NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CVS 334

FILED
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C.S.C.

SWAN BEACH COROLLA, L.L.C., OCEAN ASSOCIATES, LP, LITTLE NECK TOWERS, L.L.C., GERALD FRIEDMAN, NANCY FRIEDMAN, CHARLES S. FRIEDMAN, 'TIL MORNING, LLC, and SECOND STAR, LLC,

Plaintiffs,

v.

COUNTY OF CURRITUCK; THE CURRITUCK COUNTY BOARD OF COMMISSIONERS; and JOHN D. RORER, MARION GILBERT, O. VANCE AYDLETT, JR., H.M. PETREY, J. OWEN ETHERIDGE, PAUL MARTIN, And S. PAUL O'NEAL as members of The CURRITUCK COUNTY BOARD OF COMMISSIONERS,

Defendants.

AFFIDAVIT OF DANIEL F. SCANLON, II AND BEN WOODY

NOW COME the Affiants, Daniel F. Scanlon, II, and Ben Woody after having been first duly sworn, and having personal knowledge of the facts stated herein, and state:

1. I, Daniel F. Scanlon, II, am the County Manager of Currituck County, North Carolina and have been serving in the position of County Manager since 2001.

2. I have read and am familiar with the county's Answer filed in this matter,

incorporated herein by reference, and the responses in the Answer are true of my own knowledge, except as to the matters stated upon information and belief and as to those matters I believe them to be true.

3. I, Ben Woody, am the Director of Planning and Community Development of Currituck County, North Carolina and have been serving in the position of Director of Planning and Community Development since 2007. I have read and am familiar with the county's Answer filed in this matter, incorporated herein by reference, and the responses in the Answer are true of my own knowledge, except as to the matters stated upon information and belief and as to those matters I believe them to be true.

4. Attached to this Affidavit as Exhibit A is the duly adopted Currituck County Subdivision Ordinance with effective date of August 2, 1965, (the "1965 Subdivision Ordinance").

5. As provided by Article I of the 1965 Subdivision Ordinance, the purpose of the ordinance ". . . is **to regulate and control the subdivision of land** within the limits of Currituck County in order to promote the public health, safety and general welfare of the community "**. . . and to facilitate the further resubdivision of larger tracts into small parcels of land**." [Emphasis added]. The 1965 Subdivision Ordinance did not provide for or regulate the use of land.

Subdivision" is defined in Article XI of the 1965 Subdivision Ordinance as follows:

> A "subdivision" shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development and shall include all divisions of land involving the dedication of new street or a change in existing streets . . . .

Plat approval under the 1965 Subdivision Ordinance did not constitute approval of the use of land. The 1965 Subdivision Ordinance regulated the subdivision of land into different parcels or lots with distinct lot lines that allowed for the subsequent recordation and ownership of the parcels or lots of land created by approval of the subdivision plat.

6. Article IV of the 1965 Subdivision Ordinance provided that ". . . no permit be issued by any administrative agent of Currituck County for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved, unless and until the requirements set forth in this ordinance have been complied with and the same approved by the Planning Commission.

7. The 1965 Subdivision Ordinance required a two-step process consisting of preliminary and final plat approval. First, under Article XII, B(4) of the 1965 Subdivision Ordinance, Planning Commission approval of the preliminary plat was required and was authorization for the subdivider " . . . to proceed with the construction of the necessary improvements in preparation for submission of the final plat". Secondly, under Article XII, C the subdivider submitted a final plat to the Planning Commission after installation of improvements shown in the approved preliminary plat, If the Planning Commission found that the final plat was in compliance with the approved preliminary plat the Planning Commission then forwarded the final plat to the County Commissioners for final action. After review, the County Commissioners approved or disapproved the final plat. Approval of the final plat was authorization for the subdivider to file the plat with the Register of Deeds.

8. With an effective date of February 5, 1968 the Currituck County Board of Commissioners adopted the Currituck County Zoning Ordinance applicable to Moyock and Fruitville Townships in Currituck County, (the "1968 Zoning Ordinance"). Under Section 5 of the 1968 Zoning Ordinance "[t]he locations and boundaries of all zoning districts are shown on Zoning Maps which are hereby declared to be part of this ordinance." Swan Beach, Section 1 subdivision is located in Fruitville Township and upon information and belief was zoned in a Residential District.

9. Under Section 9.1 of the 1968 Zoning Ordinance no structure could be erected. structurally altered, converted, reconstructed, moved, placed or used and no land could be used except in compliance with the 1968 Zoning Ordinance. Such provisions included:

> a. Section 9.5 of the 1968 Zoning Ordinance providing that "[t]he Zoning officer shall not issue a zoning permit for any use, building, or purpose without written approval of any and all needed or proposed water supply and sewage disposal facilities from the District Health Office";
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> b. Section 11.3.1 of the 1968 Zoning Ordinance providing that "[n]o building, structure or part thereof designed or intended to be used for other than farm purposes shall be erected or structurally altered . . . nor shall any excavation or other land preparation be commenced nor shall land be used for non-farm purposes until a Zoning Permit therefor has been issued by the Zoning Officer."; and
>
> c. Section 11.3.2 of the 1968 Zoning Ordinance providing that "[e]ach application for a Zoning Permit shall include a plat in duplicate, drawn to a suitable scale, showing accurate dimensions of the lot to be used, accurate location and dimensions of the structure or mobile home to be erected, located or altered and such other information necessary for the enforcement of this ordinance. A statement of intended use of each lot, structure or mobile home shall be filed with each application."

Sections 9.5, 11.3.1 and 11.3.2 of the 1968 Zoning Ordinance are attached to this Affidavit as Exhibit B.

10. The plaintiffs never received written approval of any and all needed or proposed water supply and disposal facilities from the District Health Office as required by Section 9.5 of the 1968 Zoning Ordinance, a Zoning Permit issued by the Zoning Officer as required by Section 11.3.1 of the 1968 Zoning Ordinance and never submitted a Zoning Permit application with a plat in duplicate, drawn to scale, showing accurate dimensions of the lot to be used, accurate location and dimensions of the structure to be erected or located on the property or a statement of intended use of each lot as required by Section 11.3.2 of the 1968 Zoning Ordinance.

11. Attached to this Affidavit as Exhibit C is Section 6. Table of District Provisions showing the uses allowed in the zoning districts created under the 1968 Zoning Ordinance. The types of land uses that the plaintiffs claim they want to locate within Swan Beach, Section 1 were not land uses permitted under the 1968 Zoning Ordinance in any zoning district.

12. Under the 1965 Subdivision Ordinance the Currituck County Board of Commissioners approved a plat for the subdivision of land on September 2, 1969 entitled in part "Swan Beach, Section 1, Currituck County, North Carolina" for the property owned by Ocean Front Association and Ocean Swan Corporation. A true copy of the subdivision plat is attached to the Plaintiffs' Amended Complaint as Exhibit A.

13. The approval of the plat for the subdivision of Swan Beach Section 1 was not county approval of any land use as shown by the certificate on the face of the plat signed by the owner of Swan Beach Section 1 on August 4, 1969 which reads:

> We hereby certify that we are the owners of the property shown and described hereon and that we hereby adopt this **plan of subdivision**

> with our free consent establish the minimum building lines, and dedicate all streets, alleys, walks, parks and other open spaces to Public or Private use as noted. Further, we certify that the **land shown hereon is within the Subdivision Regulations Jurisdiction** of the County Commissioners of Currituck County; [Emphasis added].

and the certificate on the face of the plat signed on behalf of Currituck County on September 2, 1969 which reads:

> I hereby certify that **the subdivision plat** shown hereon has been found to comply **with the subdivision regulations** for Currituck County, with the exceptions of such variances, if any, as are noted in the minutes of the County Commissioners and that it has been approved for recording in the office of the Register of Deeds. [Emphasis added].

14. With an effective date of October 7, 1971, and after proper notice and public hearing, the Currituck County Board of Commissioners adopted a Zoning Ordinance, (the "1971 Zoning Ordinance"), and associated Zoning Map. The plaintiffs' property was placed in the RA-20 (Residential-Agricultural) Zoning District. The RA-20 Zoning allowed limited business or commercial uses of property as shown by Section 90-A of the 1971 Zoning Ordinance attached to this Affidavit as Exhibit D.

15. In paragraph 47 of their Amended Complaint, the plaintiffs state that ". . . in or around September 2004, Swan Beach desired to develop a convenience store, real estate offices, a post office and similar uses on the Business Lots." Although the particular uses planned by the plaintiffs were not permitted in the RA-20 Zoning District some business uses were allowed under Section 90-A of the 1971 Zoning Ordinance including customary home occupations such as dress making, cooking and baking, hairdressing and music instruction, backyard workshops for building tradesmen and

small appliance repair shops, kindergartens and day nurseries, mobile home parks, rest and convalescent homes and temporary sawmills.

16. In 1975, and after proper notice and public hearing, the Currituck County Board of Commissioners adopted a Zoning Ordinance, (the "1975 Zoning Ordinance"), and associated Zoning Map. The plaintiffs' property was placed in the R-20 Residential Zoning District. The R-20 Residential Zoning District allowed residential, institutional and office uses of property to include country clubs including swim and racquet clubs, golf courses and offices for engineers, surveyors, doctors, dentists, architects and accountants but did not allow general business or commercial uses of property as shown by Section 2-3 of the 1975 Zoning Ordinance attached to this Affidavit as Exhibit E.

17. On November 15, 1982, and after proper notice and public hearing, the Currituck County Board of Commissioners adopted a Zoning Ordinance, (the "1982 Zoning Ordinance"), and associated Zoning Map. The plaintiffs' property was placed in the R-30 Residential Zoning District. The R-30 Residential Zoning District allowed residential, institutional, limited agricultural and limited lodging uses of property to include crabshedding, bed and breakfast, hunting and fishing lodges, golf courses and professional offices as shown by Section 203.d. of the 1982 Zoning Ordinance attached to this Affidavit as Exhibit F.

18. With an effective date of April 2, 1989, and after proper notice and public hearing, the Currituck County Board of Commissioners adopted the Currituck County Unified Development Ordinance, (the "UDO"), and associated Zoning Map. The plaintiffs' property was placed in the RO2 Zoning District. The RO2 Zoning District

allowed residential and limited office and institutional uses of property to include homes for handicapped, aged or infirm, home occupations, privately owned outdoor recreational facilities, horseback riding stables, temporary construction and sales offices, and marinas but did not allow general business or commercial uses of property as shown by the Table of Permitted Uses attached to this Affidavit as Exhibit G.

19. With an effective date of November 16, 1992, and after proper notice and public hearing, the Currituck County Board of Commissioners adopted the Currituck County Unified Development Ordinance, (the "UDO"), and associated Zoning Map. The plaintiffs' property was placed in the RO2 Zoning District. The RO2 Zoning District allowed residential and limited office and institutional uses of property to include family care homes for the handicapped, home occupations, professional offices, privately owned recreational facilities, horseback riding schooling and boarding, temporary construction and sales offices and marinas but did not allow general business or commercial uses of property as shown by the Table of Permitted Uses attached to this Affidavit as Exhibit H.

20. With an effective date of September 4, 2007, and after proper notice and public hearing, the Currituck County Board of Commissioners adopted the Currituck County Unified Development Ordinance, (the "UDO"), and associated Zoning Map. The plaintiffs' property was placed in the RO2 Zoning District. The RO2 Zoning District allowed residential and limited office and institutional uses of property to include marinas, professional offices, public campgrounds, horseback riding schools and boarding, and temporary construction and sales offices but did not allow general

business or commercial uses of property as shown by the Table of Permitted Uses attached to this Affidavit as Exhibit I.

21. With an effective date of January 1, 2013, and after proper notice and public hearing, the Currituck County Board of Commissioners adopted the Unified Development Ordinance of Currituck County, (the "UDO"), and associated Zoning Map. The plaintiffs' property was placed in the Single-Family Residential Outer Banks Remote (SFR) Zoning District. The Single-Family Residential Outer Banks Remote (SFR) Zoning District allows residential and limited institutional uses of property <u>to include family care homes</u> but does not allow commercial or industrial uses of property as shown by UDO Section 4.1.2 Use Table attached to this Affidavit as Exhibit J.

22. On April 30, 2002 plaintiff Ocean Associates recorded boundary surveys recombining plaintiffs' property into differently sized and configured lots. The plats are attached to the Amended Complaint as Exhibits B and C. Under N.C. Gen. §153A-335 subdivision plats exempt from subdivision approval under a county's subdivision regulations include:

> The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its **subdivision regulations**. [Emphasis added].

23. The county's Map Review Officer, Jerry Rapp, reviewed the plats as required by statute prior to recordation and his certification that ". . . the map or plat to which this certification is affixed meets all statutory requirements for recording" authorized the filing of the subdivision plat but in no way approved any use of land.

24. On August 1, 2003 plaintiff Swan Beach Corolla, LLC recorded a plat entitled "Recombination – Minor Subdivision". The plat is attached to plaintiffs' Amended Complaint as Exhibit D.

25. On the face of the August 1, 2003 plat is a "Certificate of Ownership and Dedication" executed by plaintiff Gerald F. Friedman as manager of Swan Beach Corolla, LLC that reads in part:

> I hereby certify that I am the owner of the property described hereon, which property is located within the **subdivision regulation jurisdiction** of Currituck County, that I hereby freely adopt this **plat of subdivision** and irrevocably dedicate to public use all area shown on this plat as easements except those specifically indicated as private and that will maintain all such areas until the offer of dedication is accepted by the appropriate public authority, or a private road maintenance agreement is executed by all property owners in **this minor subdivision**. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such use is approved by the appropriate public authority in the public interest. [Emphasis added].

26. Contained on the face of the August 1, 2003 plat "freely adopted" by Swan Beach Corolla, LLC upon execution by its manager Gerald F. Friedman is "Note 7" that states "Property Zoning RO2", a residential zoning district.

27. On August 15, 2003 plaintiff Swan Beach Corolla, LLC recorded a "Recombination Plat". The plat is attached to plaintiffs' Amended Complaint as Exhibit E.

28. The August 15, 2003 "Recombination Plat" were exempt from the county's subdivision regulations under N.C. Gen. §153A-335 referenced above. The county's Map Review Officer, Cheryl Egger, reviewed the plat as required by statute prior to recordation and her certification that ". . . the map or plat to which this certification is affixed meets

all statutory requirements for recording" authorized the filing of the recombination subdivision plat but in no way approved any use of land.

29. Contained on the face of the August 15, 2003 plat is "Note 5" that states "Property Zoning RO2 (Outer Banks Residential)".

30. After recording the August 1, 2003 and August 15, 2003 recombination plats Plaintiff Swan Beach Corolla, LLC never applied for issuance of a required zoning permit for use of its property, never applied for issuance of a required health department permit and never applied for issuance of a building permit required to construct any building for use on its property.

31. On February 27, 2004 plaintiff Swan Beach Corolla, LLC submitted an application to rezone 18.88 acres of Swan Beach Corolla, LLC property from Outer Banks Limited Access Residential (RO2) Zoning District to General Business (GB) Zoning District. Swan Beach Corolla, LLC's application came before the Currituck County Planning Board on April 13, 2004. After hearing the application the Currituck County Planning Board voted unanimously to recommend denial of the application. A copy of the relevant portion of the April 13, 2004 Currituck County Planning Board minutes are attached to this Affidavit as Exhibit K. The application and Currituck County Planning Board recommendation was forwarded for consideration by the Currituck County Board of Commissioners at its May 3, 2004 meeting.

32. On April 23, 2004 the General Counsel for Twiddy and Company, Jeff Malarney, who was believed to be working with plaintiff Swan Beach Corolla, LLC on its rezoning request asked Currituck County Planner Shelly Cox by e-mail to remove Swan Beach

Corolla, LLC's rezoning application from the May 3, 2004 meeting of the Currituck County Board of Commissioners and return the application to the June 8, 2008 Currituck County Planning Board meeting. As requested the rezoning application was removed from the May 3, 2004 meeting of the Currituck County Board of Commissioners. A copy of Jeff Malarney's email is attached to this Affidavit as Exhibit L.

33. On October 29, 2004 plaintiff Swan Beach Corolla, LLC applied for a zoning text amendment to the county's UDO to create an "Off Road Historic Village Commercial Overlay District" and an application to rezone 25.77 acres of Swan Beach Corolla, LLC's property from RO2 Zoning District to Off Road Historic Commercial Overlay District if the text amendment was first adopted.

34. Plaintiff Swan Beach Corolla, LLC's text amendment and rezoning applications were placed on the December 14, 2004 Currituck County Planning Board agenda for consideration. The zoning text amendment requested by Swan Beach Corolla, LLC would have provided for a 42 foot building height limitation allowing only the following permitted uses:

Post Office
Fire/Emergency Medical/Sheriff's Satellite Office (County leased facilities)
Churches, Synagogues, and Temples
Convenience Stores
Inn (not to exceed 50 bedrooms)
Real Estate Offices
Professional Offices

and with conditional use permit only the following uses:

Retail Shops
Seafood Market
Theatres

> Outdoor recreation areas including parks, picnic areas, nature trails, bridal paths, riding stables, playgrounds, boat ramps, and customary concessions connected therewith
> Restaurants without drive-through window service but with facilities for indoor seating and consumption of food and/or beverages.

Swan Beach Corolla, LLC's did not request in its zoning text amendment the ability to use its property for multi-family residential, or condo-hotel, use or a height limitation that would allow for the construction of a five story building.

On December 13, 2004 Swan Beach Corolla, LLC requested that its applications be removed from the December 14, 2004 agenda and the request was granted.

35. Plaintiff Swan Beach Corolla, LLC's text amendment and rezoning applications came on for hearing before the Currituck County Planning Board on April 12, 2005. At the hearing on Swan Beach Corolla, LLC's zoning text amendment Currituck County planning staff recommended denial of the zoning text amendment expressing concern that approval of the zoning text amendment and zoning request would create an increase of traffic on the beach, that the Currituck County Fire Marshal was concerned about available water for fire suppression and North Carolina State Building Code provision restricting the height of commercial buildings to 35 feet when there is no available aerial fire apparatus, a boundary line discrepancy with U.S. Fish and Wildlife property, location of the property in a 100 year flood plain and the need for an environmental impact study to determine impact of stormwater, wastewater treatment and the effect of the Coastal Barrier Resource System Zone on the proposed development. During the hearing nine people spoke against recommending the text amendment for approval as follows:

> Gene Snow, co-director of Corolla Wild Horse fund, said that this will open the door to commercial development and the horses will be eliminated. The horses

have been designated as a NC cultural resource. They have nowhere else to go, they have been pushed to the outer limits;

Tom Hudak, President of Swan Beach property owner's assn., spoke on behalf of the membership of the association. 97% of the people are in agreement to preserve the area as is and spoke against the amendment;

Ron Darrow, resident of Carova Beach, said he and his wife wanted to see the area stay as it is as well. He is afraid that this will be the first of many commercial developments in this area, and spoke against the amendment;

Nyla Johnson, Corolla Wild Horse fund, lives in Moyock and works at the beach. She spoke against the proposed amendment and the preservation of the horses;

Gene Walters, resident, spoke against the amendment;

Doris Jordan, Norfolk, spoke about the beautiful environment and spoke against the amendment. She said the investors are the only ones who will benefit from this proposal and the environment is the issue, not the money that will be made;

Carl Newton, resident of Swan Beach, spoke against the amendment and for the preservation of the environment in the area;

Linda Spencer, resident, spoke against the amendment; and

Bill Vann, Fire Chief of Carova Beach Volunteer Fire Department serving Swan Beach, said a letter was written by the fire department expressing concerns about fire issues. The fire department cannot get high enough in the air in the event of a fire and wonders if the developer or the county is willing to provide manpower to this area.

At the conclusion of the hearing on the zoning text amendment, the Currituck County Planning Board voted unanimously to recommend denial.

The Currituck County Planning Board then conducted a hearing on Swan Beach Corolla, LLC's rezoning application. At the hearing on the rezoning application Currituck County planning staff recommended denial of the rezoning application because the closest publicly maintained road is four miles south of the property, concerns for the increase in traffic and safety of the recreating public on the beach, the lack of public

services such as water and sewer available to the property and the rezoning was not consistent with the Land Use Plan of 1990. At the conclusion of the hearing on Swan Beach Corolla, LLC's rezoning application the Currituck County Planning Board voted unanimously to recommend denial.

A copy of the relevant portion of the minutes from the April 12, 2005 Currituck County Planning Board meeting are attached to this Affidavit as Exhibit M.

36. Following its recommendation of denial for both plaintiff Swan Beach Corolla, LLC applications the Currituck County Planning Board forwarded the applications to the May 2, 2005 meeting of the Currituck County Board of Commissioners for consideration. Prior to the Currituck County Board of Commissioners May 2, 2005 meeting, Swan Beach Corolla, LLC requested that consideration of its zoning text and rezoning applications be removed from the agenda and the request was granted.

37. Not until November 2008 did plaintiff Swan Beach Corolla, LLC placement of the zoning text and rezoning applications on an agenda of the Currituck County Board of Commissioners for consideration. Although over three and one-half years had elapsed the county did not require Swan Beach Corolla, LLC to submit a new application or reappear before the Currituck County Planning Board and placed consideration of the applications on the agenda for the November 17, 2008 meeting of the Currituck County Board of Commissioners.

38. On November 17, 2008 the Currituck County Board of Commissioners held a hearing on plaintiff Swan Beach Corolla, LLC's zoning text amendment application. At the hearing Currituck County Planning Department staff recommended denial of the

application for the reasons presented to the Currituck County Planning Board on April 12, 2005. The Currituck County Planning Board's unanimous recommendation for denial of the zoning text amendment was also presented. At the hearing three people spoke in favor and twenty people spoke against approving the zoning text amendment as follows:

Rick Carstater, opposed the request;

Elizabeth White, opposes the request and presented a signed petition from residents and tourists;

Lynne Wilson, stated this request was not consistent with the Land Use Plan and opposes the amendment;

Debra Ianucci, opposes the request;

Jane Overstreet, opposes the request;

Kim Hoey, opposes the request with traffic concerns;

Edna Baden, opposes the request;

Rufus Baldwin, opposes the request;

Karen McCalpin, expressed concerns with wild horses and opposed the request;

Bob White, Swan Beach Property Owners Association, opposes the request;

Cary Browning, opposes the request;

Jan DeBlieu, Coastal Federation opposes the request;

Bob Wright, opposes the request;

Woody Archer, opposes the request;

Mike Hoff, US Fish & Wildlife, opposes the request;

Richard Baecher, opposes the request;

Bob Schultz, opposes the request;

Marie Baecher, opposes the request;

Marshall Cherry, opposes the request due to fire and EMS service; and

Vance Aydlett, opposes the request.

Following the public hearing for Swan Beach Corolla, LLC's zoning text amendment application, the Currituck County Board of Commissioners voted unanimously to deny the zoning text amendment application because denial of the zoning text amendment was consistent with the Land Use Plan, reasonable and in the public interest. The Currituck County Board of Commissioners then deleted Swan Beach Corolla, LLC's rezoning application from the agenda because the rezoning application was dependent on the passage of the zoning text amendment application. A copy of the relevant portion of the minutes for the November 17, 2008 Currituck County Board of Commissioners' meeting is attached to this Affidavit as Exhibit N.

39. On December 22, 2009 plaintiff Swan Beach Corolla, LLC submitted applications to rezone its properties from the Outer Banks Limited Access Residential (RO2) Zoning District to the Conditional District – General Business (CD-GB) Zoning District. The uses proposed in the application were an inn containing 302 units with accessory neighborhood commercial uses not to exceed 19,200 square feet of gross floor space, wellness center, indoor pool, and fishing pier.

40. Plaintiff Swan Beach Corolla, LLC's rezoning application was considered by the Currituck County Planning Board on February 9, 2010. At the hearing Currituck County Planning staff recommended denial of the rezoning application because the proposed request was not consistent with Currituck County Land Use Plan, the proposed uses were incompatible with the surrounding area adjacent to the Currituck National Wildlife

Refuge and within the Swan Beach residential subdivision, the proposed uses would encourage commercial development in the off-road area of the county and the proposed fishing pier would require moving vehicular traffic from the beach foreshore to interior residential neighborhood streets which was inconsistent with the Currituck County Land Use Plan. During the hearing seven people spoke in favor of a denial recommendation as follows:

> Ms. White stated she is a resident of Swan Beach and the president of the Swan Beach Property Association. The members of the Swan Beach Property Association are against the conditional rezoning request and are in agreement with staff recommendations for denial. Ms. White stated this request will lead to incompatible and disruptive activity and will be detrimental to the general welfare, safety, health and well-being of their community. The community is not requesting any of the services in this proposal. The Swan Beach Property Association is asking that the board deny this request.
>
> Ms. Lanucci stated she is property owner in Swan Beach and is against the rezoning request because it is a drastic change in the landscape of Swan Beach.
>
> Ms. Daniels stated she hopes the board will deny this request and leave it like it is. It has worked in the past and hopefully will work in the future.
>
> Mr. Albrecht stated he is against the rezoning request because of the lack of an adequate infrastructure, septic systems, and not in harmony with residential nature of the community.
>
> Mr. Cherry stated he is the former president of the Swan Beach Property Association. Mr. Cherry stated he lives in a house that had been moved and if the pier was built this would eliminate the ability to do this. Mr. Cherry stated this project is not in harmony with the residential nature of the community and asking that the board deny the request.
>
> Mr. Lampy asked the board to deny this request.

Following the hearing the Currituck County Planning Board voted unanimously to recommend denial of the rezoning applications and forwarded consideration of the

applications to the March 1, 2010 meeting of the Currituck County Board of Commissioners. A copy of the relevant portion of the minutes for the February 9, 2010 meeting of the Currituck County Planning Board is attached to this Affidavit as Exhibit O.

41. By email on February 18, 2010 plaintiff Swan Beach Corolla, LLC requested through its attorney J. Bryan Plumlee continuance of Swan Beach Corolla, LLC's rezoning applications to the May 3, 2010 meeting of the Currituck County Board of Commissioners to give Swan Beach Corolla, LLC time to hold a community meeting about its rezoning applications. Swan Beach Corolla, LLC's request was granted. A copy of the email from Swan Beach Corolla, LLC's attorney is attached to this Affidavit as Exhibit P.

42. By email dated April 5, 2010 plaintiff Swan Beach Corolla, LLC's attorney requested that the consideration of Swan Beach Corolla, LLC's rezoning applications again be delayed and considered at a June, 2010 meeting of the Currituck County Board of Commissioners. Once again the county granted Swan Beach Corolla, LLC's request and was placed on the June 7, 2010 meeting agenda for the Currituck County Board of Commissioners. A copy of the email from Swan Beach Corolla, LLC's attorney is attached to this Affidavit as Exhibit Q.

43. By email dated June 6, 2010 plaintiff Charles S. Friedman on behalf of plaintiff Swan Beach Corolla, LLC requested that Swan Beach Corolla, LLC's rezoning applications be withdrawn from consideration. Swan Beach Corolla, LLC's request was granted. A copy of Charles S. Friedman's email is attached to this Affidavit as Exhibit R.

44. By certified letter dated June 7, 2010 plaintiffs Charles S. Friedman and Nancy

Friedman, as managers of the applicant Swan Beach Corolla, LLC were informed by Currituck County Planning Director Ben Woody that the Swan Beach Corolla, LLC rezoning applications were formally withdrawn and pursuant to the UDO a resubmission of a zoning amendment for its properties could not be submitted prior to December 22, 2010. A copy of Planning Director Ben Woody's June 7, 2010 letter is attached to this Affidavit as Exhibit S.

45. On February 4, 2011 Charles S. Friedman on behalf of plaintiff Swan Beach Corolla, LLC emailed Currituck County Planning Director Ben Woody and Clerk to the Board Gwen Keene stating that Swan Beach Corolla, LLC did not withdraw its applications from consideration on June 6, 2010 but only wanted the applications withdrawn from the June 7, 2010 meeting of the Currituck County Board of Commissioners. On February 7, 2011 plaintiff Charles S. Friedman appeared on behalf of Swan Beach Corolla, LLC and requested that the Currituck County Board of Commissioners allow placement of its December 22, 2009 rezoning applications on a future Currituck County Board of Commissioners' agenda for consideration as it did not intend to withdraw its application on June 6, 2010. The Currituck County Board of Commissioners approved Swan Beach Corolla, LLC's request by a vote of 6-0 and allowed the matter to be scheduled for the board's March 21, 2011 meeting for consideration thus not requiring submittal of applications or review by the Currituck County Planning Board. A copy of Charles S. Friedman's email is attached to this Affidavit as Exhibit T and a copy of the relevant portion of the minutes from the February 7, 2011 meeting of the Currituck County Board of Commissioners is attached to this Affidavit as Exhibit U.

46. By email dated February 21, 2011 plaintiff Charles S. Friedman on behalf of Swan Beach Corolla, LLC requested that consideration of Swan Beach Corolla, LLC's rezoning applications be moved from the March 21, 2011 meeting of the Currituck County Board of Commissioners to the board's second meeting in May, 2011. A copy of Charles S. Friedman's email is attached to this Affidavit as Exhibit V.

47. The Currituck County Board of Commissioners considered plaintiff Swan Beach Corolla, LLC's rezoning applications at its May 16, 2011 meeting. Swan Beach Corolla, LLC presented a May 6, 2011 modification of the proposed land uses presented to the Currituck County Planning Board on February 9, 2010. Swan Beach Corolla, LLC presented the following proposed land uses to the Currituck County Board of Commissioners:

a. Inn/lodging units with a maximum lodging density of 294 units/bedrooms and accessory uses to include a wellness center, indoor/outdoor pool and boardwalk;

b. Neighborhood village commercial of 19,200 square feet of first floor space to include office, services, retail, recreation and entertainment;

c. Two acres to be rented to the exiting illegal businesses located in the four-wheel drive area;

d. Wastewater shall be provided per county policy;

e. Stormwater to be managed using LID/Best Management practice techniques;

f. Parking areas shall not be paved;

g. Removal of helipad and fishing pier as allowed uses.

The Currituck County Planning staff recommended that the Currituck County Board of Commissioners deny Swan Beach Corolla, LLC's rezoning application for the following reasons:

1. The proposed request is not consistent with the Carova Sub-Area Policy Emphasis and is not in keeping with the density requirements and community character emphasis of the Limited Service designation of the 2006 Land Use Plan.

2. The proposed uses and development plan does not promote compatibility between the subject property and surrounding area. The proposed inn and neighborhood commercial development is adjacent to the Currituck National Wildlife Refuge and within the Swan Beach residential subdivision. (LUP Policy CD5).

3. The intensity of the proposed uses and development plan will encourage commercial services in the off-road area. (LUP Policy OB6, Limited Service designation)

Outstanding Staff Concerns: The conditional zoning process provides an opportunity for an applicant to propose use limitations or development conditions that ensure development proposals are consistent with the policies set forth in adopted plans. Staff is concerned with the following issues not addressed in the application or development plan.

1. There appears to be a slight discrepancy in the calculated acreage of the request. The property acreages identified on the applications do not match the narrative.

2. Vehicular access in this remote area of the county is often affected by uncontrollable environmental conditions such as tides, shifting sands, high water table, localized flooding, lack of maintenance, and ocean over wash. In addition, encouraging an increase of daily and weekly visitors who expect public services could contribute to an inability to provide adequate public services in this remote area of the county. (LUP Policy PP2).

3. The property is located in a COBRA (Coastal Barriers Resource Act) area or otherwise protected areas as identified by the federal government. The COBRA prohibits the sale of NFIP flood insurance for structures built within the protected area, and federal money may not be spent in this area that would stimulate development. A majority of the development is located within a VE (coastal high hazard area) flood zone. All construction

within the coastal high hazard area as shown on the Flood Insurance Rate Maps shall be constructed to V-zone construction standards.

4. The property is located in an area of the county identified by NC Division of Coastal Management with significant erosion rates of between 6.5 – 7.5 feet per year. The property south of the proposed development is identified as one of the highest erosion rates in the county (8.5 feet per year).

5. All structures should be constructed in a manner so as to blend in with the character of the area taking into consideration height, size, exterior materials, windows, doors, and other related exterior features. All applications should be accompanied by building elevations of proposed structures and a lighting plan.

6. Staff requests further clarification on the extended stay units within the inn and the existing dwelling units including items such as intended ownership, management, and how the units will meet the UDO definition of Hotels and Motels. Staff commentary: The units will not be sold and will remain under single ownership. A management company will oversee the entire resort.

7. The northern property line is adjacent to the Currituck National Wildlife Refuge, natural heritage area. A report that identifies the environmental impacts of the proposed development to the natural plants and animals inventoried and catalogued by the NCDENR Natural Heritage Program shall be provided. Specific areas identified with significant habitat should be preserved and protected, and environmental impacts shall be reduced by adequate buffers and vegetation. No land disturbing activities shall occur within the buffer, and existing vegetation shall be preserved within the buffer. A plan and report shall be provided with the site plan submittal that adequately buffers and protects the environmentally sensitive areas.

8. Michael J. Hoff, Refuge Manager for the Currituck National Wildlife Refuge, reviewed the proposed plans and provided concerns for the proposed project on February 16, 2010. The concerns are as follows:

i. A helicopter landing pad is approximately 250 feet from the boundary of the refuge. Federal law regarding aircraft usage around refuges discourages operation that may result in the harassment of wildlife. While the 250 foot buffer may be sufficient for landing the helicopter, approaches to the pad could be over the refuge at levels lower than recommended by the Federal Aviation Administration.

ii. The proposal places a new road immediately adjacent to approximately 2,500 linear feet of refuge. Currently, vehicular trespass on the refuge behind the frontal dune is minimal due to the impassable nature of these front line dunes. Creating an access route to the secondary dunes would provide direct access to a dune system with no natural barrier. Vehicular trespass on the sensitive, and in some cases, rare ecotypes of the refuge would likely increase and cause irreparable harm to the refuge habitat types.

iii. Currently, the hydrologic flow of subsurface water is not well understood. Special care should be taken during the design phase of this project to ensure adequate septic systems to protect refuge subsurface resources.

iv. Many of our trust resources rely on the shallow wetland basins found on the refuge as a source for fresh water. Special care should be taken during the well field design phase of this project to ensure a subsurface cone of depression does not form that may ultimately drain these surface wetlands. Loss of these wetlands would negatively impact the refuges plant and animal communities.

During the hearing 16 people spoke against Swan Beach Corolla, LLC's rezoning application as follows:

Lars Simonsen, Attorney for Swan Beach Property Owners Association, stated that his clients are opposed to the rezoning request for many reasons. The applicant's proposal would be to change the zoning for only this specific property to "commercial," thereby allowing development of the property in a manner that is inconsistent with the surrounding area, and both prohibited by an incompatibility with the current zoning. They are also asking the county to do illegal spot zoning.

Mr. Simonsen, asked for the people in attendance to stand up if they oppose this rezoning. Majority in attendance stood up against the request.

Sarah McClellan, 4th grade student, requested the Board to save the wild horse habitat.

Elizabeth White, Swan Beach, presented an historical review from her father of the area and opposes the request.

Debra Ianucci, Swan Beach, opposes the request.

Mike Long, Ocean Pearl, opposes the request.

Jane Overstreet, Swan Beach, commented on the impact on the neighborhood and opposes the request.

Lynne Wilson, commented on the eco system and the challenge it poses for the area. She opposes the request.

J.P. Peron, Carova Beach Volunteer Fire Department, commented on the funding and that there is not a paid fire service for the area and opposes the request.

Kim Hadrava, Swan Beach Property Owners Association, opposes the request.

Herbert Curry, Senior Consultant, Washington DC, reviewed the cost to provide services, the negative impacts and this project was not a long term benefit.

Kelly Peters, Knotts Island, opposes the rezoning.

Karen McCalpin, Wild Horse Foundation, commented on the State Horse and protecting the wild horses and opposes the request.

John Howland, opposes the request.

Lillie Daniels, Wanchese, opposes the request.

Janet Rose, commended the Planning staff and Mr. Woody for their work and opposes the request.

Kim Kenyon, opposes the request.

Following the public hearing the Currituck County Board of Commissioners voted unanimously to deny Swan Beach Corolla, LLC's rezoning applications because of its "inconsistency with the 2006 Land Use Plan and that the request is not reasonable and not in the public interest and does not promote orderly growth and development. A copy of the relevant portion of the minutes from the May 16, 2011 meeting of the Currituck County Board of Commissioners is attached to this Affidavit as Exhibit W.

48. During the last decade the county has received and responded to assertions

from attorneys for one or more of the plaintiffs that a vested right exists allowing use of the plaintiffs' property for commercial uses as follows:

a. By letter dated August 14, 2006 Swan Beach Corolla's attorney M.H. Hood Ellis claimed a vested right on behalf of Ocean Associates. Currituck County Planning Director Sarah E. Keifer responded by letter dated August 28, 2006 that "Business Area" marked on a plat did not vest use of the property for commercial purposes as the property is zoned RO2 which prohibits most nonresidential development. Copies of these letters are attached to this Affidavit as Exhibit X.

b. By letter dated July 6, 2009 attorney J. Bryan Plumlee on behalf of some or all of the plaintiffs noted the county's position that rezoning prohibits business or commercial use of the plaintiffs' property and that the county has considered and rejected plaintiff Gerald Friedman's request to develop plaintiffs' property for commercial activity. Currituck County Attorney Donald I. McRee, Jr. replied by letter dated July 212, 2009 stating that due to location in the RO2 Zoning District the plaintiffs' property could not be used for commercial purposes. The County Attorney further informed attorney Plumlee that the plaintiffs' had not exhausted their administrative remedies and that options to enable the plaintiffs' desired use of the property included text or zoning map amendments, request for interpretation of the county's ordinances and appeal from administrative interpretations. Copies of these letters are attached to this Affidavit as Exhibit Y.

c. By email dated October 1, 2009 Currituck County Senior Planner Donna Voliva wrote plaintiff Gerald Friedman's attorney J. Bryan Plumlee memorializing a September 29, 2009 meeting about proposed Swan Beach development. Donna Voliva advised that after review of a development proposal a Conditional District-General Business District designation would not allow multi-family units in the off road area and that the proposed development was inconsistent with Land Use Plan policies. Donna Voliva then suggested text amendment and rezoning steps necessary to accommodate the proposed development plan. J. Bryan Plumlee responded by email dated October 21, 2009 to inform that they would remove condominium use from the proposed development and asked staff to consider a site plan restricting bedrooms to be used as part of a bed and breakfast. Donna Voliva responded to

attorney Plumlee on October 22, 2009 to inform that a proposed inn would be consistent with hotel/motel use and require rezoning the property. A copy of these emails is attached to this Affidavit as Exhibit Z.

49. At no time in dealings with the plaintiffs and their applications for land development has any county commissioner, official, officer, agent or employee of the county considered the religious beliefs and practices of the plaintiffs or acted in a discriminatory way towards the plaintiffs because of their religious beliefs. Indeed, as stated in this affidavit the county commissioners, officials, agents and employees of the county have accommodated, advised and assisted the plaintiffs through each application submitted to the county. There is nothing in the record of this case that I have reviewed that shows any religious discriminatory conduct by any county commissioner, official, agent or employee in matters related to the plaintiffs.

50. The county has been responsive to each complaint filed by plaintiff Charles S. Friedman alleging unpermitted use of land in the county. Each complaint has been investigated and enforcement action taken to bring use of land into compliance if violation of the county's land use ordinances were discovered. At no time has plaintiff Charles S. Friedman appealed within the time required by county ordinances and state statutes interpretations, determinations or enforcement action taken in response to his complaints. Documents showing complaints received from Charles S. Friedman and action taken by the county are attached to this Affidavit as Exhibit AA.

51. Some or all of the plaintiffs have been actively engaged in the development of land in Currituck County for over 45 years. Some or all of the plaintiffs have regularly submitted land use applications and receive approval of land use regulations without

regard to anything other than that which is required by state and local land use laws. For example, some or all of the plaintiffs, or corporations in which one or more of the plaintiffs had an interest, have received county issued permits to develop the following projects:

North Point Subdivision, a 72 lot residential lot subdivision on Currituck mainland approved in 1988;

Cypress Point Subdivision, a 76 lot residential lot subdivision on Currituck mainland approved in 1988;

Moyock Commons Subdivision, conditional rezoning for Planned Residential Development with 49 single-family dwelling units and 34 townhome units on Currituck mainland approved in 2013;

Southridge Subdivision (Lakeview at Currituck), rezoning of 77 acres from Agriculture to Residential on Currituck mainland approved in 2006;

Southridge Subdivision (Lakeview at Currituck), a 146 residential lot and 2 commercial lot subdivision on Currituck mainland approved in 2009;

Ocean Hill Subdivision, a 113 lot residential subdivision on the Currituck Outer Banks in Corolla approved in 1978;

Villages at Ocean Hill Planned Unit Development, a 275 residential lot community on the Currituck Outer Banks in Corolla approved in 1989;

Whalehead Beach Subdivision, an 864 residential lot subdivision on the Currituck Outer Banks in Corolla approved in 1972;

Swan Beach Subdivision, a 540 residential lot subdivision on the Currituck Outer Banks in the off-road area approved in 1969;

Special Use Permit for Parking Lot Facility, a parking lot use adjacent to the Villages at Ocean Hill Planned Unit Development on the Currituck Outer Banks in Corolla approved in 2008 and amended approval in 2011;

Special Use Permit for Outdoor Recreational Facility, a ropes course tower and supporting facilities located in the commercial section of the Villages at Ocean Hill Planned Unit Development on the Currituck Outer Banks in Corolla approved in 2016.

52. Attached to this Affidavit as Exhibit BB and incorporated herein by reference are affidavits of former and current Currituck County Commissioners setting forth the reason why they voted to deny Swan Beach Corolla, LLC's 2008 zoning text amendment application and 2011 rezoning application.

53. Defendants' outstanding discovery request of the Plaintiffs are attached hereto as Exhibit CC.

Further affiants sayeth not.

This the 8 day of APRIL, 2016.

Daniel F. Scanlon, II

Sworn and subscribed before me
this 8th day of April, 2016.

Sandra L. Salimbene
Notary Public
Sandra L. Salimbene
Printed Name

My Commission expires: 05/01/2019

(NOTARIAL SEAL)

SANDRA L. SALIMBENE NOTARY PUBLIC MY COMMISSION EXPIRES 05/01/2019 CURRITUCK COUNTY, NC

Ben Woody

Sworn and subscribed before me
this 8th day of April, 2016.

Sandra L. Salimbene
Notary Public
Sandra L. Salimbene
Printed Name

My Commission expires: 05/01/2019

(NOTARIAL SEAL)

SANDRA L. SALIMBENE NOTARY PUBLIC MY COMMISSION EXPIRES 05/01/2019 CURRITUCK COUNTY, NC

EXHIBIT

tabbies

A

SUBDIVISION REGULATIONS
CURRITUCK COUNTY, N.C.

PREPARED FOR

CURRITUCK COUNTY, NORTH CAROLINA

COUNTY COMMISSION

H. D. Newbern, Chairman
Harold O. Capps
Herbert L. Waterfield
S. C. Doxey
Richard H. Ferrell

PLANNING COMMISSION

Jerry W. Hardesty, Chairman
Clifton Moore
Robert E. Ferrell
Tully B. Williams, Sr.

TECHNICAL ASSISTANCE

PROVIDED BY THE

NORTH CAROLINA

DEPARTMENT OF CONSERVATION AND DEVELOPMENT

DIVISION OF COMMUNITY PLANNING

COASTAL AREA OFFICE

June 1966

Price $ .50

WHEREAS, in the opinion of the Board of County Commissioners of Currituck County, it is necessary and advisable to provide for the orderly development of the County and its environs; for the coordination of streets within proposed subdivisions with existing or planned streets and with other public facilities; for dedication or reservation of rights-of-way or easements for streets and utility purposes; and for the distribution of population and traffic which shall avoid congestion and overcrowding, and which shall create conditions essential to public health, safety, and general welfare; and,

WHEREAS, pursuant to Chapter 153, Article 20A (1959) of the North Carolina General Statutes notice was duly given and public hearing held on the question of adoption of this ordinance, and all objections hereto being properly presented and considered; NOW, THEREFORE,

BE IT ORDAINED by the Board of County Commissioners of Currituck County, North Carolina.

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ARTICLE I
PURPOSE

The purpose of these regulations is to regulate and control the subdivision of land within the limits of Currituck County in order to promote the public health, safety and general welfare of the community. They are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to insure proper legal description and proper monumentation of subdivided land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewerage, parks, schools, playgrounds and other public requirements; and to facilitate the further resubdivision of larger tracts into small parcels of land.

ARTICLE II
JURISDICTION

On and after August 2nd, 1965 these regulations shall govern each and every subdivision of land lying within the county and outside the subdivision regulation jurisdiction of any municipality, and territory within the subdivision regulation jurisdiction of any municipality whose governing body by resolution agrees to such regulation.

ARTICLE III
AUTHORITY

Currituck County hereby exercises its authority to make and adopt subdivision regulations under provisions pursuant to Chapter 153, Article 20A of the General Statutes of North Carolina.

ARTICLE IV
SERVICE AND PERMITS

No street shall be recommended for acceptance for maintenance by the State Highway Commission nor shall any permit be issued by any administrative agent of Currituck County for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved, unless and until the requirements set forth in this ordinance have been complied with and same approved by the Planning Commission.

ARTICLE V
TERMS OF APPROVAL

The approval of a plat pursuant to regulations adopted under this Article shall not be deemed to constitute or effect the acceptance by the County or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat.

ARTICLE VI
PENALTIES

Any person who, being the owner or agent of the owner of any land located within the platting jurisdiction of Currituck County as defined herein, thereafter transfers or sells such land by reference to a plat showing a subdivision of land before such plat has been properly approved under this ordinance and recorded in the office of the Register of Deeds of Currituck County, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The County, through its County attorney or other official designated by the Board of County Commissioners, may enjoin such illegal transfer or sale by action for injunction.

ARTICLE VII
DUTY OF REGISTER OF DEEDS

Currituck County shall file a copy of this ordinance with the Register of Deeds of Currituck County. The Register of Deeds shall not thereafter file or record a plat of subdivision located within the platting jurisdiction of Currituck County without the approval of the legislative body as required in this ordinance. The landowner shown on a subdivision plat submitted for recording or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the platting jurisdiction of Currituck County as defined herein. The filing or recording of a plat of a subdivision without the approval of the legislative body as required by this ordinance, shall be null and void. The Clerk of Superior Court of Currituck County shall not order or direct the recording of a plat where such recording would be in conflict with this section.

ARTICLE VIII
SEPARABILITY

Should any section or provision of these regulations be for any reason held void or invalid, it shall not affect the validity of any other section or provision hereof which is not itself held void or invalid.

ARTICLE IX
COMPLIANCE WITH OFFICIAL PLANS

Wherever a tract to be subdivided embraces any part of a major thoroughfare, parkway or boulevard designated in the Official Maps and Plans for Currituck County, such part of such proposed public way shall be platted and dedicated by the subdivider in the location and at the width specified.

A. To insure orderly development of the county in accordance with the general principles set forth in the development plan, it is recommended that the subdivider reserve open spaces for parks, schools, fire stations

and playgrounds for a period of six (6) months from the date of submission of the preliminary plat.

ARTICLE X

EXCEPTIONS AND VARIATIONS

Where topography or other existing physical conditions are such that compliance with all of the requirements of Article XIII of this ordinance would cause an unusual and unnecessary hardship on the subdivider above and beyond what other subdividers would meet, the Planning Commission may vary the minimum requirements set forth herein, provided that such variation will not have the effect of nullifying the interest and purpose of these regulations. Where a variation is accepted the reasons for such shall be noted in the minutes of the Planning Commission.

A. The standards and requirements of this ordinance may be modified by the Planning Commission in the case of a plan and program for a complete group development, which in the judgment of the Planning Commission provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

ARTICLE XI

DEFINITIONS

For the purpose of these regulations certain words used herein are defined as follows:

A. SUBDIVISION: A "subdivision" shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the regulations prescribed by this ordinance:

(1) The combination or re-combination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown by the regulations prescribed by this ordinance.

(2) The division of land into parcels greater than five acres where no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets;

(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the County, as shown by the subdivision regulations contained in this ordinance.

B. SUBDIVIDER: Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

C. OFFICIAL MAPS OR PLANS: Any maps or plans officially adopted by the County Commissioners as a guide for the development of the County consisting of maps, charts and texts.

D. THOROUGHFARE: A thoroughfare shall mean or include all streets except residential streets.

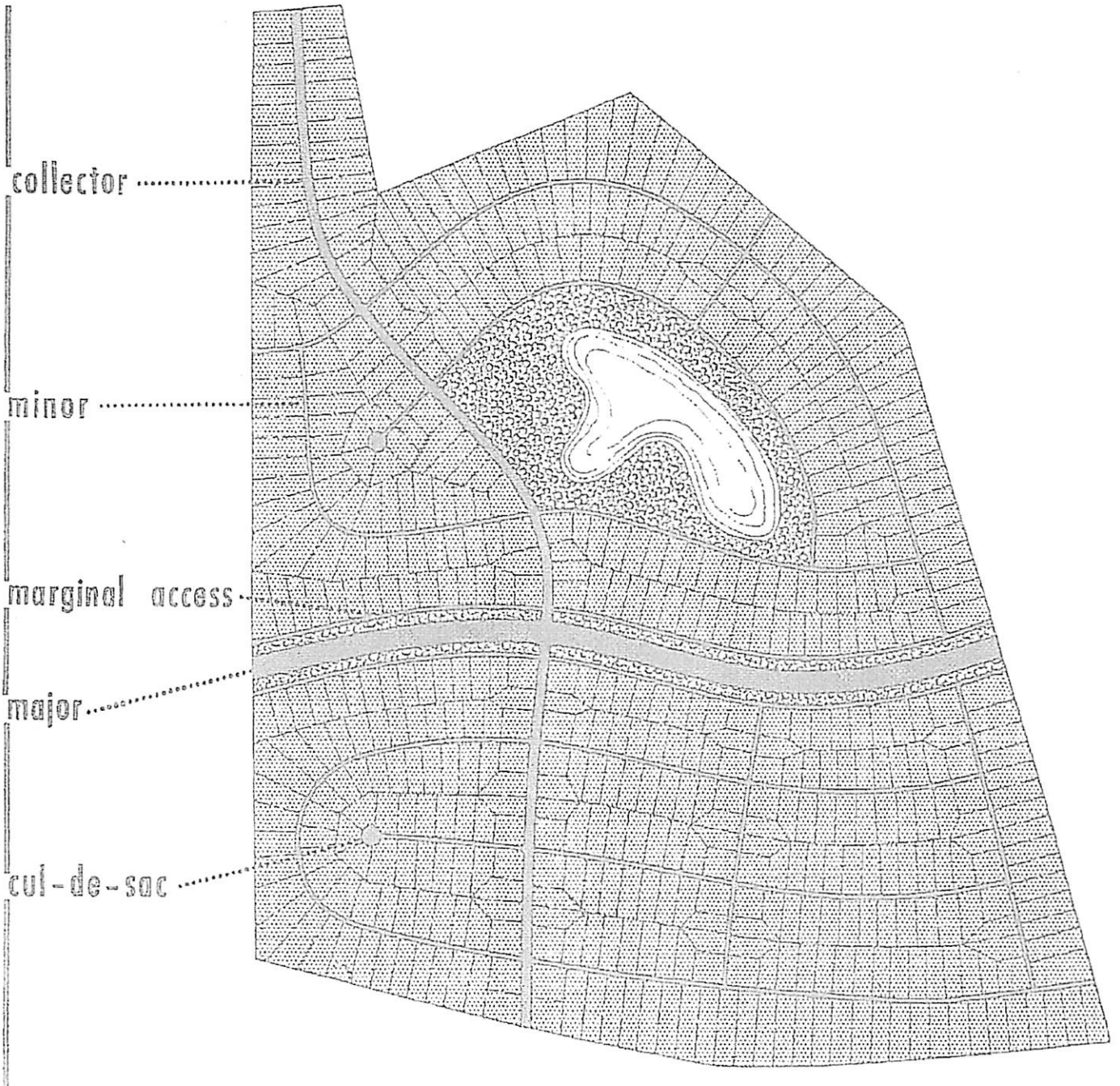
E. STREET: A dedicated and accepted public right-of-way for vehicular traffic.

(1) Major Streets and Highways: Streets and highways which are used primarily for fast or heavy traffic.

(2) Collector Streets: Streets which carry traffic from minor streets to the system of major streets.

(3) Minor Streets: Streets which are used primarily for access to the abutting properties.

(4) Marginal Access Streets: Minor streets which are parallel to and adjacent to major streets and highways; and which provide access to abutting properties and protection from through traffic.



street types

(5) Cul-de-sac: A short street having but one end open to traffic, the other end of which is permanently terminated by a vehicular turn-around.

F. EASEMENT: A grant by the property owner for use by the public, a corporation, or person(s), of a strip of land for specified purposes.

G. BUILDING SETBACK LINE: A line parallel to the front property lines in front of which no structure may be built.

H. LOT: A portion of a subdivision, or any other parcel of land, intended as a unit for transfer of ownership or for development.

I. CORNER LOT: A lot abutting upon two or more streets at their intersection.

ARTICLE XII

PROCEDURE FOR PLAT APPROVAL

No plat of a subdivision within the jurisdiction of the Currituck County Planning Commission shall be accepted for record by the Register of Deeds until final approval has been given by the County Commissioners of Currituck County. To obtain final plat approval, the subdivider shall generally follow these steps.

A. SKETCH DESIGN PLAN: Previous to the filing of an application for approval of the preliminary plat, it is recommended that the subdivider shall submit to the Planning Commission a sketch design plan of the proposed subdivision at a regular meeting of the Planning Commission. At this meeting the subdivider should discuss his thoughts and ideas pertaining to the new subdivision and also become familiar with the regulations affecting the land to be subdivided. Included with the sketch design plan, should be a sketch vicinity plan which shows the subdivision in relation to the surrounding area. This procedure does not require application or fee.

B. PRELIMINARY PLAT:

(1) The subdivider shall submit three copies of the preliminary plat and any supplementary material to the Chairman of the Planning Commission at

least fifteen (15) days prior to the regularly scheduled Planning Board meeting at which said plat is to be considered by the Planning Commission.

(2) The preliminary plat shall be checked against the design standards and plat requirements by the Technical Review Committee (composed of two members from the Planning Commission along with one member from the County Health Department). It shall be the duty of this committee to insure that the following agencies have an opportunity to review and make recommendations concerning the proposed subdivision plat before approval is given:

(a) The District Highway Engineer as to proposed streets, highways, and drainage systems;

(b) The County Health Director as to proposed water and sewerage systems;

(c) The County School Superintendent as to proposed school sites;

(d) Such other agencies and officials as the County Commissioners may deem necessary or desirable.

(3) The preliminary plat shall be reviewed by the Planning Commission.

(a) The Technical Review Committee shall make recommendations to the Planning Commission including any recommendations received from other County and State agencies and officials reviewing the plat.

(b) The Planning Commission shall discuss with the subdivider changes deemed advisable, if any, and the kind and extent of improvements to be made by him.

(4) The Planning Commission shall approve conditionally or disapprove the preliminary plat.

(a) Approval of the preliminary plat is authorization for the subdivider to proceed with the construction of the necessary improvements in preparation for submission of the final plat.

(b) If approved conditionally, the conditions and reasons thereof shall be stated, and if necessary, the Planning Commission may require the subdivider to submit a revised plat.

(c) If the Planning Commission should disapprove the preliminary plat, the reasons for such action shall be stated and recommendations made on the basis of which the proposed subdivision would be approved.

(d) Failure on the part of the Planning Commission to act within 90 days after the preliminary plat is submitted shall be deemed approval.

C. FINAL PLAT: Upon completion of the installation or an arrangement for the improvements shown in the approved preliminary plat, for the whole as in a portion of the subdivision, the applicant shall submit a Final Plat of the area covered by such improvements.

(a) On application for final plat approval, the subdivider shall pay an inspection fee of $5.00 or 50¢ per lot in the subdivision, whichever is greater, to Currituck County.

(1) The subdivider shall submit three copies of the final plat to the Chairman of the Planning Commission within twelve months after approval of the preliminary plat; otherwise such approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.

(2) The final plot shall be reviewed by the Planning Commission Chairman for compliance with the approved preliminary plan. The Planning Commission may appoint an engineer to check the final plat against the subdivision's actual layout for correctness; charging the costs to the subdivider if the plat is found to be seriously in error.

(a) If the final plat is found to be in compliance, the Planning Commission Chairman shall transmit the final plat together with the Planning Commission's recommendations to the County Commissioners for final action; or,

(b) If the Final Plat is found not to be in compliance, or if changes have been made from the approved preliminary plat, the Planning Board Chairman shall notify the subdivider and transmit the Final Plat to the Planning Commission.

(c) The Planning Commission shall review the final plat.

1. If the final plat is in compliance with the ordinance, and the Planning Commission approves the changes made from the approved preliminary plat, the Chairman of the Planning Commission shall transmit the Final Plat, together with the Planning Commission's recommendations to the County Commissioners for final action.

2. If the Final Plat is not in compliance with this ordinance, or the Planning Commission does not approve the changes from the approved Preliminary plat, the subdivider shall be given an opportunity to submit a revised Final Plat. If a revised final plat is not submitted, the Chairman of the Planning Commission shall transmit the Final Plat together with the Planning Commission's recommendations to the County Commissioners for final action. Such recommendations shall specify how the Final Plat is not in compliance with the ordinance and any unapproved changes from the approved preliminary plat.

(3) The Final Plat, and the recommendations of the Planning Commission, shall be reviewed by the County Commissioners. The Commissioners shall approve or disapprove the final plat.

(a) Approval of the final plat is authorization for the subdivider to file the plat with the Register of Deeds.

(b) If the County Commissioners should disapprove the final plat, the reasons for such action shall be noted and recommendations made on the basis of which the proposed subdivision would be approved.

(c) The action of the County Commissioners shall be noted on three copies of the final plat. Two copies shall be returned to the subdivider (one of these to go to the Register of Deeds) and the other retained for the permanent files of the Planning Commission.

(d) No final plat shall be approved until all required improvements are installed, the inspection fee has been paid, and the certificates required by this ordinance to appear on the final plat have been properly filled out and signed.

ARTICLE XIII

DESIGN STANDARDS

The following shall be considered the minimum requirements for all new subdivisions.

A. STREETS: In any new subdivision the street layout shall conform to the arrangement, width and location indicated on any official plans or maps for Currituck County. In areas for which such plans have not been completed, the streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets.

The proposed street layout shall be made according to good land planning practice for the type of development proposed, and shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage tracts.

(1) Minimum street right-of-way width shall be as shown in the thoroughfare plan for the community and not less than the following:

(a)	Major streets and highways	80 feet
(b)	Collector streets	60 feet
(c)	Minor (residential) streets	50 feet

(d)	Marginal access streets	50 feet
(e)	Culs-de-sac	50 feet
(f)	Minimum Street rights-of-way outside of any municipal limits	60 feet

(2) Where curbs and gutters are provided, the paving widths back to back of curbs shall be not less than the following:

(a)	Major streets and highways	45 feet
(b)	Collector streets	35 feet
(c)	Minor (residential) streets	28 feet
(d)	Marginal access streets	28 feet
(e)	Culs-de-sac	28 feet

(3) Where curbs and gutters are not provided, the paving widths shall not be less than the following:

(a)	Collector streets	24 feet
(b)	Minor (residential) streets	22 feet

(4) Unless necessitated by exceptional topography and subject to the approval of the Planning Commission, the grades shall be not more than ten percent nor less than one-half of one percent on any street.

(a) Grades approaching intersections shall not exceed five percent for a distance of not less than 100 feet from the center line of said intersection.

(b) Street grades shall be established wherever practicable in such a manner as to avoid excessive grading, the indiscriminate removal of ground cover and tree growth and general leveling of the topography.

(c) All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to 15 times the algebraic difference in the rates of grade for major and collector streets, and one-half this minimum for all other streets.

(5) When a continuous street center line deflects at any point by more than 10 degrees a circular curve shall be introduced, having a radius of curvature on said center line of not less than the following:

(a)	Major streets	300 feet
(b)	Collector streets	200 feet
(c)	Minor streets	100 feet

(6) A tangent at least 100 feet long shall be provided between reverse curves on all streets.

(7) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60 degrees.

(a) Street jogs with center line offsets of less than 125 feet shall be avoided.

(b) Intersections with a major street or highway shall be at least 800 feet apart.

(c) Property lines at street intersections shall be rounded with a minimum radius of 15 feet or of a greater radius when required by the Planning Commission.

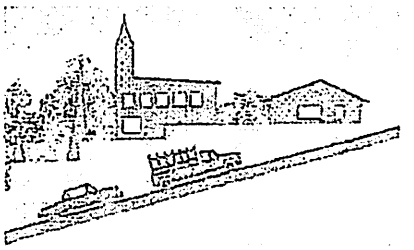
(8) Permanent dead end streets or culs-de-sac shall be no longer than 600 feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet.

(9) Street names for all subdivision plats shall be subject to approval of the Planning Commission. New street names shall not duplicate or be similar to existing street names and existing street names shall be used for proposed streets which are obviously in alignment with the existing street.

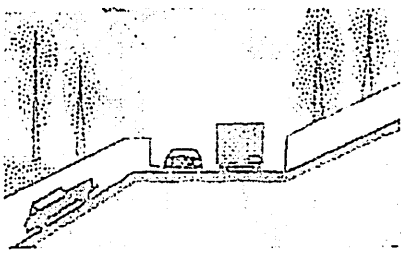
B. LOTS: Lot sizes, shapes and locations shall be made with due regard to topographic conditions, contemplated use, and the surrounding area. Land subject to flooding and land deemed by the Planning Board to be uninhabitable for other reasons shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard; but such land may be set aside

GRADES

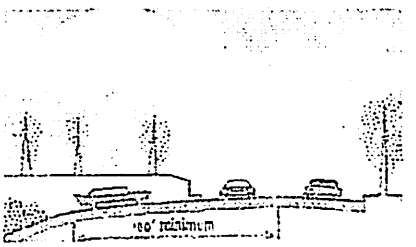
excessive grades on any street create traffic and drainage problems



steep grades at intersections reduce sight distances and hinder vechicle control

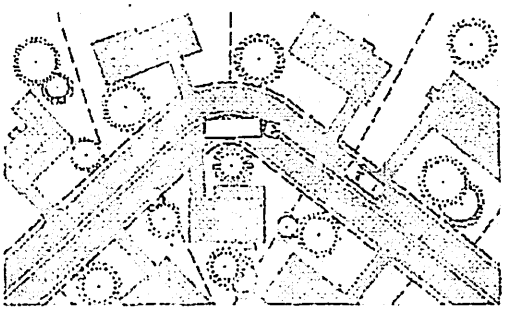


street grades should be flattened out within 100 feet of intersections

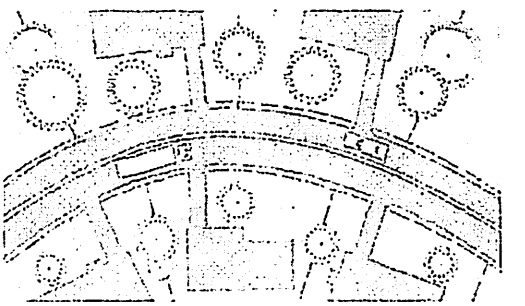


CURVES

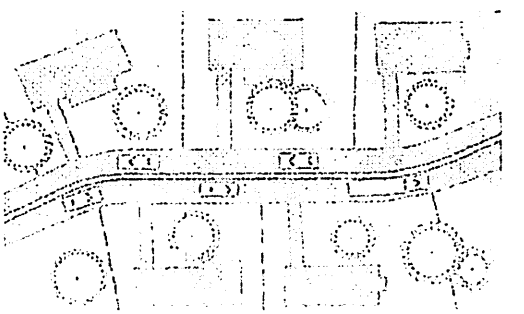
sharp curves reduce sight distances and difficult shaped lots result



proper curvature results in ample sight distances and good lotting

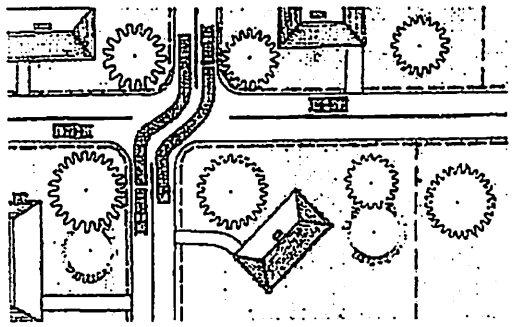


a tangent between reverse curves produces longer sight distances

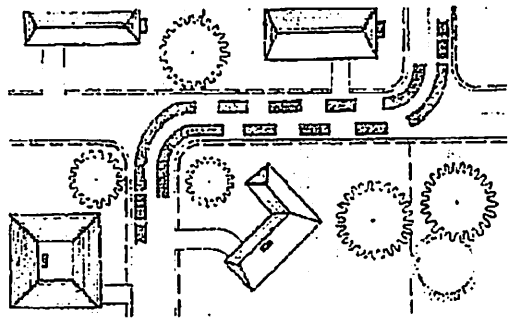


INTERSECTIONS

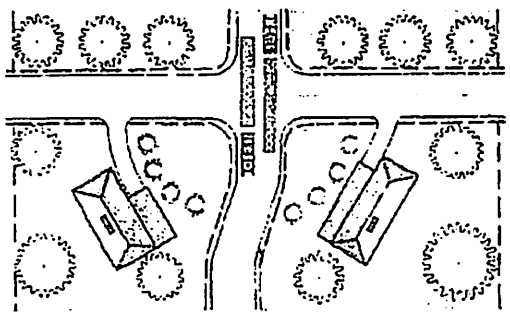
short street jogs create hazardous driving conditions



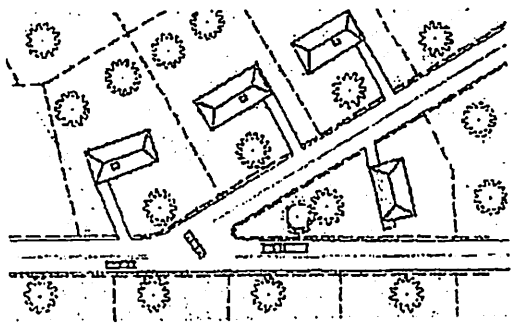
streets offset a minimum of 125'



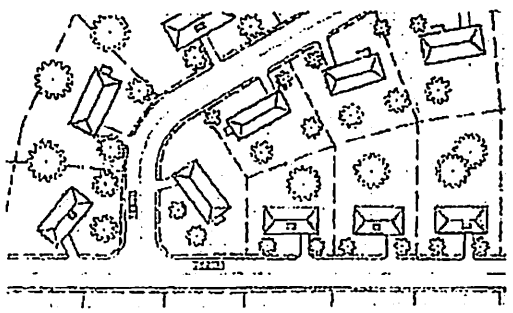
street jogs may be eliminated through proper design



sharp angle intersections:
create traffic problems
reduce sight distances
produce improper lotting



right angle intersections result in good lotting and proper sight distances



for such uses as will not be endangered by periodic or occasional inundation, or will not produce unsatisfactory living conditions.

(1) Every lot shall front or abut on a public street.

(2) Residential lots shall be at least 11,250 square feet in area, not less than 75 feet wide at the building line, nor less than 150 feet deep.

(3) Where public water and sewer facilities are not available and individual water supplies or individual sewage disposal systems are planned, the subdivider, at his own expense, shall have the site investigated by the County Health Department to determine whether or not such individual facilities are feasible and shall present proof to the Planning Board that appropriate soil tests have been conducted and each lot in the subdivision not served by public water or sewage disposal systems has been approved by the County Health Department for individual water supplies and/or sewage disposal systems. The site investigation for sewage disposal shall include sufficient number of percolation tests, and test holes of sufficient depth to determine the absorption capacity of the soil and the locations of the ground-water table, and of rock formations and other impervious strata. (The number of percolation tests required and the depth of test holes shall be determined by the County sanitarian.)

(a) Where individual sewage disposal systems are planned, the minimum lot sizes specified in this ordinance shall be increased as required by the results of percolation tests and sub-soil investigation.

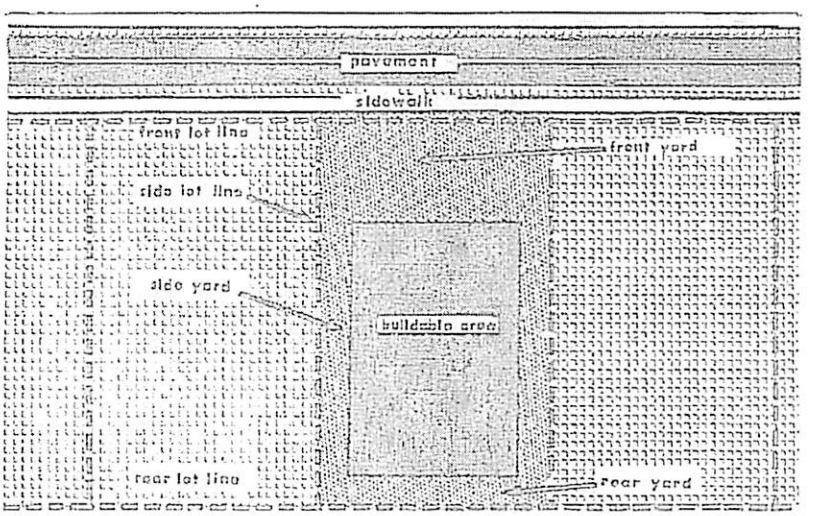
(b) Water supply and sewerage facilities shall comply with applicable State and County Public Health laws and regulations. (See Appendix I)

(4) Corner lots for residential use shall have an extra width of 10 feet to permit adequate building setback from side streets.

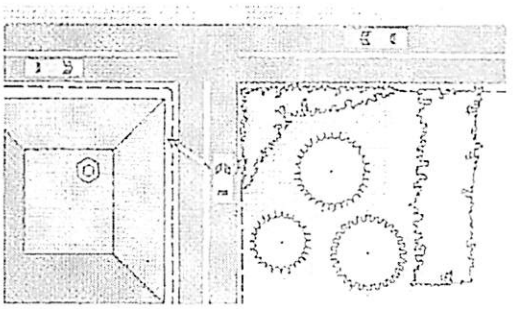
(5) Double frontage and reverse frontage lots shall be avoided, except where required to separate residential development from through traffic.

SETBACK

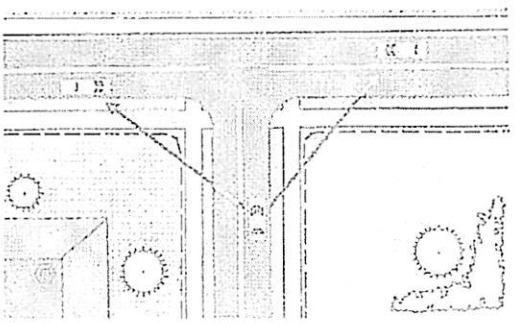
various elements of a typical lot



improper setback of buildings and plantings obstructs vision at intersections



proper setback of buildings and plantings provides good sight distances



(6) Side lot lines shall be substantially at right angles or radial to street lines.

(7) All lots shall conform with the Zoning Ordinance. Wherever there is a discrepancy between the minimum standards or dimensions noted herein and those contained in the zoning ordinance, building codes, or other official regulations, the highest standards shall apply.

C. BUILDING SETBACK LINES: The minimum building setback from the property lines shall be as follows:

(1)	From the front property line	20 feet
(2)	From the side property line	10 feet
(3)	From the rear property line	30 feet
(4)	From the side property line on corner lots	20 feet

D. BLOCKS: Blocks shall be laid out with special attention given to the type of use contemplated.

(1) Block lengths shall not exceed 1,500 feet or be less than 500 feet.

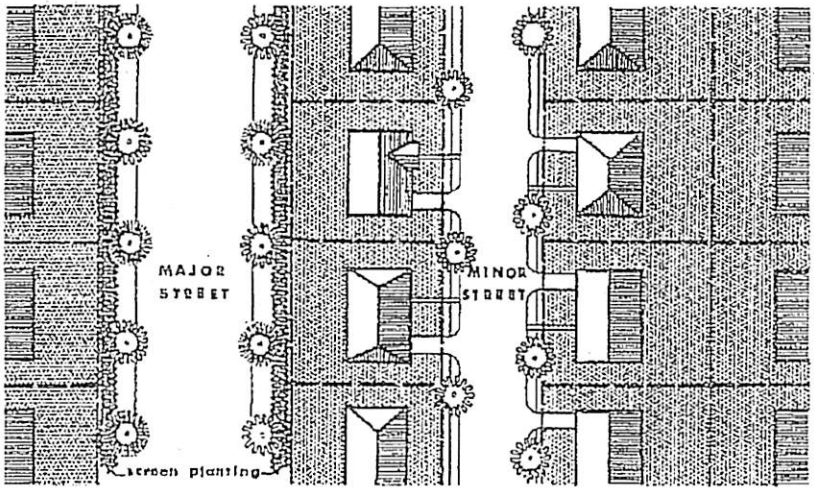
(2) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.

E. EASEMENTS: Easements centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least six (6) feet wide.

(1) Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

(2) Lakes, ponds, creeks, and similar areas will be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system. Such areas must

screen planting easement along rear of reverse frontage lots



be approved by the Planning Commission before approval of the final plat.

F. BUFFER STRIPS: It is recommended that in residential districts a buffer strip at least 50 feet in depth in addition to the normal lot depth required shall be provided adjacent to all railroads and limited access highways. This strip shall be a part of the platted lots, but shall have the following restriction lettered on the face of the plat. "This strip reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited".

ARTICLE XIV

PLAT REQUIREMENTS

All maps to be presented for recording by the Register of Deeds shall be in accordance with the requirements of this Ordinance and G.S. 47-30 as amended.

A. SKETCH DESIGN PLAN: The sketch design plan will show:

(1) Streets

(a) Rights-of-way

(2) Other rights-of-way and easements

(3) Lot lines (sketch)

(4) Sites, if any, for schools, churches, parks, beaches, etc.

(5) Site data

(a) Acreage in tract

(b) Approximate acreage in parks or other land usage

(c) Average lot size

(d) Approximate number of lots

(6) Sketch vicinity map showing relationship between subdivision and surrounding area.

B. PRELIMINARY PLAT: The preliminary plat shall be at a scale of one hundred feet to one inch or larger and will be drawn on one of the following sheet sizes: 14" x 21", 21" x 36", 24" x 36", 36" x 42". The

preliminary plat will show the following:

(1) The location of existing and platted property lines, streets, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts and drainpipes, water mains, city and county lines (if adjoining) and any public utility easements.

(2) Boundaries of tract shown with bearings and distances.

(3) Wooded areas, marshes, and any other conditions affecting the site.

(4) Names of adjoining property owners or subdivisions.

(5) Zoning classification, if any, both on the land to be subdivided and on adjoining land.

(6) Proposed streets, street names, rights-of-way roadway widths, and approximate grades.

(7) The plans for proposed utility layouts (sewer, water, gas, electricity) showing connections to existing systems or plans for individual water supply, sewage disposal, storm drainage, etc.

(8) Other proposed rights-of-way or easements; locations, widths, and purposes.

(9) Proposed lot lines, lot and block numbers, and approximate dimensions.

(10) Proposed minimum building setback lines.

(11) Contour map with intervals of one foot or less when required by the Planning Commission.

(12) Proposed parks, school sites, or other public open spaces, if any.

(13) Title, date, north point and graphic scale.

(14) Name of owner, surveyor and land planner.

(15) Site Data

(a) Acreage in total tract

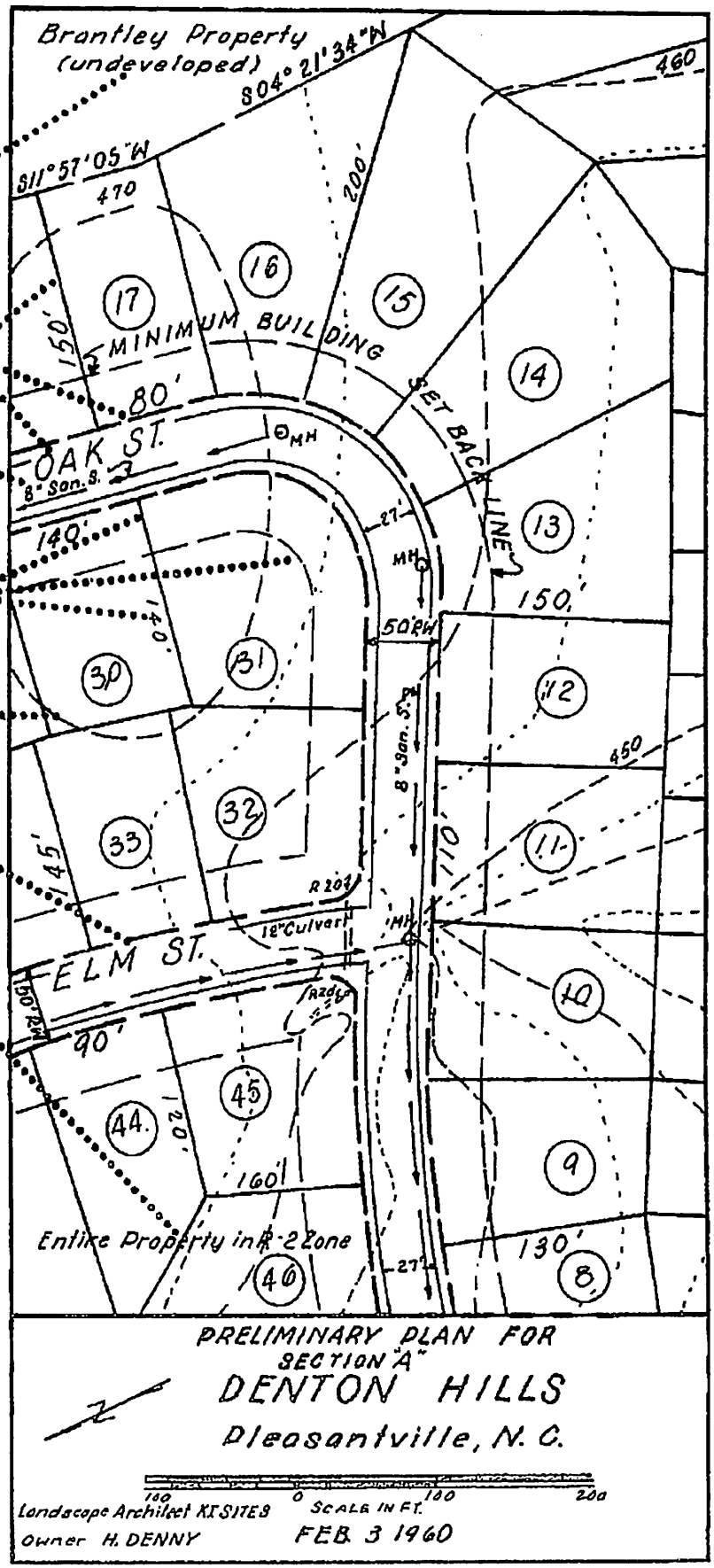
(b) Acreage in parks or other land usage

(c) Average lot size

PRELIMINARY PLAT

- names of adjoining properties
- property lines, roads, right of ways, etc.
- proposed utilities
- approximate dimensions, lot lines and setback lines
- contours
- street names
- present zoning classification
- name, location, owner and designer
- date, north point and graphic scale

SKETCH VICINITY MAP - SITE DATA



(d) Total number of lots

(e) Lineal feet in streets

(f) Square feet of each irregularly shaped lot on plat

(16) Sketch vicinity map showing relationship between subdivision and surrounding area.

C. FINAL PLAT: The final plat shall be at the same scale and shall conform substantially to the preliminary plat as approved and shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations. The final plat will show:

(1) The lines of all streets and roads.

(2) Lot lines and lot numbers.

(3) Minimum building setback lines.

(4) Reservations, easements, alleys and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.

(5) Sufficient data to determine readily and reproduce on the ground, the location, bearing and length of every street line, lot line, boundary line, block line and building line, whether curved or straight, and including true north point. This should include the radius, center angle, and tangent distance for the center line of curved streets and curved property lines that are not the boundary of curved streets.

(6) All dimensions should be to the nearest one-tenth (1/10) of a foot and angles to the nearest minute.

(7) Accurate location and description of all monuments and stakes.

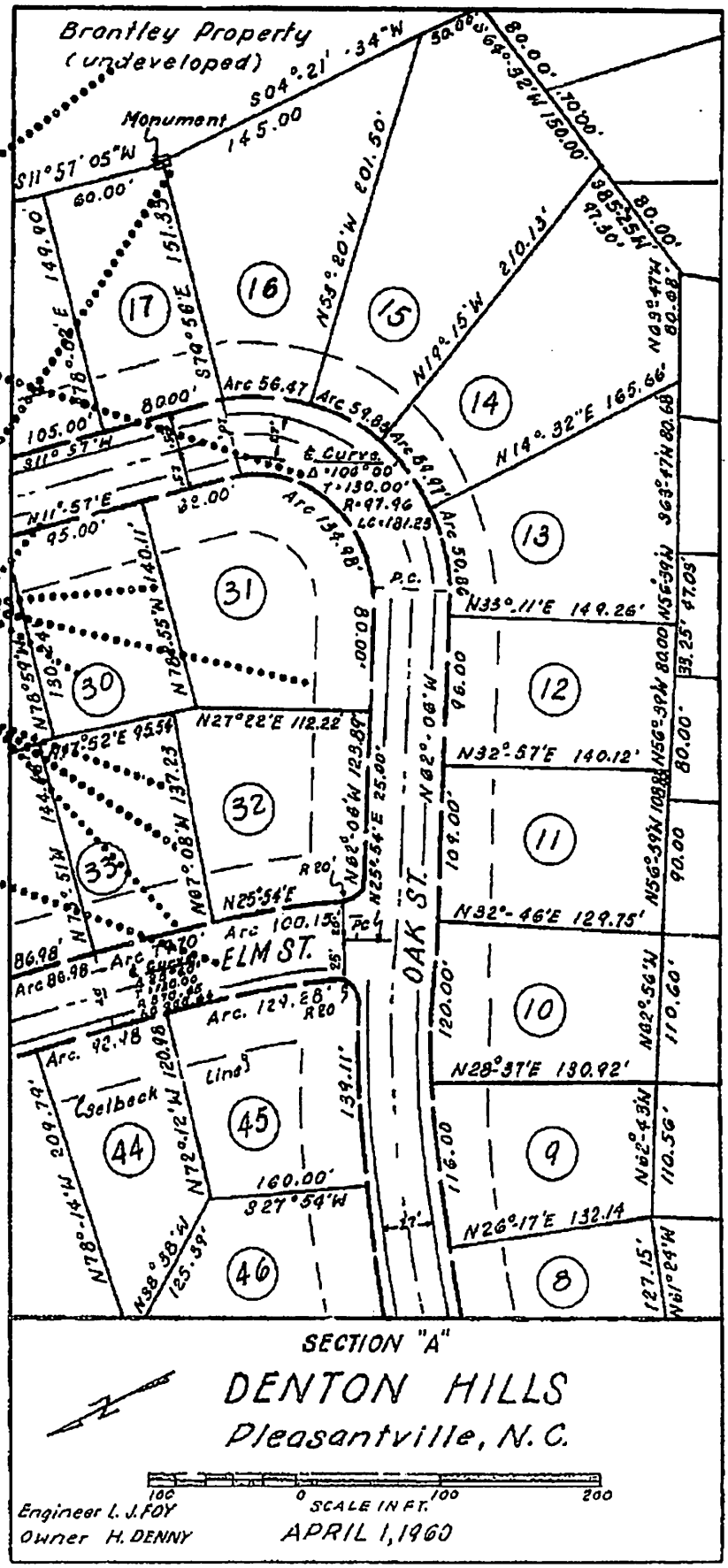
(8) The proposed utility system:

(a) Water
(b) Gas
(c) Sewers
(d) Storm drainage

FINAL PLAT

- names of adjoining properties
- sufficient engineering data to reproduce any lines on the ground
- monuments
- streets, lots, set back lines, lot numbers, etc.
- dimensions, angles and bearings
- street names
- date, title, name and location of subdivision
- graphic scale and north point

SITE DATA



(9) The names and locations of adjoining subdivisions, and streets, and the location and ownership of adjoining unsubdivided property.

(10) Title, date, name and location of subdivision, graphic scale and true north point.

(11) Name of owner, surveyor and land planner.

(12) Sketch vicinity map showing relationship between subdivision and surrounding area.

(13) The following certificates shall be rubber stamped on the final plat.

(a) Certificate of Ownership and Dedication

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish the minimum building lines, and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted. Further, I (we) certify that the land as shown hereon is within the subdivision regulations jurisdiction of the County Commissioners of Currituck County.

_____ 19 __
Date

_____
Owner

_____
Owner

(b) Certificate of Accuracy

I hereby certify that the plat shown and described hereon is a true and correct survey to the accuracy required by the Currituck County Planning Commission and that the monuments have been placed as shown hereon, in accordance with the requirements of the Currituck County Subdivision Regulations and G.S. 47-30 as amended.

_____19__
Date

_____
Engineer or Surveyor

(c) Certificate of the Approval of Water and Sewerage System

I hereby certify that the water supply and sewage disposal utility system installed, or proposed for installation, in the subdivision, entitled _____ _____fully meets the requirements of the North Carolina State Health Department, and are hereby approved as shown.

_____19__
Date

_____
County Sanitation Officer or his Authorized Representative

(d) Certificate of the Approval of Streets and Utilities

I hereby certify: (1) that streets, utilities and other improvements have been installed in an acceptable manner and according to County specifications in the subdivision entitled: _____ _____ or, (2) that a security bond in the amount of $_____ has been posted with the County Commissioners to assure completion of all required improvements in case of default.

_____19__
Date

_____
County Engineer

_____
County Clerk

(e) Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations for Currituck County, with the exception of such variances, if any, as are noted in the minutes of the County Commissioners and that it has been approved for recording in the office of the Register of Deeds.

_____19__
Date

_____
Chairman, County Commissioners

(f) Certificate of Approval and Acceptance of Dedications

I, _____, the County Clerk and Treasurer of Currituck County, do certify that Currituck County approved this plat or map and accepted the dedication of the easements, rights-of-way and public park shown thereon, but assume no responsibility to open or maintain the same until, in the opinion of the governing body of Currituck County, it is in the public interest to do so.

_____19__
Date

_____
County Clerk-Treasurer

ARTICLE XV

IMPROVEMENTS

No subdivision shall be granted final approval unless the following improvements either have been constructed or approved plans prepared and their execution guaranteed by a good and sufficient surety or preformance bond with corporate surety, a copy of which shall be filed with the Planning Commission.

(1) Within the corporate limits of any municipality whose governing body agrees by resolution to these regulations. Grading street rights-of-way, paving roadways at the designated width, and installing facilities for water supply, sewage collection and surface drainage, all in conformance with standards specified by the various town engineers.

(2) Within Currituck County but outside the limits of the jurisdiction of any municipality: Street rights-of-way shall be graded to sufficient width, properly drained, and prepared with a proper base so as to be acceptable for maintenance by the North Carolina State Highway Department.

(3) Within all of Currituck County.

A. Monuments: Permanent concrete monuments four (4) inches in diameter or square, three (3) feet long, shall be placed at not less than two (2) corners of the subdivision, provided that additional monuments shall be placed where necessary so that no point within the subdivision lies more than 500 feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each monument shall have an indented cross, metal pin, or metal plate to identify properly the location of the point. All monuments shall be shown on the final plat.

(1) Property Corner Tie: At least one corner of the property surveyed shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Station or N.C. Grid System coordinated monument, then this corner shall be accurately tied to this Station or Monument by computed X and Y coordinates which shall appear on the

Map with a statement identifying this station or monument or to an accuracy of 1:15000. When such a Monument or Station is not available, the tie shall be made to some pertinent and readily recognizable land mark or identifiable point, physical object or structure.

(2) Markers: All lot corners, all points where the street lines intersect the exterior boundaries of the subdivision, all angle points and points of curve in each street shall be marked with iron pipe not less than three-fourths (3/4) inches in diameter and thirty (30) inches long, driven so as to be 2 inches above the finished grade.

ARTICLE XVI
EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its adoption by the County Commissioners of Currituck County on August 2nd, 1965.

APPENDIX I

i. Water supply systems serving 10 or more connections are classified as public water supplies by State law, and plans and specifications must be approved by the Sanitary Engineering Division of the State Board of Health.

ii. Water supply systems serving from two to nine connections, inclusive, may be regulated by the County Board of Health, and plans should be approved by the County Board of Health.

iii. Plans for public and community sewer systems must be approved by the Division of Stream Sanitation and Hydrology of the N. C. Department of Water Resources.

iv. Individual water supplies should be located, constructed and operated in accordance with the State Board of Health Bulletin No. 476, "Protection of Private Water Supplies".

v. Individual sewage disposal systems must be installed and maintained in accordance with the State Board of Health "Rules and Regulations Governing the Disposal of Sewage from Any Residence, Place of Business or Place of Public Assembly in North Carolina" and the regulations of the County Board of Health. State Board of Health Bulletin No. 519 "Residential Sewage Disposal Plants" contains helpful information.

EXHIBIT B

Section 9. General Provisions

9.1 New uses to be in Compliance

Within the area covered by this ordinance no structure shall be hereafter erected, structurally altered, converted, reconstructed, moved to or placed upon new premises, nor shall any structure or land be used except in compliance with the provisions of this ordinance.

9.2 Undersized Lots in Residential Districts

A residential structure may be erected in a residential district on any lot which was a lot of record on the effective date of this ordinance even if the lot does not meet the area requirements of the applicable district, provided:

9.2.1 that such lot does not abut upon one or more unoccupied lots in the same ownership in which case it shall be combined with said lot, and

9.2.2 that water supply and sewage disposal facilities for such lot are approved by the District Health Officer, and

9.2.3 that yard requirements for the applicable district are adhered to as closely as possible in the determination of the Zoning Officer.

9.3 Creation of Under Sized Lots

No land shall hereafter be subdivided so as to create lots which cannot comply with the minimum area and yard requirements of the appropriate district.

9.4 One Residential Building Per Lot

Only one principal residence building shall be built or installed on each lot in residential districts.

9.5 Health Officer Approval of Water Supply and Sewage Disposal Facilities

The Zoning Officer shall not issue a zoning permit for any use, building, or purpose without written approval of any and all needed or proposed water supply and sewage disposal facilities from the District Health Office. Issuance and use of zoning permits shall be subject to all terms and qualifications imposed by the District Health Officer and copies of all approvals, terms and qualifications shall be kept on file in the Zoning Office.

9.6 Nuisances and Hazards

In no case shall any permitted non-residential use conduct operations resulting in noise, smoke, odors, glare, vibration, dust, gases, electrical or other radiation, or other characteristic of a type and to an extent which would create a nuisance or a hazard for adjacent or neighboring properties.

Section 10. Non-Conforming Uses

On the effective date of this ordinance or amendments to it some existing uses of land or buildings will not conform to the provisions of this ordinance. Such uses are called non-conforming uses.

10.1 Non-Conforming Buildings

Any non-conforming building may be continued in that use, and may be expanded by no more than 50% of the floor area in existence on the effective date of this ordinance or amendments to it.

10.2 Non-Conforming Uses of Land

Uses of land which do not conform to the requirements of this ordinance or amendments to it may not be expanded except as permitted in Section 8 and Section 9 of this ordinance.

Section 11. Administration

11.1 Creation of the Currituck County Zoning Office

The Currituck County Zoning Office and the position of Currituck County Zoning Officer are hereby created.

11.2 Powers and Duties of the Currituck County Zoning Officer

The Zoning Officer is hereby authorized and it shall be his duty to enforce the provision of this ordinance exactly as written. The Zoning Officer shall have no powers of interpretation or for the granting of exceptions or variances. In any case of doubt as to the legality of a request for a Zoning Permit the Zoning Officer shall deny the request. Appeal from decisions of the Zoning Officer may be made to the Board of Adjustment.

11.3 Zoning Permit

11.3.1 No building, structure or part thereof designed or intended to be used for other than farm purposes shall be erected or structurally altered, nor shall a mobile home be located or relocated on a lot or space other than in a mobile home park, nor shall any mobile home, regardless of location, be structurally altered or accessory added thereto, nor shall any excavation or other land preparation be commenced nor shall land be used for non-farm purposes until a Zoning Permit therefor has been issued by the Zoning Officer.

11.3.2 Each application for a Zoning Permit shall include a plat in duplicate, drawn to a suitable scale, showing accurate dimensions of the lot to be used, accurate location and dimensions of the structure or mobile home to be erected, located, or altered and such other information necessary for the enforcement of this ordinance. A statement of intended use of each lot, structure or mobile home shall be filed with each application. A careful record of all applications and supporting information, together with the action taken, shall be kept in the Zoning Office.

Section 6. TABLE OF DISTRICT PROVISIONS

Provisions	Residential	Mobile Home Park	Rural Commercial	General Commercial	Prime Commercial	Industrial
6.1 Permitted Uses						
Dwelling Units	X		X			
Cemeteries	X					
Customary Home Occupations	X					
Schools (all categories)	X					
Churches & Related Uses	X					
Public & Semi-Public Buildings & Institutions	X					
Public and Private Utilities	X	X	X	X	X	X
Individual Mobile Homes on Individual Lots	X		X			
Mobile Home Parks (as permitted in Section 7.3 & 7.4)		X				
Extractive Uses (As permitted in Section 8)	X					X
Retail Sales of Convenience Home & Farm Merchandise			X	X	X	
Automobile Service Station as part of the same establishment & with not more than 4 gasoline pumps			X	X		
Non-Residential Storage in enclosed structures			X	X	X	X
General Wholesale & Retail Sales & Service (unlimited)				X		
General Wholesale & Retail Sales & Service conducting activities & storing merchandise within a building, with exterior storage of sample merchandise for advertising purposes only, and only behind the setback line				X	X	
Mobile Home Sales				X		X
Class "A" Automobile Service Stations				X	X	X
Offices				X	X	X
Research (Industrial)						X
Assembly and Fabricating						X
Freight Handling Distribution and Storage						X
Salvaging & Storage of Used Automobile Parts, Scrap Metal & Other used material with all storage and operations either entirely within a building or enclosed by a wall or solid appearance at least eight feet high						X

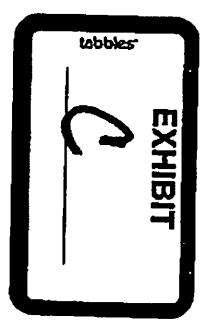


EXHIBIT
tabbies
D

2. Hunting preserves
3. Recreational uses
   a. hiking
   b. fishing
   c. boating
   d. golf courses
4. Road-side farm markets
5. Single family homes on existing state roads (to RA-20 design specifications)

90.2 Conditional Uses

a. Duplexes
b. Customary home occupation
c. Recreational uses (all use not previously listed)
d. Convenient services
e. County services (sites and building)
f. Temporary mobile homes conforming to RA-20 MH standards being located on existing state or county roads and conforming to the subdivision regulations

Section 90-A Residential-Agricultural District (RA-20, RA-20 MH)

The purpose of the Residential-Agricultural Districts is to provide for all types of residential, agricultural and related land uses in conditions of good health and safety; and to safeguard the investment and property value of existing and future development.

(A) **RA-20 District**

This district is established as a district in which the principle use of land is for low density residential and agricultural purposes. The RA-20 District is intended to insure a heathful residential environment at a sufficiently low density in areas not having access to public water supplies and that are dependent on septic tanks for sewage disposal. (Free standing mobile homes are not a permitted use in the RA-20 district; mobile home parks are a conditional use)

(B) **RA-20 MH District**

The RA-20 MH District is similar to the RA-20 District in every respect with regard to lot size and design standards. The RA-20 MH District, however, permits the location of free standing individual mobile homes on individual lots. (Mobile Home Parks are a conditional use in this district.)

90.A1 **PERMITTED USES**

Single-family dwellings.

Any form of agriculture or horticulture, including the sale of products at a retail stand on the property where produced.

Customary home occupations, including dressmaking, cooking and baking, hairdressing, music instruction, the renting of not more than one (1) room, the practice of such professions as insurance and accounting, shall be permitted as accessory uses in a residence. The Board of Adjustment shall decide whether other home occupations not listed here are within the spirit of this category of accessory uses.

Backyard workshops for building tradesmen, and small appliance repair shops, but excluding open storage.

Churches and their customary related uses including cemeteries, provided that all buildings and graves shall be set back at least twenty (20) feet from any property line.

Public elementary and secondary schools, colleges and universities, and private schools having curricula approximately the same as ordinarily given in public schools.

Public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools, fishing lakes, family camp grounds, and similar recreation uses.

Customary accessory uses and structures including private garages, swimming pools and other accessory structures in the rear yard where they shall not cover more than thirty percent (30%) of said rear yard.

Signs:

(a) One (1) professional or announcement sign per lot for customary home occupations, kindergartens, and rest homes. Such signs shall not exceed three (3) square feet in area. No such sign shall be illuminated.

(b) Church bulletin boards and signs announcing clubs and other recreation facilities and schools. Such signs shall be limited to one (1) per lot and eighteen (18) square feet in area. Such signs may be of the type which is lighted from behind to silhouette letters and figures.

90.A2 CONDITIONAL USES. The following uses shall be permitted subject to a finding by the Board of Adjustment that the additional conditions listed below will be met:

Kindergartens and day nurseries, provided that not less than one-hundred (100) square feet of play area is provided for each child and provided further said aggregate play space is surrounded by a sturdy fence at least six (6) feet in height.

Mobile home parks, subject to the conditions listed under Section 99 of this ordinance.

Public safety facilities such as fire and police stations and rescue squad headquarters, provided that all vehicles and equipment shall be stored indoors; provided further, that all buildings shall be set back at least twenty (20) feet from all property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.

Public works and public utility facilities such as transformer stations, pumping stations, water towers, and telephone exchanges, provided:

(a) such facilities are essential to the service of the community and no vehicles or materials shall be stored on the premises;

(b) all buildings and apparatus shall be set back at least twenty 20) feet from all property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.

Rest and convalescent homes not used primarily for the treatment of contagious diseases, alcoholics, drug addicts or psychotics.

Temporary sawmills, provided they shall not be in operation for more than one (1) year; provided further, all sawmill structures shall be leveled and the premises cleaned up within six (6) months after discontinuance. The Planning Board shall hold a local hearing (if a suitable location exists, if not, a hearing at the Currituck Courthouse will substitute) prior to Board of Adjustment. The entire Planning Board shall not necessarily appear at this meeting, but at least one member shall "chair" the meeting.

90.A3 Dimensional Requirements for Lots in RA-20 & RA-20MH Districts

	Areas with public water and sewer	Areas with Public water only	Areas without both public sewer and water
Min. Lot Areas	11,250 sq. ft.	15,000 sq. ft.	20,000 sq. ft.
Min. Lot Width	75 feet	100 feet	100 feet
Min. Lot Depth	150 feet	150 feet	200 feet

1.3 Minimum Setback: Distances within which no structure shall be located.

From front property line	20 feet
From side property line	12 feet
From rear property line	25 feet
From side property line on corner lots	20 feet

90.A4 Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed twenty percent (20%) of the total lot area.

90.A5 Accessory building shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within five (5) feet of any lot line not a street or highway line. An accessory building or use may be located not less than ten (10) feet from the principal building and five (5) feet from the rear yard line.

90.A6 Off-street parking shall be provided as required in Section 72 of this ordinance.

Section 91. R-8 Residential-Multiple Dwelling District

The Residential-Multiple Dwelling District is established as a district where two-family and multi-family dwellings will be permitted along with single-family dwellings. Public water and sewerage facilities shall be available to each lot in such districts.

91.1 **PERMITTED USES** by right:

All uses permitted in the R-20 Residential-Agricultural District.

Two-family dwellings.

Multi-family dwellings. (12 units/gross acre)

Rooming and boarding houses and tourist homes.

Clubs and lodges, catering exclusively to members and their guests.

Offices for doctors, dentists, chiropractors, lawyers, accountants, insurancemen and similar profesional persons.

91.2 **CONDITIONAL USES.** The following uses shall be permitted subject to a finding by the Board of Adjustment that the additional conditions listed below will be met:

Mobile homes on individual lots meeting R-8 lot standards.

Mobile home parks, subject to the conditions listed under Section 99 of this ordinance.

Group or cluster housing projects or subdivisions subject to density not to exceed 12 units per acre in residential areas of the development.

Rest and convalescent homes not used primarily for the treatment of contagious diseases, alcoholics, drug addicts or psychotics.

91.3 Dimensionsal Requirements. Within the R-8 Residential - Multiple - Dwelling District, as shown on the zoning map, the following dimensional requirements shall be complied with:

EXHIBIT
tabbies
E

2-3 R-20 District.

(a) Permitted uses of buildings, structures and land:

Dwellings, one family detached including modular and double-wide mobile homes with minimum dimensions of 24' X 60', but no other mobile homes
Churches
Cemeteries
Public park and recreation areas
Public elementary and secondary schools and private schools having approximately the same curriculum
Country clubs including swim and racquet clubs
Accessory uses and structures clearly incidental and subordinate to the principal structure and uses, including swimming pools, boathouses, piers, and fences not exceeding six feet in height.
Planned unit residential development (See Section 3-3)

(b) Uses of buildings, structures and land which require a conditional use permit from the Board of Adjustment:

Golf courses, not illuminated, and not par three or minature
Offices for engineers, surveyors, doctors, dentists, architects and accountants.

(c) Dimensional Requirements:

Maximum Height	35 ft.
Per cent of lot that may be occupied	30%
Minimum lot size	20,000 sq. ft.
Minimum lot width	100 ft.
Minimum rear yard	25 ft.
Minimum front yard	20 ft.
Minimum side yard	10 ft.

With Community Water or Sewer

Maximum Height	35 ft.
Per cent of lot that may be occupied	35%
Minimum lot size	15,000 sq. ft.
Minimum lot width	100 ft.
Minimum rear yard	25 ft.
Minimum front yard	20 ft.
Minimum side yard	10 ft.

With Community Water and Sewer

Maximum Height	35 ft.
Per cent of lot that may be occupied	35%
Minimum lot size	11,150 sq. ft.
Minimum lot width	85 ft.
Minimum rear yard	25 ft.
Minimum front yard	20 ft.
Minimum side yard	10 ft.

(d) Off Street Parking and Loading.

(1) Parking requirements....The following uses shall have off-street parking as specified below....Each parking space shall have minimum dimensions of 10 ft. by 20 ft. and shall be located outside any dedicated street or highway right-of-way. With the exception of required spaces for single-family and two-family dwelling units, sufficient maneuvering space shall be provided so that no vehicle will be required to back into the public right-of-way.

Dwellings, one family.....2 spaces
Business uses.....1 space per 200 sq. ft.
Manufacturing uses.....1 space per 2 employees on maximum shift.

(2) Loading. Each business and manufacturing use shall have at least one off-street loading space with maximum dimensions of 12 X 35 with 14 ft. vertical clearance, plus one additional space for each 25,000 square feet.

EXHIBIT
tabbies
F

Cemeteries, except that no cemeteries or gravesites shall be permitted within a platted subdivision, whether such subdivision shall be a major subdivision or a minor subdivision. All existing, established, constructed churches are exempt from the provisions of this ordinance.

(2) Use of buildings, structures and land which require a conditional use permit:

Mining, subject to the Mining Act of 1971
Hospitals and sanatariums
Home occupation other than dressmaking, hair dressing, cooking and baking, and music instruction
Homes for the aged, disabled or handicapped including convalescent and nursing homes
Kindergartens and day nurseries
Riding academies, training tracks, horses for hire or boarding on minimum of the ten (10) acres
Public utility transformer stations, telephone exchanges, lines, towers, storage offices, pumping stations, water towers, or maintenance facilities provided that the Board of Adjustment may require screen planting between such uses and adjacent residential areas
Marinas
Recreation campgrounds
Hunting and fishing lodges
Bait and tackle shops
Professional offices
Miniature golf courses
Crabshedding (shedding and sales)
Bed and Breakfast

d. R-30 Districts.
May 16, 1988

(1) Permitted uses of buildings, structures and land:

Dwellings, one family detached including modular and class "A" manufactured housing, but no other mobile homes
Churches
Cemeteries
Public elementary and secondary schools and private schools having approximately the same curriculum
Country clubs including swim and racquet clubs
Roadside produce stands
Accessory uses and structures clearly incidental and subordinate to the principal structure and uses, including swimming pools, boat houses, piers, and fences not exceeding six (6) feet in height
Water supply and sewage treatment systems, including package treatment plants that do not discharge effluent to surface waters, as an accessory use to all other permitted uses.

When used as a replacement for (and on the same lot as) a site-built/mobile home that the building inspector has found to be unfit for human habitation for any of the reasons set forth in G. S. 160A-441, class "B" manufactured homes that meet all of the class "A" criteria set forth in subsection 902(28) except the length-wide ratio, so long as (i) the home being replaced was occupied on a full time basis as a residential use only for a period of 180 days prior to the request for replacement, (ii) all necessary permits have been issued by the county Health Department relating to the installation and operation of a satisfactory sewage treatment system, and (iii) if the mobile home is located outside a mobile home park, the zoning enforcement officer provides to the adjoining property owners written notice of his intent to issue such a permt at least seven (7) days before it is issued. The site-built/mobile home that is being replaced must be removed within thirty (30) days after the replacement home is occupied.
June 20, 1988

Cemeteries, except that no cemeteries or gravesites shall be permitted within a platted subdivision, whether such subdivision shall be a major subdivision or a minor subdivision.

(2) Use of buildings, structures and land which require a conditional use permit:

Crabshedding (shedding only, no on-premise sales or purchases)
Bed and Breakfast
Hunting and fishing lodges
Golf courses, not illuminated, and not par three or miniature
Professional offices
Planned Unit Development--approval through Planning Board/Board of Commissioners
Utility buildings (see section 504g)

e. B-30 Districts.
May 16, 1988

Site plan review by Zoning Officer required, may be referred to the Planning Board and Board of Commissioners where more than one principal use or more than 30,000 square feet is involved.

(1) Permitted uses of buildings, structures and land:

Z = ZONING PERMIT
A = CONDITIONAL USE PERMIT - Bd. OF ADJUSTMENT
C = PERMIT ISSUED BY BOARD OF COMMISSIONERS

TABLE OF PERMISSIBLE USES

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
1.000 Residential												
1.100 Single Family Residences												
1.110 Single Family Detached, One Dwelling Unit Per Lot												
1.111 Site Built and Modular		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
1.112 Class A Mobile Homes		Z	Z	Z			Z	Z	Z	Z	Z	Z
1.113 Class B Mobile Homes		(Existing mobile home parks and mobile home subdivisions) (Amended 6-5-89 #2)										
1.114 Class C Mobile Homes		(Existing mobile home parks and mobile home subdivisions within Currituck County) (Amended 6-5-89 #2)										
1.120 Single Family detached, more than one dwelling unit per lot												
1.121 Site Built and Modular		Z	Z	Z			Z	Z	Z	Z	Z	Z
1.122 Class A		Z	Z	Z			Z	Z	Z	Z	Z	Z
1.123 Class B												
1.124 Class C		(Amended 6-5-89 #2)										
1.200 Two-Family Residences												
1.210 Two-Family Conversion		C	C									
1.220 Primary Residence with Accessory Apartment		C	C									
1.230 Duplex		C	C					Z				
1.240 Two-Family Apartment		C	C					Z				
1.300 Multi-Family Residences												
1.310 Multi-Family Conversion		C	C					Z				
1.320 Multi-Family Townhomes		C	C					C				
1.330 Multi-Family Apartments		C	C					C				
1.400 Homes emphasizing special services, treatment of supervision												
1.410 Homes for Handicapped, aged or infirm		A	A	A	A	A	A	A	A	A	A	A
1.420 Nursing care, intermediate care homes		A	A									

EXHIBIT G

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
1.430	Child Care Homes	A	A									
1.440	Halfway Houses	A	A									
1.500	Miscellaneous rooms for rent situations											
1.510	Rooming Houses, Boarding Houses											
1.520	Bed and Breakfast Establishments	A	A	A	A		A		A	A		
1.530	Tourist homes and other temporary residences renting by the day or week		A				A		A	A		
1.540	Hotels, motels, and similar business or institutions providing overnight accommodations							ZA		ZA		
1.550	Hunting and Fishing Lodges	Z	Z	Z	Z		Z	Z	Z	Z		
1.600	Temporary Emergency, Construction and Repair Residences	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
1.700	Home Occupations	A	A	A	A	A	A	A	A	A	A	A
1.800	Planned Residential Developments			C	C							
2.000	Sales and Rental of Goods, Merchandise and Equipment											
2.100	No Storage or Display of Goods Outside of Fully Enclosed Building											
2.110	High Volume Traffic Generation											
2.111	Convenience Stores (Amended 12-18-89 #11)							Z	Z	Z		
2.112	ABC Stores (Amended 12-18-89 #11)							C	C	C		
2.113	Other (Amended 12-18-89 #11)							Z	Z	Z		
2.120	Low Volume Traffic Generation (Amended 12-18-89 #11)							Z	Z	Z		
2.130	Wholesale Sales (Amended 12-18-89 #11)							A	Z	Z	Z	Z
2.200	Storage and Display of Goods Outside Fully Enclosed Building Allowed											
2.210	High Volume Traffic Generation (Amended 12-18-89 #11)							A			ZC	ZC
2.220	Low Volume Traffic Generation (Amended 12-18-89 #11)							A			ZC	ZC
2.230	Wholesale Sales (Amended 12-18-89 #11)							A			ZC	ZC
2.300	Shopping center, subject to Section 805 (Amended 12-18-89 #11)							C				

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
3.000	Office, Clerical, Research and Services Not Primarily Related to Goods or Merchandise											
3.100	All Operations Conducted Entirely Within Fully Enclosed Building											
3.110	Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys, other professions, insurance and stock brokers, travel agents, government office buildings etc. **(Amended 7-17-89 #7 & #8)**	Z	Z	Z	A	A		Z	Z	Z	Z	Z
3.120	Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use **(Amended 7-17-89 #8)**	Z	Z	Z	A			Z	Z	Z		
3.130	Offices or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area **(Amended 7-17-89 #8)**	Z	Z	Z	A			Z	Z	Z	Z	Z
3.200	Operations conducted within or outside fully enclosed building											
3.210	Operations designed to attract and serve customers or clients on the premises							A			A	A
3.220	Operations designed to attract little or no customer or client traffic other than the entity operating the principal use							A			A	A
3.230	Banks with drive-in windows							A	A	A	A	A
4.000	Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise and Equipment											

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
4.100	All operations conducted entirely within fully enclosed building											
4.110	Majority of dollar volume of business done with walk-in trade	A						A	A	A	Z	Z
4.120	Majority of dollar volume of business not done with walk-in trade	A	A								Z	Z
4 200	Operations conducted within or outside fully enclosed building										Z	Z
5 000	Educational, Cultural, Religious., Philanthropic, Social, Fraternal Uses											
5.100	Schools											
5.110	Elementary and secondary (including associated grounds and athletic and other facilities)	C	C	C	C	C	C	C	C	C	C	C
5.120	Trade or vocational schools	C	C					C	C		C	C
5.130	Colleges, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.	C	C								C	C
5 200	Churches, synagogues and temples (including associated residential structures for religious personnel and associated buildings but not including elementary school or secondary school buildings)	Z	Z	Z	Z		Z	Z	Z	Z	Z	Z
5 300	Libraries, museums, art galleries, art centers and similar uses (including associated educational and instructional activities)											
5.310	Located within a building designed and previously occupied as a residence or within a building having											

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
	a gross floor area not in excess of 3,500 square feet	C	C	C	C		C	C	C	C	C	C
5.320	Located within any permissible structure							Z	Z	Z	Z	Z
5.400	Social, fraternal clubs, and lodges, union halls, and similar uses							A	A	A	A	A
6.000	Recreation, Amusement, Entertainment											
6.100	Activity conducted entirely within a building or substantial structure											
6.110	Bowling alleys, skating rinks, indoor tennis and squash courts, billiards and pool halls, indoor athletic and exercise facilities							A	A	A	Z	Z
6.120	Movie theaters							Z	Z	Z	Z	Z
6.200	Activity conducted primarily outside enclosed buildings or structures											
6.210	Privately owned outdoor recreational facilities such as golf and country clubs, etc., (but not including campgrounds), not constructed pursuant to a permit authorizing the construction of some residential development	A	A	A	A	A	A	A	A	A	A	A
6.220	Publicly owned outdoor recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, campgrounds, beach or sound access facilities, including parking areas, boat ramps and docks, etc, not constructed pursuant to a permit authorizing the construction of another use such as a school	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
6.230	Golf driving ranges not accessory to golf courses, par golf courses, miniature golf courses, skateboard parks, water slides, and similar uses							A			A	A
6.240	Horseback riding stables (not constructed pursuant to permit authorizing residential development)	A	A			A					A	A
6.250	Automobile and motorcycle racing tracks											C
6.260	Drive-in movie theaters							C			C	C
6.270	Private campgrounds											
6.271	Travel trailer allowed						C					
6.272	Travel trailers not allowed						C					
6.280	Petting Zoo							A			A	A
7.000	Institutional Residences or Care or Confinement Facilities											
7.100	Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area		C					C			C	C
7.200	Nursing care institutions, intermediate care institutions, handicapped or infirm institutions, child care institutions		C					C			C	C
7.300	Institutions (other than halfway houses) where mentally ill persons are confined		C								C	C
7.400	Penal and correctional facilities										C	C
8.000	Restaurants, Dance Halls, Bars, Night Clubs **(Amended 3-25-91 #27)**											
8.100	Restaurants											
8.110	No substantial carry-out or delivery service, no drive-in service, no service or consumption outside fully enclosed structure **(Amended 3-25-91 #27)**							Z	Z	Z	Z	Z

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
8.120	No substantial carry-out or delivery service, no drive-in service. Service or consumption outside fully enclosed structure allowed **(Amended 3-25-91 #27)**							Z	A	A	Z	Z
8.130	Carry-out and delivery service, consumption outside fully enclosed structure allowed, but no drive-in service **(Amended 3-25-91 #27)**							Z	A	A	Z	Z
8.140	Carry-out and delivery service, drive-in service, service outside fully enclosed structure allowed **(Amended 3-25-91 #27)**							Z	A	A	A	Z
8.200	Dance Halls, Bars and Nightclubs **(Amended 3-25-91 #27)**							A	A	A	A	A
9.000	Motor Vehicle and Boat Related Sales and Service Operations											
9.100	Motor vehicle and boat sales or rental or sales and service							Z			Z	Z
9.200	Automobile service stations							Z	Z	Z	Z	Z
9.300	Gas sales operations							Z	Z	Z	Z	Z
9.400	Automobile repair shop or body shop provided all wrecked vehicles and parts are visually screened from exterior property lines and right-of-way lines **(5-21-90 #17)**							Z			Z	Z
9.500	Car Wash							Z	Z	Z	Z	Z
10.000	Storage and Parking											
10.100	Automobile parking garages or parking lots not located on a lot on which there is another principal use to which the parking is related							Z	A	A		
10.200	Storage of goods not related to the sale or use of those goods on the same lot where they are stored											
10.210	All storage within completely enclosed structures							Z	A	A	Z	Z

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
	10.220 Storage inside or outside completely enclosed structures							A			Z	Z
	10.300 Parking of vehicles or storage of equipment outside enclosed structures where: (i) vehicles or equipment are owned and used by the person making use of lot, and (ii) parking or storage is more than a minor and incidential part of the overall use made of the lot							A			Z	Z
11.000	Scrap Materials, Salvage Yards, Junkyards, Automobile Graveyards											C
12.000	Service and Enterprises Related to Animals											
	12.100 Veterinarian	Z						Z			Z	Z
	12.200 Kennel	Z									Z	Z
13.000	Emergency Services											
	13.100 Law Enforcement Stations	C	C	C	C	C	C	C	C	C	C	C
	13.200 Fire Stations	C	C	C	C	C	C	C	C	C	C	C
	13.300 Rescue Squad, Ambulance Service	C	C	C	C	C	C	C	C	C	C	C
	13.400 Civil Defence Operation	C	C	C	C	C	C	C	C	C	C	C
14.000	Agricultural, Silvicultural, Mining, Quarrying Operations											
	14.100 Agricultural operations, farming (not exempt as bona-fide farms)											
	14.110 Excluding Livestock	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
	14.120 Including Livestock	Z	Z			Z					Z	Z
	14.200 Silvicultural operations											
	14.300 Mining or quarrying operations, including on-site sales of products **(Amended 3-25-91 #28)**	C	C								C	C
	14.400 Reclamation landfill	A	A	A	A	A	A	A	A	A	A	A
15.000	Miscellaneous Public and Semi-Public Facilities and Related Uses											

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
15.100	Post Office							Z	Z	Z	Z	Z
15.200	Airports and Airstrips											
15.210	County owned or operated airport	C	C	C	C	C	C	C	C	C	C	C
15.220	Privately owned airport	C									C	C
15.230	Airstrip	C									C	C
15.300	Sanitary landfill											
15.310	County owned or operated	C	C	C	C	C	C	C	C	C	C	C
15.320	Other											C
15.400	Demolition landfill	C	C	C				C	C	C	C	C
15.500	Incinerators											C
16.000	Dry Cleaner and Laundromat											
16.100	Dry Cleaner										Z	Z
16.200	Laundromat							Z	Z	Z	Z	Z
17.000	Utility Facilities											
17.100	Neighborhood	A	A	A	A	A	A	Z	Z	Z	Z	Z
17.200	Community or Regional											
17.210	Major Transportation Lines	C	C	C	C	C	C	C	C	C	C	C
17.220	Facilities other than lines	C	C								C	C
17.300	County owned or operated	C	C	C	C	C	C	C	C	C	C	C
18.000	Towers and Related Structures											
18.100	Antennas and supporting structures, water towers, radio towers, other towers all of which are 50 feet or less, and receive only earth stations	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
18.200	Antennas and supporting structures and towers of all types more than 50 feet tall	A	A					A			A	A
19.000	Open Air Markets (farm and craft markets, flea markets produce markets) not qualifying as accessory use to use classification 14.100							A	A	A	A	A

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
20.000	Funeral Home							Z	Z	Z	Z	Z
21.000	Cemetery and Crematorium											
	21.100 Cemetery not on same property as Church	A	A								Z	Z
	21.200 Church	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
	21.300 Crematorium											C
22.000	Nursery School, Day Care Centers	A	A	A	A			Z	Z	Z	Z	Z
23.000	Temporary Construction and Sales Office	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
24.000	Crabsheding	Z	Z	Z			Z				Z	Z
25.000	Commercial Greenhouse or Nursery											
	25.100 No on-premises sales	Z	Z					Z	Z	Z	Z	Z
	25.200 On-premises sales permitted	Z						Z	Z	Z	Z	Z
26.000	Special Events	A	A	A	A	A	A	A	A	A	A	A
27.000	Combination Uses	ZSC	ZSC	ZSC	Z	C	ZSC	ZSC	ZSC	ZSC	ZSC	ZSC
28.000	Planned Unit Developments	Permissible only in P U.D. districts (See Article 10) with a Special Use permit										
29.000	Off-premises signs							Z				
30.000	Subdivisions											
	30.100 Major	C	C	C	C	C	C	C	C	C	C	C
	30.200 Minor	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
31.000	Stockyards, slaughterhouses rendering plants	A										A
32.000	Agribusiness Uses	A	A					A			A	A

USES	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	LB	LBH	LM	HM
33.000	Planned Industrial Developments	Permissible only in Planned Industrial Districts (see Section 115.03) with a Special Use permit										
34.000	Miscellaneous Water Related Uses											
34.100	Boat Ramps											
34.110	Publicly owned	C	C	C	C	C	C	C	C	C	C	C
34.120	Privately owned, but open to public on fee basis					ZA	ZA	ZA				
34.200	Marinas					A	A	A				
35.000	Adaptive Reuse of Historic Property	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
36.000	Land Application of Commercial Sludge and Commercial Liquid Septage	A										

Section 1310 Table of Permissible Uses. (Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit)

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
1.000	Residential											
1.100	Single Family Residences											
1.110	Single Family Detached, One Dwelling Unit Per Lot											
✓ 1.111	Site Built and Modular	Z	Z	Z	Z	Z	Z	Z		Z		
✓ 1.112	Class A Mobile Home	Z	Z	Z			Z	Z		Z		
✓ 1.113	Class B Mobile Home subject to Article 8	C	C	C	~~C~~	~~C~~	C	C		C	C	C
✓ ~~1.114~~	~~Class C Mobile Home subject to Article 8~~	Existing mobile home parks and mobile home subdivisions subject to Article 8										
1.120	Single Family detached, more than one dwelling unit per lot											
✓ 1.121	Site Built and Modular	Z	Z	Z			Z	Z		Z		
✓ 1.122	Class A Mobile Home	Z	Z	Z			Z	Z		Z		
1.123	Class B Mobile Home subject to Article 8	C	C									
✓ ~~1.124~~	~~Class C subject to Article 8~~	Existing mobile home parks and mobile home subdivisions subject to Article 8										
1.200	Two-Family Residences											
1.210	Two-Family Conversion		S					Z				
✓ 1.220	Primary Residence with Accessory Apartment		S					Z				
✓ 1.230	Duplex		S					Z				
1.240	Two-Family Apartment		S					Z				
1.300	Multi-Family Residences											
✓ 1.310	Multi-Family Conversion		S					Z				
✓ 1.320	Multi-Family Townhomes							S				
✓ 1.330	Multi-Family Apartments							S				
1.400	Homes emphasizing special services, treatment of supervision											
1.410	Homes for handicapped, aged or infirm	C	C				C	C		C		
1.420	Nursing care, intermediate care homes	C	C					Z				
1.430	Child Care Homes (orphanage)	C	C					C				
✓ 1.440	Halfway Houses (Group Rest Care Home)	C	C					C				

EXHIBIT 4

(Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit).

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
✓	1.450 Family Care Homes for the handicapped provided there is 1/2 mile between them measured from lot lines	Z	Z	Z	Z	Z	Z	Z		Z		
	1.460 Family Care Homes for the Aged	C	C				C	C		C		
	1.500 Miscellaneous rooms for rent situations											
✓	1.510 Rooming Houses, Boarding Houses	C	C					C		C		
✓	1.520 Bed and Breakfast Establishments	C	C	C	C		C	Z		Z		
✓	~~1.530 Tourist homes and other temporary residences renting by the day or week~~		~~C~~				~~C~~			~~C~~		
✓	1.540 Hotels, motels, and similar business or institutions providing overnight accommodations							ZC	ZC	ZC		
✓	1.550 Hunting and Fishing Lodges	Z	Z	Z	Z		Z	Z		Z		
✓	1.600 Temporary Emergency, Construction and Repair Residences	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
✓	1.700 Home Occupations	C	C	C	C	C	C	Z		Z	C	C
✓	1.800 Resident Manager/Caretaker Dwelling								C		C	C
	2.000 Sales and Rental of Goods, Merchandise and Equipment											
	2.100 No Storage or Display of Goods Outside of Fully Enclosed Building											
combined	2.110 High Volume Traffic Generation											
	2.111 Convenience Stores							Z	Z	Z		
	2.112 Other							Z	Z	Z	ZS	ZS
	2.120 Low Volume Traffic Generation							Z	Z	Z	ZS	ZS
Comb.	2.130 Wholesale Sales							C	Z	Z	Z	Z
✓	2.140 Auction House **(Amended 8/2/04)**							C				
✓	2.150 Pawn Shop **(Amended 2/5/07)**							S	S		S	S
	2.200 Storage and Display of Goods Outside Fully Enclosed Building Allowed											
combined w/above	2.210 High Volume Traffic Generation **(Amended 2/5/07)**							C	C	C	ZS	ZS
	2.220 Low Volume Traffic Generation **(Amended 2/5/07)**							C	C	C	ZS	ZS
✓	2.230 Wholesale Sales **(Amended 2/5/07)**							C	C	C	ZS	ZS
✓	2.300 Shopping center, subject to Section 805							S	S			
	3.000 Office, Clerical, Research and Services Not Primarily Related to Goods or Merchandise											
	3.100 All Operations Conducted Entirely Within Fully Enclosed Building											

(Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit)

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
	3.110 Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys, other professions, insurance and stock brokers, travel agents.	C	C	C	C	C		Z	Z	Z	Z	Z
	3.120 Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use	C	C	C	C			Z	Z	Z	Z	Z
	3.130 Offices or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area	C	C	C	C			Z	Z	Z	Z	Z
✓	3.140 Government Offices	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
	3.150 Operations designed to attract little to no customer or client traffic other than employees of the entity operating the principle use (conducted entirely within fully enclosed building). Where office space is less than 25% of total building square footage and warehouse space is used for storage of materials/products to support business. No on premise sales of goods, merchandise or equipment permitted.							Z	Z		Z	Z
	3.200 Operations conducted within or outside fully enclosed building											
	3.210 Operations designed to attract and serve customers or clients on the premises							C	C		C	C
	3.220 Operations designed to attract little or no customer or client traffic other than the entity operating the principal use							C	C		C	C
	3.230 Banks with drive-in windows							C	C	C	C	C
4.000	Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise and Equipment subject to Subsection 1304 (4)											

(Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit)

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
4.100	All operations conducted entirely within fully enclosed building											
✓ 4.110	Majority of dollar volume of business done with walk-in trade	C						C	C	C	Z	Z
✓ 4.120	Majority of dollar volume of business not done with walk-in trade	C	C								Z	Z
✓ 4.130	Tattoo and Body Piercing Studios (Amended 6-4-07)							C	C		C	C
4.200	Operations conducted within or outside fully enclosed building										Z	Z
5.000	Educational, Cultural, Religious, Philanthropic, Social, Fraternal Uses											
5.100	Schools											
✓ 5.110	Elementary and secondary (including associated grounds and athletic and other facilities)	Z	Z	Z	Z	Z	Z	Z	Z	Z		
✓ 5.120	Trade or vocational schools	S	S					S	S	S	S	S
✓ 5.130	Colleges, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.	S	S								S	S
5.200	Churches, synagogues and temples (including associated residential structures for religious personnel and associated buildings but not including elementary school or secondary school buildings)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
5.300	Libraries, museums, art galleries, art centers and similar uses (including associated educational and instructional activities)											
Combined 5.310	Located within a building designed and previously occupied as a residence or within a building having a gross floor area not in excess of 3,500 square feet	S	S	S								
5.320	Located within any permissible structure				C			Z	Z	Z	Z	Z
✓ 5.400	Social, fraternal clubs, and lodges, union halls, and similar uses	Z	Z	C				Z	C	C	Z	Z
6.000	Recreation, Amusement, Entertainment											

(Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit)

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
6.100	Activity conducted entirely within a building or substantial structure											
6.110	Bowling alleys, skating rinks, indoor tennis and squash courts, billiards and pool halls, indoor athletic and exercise facilities							C	C	C	Z	Z
6.120	Movie theaters							Z	Z	Z	Z	Z
6.200	Activity conducted primarily outside enclosed buildings or structures											
6.210	Privately owned outdoor recreational facilities such as golf and country clubs, etc., (but not including campgrounds), not constructed pursuant to a permit authorizing the construction of some residential development **(Amended 10/7/02)**	S	S	S	S	S	S	S	S	S	S	S
6.220	Publicly owned outdoor recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, campgrounds, beach or sound access facilities, including parking areas, boat ramps and docks, etc, not constructed pursuant to a permit authorizing the construction of another use such as a school	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
6.230	Golf driving ranges not accessory to golf courses, par 3 golf courses, miniature golf courses, skateboard parks, water slides, and similar uses (See Section 125(1)) **(Amended 10/7/02)**							S	S		S	S
6.240	Horseback riding , schooling and boarding facilities provided that when in an R district, a minimum of 10 acres is required (not constructed pursuant to permit authorizing residential development)	C	C	C		S		C	C		C	C
6.250	Automobile and motorcycle racing tracks											S
6.251	Competitive go-kart/ATV race tracks							S	S		S	S
6.260	Drive-in movie theaters							S	S		S	S
6.270	Private campgrounds											

(Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit)

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
comb.	6.271 Travel trailer allowed					S						
	6.272 Travel trailers not allowed						S					
	6.280 Petting Zoo							C	C		C	C
	6.290 Recreation Grounds						S					
7.000	Institutional Residences or Care or Confinement Facilities											
	7.100 Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area		S					S	S		S	S
	7.200 Nursing care institutions, intermediate care institutions, handicapped or infirm institutions, child care institutions		S					S	S		S	S
	7.300 Institutions (other than halfway houses) where mentally ill persons are confined		S								S	S
	7.400 Penal and correctional facilities										S	S
8.000	Restaurants, Dance Halls, Bars, Night Clubs											
	8.100 Restaurants											
	8.110 No substantial carry-out or delivery service, no drive-in service, no service or consumption outside fully enclosed structure							Z	Z	Z	Z	Z
	8.120 No substantial carry-out or delivery service, no drive-in service. Service or consumption outside fully enclosed structure allowed							Z	Z	C	Z	Z
combined	8.130 Carry-out and delivery service, consumption outside fully enclosed structure allowed, but no drive-in service; delivery service in outer banks overlay district-see Section 125 (1)(g)							Z	Z	C	Z	Z
	8.140 Carry-out and delivery service, drive-in service, service outside fully enclosed structure; drive-in and delivery service in outer banks overlay district-see Section 125 (1)(g)							Z	Z	C	C	Z
	8.200 Dance Halls, Bars and Nightclubs							C	C	C	C	C
9.000	Motor Vehicle and Boat Related Sales and Service Operations											
	9.100 Motor vehicle and boat sales or rental or sales and service Subject to Article 14							C	C		C	C
combine w/9.30	9.200 Automobile service stations							Z	Z	Z	Z	Z

(Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit)

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
combo ✓ 9.300	Gas sales operations							Z	Z	Z	Z	Z
9.400	Automobile repair shop or body shop provided all wrecked vehicles and parts are visually screened from exterior property lines and right-of-way lines							Z	Z		Z	Z
9.500	Car Wash							Z	Z	Z	Z	Z
9.600	Motor vehicle and boat wholesale and service **(Amended 1/7/02)**							Z	Z		Z	Z
10.000	Storage and Parking											
10.100	Automobile parking garages or parking lots not located on a lot on which there is another principal use to which the parking is related (need to fix ✓)							Z	Z	C	Z	Z
10.200	Storage of goods not related to the sale or use of those goods on the same lot where they are stored											
10.210	All storage within completely enclosed structures							Z	Z	C	Z	Z
✓ 10.220	Storage inside or outside completely enclosed structures					C		C	C		Z	Z
10.300	Parking of vehicles or storage of equipment outside enclosed structures where: (i) vehicles or equipment are owned and used by the person making use of lot, and (ii) parking or storage is more than a minor and incidental part of the overall use made of the lot							C	C		Z	Z
✓ 10.400	Temporary indoor/outdoor storage, mobile office(s) and one dwelling for a caretaker when associated with off-site construction of a public facility and when in accordance with applicable provision of Section 801 and Section 802. **(Amended 12/21/92)**	Z		Z				Z	Z		Z	Z
11.000	Scrap Materials, Salvage Yards, Junkyards, ✓ Automobile Graveyards											S
12.000	Service and Enterprises Related to Animals											
✓ 12.100	Veterinarian	Z						Z	Z		Z	Z
12.200	Kennel	Z									Z	Z

(Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit)

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
✓ 12.210	Pet Grooming Facility inside a fully enclosed Structure **(Amended 9/05)**						Z	Z				
✓ 12.300	K-9 Training Facility for Explosives **(Amended 3/18/02, 5/19/03)**	S										
✓ 12.400	K-9 Training Facility for Obedience **(Amended 5/19/03)** Animal services	C						C	C		Z	Z
13.000	Emergency Services											
✓ 13.100	Law Enforcement Stations	S	S	S	S	S	S	S	S	S	S	S
✓ 13.200	Fire Stations	S	S	S	S	S	S	S	S	S	S	S
✓ 13.300	Rescue Squad, Ambulance Service	S	S	S	S	S	S	S	S	S	S	S
✓ 13.400	Civil Defense Operation	S	S	S	S	S	S	S	S	S	S	S
14.000	Agricultural, Silvicultural, Mining, Quarrying Operations											
14.100	Agricultural operations, farming (not exempt as bona-fide farms)											
✓ 14.110	Excluding Livestock	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
✓ 14.120	Including Livestock	Z	Z			Z					Z	Z
✓ 14.200	Silvicultural operations	Z	Z	Z			Z	Z	Z	Z	Z	Z
✓ 14.300	Mining or quarrying operations, including on-site sales of products	S	S								S	S
✓ 14.400	Reclamation landfill	C	C	C	C	C	C	C	C	C	C	C
15.000	Miscellaneous Public and Semi-Public Facilities and Related Uses											
✓ 15.100	Post Office Corrected for Z across board							Z	Z	Z	Z	Z
15.200	Airports and Airstrips											
✓ 15.210	County owned or operated airport	S	S	S	S	S	S	S	S	S	S	S
✓ 15.220	Privately owned airport **(Amended 4/5/04)**	S			S						S	S
cont. 15.230	Airstrip	S									S	S
15.300	Sanitary landfill & Convenience Centers											
✓ 15.310	County owned or operated	S	S	S	S	S	S	S	S	S	S	S
15.320	Other											S
✓ 15.400	Demolition landfill	S	S	S				S	S	S	S	S
✓ 15.500	Incinerators											S
✓ 15.600	ABC Stores				C			Z	Z	Z		
✓ 15.700	County authorized life guard stations with accessory use rental of approved beach related items				Z							
16.000	Dry Cleaner and Laundromat											
16.100	Dry Cleaner							Z	Z	Z	Z	Z
16.200	Laundromat							Z	Z	Z	Z	Z

(Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit)

USE #	DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
✓ 17.000	Utility Facilities **(Amended 6/2/03)**	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
17.300	County owned or operated	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
18.000	Towers and Related Structures											
✓ 18.100	Antennas and supporting structures, water towers, radio towers, other towers all of which are 50 feet or less, and receive only earth stations	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
✓ 18.200	Antennas and supporting structures and towers of all types more than 50 feet tall	C	C					C	C		C	C
✓ 18.300	Non-commercial amateur radio towers and antennas with a maximum height of 100'	C	C	C	C	C	C	C	C	C	C	C
19.000	Open Air Markets											
✓ 19.100	Farm and craft markets. - produce markets not qualifying as accessory use to use classification 14.100	C						Z	Z	Z	Z	Z
✓ 19.200	Flea Markets							C	C	C	C	C
20.000	Funeral Home							Z	Z	Z	Z	Z
21.000	Cemetery and Crematorium											
✓ 21.100	Cemetery **(Amended 6/06)**	C	C								Z	Z
✓ 21.200	Cemetery Family and Church **(Amended 6/06)**	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
✓ 21.200	Crematorium											S
✓ 22.000	Nursery School, Day Care Centers	C	C	C	C			Z	Z	Z	Z	Z
23.000	Temporary Construction and Sales Office	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
✓ 24.000	Crabsheding	Z	Z	Z			Z				Z	Z
25.000	Commercial Greenhouse or Nursery											
comb. 25.100	No on-premises sales → Z	Z					Z	Z	Z	Z	Z	
25.200	On-premises sales permitted	Z						Z	Z	Z	Z	Z
✓ 26.000	Special Events **(AMENDED 1/3/05)**	S	S	S	S	S	S	S	S	S	S	S
✓ 27.000	Combination Uses	ZSC	ZSC	ZSC	Z	S	ZSC	ZSC	ZSC	ZSC	ZSC	ZSC
28.000	Planned Unit Developments	Permissible only in P.U.D. districts (See Article 10) with a Special Use permit										
29.000	RESERVED											
30.000	Subdivisions											
30.100	Major	S	S	S	S	S	S	S	S	S	S	S
30.200	Minor	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
30.300	Private Access Subdivision	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS

(Z - Zoning Permit; C -Conditional Use Permit; S - Special Use Permit)

USE # DESCRIPTION	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
30.400 Planned Residential Development		S	S	S							
30.500 Residential Airpark Subdivision	Permissible only in R.A.D. districts (See Article 9) with a Special Use Permit										
✓ 31.000 Stockyards, slaughterhouses, rendering plants	C										C
✓ 32.000 Agribusiness Uses	C	C					Z	Z		Z	Z
33.000 Planned Industrial Developments	Permissible only in Planned Industrial Districts (see Section 115.03) with a Special Use permit										
34.000 Miscellaneous Water Related Uses											
✓ 34.100 Boat Ramps											
34.110 Publicly owned	S	S	S	S	S	S	S	S	S	S	S
✓ com. 34 34.120 Privately owned, but open to public on fee basis					ZC	ZC	ZC	ZC			
✓ 34.200 Marinas not associated with a residential devel.					C	C	C	C	C		
✓ 35.000 Adaptive Reuse of Historic Property	C	C	C	C	C	C	C	C	C	C	C
✓ 36.000 Land Application of Commercial Sludge and Commercial Liquid Septage	C										
✓ 37.000 Adult and Sexually Oriented Businesses (Subject to Section 808 and Article 14)											S
38.000 Planned Adult Retirement and/or Assisted Living Communities (Subject to Section 207) (Amended 11/1/99)	Permissible only in RET overlay district with a special use permit (see Section 207) **Amended 5/15/00**										
✓ 39.000 Security Training Operations and Services **(Amended 5/3/04)**	S										

Use	LUC	Zoning Districts											Special
Residential Uses		A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM	Requirements
Accessory Dwellings (apartment)	II		S					Z					
Accessory Structures (residential)	I	Z	Z	Z	Z	Z	Z	Z		Z			3.2.1
Accessory Uses	I	Z	Z	Z	Z	Z	Z	Z		Z			3.2.2
Assisted Living Facilities	II	C	C					Z					
Boarding House, Rooming House	II	C	C					C		C			
Family Care Homes	I	Z	Z	Z	Z	Z	Z	Z		Z			3.2.4
Home Occupations (accessory use)	I	Z	Z	Z	Z	Z	Z	Z		Z	Z		3.2.2
Home Occupations (non-accessory use)	II	C	C	C	C	C	C	Z		Z	C	C	3.2.3
Hunting & Fishing Lodges	II	Z	Z	Z	Z		Z	Z		Z			
Mobile Homes (Class A)-1 unit per lot	I	Z	Z	Z			Z	Z		Z			3.2.5
Mobile Homes (Class A)-2 units per lot	I	Z	Z	Z			Z	Z		Z			3.2.5
Mobile Homes (Class B)-1 unit per lot	I	C	C	C			C	C		C	C	C	3.2.5, 3.2.8
Mobile Homes (Class B)-2 units per lot	I	C	C										3.2.5, 3.2.8
Multi-family (townhomes, condos, apartments)	II							S					3.2.6
Multi-family (duplex)	II		S					Z					3.2.6
Multi-family Conversion	II		S					Z					3.2.6
Nursing Care Facilities	III	C	C					Z					
Resident Manager/Caretaker Dwellings	I								C		C	C	
Single Family, detached-1 unit per lot	I	Z	Z	Z	Z	Z	Z	Z		Z			
Single Family, detached-2 units per lot	I	Z	Z	Z			Z	Z		Z			2.6.2
Temporary Emergency, Construction, & Repair Residences	I	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	3.2.7
Use	LUC	Zoning Districts											Special
Civic & Government		A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM	Requirements
ABC Stores	III				C			Z	Z	Z			
Civil Defense Operations	III	S	S	S	S	S	S	S	S	S	S	S	
Government Offices	III	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Law Enforcement & Emergency Services	III	S	S	S	S	S	S	S	S	S	S	S	
Schools (elementary & secondary) & Associated Uses	II	Z	Z	Z	Z	Z	Z	Z	Z	Z			
Security Training Operations & Services Facilities	III	S											3.3.1

EXHIBIT 1

Use	LUC	Zoning Districts											Special
Institutional		A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM	Requirements
Cemeteries, Family and Church	II	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	3.4.1
Cemeteries (principal use)	II	C	C								Z	Z	
Colleges, Universities, & Associated Uses	II	S	S								S	S	
Correctional Facilities	III										S	S	
Crematoriums	II											S	
Daycare Centers	III	C	C	C	C			Z	Z	Z	Z	Z	
Hospitals & Clinics (not more than 10,000 sq. ft.)	III	C	C	C	C			Z	Z	Z	Z	Z	
Hospitals & Clinics (greater than 10,000 sq. ft.)	III		S					S	S		S	S	
Institutions for the Mentally Ill	III		S								S	S	
Museums, Libraries, Art Galleries, Art Centers, & Similar Uses	II	S	S	S	C			Z	Z	Z	Z	Z	
Religious Institutions	I	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Residential Care Institutions	III		S					S	S		S	S	
Schools (private instructional)	II							C	C	C	Z	Z	
Schools (trade or vocational)	II	S	S					S	S	S	S	S	
Social, Fraternal, Civic Organizations	II	Z	Z	C				Z	C	C	Z	Z	
Use	LUC	Zoning Districts											Special
Office & Service		A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM	Requirements
Animal Services (no outdoor kennels)	III	Z						Z	Z		Z	Z	
Animal Services (with outdoor kennels)	III	C						C	C		Z	Z	3.5.1
Animal Services (with explosives training)	III	S											3.5.2
Automotive Services & Repair	III							Z	Z		Z	Z	3.5.3
Bed & Breakfast Inns	II	C	C	C	C		C	Z		Z			3.5.4
Boat Ramps (publicly owned)	III	S	S	S	S	S	S	S	S	S	S	S	
Boat Ramps (privately owned)	III					Z/C	Z/C	Z/C	Z/C				
Boat Services & Repair	III							Z	Z	Z	Z	Z	
Car Washes	III							Z	Z	Z	Z	Z	
Dry Cleaning & Laundromats	III							Z	Z	Z	Z	Z	
Funeral Homes	III							Z	Z	Z	Z	Z	
Heavy Equipment Services & Repair	III							C	C		C	C	3.6.1

Hotels/Motels	III							Z/C	Z/C	Z/C			3.5.5
Marinas (privately owned)	III					C	C	C	C	C			3.5.6
Outdoor Storage	III					C		C	C		C	C	
Professional Offices	III	C	C	C	C	C		Z	Z	Z	Z	Z	3.5.7
Tattoo and Body Piercing Studios	IV							C	C		C	C	3.5.8
Use	**LUC**	**Zoning Districts**											**Special**
Retail		**A**	**RA**	**R**	**RO1**	**RO2**	**RR**	**GB**	**C**	**LBH**	**LM**	**HM**	**Requirements**
Auction Houses	III							C					
Automotive Sales & Rental	III							C	C		C	C	3.6.1
Boat Sales & Rental	III							C	C		C	C	3.6.1
Convenience Stores	III							Z	Z	Z			
Drive-through Uses	III							Z	Z	C	Z	Z	
Farmer or Craft Markets	III	C						Z	Z	Z	Z	Z	
Flea Markets	III							C	C	C	C	C	3.6.2
Heavy Equipment Sales & Rental	III							C	C		C	C	3.6.1
Manufactured/Modular Home Sales	III							C	C		C	C	3.6.1
Nurseries or Greenhouses	II	Z	Z					Z	Z	Z	Z	Z	
Restaurants (with drive-through)	III							Z	Z	C	Z	Z	
Restaurants (without drive-through)	III							Z	Z	Z	Z	Z	
Retail Uses	III							Z	Z	C	Z/S	Z/S	
Shopping Centers	III							S	S				3.6.3
Use	**LUC**	**Zoning Districts**											**Special**
Recreation & Entertainment		**A**	**RA**	**R**	**RO1**	**RO2**	**RR**	**GB**	**C**	**LBH**	**LM**	**HM**	**Requirements**
Adult Establishments	IV											S	3.7.1
Athletic & Exercise Facilities (indoor)	III							C	C	C	Z	Z	
Automotive & Motorcycle Racing Tracks	IV											S	
Bars & Nightclubs	III							C	C	C	C	C	
Campgrounds, Recreation (private)	III						S						3.7.2
Campgrounds, Recreation (public)	III	S	S	S	S	S	S	S	S	S	S	S	3.7.2
Entertainment Uses (indoor)	III							Z	Z	Z	Z	Z	

Entertainment Uses (outdoor)	II							S	S		S	S	
Horseback Riding, Schools, Boarding	III	C	C	C		S		C	C		C	C	
Outdoor Recreational Facilities (private)	II	S	S	S	S	S	S	S	S	S	S	S	
Outdoor Recreational Facilities (public)	II	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Recreation Grounds	III						S						3.7.3
Use	**LUC**	**Zoning Districts**											**Special**
Industrial, Manufacturing, Warehousing, Wholesaling,& Solid Waste Uses		**A**	**RA**	**R**	**RO1**	**RO2**	**RR**	**GB**	**C**	**LBH**	**LM**	**HM**	**Requirements**
Incinerators	IV											S	
Junk Yards & Salvage Yards	IV											S	3.8.1
Landfills & Convenience Centers, County Owned or Operated Sanitary	IV	S	S	S	S	S	S	S	S	S	S	S	
Landfills, Demolition	IV	S	S	S				S	S	S	S	S	
Landfills, Reclamation	IV	C	C	C	C	C	C	C	C	C	C	C	
Manufacturing, Light	III	C	C					C	C	C	Z	Z	3.8.2
Manufacturing, Heavy	IV	C									Z	Z	
Mining & Quarrying Operations	IV	S	S								S	S	3.8.3
Mini Warehousing	III							C	C		Z	Z	
Office Warehouses	III							Z	Z		Z	Z	
Warehousing & Distribution	III	C									Z	Z	
Wholesale Trade	III							C	Z	Z	Z	Z	
Use	**LUC**	**Zoning Districts**											**Special**
Agriculture & Livestock		**A**	**RA**	**R**	**RO1**	**RO2**	**RR**	**GB**	**C**	**LBH**	**LM**	**HM**	**Requirements**
Agribusinesses	III	C	C					Z	Z		Z	Z	3.9.1
Agricultural Uses (nonexempt without livestock)	III	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Agricultural Uses (nonexempt with livestock)	III	Z	Z			Z					Z	Z	
Land Applications of Commercial Sludge & Septage	IV	C											3.9.2
Silvicultural Operations	III	Z	Z	Z			Z	Z	Z	Z	Z	Z	
Stockyards, Slaughterhouses, & Rendering	IV	C										C	

Use	LUC	Zoning Districts											Special
Other		A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM	Requirements
Adaptive Reuse of Historic Properties	III	C	C	C	C	C	C	C	C	C	C	C	3.10.1
Airports (county-owned or operated)	IV	S	S	S	S	S	S	S	S	S	S	S	
Airports or Airstrips (private)	IV	S			S						S	S	
Automobile Parking	III							C	C	C	Z	Z	
Crabshedding	III	Z	Z	Z			Z				Z	Z	3.10.2
Lifeguard Stations with Accessory Beach Rentals, County Authorized	I				Z								
Special Events	I	S	S	S	S	S	S	S	S	S	S	S	3.10.4
Temporary Construction & Sales Office	I	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	3.10.5
Temporary Storage, Offices, Caretaker dwellings	I	Z		Z				Z	Z		Z	Z	
Temporary Tents & Tent Sales	I	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	3.10.6
Telecommunications Towers (50 feet or less)	III	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	3.10.7
Telecommunications Towers (more than 50 feet)	III	C	C					C	C		C	C	3.10.7
Telecommunications Towers (non-commercial amateur 100 feet or less)	III	C	C	C	C	C	C	C	C	C	C	C	3.10.7
Towers, Other Including Water (50 feet or less)	III	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Towers, Other Including Water (more than 50 feet)	III	C	C					C	C		C	C	
Utility Facilities	III	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	3.10.8

EXHIBIT J

tabbies

4.1.2. Use Table

TABLE 4.1.1: SUMMARY USE TABLE

PROPOSED UDO PROCEDURE: Z = Zoning Compliance Permit; U = Use Permit; MP = Allowed with Master Plan; blank cell = Prohibited

USE CATEGORY	USE TYPE	ZONING DISTRICT (CURRENTLY EFFECTIVE ZONING) NOT OVERLAY OR SUPPLEMENTAL REQUIREMENTS MAY APPLY TO USES																ADDITIONAL REQUIREMENTS (§4.2.__)
		HC	AG	SFM	SFB	SFR	SFC	MXR	CB	HB	GC	VC	IL	IH	RPUD	MPUD	CBPUD	
AGRICULTURAL USE CLASSIFICATION																		
Agriculture / Horticulture	All	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	MP	MP	MP	
Animal Husbandry	All		Z				Z						Z	Z		MP		1.A
Agriculture Support and Services (Directly Related)	Agri-education	Z	Z				Z		Z	Z	Z					MP		1.B.2
	Agri-entertainment	Z	Z				Z		Z	Z	Z					MP		1.B.2
	Agricultural processing		Z					U					Z	Z		MP		1.B
	Agribusiness		Z				Z		Z	Z	Z			Z		MP		1.B
	Equestrian facility		Z	Z			Z		Z		Z	Z	Z		MP	MP	MP	1.B.3
	Farmers market		Z				Z		Z	Z	Z	Z	Z		MP	MP	MP	1.B
	Nursery, production		Z				Z		Z	Z			Z	Z	MP	MP		1.B.4
	Roadside market		Z						Z									1.B.5
Agriculture Support and Services (Not Directly Related)	Agricultural research facility		Z						Z	Z	Z		Z	Z		MP		1.C
	Distribution hub for agricultural products		Z						Z	Z			Z	Z		MP		1.C
	Farm machinery sales, rental, and service		Z						Z	Z	Z		Z	Z		MP		1.C
	Stockyard / Slaughterhouse		U											U				1.C
Silviculture	All	Z	Z	Z			Z	Z	Z	Z			Z	Z	MP	MP		1.C
RESIDENTIAL USE CLASSIFICATION																		
Household Living	Dwelling, duplex			Z/U				Z			Z	Z			MP	MP	MP	2.A.1
	Dwelling, live/work							Z	Z	Z	Z	Z			MP	MP	MP	2.A.2
	Dwelling, mansion apartment							Z			Z	Z			MP	MP	MP	2.A.3
	Dwelling, manufactured home (class A)		Z	Z			Z	Z	Z									2.A.4
	Dwelling, manufactured home (class B)		Z	Z			Z	Z	Z									2.A.4
	Dwelling, multi-family							Z			Z	Z			MP	MP	MP	2.A.5
	Dwelling, single-family detached		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z			MP	MP	MP	
	Dwelling, townhouse							Z			Z	Z			MP	MP	MP	2.A.5
	Dwelling, upper story							Z	Z	Z	Z	Z			MP	MP	MP	2.A.6
Group Living	Dormitory							Z	Z	U	Z	Z				MP		2.B.1
	Family care home			Z	Z	Z	Z	Z	Z	Z	Z	Z			MP	MP	MP	2.B.2
	Rooming or boarding house							Z	Z		Z	Z			MP	MP	MP	2.B.3
INSTITUTIONAL USE CLASSIFICATION																		
Community Services	Community center			Z	Z	U	Z	Z	Z	Z	Z	Z			MP	MP	MP	
	Cultural facility	U		Z	Z			Z	Z	Z	Z	Z			MP	MP	MP	

TABLE 4.1.1: SUMMARY USE TABLE

PROPOSED UDO PROCEDURE: Z = Zoning Compliance Permit; U = Use Permit; MP = Allowed with Master Plan; blank cell = Prohibited

Use Category	Use Type	Zoning District (Current District in Parenthesis) [Note: Overlay or Sub-District Requirements May Further Limit Uses]																Additional Req (4.2.__)
		RC	AG	SFM	SFO	SFR	SFL	MXR	GB	LB	CC	VC	HI	FI	PDR	PDM	PDO	
	Library			Z	Z		Z	Z	Z	Z	Z	Z			MP	MP	MP	
	Museum			Z				Z	Z	Z	Z	Z			MP	MP	MP	
	Senior center							Z	Z	Z	Z	Z			MP	MP	MP	
	Youth club facility							Z	Z	Z	Z	Z			MP	MP	MP	
Day Care	Adult day care center							Z	Z	Z	Z	Z			MP	MP	MP	
	Child care center			Z	Z		Z	Z	Z	Z	Z	Z			MP	MP	MP	3.A
Educational Facilities	College or university								Z	Z	Z	Z			MP	MP	MP	
	School, elementary		U	Z	Z		U	Z	Z	Z	Z	Z			MP	MP	MP	
	School, middle		U	Z	Z		U	Z	Z	Z	Z	Z			MP	MP	MP	
	School, high							Z	Z	Z	Z	Z			MP	MP	MP	
	Vocational or trade school								Z	Z	Z	Z	Z	Z		MP	MP	3.B
Government Facilities	Government maintenance, storage, or distribution facility								Z	Z	Z	Z	Z	Z	MP	MP	MP	
	Government office		Z	Z	Z		Z	Z	Z	Z	Z	Z	Z		MP	MP	MP	
Health Care Facilities	Blood/tissue collection facility								Z		U	U	Z					
	Drug or alcohol treatment facility								Z	U	U	U	Z					3.C.1
	Hospital								Z	Z	Z	Z	Z			MP	MP	3.C.3
	Medical treatment facility								Z	Z	Z	Z			MP	MP	MP	
Institutions	Assisted living facility							Z	Z	Z	Z	Z			MP	MP	MP	
	Auditorium, conference, and convention center								Z	Z	Z	Z				MP	MP	3.D.1
	Club or lodge			U				U	Z	Z	Z	Z	Z		MP	MP	MP	
	Halfway house							U	U				U					3.D.2
	Nursing home							Z	Z	Z	Z	Z			MP	MP	MP	
	Psychiatric treatment facility							U					U					
	Religious institution		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z		MP	MP	MP	3.D.3
Parks and Open Areas	Arboretum or botanical garden	Z	Z	Z	Z		Z	Z	Z	Z	Z	Z			MP	MP	MP	
	Cemetery, columbaria, mausoleum							Z					Z	Z		MP		3.E
	Community garden	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z			MP	MP	MP	
	Park, public or private	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z		MP	MP	MP	
Public Safety	Correctional facility												U	U				
	Police, fire, or EMS facility		U	U	U	U	U	U	Z	Z	Z	Z	Z	Z	MP	MP	MP	
	Security training facility		U															3.F
Transportation	Airport		U						U		U		U	U		MP	MP	
	Helicopter landing facility								U		U		U	U		MP		3.G
	Passenger terminal, surface transportation			U	U				Z		Z	Z			MP	MP	MP	
Utilities	Solar array		U						U	U			U	U		U	U	3.H.1

TABLE 4.1.1: SUMMARY USE TABLE

PROPOSED UDO PROCEDURE: Z = Zoning Compliance Permit; U = Use Permit; MP = Allowed with Master Plan; blank cell = Prohibited

Use Category	Use Type	Zoning District (Current District in Parenthesis) [Note: Overlay or Sub-District Requirements May Further Limit Uses]																Additional Req (i.e. ...)
		RC	AG	SFM	SFO	SFR	SH	MXR	GB	LB	CC	VC	LI	HI	PDR	PDM	PDO	
	Telecommunications antenna collocation on tower or building		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	MP	MP	MP	3.H.2
	Telecommunications tower, freestanding		U						U	U			U	U				3.H.2
	Utility, major	U	U	U	U	U	U	U	U	U	U	U	U	U	MP	MP	MP	3.I
	Utility, minor	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	MP	MP	MP	3.J
	Wind energy facility, large		U			U			U	U			U	U		MP	MP	3.K
COMMERCIAL USE CLASSIFICATION																		
Adult Entertainment	All													U				4.A
Animal Care	Animal grooming								Z	Z	Z	Z	Z		MP	MP	MP	4.B
	Animal shelter								Z					Z		MP		4.B
	Kennel		U						Z	Z		Z	Z	Z		MP	MP	4.B
	Veterinary clinic		U						Z	Z	Z	Z	Z		MP	MP	MP	4.B
Eating Establishments	Dinner theater								Z	Z	Z	Z			MP	MP	MP	
	Restaurant, with indoor or outdoor seating							U	Z	Z	Z	Z	Z		MP	MP	MP	4.C
	Specialty eating establishment							Z	Z	Z	Z	Z	Z		MP	MP	MP	
Offices	Business and sales							Z	Z	Z	Z	Z	Z		MP	MP	MP	4.D
	Professional services							Z	Z	Z	Z	Z			MP	MP	MP	4.D
Parking, Commercial	Parking lot								Z	Z	Z	Z	Z	Z	MP	MP	MP	4.E.1
	Parking structure										Z	Z			MP	MP	MP	4.E.2
Recreation/ Entertainment, Indoor	Fitness center							Z	Z	Z	Z	Z	Z		MP	MP	MP	
	Recreation, indoor							Z	Z	Z	Z	Z	Z		MP	MP	MP	
	Theater							Z	Z	Z	Z	Z			MP	MP	MP	
Recreation / Entertainment, Outdoor	Automotive Racing													U				
	Arena, amphitheater, or stadium								U		U	U			MP	MP	MP	4.F.1
	Athletic facility			Z	Z		Z	Z	Z	Z	Z	Z			MP	MP	MP	4.F.2
	Golf course			U	U			U							MP	MP	MP	
	Golf driving range							Z	Z	Z					MP	MP		
	Marinas							U	Z		Z	Z	Z		MP	MP	MP	4.F.3
	Outdoor tour operator								U	U	Z	Z				MP	MP	4.F.5
	Recreation, outdoor							U	Z	Z	Z	Z			MP	MP	MP	4.F.4
Retail Sales & Services	Auction House												Z			MP		
	Bar, nightclub, or cocktail lounge								Z		Z	Z			MP	MP	MP	4.G.1
	Convenience store							Z	Z	Z	Z	Z	Z		MP	MP	MP	
	Crematory													U				
	Drug store or pharmacy							Z	Z	Z	Z	Z			MP	MP	MP	

TABLE 4.1.1: SUMMARY USE TABLE

PROPOSED UDO PROCEDURE: Z = Zoning Compliance Permit; U = Use Permit; MP = Allowed with Master Plan; blank cell = Prohibited

Use Category	Use Type	Zoning District (Current District in Parentheses) [Note: Overlay or Sub-District Requirements May Further Limit Uses]																Additional Req. (§ 4.2.___)
		RC	AG	SEM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	PD-R	PD-M	PD-O	
	Entertainment establishment							Z	Z	Z	Z	Z			MP	MP	MP	
	Financial institution							Z	Z	Z	Z	Z			MP	MP	MP	
	Flea market												Z	Z	MP	MP		4.G.2
	Funeral home								Z	Z	Z	Z				MP	MP	
	Grocery store								Z		Z	Z			MP	MP	MP	
	Laundromat							Z	Z	Z	Z	Z	Z		MP	MP	MP	
	Pawn shop												U					
	Personal services establishment							Z	Z	Z	Z	Z	Z		MP	MP	MP	
	Repair establishment								Z	Z	Z	Z	Z	Z		MP	MP	4.G.3
	Retail sales establishments								Z	Z	Z	Z			MP	MP	MP	
	Shopping center								U		Z	Z				MP	MP	4.G.4
	Tattoo parlor/body piercing establishment												Z	Z				4.G.5
Vehicle Sales and Services, Heavy	Aircraft parts, sales, and maintenance												Z	Z				
	Automotive painting/body shop												Z	Z				4.H.1
	Automotive wrecker service												Z	Z			MP	4.H.2
	Boat and marine rental, sales, and service								Z				Z	Z				4.H.3
Vehicle Sales and Services, Light	Automotive parts and installation								Z		Z	Z	Z			MP	MP	4.I.1
	Automobile repair and servicing (without painting/bodywork)								Z		Z	Z	Z			MP	MP	4.I.2
	Automobile sales or rentals								U		Z	Z	Z			MP	MP	4.I.3
	Car wash or auto detailing								Z		Z	Z	Z		MP	MP	MP	4.I.4
	Taxicab service								Z	Z	Z	Z			MP	MP	MP	4.I.5
Visitor Accommodations	Bed and breakfast inn			Z	Z		Z	Z	Z	Z	Z	Z			MP	MP	MP	4.J.1
	Hotel or motel								Z		Z	Z			MP	MP	MP	4.J.2
	Hunting lodge		U					Z	Z	Z					MP	MP	MP	
Industrial Use Classification																		
Extractive Industry	All uses		U										U	U				5.A
Industrial Services	Contractor service								Z		Z	Z	Z	Z		MP	MP	
	Crabshedding		Z					Z					Z	Z	MP	MP		5.B.1
	Fuel oil/bottled gas distributor												Z	Z		MP		
	General industrial service and repair												Z	Z		MP		5.B.2
	Heavy equipment sales, rental, and service												Z	Z		MP		5.B.3
	Laundry, dry cleaning, and carpet cleaning plants												Z	Z		MP		5.B.4
	Manufactured home and prefabricated building sales												Z	Z				5.B.5
	Research and development								Z	Z	Z	Z	Z	Z	MP	MP	MP	

TABLE 4.1.1: SUMMARY USE TABLE

PROPOSED UDO PROCEDURE: Z = Zoning Compliance Permit; U = Use Permit; MP = Allowed with Master Plan; blank cell = Prohibited

USE CATEGORY	USE TYPE	ZONING DISTRICT (CURRENT DISTRICT IN PARENTHESIS) [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]																ADDITIONAL REQ. (§ 4.2.__)
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	HB	CC	VC	LI	HI	RD-B	RD-M	RD-O	
Manufacturing and Production	Manufacturing, heavy													Z				5.C.1
	Manufacturing, light												Z	Z		MP		5.C.2
Warehouse and Freight Movement	Cold storage plant												Z	Z				
	Outdoor storage (as a principal use)												Z	Z				5.D.1
	Self-service storage												Z	Z		MP		5.D.2
	Truck or freight terminal												Z	Z		MP		5.D.3
	Warehouse (distribution)												Z	Z		MP		5.D.3
	Warehouse (storage)												Z	Z	MP	MP	MP	5.D.3
Waste-Related Services	Incinerator													U				5.E.1
	Landfill, land clearing and inert debris or construction debris												U	U				5.E.2
	Public convenience center/transfer station		U	U	U	U	U	U	U	U			U	U				5.E.3
	Recycling center												Z	Z				5.E.4
	Salvage and junkyard													U				5.E.5
	Waste composting		U										U	U				
Wholesale Sales	All uses												Z	Z		MP	MP	

4.2. USE-SPECIFIC STANDARDS

Use-specific standards are the requirements applied to individual use types regardless of the zoning district in which they are located or the review procedure by which they are approved. This section is intended to identify the use-specific standards for all principal uses identified in Table 4.1.1, Summary Use Table, as subject to "Additional Req." These standards may be modified by other applicable requirements in this Ordinance.

4.2.1. Agricultural Uses

A. Animal Husbandry

Animal husbandry uses shall comply with the following standards:

(1) Minimum Site Size

(a) Any use engaged in animal husbandry shall have a minimum lot area of at least 20,000 square feet in size.

(b) Uses maintaining non-hoofed animals shall maintain 1,500 square feet per animal kept on site.

(c) Uses maintaining hoofed animals shall maintain 9,000 square feet per animal kept on site.

John Carlberg, adjoining property owner, said he and his wife just moved to this location to get away from city life. He said the property in question cuts in front of his property and is within 2' of his barn. He said there is a pond that will be split by the property line. He is concerned about his privacy if a business goes in next door and about trash blowing on to his property. If the property is rezoned, it will defeat the purpose of him purchasing his property. He said he is also speaking for Pauline Jewell, neighboring property owner, who request that this rezoning not be approved.

Mr. Hawley pointed out that the commercial property on the other side of this property could be used for any commercial activity.

Mr. Carlberg said that that property owner is running an automobile mechanic shop and he knew about that business before he purchased his property. He does not have a problem with that commercial lot.

Mr. Bell asked if the applicant would be required to install a buffer along the property line.

Mr. Ferguson said that it depended on the use and that the buffer type would be determined with the zoning permit.

Mr. Pope said that he would install a buffer. He is willing to work with Mr. Carlberg on the land configuration.

Cornelia Carlberg said she is concerned that any use allowed in the Commercial zone would be allowed on the property.

PLANNING BOARD RECOMMENDATION

Mr. Hawley motioned to recommend approval of this request. Mr. Etheridge seconded the motion and the motion passed unanimously.

PB 04-22 SWAN BEACH COROLLA, LLC: REZONE 18.88 ACRES FROM OUTER BANKS LIMITED ACCESS RESIDENTIAL (RO2) TO GENERAL BUSINESS (GB) ON PROPERTY LOCATED IN CAROVA AT 1702, 1703, AND 1705 OCEAN PEARL ROAD, TAX MAP 101A, LOTS B, C, AND D, FRUITVILLE TOWNSHIP.

Mark Bissell appeared before the board.

Ms. Cox presented the following case analysis to the board:

TYPE OF REQUEST:	Request for rezoning 18.88 acres from Outer Banks Limited Access Residential (RO2) to General Business (GB).
LOCATION:	This site is located in Carova at 1702, 1703 and 1705 Ocean Pearl Road, Tax Map 101A, Lots B, C and D, Fruitville Township.

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PROPERTY OWNER: Swan Beach Corolla, LLC

ZONING:

Current Zoning	Proposed Zoning
Outer Banks Limited Access Residential (RO2)	General Business

ZONING HISTORY: Property was zoned Outer Banks Limited Access Residential (RO2) on the January 1, 1989 Official Zoning Map.

SURROUNDING ZONING/LAND USE:

NORTH:	RO2/Currituck National Wildlife Refuge
SOUTH:	RO2/Residential
EAST:	RO2/Atlantic Ocean
WEST:	RO2/Residential

EXISTING LAND USE: Vacant

PROPOSED LAND USE: To provide a commercial services district to serve the north beach area

LAND USE PLAN CLASSIFICATION: According to the 1990 Land Use Plan this area is designated Limited Transition. The purpose of the Limited Transition class is "to provide for development in areas that will have some services, but are suitable for lower densities than those associated with the urban transition class, and/or are geographically remote from existing towns and municipalities....This class also contains nonresidential areas along major transportation routes" This rezoning is consistent with the Limited Transition classificaiton.

PUBLIC SERVICES AND UTILITIES: Carova Volunteer Fire Department provides fire protection for this area. Electric and telephone are currently available.

TRANSPORTATION: Property has access onto Ocean Pearl Road and Albatross Lane which are unimproved, private streets that are not classified within the 1988 NCDOT Throroughfare Plan.

FLOOD ZONE: According to FEMA maps, this area is located in a CBRA zone and would not be eligible for flood insurance.

SOILS: These parcels primarily consist of Dune land and Dune land-Newhan complex. Dune land is made up of large areas of sand

that are subject to severe blowing and shifting with the wind. Newhan soils are excessively drained with rapid permeability.

STAFF COMMENTS:

- There is currently no General Business zoning districts present in the Carova/Swan Beach area
- The parcels within this proposal were designated as "Business Areas" on the original plat for Swan Beach Section 1.
- A 375' large structure setback from the first line of vegetation exists per CAMA regulations.

STAFF RECOMMENDATION: This area is environmentally sensitive and its limited access could pose a public health and safety concern as development increases. Although some limited commercial areas may be needed within the off-road area, staff has strong reservations with approving a rezoning that would allow all of the uses permitted within the General Business District. For example, the General Business District would permit shopping centers, hotels, restaurants, and various other retail operations designed to attract a high volume of traffic.

Staff has previously recommended the applicant consider a Village Commercial District designation which would permit limited commercial uses designed to serve the local community. It is our position that the creation of a Village Commercial District would be more in harmony with the Carova environment than the proposed General Business District. Therefore, staff recommends denial of this request.

DISCUSSION

Mr. Hawley asked if there are any other Village Commercial Districts within the county.

Ms. Cox said the zoning district does not exist yet, but had suggested to the applicant that the Village Commercial District be established.

Mr. Ferguson said that this area is in a CBRA zone. He said that Federal funds will never be made available to the area and flood insurance cannot be obtained unless it is from a company such as Lloyds of London. The Federal government created the CBRA zone to keep development out of fragile areas.

Mr. Bissell said there are no commercial services in Carova. These services are needed. The applicant is looking at a convenience store, post office, fire station, heilo pad, chappel, etc. They are looking at a boardwalk type of development. He said that the larger commercial uses,

hotels, and resturants would require a special use permit and additional restrictions can be placed on those uses at that time. They are proposing an access for traffic to come off of the beach and enter the commercial area.

Mr. Hawley asked if the applicant thought the rezoning was consistant with the neighborhood.

Mr. Bissell said that the neighborhood is residential, but plats have always shown this area as commercial.

Ms. Cox said that the property is zoned RO2 and has never been properly zoned to Commercial.

Mr. Hawley asked how you would service the commercial district. He expressed a concern for commercial vehicles using the beach as an access to the property.

Mr. Bissell said he did not see a great increase in traffic.

Mr. Hawley listed many service trucks that would be required (food trucks, beverage trucks, etc.). He expressed a concern for the safety of those using the beach.

Mr. Ferguson said that if rezoned, all GB uses would be allowed on the property.

Bobby Bell asked the distance to the paved road.

Mr. Ferguson said about 8 miles.

Mr. Hawley asked if this zoning could be considered spot zoning.

Mr. Ferguson said that it could be challenged.

PLANNING BOARD RECOMMENDATION

Mr. Hawley motioned to recommend denial of this request. Mr. Winter seconded the motion and the motion passed unanimously.

PB 03-48 POPLAR RIDGE: PRELIMINARY PLAT FOR 18 LOTS LOCATED IN POPLAR BRANCH AT 390 POPLAR BRANCH ROAD, TAX MAP 93, LOT 175, POPLAR BRANCH TOWNSHIP.

Sean Robey and CA Howard appeared before the board.

Ms. Cox presented the following case analysis to the board:

LOCATION: On the west side of Poplar Branch Road (SR 1131) approximately 1,800 feet south of the intersection with Macedonia Church Road, Poplar Branch Township.

Subject: <untitled>
Date Sent: Friday, April 23, 2004, 8:52:14 AM
From: Jeff Malarney <jmalarney@TWIDDY.COM>
To: scox@co.currituck.nc.us

Message

Shelly,

Pursuant to our April 23, 2004 telephone conversation, I am respectfully requesting the removal of the above referenced matter from the Board of Commissioners May 3, 2004 agenda, and would appreciate it if the application were recalendared to the June 8, 2004 Planning Board.

The rezoning application will be modified to reflect a reduction in the total acreage and location of the previous submittal. Upon receipt of a tax map, I'll attempt to circle the area and fax it back to your attention.

Please call me if you have any questions.

Thank you for your cooperation.

Jeff

Jeff Malarney
General Counsel
Twiddy and Company
252.457.1177
jmalarney@twiddy.com <mailto:jmalarney@twiddy.com>
ATTORNEY WORK PRODUCT Please note the contents of this e-mail are privileged and may only be read by the intended addressee. Unauthorized use for whatever purposes or by whatever means by anyone other than the intended party is prohibited. If you have received this communication in error, please immediately notify us by telephone at 252.457.1177 or E-mail, then DESTROY the message and attached materials.

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PB 04-71 Swan Beach Corolla, LLC Amendment to UDO Section 127 to create off road historic Village Commercial Overlay District.

Mr. Kear presented the following case analysis to the board.

Bissell Professional Group & Currituck County Board of Commissioners
PB 04-71
UDO AMENDMENT REQUEST

Bissell Professional Group and Currituck County Board of Commissioners requests the following amendment to the Currituck County Unified Development Ordinance:

PB 04-71: Amendment to Section 127 of the UDO to create an Off Road Historic Village Commercial 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:

Part 1. That the following sections be amended:

Section 127 Off Road Historic Village Commercial Overlay District

1. The Off Road Historic Village Commercial Overlay District is a floating district intended to provide a vital, place-appropriate, and community-enhancing area of limited commercial activities to serve existing and developing residential subdivisions in the County. These uses are in addition to the RO2 uses authorized in Article 13.

2. The Off Road Historic Village Commercial Overlay District designation shall only apply to contiguous parcels of land greater than 10 acres with common ownership, and shall have a specific height limitation of 42 feet.

3. The Off Road Historic Village Commercial Overlay District designation shall only apply to parcels within the RO2 zoning district.

4. Permitted Uses - The following uses shall be permitted by right and require only a zoning permit(s):

   a. Post Office
   b. Fire/Emergency Medical/Sheriff's Satellite Office (County leased facilities)
   c. Churches, Synagogues, and Temples
   d. Convenience Stores
   e. Inn (not to exceed 50 bedrooms)
   f. Real Estate Offices
   g. Professional Offices

5. Conditional Uses - The following uses may be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners:

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a. Retail Shops
b. Seafood Market
c. Theatres
d. Outdoor recreation areas, including parks, picnic areas, nature trails, bridal paths, riding stables, playgrounds, boat ramps, and customary concessions connected therewith
e. Restaurants- Restaurants maybe permitted subject to other requirements of this chapter and provided that the following minimum conditions be met: (i) the restaurant shall not feature a drive-though window service whereby patrons are served while seated in a motor vehicle; and (ii) the restaurant shall include facilities for indoor seating and consumption of food and/or beverages.

6. Dimensional Requirements – Unless otherwise specified in this ordinance, dimensional standards in Article 2 shall apply.

7. Specific Development Requirements:

a. Street Design and Construction Standards

(i) All streets serving any uses within the Off Road Historic Village Commercial Overlay District shall be designed to meet the requirements of NCDOT.

(ii) "Hatteras" Ramps, a minimum of 24 feet in width shall be provided in those areas that are consistent with the dynamics and character of the site.

(iii) All streets serving any uses within the Off Road Historic Village Commercial Overlay District shall be constructed in a manner consistent with NCDOT guidelines but will at a minimum utilize compounded (compacted) subgrade materials and surfaced with minimum of three (3) inches of shell or other similar substance.

(iv) Roadside drainage swales shall be installed a minimum depth of 15 inches with side slopes not greater than 3:1. Associated drainage plans and improvements shall be required and approved by the Currituck County Engineer and meet the requirements of Article 16, Part II.

(v) All construction standards shall be made n accordance with Exhibit A, attached hereto and incorporated herein by reference

b. All utilities shall be placed underground for all uses within the Off Road Historic Village Commercial Overlay District in accordance with Section 610 (2).

8. Parking

a. All required parking shall meet the use standards in Article 4.

b. All vehicle accommodation areas shall be improved in accordance with the street construction standards in paragraph 7 (a) above.

9. Signs

a. All signs shall comply with Article 17, Part 4, On-Premise Signs - Outer Banks Overlay District for all uses within the Off Road Historic Village Commercial Overlay District.

Part 2. That the following sections be amended:

That the following sections be renumbered accordingly.

Part 3. This ordinance amendment shall be in effect from and after the ____ day of ____, 2004.

_____
Chairman, Board of Commissioners

Attest:

_____
Gwen Keene,
Clerk to the Board

DATE ADOPTED: _____
MOTION TO ADOPT BY COMMISSIONER:_____
SECONDED BY COMMISSIONER:_____

VOTE: ____ AYES_____ NAYES

****
PLANNING BOARD DATE: _____
PLANNING BOARD RECOMMENDATION: _____
Ayes_____ Nays_____
ADVERTISEMENT DATE OF PUBLIC HEARING:_____and_____
BOARD OF COMMISSIONERS PUBLIC HEARING:_____
BOARD OF COMMISSIONERS ACTION: _____
POSTED IN UNIFIED DEVELOPMENT ORDINANCE:_____

AMENDMENT NUMBER:_____

DISCUSSION
Mr. Bell asked why the height limitation was being increased.
Mr. Bissell said that the purpose is to allow a more attractive structure, similar to the old Nags Head lifesaving station structure.
Mr. Kovacs asked what accessory lodging units are.
Mr. Bissell said that accessory lodging units are separate bungalow type structures.
Mr. Bell asked how water and sewer concerns would be addressed.
Mr. Bissell said they'd be provided on site, regulated by the State.
Mr. Hawley asked how they proposed to get the supplies to that end of the beach. Linens, food, etc.

*Minutes are not official until approved by the board.

Mr. Bissell said the same is now and that traffic would not be different than it is now, and cited examples of the log trucks and such that are going in now to build homes. The issues presented by the Fire Marshall could be addressed at the design stage.
Mr. Ferguson asked if there would be a sprinkler type fire suppression system.
Mr. Bissell said yes.
Gene Snow, co-director of Corolla Wild Horse fund, said that this will open the door to commercial development and the horses will be eliminated. The horses have been designated as a NC cultural resource. They have no where else to go, they have been pushed to the outer limits.
Tom Hudak, President of Swan Beach property owner's assn., spoke on behalf of the membership of the association. 97% of the people are in agreement to preserve the area as is and spoke against the amendment.
Ron Darrow, resident of Carova, said he and his wife wanted to see the area stay as it is as well. He is afraid that this will be the first of many commercial developments in this area, and spoke against the amendment.
Nyla Johnson, Corolla Wild Horse fund, lives in Moyock and works at the beach. She spoke against the proposed amendment and the preservation of the horses.
Gene Walters, resident, spoke against the amendment.
Doris Jordan, Norfolk, spoke about the beautiful environment and spoke against the amendment. She said the investors are the only ones who will benefit from this proposal and the environment is the issue, not the money that will be made.
Carl Newton, resident of Swan Beach, spoke against the amendment and for the preservation of the environment in the area.
Linda Spencer, resident, spoke against the amendment.
Bill Vann, Fire Chief of Carova Beach, said a letter was written by the fire dept expressing concerns about fire issues. The fire department cannot get high enough in the air in the event of a fire and wonders if the developer or the county is willing to provide manpower to this area.

Mr. Kovacs motioned to deny the request as presented. Mr. Keel seconded the request. Motion passed unanimously.

Mark Bissell appeared before the board.

PB 04-72 Swan Beach Corolla, LLC. Rezone 25.77 acres from Residential Outer Banks Limited Access (RO2) to Village Commercial Overlay District on property located on Ocean Pearl Road north of intersection of Albatross Lane Swan Beach. Tax Map 101, Lot 1, and Tax Map 101A, Lots C & D Section 1, Fruitville-Outer Banks Township.

Mr. Kear presented the following case analysis to the board.

Zoning Staff Report: PB 04-72
Swan Beach Corolla LLC, - Rezoning

TYPE OF REQUEST: Request for rezoning three lots containing a total area of 25.77 acres from residential (RO2) to a commercial overlay zone.

LOCATION: This site is located in Fruitville Township (Outer Banks) at the Northern most section of Swan Beach along Ocean Pearl Road, an undeveloped public right-of-way.

TAX ID: Tax Map 101A-C-1, 101A-D-1 & 101-1A-1.

PROPERTY OWNERS: Swan Beach Corolla, LLC

APPLICANTS: Bissell Professional Group/Mark S. Bissell

ZONING:

Current Zoning	Proposed Zoning
Outer Banks Limited Access Residential (RO-2)	Off Road Historic Historic Village Commercial Overlay

ZONING HISTORY: Property has been zoned Outer Banks Limited Access Residential (RO2) since 1989.

SURROUNDING ZONING/LAND USE:

	Zoning	Land Use
NORTH:	Federal Lands	Wildlife Preserve
SOUTH:	Residential (RO2)	Residential (RO2)
EAST:	Public Trust Lands	Atlantic Ocean
WEST:	Residential (R02)	Residential (R02)

EXISTING LAND USE: Vacant.

PROPOSED LAND USE: The applicant has stated that the reason for the request is to create a commercial Off Road Historic Village to support current residential development.

LAND USE PLAN: The 1990 Land Use Plan shows this property as "Limited Transition". The purpose of this class is "to provide for development in areas that will have some services, but are suitable for lower densities than those associated with the urban transition class, and/are geographically remote from existing towns and municipalities". This class is intended for residential developments with densities of three units per acre or less. This class also contains nonresidential areas along major transportation routes. This rezoning request is **not** consistent with the Land Use designation.

PUBLIC SERVICES AND UTILITIES: Carova Volunteer Fire Department provides fire protection for this area. Electric and telephone are currently available at this location.

TRANSPORTATION: Property has approximately 636 feet of frontage on the east side of Ocean Pearl Road (an unimproved road) and approximately 857 feet of frontage on the west side of Ocean Pearl Road. The nearest public road to this site is approximately four miles to the south. Vehicular access to this section of the Outer Banks is restricted to 4 wheel drive vehicles only. Visitors and residents of this area either access the area by boat via Currituck Sound or travel along the beach until they locate a Hatteras Ramp suitable to crossover to access one of the several platted right of ways within the Swan Beach Subdivision, none of which meet the minimum standards of a public roadway. Most roads in the subdivision are sand and are poorly drained.

FLOOD ZONE: According to FEMA maps, the property is located entirely within the 100 year floodplain and extends approximately 700 feet in the new VE (high risk) area as shown of the new Flood Insurance Rate Map (FIRM).

SOILS: According to the Currituck County Soil Survey, the property consists of approximately 95 percent of soils suitable for on-site septic systems.

STAFF COMMENTS:

- With the exception of the north side, all this property is surrounded by residential (RO2) zoning. The U. S. Government owns the lands to the north known as the Currituck National Wildlife Refuge.
- Granting of this zoning request would create an increase in traffic along the beach, currently the only way to get to and from the site. There is a concern that this additional traffic will endanger people who choose to recreate along these secluded beaches.
- The Currituck County Fire Marshall has concerns about the water availability for fire suppression since there is no county water available. The North Carolina Building Code, Vol., Fire Prevention Code specifically mentions requirements for commercial areas such as all weather driving surfaces, proper turning radius, and water availability. Additionally, the NC Building Code restricts the height of commercial buildings to 35 feet in areas where there is no aerial fire apparatus.

STAFF RECOMMENDATION: Staff recommends denial from RO2 to commercial zone for the following reasons:

- The closest public maintained road from the site is four miles to the south.
- Concerns for the safety of the recreating public using these areas of the beach.
- There are no public services (water and sewer) available to the site.
- This rezoning is not consistent with the Land Use Plan of 1990.

DISCUSSION

Mr. Bissell stated that he understands that the people do not want change, but he doesn't feel that this proposal is driving the change.

Mr. Keel motioned to deny the request as presented. Mr. Riley seconded the request. Motion passed unanimously.

Clay Clark appeared before the board.

PB 05-02 Clay Clark Rezone ¼ acre from Heavy Manufacturing (HM) to Agricultural (A) on property located along Grandy Road Tax Map 108, Lot 56, Poplar Branch Township.

Mr. Kear presented the following case analysis to the board.

ZONING STAFF REPORT: PB 05-02
CLAY CLARK – REZONING

TYPE OF REQUEST: Rezone .25 acre lot from HM (Heavy Manufacturing) to A (Agricultural).

PURPOSE OF REQUEST: To build a conforming structure (house) in a zone that permits this use.

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Item 12 **Consideration and Action** on Agreement for operation of Transfer Station with Republic Services of NC, LLC

Item 13 **Consent Agenda:**

1. Budget amendments
2. Approval of November 3, 2008, Minutes
3. Co-Signature Authority-North Carolina Cooperative Extension
4. Charge to Tax Collector Levy on Motor Vehicles for August Renewals

Item 14 Commissioner's Report

Item 15 County Manager's Report

Adjourn

Special Meeting

Tourism Development Authority

Budget Amendments

Adjourn

Public Comment

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

Chairman Nelms stated that the Board has received an award from the North Carolina Board of Education for working so well with the Board of Education. The award was presented at their annual conference in Greensboro.

Dean Gregory, thanked the Board for working with the Northern Outer Banks Beach Task Force on improving the 4-wheel drive area.

Marshall Cherry, requested the Board to adopt a conflict of interest policy.

Ike McRee, County Attorney, stated that Commissioner Bowden had no conflict with voting on Item 4.

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

Discussion on NC Division of Aging Service Breach

Dan Scanlon, County Manager, stated that an employee with the Division of Aging had her laptop computer stolen. The computer contained information from a Division database. Seniors were asked to take steps to insure their information was not used to obtain credit. Seniors are requesting that the State take a more proactive role to keep this information safe.

Commissioner Etheridge moved to send a letter to the state to take more of the burden with the cost of helping seniors. Commissioner Gregory seconded the motion. Motion carried.

Public Hearing and Action PB 04-71 Swan Beach Corolla, LLC: Request to amend the Currituck County Unified Development Ordinance, Chapter 4: Overlay Districts, to create an Off Road Historic Village Commercial Overlay District.

Ben Woody, Planning Director, reviewed the request.

Bissell Professional Group and Currituck County Board of Commissioners have requested an amendment to the Currituck County Unified Development Ordinance, Chapter 4: Overlay Districts, and the Official Zoning Atlas. The proposed amendment has been submitted in conjunction with an overlay rezoning request of 25.77 acres in the Northern most part of Swan Beach Subdivision. The overlay rezoning request is contingent upon the approval of this amendment request. (A copy of this proposed amendment is attached for your review).

The Staff's concerns are the following:

- Approval of this amendment and subsequent zoning request would create an increase in traffic along the beach, currently the only way to get to and from the site. There is a concern that this additional traffic will endanger people who choose to recreate along these secluded beaches.
- The Currituck County Fire Marshall has concerns about the water availability for fire suppression for the proposed buildings since there is no county water available. The North Carolina Building Code, Vol., Fire Prevention Code specifically mentions requirements for commercial areas such as all weather driving surfaces, proper turning radius, and water availability. Additionally, the NC Building Code restricts the height of commercial buildings to 35 feet in areas where there is no aerial fire apparatus. The proposal is calling for a height limitation of 42 feet.
- There appears to be an area of the northern part of this proposed site that overlaps into the U.S. Fish and Wildlife property as shown on the property survey. This boundary dispute should be resolved prior to any approval.
- According to FEMA maps, the property is located almost entirely in the 100 year floodplain and extends approximately 700 feet in the new VE (high risk) area as shown of the new Flood Insurance Rate Map (FIRM). A concern has also been raised regarding how this proposal if built would affect the FEMA flood insurance rating for other structures in this area.
- Staff would like to have an Environmental Impact Study be prepared for the site to study the current verses proposed conditions, especially in the area of stormwater, wastewater treatment, access to the site, and how the proposed development and nearby properties will be affected by the CBRS Zone (Coastal Barrier Resource System).

Staff is recommending denial on the basis that this proposal would create further safety concerns for the recreating public using the northern beaches as well as the residents of the area. It's the staff's position that the Off Road Historic Commercial Overlay District would have more of an adverse impact on the fragile environment in this area of the Outer Banks than the traditional residential development in the RO2 zone.

PLANNING BOARD RECOMMENDATION: On April 12, 2005 the Planning Board reviewed this request and recommended denial.

PLANNING BOARD DISCUSSION:

Mr. Bell asked why the height limitation was being increased.

Mr. Bissell said that the purpose is to allow a more attractive structure, similar to the old Nags Head lifesaving station structure.

Mr. Kovacs asked what accessory lodging units are.

Mr. Bissell said that accessory lodging units are separate bungalow type structures.

Mr. Bell asked how water and sewer concerns would be addressed.

Mr. Bissell said they'd be provided on site, regulated by the State.

Mr. Hawley asked how they proposed to get the supplies to that end of the beach. Linens, food, etc.

Mr. Bissell said the same is now and that traffic would not be different than it is now, and cited examples of the log trucks and such that are going in now to build homes. The issues presented by the Fire Marshall could be addressed at the design stage.

Mr. Ferguson asked if there would be a sprinkler type fire suppression system.

Mr. Bissell said yes.

Gene Snow, co-director of Corolla Wild Horse fund, said that this will open the door to commercial development and the horses will be eliminated. The horses have been designated as a NC cultural resource. They have no where else to go, they have been pushed to the outer limits.

Tom Hudak, President of Swan Beach property owner's assn., spoke on behalf of the membership of the association. 97% of the people are in agreement to preserve the area as is and spoke against the amendment.

Ron Darrow, resident of Carova, said he and his wife wanted to see the area stay as it is as well. He is afraid that this will be the first of many commercial developments in this area, and spoke against the amendment.

Nyla Johnson, Corolla Wild Horse fund, lives in Moyock and works at the beach. She spoke against the proposed amendment and the preservation of the horses.

Gene Walters, resident, spoke against the amendment.

Doris Jordan, Norfolk, spoke about the beautiful environment and spoke against the amendment. She said the investors are the only ones who will benefit from this proposal and the environment is the issue, not the money that will be made.

Carl Newton, resident of Swan Beach, spoke against the amendment and for the preservation of the environment in the area.

Linda Spencer, resident, spoke against the amendment.

Bill Vann, Fire Chief of Carova Beach, said a letter was written by the fire dept expressing concerns about fire issues. The fire department cannot get high enough in the air in the event of a fire and wonders if the developer or the county is willing to provide manpower to this area.

PLANNING BOARD ACTION
Mr. Kovacs motioned to deny the request as presented. Mr. Keel seconded the request. Motion passed unanimously.

Since the Planning Board meeting the applicant has made some slight modifications to the text amendment. The changes include reducing the maximum height of the buildings down to 35', eliminating bridal trails and stables. The maximum amount of accessory lodging units was changed from 15 – 2 bedroom units to 10 bedrooms per acre.

PB 04-71
UDO AMENDMENT REQUEST

Bissell Professional Group and Currituck County Board of Commissioners requests the following amendment to the Currituck County Unified Development Ordinance:

> PB 04-71: Amendment to Chapter 4: Overlay Districts of the UDO to create an Off Road Historic Village Commercial 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 the following sections be amended:

Chapter 4: Overlay Districts, Section 4.8 Off Road Historic Village Commercial Overlay

1. The Off Road Historic Village Commercial Overlay District is a floating district intended to provide a vital, place-appropriate, and community-enhancing area of limited commercial activities to serve existing and developing residential subdivisions in the County. These uses are in addition to the RO2 uses authorized in Chapter 2.

2. The Off Road Historic Village Commercial Overlay District designation shall only apply to contiguous parcels of land greater than 20 acres with common ownership, and shall have a specific height limitation of 42 *35* feet.

3. The Off Road Historic Village Commercial Overlay District designation shall only apply to parcels within the RO2 zoning district.

4. Permitted Uses - The following uses shall be permitted by right and require only a zoning permit(s):

a. Post Office
b. Fire/Emergency Medical/Sheriff's Satellite Office (County leased facilities)
c. Churches, Synagogues, and Temples
d. Convenience Stores
e. Inn (not to exceed 50 bedrooms)
f. Real Estate Offices
g. Professional Offices
h. Accessory lodging units not to exceed ~~15 – 2 bedroom units (30 bedrooms total)~~ *10 bedrooms per acre*

5. Conditional Uses - The following uses may be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners:

   a. Retail Shops
   b. Seafood Market
   c. Theatres
   d. Outdoor recreation areas, including parks, picnic areas, nature trails, ~~bridle paths, riding stables~~, playgrounds, boat ramps, and customary concessions connected therewith
   e. Restaurants- Restaurants maybe permitted subject to other requirements of this chapter and provided that the following minimum conditions be met: (i) the restaurant shall not feature a drive-though window service whereby patrons are served while seated in a motor vehicle; and (ii) the restaurant shall include facilities for indoor seating and consumption of food and/or beverages.

6. Dimensional Requirements – Unless otherwise specified in this ordinance, dimensional standards in Chapter 2 shall apply.

7. Specific Development Requirements:

   a. Street Design and Construction Standards

      (i) All streets serving any uses within the Off Road Historic Village Commercial Overlay District shall be designed to meet the requirements of NCDOT.

      (ii) "Hatteras" Ramps, a minimum of 24 feet in width shall be provided in those areas that are consistent with the dynamics and character of the site.

      (iii) All streets serving any uses within the Off Road Historic Village Commercial Overlay District shall be constructed in a manner consistent with NCDOT guidelines but will at a minimum utilize compounded (compacted) subgrade materials and surfaced with minimum of three (3) inches of shell or other similar substance.

      (iv) Roadside drainage swales shall be installed a minimum depth of 15 inches with side slopes not greater than 3:1. Associated drainage plans and improvements shall be required and approved by the Currituck County Engineer and meet the requirements of Chapter 6 of the UDO.

      (v) All construction standards shall be made n accordance with Exhibit A, attached hereto and incorporated herein by reference

   b. All utilities shall be placed underground for all uses within the Off Road Historic Village Commercial Overlay District.

8. Parking

   a. All required parking shall meet the use standards in Chapter 8.

   b. All vehicle accommodation areas shall be improved in accordance with the street construction standards in paragraph 7 (a) above.

9. Signs

   a. All signs shall comply with Chapter 4: Overlay Districts, Outer Banks Overlay District for all uses within the Off Road Historic Village Commercial Overlay District.

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 volatile 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, reviewed the request.

Gerald Friedman, Developer, reviewed the history of the area and requested the Board's support.

Brian Plumlee, Attorney, reviewed the 1969 signed plat for commercial area and requested the Board to honor its agreement signed when it went to record in 1969.

Rick Carstater, opposed the request.

Elizabeth White, opposes the request and presented a signed petition from residents and tourist.

Lynne Wilson, stated this request was not consistent with the LUP and opposes the amendment.

Debra Ianucci, opposes the request.

Jane Overstreet, opposes the request.

Kim Hoey, opposes the request with traffic concerns.

Edna Baden, opposes the request.

Rufus Baldwin, opposes the request.

Karen McCalpin, expressed concerns with wild horses and opposed the request.

Bob White, Swan Beach Property Owners Association, opposes the request.

Cary Browning, opposes the request.

Jan DeBlieu, Coastal Federation opposes the request.

Bob Wright, opposes the request.

Woody Archer, opposes the request.

Mike Hoff, US Fish & Wildlife, opposes the request.

Richard Baecher, opposes the request.

Bob Schultz, opposes the request.

Marie Baecher, opposes the request.

Marshall Cherry, opposes the request due to fire and EMS service.

Vance Aydlett, opposes the request.

Chairman Nelms requested the Attorney to give his opinion on vested right.

Ike McRee, Attorney, stated that there was no vested right with the 1969 signed plat.

Commissioner Bowden reviewed the history of businesses that did operate in Swan Beach back to the late 1800's.

Chairman Nelms closed the public hearing.

Chairman Nelms moved to deny the text amendment as presented with the findings and determination that the denial of the text amendment is consistent with the Land Use Plan and that the denial of the text amendment is reasonable and in the public interest due to denial being consistent with the Land Use Plan which furthers the goals and objectives of the plan. Commissioner Gregory seconded the motion. Motion carried.

Public Hearing and Action PB 04-72 Swan Beach Corolla, LLC: Request to establish an Off Road Historic Village Commercial Overlay District on approximately 25.77 acres. The property is located on Ocean Pearl Road north of the intersection of Albatross Lane, Swan Beach. Tax Map 101, Lot 1, and Tax Map 101A, Lots C & D Section 1, Fruitville Township.

deleted

Public Hearing and Action PB 08-50 Currituck County Planning Board: Request to amend the Currituck County Unified Development Ordinance, Table of Permissible Uses, to allow wastewater treatment plants with a Special Use Permit.

Commissioner Etheridge moved to table. Chairman Nelms seconded the motion. Motion carried.

Public Hearing and Action PB 08-41 Bissell Professional Group - Text Amendment for RO2 Roads and Lots: Request to amend UDO Chapter 9: Infrastructure; Chapter 2: Zoning Districts; and Chapter 10: Subdivision Requirements to allow existing larger parcels to be re-subdivided into open space subdivisions in the RO2 zoning district with sand roads that follow the configurations of previously approved roads and lots (Carova Beach, Swan Beach, etc.).

Ben Woody, Planning Director, reviewed this amendment.

MEMORANDUM

To: Board of Commissioners

From: Ben E. Woody, AICP
Planning Director

Date: November 10, 2008

Re: PB 08-50 Wastewater Treatment Plants

The Currituck County Planning Board recently requested that staff develop a text amendment to require a special use permit for wastewater treatment plants. Currently the Unified Development Ordinance permits wastewater treatment plants (utility facilities) "by-right" in all zoning districts. This means that a wastewater treatment plant would be permitted in any zoning district with an administrative approval.

The Planning Board is recommending that a special use permit be required for the establishment of any wastewater treatment plant due to its often incompatible nature with surrounding land uses. The special use permit process requires a public hearing and approval by the Board of Commissioners, rather than relying on an administrative approval Considering the range of

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Mr. Rothrock stated he would like to see a number on the jeeps along with the company name so when you call the sheriff department you can give them a number along with the company name. Control the number of permits which in turn will control the number of vehicles up in the off road area. Mr. Rothrock asked who is spending more money, the person who rents the jeep for 2.5 hours or rents a home for a week.

Mr. Lampe stated he likes a one year permits and he is in favor of guided tours.

ACTION
Mr. West motion to recommend approval with staff recommendations and that the tours be guided during the months of Memorial Day through Labor Day for a special use permit for an outdoor tour operator. Ms. Taylor seconded the motion. Motion carried unanimously.

PB 10-03 Swan Beach Corolla: Request to rezone 37.36 acres from Outer Banks Limited Access Residential (RO2) to Conditional District-General Business (CD-GB). The property is located in Swan Beach, Tax Map, 101 and 101A, Parcels A,B,C,D,1A,M1 and M2, Fruitville Township.

Brian Plumlee, Mark Bissell, Elizabeth White, Debra Lanucci, Lillie Daniels, Bob Albrecht, Michael Cherry and Greg Lampy appeared before the board.
Ms. Voliva presented the following case analysis to the board.

Link for case analysis for PB 10-03 Swan Beach Corolla

DISCUSSION
Mr. Plumlee stated they are asking for conditional zoning meaning they would be required to follow the conditions set by the county. Mr. Plumlee stated his client has been paying taxes on this property since 1969 as a business parcel. What his client is proposing to build is a private beach resort for weekly rentals and special events. It would include a chapel, fire and rescue station, wellness center and commercial for neighborhood services. At the south end there would be a fishing pier. Mr. Plumlee addressed staff recommendations for denial.

- The proposed request is not consistent with the Carova Sub-area Policy: *What they are proposing is an old beach village style development and clearly these plans can be tailorrd by the county. They will be very small structures, 900 to 1200 sq. ft. They are looking into the potential of shuttle service for people using the resort.*
- The proposed uses and development plan does not promote compatibility between the subject property: *Having smaller structures is going to be a better development.*
- The intensity of the proposed uses and development plan will encourage commercial services in the off-road area: *The pier will be at the southern end of the property and the Inn will be at the northern end. The Inn will not encourage adjoining commercial structures because of shuttling people in.*

The fishing pier is to encourage fishing. Mr. Plumlee stated to consider these two items separately, the Inn and the pier. His client is mostly focused on the resort.

- Vehicular access: *Mr. Plumlee stated he hopes they have addressed this with the shuttle services and they would have to buy their own private insurance.*

Mr. Bissell provided an overview of the project, addressed the community meeting comments, and examples of the building styles.

Ms. Taylor asked where in Corolla are the cars are going to be parked.

Mr. Bissell stated the developer has a special use permit for a remote parking site.

Mr. Wright asked how vehicles or emergency vehicles will pass under the pier when the water comes up and the height of the pier will decrease as it gets closer to the dune line?

Mr. Bissell stated this will have to be addressed in the design.

The Board was concerned with more traffic being routed from the beach to the local roads.

Mr. West asked for clarification on the Inn and individual cottages.

Mr. Bissell stated it is an Inn in multiple structures. Two buildings will have 8000 sq. ft. on each floor with 12 units per floor. It will be operated under single management. Mr. Bissell stated each unit will have their own individual septic system.

Ms. Wilson stated that Mr. Plumlee stated that Mr. Friedman is doing this for the community. She lives in the community and from the community meeting that was held the community is not asking for this. Ms. Wilson stated that architecturally it is nice but it is still a commercial development. Ms. Wilson stated it is setting a precedent because other properties that are currently zoned residential could put in a request for conditional rezoning for commercial.

Mr. Clark asked if the beach would be open in front of the development so the public to drive down the beach.

Mr. Bissell stated yes.

Ms. White stated she is a resident of Swan Beach and the president of the Swan Beach Property Association. The members of the Swan Beach Property Association are against the conditional rezoning request and are in agreement with staff recommendations for denial. Ms. White stated this request will lead to

incompatible and disruptive activity and will be detrimental to the general welfare, safety, health and well-being of their community. The community is not requesting any of the services in this proposal. The Swan Beach Property Association is asking that the board deny this request.

Ms. Lanucci stated she is property owner in Swan Beach and is against the rezoning request because it is a drastic change in the landscape of Swan Beach.

Ms. Daniels stated she hopes the board will deny this request and leave it like it is. It has worked in the past and hopefully will work in the future.

Mr. Albrecht stated he is against the rezoning request because of the lack of an adequate infrastructure, septic systems, and not in harmony with residential nature of the community.

Mr. Cherry stated he is the former president of the Swan Beach Property Association. Mr. Cherry stated he lives in a house that had been moved and if the pier was built this would eliminate the ability to do this. Mr. Cherry stated this project is not in harmony with the residential nature of the community and asking that the board deny the request.

Mr. Lampy asked the board to deny this request.

Mr. Plumlee stated what is popular is not always right and what is unpopular is not always wrong. They do believe this project would reduce impacts compared to the results of residential developments at this location. The pier is not the main part of the project. This development will not decrease the value of adjoining properties. This is a lower impact plan. If it is the concern to lessen impacts then you would adopt this plan, if it is the issue of controlling what is happening at all times around you then you would reject it, it is as simple as that.

Ms. Wilson stated she has a letter from the North Swan Beach Property Owners Association, a statement from the C.O.A.S.T. environmental group and the Corolla Wild Horse Fund in opposition to this rezoning request.

ACTION
Ms. Wilson recommended denial with staff recommendations and LUP Policies, OB6, CD5, ES8, ES7, and ES6 to rezone 37.36 acres from Outer Banks Limited Access Residential (RO2) to Conditional District- General Business (CD-GB). Ms. Taylor seconded the motion. Motion carried unanimously.

EXHIBIT
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Susan Tanner

From: Ben Woody
Sent: Friday, February 19, 2010 11:36 AM
To: Bryan Plumlee
Cc: Susan Tanner
Subject: RE: Request for Continuance - Swan Beach Preserve

Mr. Plumlee,

We have received your continuance request and will schedule the BOC public hearing for the May 3, 2010 meeting.

Thank you.

Ben E. Woody, AICP
Planning Director
Currituck County
PO Box 70
Currituck, North Carolina 27929
(252) 232.6029
www.currituckgovernment.com

From: Bryan Plumlee [mailto:bplumlee@hpmlaw.com]
Sent: Thursday, February 18, 2010 4:10 PM
To: Ben Woody
Subject: Request for Continuance - Swan Beach Preserve

Dear Mr. Woody,

Our firm represents Swan Beach Preserve in its request before the County Commissioners for a conditional rezoning. The County Planning Board heard the matter on February 9, 2010. In light of the Board's recommendation, my client requests additional time to meet with the community to develop solutions which may be agreeable to both sides. Considering the work which must be done to prepare for such a meeting and the matters I currently have scheduled on my calendar, the earliest I will be able to set a community meeting will be in April, 2010. We request the matter to be scheduled before the Board of Commissioners no sooner than May 3, 2010.

We ask for your favorable consideration of our request.

With kind regards, I am

Yours,

Bryan Plumlee

J. Bryan Plumlee, Esq.
HUFF, POOLE & MAHONEY, P.C.
860 Greenbrier Circle, Suite 103
Chesapeake, Virginia 23322
Voice (757) 518-5615
Fax (757) 962-6180

EXHIBIT

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Q

Susan Tanner

From: Ben Woody
Sent: Tuesday, April 06, 2010 3:23 PM
To: Bryan Plumlee
Cc: Susan Tanner
Subject: RE: Request for Continuance - Swan Beach Preserve

Bryan,

We can accommodate a June BOC meeting. Can we tentatively schedule the hearing for June 7?

Ben E. Woody, AICP
Planning Director
Currituck County
PO Box 70
Currituck, North Carolina 27929
(252) 232.6029
www.currituckgovernment.com

From: Bryan Plumlee [mailto:bplumlee@hpmlaw.com]
Sent: Monday, April 05, 2010 10:11 AM
To: Ben Woody
Subject: RE: Request for Continuance - Swan Beach Preserve

Ben,

We would prefer June, I would at least, but if you need us to proceed, we will have to be ready. I am still trying to schedule another community meeting. I've asked Mark to help get one set at the fire station, again.

Thanks.

J. Bryan Plumlee, Esq.
HUFF, POOLE & MAHONEY, P.C.
860 Greenbrier Circle, Suite 103
Chesapeake, Virginia 23322
Voice (757) 518-5615
Fax (757) 962-6180

>>> "Ben Woody" <bwoody@co.currituck.nc.us> 4/5/2010 8:57 AM >>>
Mr. Plumlee,

Please confirm your client is ready to proceed with the conditional zoning request at one of the May BOC meetings.

Thanks,

Ben E. Woody, AICP
Planning Director
Currituck County
PO Box 70
Currituck, North Carolina 27929
(252) 232.6029
www.currituckgovernment.com

From: Bryan Plumlee [mailto:bplumlee@hpmlaw.com]
Sent: Thursday, February 18, 2010 4:10 PM
To: Ben Woody
Subject: Request for Continuance - Swan Beach Preserve

Dear Mr. Woody,

Our firm represents Swan Beach Preserve in its request before the County Commissioners for a conditional rezoning. The County Planning Board heard the matter on February 9, 2010. In light of the Board's recommendation, my client requests additional time to meet with the community to develop solutions which may be agreeable to both sides. Considering the work which must be done to prepare for such a meeting and the matters I currently have scheduled on my calendar, the earliest I will be able to set a community meeting will be in April, 2010. We request the matter to be scheduled before the Board of Commissioners no sooner than May 3, 2010.

We ask for your favorable consideration of our request.

With kind regards, I am

Yours,

Bryan Plumlee

J. Bryan Plumlee, Esq.
HUFF, POOLE & MAHONEY, P.C.
860 Greenbrier Circle, Suite 103
Chesapeake, Virginia 23322
Voice (757) 518-5615
Fax (757) 962-6180

Susan Tanner

EXHIBIT R

From: Ben Woody
Sent: Monday, June 07, 2010 8:53 AM
To: Susan Tanner
Cc: Donna Voliva; Tammy Glave; Holly White
Subject: FW: Swan Beach Rezoning

This item has been withdrawn...please close and file the case.

Ben E. Woody, AICP
Planning Director
Currituck County
PO Box 70
Currituck, North Carolina 27929
(252) 232.6029
www.currituckgovernment.com

From: csfriedman1@cox.net [mailto:csfriedman1@cox.net]
Sent: Sunday, June 06, 2010 10:45 AM
To: Ben Woody; J Bryan Plumlee
Subject: Re: Swan Beach Rezoning

Per my fathers request We want to with draw the swan beach request.

Sent by BlackBerry, available from NTELOS Wireless

From: "Ben Woody" <bwoody@co.currituck.nc.us>
Date: Sun, 6 Jun 2010 10:39:00 -0400
To: <csfriedman1@cox.net>
Subject: Swan Beach Rezoning

Chip,

I understand you would like to withdraw the Swan Beach Conditional Zoning request. Please provide a written withdrawal request as soon as possible.

Thanks,

Ben

EXHIBIT
S

COUNTY OF CURRITUCK

Department of Planning
Post Office Box 70
Currituck, North Carolina 27929-0070
Telephone (252) 232-3055 / Fax (252) 232-3026

June 7, 2010

Charles S. & Nancy Friedman
408 Dundaff Street, Apt. 110
Norfolk, VA 23501

RE: PB 10-03 Swan Beach Corolla – Conditional District Zoning Map Amendment

Dear Applicant,

Per your request the above case has been formally withdrawn from the Currituck County Board of Commissioners meeting on June 7, 2010. Per the Unified Development Ordinance, the subject properties are not eligible for resubmission of a zoning map amendment prior to December 22, 2010.

If you have any questions, please call me at 252-232-6029.

Sincerely,

Ben E. Woody, AICP
Planning Director

Cc: Swan Beach Corolla, LLC
Till Morning, LLC
Second Star, LLC
Ike McRee, Currituck County Attorney

1009 0960 0000 0837 1198

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Charles S & Mary Friedman
408 Dundaff St., Apt 110
Norfolk, VA 23501

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [illegible] ☐ Agent ☑ Addressee

B. Received by (Printed Name) MONA SHIRE

C. Date of Delivery 6-11-10

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☑ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service) 7009 0960 0000 0837 1198

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

7009 0960 0000 0837 1198

U.S. Postal Service
CERTIFIED MAIL™ RECEIPT
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For delivery information visit our website at www.usps.com

S. Tanner Postage	$ .44
Certified Fee	2.80
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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 5.54

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Sent To Friedman
Street, Apt. No.; or PO Box No. 408 Dundaff, Apt 110
City, State, ZIP+4 Norfolk, VA 23501

PS Form 3800, August 2006 See Reverse for Instructions

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Ben Woody

From: csfriedman1@cox.net
Sent: Friday, February 04, 2011 1:24 PM
To: Ben Woody; gkeene@co.currituck.nc.us
Subject: Re: Swan Beach Rezoning

Ben and Gwen,
Just to be clear We wished for the below to be withdrawn for the scheduled hearing also know as removed from the agenda not withdrawn as a whole application re the conditional Zoning request for Swan Beach Corolla L.L.C.
The Chairman at the time and present BOC member agreed We could put the request back on the agenda just by asking, What dates are available on the BOC's up coming agenda to schedule Swan Beach Corolla request to be back on the agenda ?
thanks,
Chip Friedman

--- Ben Woody <bwoody@co.currituck.nc.us> wrote:
> Chip,
>
> I understand you would like to withdraw the Swan Beach Conditional Zoning request. Please provide a written withdrawal request as soon as possible.
>
> Thanks,
>
> Ben

EXHIBIT
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1. According to GS 143-318.11 (4) to discuss economic development

Adjourn

Public Comment

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

Vice-Chairman Rorer opened the public comment period.

Chip Friedman, requested the Board to consider placing his request for Swan Beach on a future agenda.

Commissioner Etheridge moved to grant the request. Commissioner O'Neal seconded the motion. Motion carried.

Doris Flora, commended the Board for their success with the OLF, but requested the Board to please continue their efforts with the Navy.

The Board requested staff to send a letter of appreciation to Juanita Krause and Troy Breathwaite for their work on the OLF.

Peter Bishop, ED Director, stated that the 10th Currituck County Business Expo with the Chamber of Commerce will be on March 5th at the Currituck High School.

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

Joy Futrell, East Carolina Behavioral Health semi-annual report

Ms. Futrell with East Carolina Behavioral Health, reviewed the fiscal monitoring report that ended 12/31/10. Each county was requested a $2 per capita donation.

Public Hearing and Action: PB 94-49 Currituck Club, Phases 8A and 1A: Request for a preliminary plat/special use permit for two new phases of Currituck Club PUD. Proposed Phase 8A consists of 29 residential lots and Phase 1A consists of one residential lot. Located at the Currituck Club in Corolla, Tax Map 126G, Parcel D, and Tax Map 117, Parcel 1H, Poplar Branch Township.

Sworn testimony was given prior to making comments

Ben Woody, Planning Director, reviewed the request.

CASE ANALYSIS FOR THE
Board of Commissioners
DATE: February 7, 2011
PB 94-49 Currituck Club, PUD

ITEM:	PB 94-49 Currituck Club, PUD, Phase 8A and 1A Preliminary Plat/Special Use Permit.
LOCATION:	Corolla, Currituck Club, PUD, Poplar Branch Township.

EXHIBIT

V

Ben Woody

From: csfriedman1@cox.net
Sent: Monday, February 21, 2011 1:39 PM
To: bwoody@co.currituck.nc.us; gkeene@co.currituck.nc.us
Cc: bplumlee@hpmlaw.com
Subject: Re: Swan Beach Rezoning

Ben Woody and Gwen Keene, Per a BOC members request, Swan Beach Corolla L.L.C. would like to move the conditional zoning hearing from the second meeting in March to the second meeting in May.
If this date is unavailable please email Bryan Plumlee and myself the dates in June or July available. Chip Friedman

--- csfriedman1@cox.net wrote:
> Ben and Gwen,
> Just to be clear We wished for the below to be withdrawn for the scheduled hearing also know as removed from the agenda not withdrawn as a whole application re the conditional Zoning request for Swan Beach Corolla L.L.C.
> The Chairman at the time and present BOC member agreed We could put
> the request back on the agenda just by asking, What dates are available on the BOC's up coming agenda to schedule Swan Beach Corolla request to be back on the agenda ?
> thanks,
> Chip Friedman
>
> --- Ben Woody <bwoody@co.currituck.nc.us> wrote:
> > Chip,
> >
> > I understand you would like to withdraw the Swan Beach Conditional Zoning request. Please provide a written withdrawal request as soon as possible.
> >
> > Thanks,
> >
> > Ben

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

Chairman Aydlett opened the public comment period.

Debra Tabor, Moyock, requested the Board to move forward on building the new animal shelter.

Rachel Younts, requested the use of the Sound Park for events for non-profits.

There being no further comments, the Public Comment period was closed.

Kathleen Foreman to present the Governor's award for Outstanding Volunteer to Virginia Sikes

Kathleen Foreman, County Coordinator for Volunteer Service, on behalf of Governor Perdue, presented the Outstanding Service to Virginia Sikes for her significant contributions in 2011. Ms. Sikes was also awarded the Medallion Award from Governor Perdue.

The Board congratulated Ms. Sikes for her outstanding achievements.

Presentation by Jim Harrison, Recovery Innovation ECBH

Jim Harrison, Coordinator for Outreach Wellness, stated that this is a community-based recovery education and peer support program. The program is staffed by a team of trained Peer Support Specialists who are in recovery from their own mental health or addiction challenges. This program provides a safe and welcoming setting of wellness and independence enriched by contribution.

Mr. Harrison thanked the Board for their continued support.

Public Hearing and Action: PB 10-03 Swan Beach Corolla: Request to rezone 37.36 acres from Outer Banks Limited Access Residential (RO2) to Conditional District-General Business (CD-GB). The property is located in Swan Beach, Tax Map 101 and 101A, Parcels A,B,C,D,1A,M1 and M2, Fruitville Township.

Chairman Aydlett opened the public hearing.

Ben Woody, Planning Director, reviewed the request for rezoning.

CASE ANALYSIS FOR THE
BOARD OF COMMISSIONERS
MEETING DATE: May 16, 2011
PB 10-03 Swan Beach Corolla, LLC

ITEM:	PB 10-03 Swan Beach Corolla, LLC request to rezone 37.36* acres from RO2 to CD-GB. * Narrative acreage is 37.37, Applications and GIS acreage is 37.36
LOCATION:	Swan Beach, Corolla

OWNERSHIP/TAX ID:

Owner	Parcel ID	Acreage
Till Morning, LLC	101A000000B0001	2.98
Charles S. & Nancy Friedman	101A00000M20001	2.92
Second Star, LLC	101A000000A0001	2.96
Swan Beach Corolla, LLC	101A000000C0001	28.5
	101A000000D0001	
	0101000001A0000	
	101A000000M10001	

APPLICANT: Swan Beach Corolla, LLC
408 Dundaff Street, Apt. 110
Norfolk, VA 23501
757-718-8600

CURRENT ZONING: Outer Banks Limited Access Residential (RO2)

PROPOSED ZONING: Conditional District-General Business (CD-GB)

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Currituck National Wildlife Refuge	RO2
SOUTH:	Residential	RO2
EAST:	Atlantic Ocean	
WEST:	Residential/Marshland	RO2

LAND USE PLAN CLASSIFICATION: The 2006 Land Use Plan classifies this site as Limited Service within the Carova Sub-Area.
The Limited Service Area classification is to provide for primarily residential development at low densities. Base development density should be 1 unit per acre but could be increased to 1.5 units per acre through overlay zoning depending on whether service facilities are in place or planned as well as the potential impact on the surrounding community. With respect to nonresidential uses, it is essential that the existing community character be preserved. Design criteria should be established to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping, and site design. Businesses designed to serve the tourist industry such as small gift shops or agri-tourism related uses should not be prohibited provided the character and intensity of the use is in keeping with the character of the surrounding area.

The policy emphasis of the Carova Sub-Area identified in the Land Use Plan is

to allow for very low to medium density residential development without infrastructure or service investments that could stimulate growth and development. Only services that protect health, safety, and welfare (i.e. law enforcement, fire, and rescue) will be authorized. Commercial and other convenience services shall not be allowed.

The Carova subarea is designated by the federal government as a COBRA (Coastal Barriers Resource Act) area, meaning no structure in this area is eligible for federally subsidized flood insurance and no federal money may be spent in this area that would stimulate development.

In addition, the following Land Use Plan policies are also relevant to this request:

POLICY CD1: NEIGHBORHOOD SERVING COMMERCIAL DISTRICTS should be encouraged to locate where a collector or secondary street intersects with a street of equal or greater size. Appropriately designed, small-scale businesses may also be near other neighborhood serving facilities such as schools and parks.

POLICY OB6: Concerning the OFF-ROAD AREAS OF THE OUTER BANKS, Currituck County shall not permit or encourage the provision of growth-inducing facilities and services to these areas, including for example, commercial services, centralized sewage treatment and hard surface roads.

POLICY OB7: VEHICULAR ACCESS TO THE NORTH BEACHES (off-road area) shall not compromise the environmental integrity of wildlife refuges, the estuarine research reserve, other ecologically sensitive areas, or habitat for wild horses. Structures or other man-made improvements not specifically serving the public interest shall not be permitted to block vehicular access along the beach.

CURRENT LAND USE: Residential/Undeveloped

PROPOSED LAND USE: Hotel (cottage suites) for short and extended stay occupancy including accessory uses to support the lodging units (wellness center, indoor/outdoor pools, boardwalk), and neighborhood village business (office, service, retail, recreational, entertainment, institutional, and government).

PROPOSED DENSITY: The planned hotel density is projected at 7.82 hotel lodging units per acre. Each lodging unit will consist of one bedroom.

ZONING HISTORY: The Swan Beach subdivision plan was recorded September 1969 and identified several lots as business areas. The applicant contends that all parcels identified on the recorded plat as business areas are currently zoned business.

The Official Zoning Map with amendments through December 4, 1973 illustrates the property as RA-20 (Residential-Agricultural) zoning district. In 1975 the Currituck County Board of Commissioners zoned the off-road area for residential uses only (R-20). The 1989 Official Zoning Map identified the property as Outer Banks Limited Access Residential (RO2). The official zoning map currently identifies this property as Outer Banks Limited Access Residential (RO2).

In 2004, Swan Beach Corolla, LLC (PB04-22) submitted a request to rezone 18.88 acres from Outer Banks Limited Access Residential (RO2) to General Business (GB). The Planning Board recommended denial of the request on April 13, 2004 and the item was not acted on by the Board of Commissioners. Also in 2004, the applicant requested to rezone 25.77 acres from Outer Banks Limited Access Residential (RO2) to Off Road Historic Village Commercial Overlay District (PB 04-72). The Planning Board recommended denial of the rezoning on April 12, 2005. On November 17, 2008 the item was removed from the Board of Commissioners agenda. Also, on November 17, 2009 the Board of Commissioners denied a text amendment request to create an Off-Road Historic Village Commercial Overlay District (PB 04-71).

PUBLIC SERVICES AND UTILITIES: The Carova Volunteer Fire Department provides fire protection for this area. Individual wells and on-site septic is proposed for the development.

TRANSPORTATION: The site is accessible by four-wheel drive vehicle from the foreshore or beach strand.

FLOOD ZONE: This site is located in a special flood hazard area and coastal high hazard area. The development is designated by the federal government as a COBRA (Coastal Barriers Resource Act) area, meaning no

structure in this area is eligible for federally subsidized flood insurance and no federal money may be spent in this area that would stimulate development.

WETLANDS: The wetland inventory maps do not identify wetlands on the property.

SOILS: The Currituck County Soils map indicates the property contains primarily marginal soils for on-site septic systems.

PROPOSED ZONING CONDITIONS: On May 6, 2011, the applicant modified the proposed zoning conditions that will apply to this property:

1. Proposed Uses
   a. Inn/lodging units with a maximum lodging density of 294 units/bedrooms and accessory uses to include a wellness center, indoor/outdoor pool, and boardwalk.
   b. Neighborhood village commercial of 19,200 square feet of first floor space to include office, service, retail, recreational, and entertainment.
   c. Two acres to be rented to the existing illegal businesses located in the four-wheel drive area.
2. Proposed Zoning Conditions
   a. Wastewater shall be provided per county policy.
   b. Stormwater to be managed using LID/Best Management practice techniques.
   c. Parking areas shall not be paved.
3. The following uses are removed from the request:
   a. Helipad
   b. Fishing pier

COMMUNITY MEETING: A community meeting was held on February 2, 2010. After multiple requests by staff a complete report was not provided prior to the Planning Board meeting. Bissell Professional Group provided community meeting notes at the Planning Board meeting.

STAFF RECOMMENDATION: Staff recommends denial of the request to establish 37.36± acres from "Outer Banks Limited Access Residential (RO2) to Conditional District General Business (CD-GB)"

The following points support the <u>denial</u> of this request as presented.

1. The proposed request is not consistent with the Carova Sub-Area Policy Emphasis and is not in keeping with the density requirements and community character emphasis of the Limited Service designation of the 2006 Land Use Plan.

2. The proposed uses and development plan does not promote compatibility between the subject property and surrounding area. The proposed inn and neighborhood commercial development is adjacent to the Currituck National Wildlife Refuge and within the Swan Beach residential subdivision. (LUP Policy CD5).

3. The intensity of the proposed uses and development plan will encourage commercial services in the off-road area. (LUP Policy OB6, Limited Service designation)

<u>Outstanding Staff Concerns</u>: The conditional zoning process provides an opportunity for an applicant to propose use limitations or development conditions that ensure development proposals are consistent with the policies set forth in adopted plans. Staff is concerned with the following issues not addressed in the application or development plan.

1. There appears to be a slight discrepancy in the calculated acreage of the request. The property acreages identified on the applications do not match the narrative.

2. Vehicular access in this remote area of the county is often affected by uncontrollable environmental conditions such as tides, shifting sands, high water table, localized flooding, lack of maintenance, and ocean over wash. In addition, encouraging an increase of daily and weekly visitors who expect public services could contribute to an inability to provide adequate public services in this remote area of the county. (LUP Policy PP2).

3. The property is located in a COBRA (Coastal Barriers Resource Act) area or otherwise protected areas as identified by the federal government. The COBRA prohibits

the sale of NFIP flood insurance for structures built within the protected area, and federal money may not be spent in this area that would stimulate development. A majority of the development is located within a VE (coastal high hazard area) flood zone. All construction within the coastal high hazard area as shown on the Flood Insurance Rate Maps shall be constructed to V-zone construction standards.

4. The property is located in an area of the county identified by NC Division of Coastal Management with significant erosion rates of between 6.5 - 7.5 feet per year. The property south of the proposed development is identified as one of the highest erosion rates in the county (8.5 feet per year).

5. All structures should be constructed in a manner so as to blend in with the character of the area taking into consideration height, size, exterior materials, windows, doors, and other related exterior features. All applications should be accompanied by building elevations of proposed structures and a lighting plan.

6. Staff requests further clarification on the extended stay units within the inn and the existing dwelling units including items such as intended ownership, management, and how the units will meet the UDO definition of Hotels and Motels. *Staff commentary: The units will not be sold and will remain under single ownership. A management company will oversee the entire resort.*

7. The northern property line is adjacent to the Currituck National Wildlife Refuge, natural heritage area. A report that identifies the environmental impacts of the proposed development to the natural plants and animals inventoried and catalogued by the NCDENR Natural Heritage Program shall be provided. Specific areas identified with significant habitat should be preserved and protected, and environmental impacts shall be reduced by adequate buffers and vegetation. No land disturbing activities shall occur within the

buffer, and existing vegetation shall be preserved within the buffer. A plan and report shall be provided with the site plan submittal that adequately buffers and protects the environmentally sensitive areas.

8. Michael J. Hoff, Refuge Manager for the Currituck National Wildlife Refuge, reviewed the proposed plans and provided concerns for the proposed project on February 16, 2010. The concerns are as follows:

    i. A helicopter landing pad is approximately 250 feet from the boundary of the refuge. Federal law regarding aircraft usage around refuges discourages operation that may result in the harassment of wildlife. While the 250 foot buffer may be sufficient for landing the helicopter, approaches to the pad could be over the refuge at levels lower than recommended by the Federal Aviation Administration.
    ii. The proposal places a new road immediately adjacent to approximately 2,500 linear feet of refuge. Currently, vehicular trespass on the refuge behind the frontal dune is minimal due to the impassable nature of these front line dunes. Creating an access route to the secondary dunes would provide direct access to a dune system with no natural barrier. Vehicular trespass on the sensitive, and in some cases, rare ecotypes of the refuge would likely increase and cause irreparable harm to the refuge habitat types.
    iii. Currently, the hydrologic flow of subsurface water is not well understood. Special care should be taken during the design phase of this project to ensure adequate septic systems to protect refuge subsurface resources.
    iv. Many of our trust resources rely on the shallow wetland basins found on the refuge as a source for fresh water.

Special care should be taken during the well field design phase of this project to ensure a subsurface cone of depression does not form that may ultimately drain these surface wetlands. Loss of these wetlands would negatively impact the refuges plant and animal communities.

PLANNING BOARD RECOMMENDATION: The Planning Board recommended denial with staff recommendations and LUP Policies, OB6, CD5, ES8, ES7, and ES6 to rezone 37.36 acres from Outer Banks Limited Access Residential (RO2) to Conditional District- General Business (CD-GB).

PLANNING BOARD DISCUSSION (2-9-10)

Mr. Plumlee stated they are asking for conditional zoning meaning they would be required to follow the conditions set by the county. Mr. Plumlee stated his client has been paying taxes on this property since 1969 as a business parcel. What his client is proposing to build is a private beach resort for weekly rentals and special events. It would include a chapel, fire and rescue station, wellness center and commercial for neighborhood services. At the south end there would be a fishing pier. Mr. Plumlee addressed staff recommendations for denial.

- The proposed request is not consistent with the Carova Sub-area Policy: *What they are proposing is an old beach village style development and clearly these plans can be tailored by the county. They will be very small structures, 900 to 1200 sq. ft. They are looking into the potential of shuttle service for people using the resort.*
- The proposed uses and development plan does not promote compatibility between the subject property: *Having smaller structures is going to be a better development.*
- The intensity of the proposed uses and development plan will encourage commercial services in the off-road area: *The pier will be at the southern end of the property and the Inn will be at the northern end. The Inn will not encourage adjoining commercial structures because of shuttling people in. The fishing pier is to encourage fishing. Mr. Plumlee stated to consider these two items separately, the Inn and the pier. His client is mostly focused on the resort.*
- Vehicular access: *Mr. Plumlee stated he hopes they have addressed this with the shuttle services and they would have to buy their own private insurance.*

Mr. Bissell provided an overview of the project, addressed the community meeting comments, and examples of the building styles.

Ms. Taylor asked where in Corolla are the cars are going to be parked.

Mr. Bissell stated the developer has a special use permit for a remote parking site.

Mr. Wright asked how vehicles or emergency vehicles will pass under the pier when the water comes up and the height of the pier will decrease as it gets closer to the dune line.

Mr. Bissell stated this will have to be addressed in the design.

The Board was concerned with more traffic being routed from the beach to the local roads.

Mr. West asked for clarification on the Inn and individual cottages.

Mr. Bissell stated it is an Inn in multiple structures. Two buildings will have 8000 sq. ft. on each floor with 12 units per floor. It will be operated under single management. Mr. Bissell stated each unit will have their own individual septic system.

Ms. Wilson stated that Mr. Plumlee stated that Mr. Friedman is doing this for the community. She lives in the community and from the community meeting that was held the community is not asking for this. Ms. Wilson stated that architecturally it is nice but it is still a commercial development. Ms. Wilson stated it is setting a precedent because other properties that are currently zoned residential could put in a request for conditional rezoning for commercial.

Mr. Clark asked if the beach would be open in front of the development so the public to drive down the beach.

Mr. Bissell stated yes.

Ms. White stated she is a resident of Swan Beach and the president of the Swan Beach Property Association. The members of the Swan Beach Property Association are against the conditional rezoning request and are in agreement with staff recommendations for denial. Ms. White stated this request will lead to incompatible and disruptive activity and will be detrimental to the general welfare, safety, health and well-being of their community. The community is not requesting any of the services in this proposal. The Swan Beach Property Association is asking that the board deny this request.

Ms. Lanucci stated she is property owner in Swan Beach and is against the rezoning request because it is a drastic change in the landscape of Swan Beach.

Ms. Daniels stated she hopes the board will deny this request and leave it like it is. It has worked in the past and hopefully will work in the future.

Mr. Albrecht stated he is against the rezoning request because of the lack of an adequate infrastructure, septic systems, and not in harmony with residential nature of the community.

Mr. Cherry stated he is the former president of the Swan Beach Property Association. Mr. Cherry stated he lives in a house that had been moved and if the pier was built this would eliminate the ability to do this. Mr. Cherry stated this project is not in harmony with the residential nature of the community and asking that the board deny the request.

Mr. Lampy asked the board to deny this request.

Mr. Plumlee stated what is popular is not always right and what is unpopular is not always wrong. They do believe this project would reduce impacts compared to the results of residential developments at this location. The pier is not the main part of the project. This development will not decrease the value of adjoining properties. This is a lower impact plan. If it is the concern to lessen impacts then you would adopt this plan, if it

is the issue of controlling what is happening at all times around you then you would reject it, it is as simple as that.

Ms. Wilson stated she has a letter from the North Swan Beach Property Owners Association, a statement from the C.O.A.S.T. environmental group and the Corolla Wild Horse Fund in opposition to this rezoning request.

PLANNING BOARD ACTION
Ms. Wilson recommended denial with staff recommendations and LUP Policies, OB6, CD5, ES8, ES7, and ES6 to rezone 37.36 acres from Outer Banks Limited Access Residential (RO2) to Conditional District- General Business (CD-GB). Ms. Taylor seconded the motion. Motion carried unanimously.

John Morrison, Attorney, for applicant, introduced Mr. Florez, Residential Designer, to review the development concept.

Mr. Morrison, stated that the applicant was going to build residential lodging which is a much safer concept. He reviewed the Staff analysis and stated that this was a political decision to be made by the Board.

Commissioner Rorer questioned if there was a market in the area for this project.

Lars Simonsen, Attorney for Swan Beach Property Owners Association, stated that his clients are opposed to the rezoning request for many reasons. The applicant's proposal would be to change the zoning for only this specific property to "commercial," thereby allowing development of the property in a manner that is inconsistent with the surrounding area, and both prohibited by an incompatibility with the current zoning. They are also asking the county to do illegal spot zoning.

Mr. Simonsen, asked for the people in attendance to stand up if they oppose this rezoning. Majority in attendance stood up against the request.

Sarah McClellan, 4th grade student, requested the Board to save the wild horse habitat.

Elizabeth White, Swan Beach, presented an historical review from her father of the area and opposes the request.

Debra Ianucci, Swan Beach, opposes the request.

Mike Long, Ocean Pearl, opposes the request.

Jane Overstreet, Swan Beach, commented on the impact on the neighborhood and opposes the request.

Lynne Wilson, commented on the eco system and the challenge it poses for the area. She opposes the request.

J.P. Peron, Volunteer Fire Department, commented on the funding and that there is not a paid fire service for the area and opposes the request.

Kim Hadrava, Swan Beach Property Owners Association, opposes the request.

Herbert Curry, Senior Consultant, Washington DC, reviewed the cost to provide services, the negative impacts and this project was not a long term benefit.

Kelly Peters, Knotts Island, opposes the rezoning.

Karen McCalpin, Wild Horse Foundation, commented on the State Horse and protecting the wild horses and opposes the request.

John Howland, opposes the request.

Lillie Daniels, Wanchese, opposes the request.

Janet Rose, commended the Planning staff and Mr. Woody for their work and opposes the request.

Kim Kenyon, opposes the request.

John Morrison, Attorney for applicant, stated that he does not agree that this would be spot zoning.

Commissioner O'Neal stated they requested a work session on commercial use before addressing this request.

Commissioner Rorer, stated that the Board needed a comprehensive plan for business in this area.

Letters opposing request from North Carolina Coastal Federation, US Department of the Interior Fish & Wildlife Service.

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

Chairman Aydlett moved to deny the conditional rezoning due to its inconsistency with the 2006 Land Use Plan and that the request is not reasonable and not in the public interest and does not promote orderly growth and development. Commissioner Rorer seconded the motion. Motion carried and was unanimous.

Consideration of Recommendation of Award for Maple Commerce Park Wastewater Treatment Plant

Commissioner O'Neal, moved to award bid to Hatchel Concrete, in the amount of $1,940,862.20. Commissioner Martin seconded the motion. Motion carried.

Consideration of Ordinance amending Section 3-87 of the Code of Ordinances to make unlawful the feeding of stray animals on any property.

Commissioner Rorer moved to table. Commissioner Martin seconded the motion. Motion carried.

Consideration of Ordinance amending Section 1-8 of Code of Ordinances providing that penalty for violation of certain sections of Chapter 10 shall be Civil Penalty only.

Commissioner O'Neal moved to approve. Commissioner Etheridge seconded the motion. Motion carried.

copy. BOC

EXHIBIT
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X

HORNTHAL, RILEY, ELLIS & MALAND, L.L.P.
ATTORNEYS AT LAW
POST OFFICE BOX 220
ELIZABETH CITY, NORTH CAROLINA 27907-0220

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ROBERT B. HOBBS, JR.
L. P. HORNTHAL, JR.
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OFFICES ALSO IN
NAGS HEAD, NC
AND
COLUMBIA, NC

August 14, 2006

Mr. Paul O'Neal, Chairman
Currituck County Commissioners
PO Box 39
Currituck, NC 27929

Re: Proposed Land Use Plan - Area 6 "Corolla Area"
Swan Beach Subdivision (Ocean Associates, Owner/Developer)

Dear Chairman O'Neal:

We represent Ocean Associates, owner and developer of Swan Beach Subdivision which is located in Area 6 "Corolla Area" as delineated on the proposed land use plan or land use classification map under consideration by Currituck County and its Board of Commissioners. As you may know, Swan Beach Subdivision was platted in 1969 with approval from Currituck County and its Board of Commissioners. See plat in Map Book 3, Page 2 in the Office of the Register of Deeds of Currituck County. The approved and recorded plat shows five (5) business areas/blocks designated for commercial use which the proposed land use plan attempts to negate or nullify. The purpose of this letter is to put Currituck County and its Board of Commissioners on notice that Ocean Associates objects to said attempt and does not accept or in any way concede the attempt by Currituck County and its Board of Commissioners to remove its vested and grandfathered rights in the business and commercial blocks by consideration and adoption of said land use plan. While Ocean Associates does not seek additional commercial or business area, Ocean Associates does deem it in the best interest of Ocean Associates, Area 6 and the County to protect its existing business/commercial property.

I am

Sincerely yours,

M. H. Hood Ellis

MHHE/lss

cc: Mr. Daniel F. Scanlon, III, County Manager
Ms. Katherine McKenzie, County Attorney
Ms. Sarah Keifer, Planning Director
Ocean Associates

Post Office Box 70
Currituck, North Carolina 27929

252-232-3055
Fax 252-232-3026

COUNTY OF CURRITUCK
Department of Planning and Inspections

August 28, 2006

M. H. Hood Ellis
Hornthal, Riley, Ellis & Maland, LLP
P.O. Box 220
Elizabeth City, NC 27909-0220

Re: Proposed Land Use Plan – Area 6 "Corolla Area"
Swan Beach Subdivision (Ocean Associates, Owner/Developer)

Dear Mr. Ellis:

Thank you for your letter dated August 14, 2006 regarding the above referenced property and its designation as a Limited Service area within the draft Currituck County Land Use Plan. In your letter you assert that the policy language contained in the Plan attempts to negate the vested rights of your client to use their property for commercial purposes. You are correct that the draft Plan includes policies that specifically discourage the development of the Carova area for commercial purposes. As mentioned above, the area is designated as Limited Service which provides the following policy guidance with respect to nonresidential development:

> *With respect to nonresidential uses, it is essential that the existing community character be preserved. Design criteria should be established to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping, and site design. In general, neighborhood commercial uses are more appropriate than large scale commercial complexes. However, business designed to serve the tourist industry such as small gift shops or agri-tourism related uses should not be prohibited provided the character and intensity of the use is in keeping with the character of the surrounding area.*
>
> *Very limited municipal-type services, such as fire protection, emergency services, and community water, may be available, but centralized sewage collection and treatment systems whether public or community are not appropriate for these areas.*

With respect to the Carova area specifically, the draft contains the following policy direction limiting growth:

> *The policy emphasis of this plan is to allow for very low to medium density residential development (see above) without infrastructure or service investments that could stimulate growth and development. In terms of infrastructure, this means that no centralized water and sewer services, public or private, will be approved and no hard surface roads will be allowed. Further, only services that protect the health, safety, and welfare (i.e. law enforcement, fire and rescue.) will be authorized. Commercial and other convenience services shall not be allowed.*

It is important to note that the existing Zoning Map and Unified Development Ordinance (Ordinance) already support the limitation of uses within the Carova area. The area is currently zoned RO-2 which is described in Section 120, Item 6 of the Ordinance as "...designed to

accommodate low density residential development (other than mobile homes) within the portion of the Currituck Outer Banks that is not accessible by a state maintained road". Nonresidential uses within the RO-2 zoning district are severely limited as illustrated by Section 1310, Table of Permitted Uses enclosed for your review.

With respect to the issue of vested rights, I understand that the record plat labels specific parcels as "Business Areas". However, as stated above the property is zoned RO-2 which prohibits most nonresidential development. With respect to permitted uses, regardless of a label on a record plat, the regulations of the Ordinance would govern. Therefore, commercial development would not currently be permitted on the specified parcels and that prohibition is simply reiterated in the policies of the draft land use Plan.

Should you have any questions or wish to discuss this issue further, please do not hesitate to contact me directly.

Sincerely,

Sarah E. Keifer

Sarah E. Keifer, AICP
Director

enc: Section 1310, Table of Permitted Uses

CC: Paul O'Neal, Chairman, Board of Commissioners
Daniel F. Scanlon, County Manager
Katherine McKenzie, County Attorney
Ocean Associates

COPY: BOC

EXHIBIT
Y

J. Bryan Plumlee, Esq.

HUFF, POOLE & MAHONEY, P.C.
ATTORNEYS & COUNSELLORS

Direct Dial: 757/518-5615
Email: bplumlee@hpmlaw.com
Reply to: Virginia Beach

July 6, 2009

VIA CERTIFIED MAIL;
RETURN RECEIPT REQUESTED

Mr. Donald Ike McRee, Jr., County Attorney
P.O. Box 39
Currituck, NC 27929-0039

Mr. Ben Woody, Planning Director
P.O. Box 70
Currituck, NC 27929-0070

Daniel F. Scanlon II, County Manager
P.O. Box 39
Currituck, NC 27929-0039

Re: Swan Beach Business Parcels
37.07 (+—) acres

Gentlemen:

Our firm has been retained by Gerald Friedman to proceed with all necessary action to secure his rights to develop business parcels platted in the County since 1969.

Without presenting our legal position in detail at this time, we believe it best to establish in writing the County's position. There should be no mistake Mr. Friedman has exhausted all administrative remedies available to him.

It is our information, based on documents in our possession that the County's position is as follows: although several parcels on the Swan Beach plat are designated "Business Area," the County has since rezoned the property to R-O2 and thus prohibits business or commercial uses. Furthermore, the County has considered Mr. Friedman's request to develop these parcels for commercial activity and has rejected his requests.

We now ask for written confirmation the County does indeed hold these positions. Furthermore, we request written confirmation that there exists no administrative means for Mr. Friedman to challenge the County's restrictions or that all such means have been exhausted.

Obviously, we are seeking the opinion of the Planning Director, Mr. Woody, and Mr. Scanlon, the Chief Administrative Officer, but we are mindful that legal counsel must be consulted, and therefore, we have directed this correspondence to Mr. McRee, the County Attorney.

We have attached a greatly reduced copy of the plat showing the location of the business parcels, as they were originally platted.

Gentlemen, despite the emotions stirred during the Commission meeting last year, our client is prepared to work with the County to bring sensible business development to this under-serviced community. Before we proceed with any action which may further entrench the two sides, we should consider the facts. Mr. Friedman has long relied upon the business designation approved and required by the County. As you are aware, in the late sixties and early seventies, the County underwent a shift in development ideals. Developers were required to maintain parcels for business development to accommodate the residential lots which were to bring needed resources.

Rather than maximizing his residential lots, Mr. Friedman relied on the County's approvals and directives and withheld large tracts from residential development for business development, which the County felt was needed to serve the larger community. The County has taxed these parcels as business lots since they were platted.

Since that time, the County has allowed mini-hotels to be constructed up and down the beach to maximize room capacity to generate transactional taxes from rentals. No reasonable finder-of-fact, after a full airing of these issues would conclude that large homes rented out by non-residents during the prime vacation season are anything more than businesses which have brought tremendous tax revenues and development to the County.

The business proposed by Mr. Friedman would have a minor impact and would bring needed services. Those wanting to exclude him wish only to preserve their own business interests.

We believe 15 days from your receipt of this letter is a sufficient period of time for the County to provide a response. Should no response be forthcoming within that time, we must conclude the County agrees that there are no other administrative remedies for Mr. Friedman and that the County will not allow him to develop a business on these parcels.

With kind regards, I am

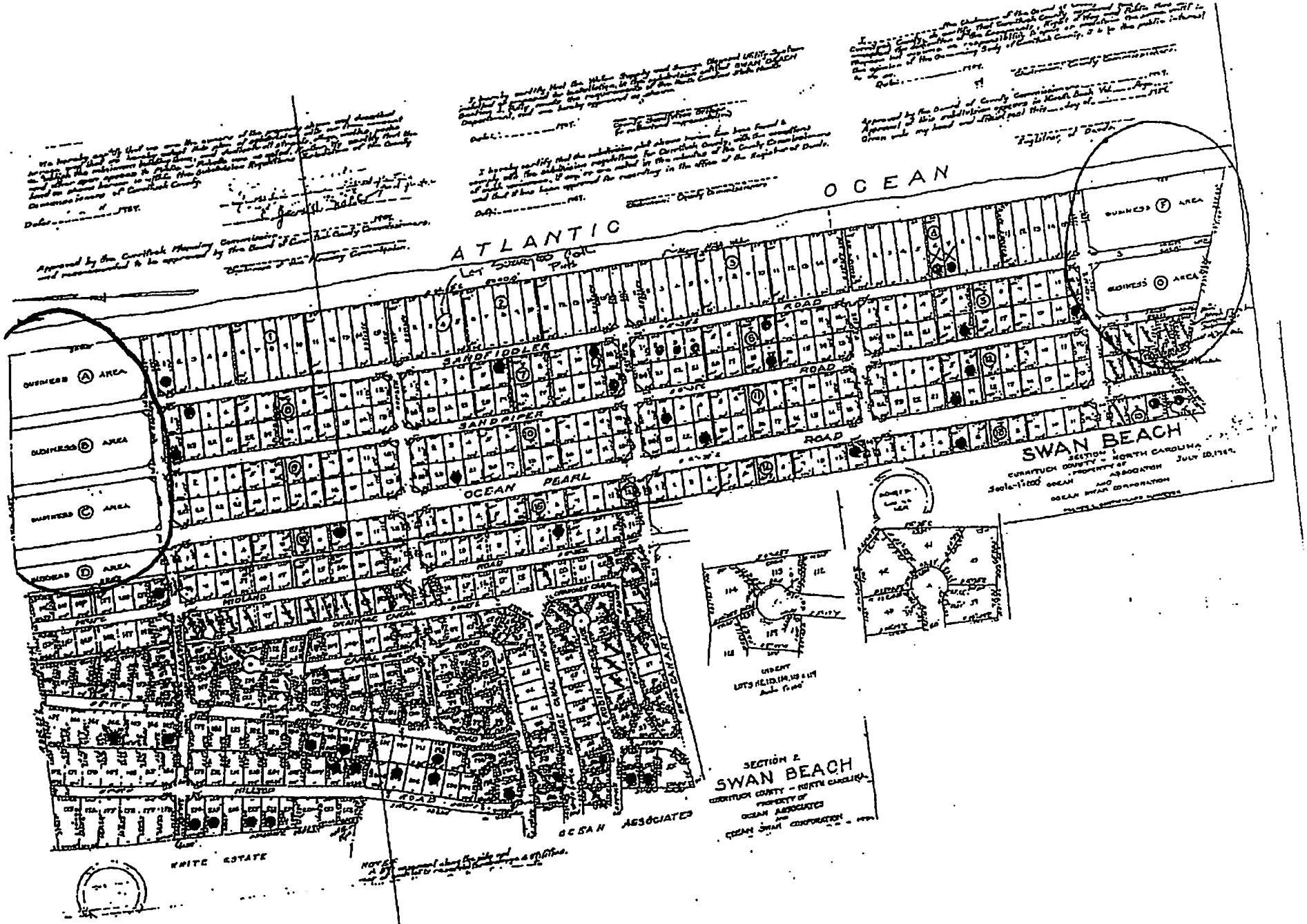
Very truly yours,

HUFF, POOLE & MAHONEY, P.C.

By

J. Bryan Plumlee

JBP/dmm
Enclosure


ATLANTIC OCEAN
SANDFIDDLER ROAD
SANDPIPER ROAD
OCEAN PEARL ROAD
HIGHLAND ROAD
RIDGE ROAD
HILLTOP ROAD
BUSINESS (A) AREA
BUSINESS (B) AREA
BUSINESS (C) AREA
BUSINESS (D) AREA
BUSINESS (E) AREA
BUSINESS (F) AREA
SWAN BEACH
SECTION 1
CURRITUCK COUNTY - NORTH CAROLINA
PROPERTY OF
OCEAN ASSOCIATES
AND
OCEAN SWAN CORPORATION
SECTION 2
SWAN BEACH
CURRITUCK COUNTY - NORTH CAROLINA
PROPERTY OF
OCEAN ASSOCIATES
AND
OCEAN SWAN CORPORATION
OCEAN ASSOCIATES
KRITE ESTATE

COPY: BOC

COUNTY OF CURRITUCK

BOARD OF COMMISSIONERS
J. Owen Etheridge, Chairman
S. Paul O'Neal, Vice-Chairman
O. Vance Aydlett, Jr.
Gene A. Gregory
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John D. Rorer
Janet L. Taylor

153 Courthouse Road / Post Office Box 39
Telephone (252) 232-0300 / Fax (252) 232-3551
State Courier # 10-69-17

DANIEL F. SCANLON, II, CPA
County Manager
DONALD I. MCREE, JR.
County Attorney
GWEN H. KEENE, CMC
Clerk to the Board

July 21, 2009

VIA FACSIMILE (757-552-6016) AND UNITED STATES MAIL

J. Bryan Plumlee, Esq.
Huff, Poole & Mahoney, P.C.
4705 Columbus Street
Virginia Beach, VA 23462-6749

Re: Swan Beach Business Parcels

Dear Mr. Plumlee:

I am writing in response to your letter dated July 6, 2009 written on behalf of your client Gerald Friedman. In your letter you assert various claims apparently based in Mr. Friedman's belief that he is entitled to develop property located in Swan Beach Subdivision for commercial use. As you acknowledge in your letter, the subject property is zoned RO2. Commercial use of property is not permitted in the RO2 zoning district.

The assertion that certain lots on a 1969 plat entitled "Business Area" constitutes a right to develop property commercially, despite subsequent zoning actions, is not supported by long established North Carolina law. No person has an inherent or vested right to rezoning of property or the continuance of existing zoning. (See *In re Markham*, 259 N.C. 566, 131 S.E.2d 329 (1963); *McKinney v. High Point*, 239 N.C. 232, 79 S.E.2d 730 (1954)). In addition, the county does not agree that your client has exhausted administrative remedies or that the county has denied your client all reasonable use of the subject property. Several options available to your client are text or zoning map amendments to conform desired use to county land use regulations or development of the property in a manner permitted by right under current zoning designation.

County planning staff can provide you and your client with details regarding the process for administrative remedies such as ordinance interpretation, appeals from administrative interpretation of the ordinance, the process for text or zoning map amendment or process to plat the subject property for uses permitted by right in the RO2 zoning district. Your communication with the county's planning department is encouraged.

Sincerely yours,

Donald I. McRee, Jr.

/DIMjr

cc: Board of Commissioners
Daniel F. Scanlon, II, County Manager
Ben Woody, Planning Director

EXHIBIT
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2

Donna Voliva

From: Donna Voliva
Sent: Thursday, October 22, 2009 1:22 PM
To: 'Bryan Plumlee'
Cc: Ben Woody; 'katherine@tmarchitects.com'
Subject: RE: Proposed Swan Beach Development

Mr. Plumlee:

A proposed inn would be consistent with hotel/motel use defined by the county ordinance and will require rezoning. In addition, a conditional use permit will be necessary since the project exceeds five acres in size. Although the conditional rezoning request could include a restriction that would limit the number of units/bedrooms; the special requirements provided in the UDO identify lodging units instead of bedrooms as the method of calculation.

Once you prepare the application for the rezoning please contact planning staff to schedule a pre-application meeting for the submittal.

Donna Voliva

From: Bryan Plumlee [mailto:bplumlee@hpmlaw.com]
Sent: Wednesday, October 21, 2009 11:07 AM
To: Donna Voliva
Cc: Ben Woody; katherine@tmarchitects.com
Subject: Re: Proposed Swan Beach Development

Dear Donna:

Thank you for your email of October 1, 2009. I have now met with Mr. Friedman and have discussed your comments. To create a Conditional District rezoning with General Business use, we have concluded that we must remove the condominium use on the site plan.

As indicated in our meeting with Mr. Woody, the condominium use was mentioned as a possible use but not probable under the envisioned plan.

We ask the County staff to consider the site plan restricting bedrooms to be used as part of an Inn or bed and breakfast. This will comply with a general business district without need for a text amendment.

Please let us know the County's response at your earliest convenience.

Regards,

J. Bryan Plumlee, Esq.
HUFF, POOLE & MAHONEY, P.C.
860 Greenbrier Circle, Suite 103
Chesapeake, Virginia 23322
Voice (757) 518-5615
Fax (757) 962-6180

>>> "Donna Voliva" <dvoliva@co.currituck.nc.us> 10/1/2009 4:31:54 PM >>>
Mr. Plumlee and Ms. Richbourg,

It was a pleasure meeting both of you on Tuesday and discussing Mr. Friedman's proposed Swan Beach development.

After reviewing the development plan and the county ordinance, the Conditional District-General Business will not allow multi-family uses in the off-road area of the Outer Banks. A text amendment will be necessary to allow town houses, apartments, and condos to be accessed by an unimproved sand road. The current ordinance language requires all multi-family uses in the General Business District to be located on lots fronting a state road or a street constructed to state standards and offered for dedication to the state (NCDOT).

In addition, development plans are reviewed for consistency with the 2006 Land Use Plan (LUP) policy statements, and there are some policy statements within the LUP that are inconsistent with the development proposal. I summarized the LUP policy inconsistencies, procedure, and possible uses for the conditional rezoning and text amendment below:

Text Amendment

Text amendment is necessary to allow multi family uses on lots zoned general business that do not front a state maintained road or a street constructed to state standards (Currituck County UDO Chapter 3, Section 3.2.6.1. B.)

Conditional District - General Business

The conditional district rezoning could be submitted after the text amendment is approved by the Board of Commissioners. The conditional district, if approved, would apply specific uses and conditions to a particular parcel or parcels of land. The application would include a list of uses and conditions that would pertain to the property in questioning as well as a site plan of the proposed development. Typical allowable uses in the general business district include:

- Single family
  - 120,000 sf minimum lot size
  - Approximately .36 unit per acre
- Multi-family (townhomes, condos, apartments, duplexes)
  - Approximately 2.7 units per acre
- Typical commercial uses:
  - Neighborhood serving commercial uses and pedestrian oriented businesses such as:
    - Office
    - Retail
    - Restaurants
- One community meeting must be held before any county hearing (planning board) can occur.
- The Currituck County 2006 Land Use Plan identifies the following policy statements that are inconsistent with the proposed development. These inconsistencies would be noted during the review process.
  - A large portion of the property is located in the Currituck Banks/Swan Island Natural Area and Policy ES8 indicates significant future growth shall avoid natural heritage areas.
  - Policy ES7 states maritime forests and sand dunes shall receive a high level of environmental protection and special consideration when reviewing public and private sector development proposals. There is a good probability that a portion of the proposed development contains maritime forest.
  - Policy HN3 suggests mixed-use developments should be contemplated for full service areas of the county, and the proposed development is located within the limited service area.
  - Policy OB6: Concerning the off road areas of the Outer Banks, Currituck County shall not permit or encourage the provision of growth-inducing facilities and

services to these areas, including for example, commercial services, centralized sewage treatment and hard surface roads.

Should you have any questions regarding procedures, policies, or requirements please do not hesitate to contact me.

Thank you,

Donna Voliva, Planner II
Currituck County Planning Department
PO Box 70
153 Courthouse Rd, Room 109, Currituck NC 27929

Work: 252.232.6032 Fax: 252.232.3026

Visit us on the web at www.currituckgovernment.com.

Pursuant to North Carolina General Statutes Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message that may be sent in response, may be considered public record and subject review by anyone at any time.

EXHIBIT
AA

COUNTY OF CURRITUCK

Department of Planning
Post Office Box 70
Currituck, North Carolina 27929-0070
Telephone (252) 232-6029 / Fax (252) 232-3026

June 6, 2011

Mr. Charles S. Friedman
408 Dundoff Street, #404
Norfolk, VA 23507

RE: Public Records Request – Mining Permits

Dear Chip:

Per your recent written request, enclosed are the mining permits for 2056 Midnight Pass (Perry/Cherry) and 2040 Ocean Pearl Road (Thompson).

Should you have any questions or concerns, please feel free to contact me at your earliest convenience.

Sincerely,

Ben E. Woody, AICP
Planning Director

cc: Ms. Donna Voliva, Planner II

County of Currituck

Project Type: MINING <1 ACRE

Application Number:

201001515

Location:	2056 MIDNIGHT PASS
Parcel ID:	099C00000110000
Property Owner:	PERRY, MARK A

This permit must be displayed where it is plainly visible from the street.
Failure to display permit could result in inspections not being performed.

Date Issued: 12/16/10

Issued By: Spence Castello
Director of Inspections

County of Currituck
Project Approval

Application #:	201001515
Property Owner:	PERRY, MARK A
Location:	2056 MIDNIGHT PASS
Parcel ID:	099C00000110000
Project Description:	MINING <1 ACRE
Issued Date:	12/16/10
Expiration Date:	12/16/13

(IF WORK ON THE PROJECT HAS NOT COMMENCED ON OR BEFORE THE EXPIRATION DATE LISTED ABOVE, THIS PROJECT APPROVAL IS NULL AND VOID)

CONDITIONS OF APPROVAL:

Z 5175	BUILDING PERMIT		.00
		TOTAL FEE	.00

I have read and understand the above conditions of approval.

Applicant: _____

3.8.3 Mining (Special Use Permit only)

The special use permit may be issued only if the applicant receives the State of North Carolina mining permit and complies with the general standards and following specific standards:

A. Any mine activity affecting more than one acre (including excavation, area where overburden is placed, area used processing or treatment and settling ponds, access roads, etc.) shall be subject to these regulations and require a special use permit. In the event that one acre or less is disturbed, excluding haul roads, such use shall be permitted by right with a zoning permit in all zoning districts subject to a minimum 100 foot excavation area setback from all property lines, a maximum 3:1 slope above the water, a maximum 2:1 slope in the water, an a average minimum depth of four feet, and a $1,000 bond posted with the Planning Department to ensure proper reclamation of the mine.

B. If at any time a state agency suspends or revokes any permits it has issued for the mining operation, the revocation or suspension shall cause the special use permit to become void until such permit is reinstated by the state.

C. No more than 30 percent of the total site shall be excavated at any given time during the mining operation and after completion. With approval of the Board of Commissioners, additional area within the site can be mined provided previously mined areas are reclaimed with non-contaminated soils to the original ground elevation in accordance with state standards. Setbacks established by these regulations shall be met at all times. All reclaimed land shall be identified on a map recorded in the register of deeds.

D. All state permits and applications for state permits associated with the mining activity, including permit modifications, shall be filed within ten working days of issuance or submittal in the Planning Department by the applicant.

E. The special use permit shall be valid for a period of ten years from the date it is granted or for a shorter duration as deemed appropriate by the Board of Commissioners. In the event the property owner desires to continue the mining operation thereafter, he shall again petition the Board of Commissioners for a new permit.

F. The hours of operation of all mining related facilities and activities on the mining site shall be established by the Board of Commissioners to minimize: (a) traffic delays and interruptions on public roads; (b) noise levels and sound disturbances to adjoining property owners and the community at large. In no case shall the hours of operation be beyond dawn to dusk nor shall mining activity occur on Sundays.

County of Currituck

Project Type: MINING <1 ACRE

Application Number:

200601077

Location:	2040 OCEAN PEARL RD
Parcel ID:	099C00000130000
Property Owner:	THOMPSON, MARK A

This permit must be displayed where it is plainly visible from the street.
Failure to display permit could result in inspections not being performed.

Date Issued: 06/16/06

Issued By: Spence Castello
Director of Inspections

County of Currituck
Project Approval

Application #:	200601077
Property Owner:	THOMPSON, MARK A
Location:	2040 OCEAN PEARL RD
Parcel ID:	099C00000130000
Project Description:	MINING <1 ACRE
Issued Date:	06/16/06
Expiration Date:	06/16/07

(IF WORK ON THE PROJECT HAS NOT COMMENCED ON OR BEFORE THE EXPIRATION DATE LISTED ABOVE, THIS PROJECT APPROVAL IS NULL AND VOID)

CONDITIONS OF APPROVAL:

MINING OPERATION SHALL NOT EXCEED 1 ACRE INCLUING PIT, HAUL ROAD, AND STOCK PILE AREA. SLOPES IN WATER SHALL NOT EXCEED 2:1. SLOES OUT OF WATER SHALL NOT EXCEED 3:1. AVERAGE DEPTH OF POND IS 10.' POND SHALL NOT ENCROACH INTO THE 100' SETBACK FROM EACH PROPERTY LINE. AS-BUILT SURVEY REQUIRED PRIOR TO FINAL INSPECTION. POND MUST BE RE-CLAIMED PRIOR TO RELEASE OF $1000 BOND.

Z 1841	BUILDING PERMIT		.00
		TOTAL FEE	.00

I have read and understand the above conditions of approval.

Applicant: _____

Ben Woody

From: Ben Woody
Sent: Friday, May 20, 2011 2:13 PM
To: 'csfriedman1@cox.net'
Cc: Dan Scanlon; Ike Moree; Stacey Smith
Subject: Record Request

Chip,

What follows is a formal response to your request:

Mr. Copeland - requested information will be provided TBS
Mr. Beasley - requested information will be provided TBS
1. - requested information will be provided BW
2. - requested information does not exist
3. - requested information does not exist
4. - requested information will be provided TBS
5. - requested information will be provided for use permits...a case analysis for home occupations does not exist TBS
6. - a limited amount of requested information exists...existing files will be made available for inspection
7. - existing files will be made available for inspection
8. - existing files will be made available for inspection
9. - requested information will be provided BW

The public records request will be fulfilled as outlined above. Provided information will be mailed to you in a hard copy form upon payment of copy charges. Please contact Stacey Smith (232-6027) to schedule a date and time to view files made available for inspection. We will provide you a work area and the assistance of a staff person to view existing files. All copies are provided at a cost of .10 per page.

Thank you,

Ben E. Woody, AICP
Planning Director
Currituck County
PO Box 70
Currituck, North Carolina 27929
(252) 232.6029
www.currituckgovernment.com

-----Original Message-----
From: csfriedman1@cox.net [mailto:csfriedman1@cox.net]
Sent: Wednesday, May 18, 2011 3:26 PM
To: Ben Woody; csfriedman1@cox.net
Cc: Owen Etheridge; v.aydlett@yahoo.com; S Paul O'Neal; Marion Gilbert; Butch Petrey; Paul Martin; John Rorer
Subject: Re: Fwd: violations

Ben,
As a follow up please make a complete copy of Mr. William Copeland file listing conditions to opperate his home based business in Sligo, And include Mr. B.J. Beasley file on the denial of His home based business appliation.
Chip

---- csfriedman1@cox.net wrote:
> Mr. Ben Woody, For Our public file, Could You email or send Us a copy of:

> 1. each of notices for the nine business that are in violation in the
> RO2 area, 2. Your detail write ups of the other 27 business that are
> on Your prior provided list 3. details on each case as to the issues
> and how the County of Currituck plans to address each of the 27
> business.
> 4. provide copies of any existing RO2 special use permits, conditional
> use permits, existing or applied for zoning permits for business
> issued by Your office, 5. the case analysis for each business above, Including home occupation and any other .
> 6. a list of all home occupations applied in the County since County zoning of 1968.
> 7. State If they where approved or not.
> 8. a list of all business that applied for a special use permit,
> conditional use permit or zoning permit and the case writeups for
> each. State if the business for SUP CUP or zoning permits where
> approved or not and the staff recomendations for each, 9. Copies of
> all Your emails to other County staff, BOC members and any others,
> regarding the 27 business listed on Your prior spreadsheet for the RO2
> Chip
>
>
>

- Special use permits

✓ 10-11

✓ 10-16 (denied)

Conditional Use

✓ 88-03

✓ 01-14

✓ 94-04

✓ 99-22

June 26, 2002

B. J. Beasley
292 Griggs Acres Drive
Point Harbor, NC 27964

COPY

RE: Illegal Catering to the Public

Dear Mr. Beasley:

This letter is to inform you that this department has received complaints concerning illegal catering. As we discussed during your office visit in April 2002, you are not permitted to cater to the public without a valid permit. You were provided with an explanation of General Statute 103A-250(7) that was amended in October 2001.

No foods can be prepared prior to an event that you are hired for as an on-site caterer. All foods must be cooked and prepared on-site. I have shared my concerns with you about complaints that you pre-cook a pig for a barbeque and transport that portion, behind a moving vehicle, inside the barrel cookers that you rent. This method is dangerous and illegal food handling practice and must cease immediately.

Also, during your visit in April you discussed your kitchen facility located in your garage. I shared concerns with the operation of such facilities and informed you of the rules and regulations that you must abide by to continue to function out of that facility for public catering. Please be informed that no operation of a kitchen for catering has been approved or permitted by this department for septic or for food handling at your residence located in Griggs Acres Subdivision.

Continuing to sell food without a valid permit is a misdemeanor and will result in criminal prosecution. Please contact this department if you wish to continue to cater to the public. I have included another food handling packet for your review. If you have any questions or comments, please call 252-232-6603 to make an appointment.

Sincerely,

Angela Bossuot, RS
Environmental Health Services

Cc: Ralph Hollowell, EH Director
Currituck County Zoning Department

Attachments: Restaurant Packet
130A-250(7) exemption explanation package

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

June 2, 2011

Mr. Charles S. Friedman
Swan Beach Corolla, LLC
408 Dundoff Street, #404
Norfolk, VA 23507

RE: Accessory Uses

Dear Chip:

On May 27, 2011, you requested documentation regarding the definition of accessory uses and how the county applies this provision.

Chapter 17 of the Unified Development Ordinance defines accessory uses as:

Use, Accessory
A use customarily incidental and subordinate to the principle use of a building and located on the same lot or building.

a. *a use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principle use; and,*

b. *to be commonly associated with a principle use it is not necessary for an accessory use to be connected with such principle use more times than not, but only that the association of such accessory use with such principle use takes place with sufficient frequency that there is common acceptance of their relatedness.*

The county applies the definition as it is written and determinations are made for each accessory use/structure requested. The ordinance does not specify all accessory uses for each principle use.

Should an accessory use become more than incidental to the principle use, the use of the property would be re-evaluated.

You also inquired about the accessory uses of a fire station, specifically the Carova Beach Fire and Rescue. In general, fire stations operate primarily as a fire station and may include accessory uses. Accessory uses for a fire station may include, but are not limited to, meeting/conference areas for civic groups and non-profit organizations, telecommunication towers, and fundraising/vending (bingo, station logo items, food, drinks, etc.).

If you have any additional questions please feel free to contact me at 252-232-6029.

Sincerely,

Ben E. Woody

Ben E. Woody, AICP
Planning Director

From: Ben Woody
To: Jennie Newbern
Subject: FW: Swan Beach
Date: Thursday, March 31, 2011 1:24:42 PM

FYI...

Ben E. Woody, AICP

Planning Director

Currituck County

PO Box 70

Currituck, North Carolina 27929

(252) 232.6029

www.currituckgovernment.com

From: Ike Mcree
Sent: Wednesday, March 30, 2011 12:08 PM
To: Dan Scanlon; Ben Woody
Subject: FW: Swan Beach

FYI – I have only scanned at this point.

From: Bryan Plumlee [mailto:bplumlee@hpmlaw.com]
Sent: Wednesday, March 30, 2011 11:45 AM
To: Ike Mcree
Subject: Swan Beach

Dear Ike,

I have been asked to contact you regarding a potential development agreement between Currituck County and my client, Gerald Friedman, which would outline the terms for commercial construction upon his parcels at Swan Beach. It is my understanding this request comes as a method to avoid an inevitable lawsuit.

Frankly, I am astonished at the continued position of the County to deny my client his right to construct buildings for commercial use on his business parcels. I will not outline the complete history, but these business designations clearly go back to the late 1960s. The construction of homes went forward on the remaining parcels in a manner set forth by the same approved plat which designates the parcels at issue "business." Obviously, the residential construction went forward, and my client relied for decades upon the fact that he would be permitted to finish the plan as accepted.

My astonishment arises from both the County's stubbornness and refusal to even consider reasonable limitations which would address each of its concerns for such development, and more importantly, the County's discriminatory application of its zoning ordinance and laws.

The County is fully aware of the following businesses in and around Swan Beach:

1. Mr. Pool's crane company. It has been reported to me he maintains a steel warehouse in Carova for this business;
2. Mr. Wilson's off-road septic tank business;
3. Mr. Morris' excavation business;
4. Mr. Grey's heavy equipment operation. I understand his business uses heavy equipment to perform excavation, sand moving and site work;
5. Mr. Thompson's E.Z. Equipment warehouse for building buses. I understand he also performs excavation, sand moving, sand-mining, and generally uses heavy equipment in and around Swan Beach;
6. Twiddy and Co. I understand Mr. Twiddy maintains a real estate business and holds a special permit in the washwoods section of North Swan Beach. He also maintains a 23 bedroom home with 3 kitchens; and
7. There are 200 + homes on the north beaches. I will only briefly mention the County's occupancy tax on 200 + homes on the north beaches, these homes are simply among the highest priced hotel rooms in North Carolina. The County does not collect such taxes from the residents who do not rent their homes.

The above list is far from complete, and we are gathering additional information. I have been informed that business activities are also conducted at the fire station and inside residences. I have also been told the County is well aware of each of these activities.

The subdivision approved by the County in 1969 set forth an orderly development plan. This plan insured a harmonious development effort and was intended to prevent the spot zoning which has obviously occurred. The staff is well aware that the County had zoning back in 1968 when Mr. Friedman's development was considered and approved. The County's random approvals and denials since of various businesses and activities have greatly devalued the Swan Beach development and the undeveloped parcels.

I have been troubled by the comments I have heard County regarding this project. I have been told directly that should the County approve Mr. Friedman's project, it would set a disastrous precedent which would unleash the forces of evil upon the unsuspecting home owners and residents of Swan Beach. Such statements are unsupported and cynical in light of the commercial, business and industrial activities already allowed.

I recognize you have your job to do in this matter, and you serve your client. However, the situation has become untenable as my client wishes to obtain some agreement for reasonable business uses before he passes away. He wishes to see a development go forward in a proper manner and not be cut up in a tribal fashion among the local residents who are there because he had the vision, patience and willingness to make the personal sacrifices necessary to bring development to the Northern Outer Banks.

I know you will not deny that Mr. Friedman is just as much a part of Swan Beach as any of its residents. His developments have succeeded and brought tremendous wealth to the County.

I have no idea whether there is any true interest in a binding development agreement. I hope there is.

Please respond at your earliest with any information you have regarding the above and whether you can make time to meet and discuss this matter with me.

J. Bryan Plumlee, Esq.
HUFF, POOLE & MAHONEY, P.C.
860 Greenbrier Circle, Suite 103
Chesapeake, Virginia 23320
Voice (757) 518-5615
Fax (757) 962-6180

File #	Complaint Date	Violation Description	UDO Section(s)	Property Owner or Violator Name	PIN	Address	Inspection Date	First Contact Date	Final Notice Date	Citation Date	Co Attorney Date	Final Result
11-01	1/11/2011	Violation of SUP #09-15	SUP	Jim Bickford, Mallorne Builders, LLC	0114-000-0025-0000	Parson Lane	N/A		1/18/2011	N/A	N/A	Appealed to BOA (SUP Revoked)
11-02	4/7/2011	Sign on OF 12 corridor for rent signs	7.5.2	Sia on the Beach, LLC	113A-000-0005-0005	1041 Lighthouse Drive	4/8/2011		4/12/2011	N/A	N/A	OK - Sign Removed (4/21/2011)
11-03	4/11/2011	Sign on OF 12 corridor for rent signs	7.5.2	Alan D. & Brenda A. Thomas	113A-000-0003-0005	1045 Lighthouse Drive	4/11/2011		4/12/2011	N/A	N/A	OK - Sign Removed (4/21/2011)
11-04	3/30/2011	Outdoor Storage	7.5	Vincent O. Bosetta III	087A-005-0024-0003	2271 Ocean Pearl	4/7/2011		4/19/2011	5/31/2011	6/24/2011	Citations Ongoing/ 10/26/2011 Received Email from Ben to discontinue citations
11-05	3/30/2011	Commercial in RO2, Inspl. TID	3.2.2.1, 7.5	Charlie P. Pool Trustee	087A-006-0002-0005	2183 Teal Rd.	4/7/2011		4/19/2011	N/A	N/A	Charlie cleaned up as of 6/23/2011 any future violation will result in civil penalties
11-06	3/30/2011	Commercial in RO2	3.2.2.1	Joseph Larry Weaver	087A-000-0359-0009	2051 Ocean Pearl	4/7/2011		4/19/2011	N/A	N/A	5/31/2011 - Property is in compliance
11-07	3/30/2011	Commercial in RO2, Inspl. TID	3.2.2.1, 7.5	Joseph & Denise Heffernan	087A-032-0001-0001	2398 Ocean Pearl	4/7/2011		4/19/2011	N/A	N/A	30 day extension granted - 6/17/2011 Property is in compliance (no commercial business, substantial clean-up)
11-08	3/30/2011	Commercial in RO2, Inspl. TID	3.2.2.1, 7.5	Helen C. Gray Trustee	0086-000-0002-0000	2400 Ocean Pearl	4/7/2011		4/19/2011	N/A	N/A	30 day extension granted - 6/17/2011 Property is in compliance (no commercial business, substantial clean-up)
11-09	3/30/2011	Commercial in RO2, Inspl. TID	3.2.2.1, 7.5	Mark & Kelli Thompson	099C-000-0013-0000	2040 Ocean Pearl	4/7/2011		4/19/2011	N/A	N/A	Appealed to BOA - Back to BOA December 2011
11-10	3/30/2011	Outdoor Recreational Facility w/o SUP	7.5	W.B. Meredith III	N/A	N/A	Website		4/19/2011	5/31/2011	N/A	6/20/2011 Ben instructed to cease enforcement because Banks claimed he is not running kayak tours
N/A	3/30/2011	Septic Truck Operation	3.2.7.1	Greg & Lynne Wilson	0998-000-0013-0000	1992 Frontier Way	4/14/2011		N/A	N/A	N/A	5/12/2011 - Septic Business not operating and truck is for sale
11-11	3/22/2011	Outdoor Storage	7.5	Judith Smith White Estate	087A-017-0018-0001	2385 False Cape Rd.	5/9/2011		5/9/2011	6/9/2011	9/19/2011	Citations Ongoing/ 10/26/2011 Received Email from Ben to discontinue citations
N/A	4/20/2011	Wall Signage exceeds square footage	7	Farmer's Daughter (Violator) Stan White (Owner)	0116-000-003D-0000	612 Ocean Trail	4/28/2011	4/28/2011	N/A	N/A	N/A	5/31/2011 - Permit issued for correct signage
11-12	5/3/2011	Commercial in RO2, Inspl. TID	3.2.2.1, 7.5	Ernest Bowden	087A-007-0005-0005	2187 Ocean Pearl Rd.	5/9/2011	5/9/2011	5/19/2011	6/9/2011	8/1/2011	Citations Ongoing/ 10/26/2011 Received Email from Ben to discontinue citations
N/A	5/3/2011	Commercial Parking in Open Space	10	Rick Brown (Violator) Mariana Dev. (Owner)	117C-000-OPEN-0001	610 Carnival Clubhouse D	5/3/2011		N/A	N/A	N/A	5/9/2011 Golf Cart & Trailers Removed
N/A	5/23/2011	Illegal Commercial Feather Flag	7.5.2	Sam Wise	127G-000-00CE-0000	501 Old Stamey Rd.	5/23/2011	5/23/2011	N/A	N/A	N/A	Called Sam - Sign removed 5/23
N/A	5/20/2011	Sign on unregistered trailer	7	Vishas (Damaris Peach)	126A-000-0067-000A	324 Ocean Trail	5/24/2011		N/A	N/A	N/A	6/3/2011 Trailer has current tags
N/A	6/14/2011	Banner	7	OBX Ventures (The Green Course)	1158-000-0P14-0000	1024 Ocean Trail	6/14/2011		N/A	N/A	N/A	6/14/2011 Banner Removed
N/A	6/14/2011	Wall Sign w/o permit	7	Just for the Beach (IG Holdings)	0127-000-013D-0000	301 Hunt Club Dr.			N/A	N/A	N/A	6/14/2011 Emailed Wendy a Permit Application
N/A	6/14/2011	Feather Flags (Commercial Flags)	7	Corolla Classic Vacations			6/20/2011		N/A	N/A	N/A	6/20/2011 Called - Flags Removed
N/A	6/14/2011	Vehicle Signage	7	Seaside Farm Market			6/20/2011		N/A	N/A	N/A	6/20/2011 Meeting Seaside Market Signage Ordinance - vehicle not registered but no sign is larger than 32 sq. ft.
N/A	6/14/2011	Sandwich Board Sign in ROW	7	Giovanni's					N/A	N/A	N/A	6/21/2011 Talked to John of Giovanni's, corrected sandwich board sign
N/A	6/14/2011	Sandwich Board Sign in ROW	7	Just for the Beach (IG Holdings)			6/20/2011	6/21/2011	N/A	N/A	N/A	6/21/2011 Talked to Michael of Wings, corrected SB sign
N/A	6/14/2011	Sandwich Board Sign in ROW	7	Blue Water Seafood Company			6/20/2011	6/21/2011	N/A	N/A	N/A	
N/A	6/14/2011	Sandwich Board Sign in ROW	7	Just for the Beach (Sam Wise)			6/20/2011	6/21/2011	N/A	N/A	N/A	
N/A	6/21/2011	Flashing Open Sign	7	Wings (IG Holdings)			6/21/2011	6/21/2011	N/A	N/A	N/A	6/21/2011 Emailed Wendy - signs are corrected
11-13	8/1/2011	SUP (No Vehicle Label)	SUP	Banks Meredith (Corolla Soap Bubbles & Tours)	SUP 10-05		8/16/2011	8/9/2011	8/17/2011	9/6/2011		8/9/2011 Talked to Banks, Vehicle will be labeled by 8/12/2011. Citations Ongoing: 10/26/2011 Vehicle labeled
11-14	9/2/2011	Banner	7	Sandra F. Allen (KKK) John Harris	119H-000-819H-0000	819H Ocean Trail	9/2/2011	9/2/2011	9/7/2011	N/A	N/A	9/12/2011 Sign removed
11-15	9/2/2011	Banner	7	Israel Galasso (Just for the Beach)	116F-000-0001-0000	813 Ocean Trail	9/2/2011	9/2/2011	9/7/2011	N/A	N/A	9/16/2011 Banner Removed
11-16	9/2/2011	Banner	7	Israel Galasso (Ocean Drive)	116G-000-807C-0000	807C Ocean Trail	9/2/2011	9/2/2011	9/7/2011	N/A	N/A	9/16/2011 Banner Removed
N/A	9/2/2011	Banner	7	Sunset Grill			9/2/2011	9/2/2011	N/A	N/A	N/A	9/2/2011 Called - Banner Removed 9/7/2011
N/A	9/2/2011	Banner	7	Duck Donuts			9/2/2011	9/2/2011	N/A	N/A	N/A	9/2/2011 Called - Banner Removed 9/7/2011
11-17	9/7/2011	Wall Sign	7	Wings (IG Holdings)	0116-000-003X-0000	810 Ocean Trail	9/8/2011	9/8/2011	9/21/2011	N/A	N/A	9/26/2011 Emailed Wendy information for a wall sign permit. 9/30/2011 Wall Sign Permit issued. Called Consumer and gave update
11-18	10/19/2011	Fill w/in 10' of side and rear prop. lines	6.11.C	Richard & Kathy Bazard	113A-000-0021-0013	638 Lighthouse Drive	10/21/2011	10/21/2011	10/21/2011			10/25/2011 Dick Bazard called, he will comply, I asked that he speak with Investigator on Monday, October 31st for better information about the compliance request, I told him that we can be flexible with his compliance date. Jason spoke to him on Monday October 31st and they have a meeting scheduled onsite for Tuesday, November 8th.
11-19	11/2/2011	Posts & rope blocking foreshore	D-62(a) & 10	Alan M. & Sasha V. Burgess	101A-004-0007-0001	1615 A Sandfiddler Rd.	11/3/2011	11/7/2011	11/7/2011			11.21.2011 Poles Removed
11-20	11/2/2011	Posts & rope blocking foreshore	D-62(a) & 10	Michael A. & Sharon S. Dorn	101A-004-0006-0001	1615-B Sandfiddler Rd.	11/3/2011	11/7/2011	11/7/2011			11.21.2011 Poles Removed
N/A	11/2/2011	Unauthorized Sand Fence	CAMA	Paul W. & Elizabeth G. Winchell		1445 Ocean Pearl Rd.	11/3/2011	11/3/2011				Mailed "please contact" letter

EXHIBIT
BB

NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CVS 334

SWAN BEACH COROLLA, L.L.C., OCEAN ASSOCIATES, LP, LITTLE NECK TOWERS, L.L.C., GERALD FRIEDMAN, NANCY FRIEDMAN, CHARLES S. FRIEDMAN, 'TIL MORNING, LLC, and SECOND STAR, LLC,	)	
Plaintiffs,	)	**AFFIDAVIT OF ERNIE BOWDEN**
v.	)	
COUNTY OF CURRITUCK; THE CURRITUCK COUNTY BOARD OF COMMISSIONERS; and JOHN D. RORER, MARION GILBERT, O. VANCE AYDLETT, JR., H.M. PETREY, J. OWEN ETHERIDGE, PAUL MARTIN, And S. PAUL O'NEAL as members of The CURRITUCK COUNTY BOARD OF COMMISSIONERS,	)	
Defendants.	)	

NOW COMES the Affiant, Ernie Bowden, after having been first duly sworn, and having personal knowledge of the facts stated herein, and states:

1. I am a former Currituck County Commissioner having served in that office from 1976 to 1980, 1984 to 1988 and 1992 to 2008 for a total of 24 years.

2. I was a Currituck County Commissioner on November 17, 2008 when Plaintiff Swan Beach Corolla, LLC's applications for zoning text amendment and rezoning came before the Currituck County Board of Commissioners for hearing and consideration.

3. After review of the Swan Beach Corolla, LLC application for zoning text amendment, representation that the Currituck County Planning Board recommended denial of the zoning text amendment application, and Currituck County Planning staff's recommendation to deny the zoning text application I voted with the other four members of the Currituck County Board of Commissioners to deny the zoning text amendment application.

4. I voted to deny Swan Beach Corolla, LLC's zoning text amendment application because the Currituck County Planning Board and Currituck County Planning staff recommended denial and based on the information before me the zoning text amendment was not consistent with the Currituck County Land Use Plan.

5. During my 24 years as a Currituck County Commissioner my decisions on zoning text and map amendment applications were heavily influenced by recommendations of the Currituck County Planning Board, the Currituck County Planning staff and other county staff as they were charged with reviewing, investigating and recommending the merits of zoning applications to the Currituck County Board of Commissioners.

6. As a Currituck County Commissioner I never considered the religious affiliation or place of residence of an applicant appearing before the Currituck County Board of Commissioners when voting on an application or any other matter and I did not vote to deny Swan Beach Corolla, LLC's zoning text amendment because of the religious affiliation or place of residence of the corporation's principles. I do not know of any other Currituck County Commissioner who voted to deny the Swan Beach Corolla, LLC zoning

text amendment application because of the religious affiliation or place of residence of the corporation's principles.

Further the affiant sayeth not.

This the 6th day of April, 2016.

Ernie Bowden

Ernie Bowden

Sworn and subscribed before me
this 6th day of April, 2016.

Sandra L. Salimbene
Notary Public

Sandra L. Salimbene
Printed Name

My Commission expires: 05/01/2019

(NOTARIAL SEAL)

SANDRA L. SALIMBENE
NOTARY
MY COMMISSION EXPIRES
05/01/2019
PUBLIC
CURRITUCK COUNTY, NC

NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CVS 334

SWAN BEACH COROLLA, L.L.C., OCEAN ASSOCIATES, LP, LITTLE NECK TOWERS, L.L.C., GERALD FRIEDMAN, NANCY FRIEDMAN, CHARLES S. FRIEDMAN, 'TIL MORNING, LLC, and SECOND STAR, LLC,	)	
Plaintiffs,	)	**AFFIDAVIT OF BARRY C. NELMS**
v.	)	
COUNTY OF CURRITUCK; THE CURRITUCK COUNTY BOARD OF COMMISSIONERS; and JOHN D. RORER, MARION GILBERT, O. VANCE AYDLETT, JR., H.M. PETREY, J. OWEN ETHERIDGE, PAUL MARTIN, And S. PAUL O'NEAL as members of The CURRITUCK COUNTY BOARD OF COMMISSIONERS,	)	
Defendants.	)	

NOW COMES the Affiant, Barry C. Nelms, after having been first duly sworn, and having personal knowledge of the facts stated herein, and states:

1. I am a former Currituck County Commissioner having served in that office from 1982 to 1986 and 2004 to 2008.

2. I was a Currituck County Commissioner on November 17, 2008 when Plaintiff Swan Beach Corolla, LLC's applications for zoning text amendment and rezoning came before the Currituck County Board of Commissioners for hearing and consideration.

3. After review of the Swan Beach Corolla, LLC application for zoning text amendment, representation that the Currituck County Planning Board recommended denial of the zoning text amendment application, and Currituck County planning staff's recommendation to deny the zoning text application I voted with the other four members of the Currituck County Board of Commissioners to deny the zoning text amendment application.

4. I voted to deny Swan Beach Corolla, LLC's zoning text amendment application because the Currituck County Planning Board and Currituck County planning staff recommended denial and upon advice by the county's attorney that the 1969 subdivision plat for Swan Beach Corolla, LLC's property did not create a vested right for commercial use of Swan Beach Corolla, LLC's property.

5. As a Currituck County Commissioner I never considered the religious affiliation or place of residence of an applicant appearing before the Currituck County Board of Commissioners when voting on an application or any other matter and I did not vote to deny Swan Beach Corolla, LLC's zoning text amendment because of the religious affiliation or place of residence of the corporation's principles. I do not know of any other Currituck County Commissioner who voted to deny the Swan Beach Corolla, LLC zoning text amendment application because of the religious affiliation or place of residence of the corporation's principles.

Further the affiant sayeth not.

This the 8th day of April, 2016.

Barry C. Nelms

Sworn and subscribed before me
this 8th day of April, 2016.

Sandra L Salimbene
Notary Public

Sandra L. Salimbene
Printed Name

My Commission expires:_____

(NOTARIAL SEAL)

SANDRA L. SALIMBENE
NOTARY
MY
COMMISSION EXPIRES
05/01/2019
PUBLIC
CURRITUCK COUNTY, NC

SANDRA L. SALIMBENE
NOTARY
MY
COMMISSION EXPIRES
PUBLIC
CURRITUCK COUNTY, NC

NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CVS 334

SWAN BEACH COROLLA, L.L.C., OCEAN ASSOCIATES, LP, LITTLE NECK TOWERS, L.L.C., GERALD FRIEDMAN, NANCY FRIEDMAN, CHARLES S. FRIEDMAN, 'TIL MORNING, LLC, and SECOND STAR, LLC,	)	
Plaintiffs,	)	**AFFIDAVIT OF JANET TAYLOR**
v.	)	
COUNTY OF CURRITUCK; THE CURRITUCK COUNTY BOARD OF COMMISSIONERS; and JOHN D. RORER, MARION GILBERT, O. VANCE AYDLETT, JR., H.M. PETREY, J. OWEN ETHERIDGE, PAUL MARTIN, And S. PAUL O'NEAL as members of The CURRITUCK COUNTY BOARD OF COMMISSIONERS,	)	
Defendants.	)	

NOW COMES the Affiant, Janet Taylor after having been first duly sworn, and having personal knowledge of the facts stated herein, and states:

1. I am a former Currituck County Commissioner having served in that office from 2006 to 2010.

2. I was a Currituck County Commissioner on November 17, 2008 when Plaintiff Swan Beach Corolla, LLC's applications for zoning text amendment and rezoning came before the Currituck County Board of Commissioners for hearing and consideration.

3. After review of the Swan Beach Corolla, LLC application for zoning text amendment, representation that the Currituck County Planning Board recommended denial of the zoning text amendment application, and Currituck County Planning staff's recommendation to deny the zoning text application I voted with the other four members of the Currituck County Board of Commissioners to deny the zoning text amendment application.

4. I voted to deny Swan Beach Corolla, LLC's zoning text amendment application because the Currituck County Planning Board and Currituck County Planning staff recommended denial and based on the information before me the zoning text amendment did not promote appropriate growth and development in the county.

5. During my time as a Currituck County Commissioner I relied upon the recommendations of the Currituck County Planning Board when making zoning related decisions because it was the planning board's responsibility to investigate all aspects of an application and present its recommendations to the Currituck County Board of Commissioners.

6. As a Currituck County Commissioner I never considered the religious affiliation or place of residence of an applicant appearing before the Currituck County Board of Commissioners when voting on an application or any other matter and I did not vote to deny Swan Beach Corolla, LLC's zoning text amendment because of the religious affiliation or place of residence of the corporation's principles. I do not know of any other Currituck County Commissioner who voted to deny the Swan Beach Corolla, LLC zoning

text amendment application because of the religious affiliation or place of residence of the corporation's principles.

Further the affiant sayeth not.

This the 7th day of April, 2016.

Janet Taylor

Sworn and subscribed before me
this 7th day of April, 2016.

Notary Public

Printed Name

My Commission expires:

(NOTARIAL SEAL)

SANDRA L. SALIMBENE
NOTARY
MY
COMMISSION EXPIRES
PUBLIC
CURRITUCK COUNTY, NC

NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CVS 334

SWAN BEACH COROLLA, L.L.C., OCEAN ASSOCIATES, LP, LITTLE NECK TOWERS, L.L.C., GERALD FRIEDMAN, NANCY FRIEDMAN, CHARLES S. FRIEDMAN, 'TIL MORNING, LLC, and SECOND STAR, LLC,	)	
Plaintiffs,	)	**AFFIDAVIT OF O. VANCE AYDLETT, JR.**
v.	)	
COUNTY OF CURRITUCK; THE CURRITUCK COUNTY BOARD OF COMMISSIONERS; and JOHN D. RORER, MARION GILBERT, O. VANCE AYDLETT, JR., H.M. PETREY, J. OWEN ETHERIDGE, PAUL MARTIN, And S. PAUL O'NEAL as members of The CURRITUCK COUNTY BOARD OF COMMISSIONERS,	)	
Defendants.	)	

NOW COMES the Affiant, O. Vance Aydlett, Jr. after having been first duly sworn, and having personal knowledge of the facts stated herein, and states:

1. I am a Currituck County Commissioner having served in that office since 2008.

2. I was a Currituck County Commissioner on May 16, 2011 when Plaintiff Swan Beach Corolla, LLC's application to rezone its property from Outer Banks Limited Access Residential (RO2) to Conditional District-General Business (CD-GB) came before the Currituck County Board of Commissioners for hearing and consideration.

3. After review of the Swan Beach Corolla, LLC rezoning application, representation that the Currituck County Planning Board recommended denial of the zoning text amendment application, and Currituck County Planning staff's recommendation to deny the zoning text application I voted with the other six members of the Currituck County Board of Commissioners to deny the rezoning application.

4. I voted to deny Swan Beach Corolla, LLC's application because the proposed rezoning and uses for the property were not consistent with the Currituck County Land Use Plan. I also strongly considered the Currituck County Planning Board and Currituck County Planning staff recommendation for denial.

5. During my time as a Currituck County Commissioner I have relied upon the Currituck County Land Use Plan policies and recommendations of the Currituck County Planning Board and planning staff when making zoning related decisions because the land use plan establishes guidance for growth and development within the county and it is the responsibility of the Currituck County Planning Board and planning staff to investigate all aspects of an application and present its recommendations to the Currituck County Board of Commissioners.

6. As a Currituck County Commissioner I have never considered the religious affiliation or place of residence of an applicant appearing before the Currituck County Board of Commissioners when voting on an application or any other matter and I did not vote to deny Swan Beach Corolla, LLC's rezoning application because of the religious affiliation or place of residence of the corporation's principles. I do not know of any other Currituck County Commissioner voting to deny the Swan Beach Corolla, LLC rezoning

application because of the religious affiliation or place of residence of the corporation's principles.

Further the affiant sayeth not.

This the 1st day of April, 2016.

O. Vance Aydlett, Jr.

Sworn and subscribed before me
this 1st day of April, 2016.

Notary Public

Eileen M. Wirth
Printed Name

My Commission expires: 3.15.2019

(NOTARIAL SEAL)

EILEEN M WIRTH
NOTARY
PUBLIC
CURRITUCK COUNTY, NC

NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CVS 334

SWAN BEACH COROLLA, L.L.C., OCEAN ASSOCIATES, LP, LITTLE NECK TOWERS, L.L.C., GERALD FRIEDMAN, NANCY FRIEDMAN, CHARLES S. FRIEDMAN, 'TIL MORNING, LLC, and SECOND STAR, LLC,	)	
Plaintiffs,	)	**AFFIDAVIT OF MARION GILBERT**
v.	)	
COUNTY OF CURRITUCK; THE CURRITUCK COUNTY BOARD OF COMMISSIONERS; and JOHN D. RORER, MARION GILBERT, O. VANCE AYDLETT, JR., H.M. PETREY, J. OWEN ETHERIDGE, PAUL MARTIN, And S. PAUL O'NEAL as members of The CURRITUCK COUNTY BOARD OF COMMISSIONERS,	)	
Defendants.	)	

NOW COMES the Affiant, Marion Gilbert, after having been first duly sworn, and having personal knowledge of the facts stated herein, and states:

1. I am a Currituck County Commissioner having served in that office since 2010.

2. I was a Currituck County Commissioner on May 16, 2011 when Plaintiff Swan Beach Corolla, LLC's application to rezone its property from Outer Banks Limited Access Residential (RO2) to Conditional District-General Business (CD-GB) came before the Currituck County Board of Commissioners for hearing and consideration.

3. After review of the Swan Beach Corolla, LLC rezoning application, a visit to view the property and surrounding area, conversation with citizens in the proposed rezoning area, representation that the Currituck County Planning Board recommended denial of the zoning text amendment application, and Currituck County Planning staff's recommendation to deny the zoning text application I voted with the other six members of the Currituck County Board of Commissioners to deny the rezoning application.

4. I voted to deny Swan Beach Corolla, LLC's rezoning text amendment application because the rezoning request made no sense. The proposed rezoning and uses for the property in a remote and unique area of the county were not consistent with the Currituck County Land Use Plan. I also strongly considered the Currituck County Planning Board and Currituck County Planning staff recommendation for denial.

5. During my time as a Currituck County Commissioner I have relied upon the recommendations of the Currituck County Planning Board and planning staff when making zoning related decisions because it is the responsibility of the planning board and planning staff to investigate all aspects of an application and present recommendations to the Currituck County Board of Commissioners.

6. As a Currituck County Commissioner I have never considered the religious affiliation or place of residence of an applicant appearing before the Currituck County Board of Commissioners when voting on an application or any other matter and I did not vote to deny Swan Beach Corolla, LLC's rezoning application because of the religious affiliation or place of residence of the corporation's principles. I do not know of any other Currituck County Commissioner who voted to deny the Swan Beach Corolla, LLC

rezoning application because of the religious affiliation or place of residence of the corporation's principles.

Further the affiant sayeth not.

This the 1st day of April, 2016.

Marion Gilbert

Marion Gilbert

Sworn and subscribed before me
this 1st day of April, 2016.

Eileen M. Wirth

Notary Public

Eileen M. Wirth

Printed Name

My Commission expires: 3.15.2019

(NOTARIAL SEAL)

EILEEN M WIRTH
NOTARY
PUBLIC
CURRITUCK COUNTY, NC

NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CVS 334

SWAN BEACH COROLLA, L.L.C., OCEAN ASSOCIATES, LP, LITTLE NECK TOWERS, L.L.C., GERALD FRIEDMAN, NANCY FRIEDMAN, CHARLES S. FRIEDMAN, 'TIL MORNING, LLC, and SECOND STAR, LLC,	)	
Plaintiffs,	)	**AFFIDAVIT OF S. PAUL O'NEAL**
v.	)	
COUNTY OF CURRITUCK; THE CURRITUCK COUNTY BOARD OF COMMISSIONERS; and JOHN D. RORER, MARION GILBERT, O. VANCE AYDLETT, JR., H.M. PETREY, J. OWEN ETHERIDGE, PAUL MARTIN, And S. PAUL O'NEAL as members of The CURRITUCK COUNTY BOARD OF COMMISSIONERS,	)	
Defendants.	)	

NOW COMES the Affiant, S. Paul O'Neal after having been first duly sworn, and having personal knowledge of the facts stated herein, and states:

1. I am a Currituck County Commissioner having served in that office since 2008. I also served as a Currituck County Commissioner from 1994 to 2008.

2. I was a Currituck County Commissioner on May 16, 2011 when Plaintiff

Swan Beach Corolla, LLC's application to rezone its property from Outer Banks Limited Access Residential (RO2) to Conditional District-General Business (CD-GB) came before the Currituck County Board of Commissioners for hearing and consideration.

3. After review of the Swan Beach Corolla, LLC rezoning application, representation that the Currituck County Planning Board recommended denial of the zoning text amendment application, and Currituck County Planning staff's recommendation to deny the zoning text application I voted with the other six members of the Currituck County Board of Commissioners to deny the rezoning application.

4. I voted to deny Swan Beach Corolla, LLC's application because I did not believe that rezoning of the Swan Beach Corolla, LLC property was necessary.

5. As a Currituck County Commissioner I have never considered the religious affiliation or place of residence of an applicant appearing before the Currituck County Board of Commissioners when voting on an application or any other matter and I did not vote to deny Swan Beach Corolla, LLC's rezoning application because of the religious affiliation or place of residence of the corporation's principles. I do not know of any other Currituck County Commissioner who voted to deny the Swan Beach Corolla, LLC rezoning application because of the religious affiliation or place of residence of the corporation's principles.

Further the affiant sayeth not.

This the 1st day of April, 2016.

S. Paul O'Neal

Sworn and subscribed before me
this 1st day of April, 2016.

Eileen M. Wirth
Notary Public

Eileen M. Wirth
Printed Name

My Commission expires: 3.15.2019

(NOTARIAL SEAL)

EILEEN M WIRTH
NOTARY
PUBLIC
CURRITUCK COUNTY, NC

NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CVS 334

SWAN BEACH COROLLA, L.L.C., OCEAN ASSOCIATES, LP, LITTLE NECK TOWERS, L.L.C., GERALD FRIEDMAN, NANCY FRIEDMAN, CHARLES S. FRIEDMAN, 'TIL MORNING, LLC, and SECOND STAR, LLC,	)	
Plaintiffs,	)	**AFFIDAVIT OF H. M. PETREY**
v.	)	
COUNTY OF CURRITUCK; THE CURRITUCK COUNTY BOARD OF COMMISSIONERS; and JOHN D. RORER, MARION GILBERT, O. VANCE AYDLETT, JR., H.M. PETREY, J. OWEN ETHERIDGE, PAUL MARTIN, And S. PAUL O'NEAL as members of The CURRITUCK COUNTY BOARD OF COMMISSIONERS,	)	
Defendants.	)	

NOW COMES the Affiant, H. M. Petrey after having been first duly sworn, and having personal knowledge of the facts stated herein, and states:

1. I am a former Currituck County Commissioner having served in that office from 2010 to 2014.

2. I was a Currituck County Commissioner on May 16, 2011 when Plaintiff Swan Beach Corolla, LLC's application to rezone its property from Outer Banks Limited Access

Residential (RO2) to Conditional District-General Business (CD-GB) came before the Currituck County Board of Commissioners for hearing and consideration.

2. After review of the Swan Beach Corolla, LLC rezoning application I voted with the other six members of the Currituck County Board of Commissioners to deny the rezoning application.

3. I voted to deny Swan Beach Corolla, LLC's application because I did not believe that existing infrastructure in the area for rezoning could support the type of development that the rezoning would permit if approved.

4. As a Currituck County Commissioner I never considered the religious affiliation or place of residence of an applicant appearing before the Currituck County Board of Commissioners when voting on an application or any other matter and I did not vote to deny Swan Beach Corolla, LLC's rezoning application because of the religious affiliation or place of residence of the corporation's principles. I do not know of any other Currituck County Commissioner who voted to deny the Swan Beach Corolla, LLC rezoning application because of the religious affiliation or place of residence of the corporation's principles.

Further the affiant sayeth not.

This the 7th day of April, 2016.

H. M. Petrey

Sworn and subscribed before me
this 7th day of April, 2016.

Sandra L. Salimbene
Notary Public

Sandra L. Salimbene
Printed Name

My Commission expires: 05/01/2019

(NOTARIAL SEAL)

SANDRA L SALIMBENE
NOTARY
MY COMMISSION EXPIRES
05/01/2019
PUBLIC
CURRITUCK COUNTY, NC

EXHIBIT
tabbies
CC

NORTH CAROLINA

CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CVS 334

SWAN BEACH COROLLA, L.L.C., OCEAN ASSOCIATES, LP, LITTLE NECK TOWERS, L.L.C., GERALD FRIEDMAN, NANCY FRIEDMAN, CHARLES S. FRIEDMAN, 'TIL MORNING, LLC, and SECOND STAR, LLC,	)	
Plaintiffs,	)	**DEFENDANTS' INTERROGATORIES & REQUEST FOR PRODUCTION OF DOCUMENTS TO ALL PLAINTIFFS**
v.	)	
COUNTY OF CURRITUCK; THE CURRITUCK COUNTY BOARD OF COMMISSIONERS; and JOHN D. RORER, MARION GILBERT, O. VANCE AYDLETT, JR., H.M. PETREY, J. OWEN ETHERIDGE, PAUL MARTIN, And S. PAUL O'NEAL as members of The CURRITUCK COUNTY BOARD OF COMMISSIONERS,	)	
Defendants.	)	

Pursuant to N.C. Rules of Civil Procedure 26, 33 and 34, Defendants hereby request that each Plaintiff in this action answer the following Interrogatories and Request for Production of Documents. These discovery requests are made separately upon Swan Beach Corolla, L.L.C.; Ocean Associates, LP; Little Neck Towers, L.L.C.; Gerald Friedman; Nancy Friedman; Charles Friedman; 'Til Morning, L.L.C.; and Second Star, L.L.C. Defendants request that the documents produced pursuant to these discovery requests be mailed to or produced at The Brough Law Firm, PLLC, C/O Nick Herman, 1526 E.

Franklin Street, Suite 200, Chapel Hill, NC 27514 on or before 30 days after service of these discovery requests.

INSTRUCTIONS AND DEFINITIONS

A. The term "Plaintiffs" means Swan Beach Corolla, L.L.C., Ocean Associates, LP, Little Neck Towers, L.L.C., Gerald Friedman, Nancy Friedman, Charles S. Friedman, 'Til Morning, L.L.C. and Second Star, L.L.C.

B. The term "Defendants" means all of the Defendants in this matter.

C. The term "person" or "persons" means and includes every natural person, corporation, entity, partnership, association, joint venture, limited liability company, and any other entities.

D. The term "you" or "yours" refers to and includes each of the Plaintiffs named in the instant matter individually and any of his/her representatives.

E. The term "representative" shall mean and include any and all affiliated persons, officers, directors, agents, servants, employees, partners, attorneys, accountants, experts and consultants.

F. The term "document" shall mean the embodiment, in any form, of any attempt, by any means, to utilize, memorialize, or communicate thoughts or information and shall include, but not be limited to, the original and all copies, regardless or origin, location, or form of any paper, pamphlet, periodical, letter, memorandum, email, telegram, telex, cable, other correspondence, report, record, study, note, notices, diary, calendar, working paper, chart, computer disk, computer file, electronic mail, floppy disk, hard disk, computer data storage device, book, graph, brief,

pleading, or other litigation paper, as well as any other tangible things on which thoughts or information is recorded.

G. The term "tangible thing" shall mean any object, property, or thing of a physical or tangible nature and shall include, but not be limited to, photographs, drawings, other renderings, computer simulations, videotapes, tangible or real evidence, or exhibits.

H. If you object to any request on the grounds of privilege, state the nature of the privilege. If any document is withheld on the basis of the attorney/client privilege or work product doctrine, identify the document and state the author of the document, the date the document was generated, all addresses and other recipients of the document, the basis on which the objection is made, the attorney involved, the client involved, the purpose for which the document was generated, the circumstances which render it privileged or immune from production, the use to which it has been put, and all identifiable persons who have access to the document.

I. This request is a continuing one. Documents responsive to this request shall be produced immediately upon identification, up to and throughout the time of the trial of this matter.

INTERROGATORIES

1. State the name(s), mailing address(s), and telephone number(s) of the person(s) answering these discovery requests.

   ANSWER:

2. State all facts in support of the allegation of Paragraph 22 of the Amended Complaint that: "Ocean Associates was led to believe that if development occurred in accordance with the County's request, that the Business Lots could be developed in the future without regard to subsequent changes in County regulations. These representations were made by, among others, the then-Chairman of the Planning Commission, Jerry Hardesty."

   ANSWER:

3. With respect to each expenditure listed in Paragraph 27 of the Amended Complaint, state: (A) the date(s) on which the services for each expenditure was begun and completed; (B) the date(s) on which each expenditure was paid; and (C) a detailed description of the services rendered for each expenditure.

   ANSWER:

4. State all facts in support of the allegation at Paragraph 29 of the Amended Complaint that: "In or around the early 1970s, Ocean Associates and its successors-in-interest completed the infrastructure for the Swan Beach Subdivision that would serve both the residential and Business Lots," and state the date(s) on which such infrastructure was completed and what specific infrastructure was completed.

   ANSWER:

5. State all facts in support of the allegations in Paragraph 36 of the Amended Complaint.

   ANSWER:

6. State all facts in support of the allegations in Paragraph 37 of the Amended Complaint.

   ANSWER:

7. State all facts in support of the allegation at Paragraph 47 of the Amended Complaint that: "[I]n or around September 2004, Swan Beach desired to develop a convenience store, real estate offices, a post office and similar uses on the Business

Lots [and that] Swan Beach later amended its request to also allow for a restaurant and accessory lodging that could include 300 units and/or apartments."

ANSWER:

8. State all facts in support of the allegations at Paragraph 52 of the Amended Complaint that: "at that time [as recently as April 2011] and to this date, numerous other businesses were and are being allowed by the County to operate in the RO1 and RO2 districts [and that] the decisions as to what businesses can operate in alleged violation of the UDO is made by the County in an arbitrary, discriminating, purposeful, unlawful and unconstitutional manner."

   ANSWER:

9. With respect to Paragraph 54 of the Amended Complaint, state precisely <u>when</u> Plaintiffs desired to develop and operate on the Business Lots the uses listed in that paragraph and whether these uses were the only uses that Plaintiffs at such time desired to develop and operate on the Business Lots or whether those uses are in addition to the uses alleged in Paragraph 47 of the Amended Complaint.

   ANSWER:

10. State all facts in support of the allegations made at Paragraphs 55 through 57 of the Amended Complaint.

    ANSWER:

11. State all facts in support of the allegations in the last sentence of Paragraph 102, and in support of the allegations at Paragraphs 103 through 106 of the Amended Complaint.

    ANSWER:

12. State all the facts in support of the allegations in the first sentence of Paragraph 115 of the Amended Complaint; and identify the name of each county official and/or elected official who discriminated against Plaintiffs based on their "religion, religious beliefs, place of residence and/or unspecified reasons," along with all facts to support that allegation of discrimination.

    ANSWER:

13. With respect to the Affidavit of Charles S. Friedman filed with the Court on January 26, 2016, state all facts in support of the representations made in that Affidavit at Paragraphs 3 through 10.

ANSWER:

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Produce all documents either (a) relied upon, or (b) in support of your answers to Interrogatories 2 through 14 above.

This the 17th day of March, 2016.

THE BROUGH LAW FIRM, PLLC

By: _____

G. Nicholas Herman
N.C. State Bar # 10923
1526 E. Franklin Street, Suite 200
Chapel Hill, North Carolina 27514
Tel: 919/929-3905 Fax: 919/942-5742
E-mail: herman@broughlawfirm.com
Attorneys for Defendants

By: _____

Donald I. McRee, Jr.
N.C. State Bar #13922
Currituck County Attorney
153 Courthouse Road, Ste. 210
Currituck, North Carolina 27929
Tel: 252/232-0300 Fax: 252/232-3551
ike.mcree@currituckcountync.gov

CERTIFICATE OF SERVICE

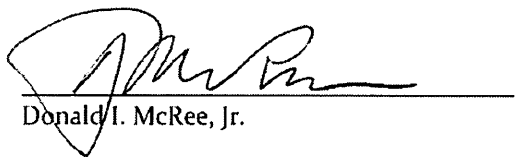
This is to certify that the undersigned has this date served the attached Defendants' Motion upon all parties to this cause by:

[ ] Hand delivering a copy hereof to the attorney for each said party, or leaving a copy at the office of said attorney with a person in charge thereof.

[x] Depositing a copy hereof, postage pre-paid, in the United States mail, properly addressed to the attorney for each said party and electronic mail as follows:

J. Mitchell Armbruster
Counsel for Plaintiffs
Post Office Box 2611
Raleigh, North Carolina 27602-2611
marmbruster@smithlaw.com

This the 17th day of March, 2016.

BY: 
Donald I. McRee, Jr.

COUNTY OF CURRITUCK

BOARD OF COMMISSIONERS
David L. Griggs, Chairman
O. Vance Aydlett, Jr., Vice-Chairman
Paul Beaumont
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DANIEL F. SCANLON, II
County Manager
DONALD I. MCREE, JR.
County Attorney
LEEANN WALTON
Clerk to the Board

March 17, 2016

J. Mitchell Armbruster, Esq.
Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P
P.O. Box 2611
Raleigh, NC 27602-2611

Re: *Swan Beach Corolla, L.L.C., et al., v. County of Currituck, et al.*

Dear Mitch:

Please find enclosed Defendants' Interrogatories and Request for Production of Documents to All Plaintiffs and Defendants' Notice of Depositions for the above-referenced matter.

Sincerely yours,

Donald I. McRee, Jr.

Enclosures

cc: G. Nicholas Herman, Esq. (w/enclosures)

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the attached Affidavit of Daniel F. Scanlon, II and Ben Woody upon all parties to this cause by:

[ ] Hand delivering a copy hereof to the attorney for each said party, or leaving a copy at the office of said attorney with a person in charge thereof.

[x] Depositing a copy hereof, postage pre-paid, in the United States mail, properly addressed to the attorney for each said party as follows:

J. Mitchell Armbruster
Counsel for Plaintiffs
Post Office Box 2611
Raleigh, North Carolina 27602-2611

This the 8th day of April, 2016.

BY: _____
Donald I. McRee, Jr.