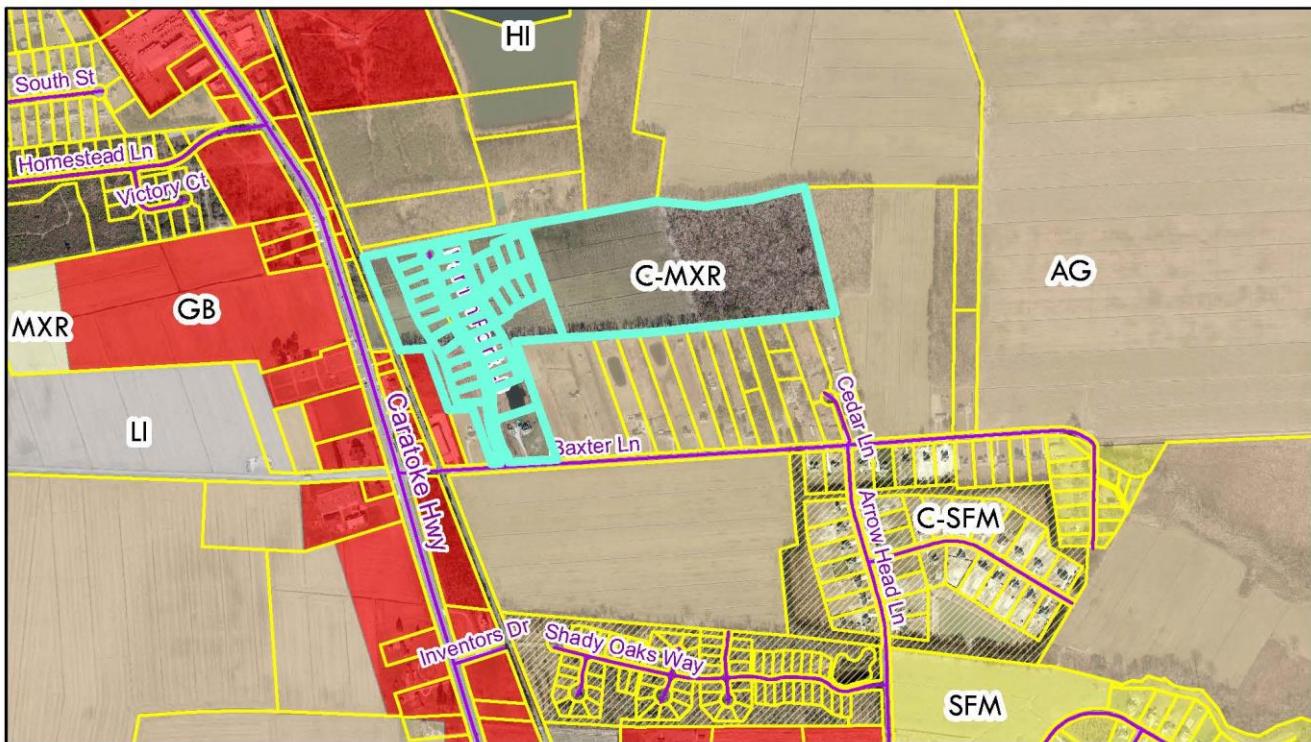
THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE
Planning Board: www.co.currituck.nc.us/planning_board.cfm



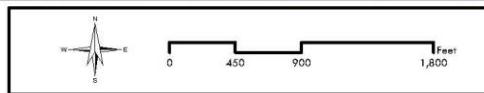
PB 18-22
Allied Properties, LLC
Aerial



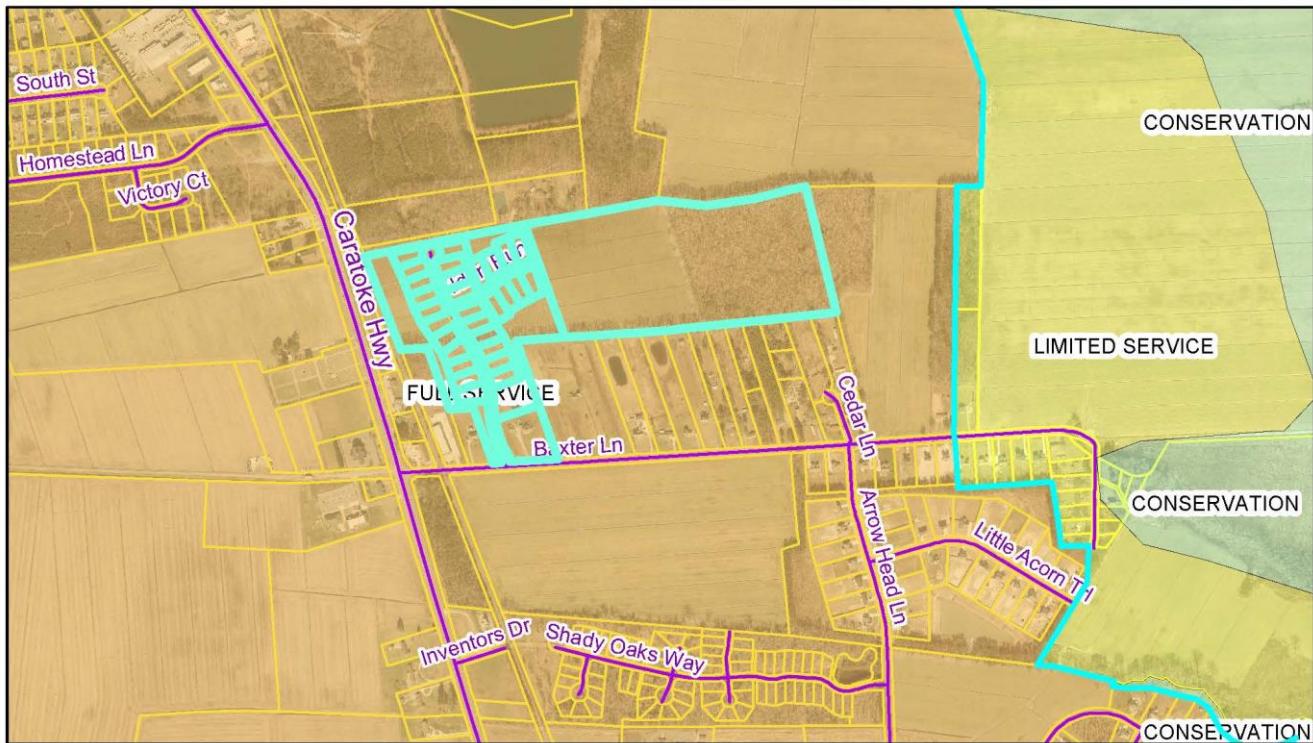
Currituck County
Planning and Community
Development



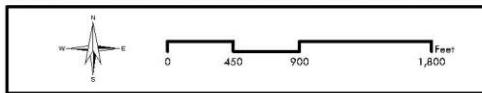
PB 18-22
Allied Properties, LLC
Zoning



Currituck County
Planning and Community
Development



PB 18-22
Allied Properties, LLC
Moyock SAP



Currituck County
Planning and Community
Development



Conditional Rezoning Application

OFFICIAL USE ONLY:
 Case Number: _____
 Date Filed: _____
 Gate Keeper: _____
 Amount Paid: _____

Contact Information

APPLICANT:

Name: See Attached

Address: _____

Telephone: _____

E-Mail Address: _____

PROPERTY OWNER:

Name: See Attached

Address: _____

Telephone: _____

E-Mail Address: _____

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: Same

Property Information

Physical Street Address: NC 168 just north of Baxter Lane

Location: Moyock, NC

Parcel Identification Number(s): See Attached

Total Parcel(s) Acreage: 66.8

Existing Land Use of Property: Single Family Residential and Vacant

Request

Current Zoning of Property: MXR-Conditional District Proposed Zoning District: Same

Community Meeting

Date Meeting Held: August 17, 2018 Meeting Location: Moyock Library

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):

Subdivision

Proposed Zoning Condition(s):

1. All lots to be greater than or equal to 20,000 square feet.
2. Install a new culvert under Baxter's Lane to improve off-site drainage, size to be determined after engineering evaluation.
3. Explore the possibility of routing a portion of stormwater runoff to the northeast.
4. 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.

[Signature]
Property Owner(s)

8-14-18
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.

[Signature]
McQ Builders LLC-2

[Signature]
QHOC of Windswept Pines LLC

Mark McCrary

Conditional Rezoning Application
Page 6 of 8

Revised 7/1/2010

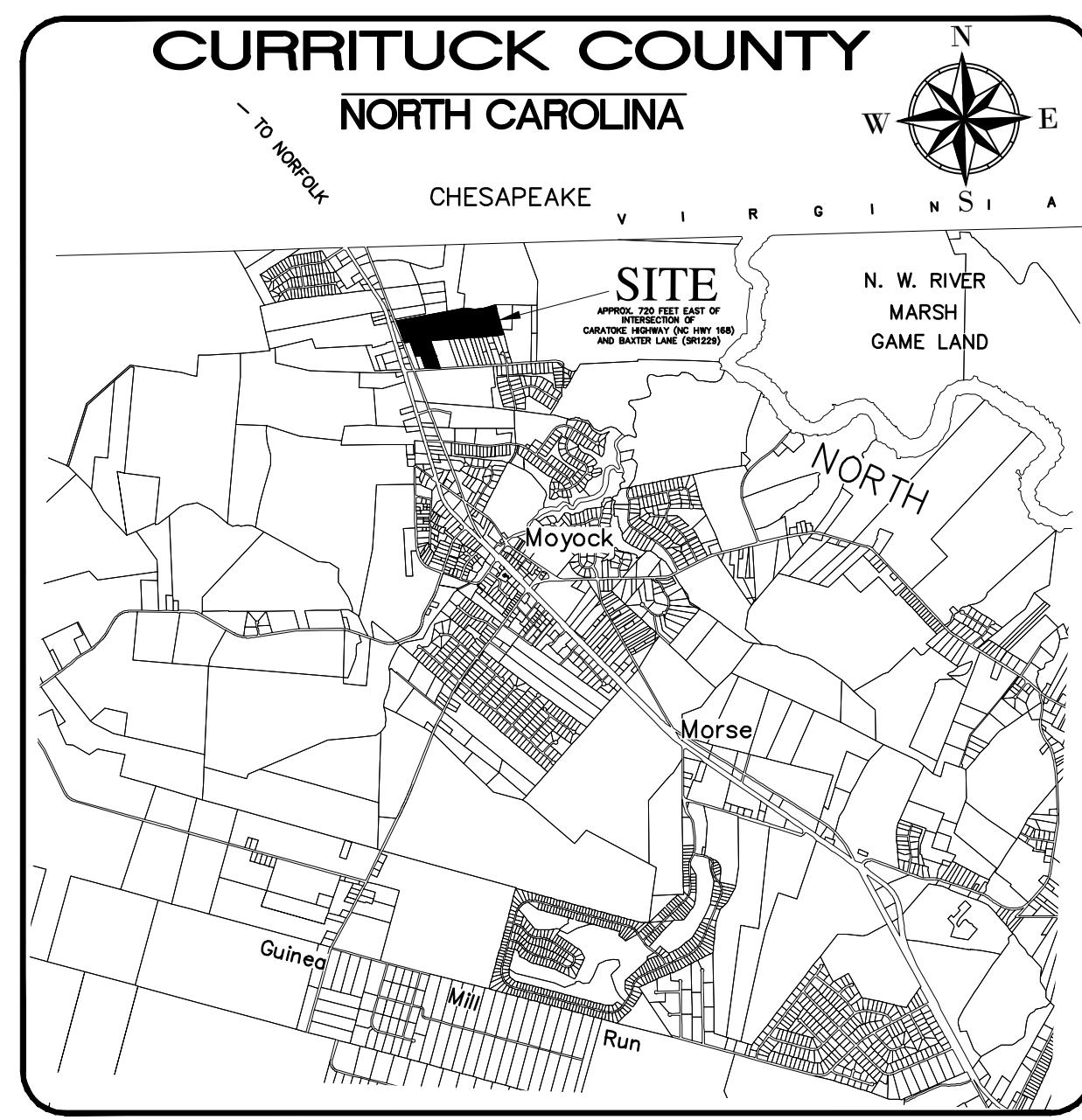
PROPERTY OWNERS and PARCEL IDENTIFICATION NUMBERS

Name: Allied Properties, LLC
Address: 417 Caratoke Hwy., Unit D
Moyock, NC 27958
Telephone: (252) 435-2718
Email Address: jold@qhoc.com
Parcels Owned: 0009-000-006A-0000, 009H-000-00SA-0000, 009H-000-00SB-0000,
009H-000-00SC-0000, 009H-000-0001-0000, 009H-000-0002-0000,
009H-000-0005-0000, 009H-000-0008-0000, 009H-000-0009-0000,
009H-000-0012-0000, 009H-000-0045-0000, 009H-000-0046-0000,
009H-000-0047-0000, 009H-000-0048-0000, 009H-000-0053-0000,
009H-000-0054-0000, 009H-000-0056-0000, 009H-000-0057-0000,
009H-000-0058-0000

Name: QHOC of Windswept Pines, LLC
Address: 417 Caratoke Hwy., Unit D
Moyock, NC 27958
Telephone: (252) 435-2718
Email Address: jold@qhoc.com
Parcels Owned: 009H-000-0004-0000, 009H-000-0006-0000, 009H-000-0010-0000,
009H-000-0042-0000, 009H-000-0043-0000, 009H-000-0049-0000,
009H-000-0050-0000, 009H-000-0051-0000, 009H-000-0052-0000,
009H-000-0055-0000

Name: MCQ Builders LLC-2
Address: 1060 Laskin Rd., Suite 15-B
Virginia Beach, VA 23454
Telephone: (757) 435-6319
Email Address: jmmqb1@aol.com
Parcels Owned: 009H-000-0003-0000, 009H-000-0007-0000, 009H-000-0011-0000,
009H-000-0044-0000

Name: Mark & Penny McCrary
Address: 131 Baxter Ln.
Moyock, NC 27958
Telephone: (252) 435-7576
Email Address: mmccrary819@aol.com
Parcels Owned: 0009-000-011L-0000



PROPERTY OWNERS: NAME ADDRESS PHONE NUMBER EMAIL
 ALLIED PROPERTIES, LLC 417 CARATOKE HWY UNIT D, MOYOCK, NC 27958 252-435-2718 JOLD@GMAIL.COM
 MC BULDERS, LLC-2 1060 LASKIN SUITE 15-B, VIRGINIA BEACH, VA 23454 757-435-6319 JMMQB@AOL.COM
 CHESAPEAKE & ALBEMARLE PINES, LLC 1417 BAXTER LANE, MOYOCK, NC 27958 252-435-7576 mmccrary919@aol.com

SITE ADDRESS: 131 BAXTER LANE, 109-129 PARRISH POINT LANE, AND 102-109 ALDEN RUN
 PARCEL ID: 0009-000-0111-0000, 0009-000-0064-0000, 0009-000-0003-0000, 0009-000-0039-0000, 0009-000-0025-0000,
 0009-000-0001-0000, 0009-000-0002-0000, 0009-000-0004-0000, 0009-000-0005-0000,
 0009-000-0006-0000, 0009-000-0007-0000, 0009-000-0008-0000, 0009-000-0009-0000, 0009-000-0010-0000,
 0009-000-0011-0000, 0009-000-0012-0000, 0009-000-0013-0000, 0009-000-0014-0000, 0009-000-0015-0000,
 0009-000-0045-0000, 0009-000-0046-0000, 0009-000-0047-0000, 0009-000-0048-0000, 0009-000-0049-0000,
 0009-000-0050-0000, 0009-000-0051-0000, 0009-000-0052-0000, 0009-000-0053-0000, 0009-000-0054-0000,

EXISTING PROPERTY ZONING: CD-MXR

INTENDED USE: UP TO 59 SINGLE FAMILY LOTS AND 1.4 ACRE COMMERCIAL AREA

TENTATIVE DEVELOPMENT SCHEDULE: PHASE LOTS YEAR

1	30	1
2	28	2
3	COMMERCIAL	3

STREET CONNECTIVITY INDEX = 3 = 1.40

AREA CALCULATIONS:

1. TOTAL PROPERTY AREA: 66.87 AC.

MC MARY LOT AREA: 2.50 AC.

COMMERCIAL AREA: 1.48 AC.

RESIDENTIAL DEVELOPMENT AREA: 45.49 AC.

FUTURE DEVELOPMENT AREA: 14.07 AC.

2. DEVELOPMENT SUMMARY - PHASE 1

LOT AREA: 13.41 AC.

MAJOR LOT AREA: 1.30 AC.

OPEN SPACE AREA: 10.46 AC.

R/W AREA: 0.29 AC.

TOTAL PHASE #1 AREA: 26.66 AC.

OF LOTS: 30 (INCLUDES MC MARY LOT)

AVERAGE LOT AREA: 20.19 SQ. FT.

3. DEVELOPMENT SUMMARY - PHASE 2

PROPOSED LOT AREA: 14.20 AC.

PROPOSED OPEN SPACE AREA: 6.60 AC.

PROPOSED R/W AREA: 1.14 AC.

TOTAL PHASE #2 AREA: 25.67 AC.

OF PROPOSED LOTS: 29

AVERAGE LOT AREA: 21.32 SQ. FT.

4. RIGHT-OF-WAY WIDTH: 40 FT.

PAVEMENT WIDTH: 27 FT. (W/ C/G)

LINEAR FEET OF SUBDIVISION ROADWAY: 4,912 LF.

5. OPEN SPACE SUMMARY:

REQUIRED: TOTAL SUBDIVISION AREA: 46.82 AC * 10% = 14.65 AC

PROVIDED: TOTAL RESIDENTIAL AREA: 1.484 AC * 10% = 0.15 AC.

PROVIDED: TOTAL SUBDIVISION OPEN SPACE AREA: 17.06 AC.

PROVIDED: TOTAL COMMERCIAL OPEN SPACE AREA: 1.15 AC.

PROVIDED: TOTAL COMMERCIAL AREA: 1.484 AC.

PROVIDED: TOTAL COMMERCIAL OPEN SPACE AREA: 1.15 AC.

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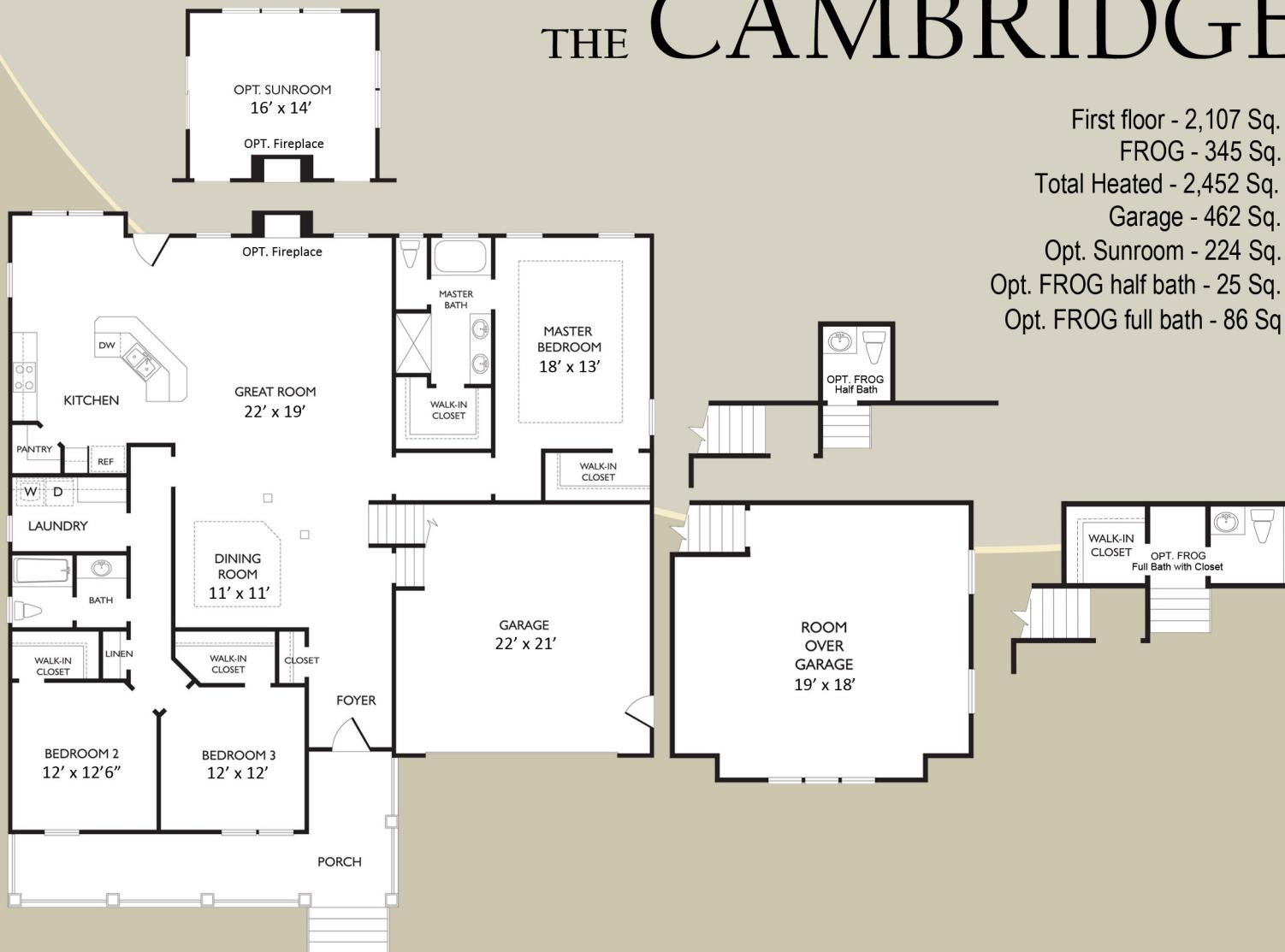
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Shown with decorative gable option

THE CAMBRIDGE

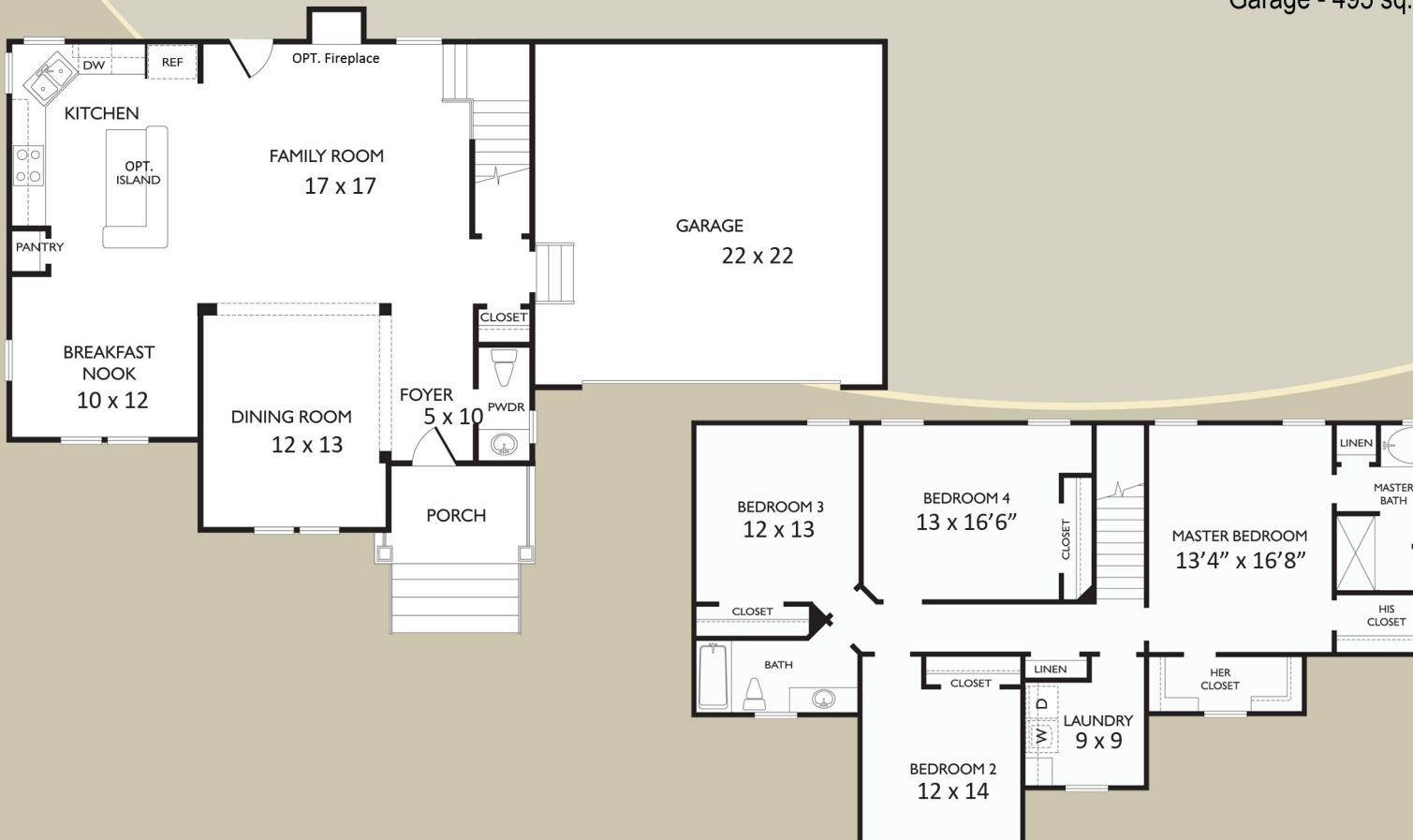




Shown with side entry garage, craftsman style porch post & metal roof accents.

THE PARKLINE

First Floor - 898 sq.
 Second Floor - 1,344 sq.
 Total Heated - 2,242 sq.
 Garage - 495 sq.



QUALITYHOMESOFCURRITUCK.COM

Builder reserves the right to change prices, plans, components and specifications, to withdraw any plan without notice. All illustrations are artists' concepts and accuracy is not guaranteed. Extra-cost options may be shown in illustrations. Individual homes may differ from the models or from each other depending on field conditions.

Packet Pg. 64



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: Donna Voliva, Assistant Planning Director

Date: September 17, 2018

Re: PB 18-22 Allied Properties, LLC Conditional Zoning Request (Modification)

The following comments have been received for the September 19, 2018 Technical Review Committee meeting. The conditional rezoning will require Planning Board recommendation and Board of Commission's action. The comments listed below must be addressed and resubmitted by September 24, 2018 in order to be placed on the October 9, 2018 Planning Board meeting. TRC comments are valid for six months from the date of the TRC meeting.

Planning (Donna Voliva, 252-232-6032)

Reviewed

1. The application shall include the following property owners:
 - a. Allied Properties, LLC
 - b. MCQ Builders LLC-2
 - c. QHOC of Windswept Pines, LLC
 - d. McCrary
2. The conditional zoning application removes the general layout for the commercial area along Caratoke Highway and indicates it is not a part. Please clarify.
3. The conditional zoning development overview plan indicates the residual acreage as 13.85. The amended preliminary plat indicates the same parcel to be 14.07 acres. Please clarify the difference.
4. The areas shown as not a part must seek a rezoning in order to be developed at a later date. A rezoning application is a legislative decision by the BOC and there are no assurances of approval.
5. Identify the open space, buffers, etc.

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

No Comment

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

Reviewed

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

No Comment

Currituck County Utilities - SOBWS (Benji Carawan, 252-453-2620)

No Comment

Albemarle Regional Health Services (Joe Hobbs, 252-232-1913)

Reviewed

1. PLEASE CONSULT WITH KEVIN CARVER RS A4 252-232-6603 CONCERNING SEPTIC SYSTEM APPROVAL FOR EACH LOT THAT MAKES UP THIS PROPOSED SUB-DIVISION

NC Division of Coastal Management (Charlan Owens, 252-264-3901)

No comment

Comments not received:

Currituck County Utilities (Eric Weatherly)

Currituck Soil and Water (Will Creef, 252-232-3360)

The following items are necessary for resubmittal:

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

Windswept Pines at Currituck Property

Friday, August 17, 2018

Scheduled Time/Place: 4:00 pm, Moyock Library, Moyock, NC

We waited for late arrivals until about 4:05 pm

Attendees:

Nearby Property Owners (See attached sign-in sheet)

Donna Voliva, Currituck County

Justin Old, Developer

Mark Bissell, Engineer

It was explained that the request was to amend the existing approved development plan to add stormwater ponds in the area that was originally set aside for Phase 3 to the east of the approved Phase 2 development. The stormwater ponds are needed to improve stormwater management for the project. The following comments and concerns were made and attempts to address them as follows:

Comments from the Community	How Addressed
There was a deed restriction recorded against further development of the McCrary land	The restriction was changed by amendment to the Covenants.
There was no problem with drainage until the Truran ditch was closed when that house was built	That was done many years ago and we are attempting to deal with what we have to work with to the best of our ability.
Why is the County allowing development without fixing existing drainage problems	Donna Voliva indicated that Currituck County does not have the right to enter and maintain ditches on private land. The County has greatly increased requirements for developers, but older developments have no such stormwater management requirements
The property line ditch is never dry	A site visit will be made to review the situation
3 culverts backflow to the north	The reason the plug was proposed in the ditch was to keep water that is flowing under 168 from the northwest from backing up that ditch, but the property owner refused to allow the plug to be installed.
There is a collapsed pipe on Baxter Extended that is causing stormwater to back up along Baxter Lane and backflow to the north side of Baxter which is flooding yards to the east of Truran's property	In a subsequent conversation with NCDOT it was reported that the drainage pipe has been replaced.

The Jarvis property downstream of Baxter should be cleaned and snagged	It may be true but it is beyond the scope of this development.
There is dirt in the property line ditch	We will get the contractor to remove if it is an issue.
How much water flows to the northeast	Some water flows but not a great deal due to the limited capacity of the existing property line ditch. Existing conditions have been modeled.
Will there be road connectivity to the north	Yes, that will be required by Currituck County.
Does NCDOT have an easement to maintain the Baxter ditch along the south side of Baxter	In a subsequent conversation with Maple Maintenance, the answer is no they have no easement and cannot go on private property without permission.
There is a dip in the road where culverts were placed	There is a warranty and the dip will need to be repaired to NCDOT's satisfaction.
When will the request go to the County Commissioners	Probably in October. The County will mail a notice.

Summary:

There being no further discussion, the meeting was adjourned at approximately 5:10 pm.



August 7, 2018

**RE: Community Meeting for Amended Conditional Rezoning & Amended
Preliminary Plat Application for Windswept Pines**

Dear Property Owner:

We would like to invite you and nearby property owners to another community meeting regarding a proposed amendment to the Conditional Rezoning and an amendment to the Preliminary Plat/Use Permit that have already been approved for Windswept Pines. The purpose of the amendment is to provide additional stormwater management facilities in the area east of the approved development, previously labeled "Possible Future Development." Allied Properties, LLC is in the process of developing approximately 64.3 acres into a residential subdivision. The property is described as Windswept Pines subdivision located off Baxter Lane in Moyock, NC.

The purpose of the community meeting is to inform you and nearby property owners about this application that will be reviewed under Currituck County's Unified Development Ordinance, and to provide you an opportunity to give comments and express any concerns about the development.

Since the last community meeting, comments regarding drainage have been considered, and additional design work has been completed to improve the existing drainage system. We look forward to the opportunity to share the latest plan with the community.

The community meeting will be held on Friday, August 17, 2018 at 4:00 pm sharp, at the Moyock Library located on Campus Drive off Tulls Creek Road.

Sincerely,
Bissell Professional Group
(Agent for the Applicant)

By: Mark S. Bissell

cc: Currituck County Planning and Community Development

P.O. Box 1068 • 3512 N. Croatan Hwy. • Kitty Hawk, NC 27949
252-261-3266 • Fax: 252-261-1760 • E-mail: bpg@bissellprofessionalgroup.com

Windswept Pines Community Meeting- Outline of Presentation

August 17, 2018

- 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 step 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:

 - Construction drawing application
 - Construction
 - Final plat application
- D. The Plan:
 - The street and lot layout is unchanged (Still proposing 20,000 sq ft minimum lots)
 - Increasing open space to provide more stormwater ponds
 - Woodlands behind – future phase
- E. Questions & Comments

NAME	E-MAIL	ADDRESS	TELEPHONE	PC Box 1068 Litchfield Park (602) 261-3266	Mark Bissell mark@bissellprofessionalgroup.com	Ricardo Calderon ricardocalderon@kdwomes.com	Roy Carter, Jr. roy.carter@kdwomes.com	Nathlin Morris nathlin.morris@kdwomes.com	Arlene Walker arlene.walker@kdwomes.com	Hathly Karp 189 Charterokee 153 435 6406	Boethie Bright Lonek 1133 Neck Road 804-888-0010	Donna Voliva CC Planning +CD 252232-6032	Donna Voliva Community Outreach and Dev.	
NAME	E-MAIL	ADDRESS	TELEPHONE	PC Box 1068 Litchfield Park (602) 261-3266	Mark Bissell mark@bissellprofessionalgroup.com	Ricardo Calderon ricardocalderon@kdwomes.com	Roy Carter, Jr. roy.carter@kdwomes.com	Nathlin Morris nathlin.morris@kdwomes.com	Arlene Walker arlene.walker@kdwomes.com	Hathly Karp 189 Charterokee 153 435 6406	Boethie Bright Lonek 1133 Neck Road 804-888-0010	Donna Voliva CC Planning +CD 252232-6032	Donna Voliva Community Outreach and Dev.	
Mark Bissell mark@bissellprofessionalgroup.com		PC Box 1068 Litchfield Park (602) 261-3266												
Ricardo Calderon ricardocalderon@kdwomes.com		757-8479294												
Roy Carter, Jr. roy.carter@kdwomes.com		114 Cedar Ln. L.W.	252-771-5785											
Nathlin Morris nathlin.morris@kdwomes.com		173 Baugh Ln	157 335 1529											
Arlene Walker arlene.walker@kdwomes.com		187 Charterokee	253 435 6406											
Hathly Karp 189 Charterokee		153 435 6406	852-619-7148											
Boethie Bright Lonek 1133 Neck Road 804-888-0010		852-619-7148	904-888-0010											
Donna Voliva CC Planning +CD 252232-6032		904-888-0010	252232-6032											

08/17/18

For Windswept Pines

Community Meeting Sign-in Sheet

Parcel ID Number	Global PIN	Owner Name 1	Owner Name 2	Billing Address	Name 3	Billing Address	Billing City	Billing Code	Billing Zip	Name 4	Name 5	Name 6	Name 7	Name 8	Name 9	10	Owner Name
1 000900000040000	8022-79-	KEMP, CHARLES ALISON JR	KEMP, KATHLEEN	189 CARRATOKE HWY		MOYOCK	NC	27958									
2 000900000030000	8022-69-	VAGHAN, ARLENE W		187 CARRATOKE HWY		MOYOCK	NC	27958									
3 000900000050000	8022-58-	NC DEPT OF TRANSPORTATION	DISTRICT ENGINEERS	1929 NORTH ROAD	OFFICE	ELIZABETH	ST	ELIZABETH	NC	27909							
4 000900000600000	8022-88-	ALLIED PROPERTIES LLC	231 CARRATOKE HWY		MOYOCK	NC	27958										
5 000900000070000	8022-68-	SHADE TREE CUSTOM HOMES 8	220 DEVEL LLC		MOYOCK	NC	27958										
6 000900000080000	8022-68-	COLLEMAN, B DOUGLAS	2052 COLLEMAN, B DOUGLAS		MOYOCK	NC	27958										
7 000900000090000	8022-67-	COLLEMAN, B DOUGLAS	110 JAE CT		MOYOCK	NC	27958										
8 0009000011H0000	8022-67-	HARGRAVES, TIEFANY G	119 BAXTER LN		MOYOCK	NC	27958										
9 0009000011K0000	8022-67-	ABXL LLC	152 SAWYER TOWN RD		MOYOCK	NC	27958										
10 0009000025A0000	8022-76-	JARVIS HARVEST LLC	ATTN: CHARLES T BUSBY 701 BLUE POINT DR		WILMINGTON	NC	28411										
11 0009000011L0000	8022-77-	MCRARY, MARK A	131 BAXTER LN		MOYOCK	NC	27958										
12 000900000SC0000	8022-68-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
13 000900000600000	8022-68-	QHOC OF WINDSWEPT PINES LLC	417 D CARRATOKE HWY		MOYOCK	NC	27958										
14 000900000500000	8022-68-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
15 000900000SA0000	8022-78-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
16 000900005100000	8022-77-	QHOC OF WINDSWEPT PINES LLC	417 D CARRATOKE HWY		MOYOCK	NC	27958										
17 000900005000000	8022-78-	QHOC OF WINDSWEPT PINES LLC	417 D CARRATOKE HWY		MOYOCK	NC	27958										
18 000900000400000	8022-68-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
19 000900000300000	8022-68-	MCA BUILDERS LLC-2	1060 LASKIN RD	SUITE 15-B	VIRGINIA BEACH	VA	23454										
20 000900000100000	8022-68-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
21 000900000200000	8022-68-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
22 000900000560000	8022-68-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
23 000900000580000	8022-68-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
24 000900000570000	8022-67-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
25 000900000550000	8022-68-	QHOC OF WINDSWEPT PINES LLC	417 D CARRATOKE HWY		MOYOCK	NC	27958										
26 000900000520000	8022-68-	QHOC OF WINDSWEPT PINES LLC	417 D CARRATOKE HWY		MOYOCK	NC	27958										
27 000900000540000	8022-67-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
28 000900000530000	8022-67-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										
29 000900000SB0000	8022-68-	ALLIED PROPERTIES LLC	422-A CARRATOKE HWY #2		MOYOCK	NC	27958										

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1-00080000180000	BRIGHT, JOE W	BRIGHT, ETTA M	BRIGHT, JOE W	437 NEOK RD	JR	8023-90	BRIGHT, JR	1113	REV TRUST	5713	CARSON H & CATHERINE BRYANT	5723	80080000170000		
2-00080000170000	BRYANT, C W	CARSON H & CATHERINE BRYANT	652 INDEPENDENCE	PKWY	STE 110	23320	CHESAPEAKE VA	23322	LOMAX, BERTRILLE V	23320	183 CARATOKE HWY	27958	4087	40000000030000	
3-00090000040000	KEMP, KATHLEEN BROOKS	KEMP, KATHLEEN BROOKS	1121	JR	16457 NC HWY 32	ROPER	NC	27970	JACOBS, ELERETTA	27976	123 CARTRIGHT RD	27958	60000000220000		
4-00000000030000	VAUUGHAN, ARLENE W	VAUUGHAN, ARLENE W	4087	JR	2710 IKE STREET #58	CHESAPEAKE VA	23324	RHINE	PO BOX 72	27958	205 BAXTER LN	27958	8022-87	90090000160000	
5-00090000240000	HILL, PAULETTE R	NELSON, VERA JEAN	DOXIE, ADDIE	16457 NC HWY 32	ROPER	NC	27970	WISE, MELINDA	2961	RUSSELL, KATHRYN N	27958	183 BAXTER LN	27958	8022-87	90090000170000
6-00090000220000	CARTRIGHT, ROY LEE	NELSON, VERA JEAN	DOXIE, ADDIE	16457 NC HWY 32	ROPER	NC	27970	VAUUGHAN, WILLIAM H.	2924	201 BAXTER LN	27958	191 BAXTER LN	27958	8022-87	10-00090000140000
7-00090000200000	WISE, MELINDA	RUSSELL, MICHAELA	8022-87	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	KLEIN, LEANNIE	183 BAXTER LN	27958	179 BAXTER LN	27958	8022-87	13-000900011A0000
8-00090000170000	VAUUGHAN, WILLIAM H.	RUSSELL, MICHAELA	8022-87	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	KLEIN, ROBERT	187 BAXTER LN	27958	183 BAXTER LN	27958	8022-87	14-0009000011B0000
9-00090000160000	EISEL, MICHAELA	RUSSELL, MICHAELA	8022-87	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	KLEIN, ROBERT	187 BAXTER LN	27958	179 BAXTER LN	27958	8022-87	15-0009000011C0000
10-00090000140000	JONES, LYNNWOOD LEE, JR	RUSSELL, MICHAELA	8022-88	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	KLEIN, LEANNIE	183 BAXTER LN	27958	183 BAXTER LN	27958	8022-87	16-0009000011D0000
11-00090000130000	CRAINER, DAVID B	TRUSTEE	8022-87	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	STRYZEK, ANETA	179 BAXTER LN	27958	173 BAXTER LN	27958	8022-87	17-0009000011F0000
12-00090000120000	HIGGISON, HUNTER H	TRUSTEE	8022-87	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	MORALES, KRISTEN A	173 BAXTER LN	27958	173 BAXTER LN	27958	8022-87	18-0009000006A0000
13-0009000011A0000	KLEIN, ROBERT	TRUSTEE	8022-87	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	STRYZEK, ANETA	179 BAXTER LN	27958	179 BAXTER LN	27958	8022-87	19-GAP
14-0009000011B0000	WATT, DUSTIN A	TRUSTEE	8022-87	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	MORALES, KRISTEN A	173 BAXTER LN	27958	173 BAXTER LN	27958	8022-88	20-009H00000110000
15-0009000011C0000	MORALES, KRISTEN A	TRUSTEE	8022-87	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	JOHNSON, LINDA C	167 BAXTER LN	27958	167 BAXTER LN	27958	8022-77	21-009H00000120000
16-0009000011D0000	JOHNSON, LINDA C	SETZER, RANDON J	8022-77	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	JOHNSON, LINDA C	151 BAXTER LN	27958	151 BAXTER LN	27958	8022-77	22-009H00000120000
17-0009000011F0000	TRURAN, RICHARD R	TRURAN, KATE W	8022-77	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	JOHNSON, LINDA C	422-A CARATOKE	27958	422-A CARATOKE	27958	8022-78	23-009H00000120000
18-0009000006A0000	ALLIED PROPERTIES LLC	ALLIED PROPERTIES LLC	8022-78	JONES, LYNNWOOD LEE, JR	CRAINER, ELLEN F TRUSTEE	933 TWO GATES CIR	CHESAPEAKE VA	23322	JOHNSON, LINDA C	422-A CARATOKE	27958	422-A CARATOKE	27958	8022-78	24-009H0000420000
19-GAP									SETZER, ERVIN R	HWY #2	27958	HWY #2	27958		
20-009H00000110000	MCG BUILDEERS LLC-2	MCG BUILDEERS LLC-2	8022-78						SETZER, CYNTHIA C	HWY #2	27958	HWY #2	27958		1547-009H0000430000
21-009H00000120000	ALLIED PROPERTIES LLC	ALLIED PROPERTIES LLC	8022-68						SETZER, ERVIN R	HWY #2	27958	HWY #2	27958		1547-009H0000430000
22-009H00000120000	ALLIED PROPERTIES LLC	ALLIED PROPERTIES LLC	8022-68						SETZER, ERVIN R	HWY #2	27958	HWY #2	27958		1547-009H0000430000
23-009H00000120000	ALLIED PROPERTIES LLC	ALLIED PROPERTIES LLC	8022-78						SETZER, ERVIN R	HWY #2	27958	HWY #2	27958		1547-009H0000430000
24-009H00000420000	PHOC OF WINDSWPT	PHOC OF WINDSWPT	8022-78						SETZER, ERVIN R	HWY #2	27958	HWY #2	27958		1547-009H0000430000
25-009H00000430000	ALLIED PROPERTIES LLC	ALLIED PROPERTIES LLC	8022-78						SETZER, ERVIN R	HWY #2	27958	HWY #2	27958		1547-009H0000430000



Currituck County

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

To: Planning Board
Board of Commissioners

From: Planning Staff

Date: August 30, 2018

Subject: PB 17-14 Currituck County – Solar Text Amendment

In May 2017, the Board of Commissioners directed staff to draft a text amendment to allow solar energy facilities with standards that make the use compatible with adopted plans while protecting the health, safety, and general welfare of nearby uses. The attached text amendment is based on hours of research, staff attending numerous solar workshops offered by NC State University, NC Center for Energy Education, etc., multiple work session with the Board of Commissioners, and final review by the county attorney.



Text Amendment Application

OFFICIAL USE ONLY:
Case Number: _____
Date Filed: _____
Gate Keeper: _____
Amount Paid: _____

Contact Information

APPLICANT:

Name: Currituck County

Address: 153 Courthouse Rd Suite 204
Currituck NC 27929

Telephone: 252-232-2075

E-Mail Address: Dan.Scanlon@CurrituckCountyNC.gov

Request

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

Amend Chapter(s) 4 and 10

Section(s) 4.2.3 and 10.5 as follows:

~~add solar energy facility regulations and remove wind energy allowance.~~

*Request may be attached on separate paper if needed.

Petitioner

A handwritten signature in black ink that appears to read "Dan Scanlon".

8-24-18

Date

PB 17-14
CURRITUCK COUNTY
Solar Energy Facilities

Amendment to the Unified Development Ordinance Chapter 4: Use Standards, and Chapter 10: Definitions and Measurements, to add solar energy facilities as an allowable use and remove wind energy facility, large, as an allowable use.

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 adding the bold, underlined language and deleting the strike-through language:

USE CATEGORY	USE TYPE	ZONING DISTRICT (CURRENT DISTRICT IN PARENTHESIS) [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]														ADDITIONAL REQ. (4.2.1)	
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	PD-R	PD-M	PD-O
INSTITUTIONAL USE CLASSIFICATION																	
Utilities	Solar Energy Facility		<u>U</u>														<u>3.K</u>
	Wind energy facility, large		<u>U</u>			<u>U</u>			<u>U</u>	<u>U</u>			<u>U</u>	<u>U</u>	<u>M</u> <u>p</u>	<u>M</u> <u>p</u>	<u>3.K</u>

Item 2: That Chapter 4 is amended by adding the following language as Section 4.2.3.K:

K. Solar Energy Facility (SEF)

A SEF shall comply with the following standards:

1. Location

- a. **A SEF project may include no more than two abutting properties on one project application. Each property shall meet all the requirements of this subsection.**
- b. **No SEF project shall be located in a Full-Service area designated by the Land Use Plan.**
- c. **No SEF project shall be located in a Significant Natural Heritage Areas as identified by the NC Natural Heritage Program.**

2. Maximum Size

- a. **Maximum SEF project size on any property may not exceed 250 acres or one-half of the acreage of the property as it existed on (adoption date), whichever is greater.**

3. Setbacks

- a. **All panels, equipment, and associated security fencing shall be setback 300' from a major arterial street right-of-way and 150' from all other NCDOT street rights-of-way and property lines.**
- b. **All panels, equipment, and associated security fencing shall be setback 100' from any CAMA designated navigable water bodies.**

Army Corps of Engineers or CAMA wetlands, and Significant Natural Heritage areas.

- c. All SEF projects that include two abutting properties shall meet the setbacks for all interior property lines.
- d. Plantings are allowed in setback areas.

4. Height and Configuration

- a. The maximum height of the SEF, including all mounts, panels and other equipment, shall not exceed 15' above grade when oriented at maximum height.
- b. The panels and equipment shall be configured to avoid glare beyond the exterior property lines.

5. Sound

- a. The hours of operation during construction phase of the SEF shall be from 7:00am to 7:00pm, Monday through Friday;
- b. If the construction area for the SEF is located within 1500' of a public school or licensed pre-school, no pile driving shall be allowed during regular school session times.

6. Buffers and screening

- a. Prior to the start of any construction related activity, a Type D opaque buffer or an earthen berm as tall as the tallest panel at maximum height shall be installed.
- b. Certification from a landscape architect or certified arborist that 100% opacity will be reached at maximum panel height within 3 years shall be submitted.
- c. Opacity of the buffer shall be assessed from the exterior property lines and rights-of-way.
- d. A performance guarantee in the amount of 115% of the cost of the landscaping used for screening shall be submitted prior to the issuance of a building permit and remain valid until 100% opacity is reached. Should 100% opacity not be reached within 3 years of building permit issuance, the county will draw upon the performance guarantee as outlined in Section 6.3.F Default and Forfeiture of Performance Guarantee and install required supplemental landscaping.
- e. If supplemental landscaping is installed pursuant to this section, additional time for growth will be allowed and the balance of the performance guarantee shall be maintained valid until 100% opacity is reached.
- f. For SEF projects that have a common interior property line, the Type D buffer is not required on the common, interior property line.

7. Development Plan

- a. The SEF project shall be developed in accordance with an approved major site plan that includes the following information:
 - i. The location of the SEF, including the arrangement of any existing or proposed buildings, structures or panels;
 - ii. The distance from any proposed SEF building, structure, panels and fence to the surrounding property lines;

- iii. Existing or proposed signs, fencing, lighting, construction and permanent parking areas, driveways, landscaping, vegetative screening or required buffers;
- iv. Horizontal and vertical elevation to-scale drawings with dimensions;
- v. Certification that all panels have passed UL 1703 regarding PV module safety;
- vi. Approval from access controlling agencies for street access;
- b. The SEF project shall designate 30% of the total land area in one or a combination of the following plans:
 - i. Approved plan from the North Carolina Wildlife Resources Commission, Habitat Conservation Division, designating 30% of the total land area of the SEF as an acceptable native pollinator habitat; or
 - ii. An annual cultivation plan detailing crops and harvest schedule should at least 30% of the total land area of the SEF remain active farmland;

8. Environmental Concerns

- a. Appropriate ground cover/grass is required for soil stabilization and shall be maintained in a manner that does not create a fire hazard.
 - i. Grass and weeds not associated with the pollinator habitat shall not exceed two feet in height at any time.
 - ii. Herbicide use is prohibited.
- b. Ground water monitoring wells
 - i. Monitoring wells shall be installed prior to construction of any of the SEF components;
 - ii. Monitoring wells shall be located near the center of the site and along each exterior property line at approximately the lowest ground elevation point on each property line.
 - iii. The distance between monitoring wells along exterior property lines shall not exceed 2000'.
 - iv. Testing data prepared by a laboratory certified by the North Carolina Department of Health and Human Services to analyze water subject to the regulations under the North Carolina Drinking Water Act shall be submitted prior to construction of the SEF and annually thereafter to the Planning and Community Development Department until the SEF is decommissioned.
 - v. Testing data shall show compliance with the NC Department of Health and Human Services Private Well Inorganic Chemical Contaminants standards for the following contaminants:
 1. Arsenic
 2. Barium
 3. Cadmium
 4. Chromium
 5. Copper
 6. Iron
 7. Lead

- 8. Magnesium
- 9. Manganese
- 10. Mercury
- 11. Nitrate/Nitrite
- 12. Selenium
- 13. Silver
- 14. Zinc
- vi. The Board of Commissioners may require testing for other contaminants.
- vii. Should the initial ground water testing indicate that the site is not in compliance with N.C. Department of Health and Human Services Private Well Inorganic Chemical standards, subsequent annual reports shall indicate no increase in noncompliance with those standards.

9. Solar Energy Facility Impact Analysis

- a. As part of an application for a SEF project, a Solar Energy Facility Impact Analysis shall be submitted and contain the following information:
 - i. General project description
 - ii. Construction Activity Plan:
 - 1. Amount of land disturbance
 - 2. Land surface clearing and grading plan
 - 3. Energy, water and material needs
 - 4. Fencing and lighting plans
 - 5. Waste stream management plan
 - 6. Construction work force and timeframe
 - 7. Protection plans for soil, disturbed areas, and surface water
 - iii. Operational Plan
 - 1. Maintenance activities and schedule
 - 2. Vegetation management plan
 - 3. Protection plans for soil, disturbed areas and surface water
 - iv. Impacts and Resources affected
 - 1. Geology
 - 2. Environmentally sensitive areas
 - a. CAMA jurisdictional areas
 - b. USACE designated wetlands
 - c. Natural Heritage Areas
 - 3. Soils
 - 4. Air Quality
 - 5. Noise
 - 6. Water Resources
 - 7. Ecology
 - 8. Land Use
 - 9. Water management
 - 10. Socioeconomics
 - 11. Health and safety

10. Discontinued Use and Decommissioning

- a. Decommissioning shall include removal of solar collectors, cabling, electrical components and any other SEF associated facilities and grading and re-seeding disturbed earth from the project.
- b. A decommissioning plan certified by a North Carolina licensed engineer or a licensed contractor is required and shall include the following:
 - i. A description of any lease or other agreement with all landowners regarding decommissioning;
 - ii. The identification of the party responsible for decommissioning, if not the property owner;
 - iii. The type of panels and material specifications used at the SEF
 - iv. All costs for the removal of solar panels, buildings, cabling, electrical components, road, fencing, and any other associated facilities below grade; and
 - v. All costs associated with the grading and re-seeding of disturbed earth from the project.
- c. The decommissioning plan shall be updated with the Planning and Community Development Department every two years or upon change of ownership of the property or the SEF.
- d. The SEF owner shall have 12 months to complete decommissioning of the facility if no electricity is generated for a continuous 12 month period.
- e. Disturbed earth shall be graded and re-seeded unless a written request is submitted by the property owner specifying areas not to be restored.
- f. A Decommissioning Performance Guarantee (See Section 6.3) is required that meets the following standards:
 - i. Shall be submitted prior to issuance of a building permit;
 - ii. Shall equal 115 percent of the estimated decommissioning costs;
 - iii. Shall not be reduced by salvage value;
 - iv. The performance guarantee amount shall be reviewed every two years as part of the decommissioning plan update and adjusted based upon current costs. In the event the decommissioning costs decrease, the performance guarantee shall not be changed to reflect the lower cost.
 - v. The performance guarantee shall remain in effect until decommissioning and site restoration is complete.

Item 3: That Chapter 4 is amended by deleting the following struck-through language:

K. Wind Energy Facility, Large

A large wind energy facility shall comply with the following standards:

L. Location

- (a) No turbine tower associated with a large wind energy facility shall be located within 1,000 feet of land in the RC district or a public park.
- (b) All ground-based equipment buildings shall be located under the blade sweep area, to the maximum extent practicable.

(2) Setbacks

- (a) All towers associated with a large wind energy facility shall be set back a distance equal to .25 miles from any residential dwelling unit and 1.1 times the overall height of the tower and associated wind turbine blade from a public right-of-way and the property line of any non-participating landowner.
- (b) All associated facilities other than towers and associated wind turbines shall be subject to the setback standards for the district where located.

(3) Tower Structure

Large wind energy facilities shall utilize monopole or self-supporting towers.

(4) Common Configuration

All towers and turbines within a single large wind energy facility shall maintain uniform design in terms of the following features:

- (a) Tower type;
- (b) Tower, turbine, and blade colors;
- (c) The number of blades per turbine; and
- (d) The direction of blade rotation.

(5) Height

The maximum height of a large wind energy system (including the tower and extended blades) shall be 500 feet.

(6) Blade Clearance

The blade tip or vane of any large wind energy facility shall have a minimum ground clearance of 75 feet above grade, as measured at the lowest point of the arc of the blades. No blades shall extend over public rights-of-way.

(7) Unauthorized Access

All large wind energy facilities shall incorporate anti-climbing features to prevent unauthorized climbing.

(8) Utilities

Except for transmission lines, all utilities associated with a large wind energy facility shall be located underground to the maximum extent practicable.

(9) Appearance

The wind turbine and tower shall be painted or finished in the color originally applied by the manufacturer, or a matte neutral color (e.g., gray, white, or galvanized steel).

(10) Lighting

No illumination of the turbine or tower shall be allowed, unless required by the (FAA). In the event obstruction lighting is required by the FAA, it shall be of the lowest intensity allowed, and strobes or blinking lights shall be avoided, to the maximum extent practicable.

(11) Signage Prohibited

Signage visible from any public street or off site area shall be limited to the manufacturer's or installer's identification, appropriate warning signs, or owner identification.

(12) Sound

The noise produced by the large wind energy facility during operation shall not exceed 55 dBA as measured at any occupied building on the property of a non-participating landowner. This standard shall not apply during power outages, windstorms, or other conditions beyond the owner's control.

(13) Shadow Flicker

Shadows cast by the rotating blade of a large wind energy facility shall not exceed 30 hours per year on any occupied building on the property of a non-participating landowner.

(14) Interference

The owner shall take all reasonable steps to prevent or eliminate interference with transmission of communications signals (e.g., radio, television, telephone, etc.) resulting from a large wind energy facility.

(15) Environmental Review Required

An application for a large wind energy facility shall require review by NCDEQ, USACOE, the US Fish and Wildlife Service, and the NC Wildlife Resources Commission. All comments from these agencies shall be included with the application.

(16) Abandonment

- (a)** On determining that a large wind energy facility has been inoperable for 365 days or more, the Planning Director may issue a Notice of Abandonment to the facility owner.
- (b)** The facility owner shall restore operation of the large wind energy facility within 30 days of receipt of the Notice of Abandonment, or file a Notice of Termination with the Planning Director.

~~(c) The large wind energy facility shall be removed from the site within 12 months of the filing of a Notice of Termination.~~

~~(d) Removal of a large wind energy facility shall include removal of all of the following features:~~

~~(i) Towers;~~

~~(ii) Turbines;~~

~~(iii) Above-ground equipment;~~

~~(iv) Outdoor storage;~~

~~(v) Foundations to a depth of three feet below grade; and~~

~~(vi) Any hazardous material associated with the facility.~~

Item 4: That Chapter 10 is amended by adding the following bold underlined language and deleting the struck-through language in Section 10.5 Definitions:

SOLAR ENERGY FACILITY (SEF)

~~**Two or more solar collectors or photovoltaic panels intended to capture energy from sunlight, convert it to electricity, and save or deliver the electricity for off-site use.**~~

Item 5: Statement of Consistency and Reasonableness:

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

- It protects active agricultural lands having a high productive potential and conserves those lands for continued agricultural use. (LUP POLICY AG1) - Solar
- It provides a new and expanding industry that trains and utilizes a more highly skilled labor force and diversifies the local economy. (LUP ED1) – Solar
- It removes a potential conflict between wind energy facilities and the operation of a nearby naval annex. (Wind)

The request is reasonable and in the public interest because:

- It prevents incompatible solar array projects from being established that could adversely impact the quality of life for county residents.
- It removes a potential conflict between wind energy facilities and the operation of a nearby naval annex. (Wind)

Item 5: 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 6: This ordinance amendment shall be in effect from and after the _____ day of _____, 2018.

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: _____



Solar Energy Facility NC Wildlife Resources Commission

Contact Information

Contact Information

NC Wildlife Resources Commission
 Habitat Conservation
 Gabriela Garrison
 Eastern Piedmont Habitat Conservation Coordinator
 Sandhills Depot
 PO Box 149
 Hoffman NC 28347

Telephone: 910-409-7350
 Email: gabriela.garrison@ncwildlife.org
 Web Address: www.ncwildlife.org

Approval

Provide:

- Approval from the North Carolina Wildlife Resources Commission, Habitat Conservation Division, that you are creating an acceptable native pollinator habitat with a copy of the approved plan. The native pollinator habitat planting must cover at least 30% of the total land area of the solar energy facility;
- An annual cultivation plan detailing crops and harvest schedule should at least 30% of the total land area of the solar energy facility remain active farmland; or,
- Any combination of the above to equal or exceed 30% of the total land area.



Currituck County

Planning and Community Development Department

Planning and Zoning Division

153 Courthouse Road, Suite 110

Currituck, North Carolina 27929

252-232-3055 FAX 252-232-3026

To: Board of Commissioners
From: Planning Staff
Date: October 2, 2018
Subject: PB 18-24 Currituck County

Currituck County received modified flood hazard determinations on June 21, 2018; to remain in good standing with the National Flood Insurance Program (NFIP), the county is required to adopt the effective Flood Insurance Study (FIS) report and Flood Insurance Rate Maps (FIRM) prior to December 21, 2018. Additionally, the county is required to adopt floodplain management regulations that meet the standards of the NFIP.

The enclosed text amendment is intended to revise several chapters of the Unified Development Ordinance to incorporate revisions to the Flood Damage Prevention Ordinance. The changes are intended to ensure conformity with the North Carolina Department of Public Safety's most recently updated Coastal Model Flood Ordinance.

In addition to the enclosed text amendment, staff recommends an increase to our current regulatory flood protection elevation (RFPE). The RFPE is the base flood elevation plus freeboard. Our current freeboard is one foot and staff suggests raising this requirement to two feet. This increase, in addition to providing greater protection for structures constructed within the special flood hazard area, will decrease flood insurance premiums for property within the special flood hazard area.



**STAFF REPORT
PB 18-24 CURRITUCK COUNTY
PLANNING BOARD
OCTOBER 9, 2018**

Amendment to the Unified Development Ordinance Chapter 1: General Provisions, Chapter 2: Administration, Chapter 7: Environmental Protection, Chapter 9: Enforcement, and Chapter 10: Definitions and Measurement to be consistent with the National Flood Insurance Program and the Coastal Model Flood Ordinance.

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 1: General Provisions is amended by deleting the strikethrough language, adding the underlined language and renumbering according:

1.7.2. Incorporated by Reference

- A.** The Official Zoning Map and all the notations thereon is incorporated herein by reference and made part of this Ordinance.
- B.** ~~The Flood Insurance Rate Maps (FIRM) prepared by the State and the associated Flood Insurance Study (FIS) that were adopted on December 16, 2005 (as amended), are incorporated herein by reference and made part of this Ordinance. Future revisions to the FIS and FIRM panels that do not change flood hazard data within the jurisdictional authority of Currituck County are also adopted by reference and declared to be part of this ordinance.~~

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) dated **EFFECTIVE DATE** (as amended). The FIS for Currituck County and associated DFIRM panels, including any digital data developed as part of the FIS, are adopted by reference and declared a part of this Ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Currituck County are also adopted by reference and declared a part of this Ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three months.

Item 2: That Chapter 2. Administration is amended by deleting the following strikethrough language, adding the underlined language, and renumbering accordingly:

2.2.6. Planning Director

The Planning Director shall have the following powers and duties:

A. Powers and Duties

(1) Application Review and Decision

To review and decide applications for the following:

- (a)** Minor site plans;
- (b)** Minor subdivisions;
- (c)** Zoning compliance permits;
- (d)** Sign permits;
- (e)** Temporary use permits;
- (f)** Floodplain development permits;
- (g)** Clear-cutting permits;
- (h)** Administrative adjustments; and
- (i)** Interpretations.

(2) Recommendation Authority

To review and make recommendations on applications for the following:

- (a)** Text amendments;
- (b)** Zoning map amendments; and
- (c)** Variances.

(3) Floodplain Administrator

The Planning Director shall serve as the Floodplain Administrator, and shall perform the following duties:

- (a)** Administer, implement, and coordinate compliance with the provisions of this Ordinance and the National Flood Insurance Program.
- (b)** Review all floodplain development applications for receipt of all necessary State and Federal permits and issue floodplain development permits for all proposed development within special flood hazard areas.
- (c)** Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (d)** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (e)** Prevent encroachments into floodways and non-encroachment areas unless the certification and flood damage prevention provisions of Section 7.4, Flood Damage Prevention, are met.
- (f)** Obtain actual elevation (in relation to mean sea level NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures in accordance with Section 7.4.5, Flood Certificates.
- (g)** Obtain actual elevation (in relation to mean sea level NAVD 1988) to which all new and substantially improved structures and public utilities have been floodproofed, in accordance with the standards in Section 7.4.5, Flood Certificates
- (h)** Obtain actual elevation (in relation to mean sea level NAVD 1988) of all public utilities in accordance with the provisions of Section 7.4.5, Flood Certificates.
- (i)** When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 7.4.5, Flood Certificates, and Section 7.4.6, Standards.

- (j) Interpret the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary may appeal the interpretation in accordance with Section 2.4.17, Appeal.
- (k) When base flood elevation data has not been provided in accordance with the standards of Section 7.4, Flood Damage Prevention, obtain, review, and reasonably utilize any base flood elevation data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 7.4.6 E, Standards for Riverine Floodplains without Established Floodways or Non-encroachment Area, in order to administer the standards of this ordinance.
- (l) When base flood elevation data is provided but no floodway or non-encroachment area data has been provided in accordance with the standards of Section 7.4, Flood Damage Prevention, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the standards of this ordinance.
- (m) Permanently maintain all records that pertain to the administration of the flood damage prevention provisions and make these records available for public inspection, except for any information protected by the Privacy Act of 1974.
- (n) Make on-site inspections of work in progress, issue stop-work orders, or revoke floodplain development permits, as required.
- (o) Make periodic inspections throughout the special flood hazard area.
- (p) Maintain a current map repository to include, but not limited to, the FIS Report, historical and effective FIRM, FIRM, Letters of Map Change, and other official flood maps and studies.
- (q) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
- (r) Coordinate with the Building Inspector on applications to improve, alter, move, enlarge, replace, repair, change occupancy, or other improvements to existing buildings and structures and:
 - (i) Estimate market value as defined by this Ordinance;
 - (ii) Compare the cost to perform the improvement, repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs to market value of the building;
 - (iii) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and,
 - (iv) Notify the applicant if it is determined the work constitutes substantial improvement or repair of substantial damage, and compliance with the flood resistant construction requirements of the NC Building Code and this Ordinance is required.

(4) Additional Duties

The Planning Director shall have the following additional duties:

- (a) Establish application content requirements and a submission schedule for review of applications and appeals;
- (b) Compile and maintain an Administrative Manual;
- (c) Conduct pre-application conferences in accordance with Section 2.3.2, Pre-Application Conference.
- (d) Review applications and submit staff reports to advisory and decision-making bodies;
- (e) Maintain the Official Zoning Map and related materials;
- (f) Provide expertise and technical assistance to the county's other review and decision-making bodies, upon request;
- (g) Maintain a record of all permits and approvals on file, and make copies available upon request;
- (h) Enforce this Ordinance in accordance with Chapter 9: Enforcement; and
- (i) Keep copies of all applications on file.

2.4.12. Floodplain Development Permit

A. Purpose

The purpose of the floodplain development permit is to establish procedures and standards for the review of development located within the special flood hazard area, to reduce the potential for damage to property and life from flooding or floodwaters.

B. Applicability

All development proposed in the special flood hazard area shall obtain a floodplain development permit and applicable flood certificates/certifications in accordance with this section and Section 7.4, Flood Damage Prevention, prior to or concurrent with an application for a site plan, building permit, or zoning compliance permit, as appropriate.

C. Floodplain Development Permit Procedure

(1) Pre-Application Conference

Optional (see Section 2.3.2).

(2) Community Meeting

Not applicable.

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4).

(4) Staff Review and Action

Applicable (see Section 2.3.5). The Planning Director shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.12.D, Floodplain Development Permit Review Standards.

(5) Public Hearing Scheduling and Public Notification

Not applicable.

(6) Public Hearing Procedures

Not applicable.

(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

Not applicable.

D. Floodplain Development Permit Review Standards

A floodplain development permit shall be approved only upon a finding that all of the following standards are met:

- (1)** The permit is issued prior to the commencement of development;
- (2)** The development proposed within the special flood hazard area complies with the standards in Section 7.4, Flood Damage Prevention, and all other applicable standards in this Ordinance and the County Code of Ordinances; and
- (3)** The floodplain development permit includes:
 - (a)** A description of development to be permitted under the floodplain development permit.
 - (b)** The special flood hazard area determination for the proposed development in accordance with available data specified in Section 7.4, Flood Damage Prevention.
 - (c)** The regulatory flood protection elevation required for the reference level, all attendant utilities, and the protection of all public utilities, as applicable.
 - (d)** All certification submittal requirements with appropriate timelines.
 - (e)** A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
 - (f)** Flood openings requirements, if in flood zones A or AE.
 - (g)** Use limitations of below RFPE enclosures.
 - (h)** A statement that if in a VE-zone there shall be no alteration of sand dunes which will increase potential flood damage.
 - (i)** A statement that if in a VE-zone there shall be no fill used for structural support.
 - (j)** A statement that all materials below RFPE must be flood resistant materials.

E. Effect of Approval

Approval of a floodplain development permit authorizes an applicant to obtain all required elevation certificates or other required certificates and proceed with construction following issuance of a building permit.

F. Amendment of Approval

Applicable (see Section 2.3.14).

G. Expiration of Approval

Approval of a floodplain development permit shall automatically expire if the development activity it authorizes is not commenced within six months after the date of approval.

2.4.14. Variance

A. Purpose

The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numerical standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. This section also includes standards for variance from the county's flood damage prevention standards in Section 7.4.

B. Applicability

The variance procedure may be used to seek hardship relief from the dimensional, numerical, and flood damage prevention standards in this Ordinance. No variance may be sought that increases development density (e.g., units per acre) beyond that allowed in a base zoning district, or increases the number of a particular type of sign beyond that allowed by signage standards. In addition, no variance may be sought that would permit a use not allowed in a zoning district, or would have the effect of allowing a prohibited use or a prohibited sign.

C. Variance Procedure

(1) Pre-Application Conference

Optional (see Section 2.3.2).

(2) Community Meeting

Not Applicable.

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4). The Planning Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.3.5.B, Staff Report and Recommendation, and Section 2.4.16.D, Variance Review Standards.

(4) Staff Review and Action

Applicable (see Section 2.3.5).

(5) Public Hearing Scheduling and Public Notification

Applicable (see Section 2.3.6).

(6) Public Hearing Procedures

Applicable (see Section 2.3.8).

(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

Applicable (see Section 2.3.10). The Board of Adjustment, following a quasi-judicial public hearing (see Section 2.3.8.C), shall decide the application in accordance with Section 2.3.10, Decision-Making Body Review and Decision, Section 2.4.16.D, Variance Review Standards, or Section 2.4.16.2.F, Standards for Flood Damage Prevention Ordinances, as appropriate.

D. Variance Review Standards

A variance shall be approved on a finding the applicant demonstrates all of the following standards are met:

- (1)** The alleged hardship is suffered by the applicant as a result of the application of this Ordinance;
- (2)** The hardship relates to the applicant's land, such as location, size, or topography, rather than personal circumstances;
- (3)** The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
- (4)** The hardship is not the result of the applicant's own actions;
- (5)** The variance will not authorize the initiation of a nonconforming use of land; and
- (6)** The requested variance is consistent with the spirit, purpose, and intent of this Ordinance, such that public safety is secured, and substantial justice is achieved.

E. Not Grounds for a Variance

The following factors do not constitute sufficient grounds for approval of a variance:

- (1)** A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
- (2)** Hardships resulting from factors other than application of standards of this Ordinance;
- (3)** The fact that land or a structure may be utilized more profitably or be more marketable with a variance;
- (4)** The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts; or
- (5)** Financial hardship.

F. Variances from Flood Damage Prevention Standards

(1) Eligibility for Variance

The following forms of development are eligible to request a variance from the flood damage prevention standards in Section 7.4, Flood Damage Prevention:

- (a)** Repair or rehabilitation of historic structures, upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
- (b)** Functionally dependent facilities, provided they are protected by methods that minimize flood damage during the base flood and create no additional threats to public safety; or
- (c)** Any other type of development, provided it meets the standards of this section.

(2) Standards for Flood Damage Prevention Variances

(a) A flood damage prevention variance shall be approved on a finding the applicant demonstrates all of the following standards are met:

- (i) There is a good and sufficient cause to grant the variance.
- (ii) Failure to grant the variance would result in exceptional hardship.
- (iii) The variance is the minimum necessary, considering the flood hazard, to afford relief.
- (iv) Approval of the variance will not render the building in violation of applicable Federal, State, or local requirements.
- (v) Granting the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with this Ordinance.
- (vi) Approval of the variance will not result in any increase in flood levels within any designated floodway or non-encroachment area during the base flood discharge.
- (vii) The variance is issued prior to development permit approval.

(b) A flood damage prevention variance for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities located in special flood hazard areas shall be approved on a finding the applicant demonstrates the following standards are met:

- (i) The use serves a critical need in the community.
- (ii) No feasible location exists for the use outside the special flood hazard area.
- (iii) The reference level of any structure is elevated or floodproofed to at least the RFPE.
- (iv) The use complies with all other applicable Federal, State, and local laws.
- (v) At least 30 days prior to granting a variance, the Planning Director has notified the Secretary of the North Carolina Department of Public Safety of the intention to grant a variance.

(3) Grounds for Denial of a Flood Damage Prevention Variance Request

All of the following factors shall be taken into account when denying a request for a flood damage prevention variance:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;

- (e) The necessity to the facility of a waterfront location as a functionally-dependent facility;
- (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the Land Use Plan and the county's floodplain management program;
- (i) The safety of access to the use in times of flood for ordinary and emergency vehicles;
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(4) Conditions of Approval

Upon consideration of the standards in Section (2) above and the purposes of this Ordinance, the BOA may attach such conditions to the variance as it deems necessary to further the purposes and objectives of this Ordinance.

(5) Notification Regarding Flood Insurance Costs

- (a) Any applicant to whom a flood damage prevention variance is granted shall be given written notice specifying the difference between the ~~base flood elevation (BFE)~~ ~~regulatory flood protection elevation (RFPE)~~ and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage.
- (b) Such notification shall be maintained with the record of the variance action.

(6) Records

Upon request, the Planning Director shall report any flood damage prevention variance approvals to the Federal Emergency Management Agency and the State of North Carolina.

G. Effect of Development Approval

Approval of a variance authorizes only the particular regulatory relief approved. It does not exempt the applicant from the responsibility to obtain all other approvals required by this Ordinance and any other applicable laws, and does not indicate that the development for which the variance is granted should receive other development permits or approvals under this Ordinance unless the relevant and applicable portions of this Ordinance or any other applicable laws are met.

H. Amendment of Development Approval

Applicable (see Section 2.3.14).

I. Expiration of Development Approval

Unless it expires in accordance with Section 2.3.15, Expiration of a Development Approval, a variance, including any conditions of approval, shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership.

Item 3: That Chapter 7. Environmental Protection, Section 7.4. Flood Damage Prevention is amended by deleting the following ~~strikethrough~~ language, adding the underlined language, and renumbering accordingly:

7.4 FLOOD DAMAGE PREVENTION

7.4.1 Purpose and Intent

The purpose and intent of the flood damage prevention standards is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- A.** Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights, or velocities;
- B.** Require that uses vulnerable to floods be protected against flood damage at the time of initial construction;
- C.** Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- D.** Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- E.** Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

7.4.2 Applicability

The standards in this section shall apply to all lands within the special flood hazard area, as depicted in the Flood Insurance Rate Maps (FIRM) for Currituck County and incorporated by reference into this Ordinance.

7.4.3 Floodplain Development Permit Required

- A.** Development subject to the standards in this section shall obtain a floodplain development permit (see Section 2.4.12) prior to the commencement of ~~construction or any land-disturbing development~~ activities.
- B.** Development subject to these standards shall not be established, extended, converted, altered, or occupied in any way without full compliance with the requirements of this section.

7.4.4 Special Flood Hazard Area Zones

All lands within the Currituck County special flood hazard area are located within one of four different special flood hazard area zones, as depicted on the county's FIRM maps. Each flood zone is a geographic area in the county subject to a unique type and severity of flood. Each

flood zone has unique standards, elevation certificate requirements, or both. Applicants for development within the special flood hazard area should consult the FIRM to determine the applicable flood zone where their land is located. The different flood zones are described below.

A. VE Zone

Lands within a VE zone are areas generally adjacent to a body of water that may experience flooding as well as wave action. Lands in a VE zone are subject to the coastal high hazard zone standards in addition to the general flood damage prevention standards in Section 7.4.6, Standards.

B. AE Zone

Lands within AE zone are areas that may experience flooding, but no wave action. The FIRM maps indicate a base flood elevation in this zone below which habitable residential space is prohibited.

C. A Zone (No Base Flood Elevation)

Lands within A zones are areas that may be subject to flooding, but not subject to wave action during a storm event. Lands in an A Zone are subject to the standards for floodplains without established base flood elevations in addition to general flood damage prevention standards in Section 7.4.6, Standards.

D. AEFW Zone (Floodway)

Lands within the AEFW zone are areas adjacent to a river or stream that are located within a floodway or other non-encroachment area. Areas within the AEFW may or may not have an established base flood elevation depicted on the FIRM map, and are subject to the standards in Section 7.4.6.C, or 7.4.6.D, (as appropriate) as well as the general flood damage prevention standards in Section 7.4.6.A, General Standards.

7.4.5. Flood Certificates /Certifications

All development within a special flood hazard area shall obtain all required flood certificates or certifications in accordance with this section and Table 7.4.5, Flood Certificates.

TABLE 7.4.5: FLOOD CERTIFICATES

CERTIFICATE TYPE	TYPE OF DEVELOPMENT SUBJECT TO REQUIREMENT	FLOOD ZONE WHERE REQUIRED	TIMING
Elevation Certificate	All residential and nonresidential development [1]	A, AE, VE, AEFW [3]	Under Construction- required prior to scheduling rough in inspection; <u>As-built</u> Finished Construction- required prior to occupancy scheduling final inspection
Floodproofing Certificate	All nonresidential development with floor area below base flood elevation <u>regulatory flood protection elevation</u> [1] [2]	A, AE, VE, AEFW [3]	Prior to start of construction <u>Design Elevation</u> - Prior to issuance of floodplain development permit; Finished Construction – Prior to scheduling final inspection
Foundation Certification	Manufactured home with chassis 36 inches or more above grade	A, AE	Prior to issuance of <u>building permit</u> <u>floodplain development permit</u>
Watercourse Alteration	Development seeking to alter or relocate a watercourse	A, AE, AEFW, VE	Prior to <u>issuance of</u> floodplain development permit

TABLE 7.4.5: FLOOD CERTIFICATES

CERTIFICATE TYPE	TYPE OF DEVELOPMENT SUBJECT TO REQUIREMENT	FLOOD ZONE WHERE REQUIRED	TIMING
Certification			
V-Zone Certificate	All residential and nonresidential development	VE	Required as part of Building Permit <u>Prior to issuance of floodplain development permit</u>

NOTES:

[1] Recreation vehicles, temporary structures, and accessory structures less than 150 square feet in area in the A and AE flood zones must comply with the standards of this section, but are exempted from elevation and flood-proofing certificate requirements

[2] Development subject to a floodproofing certificate is not required to obtain an elevation certificate

[3] Floodproofing is not permitted within the VE zone

A. Elevation Certificate (FEMA Form 81-31 086-0-33)**(1) Building Under Construction**

- (a)** Prior to scheduling rough in inspection, the applicant shall submit a certification of the elevation of the reference level, in relation to mean sea-level NAVD 1988 to the Planning Director.
- (b)** The Planning Director shall review the certificate and note any errors. Errors shall be corrected prior to further work proceeding. Any work done ~~within the seven day period~~ or prior to submission of the reference level certification shall be at the applicant's risk.
- (c)** Failure to submit the certification or make required corrections shall result in issuance of a stop-work order for the development.

(2) Finished Construction

- (a)** Prior to scheduling final inspection, the applicant shall submit a final-as-built finished construction certification of the elevation of the reference level and all associated utilities to the Planning Director. The Planning Director shall review the certificate and note any errors.
- (b)** Errors shall be corrected by the permit holder prior to occupancy of the building. In some instances, an additional certification may be required to certify the corrected as-built construction.
- (c)** Failure to submit the certification or make required corrections shall delay occupancy of the building.
- (d)** The finished construction certification shall include at least 2 photographs showing the front and rear of the building taken within 90 days of the date of certification. The photographs shall confirm the building description and diagram number provided on the FEMA form. The photographs shall be in color and measure at least 3" x 3".

B. Floodproofing Certificate (FEMA Form 81-65 086-0-34)**(1) Design Elevation**

- (a)** Applicants for new nonresidential development employing floodproofing to meet regulatory flood protection elevation

requirements within a special flood hazard area shall submit a certification of the floodproofed design elevation, in relation to ~~mean sea-level NAVD 1988~~, with supporting data, an operational plan, and an inspection and maintenance plan, to the Planning Director prior to issuance of a Floodplain Development Permit.

- (b)** The certification of the floodproofed design elevation of the reference level and all attendant utilities in relation to ~~mean sea-level NAVD 1988~~ shall be prepared by a professional engineer or architect.
- (c)** The Planning Director shall review the certificate, operational plan, and inspection and maintenance plan and note any errors.
- (d)** Errors shall be corrected by the applicant prior to issuance of a Floodplain Development Permit.
- (e)** Failure to submit the certification or make required corrections shall result in denial of a floodplain development permit application.
- (f)** Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of ~~occupancy~~ compliance.

(2) Finished Construction

Prior to scheduling a final inspection, the applicant shall submit a finished construction floodproofing certificate with supporting data, operational plan, and inspection and maintenance plan to the Planning Director.

C. Foundation Certification

If a manufactured home is placed within A or AE flood zones, and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification shall be required prior to issuance of a building permit in accordance with the standards of Section 7.4.6.A.4, Manufactured Homes.

D. Watercourse Alteration Certification (No-Rise)

Relocation or alteration of a watercourse shall require submittal of a map showing the location of the proposed watercourse alteration or relocation, description of the extent, and a certified report from a professional engineer on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream.

E. V-Zone Certificate

- (1)** Applicants for new development within coastal high hazard area (VE zone) shall submit a V-Zone certificate, prepared by a professional engineer or architect, with accompanying design plans and specifications, demonstrating the standards of this subsection are met prior to issuance of a floodplain development permit.
- (2)** Development within coastal high hazard areas shall also be required to provide an elevation certificate in accordance with subsection (A) above, where applicable.

7.4.6. Standards

A. General Standards

(1) Standards Applied to All Development

- (a) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (b) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the current Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the Federal Emergency Management Agency.
- (c) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
- (e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (g) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (h) Nothing in this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on January 1, 2013 and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Ordinance.
- (i) All developments shall be consistent with the need to minimize flood damage.
- (j) All developments shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (k) All developments shall have adequate drainage provided to reduce exposure to flood hazards.
- (l) All developments shall have received all necessary permits required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (m) When a new structure is partially located in the special flood hazard area, the entire structure shall meet the requirements in this section.
- (n) When a structure is located in multiple flood zones or in a flood zone with multiple base flood elevations, the provisions for the more restrictive flood zone and the highest base flood elevation shall apply.
- (o) ~~Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the standards of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.~~

(P) New solid waste facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 2.4.14.F, Variance from Flood Protection Standards. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the standards of this ordinance.

(2) Residential Development
In addition to the general standards applied to all development in (1) above, new construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.

(3) Nonresidential Development

- (a)** In addition to the general standards applied to all development in (1) above, new construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.
- (b)** Structures located in A or AE flood zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation, provided that all areas of the structure, together with attendant utility and sanitary facilities, below the ~~base flood elevation~~ regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
- (c)** A professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied in accordance with Section 7.5.4.B, Flood-Proofing Certificate.

(4) Manufactured Homes
In addition to the general standards applied to all development in (1) above, new and replacement manufactured homes in a special flood hazard area shall:

- (a)** Be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation.
- (b)** Be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15.
- (c)** Be supported by reinforced piers or an engineered foundation when the chassis is elevated 36 inches or less above grade.
- (d)** Be subject to a foundation certification (see Section 7.4.5) when the chassis is elevated more than 36 inches above grade.
- (e)** Ensure all enclosures or skirting below the lowest floor meet the requirements of Section 7.4.6.A.8, Elevated Buildings.

(f) Be subject to an evacuation plan approved by the Planning Director and the county's Emergency Management Coordinator if located within a new, substantially improved, or substantially damaged manufactured home park or subdivision.

(5) Accessory Structures

In addition to the general standards applied to all development in (1) above, accessory structures (sheds, detached garages, etc.) in the special flood hazard area shall comply with the following standards:

- (a) Portions of an accessory structure below the ~~base flood elevation~~ ~~regulatory flood protection elevation~~ shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (b) Portions of an accessory structure below the ~~base flood elevation~~ ~~regulatory flood protection elevation~~ shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored to prevent floatation, collapse, and lateral movement;
- (f) All service facilities, such as electrical service, shall be installed to prevent water from entering or accumulating within the components; and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below the regulatory flood protection elevation (see Section 7.4.6.A.8, Elevated Buildings).

(6) Temporary Nonresidential Structures

Prior to the issuance of a floodplain development permit for a temporary nonresidential structure in the special flood hazard area, the applicant shall submit a plan for the removal of the structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification that includes the following:

- (a) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (b) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (c) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- (d) The location outside the special flood hazard area where the temporary structure will be moved.
- (e) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year.

(7) Recreational Vehicles

Recreational vehicles shall:

- (a)** Be on site for fewer than 90 consecutive days, be fully licensed, and ready for highway use (i.e., be on its wheels or jacking system, be attached to the site only by quick disconnect type utilities, and have no permanently attached additions); or
- (b)** Meet the requirements in this section for new residential construction.
- (c)**

(8) Elevated Buildings

Any fully enclosed area of new construction or substantially improved structure which is below the lowest floor shall:

- (a)** Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises;
- (b)** Be served by access that is the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
- (c)** Not be finished or partitioned into separate rooms, except to enclose storage areas;
- (d)** Be constructed entirely of flood resistant materials, in accordance with Technical Bulletin 2: Flood Damage Resistant Materials Requirements, at least to the regulatory flood protection elevation;
- (e)** Include flood openings, when located in the A and AE flood zones, that automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this standard, the openings must either be certified by a professional engineer or architect to meet or exceed the following minimum design criteria:
 - (i)** A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii)** The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
 - (iii)** If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv)** The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
 - (v)** Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi)** Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above; and
- (f)** Be either free of obstruction or constructed with breakaway walls, open wood latticework, or insect screening, when located in a VE zone. To meet this standard, breakaway walls shall not be part of the structural support of the building and be designed so as to breakaway, under abnormally high tides or wave action without causing damage to

the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building, in accordance with the following:

- (i) Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
- (ii) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

(9) Additions or Improvements to Existing Buildings

Repairs, additions, or alterations to an existing building in the special flood hazard area shall be subject to the following standards:

(a) Substantial Additions or Improvements

(i) Pre-FIRM Buildings

- (A) A substantial improvement with improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (B) An addition that is a substantial improvement with no modification to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

(ii) Post-FIRM Buildings

- (A) Improvements qualifying as substantial improvements or alterations that worsen an existing nonconformity must comply with the standards for new construction.
- (B) An addition that is a substantial improvement with no modification to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

(b) Non-Substantial Additions or Improvements

(i) Pre-FIRM Buildings

Additions or improvements to a portion of a pre-FIRM building that are not substantial are not required to comply with the

standards in Section 7.4.6, Standards, but must be designed to minimize flood damage and shall not worsen any existing nonconformities with respect to the building's compliance with the flood damage prevention standards.

(ii) Post-FIRM Building Additions

All additions to post-FIRM buildings shall comply with the standards for new construction.

(iii) Post-FIRM Building Improvements

Improvements qualifying as substantial improvements or alterations that worsen an existing nonconformity must comply with the standards for new construction.

(c) Timing of Post-FIRM Structures

Development having a start of construction date of November 1, 1984 shall be considered as a post-FIRM structure for the purposes of these standards.

(10) Tanks

Gas and liquid storage tanks located in the special flood hazard area shall comply the following standards:

(a) Underground Tanks

Underground tanks shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(b) Above-ground Tanks

(i) Above-ground tanks shall be elevated to or above the regulatory flood protection elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank supporting structures shall meet the foundation requirements of the applicable flood hazard area.

(ii) Above-ground tanks that do not meet the elevation requirements of Section 7.4.6.A.(3) Non-Residential Development, shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(c) Tank Inlets, Fill Openings, Outlets and Vents

Tank inlets, fill openings, outlets and vents shall be:

(i) Installed at or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of

floodwater or outflow of the contents of the tanks during conditions of the design flood; and,

(ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including effects of buoyancy, during conditions of the design flood.

(11) Other Development

(a) Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall comply with the standards in Section 7.4.6.D., Standards for Floodways and Non-Encroachment Areas.

(b) Retaining walls, sidewalks, and driveways in regulated floodways and non-encroachment areas that include the placement of fill shall comply with the standards in Section 7.4.6.D., Standards for Floodways and Non-Encroachment Areas.

(c) Roads and watercourse crossings, including bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of the watercourse to the other that encroach into regulated floodways shall meet the standards in Section 7.4.6.D., Standards for Floodways and Non-encroachment Areas.

B. Standards for Coastal High Hazard Areas (VE Zones)

VE flood zones have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements or alterations shall comply with the standards in Section 7.4.6.A, General Standards, and the following requirements:

(1) CAMA Setbacks

Development shall comply with all applicable CAMA setback requirements, including a location landward of the mean high tideline and the first line of stable natural vegetation;

(2) Base Flood Elevation

Development shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation (floodproofing shall not be utilized on any structures in the VE zone);

(3) Free of Obstruction

Development shall ensure the space below the lowest floor remains free of obstruction so as not to impede the flow of flood waters, with the following exceptions:

(a) Open wood latticework or insect screening below the lowest floor for aesthetic purposes only provided it is designed to wash away in the event of abnormal wave action;

(b) Breakaway walls, provided they comply with the standards in Section 7.4.6.A.8, Elevated Buildings; or

(c) Development constructed at grade when the grade elevation exceeds the applicable regulatory flood protection elevation, provided it utilizes grade-beam or pile-supported slab construction.

(4) Foundations

- (a) Development shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- (b) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the standards in this section.
- (c) In determining the load calculations:
 - (i) Water loading values used shall be those associated with the base flood.
 - (ii) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

(5) Use of Non-Structural Fill and Grading

~~Fill shall not be used for structural support. Limited non-compacted and non-stabilized fill may be used outside the perimeter of a building, provided it is demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the base flood elevation and not cause any adverse impacts by wave ramping or deflection to the subject structure or adjacent properties.~~

- (a) Fill may not be used for structural support. Minor grading and placement of minor quantities of non-structural fill may be permitted for landscaping and drainage under and around buildings; and for support of parking slabs, pool decks, patios, and walkways.
- (b) Fill material must be similar and consistent with natural soils in the area.
- (c) Site compatible and non-structural fill located under or around an elevated building is limited to two feet. Fill greater than two feet shall include a analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave run-up and wave deflection that would increase damage to adjacent elevated buildings and structures.
- (d) Non-structural fill slopes steeper than five units horizontal and one unit vertical shall include a analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave run-up and wave deflection that would increase damage to adjacent elevated buildings and structures.

(6) Alteration of Dunes

There shall be no alteration of sand dunes which would increase potential flood damage.

(7) Concrete Pads

Concrete pads, including patios, decks, parking pads, walkways, driveways and pool decks shall comply with the following standards:

- (a) Be structurally independent of the primary structural foundation and shall not adversely affect structures through redirection of floodwaters or debris;

- (b) Be constructed to breakaway cleanly during design flood conditions, be frangible, and not produce debris capable of causing damage to any structure. Concrete installed or scored in small segments (i.e. 4'x4') that will easily break-up during the base flood event complies with this standard. Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential concrete pad being a source of debris; and,
- (c) Pad thickness shall not exceed 4 inches; or
- (d) Provide a registered design professional's certification stating that the alternate design and method of construction to be used meets the applicable standards of this section.

(8) Swimming Pools and Spas

- (a) Swimming pools and spas shall be designed to withstand all flood related loads, load combinations, and comply with the following standards:
 - (i) Be elevated so that the lowest horizontal structural member is elevated above the regulatory flood protection elevation; or
 - (ii) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to another structure; or
 - (iii) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
- (b) A registered professional engineer or architect shall certify that a pool or spa beneath or near a VE zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
- (c) Pool equipment shall be located above the regulatory flood protection elevation whenever practicable. Pool equipment shall not be located beneath an elevated structure.

(9) Elevators and Lifts

- (a) Elevators, vertical platform lifts and chair lifts shall be designed to withstand hydrodynamic and hydrostatic forces as well as erosion, scour and waves.
- (b) Equipment shall not be mounted on, pass through, or be located along breakaway walls.
- (c) Equipment shall be elevated above the regulatory flood protection elevation or constructed using flood damage resistant components.
- (d) Shafts and enclosures that extend below the regulatory flood protection elevation shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage shall be provided for the elevator pit.
- (e) Flood damage resistant materials can be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors

and door frames below the RFPE. Grouting the door frame and sills is recommended.

(f) Elevators designed to provide access to areas below the RFPE shall be equipped with a float switch system that will activate during a flood to send the elevator cab to a floor above the regulatory flood protection elevation.

(10) Decks and Patios

(a) A deck structurally attached to a building or structure shall be elevated so that the bottom of the lowest horizontal structural member is no lower than the regulatory flood protection elevation. Supporting members that extend below the regulatory flood protection elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certificate required in Section 7.4.5., Flood Certificates/Certifications.

(b) A deck or patio located below the regulatory flood protection elevation shall:

- (i)** Be structurally independent from buildings or structures and their foundation system; and,
- (ii)** Be designed and constructed either to remain intact and in place during design flood conditions or break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or adjacent buildings and structures.

(11) Allowed Uses Other Development

(a) No manufactured homes shall be permitted in the coastal high hazard flood zone, except for replacement manufactured homes located in existing manufactured home parks and subdivisions permitted by this ordinance subject to the standards in Section 7.4.6.A.4.

(b) Recreational vehicles are permitted in the coastal high hazard flood zone, subject to the standards in Section 7.4.6.A.7, Recreational Vehicles.

(c) No more than four electrical outlets and no more than four electrical switches may be permitted below the regulatory flood protection elevation unless required by the building code.

(d) Development activities, other than buildings and structures, shall be permitted only if authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by a qualified registered design professional to demonstrate no harmful diversion of floodwaters or wave run-up and wave reflection that would increase damage to adjacent buildings and structures. Such development activities include but are not limited to:

- (i)** Bulkheads, seawalls, retaining walls, revetments or similar erosion control structures; and,

(ii) Solid fences and privacy walls, and fences prone to trapping debris unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.

C. Standards for Floodplains without Established Base Flood Elevations

The following standards shall apply to all development within A Flood zones where no base flood elevation data has been provided by FEMA:

- (1)** The standards in Section 7.4.6.A.1, Standards Applied to All Development.
- (2)** No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within an area located 20 feet from top of a stream bank or five times the width of the stream, whichever is greater, unless a professional engineer certifies the encroachment shall not increase flood levels during the occurrence of the base flood discharge.
- (3)** The base flood elevation used in determining the minimum regulatory flood protection elevation shall be determined based on the following:
 - (a)** When base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Ordinance and shall be elevated or floodproofed in accordance with standards in Section 7.4.6.A, General Standards.
 - (b)** When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements in Sections 7.4.6.A.2-9, and 7.4.6.D, Standards for Floodways and Non-encroachment Areas.
 - (c)** All development of more than five acres, 50 lots, or 50 dwelling units shall provide base flood elevation data that will be used in implementing these standards.

D. Standards for Floodways and Non-encroachment Areas

Areas designated as floodways or non-encroachment can be extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. Development within these areas shall comply with the following standards:

- (1)** The standards in Section 7.4, Flood Damage Prevention, all other applicable standards in this ordinance, and the Currituck County Administrative Manual;
- (2)** No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:
 - (a)** It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented prior to issuance of floodplain development permit; or
 - (b)** A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

E. Standards for Riverine Floodplains without Established Floodways or Non-encroachment Areas

All development along rivers and streams where base flood elevation data is available but floodway and non-encroachment areas are not identified on the FIRM or in the FIS report, shall comply with the following standards:

- (1)** The standards in Section 7.4.6.A, General Standards;
- (2)** No encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted until:
 - (a)** A regulatory floodway or non-encroachment area is designated; or
 - (b)** Certification is provided by a registered professional engineer that the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Item 4: That Chapter 9. Enforcement is amended by deleting the following strikethrough language, adding the bold and underlined language and renumbering accordingly in Section 9.6:

CHAPTER 9.

9.6. **REMEDIES AND PENALTIES**

The county may use any combination of the following remedies and enforcement powers to administer and enforce this Ordinance.

9.6.2. **Criminal Penalties**

Violations of the provisions of the Section 7.4, Flood Damage Prevention or failure to comply with any of its requirements, including a violation of conditions and safeguards established in connection with a variance or special exception, shall constitute a Class I misdemeanor pursuant to NCGS 143-215.58. Any person who violates Section 7.4, Flood Damage Prevention or fails to comply with any of its requirements shall, upon conviction, be fined not more than \$100 or imprisoned for not more than 30 days or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Currituck County from taking such other lawful action as is necessary to prevent or remedy any violation.

Item 5: That Chapter 10. Definitions and Measurement is amended by deleting the following strikethrough language and adding the underlined language in Section 10.4:

CHAPTER 10.

10.4. DEFINITIONS

ALTERATION OF WATERCOURSE

A dam, impoundment, channel, relocation, change in channel, alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of base flood.

BREAKAWAY WALL

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation.

CHEMICAL STORAGE FACILITY

For purposes of Section 7.4. Flood Damage Prevention, a building, portion or a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

COASTAL AREA MANAGEMENT ACT (CAMA)

North Carolina's Coastal Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

COASTAL A ZONE (CAZ)

An area within the special flood hazard area, landward of the V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A zones are not normally designed on FIRMs. (See Limit of Moderate Wave Action LiMWA).

DEVELOPMENT ACTIVITY

Any activity defined as development which will necessitate a Flood Development Permit. This includes buildings, structures, and non-structural items, including but not limited to fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)

The digital official map of Currituck County issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

EXISTING BUILDING

For the purposes of Section 7.4, Flood Damage Prevention, any building and/or structure for which the start of construction commenced before November 4, 1984.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

An official map issued by Federal Emergency Management Agency on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

FLOOD INSURANCE STUDY (FIS)

An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

FLOODPLAIN OR FLOOD PRONE AREA

~~Any land area susceptible to being inundated by water from the base flood. The term refers to that area designated as subject to flooding from the base flood (One Hundred Year Flood) on the "Flood Insurance Rate Map" prepared by the Federal Emergency Management Agency and dated November 4, 1992, and also November 2, 1992, as revised, a copy of which is on file in the administrator's office. This area shall comprise the Floodplain Overlay Zoning District established in this ordinance. Any land area susceptible to being inundated by water from any source.~~

FLOOD-RESISTANT MATERIAL

Any building product (material, component, or system) capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

FLOODWAY

The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOODWAY ENCROACHMENT ANALYSIS

An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The elevation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

FREEBOARD

The height added to base flood elevation to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation (RFPE).

HISTORIC STRUCTURE

For the purposes of Section 7.4 Flood Damage Prevention, any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a

- district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- d. Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”.

JUNKYARD

An establishment or place of business which is maintained, operated or used for sorting, keeping, buying or selling junk or recoverable materials.

~~For the purposes of section 7.4, Flood Damage Prevention, any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.~~

LETTER OF MAP CHANGE (LOMC)

An official determination issued by Federal Emergency Management Agency that amends or revises an effective Flood Insurance Program map or Flood Study. LOMC shall include:

- (a) Letter of Map Amendment (LOMA): an official amendment, by letter to an effective NFIP map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective FIRM and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with this Ordinance.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or Flood Insurance Study; upon submission and approval of certified as-built documentation, a LOMR may be issued by Federal Emergency Management Agency to revise the effective FIRM.

LIGHT DUTY TRUCK

For the purposes of Section 7.4., Flood Damage Prevention, any motor vehicle rated at 8,500 lbs. Gross Vehicular Weight Rating or less which has a vehicular curb rate of 6,000 lbs. or less and which has a basic vehicle frontal area of 45 square feet or less as defined in Title 40 US Code of Federal Regulations at Subpart 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or,
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or,
- (c) Available with special features enabling off-street or off-highway operation and use.

LIMIT OF MODERATE WAVE ACTION (LIMWA)

The boundary line given by Federal Emergency Management Agency on coastal map studies marking the extents of Coastal A Zones (CAZ).

LOWEST ADJACENT GRADE

For the purposes of Section 7.4, Flood Damage Prevention, the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

MAP REPOSITORY

The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data for FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

MEAN SEA LEVEL

The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

NEW CONSTRUCTION

For the purposes of Section 7.4, Flood Damage Prevention, structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

NON-ENCROACHMENT AREA (NEA)

The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

OTHERWISE PROTECTED AREA (OPA)

See “Coastal Barrier Resources System” (CBRS).

RECREATIONAL VEHICLE

For the purposes of Section 7.4., Flood Damage Prevention, a vehicle, which is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and
- (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and
- (e) is fully licensed and ready for highway use.

SOLID WASTE DISPOSAL FACILITY

For the purposes of Flood Damage Prevention, any facility involved in the disposal of solid waste, as defined in NCGS 130A-290 (a)(35).

SOLID WASTE DISPOSAL SITE

For the purposes of Flood Damage Prevention, any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method, as defined in NCGS 130A-290 (a)(36).

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET

A Federal Emergency Management Agency publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the US Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for the use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The

bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

TEMPERATURE CONTROLLED

For the purposes of Section 7.4 Flood Damage Prevention, the temperature regulated by a heating and/or cooling system, built-in or appliance.

VIOLATION

For the purposes of Section 7.4, Flood Damage Prevention, the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance ~~required in Articles 4 and 5~~ is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION (WSE)

The height, in relation to ~~mean sea level~~ NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Item 6: Statement of Consistency and Reasonableness:

The requested text amendment, adoption of the FIRM, and FIS are consistent with the goals, policies, and objectives of the 2006 Land Use Plan because:

- It will conserve the floodplains and other coastal features for their natural storm protection functions and their natural resources giving recognition to public health, safety, and welfare issues. (Natural Hazards Area CAMA Management Goal)
- It includes requirements for development and redevelopment within special flood hazard areas to meet the standards of the NFIP and the flood damage prevention ordinance. (LUP POLICY NH2)
- It recognizes the potential risks to life and properties within the special flood hazard areas and the implements measures to mitigate the risks. (LUP POLICY NH1)

The request is reasonable and in the public interest because:

- It continues the county's participation in the National Flood Insurance Program that enables property owners in participating communities to purchase insurance protection against losses from flooding.
- Minimizes damage to public and private property due to flooding.

Item 7: 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 8: This ordinance amendment shall be in effect from and after the _____ day of _____, 2018.

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: _____