

CURRITUCK COUNTY  
NORTH CAROLINA  
SEPTEMBER 4, 2007

The Board of Commissioners met on September 4, 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 Bowden, Gregory, Taylor and Etheridge.

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

The Reverend David Coxson was present to give the invocation.

### **Approval of Agenda**

Commissioner Gregory moved to amend the agenda by deleting Items 6, 7 and 8. Commissioner Bowden seconded the motion. Motion carried.

- Item 2            Public Comment  
***Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.***
- Item 3            **Recognition of** Ginger Webster
- Item 4            **PUBLIC HEARING AND ACTION on** PB 07-60 CURRITUCK COUNTY UDO  
AMENDMENT: Text Amendment to Article 6 and Article 9 of the UDO to Clarify Public Water and Fire Protection Regulations for Minor Subdivisions.
- Item 5            **PUBLIC HEARING AND ACTION on** PB 07-61 CURRITUCK COUNTY UDO  
AMENDMENT: Amendment to Section 603 of the UDO Regarding Sand Line Trench Septic Systems.
- Item 6            **PUBLIC HEARING AND ACTION on** PB 07-44 CLOVER BEND (OLD BROTHERS, LLC): Rezone approximately 53.32 Acres from Agricultural to Residential. Located on the northwest side of Guinea Road (SR 1214), approximately 200' north of the intersection with Guinea Mill Road (SR 1282), Moyock Township, Tax Map 22, Parcel 71X
- Item 7            **PUBLIC HEARING AND ACTION on** PB 07-52 DUCK LAND COMPANY-SCHOOLHOUSE LANE: Request to rezone 0.56 of an acre from Outer Banks Standard Residential (RO-1) to General Business (GB). The property is located at 1124 Schoolhouse Lane, Poplar Branch Township, Tax Map 114B, Parcel 36, Block 3
- Item 8            **PUBLIC HEARING AND ACTION on** PB 07-49 TULLS CREEK LANDING, OPEN SPACE SUBDIVISION: Sketch Plan/ Special Use Permit for a 37-lot open space residential subdivision. The 58.22 acre property is located on the northeast side of Tulls Creek Road, 0.3 mile southeast of Caratoke Highway, and adjacent to Shingle Landing Creek, Moyock Township. Tax Map 9, Parcel 41
- Item 9            **PUBLIC HEARING AND ACTION on** PB 07-40 COINJOCK MEADOWS, PLANNED RESIDENTIAL DEVELOPMENT: Sketch Plan/Special Use Permit for a 50 lot Planned Residential Development. The property is located along Worth Guard Road, approximately 4/10th of a mile from the north bank of the Coinjock Canal, Tax Map 70, Parcel 13, Crawford Township.
- Item 10           **PUBLIC HEARING AND ACTION on** PB 07-48 TRINITY BAY PLANNED RESIDENTIAL DEVELOPMENT: Sketch Plan/ Special Use Permit for a 35 lot Planned Residential Development. The property is located at

the intersection of Caratoke Highway and Simpson Road in Barco, Crawford Township, Tax Map 69, Parcel 3B.

Item 11        **PUBLIC HEARING AND ACTION on PB 07-47 WILLIAM WATERS UDO AMENDMENT:** An amendment to Articles 13, Permissible Uses and Table, Section 1310, Table of Permissible Uses, and Article 17, Signs to allow a billboard to be moved to an adjacent property that did previously not have a billboard in a General Business and Commercial Zoning District.

Item 12        **Consent Agenda:**

1. Amendment to Article 7 of the County of Currituck Personnel Policy.
2. Approval of Job Description for Public Utility Director
3. Approval of Job Description for Information & Communications Officer
4. Approval of Job Description for Visitor's Center Office Manager/Supervisor of Mail Operations
5. Approval of Change Orders 1, 2, and 3 for Jarvisburg Elementary School
6. Appointment of Charlie Dozier to the Stormwater Advisory Board
7. Approval of August 13 Special Meeting and August 20, 2007, Minutes
8. Approval of August 6, 2007, Minutes
9. Request from DSS for ICPTA to transfer unspent portion of Work First funding allocation to RGP funding allocation
10. Budget Amendments

Item 13        Commissioner's Report

Item 14        County Manager's Report

**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.

Bob Henley, invited the public to the 4<sup>th</sup> annual Wildlife Festival on Saturday and Sunday.

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

**Recognition of Ginger Webster**

Chairman Nelms and the Board presented Ginger Webster a plaque in recognition for her dedicated work while serving on the Coastal Resources Advisory Council.

**PUBLIC HEARING AND ACTION on PB 07-60 CURRITUCK COUNTY UDO AMENDMENT: Text Amendment to Article 6 and Article 9 of the UDO to Clarify Public Water and Fire Protection Regulations for Minor Subdivisions.**

David Webb, Chief Planner, reviewed the amendment.

**SUBJECT:** PB 07-60 Amendment to Article 6 and Article 9 of the UDO to Clarify Public Water and Fire Protection Regulations for Minor Subdivisions.

This ordinance amendment is to clarify if in fact minor subdivisions must follow the same criteria as major subdivisions in regards to connection to the county water system and fire protection.

In the interest of public safety, staff strongly supports the requirement for minor subdivisions to connect to the county water system as well as being required to install necessary fire hydrants.

According to James Mims, Fire Marshal, “Recently the Fire departments of Currituck County have received a significantly lower (better) grade toward their fire protection capabilities as measured by ISO (Insurance Services Organization). At these new ratings the distance from insured property to the nearest fire hydrant makes a significant difference (hundreds to thousands of dollars annually) in the fire insurance charged to the individual property owner. The citizens of Currituck believe (right or wrong) that the county government is responsible to them to provide the fire hydrants where there are none. It is all County Government can do or afford to do to correct questionable areas now. We cannot allow new development to increase the problem. This can only lead to County Government having to make a correction in the future if for no other reason than public pressure.”

The alternative to requiring minor subdivisions to connect to the county water system and fire protection system is for minor subdivisions to be exempt from water and fire protection standards. This could potentially decrease public safety and increase ISO ratings.

Both amendment options are attached.

**PLANNING BOARD DISCUSSION**

Mr. Webb presented the case analysis to the board.

Mr. Kovacs questioned if the amendment would exclude Knotts Island, Gibbs Woods, and Carova.

Mr. Webb stated that he does exclude Knotts Island, Gibbs Woods, and Carova, and will not change the current connection formula for minor subdivisions.

**ACTION**

Mrs. Turner motioned to recommend approval of option #1 that was presented excluding Knotts Island, Gibbs Woods, and Carova. Mr. Etheridge seconded the motion. Motion passed unanimously.

**Minor Subdivisions – Public Water and Fire Protection**  
***Option 1 – Required Connection***

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:**

**Section 915 Public Water**

1. Every lot within a proposed subdivision, including a minor subdivision, shall be served by a water supply that is adequate to accommodate the reasonable needs of the proposed land use and that complies with all applicable health regulations.
2. All lots within a subdivision, including a minor subdivision, excluding the areas of Fruitville Township and Moyock – Gibbs Woods Township, except in the RO2 zoning district, shall connect to a centralized water system by running a water main in accordance with the standards set forth below. The subdivider shall install water mains in the subdivision such that all lots to be developed will be able to connect to the centralized water system. Water mains shall be installed in road right-of-ways or dedicated water easements:
  - (a) Subdivisions shall be required to install water mains in accordance with this Section:
    - (1) If the proposed development is for residential purposes, then the distance which the connection must be made shall be as follows: 100 feet per unit for the first ten residential units plus an additional 20 feet for each additional unit. For example, a proposed subdivision with 30 residential lots would have to be located over 1,400 feet from an existing water main to qualify for this exemption (10 units x 100) + (20 units x 20). In multi-family developments, each individual dwelling unit shall be counted as one residential unit;
    - (2) If the proposed development is for a non-residential development, then the distance within which a connection must be made shall be determined by projected water demand and then equated to an equivalent number of average residential units using the formula outlined above;
    - (3) In determining the number of units in a proposed development, the potential of the total number of units is determined by calculating the maximum number of residential units allowed for each proposed lot;
    - (4) In determining the number of dwelling units proposed in a phased development, the number of residential units for water service relates to the total number of proposed residential units for the entire development, rather than a single phase of the proposed project;
  - (b) The connection of the proposed water main with the centralized water system, as well as the installation and size of all required water mains, shall be in accordance with all existing county standards and under the supervision of the County Water Superintendent. The County Water Superintendent shall be notified in time to

- inspect all stages of the installation of the proposed water main and shall issue final approval on the installation before it is covered;
- (c) The subdivider shall be required to submit detail drawings with the Preliminary Plat showing the installation of the required water main. Such drawings shall be prepared and stamped by a certified and licensed engineer;
  - (d) After the installation is complete, and prior to acceptance of any water main and Final Plat approval, the subdivider shall furnish the county a copy of As-Built drawings showing the exact location of the water mains. Further, As-Built drawings are required for all changes that may be made to the water system in the future;
  - (e) All connection fees shall be paid for each individual lot that is required to be connected to the centralized water system as a condition of the Final Plat approval. For each commercial lot required to connect to the centralized water system, the connection fees may be paid for at the time of issuance of the building permit authorizing construction to begin;
3. **Including minor subdivisions**, in cases where there is no centralized water system within a given area, or the distance from a proposed subdivision to an existing water main exceeds the formula above, the subdivider shall be exempted from connecting to the centralized water system but shall bond for the water improvements (including fire hydrants, laterals, service lines, meter boxes, and yokes) at a rate of cost + 20% to be installed at a later date. The county shall place the bond amount within an escrow account and use it for installing water mains in the subdivision when connection to the centralized water becomes available. Connection of individual lots to the future water main within an existing subdivision shall be the responsibility of the lot owner;
  4. Whenever a private water system is proposed, a water district shall be established in accordance with State law encompassing the boundaries of the development. The district shall be established prior to the review of the final plat.

**Item 2:****Section 916 Fire Protection**

1. Every subdivision, including a minor subdivision, that is served by a centralized water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located, or intended to be located, within such development. Fire hydrants must be located such that every proposed lot is within 500 feet of a hydrant. However, deviations from this standard may be authorized, or required, if another arrangement more satisfactorily complies with this standard.
2. Fire hydrants shall be connected to a minimum six inch water main which shall not be a dead-end line, unless no other practicable alternative is available.

The subdivider or their successor shall be responsible for ensuring that all water supply sources, access roadways, and other facilities or equipment are maintained.

**Item 3:****Section 602 ~~Major~~ All Subdivisions to Install Water Lines (Amended 3/11/96)**

1. Whenever it is legally possible and practicable in terms of topography to connect to a county water line (other than a line owned by the Ocean Sands Water and Sewer District) by running a connecting line not more than the distance set forth below, then the subdivider shall install water lines in the ~~major~~ subdivision, including a minor subdivision, so that all lots to be developed will be able to connect to the County water system. The developer shall provide all the necessary pipes and accessories for installation of the water lines as set forth herein and all materials and pipes so provided must meet or exceed the requirements established for the County water system. Individual lots within a subdivision having been given a minimum of sketch plan approval prior to March 4, 1996 which remains valid, shall not be required to connect to the County water system. Individual lots within a subdivision given initial sketch plan approval after March 4, 1996 shall be required to connect to the County water system.
  - (a) ~~Major~~ Subdivision, **including minor subdivision**, applications submitted after April 16, 1990, shall be required to install water lines in accordance with the section.
    - (1) if the tract in question is proposed to be developed for residential purpose, then the distance within which connection must be made shall be as follows: 100 feet per unit for the first ten units plus 20 feet for each unit in excess of 10 units within the development. If the tract in question is proposed to be developed for non-residential purposes, then the distance within which connection must be made shall be determined by transposing the projected demand of the proposed non-residential use into the demand created by an

equivalent number of average residential units and using the foregoing formula;

- (2) in determining units in a development, tracts proposed to be subdivided and not using multi-family subdivisions shall have their total unit potential determined by calculating the maximum number of units allowable for each proposed lot. The total number of units proposed on other developments shall be as shown on the proposed site plan; and,
  - (3) in determining the number of dwelling units proposed for a tract, the relevant inquiry relates to the inquiry relates to the number proposed for the entire tract rather than a single phase of the proposed project.
- (b) If a public water supply system is to be provided to the area within a five-year period as indicated in the county's long range water extension plan, official map, or other official document, the county may require installation of a capped system, or dry lines (mains only), within the road right-of-way; or the county may require a payment in lieu of the improvement. This provision shall apply to all ~~major~~ subdivisions, including minor subdivisions, initial sketch plans submitted after March 4, 1996 when the subdivision is within a distance of proposed water lines as follow: 100 feet per unit for the first ten units plus 20 feet for each unit in excess of 10 units.
2. Connection to such water line is not legally possible if, in order to make connection with such line by a connecting line that does not exceed the distance prescribed above, it is necessary to run the connecting line over property not owned by the owner of the property to be served by the connection, and, after diligent effort, the easement necessary to run the connecting line cannot reasonably be obtained.
  3. All connection fees shall be paid for each residential lot required to be connected to the county water system as a condition of final plat approval. All connection fees shall be paid for each commercial lot required to be connected to the county water system at the time of issuance of the building permit authorizing construction to begin. **(Amended 8/5/02)**

#### **Item 4:**

#### **Section 613 Fire Hydrants.**

1. Every major subdivision, including a minor subdivision, that is served by a County owned water system or central water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such development. **(Amended 1/3/95, 12/2/96)**
2. The presumption established by this Ordinance is that to satisfy the standard set forth in Subsection (1), fire hydrants must be located so that all parts of every building within the development may be served by a hydrant by laying not more than 500 feet of hose connected to such hydrant. However, the permit issuing authority may

authorize or require a deviation from this standard if another arrangement more satisfactorily complies with the standard set forth in Subsection (1).

3. The permit issuing authority, after consultation with local fire officials, shall determine the precise location of all fire hydrants. Preferably, fire hydrants shall be placed six (6) feet behind the curb line of publicly dedicated streets that have curb and gutter and must be placed within ten (10) feet of a public or private road or street.
4. The permit issuing authority shall, after consultation with local fire officials, determine the design standards of all hydrants based on fire flow needs. Unless otherwise specified, all hydrants shall have two 2 1/2 inch hose connections and one 4 1/2 inch hose connection. The 2 1/2 inch hose connections shall be located at least 21 1/2 inches from the ground level. All hydrant threads shall be national standard threads.
5. Water lines that serve hydrants shall be at least six (6) inch lines, and, unless no other practicable alternative is available, no such lines shall be dead-end lines.
- ~~6. *When served by a County owned water system or central water system, all conversions of existing structures to non-residential uses and all new construction projects, excluding single-family and two-family dwellings, that are more than five-hundred (500) feet from an existing fire hydrant shall require submission of a fire hydrant fee that will go towards a fund to install a fire hydrant at the appropriate spacing when sufficient fees have been collected. (Amended 12/2/96)*~~

#### Item 5:

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

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

Chairman Nelms moved to approve option 1. Commissioner Taylor seconded the motion. Motion carried.

#### **PUBLIC HEARING AND ACTION on PB 07-61 CURRITUCK COUNTY UDO AMENDMENT: Amendment to Section 603 of the UDO Regarding Sand Line Trench Septic Systems.**

David Webb, Chief Planner, reviewed the amendment.

SUBJECT: PB 07-61 Amendment to Section 603 of the UDO Regarding Sand Line Trench Septic Systems.

According to the attached e-mail from Ralph Hollowell, Environmental Health Director, as of August 1, 2007 the sand line trench septic system has been put in the North Carolina On-Site Sewage Rules under GS 15A NCAC 18A.1956 Modifications to Septic Tank Systems. According to Mr. Hollowell, this will allow sand backfill systems to be installed in areas that have an underlying clay layer. This rule applies to the entire state of North Carolina.

In order make the UDO compliant with the above Statute change, the attached amendment is proposed.

Rule Change

Page 1 of 1

**Tammy Glave**

---

**From:** Ralph Hollowell [rlh@ppcc.dst.nc.us]  
**Sent:** Friday, August 03, 2007 10:23 AM  
**To:** Tammy Glave  
**Subject:** Rule Change

Tammy

As of August 1, 2007 the Sand Line Trench System has been put in the North Carolina On-Site Sewage Rules under 15A NCAC 18A .1956 Modifications to Septic Tank Systems. This will allow Sand Backfill Systems to be installed in areas that have an underlying clay layer. This rule applies to the entire State of North Carolina.

Thanks

Ralph L. Hollowell, Jr.  
Environmental Health Director

*This e-mail message may contain information that is privileged, confidential, and exempt from disclosure. It is intended for use only by the person to whom it is addressed. If you have received this message in error, please do not forward or use this information in any way. Delete it immediately and contact the sender as soon as possible by the reply option or by telephone at the telephone number listed (if available). In the event you cannot fulfill your obligation or there has been any improper release of this information, please contact the Privacy Officer at Albemarle Regional Health Services at (252) 337-6717.*

**PLANNING BOARD DISCUSSION**

Mr. Webb presented the case analysis to the board.

**PLANNING BOARD ACTION**

There being no discussion Mr. West motioned to approve the request as presented. Mrs. Turner seconded the motion. Motion passed unanimously.

PB 07-61  
UDO AMENDMENT REQUEST  
Sand Line Trench Septic Systems

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:**

**Section 603 Sewage disposal Facilities Required.**

1. Every principal use and every lot within a subdivision intended to be developed shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.
2. No sewage treatment system that discharges into surface waters shall be allowed.
- ~~3. Sand-lined trench waste water treatment systems installed in accordance with District Health Department standards, may be used provided no system shall service more than one lot. Sand-lined trench systems shall not be used for major residential subdivisions of six or more lots but may be used on lots existing in major subdivisions prior to April 2, 1989 and in Private Access and Minor Subdivisions that are not a part of a major subdivision. (Amended 10/16/95, 2/3/97, 2/5/01, 6/3/02)~~

**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. There being no comments, he closed the public hearing.

Commissioner Etheridge moved to continue to the next meeting. Commissioner Taylor seconded the motion. Motion carried with Commissioner Gregory voting no.

**PUBLIC HEARING AND ACTION on PB 07-44 CLOVER BEND (OLD BROTHERS, LLC): Rezone approximately 53.32 Acres from Agricultural to Residential. Located on the northwest side of Guinea Road (SR 1214), approximately 200' north of the intersection with Guinea Mill Road (SR 1282), Moyock Township, Tax Map 22, Parcel 71X**

deleted

**PUBLIC HEARING AND ACTION on PB 07-52 DUCK LAND COMPANY-SCHOOLHOUSE LANE: Request to rezone 0.56 of an acre from Outer Banks Standard Residential (RO-1) to General Business**

(GB). The property is located at 1124 Schoolhouse Lane, Poplar Branch Township, Tax Map 114B, Parcel 36, Block 3

deleted

**PUBLIC HEARING AND ACTION on PB 07-49 TULLS CREEK LANDING, OPEN SPACE SUBDIVISION: Sketch Plan/ Special Use Permit for a 37-lot open space residential subdivision. The 58.22 acre property is located on the northeast side of Tulls Creek Road, 0.3 mile southeast of Caratoke Highway, and adjacent to Shingle Landing Creek, Moyock Township. Tax Map 9, Parcel 41**

deleted

**PUBLIC HEARING AND ACTION on PB 07-40 COINJOCK MEADOWS, PLANNED RESIDENTIAL DEVELOPMENT: Sketch Plan/Special Use Permit for a 50 lot Planned Residential Development. The property is located along Worth Guard Road, approximately 4/10th of a mile from the north bank of the Coinjock Canal, Tax Map 70, Parcel 13, Crawford Township.**

Sworn testimony was given prior to making statements.

David Webb, Chief Planner, reviewed the request.

PB 07-40 Coinjock Meadows, Sketch Plan/ Special Use Permit for a 50 lot Planned Residential Development.

**LOCATION:** The property is located along Worth Guard Road, approximately 4/10<sup>th</sup> of a mile from the north bank of the Coinjock Canal, Crawford Township.

**TAX ID:** Tax Map 70, Parcel 13 (007000000130000)

**ZONING**

**DISTRICT:** Mixed Residential (RA), General Business (GB) and Agricultural (A)

**PRESENT USE:** Agricultural

**OWNERS:** Coastal Currituck, Inc.  
9214 Old Oregon Inlet Road  
Nags Head, NC 27959

**APPLICANT:** Ocean Builders, LLC  
PO Box 125  
Manteo, NC 27954

**ENGINEER:** Quible and Associates

Eduardo Valdivieso  
 PO Drawer 970  
 Kitty Hawk, NC 27949

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

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Agricultural	A and GB
<b>SOUTH</b>	Residential	RA
<b>EAST:</b>	Residential and vacant wetlands	RA and A
<b>WEST:</b>	Residential	GB

**SCHOOL DISTRICT:** Crawford

**FIRE DISTRICT:** Crawford V.F.D.

**SIZE OF SITE:** Total-39.85  
 Residential- PRD area = 36.86 AC  
 Commercial Area not a part of PRD = 2.99 AC

**NUMBER OF UNITS:** 50

**DENSITY:** 1.36 units/ acre (3 units per acre allowed in a PRD overlay)

**MINIMUM LOT SIZE:** 15,000 SF

**AVERAGE LOT SIZE:** 16172 SF

**STREETS:** The streets will be built to NCDOT construction standards with a reduced right of way width as private streets.

**WATER:** The development will be served by the Currituck County Water System. The developer estimates 360 gallons per day of water will be used for each 3 bedroom home, for a total of 19,080 gallons per day.

**WASTEWATER:** The applicant is proposing on site wastewater with a minimum lot size of 15,000 SF.

**OPEN SPACE:** Planned Residential Developments are required to have 35% Open Space. The required open space for Coinjock Meadows is 12.90 acres (36.85AC \*.35). The submitted plan proposes 44.4% (16.38 acres) Open Space.

**DRAINAGE:** The development will have a series of engineered drainage systems along the streets with 3 ponds to accommodate stormwater.

**FLOOD ZONES:** Approximately 14 acres of the property is located in Flood Zone AE (4). The remaining 25.75 acres are in Flood Zones (X) or Shaded (X), outside of the 100 year flood plain.

**I. NARRATIVE OF REQUEST:**

- Ocean Builders. LLC is seeking approval of a 50 Unit Planned Residential Development, the first PRD in Currituck County.
- Planning staff has discovered a conflict in the UDO between section 921 (Lots) and 936 (Planned Residential Developments). Section 921 indicates on-site wastewater is allowed in a PRD if the lots are 15,000 SF or greater, while section 936 states “At least 75 percent of the total number of dwelling units must be single-family detached residences on lots of at least 10,000 square feet and must be connected and serviced by a package tertiary treatment plant and central water system.”
- A separate UDO amendment is being submitted that will clarify the wastewater policy for PRD and PUDs.
- Where there is a conflict in the ordinance, Section 104, Conflict with Other Laws states: “Where that intent is not clear from a superficial reading of the Ordinance and laws, that law or Ordinance which is most restrictive shall apply.”
- A minor subdivision of 2 commercial parcels is proposed in the area of the property zoned general business, approximately 193 feet back from Worth Guard Road. These parcels will not be part of the PRD.
- A community garden space, canoe launch and playground area is being proposed in the open space.
- The plan shows a loop walking trail around the open space.
- According to the Development Impact Statement dated May 17, 2007:
  - The homes will be single-family detached units. This project is being developed to provide workforce housing for Currituck County and surrounding counties.
  - The applicants are working with the Outer Banks Community Development Corporation to offer down payment assistance and special financing.
  - The sizes and costs are as follows:

Model	Sq. Ft	# Bedrooms	# Baths	Price Range
Ashland	1615	3 bedroom	2 bath	\$195,000
Millbrook	1200	3 bedroom	2 bath	\$165,000- \$175,000
Wedgeport	1640	3 bedroom	3 ½ bath	\$200,000
Kingsport	1000 finished 688 unfinished	2 bedroom	2 bath	\$170,000- \$180,000

- The project will be in 2 phases with 30 homes in the first phase and 20 homes in the second phase.
- The median home price is expected to be \$187,446.

**II. SPECIAL USE PERMIT CRITERIA:**

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. 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. The purpose of a Planned Unit Development is to allow mixed residential and commercial development as a unit and where a more efficient use of the land and additional on-site amenities can be delivered.

In order to approve a Special Use Permit, certain criteria must be satisfied. The criteria are outlined as follows:

A. *Is the application complete?*

The application meets the submission requirements for Sketch Plan review.

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

The application does not comply with the UDO due to the use of on-site wastewater in a PRD and no utility open space shown.

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

1. *Will not endanger the public health or safety.*

Public health and safety issues including stormwater management and access for emergency services have been adequately addressed within this proposal. The proposed wastewater systems will require further review and approval by the County Engineer. With the high density of housing and a proposed sub-surface treatment within 500 feet of a canal that leads to Estuarine Waters, a high level of treatment may be required.

2. *Will not injure the value of adjoining or abutting property.*

The proposed subdivision should have no negative impact on adjoining property. The adjoining uses are low density single family dwellings mixed with smaller lots (less than ½ acre) on Coinjock Development Road.

3. *Will be in harmony with the area in which it is located.*

The density of the proposed subdivision is compatible with the adjacent residential subdivisions.

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

**LAND USE PLAN CLASSIFICATION:**

The property is predominately designated **Full Service** within the **Barco/Coinjock/Airport** sub-area by the 2006 Land Use Plan. At the rear

of the property, 2.69 acres is designated **Conservation** Class. With respect to residential development in Full Service Areas, base development density is contemplated to be 2 units per acre but could be increased to 3-4 units per acre through overlay zoning depending upon services available and the potential impact on the surrounding area.

The policy emphasis of the 2006 Land Use 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. In addition, once the proposed Mid-County Bridge is completed, it is quite likely that this area will become a major new mainland service area for the Corolla and Carova areas of Currituck County. This means that the area is apt to see a large number of residences built for workers commuting to construction and service jobs on the Outer Banks.

Residential development densities should be medium to high in the Barco/Coinjock/Airport area 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. However in areas where central sewer is proposed or existing, additional services are available and the character of the surrounding areas supports it, higher density ranging from 3-4 units per acre could be considered through the use of overlay zones.

The proposed Planned Residential Development conforms to the Full Service Land Use Plan designation. The area that is Conservation class is being set aside as open space. This request **generally complies** with the 2006 Land Use Plan.

5. *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 revised capacity formula and generation rates taken from the 2004 Tischler & Associates, Inc. study were used to calculate the capacity under the existing ordinance. The proposed development will yield the following calculations:

Coinjock Meadows (50 SFD Lots)	Available Capacity	Demand	Remaining Capacity if both are approved
-----------------------------------	-----------------------	--------	--

Elementary School	128	13	115
Middle School	97	4	93
High School	139	7	132

Staff has determined adequate public facilities exist to serve this subdivision.

**III. STAFF RECOMMENDATION:**

The purpose of the county permitting Planned Residential Developments (PRD's) is to allow flexible subdivision design to promote a more efficient use of the land and additional on-site amenities. Staff supports workforce housing but recommends additional amenities be added to the development such as a soccer or baseball field.

Because the ordinance currently requires a PRD to have a centralized tertiary wastewater system, a **WAIVER** from UDO Section 936 will have to be approved to allow the plan to be approved as currently designed.

If the Board chooses to approve the application with on-site septic systems, staff recommends the following conditions be placed on the approval:

**A. PLANNING DEPARTMENT:**

**1. Code and Technical Review Committee Requirements:**

- a. Provide an adequate stormwater analysis of onsite and offsite (downstream) drainage during planning stages. Follow requirements of UDO Section 922, which indicates the post development stormwater runoff shall not exceed the pre-development runoff prior to preliminary plat submission.
- b. Indicate the breakdown of the open space used for active recreation and visual relief. This should show that the active recreation meets or exceeds 50% of the open space. (Section 936)
- c. The applicant has not provided a reserve utility open space as required by section 703. The county engineer shall approved the area required for a reserve utility open space before the Sketch Plan receives approval.
- d. Additional recreational areas shall be indicated to meet the requirement of 50% of the open space designated for recreation. Staff recommends a multi-purpose open play field be graded and installed with soccer goals. This play field should be placed in a potion of the area indicated for a community garden. (Section 936-937)
- e. An improved driveway and parking area shall be provided to access the waterfront park and garden. The current plan does not appear to provide access to the park. (Section 701)
- f. Section 914 of the UDO (as of 8-20-2007) requires all subdivisions over 20 lots to install concrete sidewalks along both sides of all proposed streets in accordance with NCDOT regulations.

- g. The required improvements shall be installed and accepted prior to submission for Final Plat approval for each phase.
- h. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners.
- i. No land disturbing activities shall be permitted on site prior to the issuance of the Preliminary Plat approval, including clearing vegetation, grading, filling the property or installing bulkheads. (Section 910)
- j. As a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.
- k. A wetlands plat approved by the Corps of Engineers is required at preliminary plat submission.
- l. Correct the date of the previously recorded survey of the parcel in note 9.

**2. Staff Recommendations:**

- a. The materials submitted to date provide only four (4) house styles. The applicant should submit a home and building design template that shall be incorporated with the approval. The template should be provided prior to preliminary plat approval and incorporate architectural elements for the residential structures. At a minimum the applicant should consider the following with respect to the residential structures:
  - (1) Variation in exterior architectural materials (siding, roofing);
  - (2) Vertical and horizontal relief in buildings (roof lines, eaves, bump outs);
  - (3) Variation in house styles/types; and
  - (4) Inclusion of front porches, projecting bays, vestibules.
- b. Staff recommends a landscape plan be submitted in conjunction with the preliminary plat showing the location, spacing, caliper dimension, and species of proposed landscaping materials. Shrubs shall be at least ten (10) gallons in size, and trees must be at least two (2) inches in caliper at planting.
- c. Staff recommends a complete loop trail system be installed prior to the recordation of the first phase in order to ensure active recreation amenities are completed in tandem with the residential construction. Additions to

the trail and sidewalk system should be installed prior to the recordation of additional phases.

- d. All of the open space areas surrounding the ponds shall be stabilized with grass, vegetation and the proposed landscaping prior to recordation of the first phase.
- e. All visual relief open space within each phase should be stabilized and vegetated with grass.
- f. Given the relatively small size of the proposed lots, staff recommends an R/V and boat parking area to the rear of the development.

**B. TECHNICAL REVIEW STAFF:** On June 20, 2007, Technical Review staff reviewed this application and provided the following comments:

1. **Currituck County Public Works** – Approved with the following comment-provided details on the proposed wastewater treatment.
2. **Soil & Water Conservation** - Approved as is
3. **Currituck County Fire Services**– Approved with the following comments:  
Would like to see construction drawings for cul-de-sacs. For clarification I note that cul-de-sacs must be 96' of pavement capable of withstanding at least 75,000lbs.  
Signs, light poles, markers and utilities should not be within the swells of the cul-de-sacs.
4. **Currituck County Water Department:** Approved with the following conditions: Should sketch plan be approved, the water department will need plans and specifications for review and comments.
5. **Albemarle Regional Health Services** – Approved with the following comments: A central wastewater system will be under the jurisdiction of the Division of Water Quality.
6. **Currituck County GIS** – Resubmit street names. Only Katelynn Loop was approved.
7. **NC Division of Coastal Management-**
  - a. A 75' Estuarine Shoreline Area of Environmental Concern (AEC) is located along the navigable waterway in this location. Work within the 75' (AEC) will require a CAMA Major Permit.
  - b. The Development Impact Statement indicates that the southeast corner of the site will have access to the canal. Clarify whether or not

improvements, such as a boat ramp, are proposed in this area. No improvements were shown on the sketch plan.

8. **NC Office of State Archaeology** Approved as is- no archaeology is recommended.
9. **County Parks & Recreation Department** – Approved with no comment
10. **Emergency Management** – No comments received.
11. **Crawford VFD**– No comments received.
12. **NC Department of Transportation**: Approved as is.
13. **US Army Corps of Engineers**: No comments received.
14. **NC Department of Natural Resources, Division of Water Quality**, – No comments received.
15. **NC Department of Natural Resources, Division of Land Resources** – No comments received.
16. **Currituck County Superintendent of Schools**- No comments received.
17. **N C Dominion Power** – No comments received.
18. **Sprint Telephone** – Approved with no comments.
19. **Mediacom Cable** - No comments received.

*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.*

#### **PLANNING BOARD DISCUSSION**

Mr. Eddie Valdivieso and Pete Kauffman appeared before the board.

Mr. Webb presented the case analysis to the board.

Mr. Webb corrected the number of lots from 51 as stated above to 50.

Mr. Valdivieso stated that this development will meet the most restrictive PRD requirements.

**PLANNING BOARD ACTION**

Mr. Kovacs motioned to recommend approval of the sketch plan/special use permit subject to the findings of fact, a waiver from the Board of Commissioners to Section 936 of the UDO to allow on-site septic, and staff recommendations as stated above. Mrs. Turner seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Andy Deel, Quible & Assoc., answered questions regarding septic system.

Pete Kauffman, builder, answered question on lot size and septic system.

Eric Weatherly, County Engineer, stated that septic system would be based on soils.

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

Commissioner Gregory moved to deny. Commissioner Bowden seconded the motion. County Attorney Ben Gallop stated that the board could not deny request if it has met all UDO requirements.

Commissioner Gregory withdrew his motion. Commissioner Bowden withdrew his second.

Commissioner Gregory moved to continue. Commissioner Bowden seconded the motion. Motion carried.

**PUBLIC HEARING AND ACTION on PB 07-48 TRINITY BAY PLANNED RESIDENTIAL DEVELOPMENT: Sketch Plan/ Special Use Permit for a 35 lot Planned Residential Development. The property is located at the intersection of Caratoke Highway and Simpson Road in Barco, Crawford Township, Tax Map 69, Parcel 3B.**

Sworn testimony was given prior to making statements.

David Webb, Chief Planner, reviewed the request.

PB 07-48 Planned Residential Development, Sketch Plan/ Special Use Permit for a 35 unit Planned Residential Development.

**LOCATION:** The property is located at the intersection of Caratoke Highway and Simpson Road in Barco, Tax Map 69, Parcel 3B, Crawford Township.

**TAX ID:** Tax Map 69, Parcel 3B and 5A

(0069000003B0000 and 0069000005A0000)

**ZONING**

**DISTRICT:** General Business (GB-2.9 acres) and Residential (R-23.6 acres)

**PRESENT USE:** Agricultural/ Vacant

**OWNER:** BKS Investments, LLC  
300 Sir Walter Raleigh Street  
Manteo, NC 27954

**ENGINEER:** Quible and Associates  
Eduardo Valdivieso  
PO Drawer 970  
Kitty Hawk, NC 27949

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

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Agricultural and Commercial	GB and R
<b>SOUTH</b>	Seafood Market and Residential	GB and R
<b>EAST:</b>	Currituck Sound	
<b>WEST:</b>	Mix of Commercial (7-11) and Residential Uses	GB

**SCHOOL DISTRICT:** Central Elementary

**FIRE DISTRICT:** Crawford V.F.D.

**SIZE OF SITE:** 25.72

**NUMBER OF UNITS:** 35 total units  
26 Single Family lots and 9 townhomes

**DENSITY:** 1.36 units/ acre (3 units per acre allowed in a PRD overlay)

**MINIMUM LOT SIZE:** 10, 000 SF

**AVERAGE LOT SIZE:** 10, 771 SF

**STREETS:** The streets will be built to NCDOT construction standards with a reduced right of way width as private streets.

**WATER:** The development will be served by the Currituck County Water System.

**WASTEWATER:** A central tertiary wastewater treatment and disposal system is proposed.

- OPEN SPACE:** Planned Residential Developments are required to have 35% Open Space. The required open space for Trinity Bay is 9.0 acres (25.72 AC \*.35). The submitted plan proposes 56.3% (14.49 acres) Open Space with 5.03 acres of uplands open space.
- DRAINAGE:** The development will have a series of engineered drainage systems that contain stormwater in existing ponds.
- FLOOD ZONES:** The property is located in Flood Zones X, AE (6), AE (5), AE (4) and VE (7). Approximately 24 acres of the property is located in a flood zone.

#### **IV. NARRATIVE OF REQUEST:**

- BKS investments is seeking approval of a 35 unit Planned Unit Development.
- According to the Development Impact Statement submitted June 21, 2007:
  - Typical Housing units will be one and two story single family 3 bedroom residences in the range of 1,200 to 1,800 square feet.
  - Architectural guidelines will be imposed and controlled by formal Protective Covenants.
  - The typical house package will sell in the range of \$285,000 to \$350,000.

#### **V. SPECIAL USE PERMIT CRITERIA:**

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. 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. The purpose of a Planned Unit Development is to allow mixed residential and commercial development as a unit and where a more efficient use of the land and additional on-site amenities can be delivered.

In order to approve a Special Use Permit, certain criteria must be satisfied. The criteria are outlined as follows:

*A. Is the application complete?*

The application meets the submission requirements for Sketch Plan review.

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

The application complies with the requirements for Sketch Plan approval.

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

1. *Will not endanger the public health or safety.*

Public health and safety issues including stormwater management and access for emergency services have been adequately addressed within this proposal. The proposed wastewater system will require further review and approval by the County Engineer.

2. *Will not injure the value of adjoining or abutting property.*

The proposed subdivision should have no negative impact on adjoining property. The adjoining uses are low density single family dwellings on Simpson Road.

3. *Will be in harmony with the area in which it is located.*

The density of the proposed subdivision is compatible with the adjacent residential subdivisions.

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

#### **LAND USE PLAN CLASSIFICATION:**

This property is generally classified **Full Service with 8.2 acres of Conservation class**. It is also in the **Barco/Coinjock/Airport** sub-area in the 2006 Land Use Plan. With respect to residential development, base development density is contemplated to be 2 units per acre in Full Service areas but could be increased to 3-4 units per acre through overlay zoning depending upon services available and the potential impact on the surrounding area. A greater diversity in housing types (i.e. semi-detached, attached, multi-family) would be considered appropriate in the Full Service areas.

The purpose of the **Conservation** class is to provide for the long-term management and protection of significant, limited, or irreplaceable areas, for areas within the classification that would be considered developable, uses such as agriculture, agriculture related services, and extremely low density residential development (1 unit per 3 acres or less) would be permitted.

The policy emphasis of the Land Use 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. However in areas where central sewer is proposed or existing, additional services are available and the character of the surrounding areas supports it, higher density ranging from 3-4 units per acre could be considered through the use of overlay zones.

The proposed Planned Residential Development conforms to the Full Service Land Use Plan designation. The area that is Conservation class is being set aside as open space. This request **generally complies** with the 2006 Land Use Plan.

5. *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 revised capacity formula and generation rates taken from the 2004 Tischler & Associates, Inc. study were used to calculate the capacity under the existing ordinance. The proposed development will yield the following calculations:

<b>Trinity Bay (26 SFD lots, 9 Townhomes)</b>	Available Capacity	Demand	Remaining Capacity if approved
Elementary School	128	9	119
Middle School	97	3	94
High School	139	5	134

Staff has determined adequate public facilities exist to serve this subdivision.

**VI. STAFF RECOMMENDATION:**

The purpose of the county permitting Planned Residential Developments (PRD's) is to allow flexible subdivision design to promote a more efficient use of the land and additional on-site amenities. Staff supports workforce housing but recommends additional amenities be added to the development such as a soccer or baseball field.

Because it appears the application has satisfied the criteria for granting a Sketch Plan/ Special Use Permit and a PUD overlay staff recommends **conditional approval** of the application subject to the following conditions and a determination that adequate public facilities will exist to serve this development:

**A. PLANNING DEPARTMENT:****1. Code and Technical Review Committee Requirements:**

- a. Provide an adequate stormwater analysis of onsite and offsite (downstream) drainage during planning stages. Follow requirements of UDO Section 922, which indicates the post development stormwater runoff shall not exceed the pre-development runoff prior to preliminary plat submission.
- b. In note number 6, correct the density and total units indicated to 35.
- c. Indicate the breakdown of the open space used for active recreation and visual relief. This should show that the active recreation meets or exceeds 50% of the open space. (Section 936)
- d. The zoning on the rear of the property is R, not RA. Correct the notes and plan with the correct zoning.
- e. Indicate the correct size of the site. It appears Tax Map 69, Parcel 5A is not a part of the project and is not included in the area calculations.
- f. Perform an archeological study to be submitted to and approved by the Office of State Archeology prior to any construction or land disturbing activities.
- g. Section 914 of the UDO (as of 8-20-2007) requires all subdivisions over 20 lots to install concrete sidewalks along both sides of all proposed streets in accordance with NCDOT regulations.
- h. The required improvements shall be installed and accepted prior to submission for Final Plat approval for each phase.
- i. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners.
- j. No land disturbing activities shall be permitted on site prior to the issuance of the Preliminary Plat approval, including clearing vegetation, grading, filling the property or installing bulkheads. (Section 910)
- k. As a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.
- l. A wetlands plat approved by the Corps of Engineers is required at preliminary plat submission.
- m. In keeping with Section 607 and Section 917, Items 2, 3, and 8 the applicant shall create a sewer district for the proposed development prior to final plat submission. In addition, the applicant shall provide the

following information regarding the waste water treatment system at preliminary plat submission:

- (1) A detailed explanation of who shall be responsible for the perpetual maintenance and upkeep of the facility;
- (2) State approval of the proposed system; and
- (3) The expected life of the facility and the establishment of a reserve fund to support the continued maintenance, upkeep and replacement of the facility.
- (4) Approval by the County Engineer that the wastewater system meets a tertiary level of treatment.

**2. Staff Recommendations:**

- a. Staff recommends a landscape plan be submitted in conjunction with the preliminary plat showing the location, spacing, caliper dimension, and species of proposed landscaping materials. Shrubs shall be at least ten (10) gallons in size, and trees must be at least two (2) inches in caliper at planting.
- b. Staff recommends a trail system be installed from the street side of lot 22 to the south open space and connect to the town homes adjacent to the canal. This will provide pedestrian access to the south open space.
- c. In keeping with Policy WS7 of the 2006 Land Use Plan, staff recommends the waste water system be design so as to facilitate assimilation into a centralized system at a future date. Compliance shall be demonstrated at preliminary plat submission.
- d. All of the open space areas surrounding the ponds shall be stabilized with grass, vegetation and the proposed landscaping prior to recordation of the first phase.
- e. All visual relief open space within each phase should be stabilized and vegetated with grass.

**B. TECHNICAL REVIEW STAFF:** On July 18, 2007, Technical Review staff reviewed this application and provided the following comments:

1. **Currituck County Public Works** – Approved with the following comment: Indicate a preliminary wastewater layout and type of system (concept design) to meet the tertiary standards.

2. **Soil & Water Conservation** - Approved with the following comment:  
Indicate the existing soil types.
3. **Currituck County Fire Services**—
  - a. Will the Multi family dwellings be sprinklered?
  - b. Must see on site plan any fire department connections for sprinklered structures.
  - c. Any un-sprinklered structure that is not a 1 or 2 family dwelling or a utility structure as defined by the building code must have a fire hydrant within 400' of all portions.
  - d. I see no connectivity or any method of allowing additional access.
4. **Currituck County Water Department:**
  - a. No waterline exists on SR 1280.
  - b. Submit corrected plans showing where the development will be connected to the County water system.
  - c. Upon approval of sketch plan submit water line extension plans for review and comments.
5. **Albemarle Regional Health Services** – Before the health department can approve these plans a septic permit must be able to be issued for this project. At this time we have not issued a permit for this project. This permit process may also involve the Onsite Water Protection Section in Raleigh due to the size and nature of this septic system proposal.
6. **NC Division of Coastal Management-** A 75' Estuarine Shoreline Area of Environmental Concern (AEC) is located along the navigable waterway in this location. Work within the 75' (AEC) will require a CAMA Major Permit.
7. **NC Office of State Archaeology** Recommends a full site evaluation as a condition of the CAMA major permit.
8. **County Parks & Recreation Department** – Approved with no comment
9. **Emergency Management** – No comments received.
10. **Crawford VFD**– No comments received.
11. **NC Department of Transportation:** PRD-will be private right of way. Driveway permit required.
12. **US Army Corps of Engineers:** 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 with no comments.
18. **Mediacom Cable** - No comments received.

*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.*

#### **PLANNING BOARD DISCUSSION**

Mr. Eddie Valdivieso appeared before the board.

Mr. Webb presented the case analysis to the board.

Mr. Kovacs questioned the stormwater retention area.

Mr. Valdivieso stated the stormwater retention area is a wet pond.

#### **PLANNING BOARD ACTION**

Mrs. Turner motioned to recommend approval of the sketch plan/special use permit subject to the findings of facts stated above and staff recommendations. Mr. Etheridge seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Commissioner Bowden questioned the open space requirement.

Commissioner Gregory questioned the lot size.

Andy Deel, Quible & Assoc., was there to answer questions.

Linda McCowan, property owner, answered questions from the Board.

Chairman Nelms closed the public hearing.

Commissioner Etheridge moved to approve with staff findings of fact. Commissioner Taylor seconded the motion. Motion carried with Commissioners Gregory and Bowden voting no.

**PUBLIC HEARING AND ACTION on PB 07-47 WILLIAM WATERS UDO AMENDMENT: An amendment to Articles 13, Permissible Uses and Table, Section 1310, Table of Permissible Uses, and Article 17, Signs to allow a billboard to be moved to an adjacent**

**property that did previously not have a billboard in a General Business and Commercial Zoning District.**

David Webb, Chief Planner, reviewed the amendment.

William Waters is requesting an amendment to Article 17, Signs and Article 13, Table of Permissible Uses of the Currituck UDO to allow an existing billboard to be relocated from one parcel to an adjacent parcel. The Commissioners amended the UDO in November 2004 to prohibit new billboards in the county. This amendment in 2004 allowed all existing billboards to remain in place. Currently existing billboards are allowed to be:

- 1) Repaired if it is damaged and application is made within 180 days for a replacement
- 2) Moved to different locations on the same lot
- 3) Replaced if a state road widening project causes it to move.

When the county changed the ordinance to prohibit new billboards, consideration was given to property owners that had billboards at that time. None of the existing 185 billboards were required to be removed. In discussions with staff, the applicant stated this amendment is needed because a business owner has erected a larger on-premise sign that blocks a billboard he owns (Mid-Atlantic Signs).

The 2006 Land Use Plan addresses billboards in COMMUNITY APPEARANCE POLICIES:

POLICY CA5: Currituck County recognizes that an attractive, less commercialized landscape, particularly along heavily traveled land and water routes, is essential to the tourist-based economy of the area. The placement of additional BILLBOARDS AND OFF-SITE ADVERTISING SIGNS shall not be permitted in Currituck County.

Staff finds that there have been no change in circumstances since the current prohibition of new billboards was passed in 2004. Additionally there does not appear to be a public health, safety or welfare benefit to make this change desirable. Allowing any proliferation of billboards would be a violation of the Land Use Plan and staff therefore recommends **denial** of this UDO amendment.

The Planning Board recommended **denial** on August 14, 2007.

Please let me know if you have any questions. The proposed amendment is attached.

---

*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.*

---

**PLANNING BOARD DISCUSSION**

Mr. William Waters appeared before the board.

Mr. Webb presented the case analysis to the board.

Mr. Kovacs stated concerns for the proposed language. The billboard in question, I assume, is located on property that will be developed to another use. The board has set a precedent in the county with two other cases where an existing billboard was located on a property with proposed development. The board placed a condition that the billboard had to be taken down in order for the property to be developed. The billboard could not be relocated. We have set this precedent and I think we should continue with the board's decision.

William Waters stated that what you just heard from the planning director had nothing to do with the sign location, that property is already developed and the sign has been there for 25 years. The state (NCDOT) comes along and widens the road and the sign is moved back. At the time, the property was owned by the Kites. Then the county comes along and gives a permit to build Quality Plus gas station and in the plan they raise the property to cover the tanks so they don't float away but didn't raise the property around the sign. The ordinance allows you to move the sign on the property; therefore you can move the sign. Marvin who owns the property on the other side of the ditch wanted me to put the sign on his property as it would be a better deal. The lease on this billboard for the last 25 years is a thousand dollars a month. What I am trying to say is that that thousand dollars a month would be better off for Marvin than the Quality Plus gas station out of Winston Salem. The sign would be about 10 to 15 feet on Marvin's property and he will benefit from this. I have been in business in Currituck for 40 years and I have moved signs in Currituck before like the one at the corner of Puddin Ridge and Hwy 168 which was there for 25 years. You were talking about what people would see when they ride through Currituck and they look at these ratty billboards, and I am trying to spend 30 thousand dollars to put up a new billboard to replace this billboard. The ordinance allows you to rebuild on the same property within the same footprint but if I had to do that I would want to raise the billboard 5 feet higher as the Quality Plus gas station building blocks the north bound side of the sign. All of what you have heard tonight has nothing to do with this sign. I have three signs in Currituck County which are interstate size signs. When Currituck was passing all the billboard ordinances years ago I tried to get Currituck to go to the standard of 14 x48 interstate size sign. If you want to talk about safety, when you are going down the highway at 55 mph some of the signs you have out here right now you can't read, as the 10 x 30 are too small. You are trying to say that these people don't need these signs. Outdoor advertising is the oldest advertising industry in the world. The price and the lease on that sign is not your job, and what your director just told you about the prices is incorrect. Your job is to look out for the health, safety and welfare. All I want to do is move the sign to the other side of the ditch.

Mr. West questioned what company he represents.

Mr. Waters stated he represents Atlantic Displays out of Chesapeake, Virginia. We only build one size sign which is the interstate size of 14x48, and another reason I only have three signs down here is because there is no need for them.

Mr. Keel questioned if the sign was being relocated on the same property.

Mr. Waters stated the sign will be relocated to another property across the ditch, he didn't want to put the sign in the ditch and if I relocate it to Marvin's property then he will receive the monthly income from the sign.

Mr. West stated the problem he sees is the UDO doesn't allow you to move the billboard to another property.

Mrs. Turner stated that the UDO went to great lengths to protect the current billboards.

Mr. Waters stated that his problem is that when the county gave Quality Plus a permit to raise the property and to build the service station on top, it blocks the north bound side of the sign which hasn't been rented since the service station has been built.

Mr. Keel questioned if he could go to the Board of Adjustment to ask for a variance.

Mr. Webb stated that it wouldn't qualify for a variance because a reasonable use is being made of the property.

Mr. Turner questioned how long the gas station has been there as this isn't a new situation.

Mr. Webb stated that it was built in the late 80s.

## **ACTION**

Mr. Kovacs motioned to recommend denial of the request as presented. Mr. Robbins seconded the motion. Motion passed unanimously.

PB 07-47 William Waters  
Moving Billboards to an Adjacent Lot  
UDO AMENDMENT REQUEST

An amendment to Articles 13, Permissible Uses and Table, Section 1310, Table of Permissible Uses, and Article 17, Signs to allow a billboard to be moved to an adjacent property that did previously not have a billboard in a General Business and Commercial Zoning 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 13, Permissible Uses and Table, Section 1310, Table of Permissible Uses the following section be amended by adding the following underlined language:

		<u>Zone A RA R RO1 RO2 RR GB C LBH LM HM</u>
Use #	DESCRIPTION	
<u>29.100</u>	<u>Off Premise Sign</u> <u>Relocated from an</u> <u>adjacent lot</u>	<u>Z Z</u>

**ITEM 2:** That Article 17, Signs be amended by adding the following underlined language:

PART 5. OFF-PREMISE SIGNS RELOCATED FROM AN ADJACENT LOT

Section 1718 Setback and Height Requirements for Relocated Off-Premise Signs.

1. No off-premises sign or any part thereof may be located closer than 15 feet to a street right-of-way.
2. Off-premises signs shall not be located within the minimum side and rear yards required by Article 2.
3. No off-premises sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this Section, roof surfaces constructed at an angle be regarded as wall space. This Subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.
4. No off-premises sign or supporting structure may be located in or over the traveled portion of any public right-of-way.
5. No part of a freestanding off-premises sign may exceed a height, measured from ground level, of twenty (20) feet, unless the sign is placed lower than the road

bed, under which circumstances the sign may have a height equal to twenty (20) feet above the road bed, not to exceed twenty-five (25) feet from ground level.

Section 1719 Size, Spacing, and Other Requirements for Relocated Off-Premises Signs.

1. An off-premises sign may not exceed 300 square feet in surface area.
2. Off-premises sign attached to the wall of a structure may not exceed thirty (30) percent of the total surface area of the wall on which the sign is located.
3. No off-premises sign may be located on the same wall as any other off-premises sign.
4. No off-premises sign or any part thereof may be located within 1,500 feet on the same side of the road of any part of another off-premises sign (other than temporary signs regulated under Subsection 1702(1) or exempt signs on same side of road or highway). For purposes of determining the permissible location of an off-premises sign:
  - (a) a sign for which a permit authorizing initial construction was issued prior to the permit for the off-premises sign in question shall be regarded as existing from the date the permit for such other sign was issued (unless such permit has expired or been revoked); and,
  - (b) a nonconforming sign that has been removed for the purpose of being replaced in accordance with Section 1715(4) shall be regarded as existing, provided that the sign has not been removed for more than 180 days without application for its replacement having been made as required by Section 1715(4)(b).
5. There shall be no net increase of off-premise signs allowed under this section.
6. The sign that is being replaced shall be demolished prior to a permit being issued for its replacement. The demolition permit issued for the existing sign shall serve as documentation that the adjacent lot contained an off-premise sign.

Section 1720 Relocated Sign Illumination.

1. Unless otherwise prohibited by this Article, off-premises signs may be illuminated if such illumination is in accordance with this section.
2. No off-premises sign within 250 feet of a pre-existing residence not owned by the owner of the sign may be illuminated between the hours of 12:00 midnight and 6:00 a.m., unless the impact of such lighting beyond the boundaries of the lot where the sign is located is entirely inconsequential (less than 1.5 foot candles at the lot line). A residence shall be deemed "pre-existing" for the purposes of this Subsection if it existed (or construction of the residence had begun) before a permit was issued under the NC State Electrical Code authorizing the installation of the lighting.

3. Lighting directed toward an off-premises sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.
4. No off-premises sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date, weather conditions, or similar information.

#### Section 1721 Maintenance of Relocated Signs.

1. All off-premises signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to off-premises freestanding signs, components (supporting structures, back, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
2. If an off-premises sign other than a billboard advertises a business, service, commodity, accommodation attraction or other enterprises or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within thirty (30) days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
3. If the message portion of an off-premises sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within thirty (30) days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This Subsection shall not be constructed to alter the effect of subsection 1715 (4). Nor shall this Subsection be constructed to prevent the changing of the message of a sign. (Amended 11/6/95)
4. The area within ten (10) feet in all directions of any part of an off-premises freestanding sign shall be kept clear of all debris and all wide undergrowth more than twelve (12) inches in height.

#### Section 1722 Unlawful Cutting of Trees or Shrubs.

1. No person may, for the purpose of increasing or enhancing the visibility of any off-premises sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:
  - (c) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the North Carolina Department of Transportation;

- (d) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located; and,
- (e) In any area where such trees or shrubs are required to remain under a permit issued under this Ordinance.

**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.

Chairman Nelms opened the public hearing.

Commissioner Etheridge recused himself from voting on this item.

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

Commissioner Etheridge came back to the meeting.

**Consent Agenda:**

1. Amendment to Article 7 of the County of Currituck Personnel Policy.
2. Approval of Job Description for Public Utility Director
3. Approval of Job Description for Information & Communications Officer
4. Approval of Job Description for Visitor's Center Office Manager/Supervisor of Mail Operations
5. Approval of Change Orders 1, 2, and 3 for Jarvisburg Elementary School
6. Appointment of Charlie Dozier to the Stormwater Advisory Board
7. Approval of August 13 Special Meeting and August 20, 2007, Minutes
8. Approval of August 6, 2007, Minutes
9. Request from DSS for ICPTA to transfer unspent portion of Work First funding allocation to RGP funding allocation
10. Budget Amendments

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

Debit

Credit

<u>Account Number</u>	<u>Account Description</u>	Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
		<u>Increase Expense</u>	<u>Increase Expense</u>
10760-532900	Foster Care Supplement	\$ 29,200	
	Fund Balance		
10390-499900	Appropriated		\$ 29,200
		<u>\$ 29,200</u>	<u>\$ 29,200</u>

**Explanation:** County Assistance (10760) - To carry-forward special adoption funds remaining as of June 30, 2007.

**Net Budget Effect:** Operating Fund (10) - Increased by \$29,200.

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
		<u>Increase Expense</u>	<u>Increase Expense</u>
12543-590003	Capital Outlay	\$ 7,900	
12543-544003	Volunteer Assistance		\$ 7,900
		<u>\$ 7,900</u>	<u>\$ 7,900</u>

**Explanation:** Moyock Volunteer Fire Department (12543) - To transfer funds for additional hose for new fire truck.

**Net Budget Effect:** Fire Services Fund (12) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
		<u>Increase Expense</u>	<u>Increase Expense</u>
10460-502000	Salaries	\$ 53,000	
10460-505000	FICA	\$ 4,055	
10460-506000	Health Insurance	\$ 3,889	
10460-507000	Retirement	\$ 5,226	
10340-450500	Administrative & Filing Fees		\$ 66,170
61818-561900	Administration	\$ 33,085	
61360-470000	Utilities Charges		\$ 33,085
66868-561900	Administration	\$ 33,085	
66360-470000	Utilities Charges		\$ 33,085
		<u>\$ 99,255</u>	<u>\$ 66,170</u>

**Explanation:** Public Works (10460); Mainland Water (61818); Southern Outer Banks Water (66868) - To create a Utilities Director position under the direction of the Engineer to oversee the water and sewer enterprise operations. This position will be funded by the enterprise funds.

**Net Budget**

**Effect:** Operating Fund (10) - Increased by \$66,170  
 Mainland Water Fund (61) - Increased by \$33,085.  
 Southern Outer Banks Water Fund (66) - Increased by \$33,085.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
15446-502000	Salaries	\$ 24,365	
15446-503000	Salaries - Part time	\$ 5,345	
15446-505000	FICA	\$ 2,273	
15446-506000	Health Insurance	\$ 3,889	
15446-507000	Retirement	\$ 2,402	
15320-415000	Occupancy Tax		\$ 38,274
		<u>\$ 38,274</u>	<u>\$ 38,274</u>

**Explanation:** Tourism Promotion (15446) - To increase salaries and part-time salaries for the Corolla Visitor's Center to have a full time Information & Communications Officer as manager of the office and to increase hours of the part-time employees due to increased visitors in the center.

**Net Budget**

**Effect:** Occupancy Tax Fund (15) - Increased by \$38,274.

**Commissioner's Report**

Commissioner Taylor stated there would be a meeting at Gibbs Woods on September 23, 2007 on districts.

Commissioner Etheridge encouraged everyone to support school football games. He also requested a review of PUD and PRD in the UDO.

Commissioner Bowden stated that the county needed more diversity of business in the county.

Commissioner Gregory stated that PUD and PRD should not be allowed on the mainland.

Chairman Nelms reported on the successful sports show over the weekend and more than \$10,000 was raised for charity.

**County Manager's Report**

County Manager Scanlon stated that bids would be received on the new Knotts Island Fire Station at the end of the month.

There being no further business, the meeting adjourned.