

**Public Hearing and Action PB 08-45 Carova Beach Business Blocks: Three Sketch Plans/Special Use Permits to re-plat 19 existing lots into 29 residential lots. The lots are located in Carova Beach as shown on Tax Map 87A, Parcels AH, Block 1; Tax Map 87A, Parcels: A and B, Section 2; A and B, Section 3; and Tax Map 87A, Parcels: 1A, 2A, B, C, and D, Section 5; A-C, Section 9, Fruitville Township.**

Ben Woody, Planning Director, reviewed the request.

**ITEM:** PB 08-45 Carova Beach Business Blocks, Three Sketch Plans/Special Use permits to re-plat 19 existing lots into 29 residential lots.

**LOCATION:** The lots are located in Carova Beach Sections:

- One (1) (Bass Lane), Tax Map 87A, Parcels: A-H, Block 1;
- Two (2) (Shad, Rock and Red Snapper Lane) Tax Map 87A, Parcels: A and B, Section 2; A and B, Section 3; and
- Five(5) (Shark Lane) of the exiting Carova Beach subdivision, Tax Map 87A, Parcels: 1A, 2A, B, C, and D, Section 5; A-C, Section 9, Fruitville Township.

**NARRATIVE OF REQUEST:**

Carova Corp., Ocean Sands Co. is requesting approval of three sketch plans for 19 existing parcels in three sections of Carova Beach to be re-platted into 29 lots. The proposed re-platting is being proposed as three different projects, but they are being review together since many of the issues are the same.

The larger parcels will be used to create a combination of 29 residential lots of 1.5 acres or larger each with open space. The lots will be accessed by existing sand roads, except for a new 180' road in Section 1. There are no proposed hard surface roads. The existing roads and oceanfront dune crossings will be re-graded and stabilized. A homeowners association will be created to provide funding for continued maintenance of the roads that access the new lots only.

The initial Carova Beach subdivision was approved in 1966 and 1967. At that time, Currituck County did not require the street to be improved.

This proposal is contingent upon the passing of the text amendments regarding subdivision standards in the RO2: Outer Banks Limited Access Residential District (PB 08-41 B)

**TAX ID:** Section One

087A-000-000A-0001 087A-000-000D-0001 087A-000-000G-0001

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087A-000-000B-0001 087A-000-000E-0001 087A-000-000H-0001

087A-000-000C-0001 087A-000-000F-0001

Section Two

087A-000-000A-0002 087A-000-000B-0002

087A-000-000A-0003 087A-000-000B-0003

Section Five

087A-000-001A-0005 087A-000-000C-0005 087A-000-000B-0009

087A-000-002A-0005 087A-000-000D-0005 087A-000-000C-0009

087A-000-000B-0005 087A-000-000A-0009

**ZONING DISTRICT:** RO2: Outer Banks Limited Access Residential District

**OWNERS:** Carova Corp. and Ocean Sands Co.

C/O Riggs Realty Co.

P.O. Box 400

Corolla, NC 27927

Ernest Bowden

2155 Sandfiddler Road

Corolla, NC 27927

**ENGINEER:** Mark Bissell  
Bissell Professional Group  
PO Box 1068  
Kitty Hawk, NC 27949  
252-261-3266

**PRESENT USE:** Vacant sand dunes and maritime forest

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

**NORTH:** Residential and Vacant Zoned: RO2

**SOUTH:** Residential and Vacant Zoned: RO2

**EAST:** Residential and Vacant Zoned: RO2

**WEST:** Residential and Vacant Zoned: RO2

**SCHOOL DISTRICT:** Fruitville

**SIZE OF SITE:** Section 1: 31.42 acres

Section 2: 22.01 acres

Section 5: 18.78 acres

Total: 72.21

**NUMBER OF LOTS:** 29 total

**DENSITY:** 0.39 unit/ acre

**MINIMUM LOT SIZE:** 120,000 SF (2.75 acres) - The required lot size may be reduced 1.5 acres in the case of RO2 if the lot size reduction is applied to the open space area.

**STREETS:** The streets are proposed to be graded sand and not to NCDOT standards

**WATER:** Individual private wells are proposed.

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**FIRE:** This development is located within the jurisdiction of the Carova Volunteer Fire Department.

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

**SOILS:** The Currituck County Soils Map indicates the following for each section: Section 1: not-suitable soils for on-site septic systems; Section 2 50% suitable and 50% not-suitable; Section 5- 60% suitable and 40% not-suitable.

**OPEN SPACE:** Open space is required in all three subdivisions because the lots are being reduced in size from the required 2.75 acres to 1.5 acres.

The open space in Section Five needs to be increased to account for the Bowden lot having a reduced lot size.

**DRAINAGE:** The plan indicates lot line swales will drain to either adjacent wetlands or roadside ditches.

**TECHNICAL REVIEW STAFF:**

On September 17, 2008 Technical Review staff reviewed this application with the following comments:

**1. Currituck County Public Works** – No comment received.

**2. Currituck Soil & Water Conservation** - Approved as is.

**3. Currituck County Fire Services**–Disapproved, Resubmit with the following corrections:

Where is the approved fire suppression water supply for this project?

This may be by certified fire hydrants or by an engineer approved static water supply capable of at least 1000gpm of water for at least two hours even during a 50 year drought condition.

An approved access to the supply by the fire apparatus must be designated. Fire department apparatus access must be maintained at least 20' wide capable of withstanding the weight of their largest apparatus in all weather conditions.

*Staff comment: after the TRC meeting the Planning Director determined this would be three separate subdivisions and would not be subject to providing any fire fighting improvements.*

**4. Currituck County Water Department**- No Comment

**5. Currituck County Planning and Inspections, Inspections Division**-Approved as is.

**6. Carova Volunteer Fire Department:** Resubmit with the following changes:

a. There should be no Hatteras ramps installed. *Staff Note: This requirement will be removed from the UDO by the text amendment.*

b. The intersections should be truncated. *Staff Note: This is not a requirement of the UDO and the applicant has not agreed to make this change.*

**7. Albemarle Regional Health Services** – Well and Septic site evaluations will be needed before Preliminary Plat.

**8. Currituck County GIS** - Approved as is. Submit a street name approval form.

**9. N.C. Division of Coastal Resources:** Resubmit with the following information:

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a. A DCM Field Representative has previously met with the applicant to discuss the proposal. Proposed improvements will require a CAMA permit and may require a CAMA Major Permit.

b. Note: Structures are required to be located landward of the crest of the primary dune regardless of the setback. This requirement may restrict development on proposed lots (for example, lots 101, 102, and 103 in Section 1).

c. More detailed grading, drainage, and stabilization information will be needed for DCM review. More detailed information concerning excavation and fill will also be needed. Elevations and cross sections will be required in addition to drawings that indicate existing and post-development conditions.

d. Include the Ocean Erodible Area of Environmental Concern (AEC) on the plans.

e. The Development Impact Statement indicates that a "Hatteras ramp" will be installed in each of the three (3) sections, but the submitted plans only show a Hatteras ramp in Section 1. Clarify.

f. Clarify the term "improved roadway" on the plans. What material/type of improvement is proposed? As indicated in the certified 2006 Currituck Land Use Plan (LUP), the Future Land Use Map description for the Carova Area indicates that "no hard surface road will be allowed." Policy OB6, Policy OB7, and Policy OB8 (Pages 9-21 and 9-22) also addresses desired limits on vehicular access and hard surface roads. Any conflicts with the LUP should be resolved prior to submittal of a CAMA permit application.

**10. County Parks & Recreation Department** - No comments received.

**11. Currituck County Emergency Management** – No comments received.

**12. NC Department of Transportation:** No Comment

**13. N C Dominion Power** - No comments received.

**14. Sprint Telephone** – Approved with no comment,

**SPECIAL USE PERMIT CRITERIA:**

Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval. The criteria are outlined as follows:

*1. The application is complete.*

Based on staff review all required information has been submitted.

*2. The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".*

A subdivision is allowed by the UDO

*3. The conditions proposed meet or exceed the minimum requirements of this ordinance and are agreed to by the applicant.*

The plans for Sections 1 and 2 meet the requirements if the UDO is amend as proposed.

The plan for section 5 needs to be amended to meet the UDO as proposed.

*4. The special use will not endanger the public health or safety.*

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

*5. The special use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.*

The proposed residential lots will be similar to existing adjacent lots.

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*6. The special use will be in conformity with the Land Use Plan, Thoroughfare Plan, or other officially adopted plan.*

The 2006 Land Use Plan classifies the site as **Limited Service Area** within the **Carova Sub-Area**.

The purpose of the Limited Services Area class is to provide for primarily residential development at low densities. Despite the overall low density of these areas, efforts should be made to encourage clusters of residential uses to preserve open space and to provide for a sense of a "community". Base development density should be 1 unit per acre but could be increased to 1.5 units per acre through overlay zoning depending upon whether service facilities are in place or planned and the potential impact on the surrounding community.

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. The following Land Use Plan policies are also relevant to this request:

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.

POLICY OB8: In order to protect WILD HORSES, Currituck County shall not permit nor encourage the provision of hard surface roads in the off-road area of Carova.

POLICY OB9: LARGE HOMES ON OCEANFRONT LOTS IN THE OFF-ROAD AREA should be located as far west as possible. Structures should not be built forward of protective dunes, thereby impeding dune recovery. County minimum setbacks may exceed CAMA minimum setbacks in ocean erodible areas.

The proposed sketch plan/ special use permit is in **general compliance** with the policy emphasis of the Carova Sub-Area and policies OB 6-OB 9 of the 2006 Land Use Plan.

*7. The special use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the plan (sketch plan in the case of major subdivisions).*

1. School seats are no longer allocated for the Outer Banks areas because of the low year round occupancy rate.
2. The Carova Beach Fire Department testified on September 17, 2007 that the roads in Carova are adequate for their department to respond.
3. There have been no objections raised by county service providers to this request.

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**STAFF RECOMMENDATION (Requirements are Separate for Each Section, the Staff Recommendation on Maritime Forest Guidelines are the same and follow the requirements):**

**Section 1:** Staff recommends **approval** with the following conditions:

1. All vegetation in open space shall be maintained in its current state.
2. Correct the required open space to 504,843 SF
3. Submit a report on how this project complies with the Maritime Forest Guidelines with the Preliminary Plat Submission
4. All applicable state and local permits to construct the infrastructure will be required at Preliminary Plat submission.
5. A 404 wetlands delineation map will be required with submission of the Preliminary Plat.

**Section 2:** Staff recommends **approval** with the following conditions:

1. All vegetation in open space shall be maintained in its current state.
2. Submit a report on how this project complies with the Maritime Forest Guidelines with the Preliminary Plat Submission
3. All applicable state and local permits to construct the infrastructure will be required at Preliminary Plat submission.
4. A 404 wetlands delineation map will be required with submission of the Preliminary Plat.

**Section 5:** Staff recommends **Conditional Approval** with the requirement that the following items be corrected prior to being submitted to the Board of Commissions (Resubmission by November 3, 2008):

1. The parcel that will be retained by Mr. Bowden (087A-000-002A-0005) needs to be included in the request with a minimum of 1.5 acres with a 100' wide width. This lot was not previously platted as a residential Lot of Record.
2. The resultant reduction in lot size for Lot 2A, Section 5 (Bowden) shall be added to open space, if it is below the minimum lot size of 120,000 SF.
3. The structures in the proposed right of way of Shark Lane and within 20 feet of the proposed street right of way shall be demolished prior to Final Plat approval. The plans on sheets 9 of 11 shall be corrected to indicate which structures "To Be Demolished" (Section 16.3 Extension or Enlargement of Nonconforming Situations)
4. All vegetation in open space shall be maintained in its current state.
5. Submit a report on how this project complies with the Maritime Forest Guidelines with the Preliminary Plat Submission
6. All applicable state and local permits to construct the infrastructure will be required at Preliminary Plat submission.
7. A 404 wetlands delineation map will be required with submission of the Preliminary Plat.

**STAFF RECOMMENDED CONDITIONS FOR ALL SECTIONS:**

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Staff recommends the Maritime Forest Guidelines become a mandatory part of this permit as follows:

A. Applicability: all development on the Outer Banks subject to the provisions of this ordinance shall comply with the maritime forest guide. For purposes of this guide, clearing of maritime forest is broken down into two stages; one for the developer and the other for the builder. The developer's stage is herein called "Overall Site Preparation and Development" and the builder's stage is referred to as "Individual Lot Design and Building Construction". Further, foresting of timber within a maritime forest shall be subject to the "Overall Site Preparation and Development" standards and shall require sketch plan approval in accordance with this guide.

B. Overall Site Preparation and Development: before any land clearing or excavation of maritime forest can begin, agencies involved in the plat review process shall be provided sufficient information to assess how the development adheres to the requirements of this guide. The overriding concern shall be to minimize alterations of forest vegetation, topography, and ground water systems. Evaluation of site clearing will be subject to the following general principles:

C. The developer shall leave the largest contiguous area of maritime forest intact, creating as few edges as possible, and to concentrate development in less sensitive areas away from sheer zones, wetlands, and other ecologically important vegetation. Preserved maritime forest shall be counted in the open space requirements. Evaluation of site suitability will use the following criteria:

- i) Unforested land areas shall be considered the most suitable building sites unless

such selection would threaten living vegetation by stimulating dune migration or cause extensive salt mist intrusion into the maritime forest or would involve alterations otherwise prohibited;

ii) The most suitable sites will necessitate the least disturbance of living trees and vegetation. The density, height and variety of the vegetation to be removed shall be considered so as to preserve those forest stands which will provide the most protection from storm and salt spray and maintain the natural diversity of plant species. Reforestation is required when deemed necessary;

iii) Site topography will be evaluated for overall development suitability so that, all proposed structures can be constructed in harmony with the existing tree cover while maintaining setback requirements. Dune stabilization is required;

iv) Clearing of forest undergrowth by "bush hogging", burning or any other method is not allowed except for an approved area for a house site.

v) Filling of a forest area where approved undergrowth clearing has been permitted is not allowed.

vi) The following is not allowed unless it can be shown to have no adverse effect on the specific site's maritime forest: dredging, filling or otherwise altering of wetlands and ponds from their natural state except as specifically allowed by the county. Minor road crossings over wetlands are not allowed except for the sole purpose of providing driveway access to individual lots. Impervious surfaces are prohibited within 20 feet of any pond, wetland or navigable waters. No ground absorption waste-water treatment is allowed within 50 feet of any pond or wetland.

D. No more than 20 percent of the maritime forest can be cleared for infrastructure purposes such as roads and utilities. Development is required to be concentrated in such a way that the maximum amount of contiguous forested area remains undisturbed. If the clearing maximum cannot be met, a mitigation plan is required.

E. Right-of-way widths within the maritime forest cannot exceed 45 feet including land cleared for shoulders and drainage, and should follow the natural contours of the land insofar as possible. Curb and gutters are not allowed

F. Individual Lot Design and Building Construction: before any land clearing or excavation of maritime forest can begin, agencies involved in the building site plan approval process should be provided sufficient information to assess how the development adheres to the

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requirements of this guide. As part of the site approval process and before a building site clearing permit is issued, the planning department shall apply the following criteria and limitations on clearing of maritime forest:

G. Trees and undergrowth cannot be removed except as required for construction of structures, accessory use, parking area, driving access, individual or central septic systems and utility service. Likewise, soil disturbing activities and site alteration cannot exceed what is necessary to provide for the location of structures, accessory use improvements, driveway access and utility service improvements;

H. Specific lot development and associated forest clearing is limited by the following maximum allowable clearing percentages based on individual building lot size:

i) Individual Lot

Size Square Foot

ii) Permissible

Forest Clearing

iii) 59,999 or less iv) 35%

v) 60,000 to 79,999 vi) 30%

vii) 80,000 or more viii) 25%

I. If these clearing maximums cannot be met, a mitigation plan should be prepared;

J. The permanent drawdown of ground water, except for wells and alteration of natural drainage patterns, beyond an individual property line is not recommended;

K. Removal of vegetation providing storm or salt mist protection or acting to stabilize soil or limit dune migration is required to be minimized; and,

L. To the maximum extent feasible, utilities should be located to the edge of areas that have

been cleared for access and building purposes.

M. Mitigation Guide: in order to protect and re-establish natural vegetation during and after construction, the following actions are required:

N. In any areas where vegetation removal will expose bare ground, a ground stabilization plan is required. Suitable native vegetation cover is required to be established as soon as possible.

While re-forestation is required, the planting of undesirable or exotic vegetation which threatens the remaining native vegetation is not recommended ; and,

O. To avoid pest and disease damage to remaining vegetation, any broken limbs and scraped or scarred bark occurring during construction should be promptly attended to using accepted horticultural practices.

Chairman Etheridge opened the public hearing.

Mark Bissell, Engineer, reviewed what was being requested and was available to answer any questions.

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

Commissioner Aydlett moved to approve Subdivision 1, 2 and 5 as presented by staff and to look at text amendment.

Commissioner Gregory seconded the motion. Motion carried.