

CURRITUCK COUNTY  
NORTH CAROLINA  
JANUARY 2, 2007

The Board of Commissioners met at 6:00 p.m. to discuss Carolina Water Service.

The Board of Commissioners met on Monday, January 2, 2007, at 7:00 p.m. for its regularly scheduled meeting at the Historic Courthouse in the Commissioners Meeting Room with the following members present: Chairman Nelms, Commissioners Gregory, Bowden, Taylor and Etheridge.

### **Invocation and Pledge of Allegiance**

Dan Alexander was present to give the invocation. Commissioner Etheridge led the Pledge of Allegiance in memory of President Gerald Ford.

### **Approval of Agenda**

Commissioner Gregory moved to amend the agenda to delete Items 5, 6 and 10. Commissioner Bowden seconded the motion. Motion carried.

6:00                    **Work Session Carolina Water Service**

7:00 p.m.            Invocation  
                         Pledge of Allegiance

**Item 1**                Approval of Agenda

**Item 2**                Public Comment  
*Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.*

**Item 3**                **Action on Resolution for Corolla Incorporation**

**Item 4**                **Public Hearing and Action on Commissioner's meeting schedule**

**Item 5**                **Public Hearing and Action on PB 06-60 SSB, LLC/ Frances Bock**  
Rezone 26.94 acres from Agricultural to Residential located at 7435 Caratoke Highway, south of James Way and 1000' north of Buster Newbern Road, Poplar Branch Township.

**Item 6**                **Public Hearing and Action on PB 06-61 UDO AMENDMENT REQUEST (Junk Cars)** An amendment to Article 13, Permissible Uses and Table, Section 1305, Accessory Uses, and Article 25, Definitions, Section 2501, Definitions of Basic Terms, of the UDO to clarify the prohibition of junked motor vehicles.

**Item 7**                **Public Hearing and Action on PB 06-65 NC State H.O.G. Rally, Inc.**  
Special Event/ Special Use Permit located at Currituck Sound Park, 8955 Caratoke Highway, Point Harbor

**Item 8**                **Public Hearing and Action on PB 06-38 Caratoke Forest** Create a 76.62 acre Residential Multi-Family Overlay District on the west side of Caratoke Highway (NC 168) approximately ½ mile north of the intersection with Bells Island Rd. Crawford Township.

**Item 9**                **Public Hearing and Action on PB 06-59 UDO AMENDMENT REQUEST (Patio Homes in the RMF Overlay)** An amendment to Article 1, General Provisions, Part II, Zoning Districts, Section 127, Residential Multi-Family Overlay District of the UDO to permit patio homes as a permitted dwelling type within the Residential Multi-Family Overlay District.

- Item 10**      **Public Hearing and Action PB 06-23 Covey Run** PB 06-23 Covey Run: Sketch Plan/Special Use Permit for a 16 lot open space residential subdivision. The 44 acre property is located on South Indiantown Road, 8/10 of a mile south of the intersection with US 158 (Shortcut Road), Tax Map 44, Parcel 11C, Crawford Township.
  
- Item 11**      **Public Hearing and Action PB 06-34 Brady Landing Airpark, Phase II** PB 06-34 Brady Landing Airpark, Phase II: Sketch Plan/Special Use Permit for 13 Residential Airpark Development lots. The 15.77 acre property is located adjacent to the Currituck County Airport and west of Brady Landing Phase I, Tax Map 52, Parcel 3E, Crawford Township.
  
- Item 12**      **Public Hearing and Action PB 06-62 Fairwinds** PB 06-62 Fairwinds: Sketch Plan/Special Use Permit for a 35 lot Open Space residential subdivision. The 163 acre property is located approximately 1 mile north of the end of Puddin Ridge Road, Tax Map 6, Parcel 16, Moyock Township.
  
- Item 13**      **Public Hearing and Action PB 06-42 VILLAS AT KILMARLIC** PB 06-42 VILLAS AT KILMARLIC: Amended Special Use Permit for a 53 unit Town Home Community. The five properties are located adjacent to the entrance to the Kilmarlic Club at the intersection of Caratoke Highway and North Side Road, Tax Map 124, Parcels, 54, 55, 56, 57A, and 57F, Poplar Branch Township.
  
- Item 14**      **Appointment to Whalehead Drainage Board to replace Ginger Webster**
  
- Item 15**      **Approval of Revised Airport Apron Tie-Down Space Lease Agreement and Hangar Lease Agreement**
  
- Item 16**      **Appointment of Commissioner as Legislative Liaison to the NCACC**
  
- Item 17**      **Consent Agenda:**  
                   Approval of December 4 minutes  
                   Request DOT to add Fargo Court to State System
  
- Item 18**      Commissioner's Report
  
- Item 19**      County Manager's Report
  
- Item 20**      Adjourn

**Public Comment**

***Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.***

Chairman Nelms opened the public comment period.

James Smith, Corolla, commended the Sheriff's department for taking care of the fireworks during the New Year's holiday.

Bob Kohler, wanted to know when the town meeting in Moyock was scheduled and supports the Moyock Library.

Phyllis Rogerson, Quail Run, expressed continued concerns with dirt bikes on private property and requested an ordinance against this.

John Snowden, Maple, questioned the procedures for advisory boards.

Janet Rose, Poyners Road, opposes incorporation of Corolla, any new development until adequate facilities have been addressed. She further stated that there was a lot of confusion on Unified Government and voting districts.

Commissioner Etheridge requested a copy of the rules and procedures for advisory boards at the retreat.

**Action on Resolution for Corolla Incorporation**

Chairman Nelms presented the following resolution,

RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF CURRITUCK COUNTY, NORTH CAROLINA  
SUPPORTING A BILL OF INCORPORATION FOR COROLLA, NC

WHEREAS, 194 eligible voters in Corolla, North Carolina have signed a Petition to Incorporate the Village of Corolla; and

WHEREAS, the People of Incorporation for Corolla has presented a Petition for Incorporation to the North Carolina Joint Legislative Commission on Municipal Incorporations; and

WHEREAS, North Carolina Representative Bill Owens, who represents Currituck County, North Carolina, said bill to contain a provision that the Currituck County Board of Elections shall conduct an incorporation referendum within 60 to 120 days after passage of the Bill of Incorporation by the 2007 North Carolina General Assembly; and

WHEREAS, the Petition for Incorporation of Corolla contains a projected budget and statement of services to be provided; and

WHEREAS, said budget and statement of services does not negatively impact the finances or operations of Currituck County; and

WHEREAS, the People of Corolla for Incorporation has voiced a sincere desire to work cooperatively with Currituck County on all matters of mutual interest that would benefit the mainland and the beach communities of Currituck County;

NOW, THEREFORE BE IT RESOLVED, that the Currituck County Board of Commissioners does hereby respect the ability of Corolla voters to participate in a referendum on whether or not they want to incorporate and offers no objection to the introduction of the Bill of Incorporation by Representative Bill Owens and Senator Marc Basnight when the North Carolina General Assembly convenes in January 2007.

Commissioner Bowden stated that he had several questions with the presentation for incorporation.

Commissioner Etheridge stated he does not oppose their right to vote but the Board should remain neutral.

Commissioner Gregory moved to adopt the resolution. Commissioner Taylor seconded the motion. Motion carried with Commissioner Etheridge and Bowden voting no.

**Public Hearing and Action on Commissioner's meeting schedule**

Chairman Nelms read the resolution for consideration.

Kate McKenzie, County Attorney, reviewed the ordinance amendment to change meeting time.

Chairman Nelms opened the public hearing.

Bob Kohler, opposes changing the meeting time.

Barbara Courtney, opposes day meetings.

Tom Roddy, opposes day meetings.

Kevin Burwell, opposes day meetings.

Commissioner Taylor supported the majority who oppose day meetings.

Chairman Nelms, stated that the Board was looking at neighboring communities that have day meetings and that the Board was trying to keep government open to the public.

After closing the public hearing, Commissioner Etheridge moved to take no action. Commissioner Gregory seconded the motion. Motion carried.

**Public Hearing and Action on PB 06-60 SSB, LLC/ Frances Bock Rezone 26.94 acres from Agricultural to Residential located at 7435 Caratoke Highway, south of James Way and 1000' north of Buster Newbern Road, Poplar Branch Township.**

deleted

**Public Hearing and Action on PB 06-61 UDO AMENDMENT REQUEST (Junk Cars) An amendment to Article 13, Permissible Uses and Table, Section 1305, Accessory Uses, and Article 25, Definitions, Section 2501, Definitions of Basic Terms, of the UDO to clarify the prohibition of junked motor vehicles.**

deleted

**Public Hearing and Action on PB 06-65 NC State H.O.G. Rally, Inc. Special Event/ Special Use Permit located at Currituck Sound Park, 8955 Caratoke Highway, Point Harbor**

Chairman Nelms requested to be recused from this item. Commissioner Taylor moved to recuse Chairman Nelms. Commissioner Etheridge seconded the motion. Motion carried.

Sworn testimony was given prior to making statements.

Sarah Keifer, Planning Director, reviewed the request.

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**ITEM: PB 06-65 NC State H.O.G. Rally, Inc. Special Event/ Special Use Permit**

**LOCATION:** Currituck Sound Park, 8955 Caratoke Highway, Point Harbor

**ZONING DISTRICT:** Residential (R)

**TAX ID:** Map 132, Parcel 43A (0132000043A0000)

**PRESENT USE:** County Park

**OWNER:**

Currituck County Mainland Properties  
 PO Box 39  
 Currituck NC, 27929

**APPLICANT:**

NC State HOG Rally, Inc  
 4117 Virginia Road  
 Hobbsville, NC 27946  
 757-408-4228

**LAND USE/ZONING OF SURROUNDING PROPERTY:  
 SURROUNDING PROPERTY:**

	Land Use	Zoning
<b>NORTH:</b>	Residential and Lumber Store	R and GB
<b>SOUTH</b>	Residential	R and GB
<b>EAST:</b>	Currituck Sound	NA
<b>WEST:</b>	Residential and Vacant	GB

**FIRE DISTRICT:** Lower Currituck V.F.D.

**SIZE OF SITE:** 25.79 acres

**WATER:** The site is served by County Water

**WASTEWATER:** There will be portable restrooms for the event.

**NARRATIVE:**

- A Special Use Permit is required for all Special Events according to use 26.000 of the UDO Article 13.
- The Special Event will be the 2007 NC State Harley Owners Group Rally, April 26, 27 and 28. This will be a motorcycle rally with musical entertainment.
- This event is expected to draw over 2,000 people a day.
- Access to the rear of the park and boat ramps will be limited to Harley Owners Group members during the event.
- The applicant expects to begin the setup on Wednesday, April 25, 2007.
- The event will operate Friday, 5 PM to 9 PM and Saturday 12 PM to 9 PM.
- Site cleanup will occur Sunday the 29<sup>th</sup> and Monday the 30<sup>th</sup>.
- A 200' x 60' tent will be used to host bands on Friday and Saturday night.

- The Parks and Recreation Department will be presenting a fee schedule for the Commissioner's review and approval to rent an entire county park for an event.
- The conditions proposed for this event were developed from reviews of previous special event permits and input from the review agencies.
- Enclosed is a schedule of events.

**QUESTION(S) BEFORE THE BOARD:**

**Special Use Permit Criteria and Staff Findings:**

(The Board must find that the applicant meets all criteria in order for a Special Use Permit to be approved.)

In granting a Special Use Permit, the Board may attach to the Permit such reasonable requirements in addition to those specified in this Ordinance as will ensure that the development in its proposed location:

- (a) Will not endanger the public health or safety;
- (b) Will not injure the value of adjoining or abutting property;
- (c) Will be in harmony with the area in which it is located;
- (d) Will be in conformity with the Land Use Plan, Thoroughfare Plan, or other plan officially adopted by the Board of Commissioners; and,
- (e) Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities.

Following is the staff Suggested Findings for each criteria (as is required by the UDO).

1. COMPLETENESS OF THE APPLICATION

**Suggested Findings:**

The application is complete.

2. COMPLIANCE WITH ORDINANCE REQUIREMENTS

**Suggested Findings:**

The applicant's proposal will be required to maintain compliance with all UDO requirements and any additional requirements of the Board of Commissioners.

- (a) The proposed use **will not** materially endanger the public health or safety for the following reasons:

**Suggested Findings:**

The proposed use is for 2 days and will be monitored by Currituck County EMS and law enforcement agencies.

- (b) The proposed use **will not** substantially injure the value of adjoining or abutting property for the following reasons:

**Suggested Findings:**

1. A Special Event at a county park will not injure the value of adjacent properties.
- (c) The proposed use **will** be in harmony with the particular neighborhood or area in which it is to be located.

**Suggested Findings:**

1. A special event will be in harmony with the surrounding uses and single family dwellings.
- (d) The proposed use **will** be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plan officially adopted by the Board of Commissioners.

**Suggested Findings:**

1. The 2006 Land Use Plan classifies this site as Limited Service.
2. A special event complies with the 2006 Land Use Plan.
- (e) The proposed use **will not** exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when applicable facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the sketch plan. In the case of subdivision and multi-family development at the sketch plan/special use, preliminary plat or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in accordance with Section 2015.

**Suggested Findings:**

Approval of this request should have no negative impact upon public facilities.

**Technical Review Comments:**

This application was sent to the Technical Review Committee as well as Law enforcement and Emergency Services. The following comments were received:

1. Park and Recreation:
  - a. I do not want the helicopter to put down in the park.
  - b. H.O.G. will need to hire a utility location service to mark the park to avoid damages to utilities.
  - c. In talking with Kate, H.O.G. will need to obtain a permit through the Sheriff's Dept. for amplified music in the park.
  - d. H.O.G. should provide signs indicating the park areas that are closed.
2. Sheriff's Department:

- a. Will there be any notification to the homeowners bordering the park?
  - b. Is the time for the bands to stop playing actually 9pm?
  - c. If the public is welcome and has access to the vendors and cannot go beyond where the HOG checkpoint is, where will they park?
  - d. What are the Bike Games being held in the tent
  - e. Will they be exempt from having a noise permit with the Special Use Permit
  - f. Noise Ordinance issues with Generators, band, and motorcycles.
  - g. Who is doing security and would it be possible to set up a meeting 30 days prior to the event?
  - h. We also are already fielding numerous calls about the soccer events and I can assure you there will be a volume of complaints from the neighborhood bordering the park. I am grateful this is a non-alcoholic event and support the bikers but want to work with them to make sure it is a safe event.
3. Fire Marshal and Emergency Services:
- a. All tents should be permitted and inspected prior to the event.
  - b. The applicant should schedule a meeting before the event to go over a safety plan.
4. Health Department:
- a. Provide portable toilets for the event.
  - b. Any food preparation or food vendors will need to submit a permit application prior to the event.

### **STAFF RECOMMENDATION**

Staff recommends **approval** with the following conditions:

1. The applicant shall schedule pre-event meetings a minimum of 30 days prior to the event with the Sheriff's Department, Fire Marshal, EMS and Parks and Recreation.
2. The applicant shall meet all conditions of the Sheriff's Department, Fire Marshal, EMS and Parks and Recreation.
3. No helicopter operations will be allowed in the park.
4. H.O.G. will need to hire a utility location service to mark the park to avoid damages to utilities.
5. H.O.G. will need to obtain a permit through the Sheriff's Dept. for amplified music in the park.
6. H.O.G. will be responsible for providing 6 signs to notify the public that the rear of the park is closed during the event. Parks and Recreation will provide the specifications for the signs.
7. The hours of operation shall be limited to 6:00am to 10:00 pm. Event will occur April 26-28, 2007. Setup will begin April 25.
8. No vehicles shall be parked within the right-of-way of Caratoke Highway, or within fifty (50) feet of any adjoining property line.
9. No sign advertising the event shall exceed the allowances of the Currituck County Unified Development Ordinance.
10. Portable toilets shall be provided per the requirements of the Health Department (one per 100 people at event). A copy of the contract for the portable toilets with

- NC registered septage pumper shall be submitted to the Department of Planning and Inspections prior to the event.
11. All vendors serving food shall be receive permits from the Health Department thirty (30) days before the event. A list of the food vendors and copies of their permits shall be submitted twenty-five (25) days before the event to the Department of Planning and Inspections.
  12. Any tents used for the event shall be inspected by the Fire Marshall. The applicant shall be responsible for scheduling this inspection with the Fire Marshall
  13. The event shall not exceed a three (3) day time period.
  14. All items (tent, litter, port-a-johns, etc.) shall be removed from the event site within **three (3)** days of the end of the event.
  15. All on-site preparation of food products shall be approved by the Health Department prior to the event.
  16. No Alcohol sales or service will be available to spectators of the event.
  17. There shall be no fireworks used at this event that do not receive the prior, written approval of the Fire Marshall.
  12. Law Enforcement, EMS and a fire truck shall be scheduled to be on-site for the event and the NC Highway Patrol notified or contracted to provide traffic control.
  13. Permit will be **Voided** if safety, health and fire inspections are not performed or scheduled prior to 5:00 p.m. April 25, 2003.
  14. The payment of a park use fee and executed rental agreement shall be due 30 days before the event.
  15. Provide proof of Liability Insurance and a refundable deposit **in the amount of \$1000.00** to Currituck County. This will be refunded if all of the conditions of this permit are met.

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### **Planning Board Discussion and Recommendation (December 12, 2006)**

Mr. Fitzgerald asked why the helicopter cannot land in the park.

Mr. Weeks, Director of Parks and Recreation said that the park was built on grants that have specific guidelines. There are numerous ball field facilities and he is concerned that the wind speeds of the helicopters could cause damage. He presented Mr. Berryman with an adjoining property owner to ask if the helicopter could be landed on his property.

Mr. Midgette said that Nightingale has landed there twice.

Mr. Fitzgerald stated that the pilots are from Ft. Bragg and that they are a large part of the show. If damage is done, he is willing to pay.

Ms Turner asked if there is a bond that could be placed to ensure damages would be corrected.

Mr. West asked if the fire truck has been coordinated.

Mr. Fitzgerald said he hadn't gotten a final answer.

Mr. Kovacs asked about camping.

Mr. Fitzgerald said it would not be allowed.

Ms. Turner asked about the time limits for generators. She is concerned about the adjoining home owners.

Mr. Fitzgerald said 9:00 p.m.

Mr. West asked if the public park is being closed for the 3 days.

Mr. Midgette asked if Mr. Weeks had a problem with that.

Mr. Weeks said that the Department is in the process of writing a public use/rental policy for the park.

Mr. Keel asked if the bands are booked.

Mr. Fitzgerald said that they are not booked, but would also be shut down by 9:00.

Ms. Tuner asked if there is a back up plan if the fire trucks are not available.

Mr. Fitzgerald said that he is counting on the fire department.

Mr. West asked where the participants are proposed to stay.

Mr. Fitzgerald mentioned the hotels and rental companies he is working with to house the participants.

Mr. Weeks stated that this event coincides with Bike Week.

Mr. Keel asked if this type of event would be allowed at the horse farm when it is ready.

Mr. Weeks said yes.

Mr. Riley asked about the possibility of the fire stations rotating to staff the event.

Mr. Midgette said that as Lower Currituck Assistant Chief he had not been made aware of the proposed event.

Ms. Turner stated that the occupancy tax would be going to Dare County if the bikers are lodged there.

Mr. Midgette asked about the adjoining property owner notification.

Mr. Weeks said that there is signage required on site in order to close the park.

Mr. West stated his concern with the fire apparatus being available.

Ms. Turner said that she'd like to see the liability insurance amount be stated in the application.

Ms. Keifer stated that the motion should include that as a condition

Mr. Keel motioned to recommend **approval** of the request as presented per the staff recommendation with an added condition that the insurance policy be \$1 million dollar liability minimum. Ms. Turner seconded the motion. Motion passed **unanimously**.

Vice Chairman Gregory opened the public hearing.

Greg Berryman, Rally Coordinator, reviewed the activities for this event.

Barbara Courtney, questioned if this was a bike rally and if adjacent property owners have been notified.

Kate McKenzie, County Attorney, stated that they would have to get a permit from the Sheriff's office for a band and follow the noise ordinance. The Director of Parks and Recreation requested that no helicopter land at the Southern park.

Staff stated that they had received an insurance policy for any damage to property.

There being no further comments, the public hearing was closed.

Commissioner Etheridge moved to approve with staff findings of fact and to re-visit helicopter landing at the park. Commissioner Taylor seconded the motion. Motion carried.

**Public Hearing and Action on PB 06-38 Caratoke Forest Create a 76.62 acre Residential Multi-Family Overlay District on the west side of Caratoke Highway (NC 168) approximately 1/2 mile north of the intersection with Bells Island Rd. Crawford Township.**

Sarah Keifer, Planning Director, reviewed the request.

**TYPE OF REQUEST:** Create a 76.62 acre Residential Multi-Family Overlay District

**LOCATION:** On the west side of Caratoke Highway (NC 168) approximately 1/2 mile north of the intersection with Bells Island Rd. Crawford Township.

**TAX ID:** Map 50, Parcels 73A, 73B, 73C, 73D, 73F, 73G, and 73H  
0050-000-00073A-0000  
0050-000-00073B-0000  
0050-000-00073C-0000  
0050-000-00073D-0000  
0050-000-00073F-0000  
0050-000-00073G-0000  
0050-000-00073H-0000

**OWNERS:** John and Julia Brennan  
112 E. Canvasback Dr.  
Currituck, NC 27929

Leif and Pamela Rasmussen  
336 Eagle Dr.  
Kill Devil Hills, NC 27948

FRB Custom Homes of Northeastern NC, LLC  
457 Narrow Shores Rd.  
Aydlett, NC 27916

**APPLICANT:** Rick Byers, et al  
457 Narrow Shore Road  
Aydlett, NC 27916

**ENGINEER/  
SURVEYOR** John Sawyer  
Hyman & Robey, PC  
PO Box 339  
Camden, NC 27929

**ZONING:** Current Zoning RA (Mixed Residential) Proposed Zoning RMF (Residential Multi-Family Overlay Zone)

**ZONING HISTORY:** All of the parcels have been zoned RA (Mixed Residential) since 1989.

**SURROUNDING PROPERTY:**

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Vacant/Agricultural (conservation subdivision approval pending)	RA
<b>SOUTH</b>	Vacant/Agricultural	RA
<b>EAST:</b>	Residential	RA
<b>WEST:</b>	Vacant/Agricultural	R

**EXISTING LAND USE:** Residential and Farmland

**PROPOSED LAND USE:** Multi-Family Apartments with associated Neighborhood Commercial/ Residential Multi-Family Overlay Zone

**LAND USE PLAN**

**CLASSIFICATION:** **This Plan was submitted when the 1990 Land Use Plan was in effect and will be considered under that plan.**

The 1990 Land Use Plan classifies this property as Rural and Rural with Services. For the Rural Class, low density dispersed single family residential uses at a gross density of approximately one unit per acre are appropriate within rural areas where lot sizes are large and where densities do not require the provision of urban type services. The Rural with Services Class indicates low density residential uses that are served by county water are

appropriate. Both of these classes support densities that are 1 unit per acre as proposed.

The proposed zoning classification which permits a density of 1 unit/10,000 square feet or just over 4 units/acre is not in keeping with the 1990 Land Use Plan.

The 2006 Land Use Plan designates this property as Limited Service.

**PUBLIC SERVICES AND UTILITIES:**

The Crawford Volunteer Fire Department provides fire protection for this area. Electric, telephone, County water and cable are currently available.

**TRANSPORTATION:**

The property has nearly 705 feet of road frontage along NC 168 which is classified as a Minor Arterial in the NCDOT Thoroughfare Plan.

**FLOOD ZONE:**

The front portion of the subject site is located within the 100-year flood plain (AE 4).

**SOILS:**

The Currituck County Soil Suitability map indicates the majority of the subject site contains soils that are Not Suitable for septic systems. The balance of the site is considered either Marginally Suitable or Suitable.

**STAFF**

**RECOMMENDATION:**

The Residential Multi-Family Overlay District was created by the Board of Commissioners to provide for medium density residential development in close proximity to major thoroughfares and commercial zones. The district is designed to have insignificant impacts on surrounding single family residential development.

Given the rural and low density residential character of the surrounding area, the overall unsuitability of the soils, and the fact that the Land Use Plan does not support the proposed density, staff recommends denial.

This staff recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning and Inspections. The Board of Commissioners shall give considerable weight to public testimony received during public hearing in considering its decision in this matter.

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**Planning Board Discussion and Action (December 12, 2006)**

Mr. West stated that he is an adjoining property owner but has no financial interest in the project and believes there is not conflict of interest.

Mr. Hyman stated that by increasing density, the developer can afford to drop the property price. The package price is proposed at \$190,000.

Mr. Midgette asked about the drainage in the area. Mr. Hyman described the property and drainage ditches on the property.

Mr. Hyman said that they feel the development is feasible and would like to see it developed.

Mr. West stated his concern with infringing on hunter's rights to use the property.

Mr. Hyman said that they are trying to get the density increased so that there will be genuinely affordable housing offered.

Mr. Keel asked how many apartments would be on an acre.

Mr. Hyman said 200 units in 14 buildings.

Mr. West asked how many acres would be used for the 200 units.

Mr. Hyman said 44 acres.

Ms. Turner stated that this goes against the current Land Use Plan and the area doesn't support the density.

Mr. Kovacs said that this is the right idea but in the wrong place.

Mr. Wilson Snowden, adjoining property owner, made a statement about the school system purchasing part of his property. He also commented on the wetlands in the area. He is not in opposition to the project.

Mr. Billy Rose, 3049 Caratoke Highway, stated his opposition with the project. He also commented on the safety of the highway. He stated that he doesn't agree with affordable housing being the business of the government.

Mr. Keel motioned to recommend **denial** of the request as presented per the staff recommendation due to the fact that it is not consistent with the Land Use Plan. Ms. Turner seconded the motion. Motion passed **unanimously**.

Chairman Nelms opened the public hearing.

Bill Rose, expressed concerns with access to his property and opposed the request.

Eddie Hyman, Engineer, stated that this was a way to offer affordable housing.

There being no further comments, Chairman Nelms closed the public hearing.

Commissioner Taylor moved to deny because it was not in compliance with the Land Use Plan. Commissioner Gregory seconded the motion. Motion carried.

**Public Hearing and Action on PB 06-59 UDO AMENDMENT REQUEST (Patio Homes in the RMF Overlay) An amendment to Article 1, General Provisions, Part II, Zoning Districts, Section 127, Residential Multi-Family Overlay District of the UDO to permit patio homes as a permitted dwelling type within the Residential Multi-Family Overlay District.**

Sarah Keifer, Planning Director, reviewed the request.

**F&W Land Company, LLC** requests an amendment to Article 1, General Provisions, Part II, Zoning Districts, Section 127, Residential Multi-Family Overlay District of the UDO to permit patio homes as a permitted dwelling type within the Residential Multi-Family Overlay District.

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 Article 1, General Provisions, Part II, Zoning Districts, Section 127, Residential Multi-Family Overlay District be amended by adding the following underlined language and renumbering as appropriate:

**Section 127 Residential Multi-Family Overlay District (RMF)**

1. The RMF zoning district is designed to provide for medium density residential development with some associated non-residential uses in close proximity to major thoroughfares and commercial zones on the Currituck County mainland. The RMF zoning district is designed to have insignificant adverse impacts on surrounding single-family residential development. Areas zoned RMF shall contain a minimum of five (5) contiguous acres.
2. Within any area developed as RMF, not more than 10 percent of the total site area may be developed for the following commercial uses:
  - a) convenience stores (Use 2.111);
  - b) professional offices (Use 3.110, 3.120, 3.130);
  - c) restaurants (Use 8.110, 8.120, 8.130 and 8.140); and
  - d) post offices (Use 15.100)
3. All development within a RMF zoning district shall be designed and constructed so as to not limit the county's ability to provide adequate public facilities, including, but not limited to; public water, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate.

**Development Standards**

The following development standards apply to multi-family development only. All other uses allowed in the RMF zoning district shall be subject to the applicable development standards contained in the Currituck County Unified Development Ordinance.

1. Dimensional requirements:

(a) Land area/density:

- 1) Minimum parcel size shall be 5 acres;
- 2) Maximum dwelling units per development shall not exceed 90 units
- 3) Minimum lot width shall be 125 feet;
- 4) Floor Area Ratio shall be 0.40;
- 5) 40% Maximum Lot Coverage;
- 6) Maximum Density shall be 1 unit per 10,000 square feet;
- 7) CAMA wetlands and Adjacent 404 wetlands may not be included in calculating the density for a Residential Multi-Family Development.

(b) Property line setbacks:

- 1) Street setbacks shall be 50 feet from US 158, NC 168, NC 43, NC 136 and 20 feet from all other streets;
- 2) Side setbacks shall be 50 feet;
- 3) Rear setbacks shall be 50 feet.

(c) Minimum building separation shall be 50 feet.

(d) 1 Bedroom units shall have a minimum floor area of 600 square feet.

2 Bedroom units shall have a minimum floor area of 800 square feet.

Units consisting of 3 Bedrooms or more shall have a minimum floor area of 1,000 square feet.

(e) The maximum building height shall be 35 feet.

(f) The maximum building length shall be 160 feet.

(g) Buildings may not exceed 3 stories.

2. Parking and Street Requirements:

(a) 2 parking spaces are required per dwelling unit.

(b) Parking spaces must have a minimum size of 10' x 20.'

(c) A 25' setback between the parking/vehicular area and all property lines shall be required.

(d) Drive aisle widths within parking/vehicular areas shall be a minimum of 24 feet.

- (e) Driveway widths for all parking areas shall be at least 24 feet.
- (f) All parking/vehicular areas must be paved with either concrete or asphalt.
- (g) Parking spaces must be delineated with painted lines.
- (h) Parking spaces must be orientated at a 90 degree angle.

3. Patio Home Development. Subject to the density and maximum dwelling unit requirements above, Patio Home Developments may be created within a Residential Multi-Family Overlay District. The following design criteria shall apply to all Patio Home Developments:

- (a) The minimum lot size shall be 3,000 square foot.
- (b) The maximum allowable lot coverage shall be 80%.
- (c) The maximum building height shall be set in accordance with Section 206.
- (d) The following setbacks shall be required:
  - i. The minimum front setbacks from the edge of the roadway, or access easement, shall be twenty two (22) feet.
  - ii. The minimum separation of principal structures shall be twenty (20) feet as measured wall to wall.
  - iii. Setbacks to principal structures from NCDOT right-of-ways and exterior property lines shall be in accordance with Section 204.
  - iv. Where the rear lot line abuts a common open space area, the minimum rear yard may be reduced to not less than ten feet. For purposes of this section, common open space means land that (i) is owned by federal, state, or county government or the developer of the lot in question or a homeowners association, or is a golf course (ii) is undeveloped for at least a distance of thirty (30) feet from the lot line, excluding golf courses, and (iii) is legally accessible to the owner of the lot in question. Land within a street right-of-way or street easement shall not be regarded as common open space.
  - v. No eaves or gutters shall extend over the property line.
  - vi. Pools, either detached or attached, shall be setback a minimum of five (5) feet from buildings and lot lines.
  - vii. Any concrete or wooden deck, patio and sidewalk, if no portion of the same extends more than twelve (12) inches above the finished grade, shall be setback a minimum of two (2) feet from the property line.
  - viii. No portion of the front or rear of a structure shall be less than 40' from the rear or front of another principal structure.
  - ix. Accessory structures shall have a minimum 10' separation from another structure.

- (e) One structure, containing a maximum of four (4) bedrooms, is permitted on each lot.
  - (f) A minimum of two (2) parking spaces, meeting the dimensional requirements of Article IV, shall be required for each structure.
  - (g) Sidewalks, a minimum of four (4) foot wide shall be provided along at least one side of all roadways for pedestrian access.
  - (h) Additional fire hydrants shall be installed in accordance with recommendations made by the Currituck County Fire Marshall.
  - (i) Where easements are required to access structures, the easement shall have a minimum width of 24' and be marked "No Parking Fire Lane" and signs provided and maintained. Pavement length shall be 150' maximum.
- ~~3.4.~~ All property in the RMF overlay district shall have a minimum of two hundred (200) feet of road frontage.
- ~~4.5.~~ There shall be a maximum of one (1) entrance allowed per development onto US Highway 158, NC Highway 168, NC Highway 34, NC Highway 3 or Tulls Creek Road.
- ~~5.6.~~ All internal streets shall be a minimum of twenty-four (24) feet in width and designed and installed in accordance with North Carolina Department of Transportation, Division of Highways standards.

#### Utilities

1. All multi-family developments in the RMF overlay district shall be required to be serviced by the county public water system or other centralized water system. All water services, including facilities, shall meet or exceed all local, state and federal standards.
2. All multi-family developments in the RMF overlay district shall be required to be serviced by a private centralized or de-centralized waste-water system that serves the development or the county owned system (if available). All waste-water services, including facilities, shall meet or exceed all local, state and federal standards. Waste-water treatment facilities shall be located no closer to any property line than the buildings it is designed to serve. In addition, the waste-water treatment facilities shall be designed to be architecturally compatible with the residential buildings on the site.
3. All duplex, two-family apartment, multi-family townhouse and multi-family apartment developments shall meet or exceed applicable requirements of the North Carolina State Building Code, Volume V, Fire Prevention. All multi-family structures shall have sprinkler protection. Fire hydrants shall be provided at a maximum distance of 1,000 feet apart. No portion of any structure shall be greater than four hundred (400) feet from a fire hydrant.

4. All duplex, two-family apartment, multi-family townhouse and multi-family apartment developments in a RMF district shall provide on-site garbage dumpsters. All dumpsters shall be located to the rear of the principal structure. All dumpsters shall be screened on three (3) sides by eight (8) foot tall opaque fencing. All dumpsters shall be located to be sufficiently accessed by the service vehicle.
5. All electricity, telephone, gas, communications and cable television utility services are required to be installed underground.

#### Bufferyard and Vehicular Area Vegetation

1. Residential Multi-Family Developments shall provide a Type "A" property line bufferyard with a minimum width of 25'. (See Section 506)
2. A minimum 10' wide Type "C" bufferyard is required along all streets within and adjoining the development. (See Section 506)

#### Open Space and Amenities

1. 35% of the total lot area must be preserved as open space.
2. For purposes of this section, open space means an area that:
  - (a) is not encumbered with any structure unless such structure is for recreational purposes available and accessible to all residents of the development or general public, including indoor tennis courts, swimming pool and other facilities;
  - (b) is not contained within a street right-of-way or otherwise devoted to use as a roadway, parking area not associated with the use of open space or above ground waste disposal facilities;
  - (c) is legally and practicably accessible to the residents of the development out of which the open space is taken;
  - (d) is not encumbered by any part of a sewage disposal system, or any above ground or below ground structure;
  - (e) may include farmland and tree farms;
  - (f) is capable of being used and enjoyed for passive recreation, such as walking, jogging, or being improved for more active recreational use;
  - (g) does not include any CAMA wetlands and adjacent 404 wetlands; and,
  - (h) includes any part of any man-made or natural lakes or ponds provided they are completely surrounded by the development and under the ownership of the developer.

3. At least fifty (50%) percent of open space required by these regulations shall be lands suitable for development and shall not include, among other things, wetlands and swamps.
4. A portion of the required open space shall be improved for recreational use (i.e. ball fields, children's playground, swimming pools, tennis courts, etc.) taking into consideration:
  - (a) the character of the open space land;
  - (b) the estimated age and the recreation needs of persons likely to reside in the development;
  - (c) the cost of recreation facilities; and,
  - (d) the proximity to existing recreational areas.

#### Architectural Standards

1. All duplex, two-family apartment, multi-family townhouse and multi-family apartment developments shall be designed to be as architecturally compatible with the surrounding area to the extent possible. Building elevations shall be approved by the Zoning Administrator or their designee prior to the issuance of any Zoning Permit. It shall be the responsibility of the Zoning Administrator or their designee to determine compliance with this section.

#### Signage

1. The maximum number of signs permitted for a Residential Multi-Family development is 1 per public street.
2. Signs shall be a maximum of 32 square feet in area and a maximum 10' high.
3. No sign shall be located within any bufferyard setback

#### Additional Requirements

1. The Residential Multi-Family Overlay District shall only be applied for within the Residential Zoning Districts (R, RA, RR and GB with overlay).
2. A Special Use Permit shall be required for all Residential Multi-Family developments.
3. There must be one (1) ground-level handicapped accessible dwelling unit required per every ten (10) units. Such handicapped unit shall meet all applicable building code and Americans with Disabilities Act requirements.
4. Access to any duplex, two-family apartment, multi-family townhouse and multi-family apartment development project shall not be through an existing single-family detached residential subdivision.

**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.

Chairman Nelms opened the public hearing.

Mark Bissell, Engineer, stated there would be no increase in density.

Commissioner Etheridge moved to table the public hearing until after the Board's retreat. Commissioner Bowden seconded the motion. Motion carried.

**Public Hearing and Action PB 06-23 Covey Run PB 06-23 Covey Run: Sketch Plan/Special Use Permit for a 16 lot open space residential subdivision. The 44 acre property is located on South Indiantown Road, 8/10 of a mile south of the intersection with US 158 (Shortcut Road), Tax Map 44, Parcel 11C, Crawford Township.**

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**Public Hearing and Action PB 06-34 Brady Landing Airpark, Phase II PB 06-34 Brady Landing Airpark, Phase II: Sketch Plan/Special Use Permit for 13 Residential Airpark Development lots. The 15.77 acre property is located adjacent to the Currituck County Airport and west of Brady Landing Phase I, Tax Map 52, Parcel 3E, Crawford Township.**

Sworn testimony was given prior to making statements.

Sarah Keifer, Planning Director, reviewed the request.

**ITEM: PB 06-34 BRADY LANDING AIRPARK, PHASE II:**  
Sketch Plan/Special Use Permit for 13 Residential Airpark Development lots.

**LOCATION:** The 15.77 acre property is located adjacent to the Currituck County Airport and west of Brady Landing Phase I, Crawford Township.

**TAX ID:** Tax Map 52, Parcel 3E (0052000003E0000)

**ZONING DISTRICT:** Residential Airpark Development (RAD) Overlay/  
Agricultural

**OWNER:** Tom Brady  
251 Maple Road  
Maple, NC 27956  
252-453-4588

**ENGINEER:** Hyman and Robey, PC  
 150 A US Highway 158 E  
 Camden, NC 27921  
 252-338-2913

**LAND USE PLAN** The 2006 Land Use Plan classifies this property in the **Full Service** Area and the Barco/Coinjock/Airport Sub-Area. The policy emphasis of this plan is for the Barco/Coinjock/Airport area to emerge as the principal community center serving the central area of the mainland and is therefore included as a Full Service Area. Residential development densities should be medium to high depending upon available services. 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.

**PRESENT USE:** Agricultural/ Vacant

**LAND USE/ZONING OF SURROUNDING PROPERTY:**

<b>NORTH:</b>	Residential Airpark	Zoned: RAD
<b>SOUTH:</b>	County Airport/ Residential	Zoned: A and HM
<b>EAST:</b>	Residential Airpark	Zoned: RAD
<b>WEST:</b>	Residential	Zoned: A

**SCHOOL DISTRICT:** Crawford/ Central Elementary

**SIZE OF SITE:** 15.92

**NUMBER OF LOTS:** 13

**DENSITY:** 0.8 of a unit per acre

**MINIMUM LOT SIZE:** 40,000 SF,

**STREETS:** The streets will be built to NCDOT Design and Construction standards. The developer expects the streets to remain private. The proposed streets connect to Maple Road and Happy Landing Drive in Brady Airpark Phase I.

**WATER:** This development is proposing to connect to county water.

**FIRE:** This development is located within the jurisdiction of the Crawford Volunteer Fire Department. This development is less than 20 lots and no fire protection measures are required. The applicant is proposing to install fire hydrants voluntarily.

- WASTEWATER:** Individual, on-site septic systems are proposed.
- SOILS:** The Currituck County Soils Map indicates the property contain soils that are marginal or suitable for on-site septic.
- OPEN SPACE:** No open space is required. The applicant is providing 0.36 acre open space to create an access to a cemetery on the property.
- DRAINAGE:** The applicant is proposing roadside ditches in the development to hold stormwater. NC DOT has stated they will not accept the stormwater from Phase II into the ditches on Maple Road.

**SCHOOL CAPACITIES:**

Using national averages for school age student generation, one can expect 0.4243 elementary students, 0.084 middle school students and 0.1568 high school students per dwelling unit. Based on these pupil generation figures, from this development Currituck can expect:

6 elementary school students; 1 middle school students; and 2 high school students.

Projected School Capacities (as of November 30, 2006)

School Level	Projected Capacity for 2008/09	Total Projected Students- Previous Sketch Plans	Remaining Capacity if <b>Brady Landing</b> is approved
K- 5	2,004 (Moyock/ Crawford)	1584	415
Middle	1,142	1,072	69
High	1,456	1,449	5

**Note: Approvals of Sketch Plans after the Planning Board meeting could alter the school space allocations.**

Projected School Capacities (as of December 21, 2006)

School Level	Projected Capacity for 2008/09	Total Projected Students- Previous Sketch Plans	Remaining Capacity if <b>Brady Landing</b> is approved
K- 5	2,004 (Moyock/ Crawford)	1584	415
Middle	1,142	1,079	63
High	1,456	1,462	-6

**Note: Approvals of Sketch Plans after the Planning Board meeting could alter the school space allocations.**

**NARRATIVE OF REQUEST:**

- The applicant is requesting a Sketch Plan/ Special Use Permit approval for Phase II of the Brady Landing Airpark Development.
- According to the Development Impact Statement submitted July 28, 2006:
  - The price of the lots will be in the \$125,000 range.
  - Existing dwellings in Phase I range from 2,000 square feet to 4,000 square feet.
  - The target market is for owners that wish to live at the airport and store their aircraft on their property.

**DEVELOPMENT HISTORY:**

1. In October 1999, the Brady Landing Airpark received Sketch Plan approval for 18 lots.
2. In September 2001, the property owner created a minor Private Access Subdivision for the first four lots of this subdivision.
3. The Private Access Subdivision was amended in May 2002 and again in October 2002.
4. In May and June 2006, 2 minor Private Access Subdivisions were created for the first 3 lots in Phase II.
5. On November 6, 2006, the Board of Commissioners rezoned the property to a Residential Airpark Development overlay.

**TECHNICAL REVIEW STAFF:**

On November 15, 2006, Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – Approved as is.
2. **Currituck Soil & Water Conservation** – Approved as is.
3. **Currituck County Fire Services**– Approved as is.
4. **Currituck County Water Department**- Approved with the following comments:
  - a. Submit plans and specifications for waterline extension with hydrants.
  - b. No water services will be installed until capacity is available.
  - c. Payment of water taps or a bond is due before sub-div goes to record.
  - d. Lots will need private wells until county has adequate water to supply.
5. **Currituck County Planning and Inspections, Inspections Section**-Approved as is.
6. **Albemarle Regional Health Services** – Site evaluations will be needed before Preliminary Plat.
7. **Currituck County GIS** – Approved with no comment.
8. **County Parks & Recreation Department** – Approved with no comment.
9. **Currituck County Emergency Management** – No comments received.
10. **NC Department of Transportation**: Approved with the following comment:

Submit drainage calculations at Preliminary Plat. It appears that a great deal of runoff that is draining towards Maple Road. Ditches along this road are small and developer needs to make sure additional runoff is not directed towards public right of ways. DOT will not accept the runoff from the Phase II lots.

11. **US Army Corps of Engineers:** No comments received.
12. **NC Department of Natural Resources, Division of Coastal Management** – No comments received.
13. **NC Department of Natural Resources, Division of Water Quality**–No comments received.
14. **NC Department of Natural Resources, Division of Land Resources** – No comments received.
15. **Currituck County Superintendent of Schools-** No comments received.
16. **N C Dominion Power** – No comments received.
17. **Sprint Telephone** – Approved as is.

#### **SPECIAL USE PERMIT CRITERIA:**

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. It is recognized that some land uses have a particular impact on the surrounding land that cannot be determined and controlled by general zoning regulation. Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties. In order to approve a Special Use Permit, certain criteria must be satisfied. The criteria are outlined as follows:

1. *Is the application complete?*  
Based on staff review all required information has been submitted for review.
2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?*  
  
The plan generally complies with the provisions of the UDO.
3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*
  - (a) *Will not endanger the public health or safety.*  
  
Public health and safety issues including stormwater management, wastewater disposal and access for emergency services have been adequately addressed within this proposal;
  - (b) *Will not injure the value of adjoining or abutting property.*  
  
The proposed residential subdivision should have no negative impact on adjoining property. The adjoining uses are low density residential uses and the Currituck County Airport.
  - (c) *Will be in harmony with the area in which it is located.*

The proposed residential subdivision should have no negative impact on adjoining property. The adjoining uses are low density residential uses and the Currituck County Airport.

- (d) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.*

The proposal will be consistent with the 2006 CAMA Land Use Plan designation of **Full Service Area**, the **Barco/Coinjock/Airport Sub-Area** and the Thoroughfare Plan.

- (e) *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within 2 years after the initial approval of the sketch plan. In the case of subdivision and multifamily development at the sketch plan/special use, preliminary plat or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in accordance with Section 2015.*

**The Commissioners will need to determine if adequate public facilities, including schools and water service, exist or will exist to meet the demands generated by this subdivision.**

**STAFF RECOMMENDATION:**

Because it appears the application has satisfied the criteria for granting a Special Use Permit as outlined above, staff recommends **conditional approval** of the application contingent upon satisfaction of all TRC comments, subject to a finding that adequate public facilities exist, and subject to the following conditions:

**Code and Technical Review Committee Requirements:**

1. NCDOT will not accept additional stormwater runoff for the Phase II lots. Stormwater shall not be directed towards public right of ways. At Preliminary Plat submission, the applicant shall indicate how the stormwater will be controlled in this subdivision while not directing any water to Maple Road or Happy Landing Drive.
2. The stormwater shall be stored onsite and the development shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of the development. (Section 1615)
3. The existing stormwater system for Phase I shall be analyzed for any negative effects stormwater is having on adjacent properties or the Maple Road drainage systems. Any deficiencies in the Phase I design shall be addressed in the Preliminary Plat for this site. (Section 1615)
4. All applicable state and local permits to construct the infrastructure will be required at Preliminary Plat submission. (Section 922)
5. Lot 10 shall have a non-access buffer for Sky Vista Drive. (Section 921)

**Recommendations:**

The applicant has made all the staff requested changes to the sketch plan after the TRC meeting.

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This staff recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning and Inspections. The Board of Commissioners shall give considerable weight to public testimony received during public hearing in considering its decision in this matter.

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**Planning Board Discussion and Recommendation (December 12, 2006)**

Mr. West asked if this subdivision provided access to the airport.

Mr. Hyman said yes, that is a unique selling point for the project. He also stated that officials from the Department of Transportation met with Mr. Doxey and Mr. Brady and it was determined that there is no culvert needed.

Mr. Jon Snowden, 180 Maple Rd., said he was happy that the drainage is being addressed. He stated that a ditch has been cut off and the water is being pushed behind the Rehoboth Baptist Church. He said that there should be an access easement to the cemetery recorded.

Mr. Hyman said that the property flooded prior to the purchase and that they are working toward correcting the drainage issues.

Mr. Brady said that he did not install the shell road.

Mr. Kovacs motioned to recommend **approval** of the request as presented per the staff recommendation. Mr. Winter seconded the motion. Motion passed **unanimously**.

Chairman Nelms opened the public hearing.

John Snowden, Maple, questioned drainage and cemetery located on the property.

Eddie Hyman, Engineer, drainage will be addressed.

There being no further comments, Chairman Nelms closed the public hearing.

Commissioner Gregory moved to approve with findings of fact. Commissioner Bowden seconded the motion. Motion carried.

**Public Hearing and Action PB 06-62 Fairwinds PB 06-62 Fairwinds: Sketch Plan/Special Use Permit for a 35 lot Open Space residential subdivision. The 163 acre property is located approximately 1 mile north of the end of Puddin Ridge Road, Tax Map 6, Parcel 16, Moyock Township.**

Sworn testimony was given prior to making statements.

Sarah Keifer, Planning Director, reviewed the request.

**ITEM:** PB 06-62 FAIRWINDS: Sketch Plan/Special Use Permit for a 35 lot Open Space residential subdivision.

**LOCATION:** The 163 acre property is located approximately 1 mile northwest of the end of Puddin Ridge Road and 4/10<sup>th</sup> of a mile south of Cooper Garrett Road, Moyock Township.

**TAX ID:** Tax Map 6, Parcel 16

**ZONING DISTRICT:** Agricultural

**OWNER:** E&J Holdings, LLC  
850 Puddin Ridge Road  
Moyock, NC 27958  
252-435-2488

**ENGINEER:** Arcadis G&M of NC, Inc.  
Richard Lee  
801 Corporate Center Dr.  
Raleigh, NC 27607  
919-854-1282

**LAND USE PLAN DESIGNATION:** The 2006 Land Use Plan classifies this site in the **Rural** Area and **Moyock** Sub-Area. The **Rural** area is intended to provide for agriculture, forestry, and other allied uses

traditionally associated with a rural area. Population densities are generally very low and development density is anticipated at no more than 1 unit per 3 acres. In addition, any development in the Rural Areas would be served by individual on-site water and septic.

The **Moyock** area is the fastest growing part of Currituck County. Development densities currently range from 1 to 3 units per acre depending upon development type. 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.

**PRESENT USE:** Agricultural

**LAND USE/ZONING OF SURROUNDING PROPERTY:**

<b>NORTH:</b>	Agricultural	Zoned A
<b>SOUTH:</b>	Agricultural	Zoned A
<b>EAST:</b>	Agricultural	Zoned A
<b>WEST:</b>	Agricultural	Zoned A

**SCHOOL DISTRICT:** Moyock

**SIZE OF SITE:** 163.85 acres

**NUMBER OF LOTS:** 35

**DENSITY:** 0.21 unit per acre

**MINIMUM LOT SIZE:** 3 acres

**STREETS:** The streets will be built to NCDOT Design and Construction standards. The developer expects the streets will be dedicated to NCDOT for maintenance. The portion of Puddin Ridge Road where the subdivision street will connect is not maintained by NCDOT. If the proposed streets are to be dedicated to public use, it is likely Puddin Ridge Road will need to be upgraded.

**WATER:** This development will be served by private well water.

**FIRE:** This development is located within the jurisdiction of the Moyock Currituck Volunteer Fire Department. A Fire Pond will be required for this development

**WASTEWATER:** Individual, on-site septic systems are proposed.

**SOILS:** The Currituck County Soils Map indicates the property contains un-suitable soils for on-site septic systems. This

site is drained farmland that was previously part of the Great Dismal Swamp.

**OPEN SPACE:** Thirty percent (30%) open space is required for developments between 31 and 40 lots. The applicant proposes to provide 49.73 acres of open space, 30.35% of the site. This proposal is in compliance with the open space requirements.

**DRAINAGE:** The applicant is proposing roadside ditches and property line swales to drain into on-site ponds and adjacent farm drainage canals.

**SCHOOL CAPACITIES:** Using national averages for school age student generation, one can expect .4243 elementary students, .084 middle school students and .1568 high school students per dwelling unit. Based on these pupil generation figures, from this development Currituck can expect:

14 elementary school students; 3 middle school students; and 5 high school students.

Projected School Capacities (as of November 30, 2006)

School Level	Projected Capacity for 2008/09	Total Projected Students- With Previous Sketch Plans	Remaining Capacity if <b>Fairwinds</b> is approved
K- 5	2,004 (Moyock/ Crawford)	1584	406
Middle	1,142	1,072	67
High	1,456	1,449	7

**Note: Approvals of Sketch Plans after the Planning Board meeting could alter the school space allocations.**

Projected School Capacities (as of December 21, 2006)

School Level	Projected Capacity for 2008/09	Total Projected Students- With Previous Sketch Plans	Remaining Capacity if <b>Fairwinds</b> is approved
K- 5	2,004 (Moyock/ Crawford)	1584	406
Middle	1,142	1,079	63
High	1,456	1,462	-6

**Note: Approvals of Sketch Plans after the Planning Board meeting could alter the school space allocations.**

**NARRATIVE OF REQUEST:**

- E and J Holdings, LLC is seeking Sketch Plan approval of a 35 lot Open Space Subdivision.
- A proposed connection to the north property line is shown on the plan.

- According to the applicant's Development Impact Statement dated October 28, 2006:
  - These dwellings will be 3 bedrooms on 3 acre lots.
  - The price range for the units will be \$300,000 to \$650,000.
  - There will be a recreational area consisting of a pool, clubhouse, picnic area, tennis courts and walking trails.
  - The amenities will be provided by the developer and transferred to the Homeowner's Association in the future.
  - The estimated number of traffic trips on a weekday is 334 per day; which the applicant states is minimal.

#### **TECHNICAL REVIEW STAFF:**

On November 15, 2006, Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – Approved as is.
2. **Currituck Soil & Water Conservation** - Approved with the following comments: There is a concern with site drainage and on-site septic because this site is reclaimed wetlands that was previously part of the Great Dismal Swamp.
3. **Currituck County Fire Services**– Approved with the following comment: How will water be made available for this site? I note that the fire department is to receive an ISO survey sometime around March. It is expected that the new grade will save the individual home owner of these properties \$500 or better a year on fire insurance. This is only if they have fire hydrants available.
4. **Currituck County Water Department**- There is no county water in this area and none is planned.
5. **Currituck County Planning and Inspections, Inspections Section**-Approved as is.
6. **Albemarle Regional Health Services** – Site evaluations will be needed before Preliminary Plat.
7. **Currituck County GIS** - Approved with no comment.
8. **County Parks & Recreation Department** - No comments received.
9. **Currituck County Emergency Management** – No comments received.
10. **NC Department of Transportation**: Approved with the following comment: The proposed road does not connect to a state maintained road. Is this to be designed for addition to the state system?
11. **US Army Corps of Engineers**: No comments received.
12. **NC Department of Natural Resources, Division of Coastal Management** – No comments received.
13. **NC Department of Natural Resources, Division of Water Quality**–No comments received.
14. **NC Department of Natural Resources, Division of Land Resources** – No comments received.
15. **Currituck County Superintendent of Schools**- No comments received.
16. **N C Dominion Power** - No comments received.

**17. Sprint Telephone** – Approved as is.**SPECIAL USE PERMIT CRITERIA:**

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. It is recognized that some land uses have a particular impact on the surrounding land that cannot be determined and controlled by general zoning regulation. Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties. In order to approve a Special Use Permit, certain criteria must be satisfied. The criteria are outlined as follows:

1. *Is the application complete?*

Based on staff review all required information has been submitted for review.

2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?*

The plan generally complies with the provisions of the UDO.

3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*

(a) *Will not endanger the public health or safety.*

Public health and safety issues including stormwater management, wastewater disposal and access for emergency services have been adequately addressed within this proposal;

(c) *Will not injure the value of adjoining or abutting property.*

The proposed residential subdivision should have no negative impact on adjoining property. The adjoining uses are low density, agricultural uses.

(d) *Will be in harmony with the area in which it is located.*

The proposed residential subdivision should have no negative impact on adjoining property. The adjoining uses are low density, agricultural uses.

(e) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.*

The proposal will be consistent with the 2006 CAMA Land Use Plan **Rural Area** and **Moyock Sub-Area** classification and with the Thoroughfare Plan.

(f) *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be*

*followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within 2 years after the initial approval of the sketch plan. In the case of subdivision and multifamily development at the sketch plan/special use, preliminary plat or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in accordance with Section 2015.*

**The Commissioners will need to determine if adequate public facilities, including schools, exist or will exist to meet the demands generated by this subdivision.**

**STAFF RECOMMENDATION:**

Because it appears the application has satisfied the criteria for granting a Special Use Permit as outlined above, staff recommends **conditional approval** of the application contingent upon satisfaction of all TRC comments, subject to a finding that adequate public facilities exist, and subject to the following conditions:

**Code Requirements:**

1. The sketch plan should show the proposed road all the way out to Puddin Ridge Road. (Appendix 9-A)
2. The plan should be labeled "Sketch Plan" (Appendix 9-A)
3. Please indicate the map and panel number of the flood zone. (Appendix 9-A)
4. Indicate the acres on each lot as well as the square feet. (Appendix 9-A)
5. A reserve utility open space must be identified. It shall be the burden of the developer to provide plans and specifications to provide adequate reserve utility open space to the satisfaction of the County Engineer and Board of Commissioners. (Section 703)
6. Section 914(8) of the UDO requires that when a subdivision fronts on a street that does not meet the minimum requirements of the ordinance, the subdivider shall be responsible for upgrading the existing street. Since Puddin Ridge Road is not a state maintained road where the subdivision will connect, the applicant shall submit a plan at Preliminary Plat indicating any needed improvements from the point where state maintenance currently ends up to the point of the subdivision entrance.
7. A construction schedule for completion of the active recreation facilities shall be submitted to ensure improvements are completed in conjunction with development of the lots. (Section 701)
8. It is presumed that the active recreation amenities will be dedicated to the homeowners association for ownership and maintenance. Documents creating the HOA and enabling the collection of dues for maintenance of community facilities must be provided to the staff for review prior to final plat approval. The HOA documents must be recorded in conjunction with the final plats. (Sections 704 and 705)
9. The applicant shall install street trees according to UDO section 513.

**RECOMMENDATIONS:**

1. Staff recommends the street lights be full-cut off fixtures.
2. Applicant should check the distance from any firing ranges proposed in Currituck County to ensure compliance with the UDO requirements.

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This staff recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning and Inspections. The Board of Commissioners shall give considerable weight to public testimony received during public hearing in considering its decision in this matter.

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**Planning Board Discussion and Recommendation (December 12, 2007)**

**DISCUSSION**

Mr. Lee stated that the proposed streets will exceed requirements

Mr. Midgette asked if the developer agrees with all the conditions.

Mr. Lee said yes.

Mr. Midgette asked about the purpose of the ponds.

Mr. Lee said for fill and for stormwater.

Mr. Midgette asked if these are being marketed to the public.

Mr. Lee said yes, and hopefully Blackwater employees may be interested in building there.

Mr. Kovacs said that he feels that there should be disclosures to prospective buyers as to the proximity of the lots to Blackwater. He asked if the road would be paved.

Ms. Keifer said that they would have to take access from a state maintained road, so the road would have to be brought to state standards.

Mr. West asked what the road is made from

Ms. Stocksaver stated that they are made of asphalt.

Mr. Midgette asked about the suitability of the soils for building.

Mr. Lee said that he doesn't believe perk tests have been done as of yet.

Mr. Keel motioned to recommend **approval** of the request as presented per the staff recommendation. Mr. West seconded the motion. Motion passed **unanimously**.

Chairman Nelms opened the public hearing.

Richard Lee, Arcadis, reviewed the project.

Jim Courtney, questioned the type of housing.

There being no further comments, Chairman Nelms closed the public hearing.

Commissioner Taylor moved to approve with findings of fact. Commissioner Bowden seconded the motion. Motion carried.

**Public Hearing and Action PB 06-42 VILLAS AT KILMARLIC PB 06-42 VILLAS AT KILMARLIC: Amended Special Use Permit for a 53 unit Town Home Community. The five properties are located adjacent to the entrance to the Kilmarlic Club at the intersection of Caratoke Highway and North Side Road, Tax Map 124, Parcels, 54, 55, 56, 57A, and 57F, Poplar Branch Township.**

Sworn Testimony was given prior to making statements.

Sarah Keifer, Planning Director, reviewed the request.

Fortune Bay Commercial, LLC is requesting an amendment to the conditions of approval of a 53 unit town home community approved by the Board on October 2, 2006. The applicant is requesting the deletion of condition 16 which states:

16. In addition to the sidewalk system provided, either a concrete sidewalk or other hard surface multi-modal path shall be extended along North Side Lane as well as along the frontage of Caratoke Highway.

The applicant's justification for removing the condition is attached. It should be noted that at the October 2, 2006 Board of Commissioners meeting, the applicant's representative agreed to install the sidewalks but requested that they not be required to be installed until the adjacent property currently owned by the Lower Currituck Fire Company is redeveloped. The Board rejected the compromise and required they be installed in conjunction with the proposed land development.

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. It is recognized that some land uses have a particular impact on the surrounding land that cannot be determined and controlled by general zoning regulation. Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties. In order to approve a Special Use Permit, certain criteria established by Section 1402(2) of the UDO must be satisfied. One such criterion is that the proposal will be in conformity with the Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the Board.

The intent of the recommendation for a pedestrian circulation system is to provide safe and convenient pedestrian access in an area that is rapidly suburbanizing. It should be noted that the 1990 Land Use Plan in effect at the time the application was submitted includes a specific goal to establish a transportation system that effectively, efficiently, and safely moves motoring and bicycle traffic throughout Currituck County and that assures access to transportation for the elderly and financially disadvantaged. In addition, Policies TR-8 and TR-9 of the 2006 Land Use Plan provide that “[l]ocal streets shall be designed and built to allow for convenient CIRCULATION WITHIN AND BETWEEN NEIGHBORHOODS and to encourage mobility by pedestrians and bicyclists” and “BIKEWAY FACILITIES shall be encouraged as energy-efficient, healthful, and environmentally sound alternatives to the automobile. The inclusion of bikeways, sidewalks, trails, and other alternatives to the automobile shall be encouraged in both public and private developments” respectively. Appendix H, Infrastructure Analysis – Maximum Density Scenario also calls out pedestrian circulation under the Full Service section. The subject site is classified as Full Service by the 2006 Land Use Plan.

Given the policies of both land use plans, the fact that the proposal is a medium density development, and the fact that the area is rapidly developing, the Planning Board recommended and the Board of Commissioners concurred that the inclusion of a pedestrian circulation system was appropriate. While this project might be the first to install sidewalks in the area, connections to the system will likely be forthcoming.

In addition, Section 127, Residential Multi-Family Overlay District, requires open space and amenities to be included in a plan of this type. The only amenities provided on this site were 3 putting greens and the sidewalk/ trail system along the roads. Staff estimates the cost of constructing 840 linear feet of 8’ multi modal path along Caratoke Highway, 1,200 feet of 4’ sidewalks and 3 putting greens to be \$82,000 (based on \$25 per linear foot of sidewalk and \$50 per linear foot of multi-modal path). The applicant’s application stated this development would have a value of \$21.2 million dollars. The 2,040 feet of sidewalks, multi-modal paths and 3 putting greens would equate to 0.39% of the project value. If the sidewalks are deleted, it does not appear that the requirements of the UDO for Residential Multi-Family amenities would be met.

It is understood that there are challenges to placing the proposed multi-modal path within the right-of-way of Caratoke Highway, however it is possible for the improvements to be placed within the development and an easement recorded permitting public access. To date the applicant has not demonstrated to staff that issues regarding lot coverage will result from installation of the sidewalks or multi-modal path.

While staff maintains that installation of a pedestrian circulation system is supported by both the 1990 and 2006 Land Use Plans and is good planning practice, should the Board chose to eliminate that condition from the Special Use Permit, staff recommends the applicant be responsible for providing additional active recreation amenities within the development such as an improved pedestrian path within the project for use by residents that equals or exceeds 2,040 feet.

Attached are the following:

1. Aerial photo
2. Open Space and Amenities section of the Residential Multi-Family Overlay District standards.
3. The applicant's justification for deleting sidewalks.
4. Site Plan
5. Special Use Permit Conditions of Approval

Chairman Nelms opened the public hearing.

Bobby Outten, Attorney for applicant, requested removal of the requirement for sidewalks and the developer has followed the ordinance requirements.

David Ryan, Engineer, was present to answer questions.

Commissioner Bowden stated that he has requested for many years to have sidewalks, curb and guttering should be in the UDO.

There being no further comments, Chairman Nelms closed the public hearing.

Commissioner Bowden moved to approve with removal of sidewalk requirement. Chairman Nelms seconded the motion. Motion carried.

#### **Appointment to Whalehead Drainage Board to replace Ginger Webster**

Commissioner Gregory moved to appoint Robert Collins. Commissioner Taylor seconded the motion. Motion carried.

#### **Approval of Revised Airport Apron Tie-Down Space Lease Agreement and Hangar Lease Agreement**

Kate McKenzie, County Attorney, reviewed the revised lease agreement.

Commissioner Gregory moved to approve for 6 months. Commissioner Bowden seconded the motion. Motion carried.

#### **Appointment of Commissioner as Legislative Liaison to the NCACC**

Commissioner Gregory moved to appoint Chairman Nelms. Commissioner Bowden seconded the motion. Motion carried.

#### **Consent Agenda:**

##### **Approval of December 4 minutes Request DOT to add Fargo Court to State System**

Commissioner Bowden moved to approve. Commissioner Taylor seconded the motion. Motion carried.

#### **Commissioner's Report**

Commissioner Bowden commented on the Corolla Community Center.

Commissioner Taylor stated that the Moyock Town meeting will be January 22 at 7:00, at the Middle School.

Chairman Nelms commented on the redistricting maps and Racy Newbern's 6 month extension on his permit.

**County Manager's Report**

**Adjourn**

There being no further business, the meeting adjourned.