

CURRITUCK COUNTY
NORTH CAROLINA
FEBRUARY 2, 2004

The Currituck County Board of Commissioners met on Monday, February 5, 2004, at 7:00 p.m. at the Historic Courthouse in the Commissioners Meeting Room with the following members present: Commissioners Miller, Martin, Bowden and Gregory. Chairman O'Neal was absent.

Bob Henley was present to give the invocation.

Approval of Agenda

Commissioner Martin moved to amend the agenda by deleting Item 6, Rose Sweeney amendment and add resolution to name the Corolla Ferry. Commissioner Gregory seconded the motion. Motion carried.

Public Comment

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

Vice-Chairman Miller opened the public comment period.

Ken Mann, First Flight Society, presented a plaque to Wayne Leary for his contribution during the First Flight Celebration.

William Price, Moyock, expressed concerns with the railroad crossing on Sawyer Town Road and re-locating the street sign.

Commissioner Martin requested the Board to support the Albemarle Commission's efforts for funding for better communication in the Northeast counties.

Commissioner Gregory moved to send a letter of support to Albemarle Commission. Commissioner Bowden seconded the motion. Motion carried.

**Public Hearing and Action PB 04-01 DARIN & PEGGY CLARK:
Rezoning of 6.25 acres from Heavy Manufacturing (HM) to
Agricultural (A) located at 533 Grandy Road, Tax Map 108,
Lots 55B and 55C, Poplar Branch Township.**

Gary Ferguson, Planning Director, reviewed the request.

**Zoning Staff Report: PB 04-01
Clark Rezoning**

TYPE OF REQUEST: Request for rezoning 6.25 acres from Heavy Manufacturing (HM) to Agricultural (A).

LOCATION: This site is located in Poplar Branch Township off of Grandy Road, Tax Map 108, Lots 55B & 55C.

PROPERTY OWNER: Darin & Peggy Clark

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Heavy Manufacturing	Agricultural

ZONING HISTORY: Property was zoned Manufacturing on the January 1, 1985 Official Zoning Map.

SURROUNDING ZONING/LAND USE:

NORTH:	Heavy Manufacturing & Agricultural/Residential
SOUTH:	Heavy Manufacturing & Agricultural/Vacant & Residential
EAST:	Light Manufacturing/Weeping Radish site
WEST:	Agricultural/Residential & Vacant

EXISTING LAND USE: Residential & Agricultural

PROPOSED LAND USE: Residential & Agricultural

LAND USE PLAN CLASSIFICATION: According to the 1990 Land Use Plan this area is designated Rural. The purpose of the rural class is "to provide for agriculture, forestry, mineral extraction and other allied uses traditionally associated with an agrarian region....Low density dispersed, single family residential uses at a gross density of approximately one unit per acre are also appropriate within rural areas where lot sizes are large and where densities do not require the provision of urban type services."

PUBLIC SERVICES AND UTILITIES: Lower Currituck Volunteer Fire Department provides fire protection for this area. Electric, telephone, county water and cable are currently available.

TRANSPORTATION: Property fronts on Grandy Road. Grandy Road is classified as a Minor Collector in the 1998 Thoroughfare Plan.

FLOOD ZONE: According to FEMA maps, the property is located in Flood Zone C (outside of the 100 year flood plain).

SOILS: The property contains Portsmouth fine sandy loam, Conetoe loamy sand and Munden loamy sand. Portsmouth soils are very poorly drained with moderate permeability. Conetoe and Munden soils are well drained with moderate to rapid permeability.

STAFF COMMENTS: Applicant states on the application that the property currently has a residence on it and they cannot get use out of the property with the current zone.

Single family residential uses are not permitted within the Heavy Manufacturing district.

Two adjoining properties (to the north and south of this site) have been rezoned since 1998 from Heavy Manufacturing to Agricultural.

The property directly east of this site was rezoned from General Business to Light Manufacturing in 1999. This is the location of the Weeping Radish Brewery currently under construction.

STAFF RECOMMENDATION: The proposed rezoning would be consistent with the Land Use Plan and with surrounding land uses. Staff recommends approval of this request. In addition, staff recommends that the HM zone that remains to the North and fronting on Grandy Road also be considered for rezoning to avoid spot zoning.

PLANNING BOARD RECOMMENDATION: On January 13, 2004 the Planning Board reviewed this application and recommended approval (8-0).

Vice-Chairman Miller opened the public hearing. There being no comments, he closed the public hearing.

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

Public Hearing and Action PB 04-03 River Lane Estates: Sketch Plan/Special Use Permit for a 19 lot subdivision located in Powells Point on the south side of River Lane (SR 1157), Tax Map 110, Lot 83B, Poplar Branch Township.

Sworn testimony was given prior to making comments.

Gary Ferguson, Planning Director, reviewed the request.

**STAFF ANALYSIS FOR THE BOARD OF COMMISSIONERS
MEETING DATE: FEBRUARY 2, 2004**

LOCATION: At the end of River Lane Road, approximately 1600' from its intersection with Caratoke Highway, Poplar Branch Township.

ZONING DISTRICT: General Business

OWNER:
John and Jane Newbern
300 Luid Drive
Chesapeake, VA 23322

APPLICANT/AGENT
Bissell Professional Group
P.O. Box 1068
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Residential - zoned R
SOUTH: Residential - zoned R
EAST: Vacant - zoned GB
WEST: Residential - zoned R

NARRATIVE OF REQUEST:

John and Jane Newbern are seeking Sketch Plan/Special Use Permit approval for 19 single family lots through the major subdivision process. The total acreage of the entire development is approximately 20.60 acres.

This property is zoned General Business, however the developers are proposing the subdivision be utilized for residential purposes. Lot sizes within this development range from 40,000 sq. ft. to 51,556 sq. ft.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

- STREETS:** A loop road is proposed to serve this development. In accordance with Section 921, the road will be built to NCDOT Design and Construction Standards.
- WATER:** The nearest existing County water line is located off of Caratoke Highway which is approximately 1,600' from the proposed subdivision. Utilizing the formula in Section 915, this development would have to be within 1,180' of an existing water line before the County would require a water main extension (100 feet per unit for the first ten residential units plus an additional 20 feet for each additional unit). Therefore, water for this development will be provided by individual wells. However, a bond will be required for the future installation of a 6" water line and hydrants throughout the subdivision.
- FIRE:** This development will be located within the jurisdiction of the Lower Currituck Volunteer Fire Department. A fire protection pond is proposed for fire suppression purposes.
- WASTEWATER:** Individual, on-site septic systems are proposed. The property contains Conetoe loamy sand which consists of well drained soils that have moderately rapid permeability.
- SCHOOL CAPACITIES:** Using national averages for school age student generation from the *1987 American Housing Study*, one can expect .4243 elementary students, .084 Jr. high students and .1568 High school students per dwelling unit. (*Note: These figures were verified by a field check of Currituck subdivisions in 1994.*) Based on these pupil generation figures, Currituck can expect 7 elementary students, 2 Jr. high students, and 3 high school students from this development.

- OPEN SPACE:** No open space is required, however .19 acres of open space has been provided for a fire protection pond.
- DRAINAGE:** Roadside and property line swales/ditches will be used to address drainage for this property.
- FLOOD ZONES:** This development is within Flood Zone C (not within the 100 year flood area).
- CAMA CLASS:** The 1990 Land Use Plan classifies this site as Limited Transition. The purpose of the Limited Transition class is “to provide for development in areas that will have some services, but are suitable for lower densities than those associated with the urban transition class, and/or are geographically remote from existing towns and municipalities.”
This proposal is consistent with the Land Use Plan.

STAFF COMMENTS:

- On December 11, 2003 Technical Review staff reviewed this application. Staff’s concerns included the following:
 1. Two paralleling cul-de-sac roads were initially proposed, which did not provide for interconnection in accordance to Section 914 (1b) which states, “*All streets shall provide for the continuation or appropriate extension of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage tracts where the County deems appropriate.*” This concern has been addressed with a redesign which shows a loop road providing access throughout the subdivision.
 2. Since this development is proposed for residential use only, staff requested that a note be placed on the plat which stated as such. This concern was addressed with the newest Sketch Plan under Note 10.
 3. The proposed street name, Carolina Moon Road, conflicts with other existing streets within the County that either begin with or contain both “Carolina” and “Moon.”
- During the January 13, 2004 Planning Board meeting, several adjoining property owners questioned the developers’ plans to provide an easement to the sound for this development. The adjoining owners insist that the easement that currently exists is for the Newbern family only and cannot be transferred to others. The waterfront access is not a requirement of the UDO and has been voluntarily provided by the developers.

In addition, adjoining property owners also expressed concern that lots 16 – 19 will be allowed to front on the adjacent private right-of-way. A non-ingress/egress easement shall be required to ensure that traffic from this development remains on the improved street that will be provided by the developer.

QUESTION(S) BEFORE THE BOARD:

1. *Is the application complete?* Based on staff review all required information has been submitted for review.

2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?* The proposal complies with all UDO requirements for Sketch Plan approval.
3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*
 - (a) *Will not endanger the public health or safety.* Public health and safety issues including fire protection, stormwater management, wastewater disposal and access for emergency services have been adequately addressed within this proposal.
 - (b) *Will not injure the value of adjoining or abutting property.* The proposed residential subdivision should have no negative impact on adjoining property;
 - (c) *Will be in harmony with the area in which it is located.* The subdivision would consist of residential properties that would be in harmony with the surrounding area;
 - (d) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.* The proposal will be consistent with the CAMA Land Use Plan Limited Transition classification and with the Thoroughfare 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. 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.* Based on these pupil generation figures, Currituck can expect 7 elementary students, 2 Jr. high students and 3 high school students from this development.

According to the current school population projections Griggs Elementary School has -41 additional student capacity after full development of currently approved subdivisions.

STAFF RECOMMENDATION:

Although this application meets the technical requirements for Sketch Plan/Special Use Permit approval, staff has concerns regarding the existence of adequate school facilities to serve the proposed development. The Board of Commissioners may deny this request if it concludes that the development will exceed the county's ability to provide adequate public facilities, including schools.

If approval of this request is granted, staff recommends the following conditions;

1. That applicant shall be required to meet all requirements of the UDO including, but not limited to planting street trees along newly paved streets, installation of the fire protection pond as shown on plan, and payment of a bond for water improvements (including fire hydrants, laterals, service lines, meter boxes and yokes) at a rate of cost + 20% to be installed at a later date;
2. That a Preliminary Plat shall be submitted for review within 24 months from the date the Sketch Plan is approved by the Board of Commissioners; and

3. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

PLANNING BOARD RECOMMENDATION:

1. That applicant shall be required to meet all requirements of the UDO including, but not limited to planting street trees along newly paved streets, installation of the fire protection pond as shown on plan, and payment of a bond for water improvements (including fire hydrants, laterals, service lines, meter boxes and yokes) at a rate of cost + 20% to be installed at a later date;
2. That a Preliminary Plat shall be submitted for review within 24 months from the date the Sketch Plan is approved by the Board of Commissioners; and
3. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

Vice-Chairman Miller opened the public hearing.

Phillip Jones, representing his mother, expressed concerns with the 20 ft. right-of-way that will be used to access the water.

Starkey Sharp, Attorney for adjacent homeowners, expressed concerns with the public access road and the maintenance.

David Ryan, Engineer, stated that access to this road would be restricted.

John Newbern, developer, stated that his development would not be allowed access through this right-of-way.

There being no further comments, Vice-Chairman Miller closed the public hearing.

Commissioner Bowden moved to approve with no egress or ingress to the 20 ft. easement and findings of fact. Commissioner Martin seconded the motion. Motion carried.

Public Hearing and Action PB 04-04 Owens Beach Extended: Sketch Plan/Special Use Permit for a 5 lot subdivision located at 112 Owens Beach Road Extended, Tax Map 125, Lot 35E, Poplar Branch Township.

Sworn testimony was given prior to making any statements.

Gary Ferguson, Planning Director, reviewed the request.

**STAFF ANALYSIS FOR THE BOARD OF COMMISSIONERS
MEETING DATE: FEBRUARY 2, 2004**

LOCATION: At the end of Owens Beach Road Extended, approximately 800' from its intersection with Owens Beach Road, Poplar Branch Township.

ZONING DISTRICT: Residential

OWNER:
Shirley Lynn
105 S. Spot Road
Powells Point, NC 27966

APPLICANT/AGENT
Donnie Wood
P.O. Box 433
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Residential - zoned R
SOUTH: Residential - zoned R
EAST: Residential & Vacant - zoned R
WEST: Residential - zoned R

NARRATIVE OF REQUEST:

Shirley Lynn is seeking Sketch Plan/Special Use Permit approval for 5 single family lots through the major subdivision process. The total acreage of the entire development is approximately 5.15 acres.

This property is zoned Residential which allows for a 40,000 sq. ft. minimum lot size. Lot sizes are proposed to range from 40,000 sq. ft to 45,000 sq. ft. All lots are proposed to front on Owens Beach Road Extended, an existing NCDOT maintained right-of-way.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: Lots are proposed to front on Owens Beach Road Extended, an existing NCDOT right-of-way.

WATER: Water for this development will be provided by individual wells.

FIRE: This development will be located within the jurisdiction of the Lower Currituck Volunteer Fire Department.

WASTEWATER: Individual, on-site septic systems are proposed. According to the County's GIS, the property contains Conetoe loamy sand which consists of well drained soils that have moderately rapid permeability.

SCHOOL CAPACITIES: Using national averages for school age student generation from the *1987 American Housing Study*, one can expect .4243 elementary students, .084 Jr. high students and .1568 High school students per dwelling unit. (*Note: These figures were verified by a field check of Currituck subdivisions in 1994*). Based on these pupil generation figures, Currituck can expect 2 elementary students, 1 Jr. high student and 1 high school student from this development.

OPEN SPACE: No open space is required or provided within this development.

- DRAINAGE:** Roadside and property line swales/ditches will be used to address drainage for this property.
- FLOOD ZONES:** This development is within Flood Zone A4 (within the 100 year flood area, 8' elevation).
- CAMA CLASS:** The 1990 Land Use Plan classifies this site as Rural. The purpose of the Rural class is "to provide for agriculture, forestry, mineral extraction and other allied uses traditionally associated with an agrarian region. Other land uses, due to their noxious or hazardous nature and negative impacts on adjacent uses may also be appropriate here if sited in a manner that minimizes their negative effect on surrounding land uses or natural resources....Low density dispersed single family residential uses at a gross density of approximately one unit per acre are also appropriate within rural areas where lot sizes are large and where densities do not require the provision of urban type services." This proposal is consistent with the Land Use Plan.

STAFF COMMENTS:

- On December 11, 2003 Technical Review staff reviewed this application and no major concerns were expressed.

QUESTION(S) BEFORE THE BOARD:

1. *Is the application complete?* Based on staff review all required information has been submitted for review.
2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?* The proposal complies with all UDO requirements for Sketch Plan approval.
3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*
 - (a) *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.
 - (b) *Will not injure the value of adjoining or abutting property.* The proposed residential subdivision should have no negative impact on adjoining property;
 - (c) *Will be in harmony with the area in which it is located.* The subdivision would consist of residential properties that would be in harmony with the surrounding area;
 - (d) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.* The proposal will be consistent with the CAMA Land Use Plan Rural classification and with the Thoroughfare 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. 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. Based on these pupil generation figures, Currituck can expect 2 elementary students, 1 Jr. high student and 1 high school student from this development.

According to the current school population projections Griggs Elementary School has -41 additional student capacity after full development of currently approved subdivisions.

STAFF RECOMMENDATION:

Although this application meets the technical requirements for Sketch Plan/Special Use Permit approval, staff has concerns regarding the existence of adequate school facilities to serve the proposed development. The Board of Commissioners may deny this request if it concludes that the development will exceed the county's ability to provide adequate public facilities, including schools.

If approval of this request is granted, staff recommends the following conditions;

1. That applicant shall be required to meet all requirements of the UDO;
2. That a Preliminary Plat shall be submitted for review within 24 months from the date the Sketch Plan is approved by the Board of Commissioners; and
3. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

PLANNING BOARD RECOMMENDATION:

On January 13, 2004 the Planning Board reviewed this application and recommended approval (8-0) subject to the following conditions;

1. That applicant shall be required to meet all requirements of the UDO;
2. That a Preliminary Plat shall be submitted for review within 24 months from the date the Sketch Plan is approved by the Board of Commissioners; and
3. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

Vice-Chairman Miller opened the public hearing. There being no comments, he closed the public hearing.

Commissioner Gregory moved to approve with findings of facts. Commissioner Bowden seconded the motion. Motion carried.

Action PB 03-41 ROSE SWEENEY: Amendment to Section 1310 of the UDO to permit accessory apartments in the Residential zone with a special use-permit.

This item was tabled.

Re-Appointments to Agricultural Advisory Board

Commissioner Gregory moved to re-appoint Wade Morgan and Martin Jarvis. Commissioner Miller seconded the motion. Motion carried.

Consideration of bids for distribution lines SOB Water System.

County Manager Scanlon stated that on January 20, 2004, three bids were received for the Phase 1 Distribution lines.

Commissioner Martin moved to award the bid to George Raper & Sons, Inc., in the amount of \$2,819,404.75. Commissioner Bowden seconded the motion. Motion carried.

The total budget for this distribution project is established at \$3,532,732.75 which includes \$338,328.00 for contingencies and \$375,000.00 for technical services.

Consent Agenda:

Budget Amendments

Letter of support for digital cellular phone service.

Resolution to declare Surplus Property

Resolution naming the Corolla Ferry.

Commissioner Bowden moved to approve the consent agenda. Commissioner Martin seconded the motion. Motion carried.

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEBIT	CREDIT
10530-532000	Supplies	\$ 2,000	\$
10530-533900	Ambulance Supplies	11,400	
10530-514000	Travel		3,000
10530-526000	Advertising		2,900
10530-536000	Uniforms		7,000
10530-553000	Dues and Subscriptions		500
		\$ 13,400	\$ 13,400

EXPLANATION: Emergency Services (530) – To transfer funds to supplies which is needed due to additional supplies required to set-up an office for the Volunteer Coordinator and unanticipated printing for State requirements. Also, to transfer funds to ambulance supplies, which was depleted while setting up original supplies for the two new ambulances received in the fall and supplies which will be needed for the new ambulance that will replace the one damaged during Hurricane Isabel.

NET BUDGET EFFECT: Operating Fund (10) – Increased by \$4,233.

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEBIT	CREDIT
10760-532900	Foster Care Supplement	\$ 619	
10330-430000	DSS Miscellaneous		619
		\$ 619	619

EXPLANATION: DSS County Assistance (760) – Increase foster care supplement for increase in State funding.

NET BUDGET EFFECT: Operating Fund (10) – Increased by \$619.

RESOLUTION

WHEREAS, Currituck County obtained title to parcels 031A-000-0076-0007 and 031A-000-0077-0007 located in the Crawford Township through a deed of gift; and

WHEREAS, these parcels are not currently serving a governmental use or purpose; and

WHEREAS, these parcels hold only a nominal value to Currituck County and the County would be better served if these parcels were returned to the County tax roll.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Currituck County, North Carolina during its regularly scheduled meeting held on February 2, 2004, authorized that parcels 031A-000-0076-0007 and 031A-000-0077-0007 located in Crawford Township, recorded in Deed Book 386, page 183 are declared as surplus property, pursuant to North Carolina General Statute Section 160A-265.

RESOLUTION
COROLLA FERRY

WHEREAS, the North Carolina Department of Transportation has approved a new ferry service from Corolla to the mainland of Currituck County; and

WHEREAS, this ferry is expected to be ready for service by May, 2004.

NOW, THEREFORE, BE IT RESOLVED the Currituck County Board of Commissioners support naming the new ferry the Corolla Ferry.

Commissioner's Report

Commissioner Miller stated that debris has not been cleaned up at the Knotts Island Ruritan Park. Staff was directed to contact Mr. Lee.

Commissioner Gregory stated he has received calls regarding water needed in Lower Currituck.

Commissioner Martin stated that there has been no solution to the traffic congestion during the summer for the lower end of the county.

County Manager's Report

DOT has agreed to place a needed barrier on the Coinjock Bridge.

Adjourn

There being no other business, the meeting adjourned.

Ocean Sands Water and Sewer District Advisory Board Meeting

Call to order

Item 1

**Appointment to Ocean Sands Advisory Board
To replace George Gavalas**

Commissioner Bowden moved to table. Commissioner Gregory seconded the motion.

Adjourn