

**CURRITUCK COUNTY  
BOARD OF ADJUSTMENT**

Historic Currituck County Courthouse Boardroom

January 12, 2012

7:30 p.m.

- 7:30 p.m. Call to Order
- Item 1 Roll Call  
Election of Chairman  
Election of Vice Chairman
- Item 2 Approval of December 8, 2011 Minutes
- Item 3 BOA 11-13 ARNEY, THOMAS E.: Conditional use permit to allow automobile sales & service located at 369-383 Caratoke Hwy in Moyock, Tax Map 9, Lots 30-33, Moyock Township.
- Item 4 Old Business
- Item 5 Adjournment

**CURRITUCK COUNTY  
BOARD OF ADJUSTMENT REGULAR MEETING  
December 8, 2011**

**REGULAR MEETING**

The Currituck County Board of Adjustment met on December 8, 2011 at 7:30 p.m. in the Historic Currituck County Courthouse. The following members were present: Bryan Bass, David Palmer, Christian Conner, Theresa Dozier, Donald Ferebee, Cameron Tabor, and Ralph Jones. Brad Schuler, Planner; Tiffany Sanders, Planning Technician; Stacey Smith, Code Enforcement Officer; and Benjamin Gallop, Board of Adjustment Attorney; were also present.

Mr. Bass called the meeting to order and announced a quorum had been met with five regular members and two alternate members. Ms. Dozier and Mr. Tabor were excused.

**CHANGES TO THE AGENDA**

Mr. Bass removed "Approval of the November 10, 2011 Orders" from item 2.

**APPROVAL OF NOVEMBER 10, 2011 MINUTES**

Mr. Conner motioned to approve the November 10, 2011 minutes with no changes. Mr. Ferebee seconded the motion and the motion passed unanimously.

**BOA 11-11 RENEE Y. LYNN MINOR: Conditional use permit to allow a bed and breakfast at 116 Swan Circle in Point Harbor, Parcel 132C-000-0015-0000, Poplar Branch Township.**

Mr. Schuler appeared before the board and was sworn in.

Mr. Schuler presented the following case to the board:

**BOARD OF ADJUSTMENT CASE ANALYSIS**

Meeting Date:	December 8, 2011
Case Number:	BOA 11-11
Applicant/ Property Owner:	Renee' Y. Lynn Minor
PIN:	132C-000-015A-0000
Address:	116 Swan Circle, Point Harbor
Zoning District:	Residential (R)
Township:	Poplar Branch

## **Request**

Conditional use permit to allow a bed and breakfast in the (R) zoning district, pursuant to the Table of Permissible Uses of the Currituck County Unified Development Ordinance.

## **Narrative**

1. The applicant is proposing operate a bed and breakfast from her residence at 116 Swan Circle. Of the six bedrooms in the dwelling, three will be used for the bed and breakfast.
2. The only improvement to the site beside the installation of bufferyards, will be the improvement of one parking space under the dwelling.

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

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

In granting a conditional use permit, the Board of Adjustment 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 meets the following:

- (a) The application is complete.**
  1. The application is complete.
- (b) The proposed use is among those listed in the Table of Permissible Uses as a conditional use indicated with a "C."**
  1. The proposed use is among those listed in the Table of Permissible Uses as a conditional use indicated with a "C."
- (c) The conditions proposed meet or exceed the minimum requirements of this ordinance.**
  1. The conditions proposed meet or exceed the minimum requirements of this ordinance.
- (d) The conditional use will not endanger the public health or safety.**
  1. The proposed use should have no impact on public health or safety.
- (e) The conditional use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.**
  1. The proposed location is surrounded by residentially zoned property. The use will not injure the value of the adjoining property and will be in harmony with the area.

2. The surrounding land uses include:
  - a. North: Undeveloped Zoning District: R
  - b. South: Currituck Sound Zoning District: N/A
  - c. East: Undeveloped Zoning District: R
  - d. West: SFD Zoning District: R

**(f) The conditional use will be in conformity with the Land Use Plan and other officially adopted plans.**

1. The 2006 Land Use Plan classifies this property as Limited Service within the Point Harbor subarea. The Limited Service area and Point Harbor subarea both emphasizes that community character be preserved with respect to nonresidential uses.

**(g) The conditional use will not exceed the county's ability to provide adequate public facilities.**

1. The proposed use will not exceed the county's ability to provide adequate public facilities.

**TRC/Staff Recommendation:**

The Technical Review Committee and staff recommend **approval** of this request subject to the findings of fact as presented above and the following:

**Requirements:**

1. All necessary approvals are obtained from Albemarle Regional Health Services.

**DISCUSSION**

Mr. Palmer questioned the location of the parking for the owner's vehicles.

Mr. Schuler stated that the owner's vehicles were allowed to be blocked in as long as the customer's vehicles were not blocked in.

Ms. Renee Y. Lynn Minor appeared before the board and was sworn in.

Ms. Minor stated her intent for a bed and breakfast at her residence.

Ms. Wanda Suttle appeared before the board and was sworn in. She stated that she was a neighbor to the applicant's property. She said she was not in favor of the bed and breakfast. She felt that the road was not wide enough to accommodate any extra traffic on Swan Circle. She submitted pictures to the board (attached as Exhibit #1).

Mr. Palmer questioned staff if the private road had any bearing on residential use. He asked if there was a road requirement.

Mr. Schuler stated that the right of way was improved back in the 1950's and there was no requirement for any upgrades. He stated the ordinance did not address what type of road was required for a bed and breakfast.

Ms. Suttle stated that the property owners on that road were responsible for any road maintenance.

Mr. Tabor questioned the bufferyard requirements.

Mr. Schuler stated a type C bufferyard was required and currently existed on the property. He stated there was no buffer requirement for the rear of the lot due to it being on the sound. Also, there was no buffer requirement on the side of the property adjacent to a vacant lot.

Mr. Jones moved to close the public hearing. Mr. Jones seconded the motion and the motion passed unanimously.

Mr. Ferebee moved to approve the conditional use permit based on staff's findings of fact. Mr. Jones seconded the motion and the motion passed unanimously.

## **ACTION**

Mr. Ferebee moved to approve the conditional use permit based on staff's findings of fact. Mr. Jones seconded the motion and the motion passed unanimously.

## **BOA 11-12 BARRY NELMS: Appeal of administrator's decision that a private campground requires a special use permit for property located in Walnut Island, Parcels 0107-000-0064-0000 and 0107-000-0065-0000, Poplar Branch Township.**

Ms. Voliva appeared before the board and was sworn in.

Ms. Voliva presented the following memo to the board:

### **MEMORANDUM**

**To:** Board of Adjustment

**From:** Donna Voliva, Planner II

**Date:** November 30, 2011

**Re:** BOA 11-12 Barry Nelms

Barry Nelms is appealing the administrator's decision that a private campground on property located in Walnut Island (PIN: 0107-000-0064-0000 and 0107-000-0065-0000) requires a special use permit. In accordance with Chapter 2, Section 2.5 Permitted Uses Table, a special use permit is required for a campground to be established.

In response to the appeal, the County submits the following:

1. Attachment 1: Application
2. Attachment 2: Determination Request dated October 24, 2011 from Barry C. Nelms.
3. Attachment 3: Letter of Determination dated October 25, 2011 from Donna Voliva.

## **DISCUSSION**

Mr. Bass questioned the ordinance that referred to campground requirements in Chapter 3.

Mr. Palmer asked about the date in which the campground was platted.

Ms. Voliva explained the history of Walnut Island and also the history of the appellant's property.

Mr. Palmer asked if there were any permit requirements in the 1970's.

Ms. Voliva stated there was probably not a permit requirement.

Mr. Bass questioned the need for a special use permit verses conditional use permit.

Mr. Gallop responded to Mr. Bass request for review of the ordinance.

Ms. Voliva stated the campground regulations were in Chapter 3 of the UDO.

Mr. Bass questioned the rules for the campground in Bells Island. He asked about the wastewater requirements as listed in Chapter 3.

Ms. Voliva stated that section was written for camper subdivisions only. Walnut Island is the only camper subdivision located in the County. She explained the wastewater requirements.

Mr. Barry Nelms, Mr. Vance Aydlett, and Mr. Larry Woodhouse appeared before the board and were sworn in.

Mr. Nelms handed out a packet of information to the board. (Attached as Exhibit #2) He explained the location of his parcels and the use history of those parcels. He said he had operated his property in the same manor for over 40 years. He did not feel that a special use permit was necessary since the camping use was an accessory to his restaurant on the same parcel. He showed a plat of his property as recorded in the 1970's. He stated that he purchased the property in 1986.

Mr. Woodhouse stated that he had purchased the entire parcel in 1971. He explained the history of the use of the appellant's property.

Mr. Aydlett stated that he was only testifying to his recollection of the use of the appellant's property. He stated that he grew up in the Aydlett area and visited the appellant's property many times during his childhood.

Mr. Nelms presented pictures to the board. (Attached as Exhibit # 3) He gave a detailed description of each picture. He explained that there were only eight hook up sites. He explained a news article on page eight in the packet he previously presented. He explained the advertisement was advertising the subject property as a campground site back in 1972. He stated the subject parcel has accommodated camping for over 50 years. He feels that the use of the property is a legal non-conforming use based on the history of the use.

Mr. Palmer asked about the portable restroom facilities that were provided during a special event.

Mr. Nelms stated that he keeps six portable restroom facilities on the parcel all year round to accommodate hunters.

Mr. Palmer questioned if he had his own sewage system.

Mr. Nelms explained that he is not on the Walnut Island Sanitary District sewage system but had his own private sewage system. He stated no intent to create a campground and he only wanted to be allowed camping as an accessory use.

## **ACTION**

Mr. Ferebee moved to reverse the administrator's decision based on the appellant's presentation of sufficient evidence to show a legal non-conforming use at the time the Unified Development Ordinance was adopted. Mr. Jones seconded the motion and the motion passed unanimously.

## **OLD BUSINESS**

**BOA 11-06 MARK & KELLI THOMPSON: Appeal of administrator's decision that a heavy equipment operation is not allowed in a residential zoning district and is in violation of Chapter 2, Section 2.5 of the Currituck County Unified Development Ordinance, located at 2040 Ocean Pearl Road in Carova, Parcel 099C-000-0013-0000, Fruitville Beach Township.**

Ms. Newbern, Mr. Mark Thompson, and Ms. Kelli Thompson appeared before the board and were sworn in.

Ms. Newbern presented the following memo to the board:

**MEMORANDUM**

**To:** Board of Adjustment  
**From:** Brad Schuler, Planner I  
**Date:** November 30, 2011  
**Re:** BOA 11-06 Mark & Kelli Thompson

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At the June 9, 2011 the Board heard BOA 11-06 Mark & Kelli Thompson appeal of the administrator's decision that a heavy equipment operation is not allowed in a residential zoning district and is in violation of Chapter 2, Section 2.5 of the Currituck County Unified Development Ordinance, located at 2040 Ocean Pearl Road in Carova, Parcel 099C-000-0013-0000, Fruitville Beach Township.

At the meeting, the Board affirmed the following administrator's determinations:

1. Determination that the applicants are operating an impermissible heavy equipment business on the Property within an RO2 Zoning District.
2. Determination that the applicant's were storing several unlicensed, uninspected and unregistered motor vehicles stored on the property outside of a fully enclosed structure in violation of the Currituck County UDO.

The Board also modified the above administrator's determinations allowing the applicant correct the violations by the December 8, 2011 BOA meeting and shall be reviewed by the BOA at the December 8, 2011 meeting.

A recent site visit by staff confirmed that the site has been brought into compliance with the UDO in regards to the storage of unlicensed, uninspected and unregistered motor vehicles on the property outside of a fully enclosed structure.

**DISCUSSION**

Mr. Ferebee asked if the equipment had been removed from the property.

Ms. Newbern stated that the only equipment that remained on the property was for operating the permitted mining business.

Mr. Gallop asked if civil penalties had been issued to the appellant.

Ms. Newbern said the appellant had submitted their appeal application prior to any civil penalties being issued.

Mr. Thompson stated that he is now operating out of Corolla.

Mr. Palmer asked if the Corolla location was in compliance.

Ms. Newbern stated yes.

Mr. Gallop asked if civil penalties had been issued to the appellant.

Ms. Newbern said the appellant had submitted their appeal application prior to any civil penalties being issued.

Mr. Palmer moved to close the public hearing. Mr. Ferebee seconded the motion and the motion passed unanimously.

### **ACTION**

Mr. Palmer moved that the appellant had been found in compliance and no further action needed to be taken, no civil penalties would be issued. Mr. Ferebee seconded the motion and the motion passed unanimously.

### **ADJOURNMENT**

There being no further business to discuss Mr. Ferebee motioned for adjournment. Mr. Jones seconded the motion and the motion passed unanimously. The meeting adjourned at 8:46 p.m.

Respectfully Submitted,

*Tiffany B. Sanders/s/*

Planning Technician

## **BOARD OF ADJUSTMENT CASE ANALYSIS**

Meeting Date: January 12, 2012  
Case Number: BOA 11-13  
Applicant/  
Property Owner: Thomas E. Arney  
PIN: 0009-000-0031-0000  
0009-000-0032-0000  
0009-000-0033-0000  
0009-000-0034-0000  
Address: 369 Caratoke Highway  
371 Caratoke Highway  
373 Caratoke Highway  
383 Caratoke Highway  
Zoning District: General Business (GB)  
Township: Moyock

### **Request**

Conditional use permit to allow automotive sales, repair, and service in a GB zoning district, pursuant to the Table of Permissible Uses of the Currituck County Unified Development Ordinance.

### **Narrative**

1. On July 8, 2010, the Board of Adjustment upheld the administrator's decision in case BOA 10-01 Arney, Thomas E: Appeal of administrators's decision that operation of a commercial business is being conducted without a conditional use permit and is in violation of Chapter 2 of the UDO, Section 2.5.

The BOA denied BOA 10-04 Arney, Thomas E: conditional use permit to allow automobile sales located at 369-383 Caratoke Hwy in Moyock, Tax Map 9, Lots 30-33, Moyock Township due to the request not meeting the following requirements:

- a. The conditions proposed meet or exceed the minimum requirements of this ordinance.
- b. The conditional use will not endanger the public health or safety.
- c. The conditional use will be in conformity with the Land Use Plan and other officially adopted plans.

Attached are the orders for the two cases.

2. In this request, the proposed site plan has been updated showing required parking and drive aisles, and reduced lot coverage. However, it still does not meet all the requirements of the UDO.

### Site Plan Corrections

1. Illustration of gravel to be removed to meet lot coverage requirements.

### Site Plan Deficiencies

1. No encroachments, including gravel and jersey walls, are allowed within 20 feet of the front property line and ten feet from side and rear property lines. Using 2003 aerial photography, 373 Caratoke Highway is exempt from the above due its nonconforming status. 371 and 369 are exempt from the side setbacks due their nonconforming status. Impervious surface/lot coverage can not increase the nonconformity and be place closer to the property line than what exist today.
2. All outdoor vehicle display areas shall be graded and paved with concrete or asphalt and meet the following setbacks:
  - a. Front: 20 feet
  - b. Side: 10 feet
  - c. Rear: 25 feet
3. Provide a stormwater management plan.

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

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

In granting a conditional use permit, the Board of Adjustment 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 meets the following:

- (a) The application is complete.**
  1. The application is complete.
- (b) The proposed use is among those listed in the Table of Permissible Uses as a conditional use indicated with a "C."**
  1. The proposed use is among those listed in the Table of Permissible Uses as a conditional use indicated with a "C."
- (c) The conditions proposed meet or exceed the minimum requirements of this ordinance.**
  1. The conditions proposed **do not** meet the minimum requirements of this ordinance. The deficiencies of the site plan are listed above in the attached TRC comments.
  2. The proposal would meet this finding on condition of the listed deficiencies being resolved.

- (d) The conditional use will not endanger the public health or safety.**
1. The proposed use should have no impact on public health or safety provided Albemarle Regional Health Services recommendations are met. The proposed site plan does not meet their recommendations.
  2. The proposal would meet this finding on condition of display/parking areas being located a minimum of 50 feet from the existing well on site.
- (e) The conditional use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.**
1. The proposed location is around commercially zoned property. The use will not injure the value of the adjoining property and will be in harmony with the area.
  2. The surrounding land uses include:
 

a.	North:	Undeveloped	Zoning District: GB
b.	South:	Commercial	Zoning District: GB
c.	East:	Shingle Landing	
		Subdivision	Zoning District: CD-R
d.	West:	Commercial	Zoning District: GB
- (f) The conditional use will be in conformity with the Land Use Plan and other officially adopted plans.**
1. The conditional use **is not** in conformity with the Land Use Plan and other officially adopted plans.
  2. The 2006 Land Use Plan classifies this property as Full Service within the Moyock subarea. Nonresidential uses within the Full Service Area should preserve the existing community character in scale, architectural style, materials, landscaping, and site design.
  3. Land Use Plan policies that are relevant to this use:
 

POLICY TR6: HIGHWAY 158/168 shall receive special attention concerning the proper development of land and properties adjoining and/or accessing this critical area.

POLICY CD5: Incompatible or poorly planned COMMERCIAL ENCROACHMENT within or immediately adjoining existing residential areas shall be prohibited. Such incompatible encroachments often include, but are not limited to, large-scale commercial uses or automobile-oriented commercial uses such as service stations, car lots, car washes, drive through restaurants, and the like. (Also see Policy HN9)

POLICY CD7: Attractive, environmentally beneficial LANDSCAPING shall be provided by new commercial or office developments, and in the rehabilitation and upgrading of existing developments. Appropriate BUFFERING or other effective DESIGN FEATURES may be employed to allow less intensive forms of commercial and office development to adjoin existing or planned residential uses.

POLICY CA1: The important economic, tourism, and community image benefits of attractive, functional MAJOR HIGHWAY CORRIDORS through Currituck County shall be recognized. Such highway corridors, beginning with US 158 and NC 168, shall receive priority attention for improved appearance and development standards, including driveway access, landscaping, buffering, signage, lighting and tree preservation.

POLICY ML4: Currituck County recognizes that the appearance and traffic moving function of the NC 168/ US 158 CORRIDOR is of exceptional importance to both the near term quality of life and long-term economic prospects for residents and property owners in the Mainland Area. The Transportation and Community Appearance policy sections of this plan shall be implemented to give priority to this issue.

4. The proposal would meet this finding on condition of the site providing additional perimeter buffering and shading in accordance with Chapter 5 of the UDO.

**(g) The conditional use will not exceed the county's ability to provide adequate public facilities.**

1. The proposed use will not exceed the county's ability to provide adequate public facilities.

**TRC/Staff Recommendation:**

The Technical Review Committee and staff recommend **denial** of this request subject to the findings of fact as presented above.

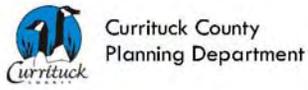
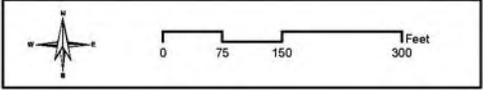
Shall the Board wish to approve this request, staff recommends the following conditions:

1. The proposal shall meet all requirements of the UDO including but not limited to the following:
  - a. No encroachments, including gravel and jersey walls, are allowed within 20 feet of the front property line and ten feet from side and rear property lines. 373 Caratoke Highway is exempt from the above due its legal nonconforming status. 371 and 369 are exempt from the side setbacks due their legal nonconforming status. Impervious surface/lot coverage can not increase the nonconformity and be place closer to the property line than what exist today.

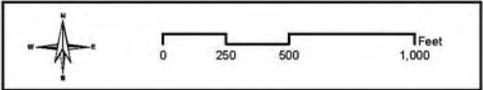
- b. All outdoor vehicle display areas shall be graded and paved with concrete or asphalt and meet the following setbacks:
    - i. Front: 20 feet
    - ii. Side: 10 feet
    - iii. Rear: 25 feet
  - c. Provide a stormwater management plan.
2. Display/parking areas shall be located a minimum of 50 feet from the existing well on site.
  3. The proposal shall provide perimeter buffering and shading in accordance with Chapter 5 of the UDO. (Consistent with LUP policies CD7, CA1, ML4)
  4. The total number of automobile for sale and display shall be limited to 100 automobiles.
  5. Only automobiles for sale or display shall be stored on the site.
  6. Incomplete, inoperable, and rusty vehicles shall be stored behind the principle building as shown on the site plan.
  7. An updated site plan showing the above conditions shall be submitted and approved by the TRC prior to issuance of the CUP.
  8. All improvements to site shown on the approved site plan must be completed within 6 months of the CUP issuance date.



BOA 11-13  
Moyock Muscle CUP  
Zoning Map



BOA 11-13  
Moyock Muscle CUP  
Land Use Plan Map





## Currituck County

Department of Planning  
153 Courthouse Road, Suite 110  
Currituck, North Carolina 27929  
252-232-3055  
FAX 252-232-3026

### MEMORANDUM

**To:** Kevin O'Connell  
Tom Arney

**From:** Brad Schuler  
Planner I

**Date:** December 15, 2011

**Re:** Moyock Muscle, Commercial Site Plan Review (Conditional Use Permit)  
December 21, 2011 TRC Comments

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The following comments have been received for the December 21, 2011 TRC meeting. In order to be scheduled for the January 12<sup>th</sup>, 2012 Board of Adjustment meeting, please address all comments and resubmit a corrected plan by 3:00 p.m. on December 28<sup>th</sup>, 2011. TRC comments are valid for six months from the date of the meeting. ***(Staff Commentary based on updated site plan submitted on 12/28/11)***

#### **Planning, Brad Schuler**

##### **Requirements**

###### **Development Standards**

1. No encroachments, including gravel and jersey walls, are allowed within 20 feet of the front property line and ten feet from the side and rear property lines.
2. A maximum of 65% of the site may be covered. Lot coverage is defined as area covered by principle and accessory structures, decks not over green area, walkways, pools, stairs, sidewalks, vehicular accommodation areas, and other impervious areas. Removal of gravel and concrete within the setbacks may result in compliance of this requirement. ***(Site plan notes reduced lot coverage but does not illustrate where it is being removed)***
3. A dumpster screened with a fence and gate is required for the property on a 12 x 12 concrete slab. ( ✓ )
4. Please show all septic systems on the site plan. ***(A possible location has been identified for the SFD, but not confirmed)***

###### **Parking Standards**

5. Not including the vacant block building, the site requires 39 parking spaces. The site plan is illustrating only 11 total parking spots. Please provide previous use of the vacant block building to determine required parking. One spot is being blocked access by existing carports and could not be included in the total. ***(Total of 39 parking spaces required including block building and provided on the site plan.)*** ( ✓ )
6. Parking spaces shall be appropriately marked with wheel stops, painted lines, landscape timbers, railroad ties, or other markings. ***(Staff checks after work has been completed)***

7. All driveways shall be surfaced with asphalt or 6 inches of concrete for a distance of 15 feet back from the edge of the paved street. ( ✓ )

Landscaping Standards

8. A minimum of 20 percent of the vehicle display area shall be allocated for the landscaping of the site. Please delineate the vehicle display areas to determine required landscaping. ( ✓ )
9. The Leland Cypress tree is susceptible to disease and bag worms. Staff recommends selecting another species listed in Chapter 5 of the UDO or diversifying proposed landscaping to include more species.
10. The proposed shrubs along the front property line must be planted on the property and not in the right-of-way. (**Shrubs appear to located inside r/w**)

Use Standards

11. All outdoor vehicle display areas shall be graded and paved with concrete or asphalt and meet the following setbacks:
  - a. Front: 20 feet
  - b. Side: 10 feet
  - c. Rear: 25 feet (**Not meeting setbacks or pavement requirements**)
12. Please delineate all drive isles within the vehicle display areas. ( ✓ )
13. Display and for sale vehicles must have current registration to be considered auto sales. Vehicles stored on site without registration meet the definition of a salvageyard, which is not allowed in the GB zoning district, and must be removed from the site. (**DMV requires automobiles for sale to have a state inspection, not registration or license plates, which is obtained after the automobile is sold. Cars over 35 years of age are not required to obtain a state inspection. Due to the business selling mostly classic cars, staff considers the use auto sale if the cars are stored in an orderly fashion similar to conventional auto sales establishments. Shall a number of vehicles without current registration be stored on the site considered excessive in the judgment of the administrator, then it will be classified as a junkyard and will require the appropriate zoning and permits.**)
14. Registered vehicles that are wrecked, damaged or inoperable, boat, heavy equipment, or manufactured homes shall be stored in areas located behind the principal structure and shall not be visible from any public right-of-way. (**The applicant is proposing an area behind the primary building for "incomplete, inoperable, and rusty vehicles"**)
15. All major repairs shall be within enclosed buildings. For the purpose of this section "major repairs" shall be defined as any disassembling of the engine or drive-train or the changing of petroleum based fluids or the removal or assembly of sheet metal or fiberglass.
16. No accessory buildings or storage shall be located between the public right-of-way and principle building on the site.
17. There shall be no above ground or below ground storage facilities intended for hazardous vehicular fluids greater than 550 gallons on the site.
18. When adjacent to a residential use an exterior lighting plan shall be submitted and approved prior to issuance of any required permit. The lighting of the parking areas and buildings shall meet the requirements of Chapter 9, Lighting Requirements for Nonresidential structures greater than 20,000 square feet. ( ✓ )
19. Shall meet all other requirements of section 3.6.1 of the UDO.

**Currituck County Building Inspections, Spence Castello**

Approved

1. Any building open to the public must have accessible route.

**Currituck County Emergency Management, James Mims**

Denied/Resubmit

Need to see indicated display area and drive areas. Need to see proper drive/access to all structures for fire apparatus. (Fire apparatus access should be marked on the drawings including marking of display parking and aisles. The addition of barriers on the site and the indiscriminate movement of vehicles and equipment makes the maintenance of proper fire apparatus access difficult. While it may be believed that certain requirements are "grandfathered". "Grandfathering" does not allow the worsening of the noncompliance to the modern code. Only that it is allowed to maintain the level for which it was properly approved and constructed originally.) **(Approved)**

**Currituck County Engineer, Eric Weatherly**

Approved with Corrections

We have been asked to review this as if this is new development. This site has existed for several years – we're not sure when it was developed or what the regulations were at that time, but based on today's regulations for new development, our comments are as follows:

1. Contact the Health Department to determine if there are concerns or issues with gravel drive/parking areas over septic and drainfields. **(The Health department has reviewed the plans.)**
2. Provide a stormwater management plan. **(The revisions do not show stormwater calculations or a stormwater plan as required by the UDO. In TRC we discussed that the applicant could calculate the pre-development impervious area from the 2003 aerial.)**
3. Provide State E&SC and Stormwater permits. **(It is our understanding that the property was developed before 2008 , and therefore, they are grandfathered under the stormwater threshold of 1 acre of disturbance. The applicant must still meet the requirements of the UDO.)**

**Currituck County GIS, Harry Lee**

Reviewed

**Currituck County Parks and Recreation, Jason Weeks**

No Comment

**Currituck County Utilities, Pat Irwin**

Approved

**Albemarle Regional Health Services, Joe Hobbs**

Reviewed

1. Do not park/drive vehicles or heavy equipment on existing septic system areas located on property.
2. Stay (vehicles and heavy equipment) a minimum of 50 feet from existing well located on property.
3. Health Department recommends providing public water supply to all dwellings and shelters that require potable water (safe for human consumption).

**NCDENR, Land Quality, Pat McClain**

Reviewed

1. I have reviewed the information and have no idea of what is being proposed. I know it is a  $\pm 4.5$  acre parcel on which the owner stores/repairs and sells "classic" cars. What else is there to this? ***(If this site plan is only to make what is in existence legal, according to Ordinance, and does not include at least 1 acre of new land disturbance, then I have no comments. If there at least one acre of new land disturbance, then an erosion and sedimentation control plan must be submitted to and approved by my office prior to initiation of the disturbance.)***

**NC Division of Coastal Management, Charlan Owens**

No comment

**NC State Archaeology, Lawrence Abbot**

Approved

1. The permit area has been extensively disturbed by commercial development and use. An archaeological survey is not recommended. No Comment.

**The following items are necessary for resubmittal:**

- 3 - full size copies of revised plans.
- 1- 8.5"x11" copy of all revised plans.
- 1- PDF digital copy of all revised documents and plans.

**Comments Not Received From:**

Charter Communications, Sam Scilabba  
Currituck County Code Enforcement, Stacey Smith  
Currituck County Economic Development, Peter Bishop  
Currituck County Local Volunteer Fire Department  
Currituck County Schools, Bruce McDonald  
Currituck County Sheriff, Susan Johnson  
Dominion Power, Troy Lindsey  
Embarq, Hester Jones  
NCDENR, Environmental Management, Roger Thorpe  
NCDENR, Public Water, Siraj Chohan  
NCDOT  
US Army Corps of Engineers



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

**CURRITUCK COUNTY BOARD OF ADJUSTMENT  
ORDER AFFIRMING A DECISION OF THE ADMINISTRATOR  
Date Filed \_\_\_\_\_**

Meeting Date: July 8, 2010  
Case Number: BOA 10-01  
Applicant/Owner: Thomas E. Arney  
PIN: 0009-000-0030-0000  
0009-000-0031-0000  
0009-000-0032-0000  
0009-000-0033-0000  
Address: 369-383 Caratoke Hwy, Moyock  
Zoning District: GB (General Business)  
Township: Moyock

The Currituck County Board of Adjustment held a public hearing on July 8, 2010 to consider BOA 10-01 ARNEY, THOMAS E: Appeal of administrator's decision that operation of a commercial business is being conducted without a conditional use permit and is in violation of Chapter 2 of the UDO, Section 2.5.

Having heard all of the evidence and arguments presented at the hearing, the Board makes the following FINDINGS OF FACTS:

1. The applicant, Thomas E. Arney owns the property located at 369-383 Caratoke Hwy, Moyock.
2. The applicant operated a commercial business providing automobile sales from the property located at 369-383 Caratoke Highway, Moyock.
3. The property located at 369-383 Caratoke Highway, Moyock is located within a Currituck County zoning district having the designation of GB (General Business).
4. No conditional use permit has been issued for the operation of a commercial business providing automobile sales from the property located at 369-383 Caratoke Highway, Moyock.

The board moved to uphold the zoning administrator's decision based on the following CONCLUSION:

1. Pursuant to Chapter 2, Section 2.5 of the Currituck County UDO, the operation of a commercial business providing automobile sales from a property located in a zoning

district designated as a GB (General Business) zone is required to obtain a conditional use permit.

2. The applicants violated Chapter 2, Section 2.5 of the Currituck County UDO by operating a commercial business providing automobile sales from their property located at 369-383 Caratoke Highway, Moyock, without obtaining a conditional use permit.

THEREFORE, IT IS ORDERED that the decision of the administrator is hereby AFFIRMED.  
**Ordered** this 8th day of July, 2010

\_\_\_\_\_  
Staff to the Board

\_\_\_\_\_  
Chairman of the Board of Adjustment

*If you are dissatisfied with the decision of this board, an appeal may be taken to the Superior Court of Currituck County within 30 days after the date this order is received by you.*

**Certified Mail/Return Receipt Requested**

**COUNTY OF CURRITUCK  
ORDER DENYING A CONDITIONAL USE PERMIT  
Date Filed \_\_\_\_\_**

Meeting Date: July 8, 2010  
Case Number: BOA 10-04  
Applicant: Thomas E. Arney  
Property Owner: Thomas E. Arney  
PIN: 0009-000-0030-0000  
0009-000-0031-0000  
0009-000-0032-0000  
0009-000-0032-0000  
Street Address: 369-383 Caratoke Hwy  
Zoning District: GB (General Business)  
Township: Moyock

The Board of Adjustment for Currituck County held a public hearing on July 8, 2010 to consider: BOA 10-04 ARNEY, THOMAS E.: conditional use permit to allow automobile sales located at 369-383 Caratoke Hwy in Moyock, Tax Map 9, Lots 30-33, Moyock Township.

Having heard all of the evidence and arguments presented at the hearing, the Board makes the following FINDINGS OF FACTS and CONCLUSIONS with regard to the criteria contained in the Currituck County UDO for considering the applicant's conditional use permit application:

The Board does hereby order that a conditional use permit be **DENIED**, subject to the following findings for each criteria (as is required by the UDO):

**(a) The application is complete.**

Mr. Roddy moved for approval based on the following finding of fact:

1. The application is complete.

Mr. Bass seconded the motion and the motion passed unanimously.

**(b) The proposed use is among those listed in the Table of Permissible Uses as a conditional use indicated with a "C."**

Mr. Roddy moved for approval based on the following finding of fact:

1. The proposed use is among those listed in the Table of Permissible Uses as a conditional use indicated with a "C."

Mr. Conner seconded the motion and the motion passed unanimously.

**(c) The conditions proposed meet or exceed the minimum requirements of this ordinance.**

Mr. Roddy moved that the conditions of the proposed development do not comply with the requirements of the UDO based on the following finding of fact:

1. The conditions proposed **do not** meet the minimum requirements of this ordinance as set forth by the deficiencies of the site plan listed in the attached Technical Review Committee (TRC) comments incorporated herein by reference.

Mr. Bass seconded and the motion passed unanimously.

**(d) The conditional use will not endanger the public health or safety.**

Mr. Bass moved that the use currently does endanger the public health or safety based on the following finding of fact:

1. The use is **currently endangering** the public health or safety.

a. Spence Castello, Building Inspections Director, denied the site plan due to lack of handicapped parking, handicapped access, and handicapped accessible route to each building on the site.

b. James Mims, Fire Marshal, denied the site plan due to improper drive/access to all structures for fire apparatus.

c. Automobiles are being parked on existing septic systems and within 50 feet of private wells.

Mr. Ferebee seconded the motion and the motion passed unanimously.

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

Mr. Beaumont moved that the use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located based on the following finding of fact:

1. The surrounding land uses include:

a. North: Vacant Zone: GB

b. South: Retail Zone: GB

c. East: Shingle Landing  
Subdivision Zone: CD-R

d. West: Retail Zone: GB

Mr. Conner seconded the motion and the motion passed with Mr. Bass voting nay.

**(f) The conditional use will be in conformity with the Land Use Plan and other officially adopted plans.**

Mr. Roddy moved that the use is not in conformity with the LUP and other officially adopted plans as follows:

1. The 2006 Land Use Plan classifies this property as Full Service within the Moyock subarea. Nonresidential uses within the Full Service Area should preserve the existing community character in scale, architectural style, materials, landscaping, and site design which this use does not.

Mr. Beaumont seconded the motion and the motion passed with Mr. Conner voting nay.

**(g) The conditional use will not exceed the county's ability to provide adequate public facilities.**

Mr. Bass moved for approval based on the following finding of fact:

1. The proposed use will not exceed the county's ability to provide adequate public facilities.

Mr. Roddy seconded the motion and the motion passed unanimously.

Mr. Bass moved to deny the conditional use permit based upon the previous findings of fact. Mr. Conner seconded the motion and the motion passed unanimously.

THEREFORE, based upon all the foregoing, IT IS ORDERED that the application for the conditional use permit is **DENIED**.

**Ordered** this 8<sup>th</sup> day of July, 2010

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Staff to the Board

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Paul Beaumont, Chairman  
Board of Adjustment

*Note: If you are dissatisfied with the decision of this board, an appeal may be taken to the Superior Court of Currituck County within 30 days after the date this order is received by you.*



# Conditional Use Permit Application

**OFFICIAL USE ONLY:**

Case Number: \_\_\_\_\_  
 Date Filed: \_\_\_\_\_  
 Gate Keeper: \_\_\_\_\_  
 Amount Paid: \_\_\_\_\_

**Contact Information****APPLICANT:**

Name: Thomas Earl Arney  
 Address: 537 Dove Dr.  
Cheapeake, VA 23302  
 Telephone: 757-408-0226  
 Fax Number: 757-421-2472  
 E-Mail Address: Tommy.Arney76@gmail.com

**PROPERTY OWNER:**

Name: TEA Investments LLC  
 Address: Thomas E. Arney  
Tom Arney  
 Telephone: 537 Dove Dr.  
 Fax Number: Cheapeake, VA  
 E-Mail Address: 757-408-0226 23300

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: SAME**Property Information**

Physical Street Address: 371 Caratoke Hwy + 373 Caratoke Hwy  
 Location: 383 Caratoke Hwy + 369 Caratoke Hwy  
 Parcel Identification Number(s): \_\_\_\_\_  
 Total Parcel(s) Acreage: 4.48 acres  
 Existing Land Use of Property: mayock muscle

**Request**

Proposed Use of the Property: Auto Sales + Auto repair + Auto Restoration  
 Total square footage of land disturbance activity: 129,296 + Towing + Storage  
 Total lot coverage: 129,296 Total vehicular area: 115,908 sq. ft. Auto Sales  
 Existing gross floor area: 13,388 sq. ft. Proposed gross floor area: 13,388 sq. ft. of New + Used Auto parts

**Purpose of Conditional Use Permit and Project Narrative:**

We sell automobiles (mainly antique + classic cars) we do auto repair, auto restoration, towing + storage, also sales of new + used auto parts. We have 4 employees and are open Monday - Saturday. Summer 8-8 and winter 8-6

The applicant shall provide a response to the each one of the following issues. The Board of Adjustment must provide specific findings of fact based on the evidence submitted. All findings shall be made in the affirmative for the Board of Adjustment to issue the conditional use permit.

A. The use will not materially endanger the public health or safety.

NO

B. The use will not substantially injure the value of adjoining or abutting property.

NO

C. The use will be in harmony with the particular neighborhood or area in which it is to be located (even though the proposed use and surrounding uses are generally permissible in the same district and therefore usually compatible).

Yes → Been there for 10 years with no problems or complaints.

D. The use will be in general conformity with the Land Use Plan or other plan officially adopted by the board.

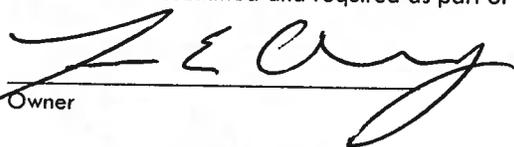
Yes

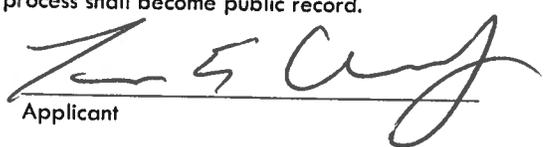
E. The use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, and law enforcement.

NO

I, the undersigned, do certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

Further, I hereby authorize county officials to enter my property for purposes of determining zoning compliance. All information submitted and required as part of this application process shall become public record.

  
Owner

  
Applicant

## Conditional Use Permit

### Hearing Dates and Procedure for Continued Requests

Request: MAYBCK MUSCLE

Application Submittal Date: 11/10/11

Technical Review Committee Meeting Date: 12/21/11

Board of Adjustment Meeting Date: 1/12/12

#### Procedure for Delayed Request

Please initial each statement.

If you wish to continue your request to a later date, you must appear before the appropriate committee/board on the scheduled meeting date, state the reason for continuance, and the meeting date you wish the request to be heard.

There is a \$100 processing fee for each delayed request. This must be paid prior the delayed meeting date.

If you wish to delay your request at a Board of Adjustment meeting, you are responsible for re-advertising your request in a newspaper of general circulation in Currituck County for the approved date. The notice shall include the date, time, place, and nature of the application and shall be advertised at least 10 days, but not more than 25 days, prior to the hearing. You must provide the Planning Department with a copy of the newspaper in which that advertisement occurred and an affidavit of publication provided by the newspaper listing the advertisement and advertisement date(s) prior to the Board of Adjustment meeting.

A request may only be continued by an applicant a total of two times during the entire review process. If the request is not acted upon by the appropriate committee/board at the second delayed meeting date because of the applicant's request for continuance, the application will be voided and returned to the applicant. A new submittal, including submittal fees, will be required to place the item on an agenda. The request will process as a new submittal as if it has not been reviewed by any committees/boards. Note: In the event of an emergency, the administrator may process the continuance without it being counted toward the maximum number of two continuances allowed.

I, \_\_\_\_\_, acknowledge the meeting dates listed above and that I or my authorized representative must be present at each meeting. If I wish to continue my request, I must follow the procedures listed above.

[Signature]  
Property Owner/Authorized Agent

Conditional Use Permit Submittal Checklist

Staff will use the following checklist to determine the completeness of your application. Only complete applications will be accepted.

## Conditional Use Permit Submittal Checklist

Date Received: 11/10/11 TRC Date: 12/21/11 BOA Date: 1/12/12  
Project Name: Moxock Muske  
Applicant/Property Owner: Tom Arney

### Applications

- Complete Conditional Use Permit application
- Hearing Dates and Procedure for Continued Requests form
- NCDENR, DWQ stormwater permit application
- NCDENR, Land Quality, Erosion and Sedimentation Control permit application
- NCDOT Street and Driveway Access Permit Application and Encroachment Agreement

### Fee

- Application Fee (\$150)

### Approvals/Forms

- Narrative explaining the proposed use

### Plans

- Accurate conceptual site plan drawn to scale (1" = 50')
- Drainage Plan, including narrative
- Bufferyard/Landscape Plan
- Number of Copies Submitted
  - 5 Copies of plans
  - 5 Hard copies of ALL documents
  - 1 PDF digital copy (ex. Compact Disk – e-mail not acceptable) of all plans AND documents

### File

- Add new case number

### Pre-application Meeting

- Pre-application Meeting was held on \_\_\_\_\_ and the following people were present: \_\_\_\_\_

### Comments

\_\_\_\_\_  
\_\_\_\_\_

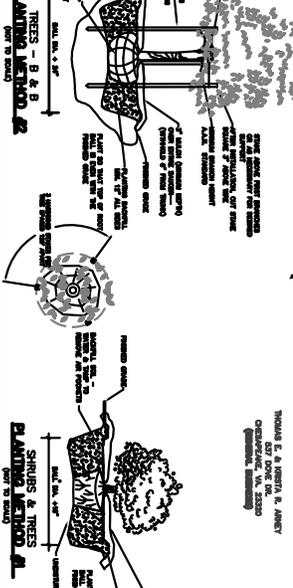
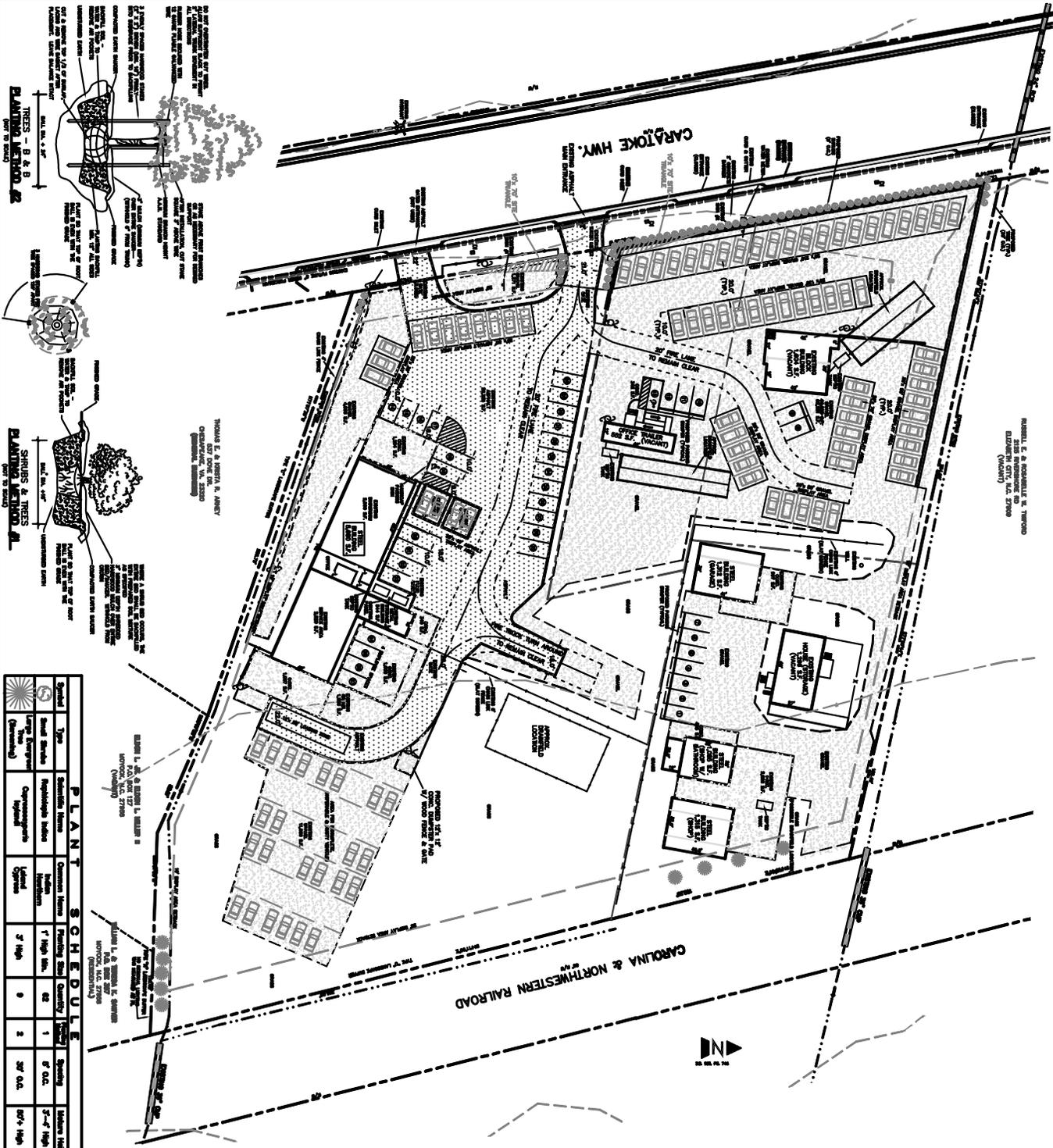
## Moyock Muscle Operations Narrative

5/27/10

Moyock Muscle is an auto sales and repair shop with new and used parts sold. Flat bed and tow trucks are used as part of the operation.  
Moyock Muscle is open Monday – Saturday, 9am – 8pm and has four employees.

## Moyock Muscle Drainage Narrative

Stormwater runoff sheet flows to side and rear existing lot line swales and out to the east. There are no present drainage problems with drainage at this site.



**PLANT SCHEDULE**

Symbol	Type	Quantity	Planting Size	Quantity	Spacing	Notes
(Symbol)	Sand Shrub	1	1' High	1	8' O.C.	3'-4' High
(Symbol)	Large Shrub	1	3' High	1	8' O.C.	3'-4' High
(Symbol)	Tree	1	12' High	1	8' O.C.	12'-14' High

**Moyock Muscle**  
**CLASSIC RESTORATION**  
 383 CAROLINE HWY., MOYOCK, NORTH CAROLINA  
 CURRITUCK COUNTY, NORTH CAROLINA

**TDS Technical Drafting Services**

BOA 11-13  
 21 of 21

**PROJECT NOTES:**

1. OWNER: MARYOCK MUSCLE
2. ARCHITECT: MARYOCK MUSCLE
3. TOTAL SQUARE FOOTAGE: 10,000 SQ. FT.
4. CONTRACT VALUE: \$1,000,000
5. SCHEDULE: 12 MONTHS
6. START DATE: 01/01/2024
7. END DATE: 12/31/2024
8. PROJECT LOCATION: 383 CAROLINE HWY., MOYOCK, NC
9. PROJECT STATUS: UNDERWAY
10. PROJECT PHASE: CONSTRUCTION
11. PROJECT TYPE: RESTORATION
12. PROJECT SUBTYPE: CLASSIC RESTORATION
13. PROJECT CATEGORY: HISTORIC PRESERVATION
14. PROJECT SUBCATEGORY: BUILDING RESTORATION
15. PROJECT CODE: 1000 - BUILDINGS
16. PROJECT SUBCODE: 1000 - BUILDINGS
17. PROJECT CODE: 1000 - BUILDINGS
18. PROJECT SUBCODE: 1000 - BUILDINGS
19. PROJECT CODE: 1000 - BUILDINGS
20. PROJECT SUBCODE: 1000 - BUILDINGS

