

CURRITUCK COUNTY  
NORTH CAROLINA  
MAY 7, 2007

The Board met prior to the regularly scheduled meeting at 6:00 p.m. to discuss County-wide drainage study and at 6:30 with the Walnut Island Sanitary District.

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

### **Invocation**

The Reverend Gregory was present to give the invocation.

### **Pledge of Allegiance**

Lt. General Keith Grimes and the Currituck County High School ROTC were present to present the colors and the pledge of allegiance.

### **Approval of Agenda**

Commissioner Bowden moved to approve the agenda with the deletion of Item 7, "Sign Ordinance for Overlay District." Commissioner Taylor seconded the motion. Motion carried.

- Item 2**            Public Comment  
*Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.*
- Item 3**            **Public Hearing and Action** on authorizing the filing of an application for approval of a financing agreement authorized by NC General Statute
- Item 4**            **Public Hearing and Action on PB 07-08 Dennis Anderson, Muddy Motorsports Park** Special Use Permit for an outdoor recreation facility located at 5423 Caratoke Highway on the east side of Caratoke Highway, approximately 1100' north of the Rest Area. Parcel ID: 0083-000-0006-0000
- Item 5**            **Public Hearing and Action on PB 07-13 OBX Rodeo** Special Use Permit for an Annual Special Event located on the North side of Riverlane Road, approximately 400' West of Caratoke Highway; Poplar Branch Township. Tax ID: TM 110 Parcel 79 (011000000790000)
- Item 6**            **Public Hearing and Action on PB 07-14 Robert and Sherry Grode** A request to rezone approximately 1.73 acres from Mixed Residential (RA) and Agricultural (A) to General Business (GB) located at 2301 Caratoke Highway on the east side approximately 1/4 mile south of the intersection with Poyners Road. TAX ID: Tax Map 41, Parcel 18 (0041-000-0018-0000)
- Item 7**            **Public Hearing and Action on PB 05-03 Outer Banks Overlay District Sign Regulations** An amendment to Article 17, Signs, Part 4. On-Premise Signs - Outer Banks Overlay District and Article 6 Utilities, Part II, Nonresidential Lighting Requirements in the Outer Banks Overlay District in Poplar Branch Township, Section

620 Compliance to modify the sign regulations for the Currituck County Outer Banks Overlay District.

- Item 8**      **Public Hearing and Action on PB 06-61 Junk Car Ordinance** An amendment to Article 13, Permissible Uses and Table, Section 1305, Accessory Uses, and Article 25, Definitions, Section 2501, Definitions of Basic Terms, of the UDO to remove the enforcement of junked motor vehicle regulations from the Unified Development Ordinance and clarify the definition of junkyard.
- Item 9**      **Public Hearing and Action on PB 00-15 HD (Racy) Newbern, IV** Renewal of a special use permit for a demolition landfill operation and a mulch sales stockpile area located at 7565 Caratoke Highway, Tax Map 110, Parcels 38 and 39, Poplar Branch Township.
- Item 10**     **Public Hearing and Action in PB 07-10 SOUTH RIDGE Planned Unit Development** Sketch Plan/Special Use Permit for 121 lots and 5.23 acres of neighborhood commercial. The property is located at 120 Survey Road, adjacent to the Eagle Creek subdivision and ½ mile southeast of the Quail Run subdivision, Tax Map 15, Parcel 83, Moyock Township.
- Item 11**     **Public Hearing and Action on PB 07-09 CURRITUCK RESERVE Planned Unit Development** Sketch Plan/Special Use Permit for 688 residential units and mixed use commercial on 651.5 acres. The 20 properties are located between Caratoke Highway and Tulls Creek Road, north of Guinea Road, Tax Map 22F, Parcels 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16; Tax Map 14, Parcels 23 and 18C; Tax Map 22, Parcels 62, 63D and 63Y; Moyock Township.
- Item 12**     **Appointments to** County-wide Stormwater Advisory Board
- Item 13**     **Consent Agenda:**  
Proclamation Peace Officers Memorial Day  
Approval of April 2 and April 16 Minutes  
Albemarle Mental Health third quarter Fiscal Monitoring Report  
Appointment of Commissioner Bowden to Coastal Resources Advisory Council  
Resolution in Support of Traffic Signal at NC 12/Currituck Clubhouse Drive  
Resolution in Support of Additional Rip Rap at Knotts Island Road Causeway  
Records Retention and Disposition Schedule for Sheriff's Office  
Medical Plan 2007 for Currituck County Detention Center  
Budget Amendments  
Project Ordinance for Shawboro School
- Item 14**     Commissioner's Report
- Item 15**     County Manager's Report
- Item 16**     Adjourn

**Public Comment**

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

Chairman Nelms opened the public comment period.

Alicia McDonnell, Corolla, requested the Board to move forward on adopting the sign ordinance that the committee has been working on for the past 4 years.

Herb Robbins, Corolla, requested the Board to support the sign ordinance and adopt.

Bob Collins, Corolla, supports citizens' right to vote on incorporation and commented on the County Manager's comments in a recent news article.

Greg Shuk, Corolla, supports citizens' right to vote on incorporation.

**Public Hearing and Action on authorizing the filing of an application for approval of a financing agreement authorized by NC General Statute**

Mike Warren, Superintendent, reviewed the bids received for the Shawboro School and updated the Board on construction of the Jarvisburg School.

Commissioner Etheridge moved to adopt the following resolution and project ordinance. Commissioner Gregory seconded the motion. Motion carried.

**RESOLUTION**

**RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20**

WHEREAS, the County of Currituck, North Carolina desires to construct an elementary school that will be located in Shawboro, North Carolina (the "Project") to better serve the citizens of Currituck; and

WHEREAS, The County of Currituck desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the Board Commissioners of Currituck, North Carolina, meeting in regular session on the 7th day of May, 2007, make the following findings of fact:

1. The proposed contract is necessary or expedient because the elementary school capacity in Moyock has been exceeded for several years and the Middle School in Moyock, which currently has fifth through eighth grade students, is reaching capacity. Construction of this elementary school will allow the fifth grade students to move back to an elementary school, which would add capacity to the Middle School and allow for the continued growth in the Northern part of the County at both the elementary and middle schools.
2. The proposed contract is preferable to a bond issue for the same purpose because the County desires to borrow less than \$10,000,000, which would be bank

qualified debt, for seven (7) years and it is more economical for the County to do an installment purchase contract for this amount rather than increase the borrowing costs with the costs associated with a bond referendum and issuing bonds.

3. The cost of financing under the proposed contract is greater than the cost of issuing general obligation bonds. The process of having a bond referendum and going through the approval process would delay the project by six to eight months and therefore the County desires to move forward with the installment purchase contract.
4. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because the County already uses a portion of the General Fund ad valorem taxes to fund school construction in an amount that will meet the debt obligations for this installment purchase agreement.
5. The County of Currituck's debt management procedures and policies are good because the County has identified revenue sources to make debt payments and invests and monitors all funds to assure that debt payments are made when due.
6. The County does not anticipate increasing taxes for this new debt. Currently, the County has two cents per One Hundred Dollars of property value that is dedicated for school construction and this amount will be applied to the debt service throughout the life of this debt. The County anticipates that this revenue will be sufficient for future debt payments for the life of this debt.
7. The County of Currituck is not in default in any of its debt service obligations.
8. The attorney for the County of Currituck has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Finance Officer is hereby authorized to act on behalf of the County of Currituck in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

The Board of Commissioners for the County of Currituck, North Carolina, held a regular meeting in the Board Meeting Room of the Historic Currituck Courthouse located at 153 Courthouse Road in Currituck, North Carolina, the regular place of meeting, at 7:00 p.m. on May 7, 2007.

Present: Chairman Barry C. Nelms, presiding, and Commissioners Ernie

Bowden, Owen Etheridge, Gene Gregory and Janet Taylor

Absent: None

Also Present: County Manager Daniel Scanlon, Attorney Katherine McKenzie,

Attorney Ike McRee, Clerk to the Board Gwen Keene, Planning Director Sarah Keifer,

Finance Director Sandra Hill, Superintendent of Schools Michael Warren and public

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The Chairman announced that this was the hour and day of the public hearing on the proposed installment financing agreement to be entered into by the County pursuant to Section 160A-20 of the General Statutes of North Carolina, in an amount not to exceed \$8,000,000 for the purpose of financing the cost of acquiring, constructing and equipping a new elementary school (the "Project"). Pursuant to Section 153A-158.1 of the General Statutes of North Carolina, the site of the Project will be conveyed to the County by the Currituck County Board of Education, and the County will execute and deliver a deed of trust granting a lien on the site of the Project to secure its obligations under the installment financing agreement. The site of the Project will then be leased back to the Currituck County Board of Education for use for public school purposes. Said lease would be subordinate to the lien created by the deed of trust.

The Chairman acknowledged due publication of a notice of public hearing in a newspaper with a general circulation in said County as required by Section 160A-20(g) and Section 153A-158.1 of the General Statutes of North Carolina and directed the Clerk to the Board to attach the affidavit showing publication in said paper on a date at least ten (10) days prior to the date hereof as Exhibit A hereto.

The Chairman then announced that the Board of Commissioners would immediately hear anyone who might wish to be heard on the advisability of the proposed Project, financing or conveyance as so described.

A list of any persons making comments and a summary of such comments are attached as Exhibit B hereto.

All statements and comments were duly considered by the Board of Commissioners.

Thereupon, Commissioner Barry Nelms introduced the following resolution, the title of which was read and copies of which had been distributed to each Commissioner:

**RESOLUTION AUTHORIZING THE EXECUTION AND  
DELIVERY OF AN INSTALLMENT FINANCING AGREEMENT,  
A DEED OF TRUST, A LEASE AGREEMENT AND RELATED  
DOCUMENTS IN CONNECTION WITH AN INSTALLMENT  
FINANCING FOR PUBLIC SCHOOL IMPROVEMENTS**

BE IT RESOLVED by the Board of Commissioners (the "Board") for the County of Currituck, North Carolina (the "County"):

Section 1. The Board does hereby find and determine as follows:

(a) The Currituck County Board of Education (the "Board of Education") has determined that a need exists for the acquisition, construction and equipping of a new elementary school (the "Project") and has requested capital funding therefor.

(b) The Project is hereby ratified and approved.

(c) After a public hearing and due consideration, the Board has determined that the most efficient manner of financing the Project will be through the County entering an Installment Financing Agreement (the "Agreement") with Wachovia Bank, National Association (the "Bank") pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended. Pursuant to the Agreement, the Bank will advance moneys to the County in an amount sufficient to pay, together with other available funds, the costs of the Project, and the County will repay the advancement in installments, with interest (the "Installment Payments").

(d) In order for the County to enter into the plan of finance, the site of the Project (the "Site") will be conveyed by the Board of Education to the County.

(e) In order to secure the performance of the County's obligations under the Agreement, the County will execute and deliver a Deed of Trust (the "Deed of Trust") granting a lien on the Site and all improvements and fixtures located and to be located thereon (the "Mortgaged Property").

(f) The Mortgaged Property will be leased back to the Board of Education pursuant to a Lease Agreement (the "Lease Agreement") between the County and the Board of Education, which Lease Agreement will be subordinate to the lien created by the Deed of Trust.

(g) There has been presented to the Board forms of the following documents relating to the transaction hereinabove described:

- (1) the Agreement;
- (2) the Deed of Trust; and
- (3) the Lease Agreement.

Section 2. The Board hereby approves the Agreement, the Deed of Trust and the Lease Agreement in substantially the forms presented at this meeting. The Chairman of the Board and the County Manager are each hereby authorized to execute and deliver on behalf of the County each of said documents in substantially the forms presented at this meeting, containing such insertions, deletions and filling in of blanks as the person executing such documents shall approve, such execution to be conclusive evidence of approval by the Board of any such changes. The Clerk or any Deputy or Assistant Clerk to the Board is hereby directed to affix the corporate seal of the County to each of said documents and to attest the same.

Section 3. No deficiency judgment may be rendered against the County in any action for breach of any contractual obligation under the Agreement or the Deed of Trust, and the taxing power of the County is not and may not be pledged directly or indirectly to secure any moneys due under the Agreement or the Deed of Trust.

Section 4. The Chairman, the County Manager, the Finance Director, the County Attorney and the Clerk to the Board, and any other officers, agents and employees of the

County, are hereby authorized and directed to execute and deliver such closing certificates, opinions and other items of evidence as shall be deemed necessary to consummate the transactions described above, including (a) the execution of any necessary financing statements relating to fixtures located on the Mortgaged Property, (b) the execution of any documents necessary for the conveyance of the Site to the County and (c) the filing of a Form 8038-G with the Internal Revenue Service in connection with the financing.

Section 5. The County hereby represents that it reasonably expects that it and all entities issuing obligations on behalf of the County and all subordinate entities of the County will not issue in the aggregate more than \$10,000,000 of tax-exempt obligations (not counting private activity bonds except for qualified 501(c)(3) bonds as defined in the Internal Revenue Code of 1986, as amended) during calendar year 2007. In addition, the County hereby designates each of the Installment Payments as a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its passage.

Upon motion of Commissioner Etheridge, seconded by Commissioner Gregory, the foregoing resolution entitled "RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING AGREEMENT, A DEED OF TRUST, A LEASE AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH AN INSTALLMENT FINANCING FOR PUBLIC SCHOOL IMPROVEMENTS" was passed by the following vote:

Ayes: Gene Gregory, Owen Etheridge, Janet Taylor, Barry Nelms, Ernie Bowden

Noes: None

\* \* \* \* \*

I, Gwen H. Keene, Clerk to the Board of Commissioners for the County of Currituck, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of such much of the proceedings of said Board, at a regular meeting held on May 7, 2007, as it relates in any way to the conducting of a public hearing upon an installment financing agreement and the acquisition of property to be used for school purposes and the passage of the foregoing resolution approving such financing and that said proceedings are recorded in the minutes of said Board.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and official seal of said County this 7<sup>th</sup> day of May, 2007

**Public Hearing and Action on PB 07-08 Dennis Anderson, Muddy Motorsports Park Special Use Permit for an outdoor recreation facility located at 5423 Caratoke Highway on the east side of Caratoke Highway, approximately 1100' north of the Rest Area. Parcel ID: 0083-000-0006-0000**

Sworn testimony was given prior to making comments.

Sarah Keifer, Planning Director, reviewed the request.

**STAFF ANALYSIS FOR THE BOARD OF COMMISSIONERS  
MEETING DATE: MAY 7, 2007**

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**ITEM:** PB 07-08 Dennis Anderson, Muddy Motorsports Park: Special Use Permit for an outdoor recreation facility.

**LOCATION:** This parcel is located at 5423 Caratoke Highway on the east side of Caratoke Highway, approximately 1100' north of the Rest Area.

**ZONING DISTRICT:** Agricultural (A)

**TAX ID:** 0083-000-0006-0000

**PRESENT USE:** Vacant Farm Land

**OWNER:**  
Jerry and Tommy Wright  
PO Box 366  
Jarvisburg NC 27947

**APPLICANT:**  
Dennis Anderson  
5650 Caratoke Highway  
Poplar Branch NC 27965

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

**SIZE OF SITE:** The motor sports park will use 15 acres of this approximately 72 acre site.

**WATER:** The site is served by well water.

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

**Request**

Special use permit to allow a privately owned outdoor recreation facility in an A (Agricultural) zoning district, pursuant to section 1310, Table of Permissible Uses, Use Number 6.210, of the Currituck County Unified Development Ordinance.

**Narrative**

1. This request is for motor sports events, approximately 14 events per year, including BBQ cook offs, show and shine contest, big truck contest, low rider contest, pulling competitions, and mud racing.
2. This is a permitted use in the A zoning district with a special use permit.
3. The proposed hours of operation are from 8:00 a.m. to 11:00 p.m.

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

The Board must find that the applicant meets all criteria in order for a special use permit to be approved. Following is the staff suggested findings for each criterion (as is required by the UDO).

In granting a special use permit, the Board of Commissioners may attach to the permit such reasonable requirements in addition to those specified in this ordinance as this will ensure that the development in its proposed location:

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

1. There will be a 250' DOT approved positive barrier along the outside lanes of the racing area. A positive barrier is a barrier designed to contain and re-direct errant vehicles. There will be a crowd control fence 30' beyond the positive barriers, then the bleacher area.
2. The site plan has been reviewed and approved by the Currituck County Technical Review Committee, including the Fire Marshall and Building Inspector
3. The events will be professionally run and insured by K & K Insurance.
4. The applicant will have at least two deputies and two EMT's with transportation on site for each event and he is coordinating this with the Sheriff's Office and Emergency Services.
5. The applicant will provide 12 employees per event for traffic and crowd control.
6. NCDOT expressed a concern for ease of identification of the driveway area; therefore, they are requiring a 50' apron, curb and gutter for the entrance/exit. NCDOT is also requiring a contingent plan in the event of traffic backup onto Caratoke Highway. NCDOT will require the vehicles to queue internally within 100' of the right-of-way.

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

1. Section 1310 of the Unified development Ordinance indicates that an outdoor recreation facility (use classification 6.210) is a permitted land use with a special use permit in an A (Agricultural) zoning district.
2. The surrounding land uses include:
 

a.	North:	Vacant	Zone: A
b.	South:	Vacant	Zone: A
c.	East:	Vacant	Zone: A
d.	West:	Vacant	Zone: GB

3. The closest residential dwelling is approximately one mile from the site.
- (c) **Will be in harmony with the area in which it is located.**
1. The surrounding vicinity consists of vacant property.
  2. A landscape plan was approved with the site plan.
- (d) **Will be in conformity with the Land Use Plan, Thoroughfare Plan, or other plan officially adopted by the Board of Commissioners.**
1. The 2006 Land Use Plan classifies the property as a Limited Service Area. "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." This plan is consistent with the Land Use Plan.
- (e) **Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities.**
1. The proposed use will not exceed the county's ability to provide adequate public facilities. The applicant has contacted local sheriff and fire and rescue personnel regarding this project. He has also stated that private security and EMT's can be provided.

**Staff Recommendation:**

Staff recommends **approval** of this request subject to the narrative and findings of fact as presented above as well as the following comments presented at the February 21, 2007 Technical Review Committee meeting:

**Zoning Comments (Tammy Glave 252-232-3055, ext. 295):**

1. Both driveway aprons must be hard surfaced with concert or asphalt.
2. The 250' entrance and exit roads must be graveled.
3. A Type C landscaping buffer shall be installed along the Caratoke Highway property line.
4. If you are installing a new driveway, culvert certification is required prior to final inspection.

Building Inspector Comments (Spence Castello 252-232-3378, ext. 261):

1. Eight handicapped parking spaces must be provided including one which will be van accessible (8' for parking spot and 8' for unloading). Fixed, firm, and non-slip surfaces and signage are required for the spaces and the path of travel from the spaces to the bleachers and handicapped port-a-john. (Bill News, ext. 265)
2. At least one of the bleachers must be handicapped accessible. (Bill News, ext. 265)

Albemarle Regional Health Services (252-232-6603)

1. The Health Department is requiring 10 portable toilets for the site (1 portable toilet/100 people). (Angela Rodrigus at 232-6603).
2. Per the Health Department, no on-site food preparation is allowed. Food vendors must be approved by the Health Department (Angela Rodrigus at 232-6603).

NCDOT (Roger Ward, 252-331-4737)

1. Approved with following conditions
  - a. Drive should have a 50' apron, curb and gutter for entrance/exit.
  - b. Traffic should not queue up internally within 100 ft. of right of way
  - c. Should have contingent plan for traffic backup, if impacts to traffic develop, other improvements will be required.
  - d. US 158 is part of the Strategic Highway Corridor, envisioned to become an expressway, and future access may be limited.
  - e. Will require a DOT driveway permit

Fire Marshal, James Mims (252-232-6641)

1. Approved as reviewed. Permanent structures or temporary assembly structures will require a fire suppression water supply usually a fire hydrant.

Water Department (Leland Gibbs, 252-232-2769)

1. Well for "wash down area" is approved.

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

**PLANNING BOARD DISCUSSION March 13, 2007**

Dennis Anderson appeared before the board.

Ms. Keifer presented the following case analysis to the board.

Mr. Kovacs asked what 15 acres would be used.

Mr. Anderson said the front of the property. Just north of the rest area on the east side of the highway. Mr. Anderson also said that he is not getting an ABC license but will not promise there will not be alcohol on the premises. It will be a professionally run event and the insurance company has strict guidelines for liability purposes. He addressed the other concerns of the Sheriff's Office including traffic regulation.

Mr. West stated that the deputies would most likely help with traffic control.

Mr. Anderson said that he will be the announcer for the event and would not tolerate things that would compromise his integrity. He tries to be conscientious of his image in front of his fans.

Mr. West asked how many days the event will be held.

Mr. Anderson said that he will be lucky to get in 10 events between his buddies' schedules. There may be a fall event, but he wouldn't be impacting duck season out of respect for the owners of the property.

Mr. Midgette asked if there would be permanent structures.

Mr. Anderson said that there would be a tower constructed for announcing the event.

Mr. Midgette asked if it would be nice parking area and stated his concern with dirt on the highway.

Mr. Anderson said that it would not be a mud issue on the road and there would be a wash down area for the vehicles that are licensed for road use.

Mr. Kovacs asked if there would be buffering so as not to cause traffic problems.

Mr. Anderson said that the activity will be 500-600' off the road with a boundary fence to keep litter from blowing into the highway but it would not be blocked from sight.

Mr. Kovacs said that the site plan shows the activity to be 250' off the road, not 500'. Mr. Kovacs restated his concerns with rubber necking and traffic problems.

Ms. Barbara Morgan, Moyock Township, stated her concerns with traffic and with people from the event using the rest area as well as drinking at the event.

Mr. Anderson stated that trash cans and deputies will be on site to control traffic and littering issues. He doubts that people will be willing to make the trek to the rest area, as it will be inconvenient due to the distance from the event area.

Mr. Jerry Wright, Jarvisburg, is the owner of the property. He stated that he wouldn't have considered leasing the property to anyone else for this type of event. He spoke very highly of Mr. Anderson and his integrity. Mr. Wright visited every neighbor within one mile to ask if they had issues with the event. The Pierces and Tommy Wright are the closest neighbors and they do not have a problem with the event. The lease is for 3 years only and there are rules for safety in place. If the insurance regulations aren't met, the lease will be terminated. These are family events and Mr. Wright feels that Mr. Anderson is already a tourist destination within the county and is very active in fundraising and charity type work in the county.

## **PLANNING BOARD ACTION**

Mr. Keel motioned to recommend approval of the request including the staff recommendation. Ms. Turner seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Dennis Anderson, commented on the event he would like to have at the proposed site.

Barbara Morgan, commented on traffic concerns and county liability.

Jerry Wright, stated that the event will be on his property and supports the request.

Sheriff Johnson, stated she had concerns with the event and the county noise ordinance.

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

Commissioner Bowden moved to approve and to review permit in 1 year. Chairman Nelms seconded the motion. Motion carried.

**Public Hearing and Action on PB 07-13 OBX Rodeo Special Use Permit for an Annual Special Event located on the North side of Riverlane Road, approximately 400' West of Caratoke Highway; Poplar Branch Township. Tax ID: TM 110 Parcel 79 (011000000790000)**

Sworn testimony was given prior to making statements.

Sarah Keifer, Planning Director, reviewed the request.

**STAFF ANALYSIS FOR THE BOARD OF COMMISSIONERS  
MEETING DATE: May 7, 2007  
PB 07-13 OBX Rodeo  
Special Use Permit**

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**ITEM:** PB 07-13 OBX Rodeo -Special Use Permit for an Annual Special Event

**LOCATION:** North side of Riverlane Road, approximately 400' West of Caratoke Highway; Poplar Branch Township.

**ZONING DISTRICT:** Residential

**TAX ID:** TM 110 Parcel 79 (011000000790000)

**APPLICANT**

Iris Silverthorne  
 PO Box 405  
 Kitty Hawk, NC 27949  
 (252) 202-3231

**OWNER:**

Gregory Granger  
 Great Carolina Ventures Inc.  
 1005 Richmond Road  
 Williamsburg, VA 23185

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

	Land Use	Zoning
<b>NORTH:</b>	Residential	R and GB
<b>SOUTH</b>	Residential	GB
<b>EAST:</b>	Restaurant	GB
<b>WEST:</b>	Residential/ Vacant	R

**EXISTING USE:** Currently vacant and farmland. The property owner has agreed to allow the rodeo to use approximately 23 acres of the site.

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

**SIZE OF SITE:** 26.83 Acres

**WATER:** Private well

**WASTEWATER:** Portable restrooms will be used for the events

**NARRATIVE:**

- The applicant requests a Special Use Permit approval to hold an annual two day rodeo event in Jarvisburg. The 2007 event is scheduled for June 15 and 16.
- This event was previously held in the county in 2003, 2004 and 2005.
- The rodeo is scheduled to begin each day at 6 p.m. and end at 10:45 pm. One week prior to the event, an arena will be delivered and setup.
- Portable restrooms will be delivered three days before the event. Two days prior to the event is when the livestock, bleachers and vendors will be arriving and setting up. It is anticipated that everything will be removed from the site within 3 days of the event concluding.
- No alcoholic beverages will be sold at the rodeo and radio advertisements will request that no coolers are brought to the rodeo. There will be regular trash pick up during the event.
- The applicant is requesting to be permitted to place a 4' x 8' plywood sign on the property advertising the event. Article 17, Signs allows for a temporary on-site

sign up to 40 square feet, but any sign anchored in the ground greater than 32 square feet requires a building permit.

The applicant states the following items will be providing during the event:

1. Public restrooms through the use of 12 portable restrooms.
2. EMS personnel and a fire truck to assist in case of an emergency.(These agencies have not yet commented on this event)
3. Off-duty deputies will be used for security (The Sheriff has recommended approval).
4. There will be a covered dumpster on the site.
5. Water for the livestock will be furnished from an existing on-site well.
6. The arena will have generator powered stadium lights.

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

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

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

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

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

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

#### 1. **COMPLETENESS OF THE APPLICATION**

##### **Suggested Findings:**

The application is complete.

#### 2. **COMPLIANCE WITH ORDINANCE REQUIREMENTS**

##### **Suggested Findings:**

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

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

**Suggested Findings:**

The proposed use will be monitored by Currituck County EMS and law enforcement agencies.

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

**Suggested Findings:**

A Special Event will not injure the value of adjacent properties.

- (c) The proposed use **will** be in harmony with the particular neighborhood or area in which it is to be located.

**Suggested Findings:**

A special event will be in harmony with the surrounding vacant properties.

- (d) The proposed use **will** be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plan officially adopted by the Board of Commissioners.

**Suggested Findings:**

1. The 2006 Land Use Plan classifies this site as Limited Service.
2. A special event complies with the 2006 Land Use Plan.

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

**Suggested Findings:**

Approval of this request should have no negative impact upon public facilities.  
**(The plan has been submitted for review to Emergency Services and the Sheriff's Department)**

**STAFF RECOMMENDATION**

Staff recommends **approval** of a continuing Special Use Permit for an **Annual** Event at this site with the following conditions:

1. The applicant shall notify the following departments in writing sixty (60) days prior to individual events or provide an annual schedule of events: Planning and Inspections, Emergency Services, Albemarle Regional Health Department, Currituck Sheriff's Office, and the Fire Prevention Office (Fire Marshal).
2. Failure to notify these departments of a scheduled event will result in the immediate suspension of the use permit until it can be reviewed at a scheduled Board of Commissioners meeting.
3. Upon a determination of need by the Sheriff and EMS director, Law Enforcement, EMS and a fire truck shall be scheduled to be on-site for each event and the NC Highway Patrol notified or contracted to provide traffic control.
4. A noise permit issued by the Sheriff's Department shall be acquired prior to the event for any outdoor amplified sound.
5. The hours of operation shall be limited to 6 a.m. to 11 p.m. on the days of the event. Setup will begin 3 days before the event.
6. No vehicles shall be parked within the right-of-way of Riverlane Road, or within 50 feet of any adjoining property line.
7. A zoning permit shall be obtained for any on-premise signage. No sign advertising the event shall exceed the allowances of the Currituck County Unified Development Ordinance.
8. Portable restrooms shall be provided per the requirements of the Health Department. A copy of the contract for the portable toilets with NC registered sewage pumper shall be submitted to the Department of Planning and Inspections one week prior to the event.
9. All vendors serving food shall be receive permits from the Health Department 30 days prior to the event. A list of the food vendors and copies of their permits shall be submitted by 25 days before the event, to the Department of Planning and Inspections.
10. All on-site preparation of food products shall be approved by the Health Department prior to the event.
11. The arena and bleachers shall be inspected prior to the event commencing. The applicant shall be responsible for scheduling this inspection with the Inspections division 2 days prior to the event.
12. Any tents used for the event shall have a tent permit issued by Currituck County Planning and Inspections and be inspected by the Fire Marshall. The applicant shall be responsible for scheduling this inspection with the Fire Marshall.
13. The event shall not exceed a two day time period.
14. All items (arena, bleachers, litter, portable restrooms, etc.) shall be removed from the event site within **fourteen (14)** days of the end of the event.
15. No Alcohol sales or service shall be available to spectators of the event.
16. There shall be no fireworks used at this event that do not receive the prior, written approval of the Fire Marshall.

17. A two way access/ entrance into the site, a minimum of 24 feet wide shall be provided and approved by NCDOT.
18. Permit will be **Voided** if safety, health and fire inspections are not performed or scheduled prior to 5:00 p.m. the Friday before the event. The Fire Marshall and Chief Building Inspector shall issue a report indicating the site complies with all safety conditions prior to the event.
19. This approval only applies to the specified property on Riverland Road. If the applicant wishes to hold the event at another location, a new application for a Special Use Permit shall be filed.
20. Submit proof of Liability Insurance and a Performance Bond **in the amount of \$1000.00 for each event.** The bond will be refunded each year after the event.
  - Acceptable Terms:
    - (a) Surety Bonds by a licensed surety bond company;
    - (b) Irrevocable Letters of Credit on forms approved by the County Attorney with a banking institution insured by the FDIC or other reputable institution;
    - (c) Cash bond submitted to Currituck County

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

#### **PLANNING BOARD DISCUSSION April 10, 2007**

Mr. Kovacs asked if the site were to be changed would the applicant have to reapply.

Ms. Keifer said that is correct.

Mr. Kovacs asked about proof of liability insurance.

Ms. Silverthorne said that the liability would be one million dollars.

#### **PLANNING BOARD RECOMMENDATION**

Mr. Keel motioned to approve the case per the staff recommendation. Mr. Bell seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Iris Silverthorne, Kitty Hawk, stated that this was the 5<sup>th</sup> year she has been doing this event.

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

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

Public Hearing and Action on PB 07-14 Robert and Sherry Grode A request to rezone approximately 1.73 acres from Mixed Residential (RA) and Agricultural (A) to General Business (GB) located at 2301 Caratoke Highway on the east side approximately 1/4 mile south of the intersection with Poyners Road. TAX ID: Tax Map 41, Parcel 18 (0041-000-0018-0000)

Sarah Keifer, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE BOARD OF COMMISSIONERS**

**DATE: May 7, 2007**

**Zoning Map Amendment: PB 07-14**

**Robert and Sherry Grode**

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**TYPE OF REQUEST:** Rezone approximately 1.73 acres from Mixed Residential (RA) and Agricultural (A) to General Business (GB).

**LOCATION:** The property is located at 2301 Caratoke Highway on the east side approximately 1/4 mile south of the intersection with Poyners Road.

**TAX ID:** Tax Map 41, Parcel 18  
(0041-000-0018-0000)

**OWNER:** Robert and Sherry Grode  
2307 Caratoke Highway  
Moyock, NC 27958

<b>ZONING:</b>	<u><b>Current Zoning</b></u>	<u><b>Proposed Zoning</b></u>
	Mixed Residential (RA) and Agricultural (A)	General Business (GB)

**ZONING HISTORY:** This property was split zoned Mixed Residential (RA) and Agricultural (A) on the April 2, 1989 zoning atlas.

**SURROUNDING PROPERTY:**

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Residential	A
<b>SOUTH:</b>	Residential (across Caratoke Hwy)	RA
<b>EAST:</b>	Vacant and Residential	RA and A
<b>WEST:</b>	Vacant and Residential	RA and A

**EXISTING LAND USE:** Residential

**PROPOSED LAND USE:** The proposed use is automotive parking and storage- to tow for the Currituck County Sheriff's Department, rotation call list. This use is permitted with a Conditional Use Permit (Use 10.300) in the General Business zoning district.

**GENERAL BUSINESS**

**USES:**

There are well over 100 uses allowed in the General Business zoning district. The General Business zoning district contains the following sample of uses:

- |                                |                    |
|--------------------------------|--------------------|
| Single Family Residence        | Automotive Repair  |
| Banks                          | Convenience Stores |
| Sales                          | Restaurants        |
| Outdoor or Indoor Mini Storage | Hotels             |
| Motor Vehicle and Boat Sales   | Office             |

**LAND USE PLAN**

**CLASSIFICATION:**

The 2006 Land Use Plan classifies this area as **Conservation**. The purpose of the Conservation class is to provide for the long-term management and protection of significant, limited, or irreplaceable areas. Proper management is needed to conserve the natural, cultural, recreational, scenic or biologically productive values of these areas. The Conservation class should be applied to areas that should not be developed at all (preserved), or if developed, done so in a very limited manner characterized by careful planning and cautious attention to the conservation of environmental features. Infrastructure and services, public or private, should not be provided in these areas as a catalyst that could stimulate development.

For areas within the classification that would be considered developable, uses such as agriculture, agriculture related services, and extremely low density residential development (1 unit per 3 acres or less) would be permitted. With the exception of agricultural related uses, nonresidential uses should not be encouraged.

Therefore, a request for a General Business zone **does not** comply with the Land Use Plan designation of Conservation.

**PUBLIC SERVICES AND UTILITIES:**

Crawford Volunteer Fire Department provides fire protection for this area. Public utilities, including, electric, telephone, county water and cable, are currently available.

**TRANSPORTATION:**

The property is accessed by Caratoke Highway (NC 168)

**FLOOD ZONE:**

The property is located in Flood Zone AE (5).

**SOILS:**

The Currituck County Soil Suitability map indicates the parcel is Not Suitable for on-site septic systems.

**STAFF****RECOMMENDATION:**

Section 2406 of the Unified Development Ordinance provides the standards by which the Board shall evaluate proposed amendments to the Official Zoning Atlas. Specifically, the Ordinance provides that the “central issue before the board is whether the proposed amendment advances the public health, safety or welfare” of the county and further directs that “the Board shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.”

In addition, Section 2407 of the Ordinance states that “[a]reas zoned for non-residential purposes along the county’s major arterials have been carefully selected, taking into account existing needs and uses. Additional areas along these major arterials shall not be rezoned to non-residential districts except upon an extraordinary showing of public need or demand.

Upon evaluating the application, staff maintains that the proposed rezoning does not satisfy the above-referenced criteria for the reasons listed below and therefore recommends **denial**.

- 1) The 2006 Land Use Classification of Conservation indicates the uses in the General Business zoning district uses are not compatible with the classification, which calls for low intensity uses to preserve environmentally sensitive areas.
- 2) The area surrounding the subject site is currently zoned RA (Mixed Residential) and Agricultural (A) and is used for both residential and agricultural purposes. These areas would likely be negatively impacted by the subsequent commercial development of the site.
- 3) The 1994 US Highway 158 & N.C. Highway 168 Corridor Plan supports nodal development of business areas and there is such an area to the west along Shawboro Road and Caratoke Highway, however this location was not identified by the plan for commercial development. This plan was adopted by the Highway Corridor Advisory Committee, as an official document to use in land use planning.
- 4) There is a significant amount of undeveloped land that is already zoned General Business in the Sligo area of

NC 168. There appears to be ample vacant General Business zoned land to support the need for non-residential development in this immediate area of Currituck County. This request does not appear to meet a public need for additional land zoned General Business in this area.

- 5) No conditions related to land use or infrastructure have changed on the property or in the surrounding area since the property was originally zoned that would support the request.
- 6) The rezoning of this tract can be considered **spot zoning**. In North Carolina, spot zoning is not illegal in and of itself however, it must be clearly supported by a reasonable basis to be upheld. Given that the proposed rezoning is not in keeping with the character of the surrounding area, is not compliant with the adopted Land Use Plan, and would have a negative impact on surrounding properties, it does not appear to meet the standard for approval.

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

#### **PLANNING BOARD DISCUSSION - April 10, 2007**

Ms. Grode stated that they want to be on the list for an impound lot rotation. The property must be rezoned in order to comply.

Mr. Kovacs stated that the use didn't matter, an approval would mean the property could be used for any general business use.

#### **PLANNING BOARD RECOMMENDATION**

Mr. Kovacs motioned to deny the case as presented. Mr. Winter seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Sherry and Robert Grode, stated that they wanted a parking and storage garage for this site.

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

Commissioner Bowden moved to approve. Commissioner Etheridge seconded the motion. Motion failed with Commissioner Taylor, Gregory and Chairman Nelms voting no.

**Public Hearing and Action on PB 05-03 Outer Banks Overlay District Sign Regulations An amendment to Article 17, Signs, Part 4. On-Premise Signs - Outer Banks Overlay District and Article 6 Utilities, Part II, Nonresidential Lighting Requirements in the Outer Banks Overlay District in Poplar Branch Township, Section 620 Compliance to modify the sign regulations for the Currituck County Outer Banks Overlay District.**

Item was deleted

**Public Hearing and Action on PB 06-61 Junk Car Ordinance An amendment to Article 13, Permissible Uses and Table, Section 1305, Accessory Uses, and Article 25, Definitions, Section 2501, Definitions of Basic Terms, of the UDO to remove the enforcement of junked motor vehicle regulations from the Unified Development Ordinance and clarify the definition of junkyard.**

Sarah Keifer, Planning Director, reviewed the request.

**CURRITUCK COUNTY**  
**PB 06-61 - JUNK CARS**  
**UDO AMENDMENT REQUEST**

An amendment to Article 13, Permissible Uses and Table, Section 1305, Accessory Uses, and Article 25, Definitions, Section 2501, Definitions of Basic Terms, of the UDO to remove the enforcement of junked motor vehicle regulations from the Unified Development Ordinance and clarify the definition of junkyard.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

**Item 1:** That Article 13, Permissible Uses and Table, Section 1305, Accessory Uses, Item 4 be amended by deleting the item in its entirety and renumbering accordingly:

**Section 1305 Accessory Uses.**

4. ~~The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:~~

- (a) ~~No motor vehicle which does not have a current license plate and inspection sticker shall be stored outside of an enclosed structure., unless the same is raised up on blocks or stands to a distance of one (1) foot above the ground and is completely covered by a waterproof covering material; and;~~
- (b) ~~The provisions and definitions of N.C.G.S. 153A-132 [Removal of Abandoned and Junked Motor Vehicles] is adopted as part of this Ordinance by reference and by such adoption abandonment of motor vehicles is hereby prohibited.~~

**Item 2:** That Article 25, Definitions, Section 2501, Definitions of Basic Terms be amended by deleting the following language indicated with strikethrough marks:

**Section 2501 Definitions of Basic Terms.**

Junkyard. A lot, land or structure or part thereof, used primarily for the collecting, processing, storage and/or sale of salvage paper, animal hides, rags, rubber, glass, scrap metal, lumber or other building materials, or for the dismantling of parts thereof. Any lot with ~~more than two (2)~~ vehicles stored without current registration plates or having an amount of trash, either burnable or nonburnable, considered as excessive in the judgment of the Administrator, shall be classified as a junkyard and will require the appropriate zoning and permits.

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

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

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

**Public Hearing and Action on PB 00-15 HD (Racy) Newbern, IV  
Renewal of a special use permit for a demolition landfill  
operation and a mulch sales stockpile area located at 7565  
Caratoke Highway, Tax Map 110, Parcels 38 and 39, Poplar  
Branch Township.**

Sworn testimony was given prior to making comments.

Sarah Keifer, Planning Director, reviewed the request.

### SPECIAL USE PERMIT GRANTED

On the date(s) listed below, the Board of Commissioners for the County of Currituck met and held a public hearing to consider the following application:

Applicant:	H.D. (Racy) Newbern, IV
Property Location:	7565 Caratoke Hwy. Jarvisburg, NC 27947
Site :	Soundside Recycling
Tax Map:	110, parcels 38 and 39
Proposed Use of the Property:	Demolition landfill operation / mulch sales stockpile area
Meeting Dates:	12/04/06 - Board of Commissioners' Public Hearing/Action

Having heard all the evidence and argument presented at the hearing, the Board finds that the application is complete, that the application complies with all of the applicable requirements of the Currituck County Unified Development Ordinance for the development proposed, and that therefore the application to make use of the above described property for the purpose indicated is hereby approved subject to all applicable provisions of the Unified Development Ordinance and the following conditions:

1. The applicant shall maintain the development strictly in accordance with the plan submitted to and approved by the Board of Commissioners, a copy of which is filed in the office of the Planning and Inspections Department.  
Approximate Acreages:  

Recycling Area	3.4 acres
Compost Area	2.0 acres
Hurricane Storage Area	8.5 acres
2. That the special use permit shall be valid until December 5, 2010 with the condition that operation be moved east of the power transmission lines as approved in the attached site plan by June 4, 2007;
3. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.
4. That the mulch sales storage area not exceed 6' in height, 100' in length and 60' in width;
5. That no demolition storage pile areas exceed 15' in height;
6. That the applicant maintain substantially high berms to effectively conceal all debris piles from public view from Caratoke Highway (US 158). The

height of these berms shall be a minimum of 12 feet but may be higher depending on the height of debris piles;

7. That the berm height be uniform, complete, and continuous
8. That the applicant will be permitted one (1) permanent sign and one (1) temporary sign for the business.
9. That no transportation equipment (tractors or trailers with or without debris) be parked or stored outside the designated area as shown on the attached site plan.
10. That the following comments from the county's Fire Marshall be incorporated within this approval:
  1. No Smoking except in designated areas are allowed. Signage should indicate appropriate areas.
  2. Fire operations will require an all weather surface and 20' access width to all areas of the compound. Would recommend 2 ingress/egress points.
  3. Each fuel-fired vehicle shall be equipped with a 2-A:20-B:C or higher fire extinguisher.
  4. A fire hydrant must be within 400' of all portions of any structure.
  5. Plant growth must be maintained in order to prevent wind blown debris escaping the site.
11. That the hours of operation be set at 7:30 a.m. to 5 p.m. weekdays and 7:30 a.m. to 12 noon on Saturdays with no operations allowed on Sundays;
12. That all material must be kept on site at all times and that necessary steps are taken to keep material from blowing off the property; and,
13. Suggested Staff Findings of Fact:
  1.

<p><i>OWNER</i>                      HD(Racy)Newbern IV                      P. O. Box 277                      Powells Pt, NC 27966                      (252) 491-5744</p>	<p><i>APPLICANT</i>                      HD/Marlene Newbern                      PO Box 176                      Aydlett, NC 27916                      (252) 453-3032</p>
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  2. The tract is located on the east side of Caratoke Hwy. approximately 200' south of the intersection with SR 1156 (North River Rd.) in Powells Point, Tax Map 110, parcels 38 & 39, Poplar Branch (ML) Township.
  3. The property is being utilized as a recycling center.
  4. The applicant received the original special use permit on May 1, 2000 and a renewals on April 16, 2001, June 17, 2002, and June 6, 2005 to temporarily store untreated demolition waste (treated & untreated wood products, cardboard, plastic, vinyl, wallboard, metal and shingles) on two (2) acres of land in an "Agriculture" zoning district which is permitted in an A district with a SUP.

5. The applicant currently recycles demolition waste using a tub grinder. Since the UDO does not specifically list this use in the Table of Permissible Uses, the staff determined this use had impacts similar to a demolition landfill which required a special use permit in an "A" zoning district.
6. According to county Zoning Maps, the nearest dwelling to the existing recycling area is approximately 300 feet west.
7. The mulch stockpile sales area will be located east of the power line right-of-way
8. No burning of waste will be permitted on the site unless a special use permit is granted for an incinerator. Further, all necessary state permits must be obtained prior to burning waste.
9. The site is surrounded by the following land uses:  
West (Front) Commercial (Antique Store)-zoned "GB"  
East (Rear) Farmland - zoned "A"  
North (Side) Farmland (agricultural operations) - zoned "A"  
South (Side) Farmland - zoned "A"
10. The 1990 Land Use Plan classifies this land as "Limited Transition".
11. The proposed site is located along a Minor Arterial in the County's Thoroughfare Plan.
12. According to the application, the storage area will not increase the county's ability to provide facilities in anyway.

Chairman Nelms opened the public hearing.

Racy Newbern, stated he was waiting for the state permit.

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

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

**Public Hearing and Action in PB 07-10 SOUTH RIDGE Planned Unit Development Sketch Plan/Special Use Permit for 121 lots and 5.23 acres of neighborhood commercial. The property is located at 120 Survey Road, adjacent to the Eagle Creek subdivision and ½ mile southeast of the Quail Run subdivision, Tax Map 15, Parcel 83, Moyock Township.**

Sworn testimony was given prior to making comments.

Sarah Keifer, Planning Director, reviewed the request.

**DATE: May 7, 2007  
PB 07-10 SOUTH RIDGE  
PLANNED UNIT DEVELOPMENT**

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**ITEM:** PB 07-10 South Ridge Planned Unit Development: Sketch Plan/  
Special Use Permit for 121 lots and 5.23 acres of neighborhood  
commercial

**LOCATION:** The property is located at 120 Survey Road, adjacent to the Eagle  
Creek subdivision and ½ mile southeast of the Quail Run  
subdivision, Tax Map 15, Parcel 83, Moyock Township.

**TAX ID:** Map 15, Parcel 83 (0015-000-0083-0000)

**ZONING**

**DISTRICT:** Residential (R) - The Board of Commissioners approved a  
rezoning from A to R at the December 4, 2006 Board of  
Commissioners Meeting.

**PRESENT USE:** Agricultural

**OWNERS:** William Pitt and Linda Yendall  
5621 N. 9<sup>th</sup> Road  
Arlington, VA 22205

**APPLICANT:** Charles Friedman  
3500 Virginia Beach Blvd.  
Virginia Beach, VA 23452

**ENGINEER/:** Bissell Professional Group  
PO Box 1068  
Kitty Hawk, NC 27949

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

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Agricultural	A
<b>SOUTH</b>	Agricultural and Residential	A
<b>EAST:</b>	Residential and Middle School	A
<b>WEST:</b>	Agricultural	A

**SCHOOL DISTRICT:** Moyock

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

- SIZE OF SITE:** 77 acres
- NUMBER OF UNITS:** 121, Plus 5.23 acres of commercial
- DENSITY:** 1.6 units per acre
- MINIMUM LOT SIZE:** 10, 500 SF (10,000 SF permitted)
- AVERAGE LOT SIZE:** 11, 512 SF
- MAXIMUM LOT SIZE:** 12, 084 SF
- STREETS:** The streets will be built to NCDOT Design and Construction standards. The developer intends to offer the streets for public dedication. The site will be accessed off of Survey Road.
- WATER:** The development will be served by the Currituck County Water System. The development is expected to use 70,000 gallons per day.
- WASTEWATER:** Wastewater will be collected, treated and disposed of by a central wastewater facility constructed for the development. The sewer system is expected to serve the commercial area and the proposed library site.
- OPEN SPACE:** Planned Unit Developments are required to have 35% Open Space plus 2,500 SF for each lot that is 7,500 SF. The required open space for South Ridge is 26.95 acres (77AC \*.35). The submitted plan proposes 35.06% (27.00 acres) Open Space.
- DRAINAGE:** The development will have a series of engineered drainage systems along the streets with a central lake to accommodate stormwater.
- FLOOD ZONES:** The property is in flood zone X, outside of the 100 year flood plain.

**I. NARRATIVE OF REQUEST:**

Charles (Chip) Friedman is seeking approval of a PUD overlay and Sketch Plan for a community that will contain 121 single-family lots and a neighborhood commercial center. A 4 acre library site and 1.25 acre water tower site are being offered for public dedication.

According to the Development Impact Statement submitted January 18, 2007 and the plans dated February 26, 2007:

- A. The development is intended to be a well-planned, architecturally integrated community with a high level of landscaping, and neighborhood office and retail structures that are designed in the traditional Currituck vernacular, utilizing red brick with limestone accents.
- B. The housing plans would range from 1,700 SF to 2,200 SF with 3 to 4 bedrooms and 1 car garages.
- C. The community is designed to emphasize shared recreational usage of open space and pedestrian access to the focal center of the community, a six acre central lake which will serve the added purpose of providing stormwater retention.
- D. Five foot wide pedestrian/ bike paths are being proposed.
- E. The development will be built in 3 phases over a 3 year period, beginning in 2008,
  - 1. Phase I, 49 lots- 2008
  - 2. Phase II, 47 lots-2009
  - 3. Phase III, 25 lots-2010
  - 4. The 40,000 SF of commercial space will be built according to market demand.
- F. The range of the home prices will be \$225,000 to \$350,000, depending upon model and the purchaser's amenity package.
- G. The total residential value is projected to be \$31.76 million.
- H. The total commercial value is expected to be \$4 million
- I. The total estimated value at build out is expected to be \$35.76 million

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

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties. The purpose of a Planned Unit Development is to allow mixed residential and commercial development as a unit and where a more efficient use of the land and additional on-site amenities can be delivered.

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

- A. *Is the application complete?*

The application meets the submission requirements for Sketch Plan review.

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

The application complies with the requirements for Sketch Plan approval.

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

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

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

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

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

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

The density of the proposed subdivision is slightly higher than the adjacent residential subdivision and contains a commercial component not present in the adjacent subdivision. In general, however, the proposed project is in keeping with the suburbanizing character of the surrounding area.

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

**a. LAND USE PLAN CLASSIFICATION:**

The 2006 Land Use Plan classifies the subject property **Rural** and within the **Moyock** sub-area. In the Rural Classification, population densities are generally very low and development density is anticipated at no more than 1 unit per 3 acres. While the overall Rural Classification does not necessarily support an overlay for a Planned Unit Development, the Moyock sub area is described as the fastest growing part of the county, experiencing development pressure from the Tidewater Area of Virginia. The Land Use Plan further provides that it is not the intention of the county to develop all of Moyock intensely, but rather create service centers and various gradations of development.

For the Moyock area, residential development densities should be medium to high depending upon available services. In areas where on-site wastewater is proposed and other County services are limited, development density should be limited to 1-2 units per acre. However in areas where central sewer is proposed or existing, additional services are

available and the character of the surrounding areas supports it, higher density ranging from 3-4 units per acre could be considered through the use of overlay zones.

The proposed density of 1.6 units per acre does not comply with the Rural designation however it does appear to fit with the description of the Moyock subarea.

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

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

	Available Capacity	Demand	Remaining Capacity
<b>Currituck Reserve</b>			
Elementary School	351	182	169
Middle School	161	50	111
High School	254	92	162
<b>South Ridge</b>			
Elementary School	351	31	320
Middle School	161	10	151
High School	254	17	237
<b>Combined</b>			
Elementary School	351	214	138
Middle School	161	61	101
High School	254	110	144

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

**III. STAFF RECOMMENDATION:**

The intent of a PUD is to allow for a mix of uses where additional on-site amenities can be achieved. If the County does not accept the proposed site for a library, there do not appear to be enough amenities for the community. A decision by the Commissioners on the acceptance of the land offered for public dedication should be made before this proposed plan is approved. If the library and water tower site are not accepted, staff recommends this plan be modified.

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

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

- a. Provide an adequate stormwater analysis of onsite and offsite (downstream) drainage during planning stages. Follow requirements of UDO Section 922, which indicates the post development stormwater run off shall not exceed the pre-development runoff prior to preliminary plan submission.
- b. Indicate the breakdown of the open space used for active recreation and visual relief. This should show that the active recreation meets or exceeds 50% of the open space.(Section 938)
- c. The required improvements shall be installed and accepted prior to submission for Final Plat approval for each phase.
- d. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners.
- e. As a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.
- f. Please give a total for the residential units that will be developed or platted in each phase. (Appendix 9-A).
- g. In keeping with Section 607 and Section 917, Items 2,3, and 8 the applicant shall create a sewer district for the proposed development prior to final plat submission. In addition, the applicant shall provide the following information regarding the waste water treatment system at preliminary plan submission:
  - (1) A detailed explanation of who shall be responsible for the perpetual maintenance and upkeep of the facility;
  - (2) State approval of the proposed system; and

- (3) The expected life of the facility and the establishment of a reserve fund to support the continued maintenance, upkeep and replacement of the facility.
- h. As stated above, if the library site is not accepted by the Board, a revised amenities plan should be submitted prior to sketch plan approval
- i. If accepted by the Board of Commissioners, all of the areas intended for dedication to the County (i.e. water tower site and library site) shall be identified on the plan as “Areas Dedicated to Currituck County for Public Use” rather than as the specific uses currently contemplated.

## 2. **Staff Recommendations:**

- a. The Development Impact Statement references the pedestrian related active recreation element. In the interest of providing a complete and safe active recreation system, staff recommends providing sidewalks on both sides of all streets as well as along the Survey Road frontage, and between the proposed residential and nonresidential uses.
- b. The materials submitted to date provide only three (3) house styles that share similar characteristics and do not indicate the construction materials planned. The applicant should submit a home and building design template that will be incorporated with the approval. The template should be provided prior to sketch plan approval and incorporate architectural elements for both the residential and nonresidential structures. At a minimum the applicant should consider the following with respect to the residential structures:
  - (1) Variation in exterior architectural materials (siding, roofing);
  - (2) Vertical and horizontal relief in buildings (roof lines, eaves, bump outs);
  - (3) Variation in house styles/types; and
  - (4) Inclusion of front porches, projecting bays, vestibules.
- c. With respect to the nonresidential buildings, staff suggests the following conditions:
  - (1) Consideration be given to proportional attributes including overall height-to-width ratios of existing building facades, doors, windows, projecting canopies, and other architectural features within the vernacular of the area;
  - (2) Facades of new buildings incorporate, but not mimic, the sense of lightness or weight exhibited in the architecture of existing buildings on neighboring properties or the vernacular of the general area and

should incorporate similar proportions of solids (i.e. siding, blank walls, etc.) to voids (i.e. windows, door openings, etc.);

- (3) The principal building façade of proposed buildings be oriented toward the primary street frontage and in the same direction as the majority of existing buildings on the frontage street. Proposed buildings on corner or dual frontage properties shall reflect a public façade on both streets.
- (4) Facades be designed to reduce the massive scale and the one dimensional appearance of large retail buildings and to provide visual interest.
- (5) The street facing elevations incorporate functioning windows into the overall design concept. Functioning windows are defined as those windows which let light into the interior of the structure and are integrated and related to the interior layout of the space.
- (6) In addition to functioning windows, the corridor elevations contain at least two of the following elements:
  - (a) A primary entrance door or doors (except for loading doors).
  - (b) A primary entrance feature, such as a porch, portico, awning, entrance walk, or other similar feature.
  - (c) Landscaping integrated into the building design concept.
  - (d) Architectural or urban design elements, which link adjacent structures together, such as plazas, walkways, colonnades, or similar features.
  - (e) Architectural relief, such as vertical and horizontal off-sets in exterior wall elevations, band courses, lintels and sill courses, cornices and the like to create shadow lines.
- (7) Large expanses of blank walls should be avoided. The public facade should incorporate windows and primary doorway entrances along the street frontage as well as projecting elements such as eaves, cornices, canopies, projecting bays, shadow lines, and overhangs.
- (8) The Plan incorporate durable exterior surface materials complementary with the color, texture, size, and scale of exterior materials reflected on existing buildings in the immediate vicinity or the vernacular of the general area; and
- (9) The general roof shape, ridge and eave heights, and material characteristics proposed be visually compatible with these same

attributes expressed in existing buildings in the immediate vicinity or in keeping with the vernacular of the general area.

- (10) Building materials include brick, wood, fiber-cement siding, stone textured split face block, tinted and textured concrete masonry, or synthetic stucco. Metal building materials shall only be permitted on elevations not visible from the public right-of-way.
- d. Staff recommends a landscape plan be submitted in conjunction with the preliminary plan showing the location, spacing, caliper dimension, and species of proposed landscaping materials.
  - e. Parking.
    - (1) Staff recommends no parking lot be designed to be within the front building setback and should instead be located behind the front building line.
    - (2) Staff recommends parking lots be arranged in such a manner so that not more than twenty (20) parking spaces in a row shall be permitted without a landscaped island. Parking lot landscape islands shall be a minimum of ten (10) feet wide.
    - (3) Parking lot screening adjacent to public right-of-way - Low profile screening should be installed when parking spaces would result in vehicles facing onto the roadway in addition to the requirements of Article 5, Bufferyard and Shading Requirements. Screening may consist of a low wall, evergreen hedge with minimum height of two (2) feet at time of planting planted three (3) feet apart on center and a maximum height of three (3) feet at maturity, or earth berm. Should a low wall be used, such wall shall be accompanied by evergreen shrub plantings on the roadway side of the wall and spaced ten (10) feet apart on center.
    - (4) Staff recommends a minimum of five (5) percent of the interior area of a parking lot should be reserved for landscape purposes. This provision shall include the landscaping of all required parking islands and medians. Shade trees shall be incorporated within the landscaped islands whenever and wherever practicable.
  - (5) Outdoor Display Areas.

All outdoor display areas, including garden centers and any seasonal sales, shall be enclosed on all sides with high-quality fencing such as fencing resembling wrought iron, (chain link fencing is prohibited).

    - (a) All outdoor display areas shall be designated on the site plan and must not extend into parking areas.

- (b) Vending machines should not be visible from public pedestrian areas outside the business structure, including garden areas.
  - (c) Mechanical or HVAC equipment should not be installed at ground level along any portion of a building facing a state or city maintained street or road or internal street or way unless such location is necessitated by the nature and design of the building it serves. Roof top installation may be allowed provided that such equipment is concealed behind a parapet wall.
  - (d) A solid fence or wall and native plants shall screen any ground level equipment. Block or brick enclosures, if used, may include decorative openings within the block or brick pattern.
  - (e) Shrubs shall be at least ten (10) gallons in size, and trees must be at least two (2) inches in caliper at planting.
- f. Staff recommends a complete loop trail system be installed around the lake prior to the recordation of the first phase in order to ensure active recreation amenities are completed in tandem with the residential construction. Additions to the trail and sidewalk system should be installed prior to the recordation of additional phases.
  - g. Staff recommends the applicant perform a traffic impact study for approval by DOT prior to preliminary plan submission. This recommendation is in keeping with the recommendation of the Department of Transportation. Planning staff should be included in the scoping of the study.
  - h. In keeping with Policy WS7 of the 2006 Land Use Plan, staff recommends the waste water system be design so as to facilitate assimilation into a centralized system at a future date. Compliance shall be demonstrated at preliminary plan submission.
  - i. All of the open space areas surrounding the lake should be stabilized with grass, vegetation and the proposed landscaping prior to recordation of the first phase.
  - j. All visual relief open space within each phase should be stabilized and vegetated with grass and the proposed landscape buffer.
  - k. Given the relatively small size of the proposed lots, staff recommends an R/V boat parking area to the rear of the development.
  - l. The location of the current playground site does not seem to be integrated into the community but instead is separated from the dwellings. Staff recommends 2 additional playgrounds be installed within phases 2 and 3

of the project. The playground adjacent to the library should be installed with phase 1.

- m. Staff recommends a landscape plan be submitted in conjunction with the preliminary plan showing the location, spacing, caliper dimension, and species of proposed landscaping materials.

**B. TECHNICAL REVIEW STAFF:** On February 21, 2007, Technical Review staff reviewed this application and provided the following comments:

1. **Currituck County Public Works** – Approved as is (Engineer notes the discussed water tower site has not yet been accepted by the county).
2. **Soil & Water Conservation** - Approved with the following conditions: Provide an adequate stormwater analysis of onsite and offsite (downstream) drainage during planning stages. Follow requirements of UDO Section 922.
3. **Currituck County Fire Services**– Approved with the following comments: I caution the placement of utilities, lighting, signs, mailboxes, and/or trees in areas that may cause a hindrance to larger fire apparatus as I note a portion of the vehicle often extends over the curbing during turning.
4. **Currituck County Water Department:** Approved with the following conditions: The developer should move the tank site to front on Highway 168 or install a 12" water line through the subdivision. The Board of Commissioners should determine if cost sharing with the developer for upgrading the line to 12" is warranted. Should sketch plan be approved, the water department will need plans and specifications for review and comments.
5. **Albemarle Regional Health Services** – Approved with the following comments: A central wastewater system will be under the jurisdiction of the Division of Water Quality.
6. **Currituck County GIS** – Approved with the following comment- street names are still under review and have not yet been approved. Gerald Blvd, and Friedman Blvd. were approved but Swan Circle, Lake Crescent Drive and South Ridge Rd were denied.
7. **County Parks & Recreation Department** – Approved with no comment
8. **Emergency Management** – No comments received.
9. **Moyock VFD**– No comments received.
10. **NC Department of Transportation:** Approved with the following conditions: A TIA shall be performed, redesign/realign South Ridge; eliminate driveways on Survey Road (commercial & library).
11. **US Army Corps of Engineers:** No comments received.

12. **NC Department of Natural Resources, Division of Water Quality**, – No comments received.
13. **NC Department of Natural Resources, Division of Land Resources** – No comments received.
14. **Currituck County Superintendent of Schools**- No comments received.
15. **N C Dominion Power** – No comments received.
16. **Sprint Telephone** – Approved with no comments.
17. **Mediacom Cable** - No comments received.

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

#### **PLANNING BOARD DISCUSSION**

Mr. Keel asked if there would be \$3k for schools.

Ms. Keifer said that offer has not been made.

Mr. West asked about the library site.

Ms. Keifer stated that the location would have to be chosen by the Planning Board and Board of Commissioners.

Mr. Bissell presented some slides to the board with designs the developer has in mind for library, parks, lakes, and trails in the development. He indicated recommendation #5 agreement with construction of and stabilization of trails, however, he'd like to only construct half trail system with first phase.

Ms. Turner asked what the trail would be constructed of.

Mr. Bissell stated that they would be hard surfaced.

Mr. West asked if there would be sidewalks in the development.

Mr. Bissell indicated on the map of the development where the sidewalks would be constructed.

Mr. Bissell said that the sidewalks would connect to the library site and the playgrounds. A traffic impact study will be provided for Survey Rd.

Mr. Kovacs asked how the stormwater would be routed to the lake.

Mr. Bissell said that it would be similar to Waterside Villages with shallow swales.

Mr. Kovacs indicated that the area needs improvement as far as drainage is concerned and there are ditches that haven't been cleaned in a long time. He also asked if the homes would be built on slabs or on crawl spaces.

Mr. Bissell stated that they would be built on crawl spaces.

Mr. Keel asked if Mr. Bissell was aware that the staff would like sidewalks on both sides of the streets.

Mr. Bissell said that was one issue where they didn't agree.

Mr. Kovacs asked about the size of the lots.

Mr. Bissell indicated that they would be 10,500 to 12,000 sq. ft.

Mr. Kovacs asked about the depth of the lake

Mr. Bissell said it would be 10-12 feet.

Mr. Kovacs stated his concern with stagnant water.

Mr. Bissell said that there would most likely be a fountain in the lake.

Mr. Kovacs asked how far the homes would be set back from the street.

Mr. Bissell said they would be 30' or so.

Mr. Kovacs gave the example of Eagle Creek and stated his opinion is that 30' is not enough.

Mr. West stated that a mid size vehicle is 18' long.

Mr. Keel stated that it made more sense to him to have sidewalks on both sides of the streets.

Mr. Kovacs stated that if the library site is chosen in the other development, he would like to see a community center or pool on that parcel.

Mr. Bissell stated he wouldn't want to burden the homeowners with the cost of a pool facility.

Mr. West asked if staff recommended sidewalks on both sides.

Ms. Keifer said yes. If the applicant is presenting pedestrian circulation as the primary active recreation component of the community, it appears reasonable that a complete pedestrian system be constructed.

**PLANNING BOARD ACTION**

Mr. Keel motioned to recommend approval of the request including the staff recommendations. Mr. Etheridge seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Mark Bissell, Engineer, presented a layout of the development.

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

Commissioner Taylor moved to approve with only sidewalks on one side and with staff findings of fact. Commissioner Bowden seconded the motion. Motion carried.

**Public Hearing and Action on PB 07-09 CURRITUCK RESERVE  
Planned Unit Development Sketch Plan/Special Use Permit for  
688 residential units and mixed use commercial on 651.5  
acres. The 20 properties are located between Caratoke  
Highway and Tulls Creek Road, north of Guinea Road, Tax Map  
22F, Parcels 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,  
16; Tax Map 14, Parcels 23 and 18C; Tax Map 22, Parcels 62,  
63D and 63Y; Moyock Township.**

Sworn testimony was taken prior to making comments.

Sarah Keifer, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE BOARD OF COMMISSIONERS  
PB 07-09 CURRITUCK RESERVE  
MEETING DATE: May 7, 2007**

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**ITEM: PB 07-09 Currituck Reserve: Planned Unit Development with  
688 residential units and mixed use commercial**

**LOCATION:** Located between Caratoke Highway and Tulls Creek Road, north  
of Guinea Road.

**TAX ID: Map 22F, Parcels 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,  
16  
Map 14, Parcels 23 and 18C  
Map 22, Parcels 62, 63D and 63Y**

001400000230000 022F00000040000 022F00000110000

002200000620000	022F00000050000	022F00000120000
0014000018C0000	022F00000060000	022F00000130000
0022000063D0000	022F00000070000	022F00000140000
0022000063Y0000	022F00000080000	022F00000150000
022F00000020000	022F00000090000	022F00000160000
022F00000030000	022F00000100000	

**ZONING**

**DISTRICT:** Residential (R)  
The subject site was rezoned from Agriculture (A) to Residential (R) by the Board of Commissioners at their March 5, 2007 meeting.

**PRESENT USE:** Agricultural and Low density residential (farm houses).

**OWNERS:**

Haywood and Cynthia Ward 714 Tulls Creek Road Moyock, NC 27958	John Jennings, III 5 Chester Plaza Chester, MD 21619
I.N. Wilson Estate C/O I.N. Wilson 1502 Marsh Street Norfolk, VA 23523	Debra Long 309 Great Bridge Blvd. Chesapeake, VA 23320
Brian Gibson 121 Sailfish Street Moyock, NC 27958	

**APPLICANTS:** Richard Browner  
131 Dances Bay Road  
Elizabeth City, NC 27909  
Princess Anne Land Assoc. LLC  
1128 Independence Blvd.  
Virginia Beach, VA 23455

**ENGINEER:** MSA P.C.  
5033 Rouse Drive  
Virginia Beach, VA 23462

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

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Agricultural and Residential	A and R
<b>SOUTH</b>	Agricultural and Residential	A and R
<b>EAST:</b>	Agricultural and Residential	A
<b>WEST:</b>	Agricultural, Residential, Commercial	A, GB and C

<b>SCHOOL DISTRICT:</b>	Moyock
<b>FIRE DISTRICT:</b>	Moyock V.F.D.
<b>SIZE OF SITE:</b>	651.5 acres
<b>NUMBER OF UNITS:</b>	688 Total- 168 Estate Homes (20,000 SF lots) 225 Single Family Detached (7,500 SF lots) 188 Single Family Attached Condominiums (Quadraplex) 48 Townhomes 59 Loft Condominiums
<b>DENSITY:</b>	1.06 units per acre (3 units per acre permitted)
<b>MINIMUM LOT SIZE:</b>	7,500 SF
<b>AVERAGE LOT SIZE:</b>	12,844 SF
<b>STREETS:</b>	The streets will be built to NCDOT Design and Construction standards. The developer intends to offer the streets for public dedication. The site will be accessed by Guinea Road and Tulls Creek Road. A system of 2 parkways will connect Tulls Creek Road and Guinea Road, approximately 700 feet from the intersection with Caratoke Highway.
<b>WATER:</b>	The development will be served by the Currituck County Water System. The development is expected to use 247,680 gallons per day.
<b>WASTEWATER:</b>	Sewer will be collected, treated and disposed of by a central wastewater facility constructed for the development. The sewer system will also serve the school site.
<b>OPEN SPACE:</b>	Planned Unit Developments are required to have 35% Open Space plus 2,500 SF for each lot that is 7,500 SF. The required open space for Currituck Reserve is 240.93 $((651.5*.35) + (225*2500))$ . The submitted plan proposes 367.4 acres or 56.3% Open Space.
<b>DRAINAGE:</b>	The development will have a series of engineered drainage systems along the streets with stormwater ponds through out the development.
<b>FLOOD ZONES:</b>	The 20 properties are in flood zones Shaded X and AE (5.4).

**I. NARRATIVE OF REQUEST:**

Richard Browner and Princess Anne Land Associates are requesting approval of a 688 unit Planned Unit Development. This will be a mixed use development with single family lots, townhouses, commercial uses and loft condominiums in the stories above commercial buildings. The design is based on New Urbanism concepts that emphasize mixed use development with different incomes and lifestyles. To obtain this goal, Currituck Reserve uses compact communities with connecting blocks, a central village with a mix of uses, pedestrian trails that connect all blocks, an abundance of parks and open spaces, and alleys behind houses to access rear yard parking. Some of the New Urbanism concepts include:

- A. Neighborhoods should be compact, pedestrian-friendly, and mixed-use. Districts generally emphasize a special single use, and should follow the principles of neighborhood design when possible. Corridors are regional connectors of neighborhoods and districts; they range from boulevards and rail lines to rivers and parkways.
- B. Many activities of daily living should occur within walking distance, allowing independence to those who do not drive, especially the elderly and the young. Interconnected networks of streets should be designed to encourage walking, reduce the number and length of automobile trips, and conserve energy.
- C. A range of parks, from tot-lots and village greens to ball fields and community gardens, should be distributed within neighborhoods. Conservation areas and open lands should be used to define and connect different neighborhoods and districts.
- D. Streets and squares should be safe, comfortable, and interesting to the pedestrian. Properly configured, they encourage walking and enable neighbors to know each other and protect their communities.
- E. Architecture and landscape design should grow from local climate, topography, history, and building practice.

(Source: Congress of New Urbanism website- [www.cnu.org](http://www.cnu.org)- 2001)

According to the Development Impact Statement submitted January 18, 2007 and the plans dated February 14, 2007:

- A. The master plan for Currituck Reserve is organized around a green infrastructure of parks and open spaces. Seven residential neighborhoods and a village center are surrounded by parks and lakes and connected to each other by pedestrian/ bike trails.
- B. The developers are intending to dedicate the following to Currituck County:
  - 1. School Site of 49.7 acres
  - 2. Soccer Field Site of 10.1 acres
  - 3. Library Site of 4.1 acres

- C. Each neighborhood is connected to each other by a system of biking, walking and jogging trails. The trails will be asphalt, typically 10 feet wide and maintained by the Homeowners Association.
- D. There are seventeen neighborhood parks which will provide safe areas for small children to play near their homes.
- E. Older children and adults will be able to jog and bike throughout the community, whether going to the central village area, adjacent proposed high school or one of several soccer fields located within the community.
- F. Larger public park areas are planned adjacent to Ward Drive.
- G. Two soccer fields will be improved and put to final grade by the developer prior to conveyance to the County.
- H. The developer is currently in discussion with the YMCA regarding the location of a facility within the Village Center. Should the "Y" not locate within Currituck Reserve, a community club house and pool will be constructed by the developer and maintained by the Homeowners Association.
- I. The development will be built in 3 phases over a six year period, beginning in 2007, with the first units available in 2009:
  - 1. Phase I, 2 years from construction start - 185 lots and 60 condominiums (245 total housing units)
  - 2. Phase II, 4 years from construction start- 208 lots, 48 Townhomes, 59 Loft condominiums, 30, SF Light Retail/ Office (315 total housing units)
  - 3. Phase III, 6 years from construction start- 128 condominiums
- J. The average home prices are anticipated to be:
  - 1. Village A and C, 4-plex condominiums = \$247,000
  - 2. Village B and D, single family (7,500 SF lots) = \$317,500
  - 3. Village E and G, single family (20,000 SF lots) = \$435,000
  - 4. Village F, single family (20,000 SF lots) = \$495,000
  - 5. Village Center Loft Condos and Townhomes = \$225,000
- K. The total residential value is projected to be \$211.3 million
- L. The total commercial value is estimated at \$6.45 million

**II. SPECIAL USE PERMIT CRITERIA:**

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties. The purpose of a Planned Unit Development is to allow mixed residential and commercial development as a unit and where a more efficient use of the land and additional on-site amenities can be delivered.

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

A. *Is the application complete?*

The application meets the submission requirements for Sketch Plan review.

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

The application complies with the requirements for Sketch Plan approval.

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

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

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

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

The proposed mixed use subdivision should have no negative impact on adjoining property. The adjoining uses are low density, dispersed single family dwellings.

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

The proposed subdivision will be in harmony with the surrounding area.

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

a. 2006 Land Use Plan

The subject site is a mix of Land Use Classifications; the southern portion being full service and the northern portion rural and adjacent to Limited Service. The Full Service designation calls for a base density of 2 units per acre with 3-4 units possible through overlay zoning where infrastructure is available. A greater mix of dwelling types is also contemplated in Full

Service area as well as a mix of non-residential uses. A base density of 1 unit per acre is contemplated for Limited Service areas with a maximum density of 1.5 units per acre through overlay zoning where infrastructure is in place. The Rural Classification calls for a density of 1 unit per 3 acres with an emphasis on preserving the rural character of the county.

The Land Use Plan (LUP) further calls for new development in the Full and Limited Service areas to occur in village like patterns which may include retail uses of a scale compatible with the surrounding area in an effort to provide services to residents without requiring additional vehicle trips. In addition, the LUP calls for clustered developments in order to permit the allocation of permanent open space around and between such clusters.

The subject site is also located within the Moyock sub-area of the LUP. The policy emphasis is to properly manage the increased urban level of growth while also maintaining a system of permanent open space. Densities ranging from 1 unit per acre to 4 units per acre are contemplated depending upon the availability of services.

Given the existing suburban development patterning emerging in the area of the subject site, that fact that public water is available, a central waste water system is proposed, community facilities including a school site, library site, and improved community soccer fields are proposed, a fire station is located close by, a substantial system of open space is proposed, the overall density is just slightly over 1 unit per acre, and a small village like non-residential component is proposed, the project appears to **comply** with the policies of the Land Use Plan.

b. Thoroughfare Plan.

Although a connector road from Tulls Creek Road to Guinea Road is not identified in the 1988 Thoroughfare Plan; the proposed system of streets to be constructed to DOT standards will meet the objective that “The construction of subdivision streets to adequate standards would reduce maintenance costs and will facilitate the transfer of the streets to the State Highway System.”

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

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

	Available Capacity	Demand	Remaining Capacity
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Middle School	161	10	151
High School	254	17	237
<b>Combined</b>			
Elementary School	351	214	138
Middle School	161	61	101
High School	254	110	144

**III. WAIVERS AND MODIFICATIONS:**

A. The applicant is requesting waivers from Section 914, Streets and Section 921, Lots to allow the creation of alleys 20 feet in width. The UDO requires the following with respect to rights-of-way:

1. Section 914, Streets, provides that the minimum required right-of-way for a private street is 45 feet.
2. Section 921, Lots, Item 7 prohibits the creation of double frontage lots.

The proposed plan provides for rear access for a number of the lots through the use of alleys. Alleyways provide a way to accommodate local traffic, secondary access to dwellings, parking to the rear of buildings rather than along the public road, and service delivery such as trash collection and utility service. Alleys however are not contemplated by the street standards in the UDO. Given the benefit of providing rear access to the proposed lots, staff **recommends approval** of a waiver from the above-referenced Ordinance sections with the condition that the applicant shall set forth legally binding ownership and maintenance responsibilities and obligations for the proposed alleys for review at the preliminary plan submission.

B. Section 939, Item 10 of the UDO permits the Board of Commissioners to grant modifications to the design requirements for Planned Unit Developments. The applicant is requesting reduced setbacks for the lots that will be served by rear yard parking and ally ways. These reduced setbacks are in keeping with the

principles of neo-traditional development. **Staff recommends the modification be approved** and the following condition be added to the Special Use Permit: All lots within the Currituck Reserve PUD with access to a rear yard alley way shall have the following setbacks: Front/ Street: 10 feet, Side 5 Feet, Principle Structure Rear: 16 feet, Garage Only Rear: 5 feet. The permitted lot coverage of 45 percent shall be maintained.

#### **IV. STAFF RECOMMENDATION:**

Because it appears the application has satisfied the criteria for granting a Sketch Plan/ Special Use Permit within a PUD staff recommends **approval** of the application in accordance with the Technical Review Agencies' comments and subject to the following conditions:

##### **A. PLANNING DEPARTMENT**

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

- a. A Traffic Impact and Traditional Neighborhood Development study with a traffic pattern for the school shall be approved by the Department of Transportation prior Preliminary Plat submission.
- b. The placement of utilities, lighting, signs, mailboxes, and/or trees shall not cause a hindrance to larger fire apparatus as the vehicle often extends over the curbing during turning.
- c. Provide an adequate stormwater analysis of onsite and offsite (downstream) drainage during planning stages. Follow requirements of UDO Section 922, which indicates the post development stormwater run off shall not exceed the pre-development runoff. Stormwater devices and plans should be shown for the Private ROWs/ alleys at Preliminary Plan as well.
- d. Any development or filling of 404 wetlands will require a site specific plan approved by the US Army Corps of Engineers.
- e. The required improvements including streets, multi-modal paths, utilities, and recreational improvements shall be installed and accepted prior to submission for Final Plat approval for each phase.
- f. The applicant shall complete the development strictly in accordance with the plans submitted to, and approved by the Board of Commissioners.
- g. As a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

- h. In keeping with Section 607 and Section 917, Items 2,3, and 8 the applicant shall create a sewer district for the proposed development prior to final plat submission. In addition, the applicant shall provide the following information regarding the waste water treatment system at preliminary plan submission:
  - (1) A detailed explanation of who shall be responsible for the perpetual maintenance and upkeep of the facility;
  - (2) State approval of the proposed system; and
  - (3) The expected life of the facility and the establishment of a reserve fund to support the continued maintenance, upkeep and replacement of the facility.
- i. The details of the sidewalk locations and crosswalks should be shown at Preliminary Plat.
- j. The lot numbers should be consecutive through out the entire PUD, and not broken down for each section. This will be critical for the Tax Department to assign parcel ID numbers for recorded properties.
- k. If accepted by the Board of Commissioners, all of the areas intended for dedication to the County (i.e. school site, library site, water tower site, and soccer fields) shall be identified on the plan as “Areas Dedicated to Currituck County for Public Use” rather than as the specific uses currently contemplated.

#### Master Plan Sheet

- l. The Parcel ID numbers (PINs) need to be included on the master plan along with the ownership information. It is difficult to find the ownership information that is placed on each sheet. (Appendix 9-A)
- m. Please number the sheets with a table of contents on the master plan. (Appendix 9-A)
- n. In the area table, indicate the allowed commercial area (10% of total tract) and the proposed commercial area. (Section 938)
- o. A legend is need for all lines and symbols used. (Appendix 9-A)
- p. In the area summary table, indicate the amount of active and passive recreation. Planning staff can provide an example of other PUD tables that have been done in Currituck County. The summary table should show 4 categories of land use (Appendix 9-A):
  - (1) Residential

- (2) Commercial
  - (3) Open Space
  - (4) Utility/ Support facilities (Wastewater plant, boat storage parking, equipment buildings, sewer line easements, etc.)
- q. The open space tables need to be modified. Although the plan appears to be fully compliant, the open space requirement is 35% of the total tract plus the difference between lots 10,000 SF and lot less than 10,000 SF. At the sketch plan stage, the following calculation will be sufficient if all of the exact lot sizes have not been determined. Staff notes that this calculation will change at the Preliminary Plat stage when all of the exact lot sizes are shown(Section 938):
- (1)  $651.5 \text{ AC} * 35\% = 228.03$
  - (2)  $225 \text{ Small lots} * 2,500 \text{ SF} = 12.91 \text{ AC}$
  - (3) Total Open Space required:  $228.03 \text{ AC} + 12.91 \text{ AC} = 240.94 \text{ AC}$
- r. Indicate minimum lot size (7,500 SF ) and lot width (65') in the notes. (Appendix 9-A)
- s. The wastewater plant along with any ponds and disposal facilities needs to be on a separate parcel and cannot be counted as open space.(Section 701)
- t. The railroad right-of-way needs to be labeled on any sheets it appears on. (Appendix 9-A)
- u. Existing streets need to be labeled within 50' of the site. None of the local streets off of Tulls Creek Road are labeled. (Appendix 9-A)
- v. Show a breakdown of the lot areas, ROWs and Open Space for each Village sheet and then summarize it on the Master Plan. (Appendix 9-A)
- w. The R/V and boat site should not be counted as open space. (Section 701, Item 2(b))
- x. On the property information, for all sheets change INST# to Parcel IDs. (Appendix 9-A)

Village A Sheet:

- y. Provide an inset map on each sheet that shows where that Village in relation to the whole property. (Appendix 9-A)
- z. Please provide a match line for each village. (all sheets) (Appendix 9-A)

- aa. Some of the adjoining property information was cut off, please include this on all sheets where applicable. (Appendix 9-A)
- bb. The +/- in front of all of the acreage calculations is not needed. No lot can be smaller than 7,500 SF unless it is developed as a Patio Home section of a PUD (Section 940) Patio homes have limitations on bedrooms.(Sections 938-940)
- cc. The access to the existing Ward Road will have to be changed. Only one road connection per 500 feet is allowed on Tulls Creek Road. Staff recommends moving the property line so the one driveway that uses it now can be on the lot of the Larue property. (Article 3)

Village B Sheet

- dd. The setbacks shown on the inset do not comply with the current Currituck UDO setbacks (Section 204). The current setbacks are 20' from the street, 15' sides and 25' rear, with accessory structures being 10' rear and side. This detail will need to be revised on the Preliminary Plat submission.
- ee. Indicate the linear feet of each road through out the PUD.

Village C and D

- ff. Indicate the base flood elevation for each flood zone using the Flood Insurance Study. (Appendix 9-A)

Village E

- gg. The right of way connection off of Jennings Parkway to the Clements property should be improved with a curb cut a minimum 18' in width and a 45' ROW. (Article 3)

Village Center

- hh. For the townhouses, the setback dimensions from property lines should be shown at Preliminary Plat. (Appendix 9-A)

Phase Plan

- ii. Please give a total for the residential units that will be developed or platted in each phase. (Appendix 9-A)

Utility Plan

- jj. The utility plan indicates there will be sewer lines in open space where there is not a public ROW. Any area that has a sewer line in it cannot be counted as open space. (Section 701)
- kk. Above ground disposal areas, such as ponds cannot count as open space. (Section 701)
- ll. The utility plan does not show existing and proposed water lines. (Appendix 9-A)

**2. Staff Recommendations:**

- a. Staff commends the applicant for the Pedestrian Circulation plan and the planned frontage sidewalks. Staff concurs with the plan and recommends all streets shall have sidewalks on both sides. The plan should allow residents in Village E to safely walk to the Library site without crossing Jennings Parkway. The details of the sidewalk locations and crosswalks should be shown at Preliminary Plat.
- b. The communication tower shall be removed from the 50 acre school site before it is dedicated to the County.
- c. Use a different line type to show where the asphalt trails will be on all sheets.
- d. Provide a “streetscape” profile on either the master plan or each village sheet if it is different. Also, another line type for the sidewalks would be helpful.
- e. Use a different line for wetlands or use a grasslands symbol to fill the wetlands areas. It is difficult to tell which lines are for the wetlands and which lines are for existing properties.
- f. Use a different line symbol for the offsite property lines. The current line looks the same as the offsite ditch lines.
- g. For ease of long term maintenance, staff recommends all sewer lines be placed in public ROWs along streets.
- h. The location of the treatment plant is in a flood zone. If it remains in that location, additional engineering costs will be created to show that all of the above ground and underground systems meet the requirements of the flood ordinance. Additionally, the state permitting will be more difficult. Staff recommends moving the plant out of a flood zone.
- i. Staff recommends the applicant submit a design palette for all structure types to be built. Compliance with the approved designs must be demonstrated at building permit application for review by the Department of Planning and Inspections.
  - (1) With respect to the proposed single-family detached dwellings, staff suggests the following criteria:
    - (a) Variation in exterior architectural materials (siding, roofing);
    - (b) Vertical and horizontal relief in buildings (roof lines, eaves, bumpouts);
    - (c) Variation in house styles/types; and
    - (d) Inclusion of front porches, projecting bays, vestibules.

- (2) With respect to the single-family attached structures, staff suggests the following criteria:
  - (a) Single-Family attached dwelling units containing more than two (2) units in a row should have facades, which alternate siding styles and patterns to provide visual distinction to each unit. Alternation between siding and brick is encouraged;
  - (b) The facades of single-family attached dwelling units containing more than two (2) units in a row should be offset by at least three (3) feet per unit in order to provide architectural relief; and
  - (c) No more than six (6) attached dwelling units should be included in a single row.
- (3) With respect to the nonresidential structures, staff suggests the following elements be considered:
  - (a) Consideration should be given to proportional attributes including overall height-to-width ratios of existing building facades, doors, windows, projecting canopies, and other architectural features within the vernacular of the area;
  - (b) Facades of new buildings should incorporate, but not mimic, the sense of lightness or weight exhibited in the architecture of existing buildings on neighboring properties or the vernacular of the general area and should incorporate similar proportions of solids (i.e. siding, blank walls, etc.) to voids (i.e. windows, door openings, etc.);
  - (c) The Plan should incorporate durable exterior surface materials complementary with the color, texture, size, and scale of exterior materials reflected on existing buildings in the immediate vicinity or the vernacular of the general area; and
  - (d) The general roof shape, ridge and eave heights, and material characteristics proposed shall be visually compatible with these same attributes expressed in existing buildings in the immediate vicinity or in keeping with the vernacular of the general area.
  - (e) Staff recommends a landscape plan be submitted in conjunction with the preliminary plan showing the location, spacing, caliper dimension, and species of proposed landscaping materials.

**B. TECHNICAL REVIEW STAFF:** On February 21, 2007, Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – Approved as is (Engineer notes the discussed water tower site was not shown on the plan dated 12-1-06).
2. **Soil & Water Conservation** - Approved with the following conditions: Provide an adequate stormwater analysis of onsite and offsite (downstream) drainage during planning stages. Follow requirements of UDO Section 922.
3. **Currituck County Fire Services**– Approved with the following comments: I caution the placement of utilities, lighting, signs, mailboxes, and/or trees in areas that may cause a hindrance to larger fire apparatus as I note a portion of the vehicle often extends over the curbing during turning.
4. **Albemarle Regional Health Services** – Approved with the following comments: A central wastewater system will be under the jurisdiction of the Division of Water Quality.
5. **Currituck County GIS** – Approved as is- street names are under review.
6. **County Parks & Recreation Department** – Approved with the following comments- continue to provide updates on park designs. A park matching program for recreational improvements is available.
7. **Emergency Management** – No comments received.
8. **Moyock VFD**– No comments received.
9. **NC Department of Transportation**: Approved with following conditions- require a Traffic Impact and Traditional Neighborhood Development study with a traffic pattern for the school prior to Preliminary Plat approval.
10. **US Army Corps of Engineers**: No comments received.
11. **NC Department of Natural Resources, Division of Water Quality**, – No comments received.
12. **NC Department of Natural Resources, Division of Land Resources** – No comments received.
13. **Currituck County Superintendent of Schools**- No comments received.
14. **N C Dominion Power** – No comments received.
15. **Sprint Telephone** – Approved with no comments.
16. **Mediacom Cable** - No comments received.

*This staff recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning and Inspections. The Board of Commissioners shall give considerable weight*

*to public testimony received during public hearing in considering its decision in this matter.*

**PLANNING BOARD DISCUSSION – April 10, 2007**

Mr. Browner made a presentation to the board.

Mr. Etheridge asked if people on Carolina Rd. had been notified.

Ms. Keifer said that the property owners within 200' were notified.

Mr. Etheridge stated that he lives in the area and is affected and should have been notified even though he is more than 200' away.

Mr. Browner said that he believes the swale being installed will alleviate the flooding problem.

Mr. Etheridge asked what the goal is for building a new school.

Mr. Browner said that the superintendent indicated the school needed to be built in 4 to 5 years.

Mr. Kovacs asked about the location of the treatment plant.

Mr. Browner said that it would be moved slightly to the north in order to get it in the first phase of the development.

Mr. Browner said that an infiltration system would be used. The water is treated to the point that it is pure enough for a filtration pond.

Mr. West stated that it is obvious there has been a lot of work done, but he has concerns with the phasing. Even in phases, the development would be built out in six years he feels that is incredible growth for the county. The soils in the area are Roanoke soils, the type that water doesn't penetrate through very well.

Scott Acey, MSA PC, stated that they are still in the master plan stage and are trying to understand the concerns with the development. He spoke to the drainage concerns and demonstrated the type of systems that they are developing.

Mr. Browner described the ditch slopes that are being proposed.

Sidney Law, adjoining property owner, stated his concern with the project. He doesn't feel that this is in keeping with surrounding development. He is pleased with the attention that has been given to the drainage in the development. He presented a map of Northwest Significant Natural Heritage Areas to the board.

Richard Durbin, neighbor to the project stated that he was not notified of tonight's meeting or the previous meeting of the Board of Commissioners. .

Mr. Durbin asked about maintenance of the common area.

Mr. Browner offered to show Mr. Durbin a study with regard to the graphic of the map that was shown by Mr. Law.

Mr. Durbin asked about other community services.

Mr. Browner spoke to those issues.

Mr. Acey responded to the previous concerns with drainage and the sedimentation of the lakes. The ponds are not designed for infiltration. The outfall will be designed to adequately and safely convey the water.

Mr. West asked how deep the pond would be.

Mr. Acey said at least 7 feet.

Mr. Durbin stated that there were financial projections made and wondered what the impact would be on the services needed to provide for that area.

Mr. Browner said that the residents of one community should not have to pay for the entire high school, but should pay their fair share. There will be a lot of adults without school children would be living there as well.

Mr. West asked what a lot would sell for.

Mr. Browner referred to the master plan and indicated that lots would start at \$90,000 and go up depending on the 'village' a person buys into.

### **PLANNING BOARD ACTION**

Mr. Kovacs motioned to recommend approval of the request including the staff recommendations. Ms Turner seconded the motion. Motion passed unanimously.

Mr. Kovacs added the comment that he felt this to be the best development he'd seen yet and that a lot of developers are going to have to 'step up' their applications.

Chairman Nelms opened the public hearing.

Barbara Morgan, questioned the ponds and mosquitoes.

John Morrison, Attorney, reviewed the project.

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

Chairman Nelms moved to approve with staff recommendations. Commissioner Bowden seconded the motion. Motion carried.

### **Appointments to County-wide Stormwater Advisory Board**

Commissioner Etheridge moved to table and have Mike Doxey bring back a list of names for consideration. Commissioner Gregory seconded the motion. Motion carried.

**Consent Agenda:**

**Proclamation Peace Officers Memorial Day  
Approval of April 2 and April 16 Minutes  
Albemarle Mental Health third quarter Fiscal Monitoring Report  
Appointment of Commissioner Bowden to Coastal Resources Advisory Council  
Resolution in Support of Traffic Signal at NC 12/Currituck Clubhouse Drive  
Resolution in Support of Additional Rip Rap at Knotts Island Road Causeway  
Records Retention and Disposition Schedule for Sheriff's Office  
Medical Plan 2007 for Currituck County Detention Center  
Budget Amendments  
Project Ordinance for Shawboro School**

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

Proclamation  
Peace Officer Memorial Day

*Whereas*, The Congress and President of the United States have designated May 15 as Peace Officer's Memorial Day, and the week in which May 15 falls as National Police week; and

*Whereas*, the members of the law enforcement agency of Currituck County play an essential role in safeguarding the rights and freedoms of Currituck County; and

*Whereas*, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

*Whereas*, the men and women of the law enforcement agency of Currituck County unceasingly provide a vital public service;

**Now, therefore**, I Chairman Barry C. Nelms, of Currituck County, call upon all citizens of Currituck County and upon all patriotic, civic and educational organizations to observe the week of May 13 - May 19, 2007 as Police Week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and , in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

**I further** call upon all citizens of Currituck County to observe Tuesday, May 15, 2007, as Peace Officers' Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

**RESOLUTION  
IN SUPPORT OF TRAFFIC SIGNAL AT  
NC 12/CURRITUCK CLUBHOUSE DRIVE**

**WHEREAS**, Currituck Clubhouse Drive is the only entrance from Ocean Trail, NC 12, to the Harris Teeter Shopping Center; and

**WHEREAS**, Currituck Clubhouse Drive is also the only entrance from Ocean Trail, NC 12, to the Currituck Club Subdivision for tourists and visitors; and

**WHEREAS**, traffic congestion during the 2006 season dramatically increased at this intersection; and

**WHEREAS**, curves in NC 12 just north and just south of Currituck Clubhouse Drive limit visibility; and

**WHEREAS**, tractor trailer trucks in the turn lane on NC 12 are waiting for extended periods until traffic clears, thus blocking visibility of traffic trying to turn onto NC 12 from Currituck Clubhouse Drive; and

**WHEREAS**, the Corolla Fire and Rescue has endorsed the installation of a traffic light at the intersection of NC 12 and Currituck Clubhouse Drive in the interest of public safety;

**NOW, THEREFORE, BE IT RESOLVED** that the Currituck County Board of Commissioners strongly supports the request that the NC Department of Transportation install a traffic signal at NC 12 and Currituck Clubhouse Drive; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to Lyndo Tippet, Secretary of the Department of Transportation, Senator Marc Basnight, Representative Bill Owens, and Stan White, Board of Transportation Member.

**RESOLUTION  
IN SUPPORT OF ADDITIONAL RIP RAP AT  
KNOTTS ISLAND ROAD CAUSEWAY**

**WHEREAS**, NC 615, Knotts Island Road, is the only highway access to Knotts Island; and

**WHEREAS**, a section of Knotts Island Road is a causeway crossing marsh and water; and

**WHEREAS**, rip rap previously placed on the sides of Knotts Island Road for stabilization has been compromised and washed away by the movement of water; and

**WHEREAS**, the existing rip rap is no longer sufficient to support the grassy shoulder of the road;

**NOW, THEREFORE, BE IT RESOLVED** that the Currituck County Board of Commissioners requests that the NC Department of Transportation place additional rip rap on the edge of the Knotts Island Causeway; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to Lyndo Tippett, Secretary of the Department of Transportation, Senator Marc Basnight, Representative Bill Owens, and Stan White, Board of Transportation Member.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10430-532000	Supplies	\$ 1,085	
10340-450500	Administrative & Filing Fees		\$ 1,085
		\$ 1,085	\$ 1,085

**Explanation:** Elections (430) - Increase budgeted line items for traffic cones for traffic control during elections.

**Net Budget Effect:** Operating Fund (10) - Increased by \$1,085.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10660-514500	Training and Education	\$ 1,000	
10660-532000	Supplies	\$ 3,000	
10540-532000	Supplies	\$ 3,000	
10660-592000	Planning Projects	\$ 3,000	
10660-590000	Capital Outlay		\$ 10,000
		\$ 10,000	\$ 10,000

**Explanation:** Inspections (540); Planning (660) - Transfer monies from revenue left after purchase of a less expensive vehicle to cover supplies (copies) and reproduction of Land Use Plan and newly created Unified Development Ordinance.

**Net Budget Effect:** Operating Fund (10) - No change.

<u>Account</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease

<u>Number</u>			<u>Expense</u>
10550-590000	Capital Outlay		\$ 300,000
10330-448000	State Aid to Airports	\$ 300,000	
		<u>\$ 300,000</u>	<u>\$ 300,000</u>

**Explanation:** Airport (550) - To decrease budgeted line items for Airport Fence project that was incorporated in airport construction project in the County Governmental Construction Fund.

**Net Budget Effect:** Operating Fund (10) - Decreased by \$300,000.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b> Decrease Revenue or Increase Expense	<b>Credit</b> Increase Revenue or Decrease Expense
10430-590000	Capital Outlay	\$ 2,980	
10330-449900	Miscellaneous Grants		\$ 2,980
		<u>\$ 2,980</u>	<u>\$ 2,980</u>

**Explanation:** Elections (430) - To increase budgeted line items to record HAVA grant to purchase two election carts. This will be funded 100% through grant funds.

**Net Budget Effect:** Operating Fund (10) - Increased by \$2,980.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b> Decrease Revenue or Increase Expense	<b>Credit</b> Increase Revenue or Decrease Expense
10641-505000	FICA	\$ 1,000	
10641-514000	Travel	\$ 2,000	
10641-545000	Contract Services		\$ 3,000
		<u>\$ 3,000</u>	<u>\$ 3,000</u>

**Explanation:** Support Our Students (641) - Transfer budgeted line items to reflect State grant budget amendment.

**Net Budget Effect:** Operating Fund (10) - No change.

**Effect:**

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10545-561000	Medical Examiner	\$ 4,000	
10330-416000	Gasoline Tax Refunds		\$ 2,000
10330-424000	Officer Fees		\$ 2,000
		<u>\$ 4,000</u>	<u>\$ 4,000</u>

Medical Examiner (545) - Increase budgeted line items to cover additional cost of medical examiner and mandatory autopsies for the remainder of this fiscal year.

**Explanation:  
Net Budget**

**Effect:** Operating Fund (10) - Increased by \$4,000.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10530-502100	Overtime	\$ 6,500	
10530-502000	Salaries - Regular		\$ 6,500
		<u>\$ 6,500</u>	<u>\$ 6,500</u>

Emergency Medical Services (530) - Transfer budgeted funds to overtime to staff the Powells Point ambulance during holiday and peak weekends for the remainder of this fiscal year.

**Explanation:  
Net Budget**

**Effect:** Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
66868-513000	Utilities	\$ 18,000	
66868-561000	Professional services	\$ 5,000	
66360-470000	Utilities charges		\$ 23,000
		<u>\$ 23,000</u>	<u>\$ 23,000</u>

Southern Outer Banks Water System (66868) - To increase budgeted line items for additional scope of Beck contract and for utilities for the remainder of this fiscal year.

**Explanation:**

**Net Budget Effect:**

Southern Outer Banks Water System Fund (66) - Increased by \$23,000.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10550-545000	Contract Services	\$	1,000		
10550-516000	Maintenance & Repair			\$	1,000
		<u>\$</u>	<u>1,000</u>	<u>\$</u>	<u>1,000</u>

Airport (550) - Transfer budgeted line items for mowing at the Currituck County Airport that is not covered under the Kitty Hawk Kites contract.

**Explanation: Net Budget Effect:**

Operating Fund (10) - no change.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10415-526000	Advertising	\$	3,000		
10415-502000	Salaries			\$	3,000
		<u>\$</u>	<u>3,000</u>	<u>\$</u>	<u>3,000</u>

Legal (415) - Transfer funds for advertising to advertise the attorney position in trade journals and other publications.

**Explanation: Net Budget Effect:**

Operating Fund (10) - no change.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10490-545000	Contracted Services-Other	\$	500		
10490-545003	Contracted Services-Ct Facilities	\$	5,000		
10330-422000	Court Facility Fees			\$	5,500
		<u>\$</u>	<u>5,500</u>	<u>\$</u>	<u>5,500</u>

Court Facility Fees (490) - Increase appropriations for increases in contracts renewed during the fiscal year.

**Explanation:**  
**Net Budget Effect:**

Operating Fund (10) - Increased by \$5,500.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10795-511000	Telephone & postage	\$ 300	
10795-513001	Utilities - Parks	\$ 4,500	
10795-531000	Gas, oil, etc	\$ 4,000	
10795-553000	Dues & subscriptions	\$ 50	
10795-576003	Youth Flag Football	\$ 343	
10795-576010	Youth Cheerleading	\$ 226	
10795-576015	Tackle Football	\$ 326	
10350-469001	Youth Flag Football		\$ 1,765
10350-469003	Youth Basketball		\$ 935
10350-469013	Adult Softball		\$ 3,000
10795-513000	Utilities - Community Schools		\$ 2,000
10795-553002	Tournament Fees		\$ 1,500
10795-576011	Adult Volleyball		\$ 545
		<u>\$ 9,745</u>	<u>\$ 9,745</u>

Recreation (795) - Transfer funds and increase appropriations for operating costs for the remainder of the year necessary due to increase in park facilities and increased participation in community league sports.

**Explanation:**  
**Net Budget Effect:**

Operating Fund (10) - Increased by \$5,700.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
52661-545001	Housing Rehabilitation	\$ 120,634	
52390-495010	T F - Operating Fund Albemarle Commission Grant		\$ 42,955
52330-450001	T T - Multi-year Grant Fund		\$ 77,679
10990-587052	Investment Earnings	\$ 42,955	
10380-481000			\$ 42,955
		<u>\$ 163,589</u>	<u>\$ 163,589</u>

**Explanation:** CDBG (52661) - To record additional work for CDBG rehabilitation project discussed at the Board retreat and to record the Albemarle Commission match for this project.

**Net Budget**

**Effect:** Operating Fund (10) - Increased by \$42,955.  
Multi-year Grant Fund (52) - Increased by \$120,634.

**COUNTY OF CURRITUCK  
CAPITAL PROJECT ORDINANCE**

BE IT ORDAINED by the Currituck County Board of Commissioners, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

**SECTION 1.** The project authorized is for construction, construction administration, sitework and furnishings for the Shawboro Elementary School financed by currently available financial resources and loan of \$8,000,000. This project is contingent upon loan approval by the Local Government Commission.

**SECTION 2.** The following amounts are appropriated for the project:

Contract Services - Construction	\$	15,961,456
Contract Services – Technology		535,000
Contract Services – Technical Costs		2,118,585
Furniture, Fixtures & Equipment		590,000
Financing cost		15,000
Contingency		<u>525,000</u>
	\$	<u><u>19,745,041</u></u>

**SECTION 3.** The following revenues are available to complete this project:

Transfer from Operating Fund	\$	7,495,041
Transfer Tax Capital Fund		2,000,000
Transfer from Govt Construction (EOC Bldg)		2,250,000
Installment purchase loan proceeds		<u>8,000,000</u>
	\$	<u><u>19,745,041</u></u>

**SECTION 4.** The Finance Director is hereby directed to report, on a quarterly basis, on the financial status of each project element delineated in Section 2 above.

**SECTION 5. SPECIAL APPROPRIATIONS AND RESTRICTIONS**

The Budget Officer is hereby authorized to transfer appropriations within the fund as contained herein under the following conditions:

- a. He may transfer amounts between object line items within the fund up to One Thousand dollars (\$1,000).

## **SECTION 6. CONTRACTUAL OBLIGATIONS**

The County Manager is hereby authorized to execute contractual documents under the following conditions:

- a. He may execute contracts for construction or repair projects which do not require formal competitive bid procedures.
- b. He may execute contracts for (1) purchases of apparatus, supplies, and materials, or equipment which are within the budgeted departmental appropriations; (2) leases of personal property for a duration of one year or less and within budgeted departmental appropriations; and (3) services which are within budgeted departmental appropriations.
- c. He may execute contracts, as the lessor or lessee of real property, which are of a duration of one year or less which are within the budgeted departmental appropriations.

## **SECTION 7. USE OF BUDGET ORDINANCE**

The Budget Officer and the Finance Director shall use this capital project ordinance for administration of the budget and for the accounting system.

### **Commissioner's Report**

Commissioner Taylor stated she was now a member of the COA Board of Trustees.

Commissioner Bowden, commented that he was tired of the County Manager being accused of making treats. The Manager is correct in his statements to the press.

Commissioner Etheridge and Gregory agreed with Commissioner Bowden's statements.

### **County Manager's Report**

County Manager Scanlon, stated that this was Sarah Keifer's and Kate McKenzie's last meeting. He thanked them for their service to the County and wished them luck in their future endeavors.

Commissioner Etheridge requested a resolution of appreciation be presented to them.

### **Adjourn**

There being no further business, the meeting adjourned.

