



**CURRITUCK COUNTY
NORTH CAROLINA**

September 13, 2022

Minutes – Regular Meeting of the Planning Board

WORK SESSION - 5:30 PM

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

CALL TO ORDER - 6:00 PM

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

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

Chairman Ballance called the meeting to order at 6:01 PM.

A. Pledge of Allegiance & Moment of Silence

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

B. Ask for Disqualifications

Chairman Ballance asked for any disqualifications. No conflicts of interest were noted.

C. Announce Quorum Being Met

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

D. Approval of Agenda

Chairman Ballance asked if there were any changes needed for the agenda. Mr. Doll motioned to approve the agenda as presented. Mr. Corbell seconded the motion and the motion carried unanimously.

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

E. Approval of Minutes

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

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

1. Planning Board Minutes - June 14, 2022**OLD BUSINESS**

No old business was discussed.

NEW BUSINESS**A. PB 22-11 Bissell Professional Group:**

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

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

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

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

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

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

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

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

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

Chairman Ballance asked for a motion.

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

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

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

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

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

The board had further discussion.

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

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

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

RESULT:	RECOMMENDED APPROVAL [3 TO 2]	Next: 10/3/2022 6:00 PM
MOVER:	K. Bryan Bass, Board Member	
SECONDER:	C. Shay Ballance, Chairman	
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member	
NAYS:	Michael Corbell, Board Member, David Doll, Board Member	
ABSENT:	Thomas Hurley, Board Member, Juanita S. Krause, Board Member	

ANNOUNCEMENTS

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

ADJOURNMENT

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



CURRITUCK COUNTY NORTH CAROLINA

June 14, 2022

Minutes – Regular Meeting of the Planning Board

WORK SESSION

The Currituck County Planning Board held a work session at 5:30 PM in the Conference Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina, with six board members present. Staff members present were Kevin Kemp, Development Services Director; Tammy Glave, Senior Planner; Jennie Turner, Senior Planner, and Cheri Elliott, Clerk to the Planning Board. The board members were briefed on the agenda items with the work session concluding at 5:55 PM.

CALL TO ORDER - 6:00 PM

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

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

Chairman Ballance called the meeting to order.

A. Pledge of Allegiance & Moment of Silence

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

B. Ask for Disqualifications

Chairman Ballance asked for any disqualifications. Chairman Ballance said he would recuse himself from PB 22-06 H2OBX, LLC and Vice Chairman Owens would chair the meeting at that time.

Communication: Planning Board Minutes - June 14, 2022 (Approval of Minutes)

C. Announce Quorum Being Met

Chairman Ballance announced a quorum being met with six board members present and five members voting on PB 22-06 H2OBX, LLC since he is recused from hearing that request.

D. Approval of Agenda

Chairman Ballance asked for a motion to approve the agenda. Mr. Bass motioned to approve as presented. Mr. Corbell seconded the motion and the agenda was approved unanimously.

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

APPROVAL OF MINUTES

Chairman Ballance asked for a motion to approve the May 25th, 2022, meeting minutes. Vice Chairman Owens motioned to approve. Ms. Krause seconded the motion and the minutes were approved unanimously.

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

E. PB Minutes - May 25, 2022**OLD BUSINESS****A. PB 22-09 Currituck County - Imagine Currituck 2040 Vision Plan: Consider Adoption of the Future Land Use Plan, Imagine Currituck 2040 Vision Plan**

Kevin Kemp presented the draft land use plan, Imagine Currituck 2040 Vision Plan. He said the purpose of moving the plan forward was to provide a formal recommendation at this meeting for the current draft of the plan as presented in the previous workshops and the current draft of the plan will be considered for adoption by the Board of Commissioners on June 20th. When the plan is returned with comment and certification from CAMA, the certified plan will be brought before the Planning Board, following a 30-day period for public input.

Mr. Kemp gave the following reasons for the draft plan to be in place by July 1, 2022:

- Chapter 160D of the North Carolina General Statutes requires that if a local government wants to enforce zoning the local government must have and reasonably maintain a comprehensive plan or land use plan. When Chapter 160D was first adopted under Session Law 2019-111, Section 2.9(c) of that law set a deadline for local governments to get a plan in place: July 1, 2022.
- The effect of not having a comprehensive plan or land use plan is that, after July 1, the local government will not be able to enforce zoning. When a property owner or developer decides to establish a land use, the local government will not be able to limit that land use with zoning.

Mr. Kemp gave the current status of the land use plan:

- Imagine Currituck is still under review with the CAMA office in Elizabeth City. This step has taken longer than anticipated.
- Once the CAMA review is complete, the plan will be reviewed by other applicable State and Federal agencies.
- When the plan gets returned to us, we will be able to make any minor changes necessary to bring forward a “certified” draft for adoption.

Mr. Kemp thanked the board members for attending the two previous work sessions concerning the land use plan and reminded them to include in their motion the minor changes presented to them during the meeting tonight for corrections to page 32 and for corrections to the appendices.

Chairman Ballance asked for a motion.

Mr. Bass motioned to adopt Imagine Currituck 2040 Vision Plan as the land use plan for Currituck County for compliance with the NC General Statutes Section 160D which requires the county to adopt and maintain a land use plan to continue to enforce zoning regulations. This motion includes the minor changes presented during the meeting. Vice Chairman Owens seconded the motion and the motion carried unanimously, 6-0.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 6/20/2022 6:00 PM
MOVER:	K. Bryan Bass, Board Member	
SECONDER:	Garry Owens, Vice Chairman	
AYES:	Michael Corbell, Board Member, C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, Thomas Hurley, Board Member, Juanita S. Krause, Board Member	
ABSENT:	David Doll, Board Member	

B. PB 22-06 H2OBX, LLC:

Chairman Ballance recused himself and Vice Chairman Owens resumed the chair.

Vice Chairman Owens said this item was continued from the last meeting to give the board time to review some last minute changes that were brought to the board's attention.

Vice Chairman Owens asked if any board members had questions for the applicant. Mr Bass asked some general questions concerning the wastewater system. Michael Strader with Quible & Associates answered on the specifics of cabins, RVs, and travel trailers being treated the same for gallons per unit, but tents are treated differently. Mr. Bass asked about a dumping station being available for RVs and Mr. Strader said no dumping station is proposed for this facility.

There were no members of the public present to speak.

Vice Chairman Owens asked for a motion.

Mr. Bass moved to recommend approval of PB 22-06 H2OBX, LLC because the request is consistent with Land Use Plan policies: ED1, ML4, ES1, ES2, PP2.

The request is reasonable and in the public interest because it addresses a need to operate a desired businesses for tourists and perhaps an economic stimulus to local businesses that may share the customer base and residents who may work at the facility.

Mr. Hurley seconded the motion and the motion was approved unanimously, 5-0. Chairman Ballance was recused from voting.

RESULT:	RECOMMENDED APPROVAL [5 TO 0]	Next: 7/18/2022 6:00 PM
MOVER:	K. Bryan Bass, Board Member	
SECONDER:	Thomas Hurley, Board Member	
AYES:	Michael Corbell, Board Member, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, Thomas Hurley, Board Member, Juanita S. Krause, Board Member	
ABSENT:	David Doll, Board Member	
RECUSED:	C. Shay Ballance, Chairman	

NEW BUSINESS

A. PB 22-07 Currituck County Text Amendment:

Kevin Kemp presented the staff report giving the background for the requested text amendment:

- Following a lengthy process including numerous workshops and public hearings, the Board of Commissioners adopted a text amendment to allow for new campgrounds in February 2022.
- Since its adoption, staff has encountered a few minor grammatical and reference issues which will be addressed with this text amendment.

Mr. Kemp reviewed the three changes in the text amendment:

Item 1:

Section 4.2.4.J- Visitor Accommodations-

- Eliminates word "facilities" in relation to infrastructure for consistency in UDO & definition of "infrastructure."

- Clarifies campground driveways accessing a major arterial street shall meet Section 5.6.7 (Driveway Access Standards) and are exempt from increased setback requirements associated with campgrounds.
- Corrects a section reference number.

Item 2:

Section 8.2.6 Nonconforming Campgrounds-

- Clarifies campgrounds in existence prior to January 1, 2013, are considered nonconforming unless conditionally rezoned.

Item 3:

Section 10.5 Definitions-

- Grammar change to definition of "Alternative Camping Unit."

There were no questions from the board and no citizens present to speak.

Chairman Ballance asked for a motion.

Mr. Corbell moved to approve PB 22-07 because the request is consistent with Land Use and Development Goal #10 and Policy ED1 of the 2006 Land Use Plan and the request is reasonable and in the public interest by correcting and clarifying language recently implemented in the Unified Development Ordinance. Mr. Bass seconded the motion and the motion carried unanimously, 6-0.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 7/18/2022 6:00 PM
MOVER:	Michael Corbell, Board Member	
SECONDER:	K. Bryan Bass, Board Member	
AYES:	Michael Corbell, Board Member, C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, Thomas Hurley, Board Member, Juanita S. Krause, Board Member	
ABSENT:	David Doll, Board Member	

ANNOUNCEMENTS

Mr. Kemp gave the following updates:

- BOC budget workshop on Wednesday, June 13, 2022.
- Discussion points: salaries and phase 3 of salary study
- Budget vote to occur on June 20, 2022.

Other planning items:

Preliminary Plat:

- Baxter Station Preliminary Plat (BOC-6/20/2022)

Final Plats:

- Panther Landing phase 2 (27 lots)
- Waterleigh phase 2 (48 lots)
- Foster phases 1B & 2 (79 Single Family Homes and 19 Townhomes)

Staffing

Mr. Kemp said Laurie LoCicero's last day with Currituck County was effective today. He said she has taken a position in the western part of the state and, on behalf of the Development Services Department, thanked her for her service.

Mr. Bass asked about a possible WaWa being built on the Moyock state line. Mr. Kemp said he did attend a meeting in Chesapeake since the building would be located on the Virginia side, but he had no further information on the development.

ADJOURNMENT

Chairman Ballance motioned to adjourn the meeting. Mr. Hurley seconded the motion and the meeting adjourned at 6:24 PM.



Currituck County Agenda Item Summary Sheet

Agenda ID Number – 3539

Agenda Item Title: PB 22-11 Bissell Professional Group:

Submitted By: Tammy Glave – Planning & Community Development

Item Type: Legislative

Presenter of Item: Tammy Glave

Board Action: Action

Brief Description of Agenda Item:

Request to amend the Unified Development Ordinance, Chapter 10. Definitions and Measurement, to change the way multi-family building height is measured in the Planned Development-Residential District.

Planning Board Recommendation:

Staff Recommendation: Denial

TRC Recommendation:

**Currituck County**

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

To: Board of Commissioners

From: Tammy D. Glave, CZO
 Senior Planner

Date: September 16, 2022

Subject: PB 22-11 Bissell Professional Group, Representing Ryan Homes- Building Height Text Amendment

Background

The enclosed text amendment, submitted by Bissell Professional Group, is intended to revise Section 10.3.6 of the county's Unified Development Ordinance (UDO) as it relates to the rules of measurement of height for multi-family buildings exclusively in the PD-R (Planned Development Residential) district. The PD-R district is a legacy district, meaning that only properties that are currently PD-R can have that zoning designation. The county currently has two developments that are zoned PD-R, which are University Park and Fost.

Although the text amendment applies county-wide, this application was submitted because two of the multi-family buildings in the Fost development were built taller than the maximum building height of thirty-five feet. The thirty-five foot maximum height for the development was set by the developer and is enforced through the Terms and Conditions document, preliminary plat/special use permit, and final plat. A third multi-family building was built too tall; however, the roof was removed and replaced with a roof pitch that complies with the maximum height requirement. Section 5.7.3.C.5. of the UDO requires that "the minimum ground floor elevation shall be elevated two feet above established or finished grade" for all multi-family structures. In the case of buildings one and two of the Fost development, when the townhomes were elevated, the height of the structure became too tall. Therefore, the applicant wishes to exclude the required two-foot elevation from the height measurement.

Section 10.3.6.A of the UDO defines the building height as "the vertical distance measured from the average established grade adjoining the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard or Bermuda roof, to the mean height levels between eaves and ridge of gable, hip cone, gambrel and shed roofs." Section 10.3.6.C. of the UDO identifies the exemptions to the measurement of height. This proposed amendment would add a section to the exemptions that would exclude two-feet of height from the measurement of a multi-family structure only in the PD-R zoning district.

Staff Comments

Staff has been working with the builder since spring when it was determined that the height of the first multi-family building exceeded the height limit set by the developer. Although this proposed text amendment would correct the problem of buildings one and two exceeding the maximum allowed height, staff has shared with the applicant that the preferred method to correct the issue is to amend the Terms and Conditions document, preliminary plat and final plat. The applicant has chosen to pursue this county-wide text amendment in the interest of time.

Although staff feels a thirty-seven foot maximum height for multi-family structures in the Fost development is not unreasonable, the logical way to address this via a text amendment would be to draft a height exemption in a similar way to structures located in the Special Flood Hazard Area. Section 10.3.6.C.(2) of the UDO allows for structures in a Special Flood Hazard Area and required to elevate in order to meet Design Flood Elevation (DFE), a maximum building height not to be exceeded by a distance greater than the difference between the established grade and the DFE. The required elevation is allowed, not to exceed three feet; however, the additional elevation is still counted when measuring total structure height, not exempt from the measurement. The approach to the text amendment would still require an amendment to the Terms and Conditions document, preliminary plat/special use permit, and the final plat, and therefore was not pursued.

Text Amendment Review Standards

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

1. Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;
2. Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
5. Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the county;
6. Would result in a logical and orderly development pattern; and
7. Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

Staff Recommendation

The staff recommendation of the proposed text amendment involves concluding whether the application complies with all applicable review standards identified in Section 2.4.2.C. of the UDO. As presented the staff recommends denial of this application for the following reasons:

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

Planning Board Recommendation

The Planning Board recommended approval of the requested text amendment on September 13, 2022, with a 3-2 vote.

Planning Board Motion

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

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



Bissell Profession Group requests an amendment to the Unified Development Ordinance, Chapter 10 Definitions and Measurement, to except multi-family buildings in the PD-R District that are subject to the two-foot raised finished floor provision from counting that two-feet in overall height measurement.

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 10 is amended by adding the bold and underlined language in Section 10.3.6.C Exceptions:

10.3.6. Height

C. Exceptions

(1) General

Height limits shall not apply to bulk storage silos, grain elevators, barns, chimneys, elevator shafts, church spires, belfries, cupolas, domes, flag poles, monuments, water towers, rooftop dish antennas, solar equipment, skylights, fire escapes or roof access stairways, outdoor recreation uses subject to Section 4.2.4.F., mechanical equipment required to operate and maintain the building, or similar appurtenances, provided:

- (a) The appurtenance does not interfere with Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;
- (b) The appurtenance does not exceed a maximum height of 200 feet above grade;
- (c) The appurtenance is not constructed for the purpose of providing additional floor area in the building;
- (d) The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in this Ordinance; and,
- (e) The maximum area and height of cupolas shall be determined as follows:
 - (i) The area of the base of appurtenances shall not singularly or collectively exceed 10 percent of the footprint of a structure's roof or 200 square feet, whichever is less.
 - (ii) The appurtenance shall be situated on top of a roof and shall not extend below the midpoint of a roof's ridge and eave.
 - (iii) The walls of the appurtenance shall not be directly in line with any exterior walls of the structure.
 - (iv) The appurtenance does not extend more than 15 feet above the highest roof ridge.

(2) Special Flood Hazard Areas

When structures are required to be elevated in order to meet the design flood elevation (DFE), the maximum building height may be exceeded provided:

- (a) The resulting mean roof height does not exceed 38 feet; and
- (b) The maximum building height is not exceeded by a distance greater than the difference between established grade and the DFE.

(3) Multi-family Buildings in PD-R Districts

For buildings in legacy PD-R zoning districts that are subject to the two-foot raised finished floor provision in paragraph 5.7.3.C(5), the two feet required to raise the finished floor elevation shall be excluded from the building's height measurement.

For reference purposes only

5.7.3.C Multi-family Design Standards, Building Design

- (5) The minimum ground finished floor elevation shall be elevated two feet above established or finished grade.

Item 2: Staff suggested Statement of Consistency:

The requested zoning text amendment is not consistent with adopted plans because:

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

Item 3: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Item 4: This ordinance amendment shall be in effect from and after the _____ day of _____, 2022.

Board of Commissioners' Chairman

Attest:

Leeann Walton
Clerk to the Board

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

PLANNING BOARD DATE: September 13, 2022
 PLANNING BOARD RECOMMENDATION: Approval

VOTE: 3AYES 2NAYS
 ADVERTISEMENT DATE OF PUBLIC HEARING: _____
 BOARD OF COMMISSIONERS PUBLIC HEARING: _____
 BOARD OF COMMISSIONERS ACTION: _____
 POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
 AMENDMENT NUMBER: _____

Attachment: 1 22-11 Ryan Homes TA Staff Report kk (PB 22-11 Bissell Professional Group (Height))

OFFICIAL USE ONLY:

Case Number:

Date Filed:

Gate Keeper:

Amount Paid:

APPLICANT:

Name: **Bissell Professional Group**

Address: P.O. Box 1068

Kitty Hawk, NC 27949

Telephone: (252) 261-3266

E-Mail Address: mark@bissellprofessionalgroup.com

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

Amend Chapter(s) 10 Section(s) 10.3.6. as follows:

Add paragraph (3) to 10.3.6.C. Exceptions for height measurement in legacy PD-R's according to the attachment.

*Request may be attached on separate paper if needed.

Petitioner

Date _____

10.3.5. Bulk**A. Definitions/Measurement****(1) Building Size**

Building size is the total floor area located inside exterior walls and covered by a roof.

(2) Density, Residential

The maximum number of residential dwelling units permitted per acre of land area. Density is determined by dividing the number of dwelling units by the total amount of land area within a particular lot or tract. For the purpose of determining maximum gross density, CAMA-designated wetlands shall not be included in calculating the total amount of land area.

(3) District Size

The minimum size, in acres, of a base or overlay zoning district, including streets, rights-of-way, and open space areas, but excluding unbuildable lands.

(4) Floor Area

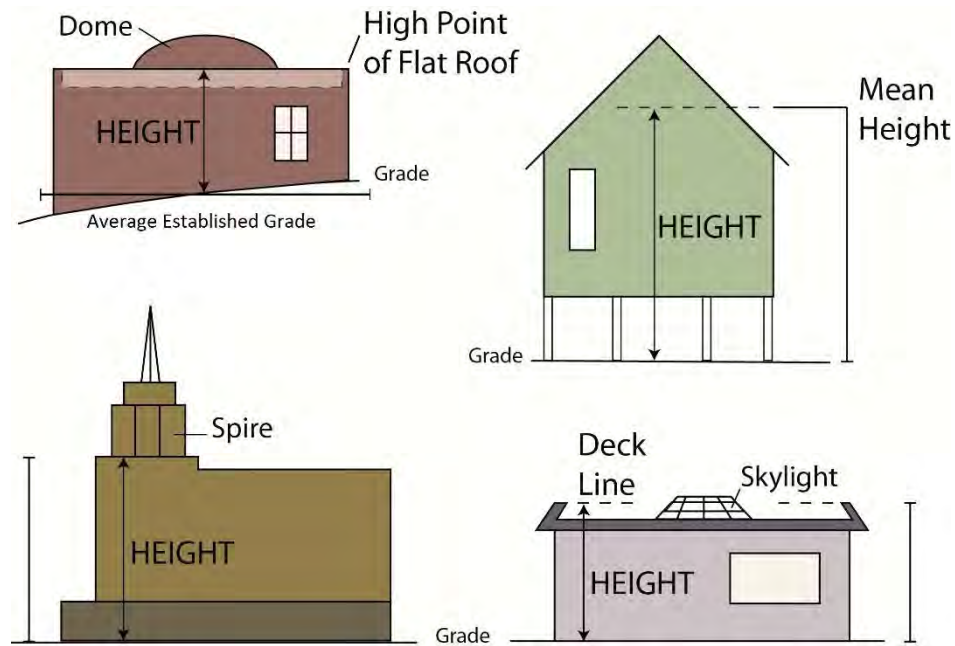
The sum of the gross horizontal areas of the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

(5) Floor Area Ratio

The total floor area of all buildings or structures on a lot divided by the lot area.

10.3.6. Height**A. Definitions/Measurement****(1) Building Height**

The vertical distance measured from the average established grade adjoining the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard or Bermuda roof, to the mean height level between eaves and ridge of gable, hip, cone, gambrel and shed roofs (see Figure 10.3.6, Height Measurement).

Figure 10.3.6, Height Measurement**(2) Building Story**

The space between the surface of any floor and the surface of the next floor above it; or if there is no floor above it, the space between the floor surface and the top of the ceiling joists or roof rafters above it. Building stories shall comply with all the applicable standards from the North Carolina State Building Code.

(3) Established Grade

Established grade is the finished grade following grading, excavation, or other land-disturbing activity.

(4) Grade

Grade means the level of the ground elevation prior to the commencement of development or land-disturbing activity.

B. Height Requirements

- (1)** Multi-story buildings within a mixed-use district or intended for mixed uses and all parking structures shall maintain a first floor ceiling height of at least 15 feet to accommodate commercial first-floor uses.
- (2)** Buildings within the APO may be subject to height requirements not applied to areas outside the APO.

C. Exceptions**(1) General**

Height limits shall not apply to bulk storage silos, grain elevators, barns, chimneys, elevator shafts, church spires, belfries, cupolas, domes, flag poles, monuments, water towers, rooftop dish antennas, solar equipment, skylights,

SECTION 10.3: RULES OF MEASUREMENT**Subsection 10.3.7: Parking Space Computation**

fire escapes or roof access stairways, outdoor recreation uses subject to Section 4.2.4.F., mechanical equipment required to operate and maintain the building, or similar appurtenances, provided:

- (a) The appurtenance does not interfere with Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;
- (b) The appurtenance does not exceed a maximum height of 200 feet above grade;
- (c) The appurtenance is not constructed for the purpose of providing additional floor area in the building;
- (d) The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in this Ordinance; and,
- (e) The maximum area and height of cupolas shall be determined as follows:
 - (i) The area of the base of appurtenances shall not singularly or collectively exceed 10 percent of the footprint of a structure's roof or 200 square feet, whichever is less.
 - (ii) The appurtenance shall be situated on top of a roof and shall not extend below the midpoint of a roof's ridge and eave.
 - (iii) The walls of the appurtenance shall not be directly in line with any exterior walls of the structure.
 - (iv) The appurtenance does not extend more than 15 feet above the highest roof ridge.

(2) Special Flood Hazard Areas

When structures are required to be elevated in order to meet the design flood elevation (DFE), the maximum building height may be exceeded provided:

- (a) The resulting mean roof height does not exceed 38 feet; and
- (b) The maximum building height is not exceeded by a distance greater than the difference between established grade and the DFE.

(3) Multifamily Buildings in PD-R Districts

For buildings in legacy PD-R zoning districts that are subject to the two-foot raised finished floor provision in paragraph 5.7.3.C.(5), the two feet required to raise the finished floor elevation shall be excluded from the building's height measurement.