

CURRITUCK COUNTY
NORTH CAROLINA
OCTOBER 4, 2004

The Currituck County Board of Commissioners met on Monday, October 4, 2004, at 6:00 p.m. prior to their regular meeting in a work session to discuss impact fees. The Board met at 7:00 p.m. for their regularly scheduled meeting at the Historic Courthouse in the Commissioners Meeting Room with the following members present: Chairman O'Neal and Commissioners Miller, Martin, Bowden and Gregory.

Bob Henley was present to give the invocation.

Approval of Agenda

Commissioner Gregory moved to amend the agenda by deleting appointment to Senior Citizen Board from the Consent Agenda and adding AARP resolution to the Consent Agenda. Commissioner Martin seconded the motion. Motion carried.

- Item 3 Public Comment
Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.
Old Business
- Item 4 Approval of PB 03-28 WATERSIDE VILLAGES OF CURRITUCK: Amended Sketch Plan for 18 additional Single Family Planned adult retirement residences.
New Business
- Item 5 Incorporation Committee presentation.
- Item 6 Action PB 03-28 WATERSIDE VILLAGES OF CURRITUCK: Preliminary Plat for 148 Single Family and 10 Multi-family planned adult retirement residences located in Grandy off Caratoke Hwy, just south of Soundside Estates, Tax Map 108, Parcels 20, 21, 22 and 22C, PB township.
- Item 7 Action PB 03-39 NEW COLONY LANDING: Preliminary Plat for 19 lots located in Moyock at the intersection of Tulls Creek Road (SR 1222) and Copeland drive (SR 1267), Tax Map 39, Lots 16G and 16H, Crawford Township.
- Item 8 Public Hearing and Action PB 04-56 JOHN NEWBERN: Rezoning 7.13 acres from Agriculture (A) to Residential (R) on property located on N. Spot Rd. approx. 1,800' north of intersection w. S. Spot Rd. Tax Map 124, Lot 4, Poplar Branch Township
- Item 9 Public Hearing and Action PB 94-18 TR EQUIPMENT COMPANY, INC.: Renewal of special use permit for a mining operation owned by James I. Malco located in Point Harbor off Griggs Acres Road approximately 450' west of the intersection with Caratoke Highway, Tax Map 132, Parcel 159, Poplar Branch Township.
- Item 10 Public Hearing and Action PB 04-29 SNOWDEN CROSSING: Sketch Plan/Special Use Permit for 17 lots located in Shawboro on the west side of Snowden Road approximately ½ mile north of the intersection with Shawboro Road, Crawford Township.
- Item 11 Action PB 04-59 Amendment to modify and correct sections of the UDO to reflect corrections in section references and changes required to be consistent with Article 9, Subdivision Regulations.
- Item 12 Further discussion on Motor Vehicle Dealerships and Repair businesses.
- Item 13 Appointment to Nursing Home Advisory Committee.
- Item 14 Consent Agenda:

Budget Amendments
Appointment of Jane Etheridge to Senior Center Advisory Board.
Resolution on Planning Review Officer appointment.
Proclamation to proclaim October 30 as Weatherization Day.
Item 15 Commissioner's Report
Item 16 County Manager's Report
Adjourn

Public Comment

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

Chairman O'Neal opened the public comment period.

Herb Robbins, Corolla Incorporation Committee, supports Corolla incorporation.

Barbara Snowden, Historical Society, presented the Board with typed minutes from 1868 to 1891.

Owen Etheridge, commended the commissioners on incorporation study.

There being no further comments, Chairman O'Neal closed the public comment period.

Old Business

Incorporation Committee presentation.

C.A. Howard, Chairman, Incorporation Committee, presented the Board with the report from the committee.

Commissioner Martin moved to adopt the following resolution. Commissioner Miller seconded the motion. Motion carried.

NORTH CAROLINA

CURRITUCK COUNTY

**RESOLUTION TO PETITION
THE GENERAL ASSEMBLY OF NORTH CAROLINA
TO CONSOLIDATE ALL LOCAL GOVERNMENT POWERS IN
CURRITUCK COUNTY AND ESTABLISH IT AS THE
SOLE LOCAL GOVERNMENT IN THE COUNTY**

WHEREAS, this Board of Commissioners has received the September 29, 2004 report of the Currituck County Incorporation Study Commission on this date; and

WHEREAS, that report, compiled after due and diligent study of the said Commission, has recommended to this Board of Commissioners that the citizens of this County would best be served by a county existing as the sole local government within its confines, vested with all powers, duties, rights and obligation of both a county and a city, as described by the General Statutes of North Carolina and the common law; and

WHEREAS, the Board of Commissioners has reviewed the report, accepted and approved the recommendation therein, and desires to expeditiously pursue the same in accord with Article VII of the North Carolina Constitution.

IT IS NOW, THEREFORE, ORDERED THAT:

1. The County Manager and County Attorney promptly take such action, as they deem appropriate to petition the North Carolina General Assembly to enact legislation in the 2005 Session to accomplish this end.

2. All action taken by the County Manager and County Attorney shall be timely reported to each member of this Board for its review and further instruction.

3. Notwithstanding any directive in this Resolution, any alteration of the current powers, rights, duties and obligations of Currituck County shall be exclusively subject to approval in a referendum of the citizens of this County and by no other method whatsoever. Said referendum shall be conducted only after multiple public hearings and a substantial effort to educate the citizenry as to the issue.

Approved in Open Session this the 4th day of October, 2004.

Action PB 03-28 WATERSIDE VILLAGES OF CURRITUCK: Preliminary Plat for 148 Single Family and 10 Multi-family planned adult retirement residences located in Grandy off Caratoke Hwy, just south of Soundside Estates, Tax Map 108, Parcels 20, 21, 22 and 22C, PB township.

Gary Ferguson, Planning Director, reviewed the request.

LOCATION: Off of NC 158 (Caratoke Highway) just south of Soundside Estates, Poplar Branch Township.

TAX ID: 0108-000-0020-0000, 0108-000-0021-0000, 0108-000-022C-0000 & 0108-000-022D-0000

ZONING DISTRICT: Agricultural and General Business

OWNER:
VOC, LLC
P.O. Box 147
Harbinger, NC 27941

APPLICANT/AGENT
Currituck Resort Shores, LLC
P.O. Box 10096
Raleigh, NC 27605

ADJACENT/SURROUNDING PROPERTY:

NORTH: Residential - zoned A
SOUTH: Vacant - zoned A
EAST: Currituck Sound
WEST: Residential/Commercial/Vacant - zoned GB

NARRATIVE OF REQUEST:

VOC, LLC is seeking Preliminary Plat approval for Phases 1 through 6 which consists of 148 single family lots and 10 multi-family units (158 total units) within Waterside Villages of Currituck. The total acreage of the entire development is 72.3 acres. The development is setting aside 45% of the total site area as open space. The development includes sound access with a marina, pier, nature trails, indoor/outdoor swimming pools and a clubhouse as recreational amenities.

This property is zoned Agricultural (A) and General Business (GB) with an overlay zoning for a Planned Adult Retirement community. The single family home sites are a minimum of 5,200 sf. The lots will be connected to a centralized wastewater treatment system and to the county's water system. Although a centralized wastewater system exists currently on this site, a new wastewater disposal system will be installed with this development.

Waterside Villages has one ingress/egress point along Caratoke Highway (NC 158), for the residential section of the development. There is direct pedestrian access to the proposed urgent care facility from the development.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: All streets will be built to NCDOT Design and Construction Standards. The streets will be private and will be maintained the Homeowners Association.

A deceleration lane will be installed from Caratoke Highway into the project.

WATER: The County will provide water to this development. It is estimated that water usage at the development will be approximately 80,000 gallons per day.

FIRE: This development will be served by fire hydrants and is located within the Lower Currituck Volunteer Fire Department, which currently has a State ISO rating of 9.

WASTEWATER: A permit has been issued by the Division of Water Quality for a 90,000 gallons per day wastewater treatment and disposal area. The disposal area is 6.5 acres.

SCHOOL CAPACITIES: Based on the proposed age restrictions for residents within this development (55 and over) this development should have no impact on school capacities.

- OPEN SPACE:** A minimum 35%, or 25.3 acres, of the total tract must be set aside as open space. A total of 32.71 acres, or 45% of the site, will be dedicated open space. The Homeowners Association will be responsible for maintaining the open space.
- DRAINAGE:** A Stormwater Permit has been issued by the Division of Water Quality. The drainage plan has been approved by County Engineer and the Soil & Water Conservation District.
- FLOOD ZONES:** Flood zone C (not within the 100 year flood area), zone A6 (within the 100 year flood area with 7' elevation), and zone A5 (within the 100 year flood area with 6' elevation).
- CAMA CLASS:** Limited Transition, Rural and Conservation

STAFF COMMENTS:

1. Waterside Villages received initial Sketch Plan approval for adult retirement residences from the Board of Commissioners: September 15, 2003. The approved residential mix is comprise 148 single family lots and 84 multi-family units.
2. A Landscape Plan shall be submitted for review.
3. That the following notes/corrections be added to the plat:
 - (a) Sheet 1 - Note #14 and Subject Property note show different tract areas.
 - (b) Sheet 2- Need to correct the 45' RW street cross section and show that the sidewalk is within the right-of-way. Need to show the sidewalk widths.
 - (c) Sheet 4 - Enlarge Typical Lot View. Call out the sidewalk. Correct the reference for the Valley Curb to Sheet 2.
 - (d) Sheet 5 - Show the location of cross section A found on Sheet 2.
 - (e) Sheets 8 & 9 - the Phase Line between Phase 3 and future Phase 7 needs to be corrected to only include the one condo building in Phase 3. Note that Phase 7 is Future.
 - (f) Sidewalk /Trail widths need to be shown. Could be done with the typical sections and legend if they are all the same width.
 - (g) Legend - Show the symbol for drainage culverts. Remove the soil boundary.
4. Technical Review Staff:

On July 8, 2004, Technical Review staff reviewed this application. At the TRC meeting, the primary concern was with the drainage and the use of slotted drain pipes. The Preliminary Plat has been revised to address concerns

expressed by the Technical Review staff. The drainage plan has been approved by the County Engineer and Soil & Water Conservation.

- (a) County Engineer - reviewed & approved
- (b) Soil & Water Conservation - reviewed & approved
- (c) Fire Marshal - reviewed & approved with following comments: center islands in the cul-de-sacs shall have low curbing; gate at the entrance to the development is required to have a 12' to 14' clearance; During the phasing development, temporary cul-de-sacs shall be required
- (d) County Water Department - reviewed & approved
- (e) County Mapper - reviewed & approved
- (f) Lower Currituck VFD Fire Chief - no comments received
- (g) NCDENR, Water Quality - reviewed and approved a Wastewater Surface Irrigation Permit. And a Wastewater Collection System Extension Permit.
- (h) NCDENR, Land Quality - reviewed and approved the Erosion and Sedimentation Control Plan; letter of approval has been issued
- (i) NCDENR, Water Quality - reviewed and approved a High Density Stormwater Permit
- (j) NCDOT - reviewed and approved driveway permit with condition that no "new" run-off be introduced into the NCDOT right-of-way; that all of the turn lane be contained on the property's street frontage; and the overflow structure from the pond have only a 1" orifice. An encroachment agreement was permitted.
- (k) NCDENR, Public Water Supply Section - reviewed and approved a permit for the authorization to construct the waterlines
- (l) Phone Company - reviewed with no comment
- (m) Superintendent of Schools - no comments received
- (n) N C Power - reviewed with no comment
- (o) CAMA - reviewed and delineated
- (p) USACOE - reviewed and issued Notification of Jurisdictional Determination

STAFF RECOMMENDATION:

Staff recommends approval subject to the following conditions:

1. That the following notes/corrections be added to the plat:
 - (a) Sheet 1 - Note #14 and Subject Property note show different tract areas.
 - (b) Sheet 2- Need to correct the 45' RW street cross section and show that the sidewalk is within the right-of-way. Need to show the sidewalk widths.
 - (c) Sheet 4 - Enlarge Typical Lot View. Call out the sidewalk. Correct the reference for the Valley Curb to Sheet 2.
 - (d) Sheet 5 - Show the location of cross section A found on Sheet 2.
 - (e) Sheets 8 & 9 - the Phase Line between Phase 3 and

future Phase 7 needs to be corrected to only include the one condo building in Phase 3. Note that Phase 7 is Future.

- (f) Sidewalk /Trail widths need to be shown. Could be done with the typical sections and legend if they are all the same width.
 - (g) Legend - Show the symbol for drainage culverts. Remove the soil boundary
2. That the entrance gate to the development shall have a 12' to 14' clearance for emergency vehicles.
 3. That a key or access code shall be provided to Fire and Rescue personnel for the entrance gate. In addition, the gates must be designed in a way that a fire truck or emergency vehicle could trigger the automatic opening when leaving the subdivision.
 4. That during the phasing development, temporary cul-de-sacs shall be required.
 5. That a landscape plan be submitted for review and approval.
 6. That street trees shall be planted on both sides of all newly paved streets.
 7. That waterline, water services and fire hydrants shall be installed and accepted prior to submission for final plat approval.
 8. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners and which may be amended from time to time per UDO provisions.

PLANNING BOARD RECOMMENDATION:

On September 14, 2004 the Planning Board reviewed this request and recommended approval (8-0) with the staff recommendations.

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

Action PB 03-39 NEW COLONY LANDING: Preliminary Plat for 19 lots located in Moyock at the intersection of Tulls Creek Road (SR 1222) and Copeland drive (SR 1267), Tax Map 39, Lots 16G and 16H, Crawford Township.

Gary Ferguson, Planning Director, reviewed the request.

LOCATION: At the intersection of Tulls Creek Road (SR 1222) and Copeland Drive (SR 1267), Crawford Township.

TAX ID: 0039-000-016G-0000 & 0039-000-016H-0000

ZONING DISTRICT: Residential

OWNER:

Nolton Hill
805 Puddin Ridge Road
Moyock, NC 27958

APPLICANT/AGENT

Hyman & Robey, PC
150-A US Hwy 158 East
Camden, NC 27921

LAND USE/ZONING OF SURROUNDING PROPERTY:

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

NARRATIVE OF REQUEST:

Nolton Hill is seeking Preliminary Plat approval for 18 single family lots. The total acreage of the entire development is approximately 20.14 acres.

This property is zoned Residential. Since the subdivision consists of less than 20 lots, no open space is required or provided. Lots within this development are proposed to range from 40,000 sq. ft. to 54,458 sq. ft.

The subdivision will have two points of entry, one from Tulls Creek Road the other from Copeland Road. The lots will require individual septic systems and the developer will be required to install a waterline and fire hydrants.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS:

The proposed street will be built to NCDOT Design and Construction Standards. The developer expects the street will be dedicated to the NCDOT for maintenance.

WATER:

This development will be served by County water.

FIRE:

This development will be located within the Moyock Volunteer Fire Department which currently has a State ISO rating of 9.

WASTEWATER:

Individual on-site septic systems are proposed. The lots have been tested and were classified as unsuitable for conventional ground absorption wastewater systems by Albemarle Regional Health. The lots may be reclassified from unsuitable to provisionally suitable if two lots incorporate a mound type disposal system and a low pressure pipe system (LPP) is used on the remaining lots.

- SOILS:** The property contains Roanoke fine sandy loam which is characterized as being poorly drained. The permeability is slow, and the shrink-swell potential is moderate. This soil is poorly suited for development because of flooding, wetness, slow permeability, and low strength
- 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*). The Crawford occupancy rate is 0.9106.
- Based on these pupil generation figures, Currituck can expect seven elementary students, one junior high student, and three high school students from this development.
- According to the January 2004, school population projections, the three elementary schools servicing the Moyock and Crawford Townships have (-184) additional student capacities after full development of approved subdivisions within these Townships. The proposed subdivision **is** reflected in the student population count.
- OPEN SPACE:** No open space is required or provided.
- DRAINAGE:** Drainage will be provided by roadside and lot line swales and a retention basin which tie into existing ditches.
- FLOOD ZONES:** A majority of the property is located within the 100 year floodplain (flood zone A5) with a base flood elevation of 6 feet with the remaining portion being located out of the floodplain.
- LAND USE PLAN:** The 1990 Land Use Plan classifies this site as Rural with Services. Low intensity residential uses with a gross density of approximately one unit per acre, where lot sizes are large and where the provision of services will not disrupt the primary rural character of the landscape are consistent with the intent of the rural with services class. Proposed density for the total 19 lot subdivision is approximately 0.9 units

per gross acre and therefore the development is consistent with the Land Use Plan.

STAFF COMMENTS

1. The Sketch Plan/Special Use Permit for this development was approved by the Board of Commissioners on January 5, 2004 for 19 lots.
2. Developer will connect the subdivision to the county water system and install fire hydrants according to county requirements.
3. Developer will be required to plant trees along both sides of any newly created streets constructed in accordance with the public street standards as required in Section 513 of the UDO.

4. Technical Review Staff:

On May 13, 2004, Technical Review staff reviewed this application. At the TRC meeting, the primary concern was with the drainage outfall. The Preliminary Plat has been revised to address concerns expressed by the Technical Review staff. The drainage plan has been approved by the County Engineer and Soil & Water Conservation subject to the following conditions:

That the adjacent downstream property owner allows the developer to upgrade the existing driveway culvert to an adequate size. If the property owner refuses to allow the culvert upgrade, than the developer will be required to modify the site drainage to reduce the downstream flow to account for the flow restriction found at the existing driveway culvert.

- (a) County Engineer - reviewed & conditionally approved
- (b) Soil & Water Conservation - reviewed & conditionally approved
- (c) Fire Marshal - reviewed & approved
- (d) County Water Department - reviewed & approved
- (e) Health Department - engineered LPP systems must be submitted and approved by the Albemarle Regional Health Services; prior to issuance of the Operation Permits, the design engineer shall submit a letter certifying satisfactory installation of the wastewater system to the Health Services
- (f) Moyock VFD Fire Chief - no comments received
- (g) NCDENR, Land Quality - reviewed and approved the Erosion and Sedimentation Control Plan; letter of approval has been issued
- (h) NCDENR, Water Quality - reviewed and approved a Low Density Stormwater Permit
- (i) NCDOT - reviewed and approved encroachment & driveway permits

- (j) NCDENR, Public Water Supply Section - reviewed and approved a permit for the authorization to construct the waterlines
 - (k) Phone Company - no comments received
 - (l) Superintendent of Schools - no comments received
 - (m) N C Power - no comments received
 - (n) CAMA - no comment; not within CAMA's jurisdiction
 - (o) USACOE - no comments; not within USACOE jurisdiction
5. This case was heard at the August Planning Board meeting. At that meeting the Board voted to table the item until the drainage issue was resolved by either upgrading the downstream driveway culvert or retaining additional stormwater on the site. The site has been redesigned to retain enough stormwater on site so that the downstream culvert can handle the flow. A detention basin as added at the rear of lots 7 & 8. The detention pond has the capacity to hold a 50 year storm event, well in excess of the UDO requirements of a ten year storm event. The drainage plan has been reviewed and approved by the County Engineer and the Soil & Water Conservation District.

The addition of the detention basin has a caused the loss of one lot within the subdivision. The property owner is currently in negotiations with the adjacent downstream property owner to resolve the flow restriction found at the existing driveway culvert. The property owner hopes to have come to an agreement by the time this preliminary plan goes before the Board of Commissioners. As mentioned in this analysis, the original preliminary plat was approval by the County Engineer and the Soil & Water Conservation District if the downstream culvert is upgraded.

STAFF RECOMMENDATION:

Staff recommends approval with the following conditions:

1. That street trees shall be planted on both sides of the street in accordance with Section 513(1) of the UDO prior to submission for final plat approval.
2. That waterline, water services and fire hydrants shall be installed and accepted prior to submission for final plat approval.
3. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners and which may be amended from time to time per UDO provisions.

PLANNING BOARD RECOMMENDATION:

On August 9, 2004 the Planning Board reviewed this request and voted to table the item until the drainage issue was resolved by either upgrading the downstream driveway culvert or retaining additional stormwater on the site.

PLANNING BOARD RECOMMENDATION:

On September 14, 2004 the Planning Board reviewed this request and recommended approval (8-0) with the staff recommendations.

The Board allowed for comments.

Mr. Earl Springle, adjoining property owner, expressed concerns with drainage on his property.

Commissioner Bowden moved to table the item until the October 18, 2004, board meeting for the County Engineer to review due to stormwater and septic issues. Commissioner Martin seconded the motion. Motion carried.

Public Hearing and Action PB 04-56 JOHN NEWBERN: Rezoning 7.13 acres from Agriculture (A) to Residential (R) on property located on N. Spot Rd. approx. 1,800' north of intersection w. S. Spot Rd. Tax Map 124, Lot 4, Poplar Branch Township

Gary Ferguson, Planning Director, reviewed the request.

TYPE OF REQUEST: Request for rezoning a 7.13 acres from Agricultural (A) to Residential (R).

LOCATION: This site is located in Spot along the eastern side of N. Spot Road approximately 1,700' north of the intersection with S. Spot Road; Poplar Branch

TAX ID: TM 124 Parcel 4

PROPERTY OWNER: Erlene S. Gallop, Trustee

APPLICANT: John Melvin Newbern & Jane Gallop Newbern

ZONING:	<u>Current Zoning</u> Agricultural	<u>Proposed Zoning</u> Residential
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ZONING HISTORY: Property has been zoned Agricultural since 1989.

SURROUNDING

ZONING/LAND USE: NORTH: Agricultural /Woodland
SOUTH: Agricultural /Residential lots
EAST: Agricultural /Residential lots
WEST: Agricultural /Cropland &
Residential Lots

EXISTING LAND USE: Vacant agricultural

PROPOSED LAND USE: The applicants have stated that they desire to develop the site with seven residential lots.

LAND USE PLAN: 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." Low density dispersed residential uses on lots approximately one unit per gross acre with on-site water and sewer are consistent with the intent of the rural class. The proposed density for the seven lot subdivision is approximately one unit per gross acre. This rezoning is consistent with the Rural classification.

PUBLIC SERVICES AND UTILITIES:

Lower Currituck South Volunteer Fire Department provides fire protection for this area. Electric, telephone and cable are currently available at this location. There is no county water within the area.

TRANSPORTATION:

Property has direct access onto N. Spot Road classified as a Minor Collector in the 1999 NCDOT Thoroughfare Plan.

FLOOD ZONE:

According to FEMA maps, the western portion of property is located in outside of the 100 year floodplain (Flood Zone C) while the eastern portion is located within the 100 year floodplain with a base flood elevation of 7' (Flood Zone A4).

SOILS:

According to the Currituck County Soil Survey, the property has two soil types: **CnA** - Conetoe loamy sand which consists of well drained soils and are generally favorable for septic systems and **Ds** - Dragston loamy fine sand is a somewhat poorly drained soil which requires extensive drainage and site modifications to improve the potential for septic systems.

STAFF COMMENTS:

- The land is currently vacant.
- There are several single family homes surrounding the site in addition to numerous vacant residential lots ranging in size from approximately 0.5 acres to 1.5 acres.
- This site is approximately 1,300' away from Residential zoned land which is located on Hog Quarter Road.

STAFF

RECOMMENDATION:

This property is not contiguous with the Residential zoning district yet there have been numerous minor subdivisions in the area creating many smaller residential lots. The proposed land use conforms with the existing land use found in the area. Staff recommends approval of the rezoning request

PLANNING BOARD

RECOMMENDATION:

On August 10, 2004 the Planning Board reviewed this request and recommended

Chairman O'Neal opened the public hearing.

John Newbern, was present to answer questions.

There being no further comments, Chairman O'Neal closed the public hearing.

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

Public Hearing and Action PB 04-29 SNOWDEN CROSSING: Sketch Plan/Special Use Permit for 17 lots located in Shawboro on the west side of Snowden Road approximately ½ mile north of the intersection with Shawboro Road, Crawford Township.

Sworn testimony was given prior to making statements.

Gary Ferguson, Planning Director, reviewed the request.

17 SINGLE FAMILY LOTS

LOCATION:

On Snowden Road, at the rail road crossing, approximately 0.6 miles from its intersection with Shawboro Road, Crawford Township.

TAX ID:

0033-000-0005-0000

ZONING DISTRICT:

Agricultural

OWNER:

Three of a Kind, Inc.
257 Caratoke Highway, Ste. B
Moyock, NC 27958

APPLICANT/AGENT

Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Low Density Residential, Farmland & Woodland - zoned A
SOUTH: Farmland - zoned A
EAST: Farmland & Woodland - zoned A
WEST: Farmland - zoned A

NARRATIVE OF REQUEST:

Three of a Kind, Inc. is seeking Sketch Plan/Special Use Permit approval for 20 single family lots through the major subdivision process. The parent parcel for this development is approximately 99.6 acres and is divided into three separate tracts of land due to public street and railroad right-of-ways. The proposed subdivision is located on the west side of Snowden Road and comprises the western portion of the parent parcel. The total acreage for this development is approximately 53.8 acres.

This property is zoned Agricultural. In the Agricultural zoning district the minimum lot size is three acres, with an exception that allows the creation of up to five 40,000 sf lots. The lot sizes within this development range from 40,000 sf to 3.1 acres.

The subdivision will have one point of entry from Snowden Road. There is a dedicated right-of-way to the south for a future street connection. The lots will be served by individual septic systems. Since there is no county water available for this site, the lots will be served by individual wells. However, water improvements shall be guaranteed by a performance bond and water connection fees paid or each lot

According to the Development Impact Statement, the typical houses will be four bedrooms with two bathrooms and will range in size from 2,000 sf to 2,500 sf in size. The anticipated total sale price for all of the lots is \$1.1 million, or approximately \$55,000 per lot. It is projected that the vacant lots will sell out within a year or two.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS:

The proposed streets will be built to NCDOT Design and Construction standards. The developer expects the streets will be dedicated to NCDOT for maintenance.

- WATER:** County water is not available to this site at this time.
- FIRE:** This development will be located within the jurisdiction of the Crawford Volunteer Fire Department.
- WASTEWATER:** Individual on-site septic systems are proposed.
- SOILS:** There are five soils types found at the site: Augusta fine sandy loam which consists of somewhat poorly drained, moderately permeable soils; Roanoke fine sandy loam which consists of poorly drained soils that have slow permeability; Nimmo loamy sand which consists of poorly drained soils that have moderate permeability; Tomotley fine sandy loam which consists of poorly drained soil with moderate to moderately slow permeability; and Pasquotank silt loam which consists of poorly drained soils that have moderate 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*). Crawford Township has an occupancy rate of 0.9106
- Based on these pupil generation figures, Currituck can expect eight elementary students, two junior high students, and three high school students from this development.
- According to the January 2004, school population projections, the three elementary schools servicing the Moyock and Crawford Townships have (-184) additional student capacities after full development of approved subdivisions within these Townships. The proposed subdivision is **not** reflected in the student population count.
- OPEN SPACE:** No open space is required or provided.
- DRAINAGE:** Roadside and property line swales/ditches will be used to address drainage for this property.

FLOOD ZONES: The property is located outside of a 100 year floodplain (flood zone C).

LAND USE PLAN: 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. Low density dispersed residential uses on lots approximately one unit per gross acre with on-site water and sewer are consistent with the intent of the rural class. The proposed density for the 20 lot subdivision is approximately 0.4 units per gross acre. This proposal is consistent with the Land Use Plan.

STAFF COMMENTS:

- On May 13, 2004, Technical Review staff reviewed this application. Staff's concerns included the following:
 1. Three of the lots slightly exceeded the 4:1 lot width to length ratio mandated by Section 921 of the UDO. Lot 9 has a ratio of 5.6:1; Lot 11 has a lot ratio of 5.6:1; and Lot 18 has a lot ratio of approximately 5:1. It should be noted that Lots 9 and 11 are cul-de-sac lots while Lot 18 meets the ratio when based on the average lot width. The UDO does allow this ratio to be exceeded where the Board finds that the physical dimensions of the tract provide no other practical alternative. The subject property has a slightly triangular shape.
 2. Plans reviewed at the TRC meeting did not address the tentative drainage of the site.
 3. The Fire Marshall had concerns in regards to the access to the fire pond access.
 4. The Albemarle Regional Health Services has concerns with the soils and the ability of the project to support conventional wastewater systems.
 5. A temporary turnaround shall be placed at the end of Floyd Lane. The turn around shall be improved with a minimum 35' radius graveled turnaround.
- In response to concerns expressed by the TRC, the Sketch Plan has been revised to reflect the following items:
 - Lot 9 was reconfigured to meet the 4:1 lot width to length ratio;
 - A temporary turnaround was placed at the end of Floyd Lane;
 - Tentative storm drainage has been addressed and approved;

- o The Fire Marshal's concerns have been addressed and approved.
- The project will require state stormwater and erosion & sedimentation control permits.
- This case was heard at the June 8, 2004 Planning Board. At that meeting the decision was tabled due to an inadequate adjacent property owner notification of the meeting. There were concerns in the audience regarding the adequacy of Snowden Road to handle the additional traffic. The Planning Board directed the Planning Staff to get comments from NCDOT regarding this concern.
- NCDOT's response to the adequacy of Snowden Road is that based on 10 vehicle trips per day per lot, "it would have an impact on the surrounding roadway, but I don't know if it would be a detriment to the existing level of service...Should it become obvious that the pavement width is causing problems, there is always a chance the road could be widened."
- NCDOT has concerns regarding the drainage and the oddly shaped cul-de-sac/"T" intersection as to whether it would meet NCDOT standards.

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 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.*

Currituck can expect eight elementary students, two junior high students, and three high school students from this development.

According to the current school population projections, the three elementary schools servicing the Moyock and Crawford Townships have (-184) additional student capacities after full development of approved subdivisions within these Townships. The proposed subdivision **is** reflected in the student population count.

STAFF RECOMMENDATION:

Staff recommends approval, subject to the Board of Commissioner's determination that adequate school facilities exist, or will exist, to meet the demands generated by this subdivision. If the Board of Commissioners so finds, staff also recommends the following conditions:

1. That applicant shall be required to meet all requirements of the UDO including, providing adequate fire protection and adequate drainage facilities to serve the development.
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 July 13, 2004 the Planning Board reviewed this request and recommended approval (8-0) with the following conditions:

1. That applicant shall be required to meet all requirements of the UDO including, providing adequate fire protection and adequate drainage facilities to serve the development.
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.

BOARD OF COMMISSIONERS RECOMMENDATION:

On August 2, 2004 the Board of Commissioners reviewed this request and denied it because more than five 40,000 sf lots were being created from a single parcel in the Agricultural district.

STAFF COMMENTS:

- A revised sketch plan has been submitted following is a list of changes:
 1. The minimum lot size is 3 acres.
 2. Total number of lots reduced from 20 to 17.
 3. All of the lots meet 4:1 lot width to length ratio mandated by Section 921 of the UDO.
 4. The streets have been reconfigured such that Snowden Crossing ends in a "T" intersection with Kermit Court. Kermit Court was originally a double cul-de-sac street. Now the street offers a future street connection to the south. Floyd Lane has been eliminated.
 5. Originally, the future street connection was planned to be Floyd Lane. The street has been eliminated and Kermit Court has been reconfigured to allow for the future street connection to the south.

STAFF RECOMMENDATION:

Staff recommends approval, subject to the Board of Commissioner's determination that adequate school facilities exist, or will exist, to meet the demands generated by this subdivision. If the Board of Commissioners so finds, staff also recommends the following conditions:

1. That applicant shall be required to meet all requirements of the UDO including, providing adequate fire protection and adequate drainage facilities to serve the development.
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 September 14, 2004 the Planning Board reviewed this request and recommended approval (8-0) with the staff recommendations.

Chairman O'Neal opened the public hearing.

George Berryman, questioned soil suitable for septic systems.

Sandra Roberts, expressed concerns with drainage.

Robert Eshner, expressed concerns with drainage and the narrow road.

Judy Schuler, had drainage issues.

Mark Bissell, Engineer, stated that they have complied with the UDO and all concerns have been addressed.

James Innes, Developer, stated that he has complied with all concerns and requested the Board's approval.

There being no further comments, Chairman O'Neal closed the public hearing.

Commissioner Miller moved to approve. Commissioner Gregory seconded the motion. Motion carried with Chairman O'Neal voting no due to his impact on schools.

Action PB 04-59 Amendment to modify and correct sections of the UDO to reflect corrections in section references and changes required to be consistent with Article 9, Subdivision Regulations.

Gary Ferguson, Planning Director, reviewed the request.

CURRITUCK COUNTY

PB 04-59

UDO AMENDMENT REQUEST

CURRITUCK COUNTY requests the following amendment to the Currituck County Unified Development Ordinance:

PB 04-02 CURRITUCK COUNTY: Amendment to modify and correct sections of the UDO to reflect corrections in section references and changes required to be consistent with Article 9, Subdivision Regulations.

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

Item 1 That the following section be amended for corrections:

Section 209 Maximum Lot Coverage. (Amended 2/3/03)

1. The maximum percentage of any lot that may be covered shall be subject to the following: (Amended 3/18/96, 7/15/96, 10/7/96)

Description	Total Lot Coverage
<u>Residential districts (for lots not covered below)</u>	30% ¹
<u>GB, LM, HM, C and LBH districts; Shopping Centers</u>	65% ¹
<u>Residential lots 10,000 to 19,000 s.f. in area</u>	35% ¹
<u>Residential lots less than 10,000 s.f. in area</u>	45% ¹

Item 2 That the following section be amended for corrections:

Section 805 Shopping Centers.

3. Development standards:

- (b) maximum lot coverage: ~~thirty (30)~~ sixty five (65) percent of the tract inclusive of any lot located within the development;

Item 3 That the following sections be amended to agree with Article 9:

Section 604 Determining Compliance With Section 603

1. Whenever any major subdivision in any residential zoning district proposes to comply with Section 603 by using septic tanks or other ground absorption systems subject to the regulatory jurisdiction of the ~~Currituck County Health Department~~ Albemarle Regional Health Services (A.R.H.S.), no Special Use Permit may be issued (i.e. preliminary plat approval may not be granted) until A.R.H.S. the Health Department has certified that each lot shown on the Preliminary Plat has been inspected and found suitable for a septic tanks or other ground absorption system capable of serving at least a three (3) bedroom house.
2. Final Plat approval for any major, private access, family or minor subdivision that proposes to comply with Section 603 by using septic tanks or other ground absorption systems under the ~~Currituck County Health Department's A.R.H.S.~~ regulatory jurisdiction may not be granted until the Health Department A.R.H.S. has certified that each lot shown on such final plat has been inspected and found suitable for a waste treatment system capable of serving the intended or likely use of such lot. Health Department A.R.H.S. certification under Subsection (1) shall suffice to comply with this Subsection so long as there has been no substantial change between the

preliminary and final plats of the subdivision in question.
(Amended 2/3/97)

3. Whenever a development proposes to comply with Section 603 by resorting ing to a sewage treatment system not subject to the regulatory jurisdiction of the Currituck County Health Department Albemarle Regional Health Services, any development permit issued under this Ordinance shall be regarded as issued contingent upon the developer (i) obtaining necessary approvals for such sewage treatment system from the appropriate regulatory agencies, and (ii) properly installing such system to serve the development. All permits shall be obtained prior to preliminary plat approval. No final plat approval shall be issued until all utilities including water ~~or and~~ sewer treatment systems are operational to the satisfaction of the County ~~or if the improvements are secured in accordance with Section 2016, if applicable~~. Where sand lined trench waste water treatment systems are used to satisfy Section 603 in minor, and private access subdivisions and family subdivisions, installation of the system shall not be required until such time as a building permit is requested and a building is constructed.
(Amended 2/3/97)

Item 4 That the following sections be amended to correct section references and agree with Article 9:

Section 2016 Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use or Conditional Use Permits.

1. In cases when, because of weather conditions or other factors beyond the control of the Special Use or Conditional Use Permit recipient (exclusive of financial hardship) it would be unreasonable to require the Permit recipient to comply with all of the requirements of this Ordinance before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision (with the exception of water and sewer plant systems ~~as noted in subsection 2 below~~), the permit issuing Board may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this Ordinance are concerned) if the permit recipient meets the conditions of Section 913 914(3) and 923 1013, or 1113 as applicable in a manner satisfactory to the County to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed six (6) months).

~~2. With respect to centralized water and sewer treatment plant construction, a Performance Bond may be posted with the County for a period of one (1) year from Final Plat approval (first Final Plat approval granted if developed in phases or sections) to guarantee construction of the system. Further,~~

~~the permit issuing Board may grant up to two (2) 1-year extensions provided the applicant prepare and present to the permit issuing Board a report outlining the current status of the system and development prior to the expiration date of the currently held bond. If the extension request is denied by the permit issuing Board, the permit recipient shall be granted a six (6) month period from denial date to complete installation of the required improvements provided the recipient extends the currently held bond to cover this period. Failure to extend the bond prior to expiration date shall give cause for the County to execute the bond.~~

3.2 When the Board imposes additional requirements upon the permit recipient in accordance with this Article or when the developer proposes in the plans submitted to install amenities beyond those required by this Ordinance, the Board may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one (1) or more of the following:

(a) the permit recipient complies with the conditions of Section ~~913, 914(3) or 923, 1013 or 113~~ as applicable in a manner satisfactory to the Board;

Item 5 That the following section be amended to correct an omission:

Section 914 Streets

Street Standards for Subdivisions						
	Right-of-Way*	Pvm't/Shoulder Width - Local Road	Pvm't/Shoul der Width - Collector Road	NCDOT Design Std.	NCDOT Construction Std.	
Family	20' min.	16' / 2'	N/A	No	No	
Private Access	45' min.	18' / 4' ***	N/A	No	Yes	
Conventional Subdivision Up to 10 Lots & 5+ Ac Lots	45' min.	18' / 6' ***	20' / 8'	Yes	Yes	
Conventional Non-Residential	45' min.	20' / 6' ***	20' / 8'	Yes	Yes	
Open Space	45' min.	18' / 6' ***	20' / 8'	Yes	Yes	
Conservation	<u>45' min.</u>	18' / 6' ***	20' / 8'	Yes	Yes	
PRD & PUD	30' min.	20' / N/A OR 1 Way - 14' / N/A	N/A	No	Yes	

Residential Airpark Dev.	45' min.	18'/6'***	N/A	Yes	Yes
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- * 100' Right-of-way required for NC12 within the R01 zoning district
- ** Non-Residential pavement width shall be 20'
- *** May reduced to 4' with NCDOT approval

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

Public Hearing and Action PB 94-18 TR EQUIPMENT COMPANY, INC.:
Renewal of special use permit for a mining operation owned by James I. Malco located in Point Harbor off Griggs Acres Road approximately 450' west of the intersection with Caratoke Highway, Tax Map 132, Parcel 159, Poplar Branch Township.

Sworn testimony was given prior to making statements.

Gary Ferguson, Planning Director, reviewed the request.

ZONING DISTRICT: Residential

TAX ID: 0132-000-0159-0000

OWNER:

James I. Malco
 135 James Griggs Road
 Point Harbor, NC 27964

APPLICANT/AGENT

R. Gary Thompson
 T.R. Equipment Co.
 PO Box 190
 Harbinger, NC 27941

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Farmland & Vacant - zoned R & GB
SOUTH: Residential - zoned R
EAST: Residential & Dominion Power site - zoned R
WEST: Farmland & Vacant - zoned R

PURPOSE OF REQUEST:

The applicant requests Special Use Permit approval/renewal for a sand mining operation located at the Malco Mine. The request is to start Phase 2 of the mining operation. The requested hours of operation are Monday to Saturday from dawn till dusk.

The proposed Phase 2 site to be mined will not exceed 6.90 acres. This area added to the existing excavated area, 6.93 areas, equals 13.83 acres, or 30% of the total site area or 46.1 acres, the maximum allowed under the UDO. Off-site dewatering has been previously approved for this site.

The applicant is requesting a maximum mining depth of 34' below the natural ground. The mining site is relatively level with existing grade of approximately 9' above Mean Sea Level (MSL). This equates to a maximum mining depth of -25' below MSL.

Dewatering of the mining area will be accomplished by pumping water into the existing irrigation/settling pond. The pump and housing from the existing mine area will be used for the new mine area. This pond will connect to the existing mine area, Phase 1, via a grassed swale. The existing mine area in Phase 1 will be incorporated as a second settling basin and will discharge into the wetland area. The project has a state NPDES permit for dewatering the excavated area to a depth of 25' below natural ground. Considering the existing grades at the site, this equates to a maximum dewatering depth of -16' below MSL.

Access to the site is from a 30' easement located on the north side of Griggs Acres Rd. (SR 1101) approximately 450' west of the intersection with US 158.

On July 18, 1994 T.R. Equipment was granted a Special Use Permit for mining activities on the Malco property which was valid for 10 years. The state mining permit was renewed in August, 2004.

DEVELOPMENT HISTORY:

1. On July 18, 1994 the Board of Commissioners approved a request to rezone 6 acres from Residential (R) to Agriculture (A) (3.03 ac. for the mining area with the balance devoted to the haul road).
2. On the same date, the Board of Commissioners approved a Special Use Permit (SUP) for a sand mining operation on the site.
3. On November 12, 1996 the State issued a modified mining permit to allow dewatering and increase the mining depth to 25' below natural grade.
4. On January 6, 1997 the Board of Commissioners approved an amended SUP to allow dewatering at this site.
5. On November 3, 1997 the Board of Commissioners approved rezoning of 1.12 acres from Residential (R) to Agriculture (A) and a Special Use Permit to mine up to 4.15 acres.
6. On January 22, 1998 the State approved a modified mining permit to increase the affected acreage to 4.15 acres.
7. On November 5, 2001 the Board of Commissioners approved an amended Special Use Permit to expand mining area from 4.15 acres to 6.58 acres.
8. March 15, 2002 the mining permit was modified to increase the affected acreage to 6.43 acres. This

modification also increased the maximum mining depth from 25' to 50' below the surrounding natural ground surface with the stipulation that the dewatering shall remain limited to 25' below the natural ground surface.

9. In February 2003, the Planning & Inspections Department received a complaint from a nearby property owner that the mine was affecting her well water.
10. In March 2003, NCDENR, Division of Water Resources investigated how the mining operation was impacting the water quantity and quality of private wells of some adjacent properties. The conclusion was that the mining activities had no relation to the private well issues. The state found that the Malco Mine dewatering operations were within the state guidelines of their permit and any water related issues at that time were consequences of the quality of the aquifer water and the construction of the wells.
11. Upon inspection of the site on April 23, 2003 and February 13, 2004, it was determined that mining was occurring at a maximum depth of approximately 34' and was found to be in compliance.
12. On August 5, 2004 the NCDER, Land Quality Section issued a renewal and modification mining permit #27-39 to increase the affected acreage to 16.22 acres. This permit will expire on August 5, 2014. Even though the state has permitted the site to mine 16.22 acres, the UDO limits the total excavated area of the site to a maximum of 30% or 13.83 acres. The more restrictive acreage of 13.83 shall prevail with this permit.
13. A Reclamation Plan was incorporated as part of the original mining permit application in 1994 and not included in the renewal package. The state approved reclamation plan is to restore the mine excavations to a lake area and to grade and revegetate the adjacent disturbed areas. The applicant has posted a reclamation security of \$11,900 with the state.

EXISTING CONDITIONS:

The site has an existing 6.01 acre mine located at the southern portion of the property, and a 0.92 acres irrigation pond located towards the northern end of the site. The remaining portion of the site is cleared woodland surrounded by either farmland or woodlands. County Soil Maps indicate one type of soil contained on the property: **CnA** Conetoe loamy sand which consists of well drained soils that have moderately rapid permeability.

QUESTION(S) BEFORE THE BOARD:

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

The applicant proposes a sand mining operation which is a permitted use in A (Agricultural) zoned area with a Special Use Permit.

The proposed mining area for the site meets the required setbacks, (100' from property lines; 300' from nearest residence, industrial building, or public road). The proposed site has a 100' setback from the western, northern, and eastern property lines. The nearest residences are located in excess of 900' southeast of the proposed mine site, according to county Tax Maps and aerial photos.

The UDO allows up to 30% of the site to be excavated (46 acres X 30% = 13.83 acres permitted). This proposal will bring the site to the allowed 30% maximum, (existing excavated area of 6.92 acres and the proposed excavated area of 6.90 acres for a total of 13.83 acres).

ADDITIONAL APPLICATION INFORMATION

Mining methods:

Mine excavator for digging and a loader to load the dump trucks.

Steps taken to maintain haul road(s):

Contractor will bear the responsibility for maintenance of the haul road. Applicant will keep haul road watered down to keep amount of dust down to a minimum and will re-grade the road periodically as needed.

Description of day to day operations:

Excavate and haul sand. Hours of operation will be dawn to dusk Monday through Saturday. The applicant estimates that at maximum operation there would be 50 loads/day transported from the site. An average day would be approximately 16-20 loads.

Proposed use after mining and how is sewage being handled:

Owner's intention is to continue farming the land after the mining operation is completed with the pond areas in place. No sewage will be generated during this process.

Buffers, existing vegetation on-site and berms:

A 10' unexcavated buffer will surround the mining area. No berms are proposed as a visual buffer for the mine site. Proposed mining area is well buffered

by existing trees and cannot be seen by the traveling public along Griggs Acres Road (SR 1101).

- (a) *Will the proposed use materially endanger the public health or safety?*

According to County Tax Maps, the nearest residential dwellings to the site are to the southwest in excess of 900'.

The dewatering model used in the hydrologic report is a simulation of an excavation to a depth of 25' with dewatering to -20' below MSL. The state dewatering permit allows the mine area to be dewatered to a depth of 25' below the natural ground, or -16' below MSL. The study concludes that the drawdown from the mine dewatering may influence the yields from shallow wells within a distance of 1,050'. Shallow wells with centrifugal pumps may experience a 20% to 25% reduction in the well yield. According to the report, there are three existing parcels, not including the Dominion Power site, within the 1,050' area of influence. At the present time none these lots are improved.

If the mining operations adversely affect an in use well through contamination or diminution of ground water, the applicant shall provide the well owner with a replacement water supply of equal quantity and quality.

The access road (haul road) currently serves as ingress/egress to the farmland and 3 residential lots.

Applicant estimates a maximum of 50 trips/day with an average of 16-20 trips/day.

"No Trespassing" signs must be posted at a minimum distance of 250' apart around the site to indicate a mining operation is being conducted on the property.

The Board of Commissioners shall establish the hours of operation for all mining activities on the site and may require additional buffers and screens in order to minimize negative impacts on adjoining properties and street right-of-ways.

- (b) *Will the proposed use substantially injure the value of adjoining or abutting property?*

The site has been mined for the past ten years. The property is surrounded by farmland, vacant commercial land, woodland, the Dominion Power site and a few improved residential lots. There approximately 75 lots within 1,000' of the Malco Mine site. 36 of the lots are developed. There are approximately 106 lots

within 1,500' of the Malco Mine site of which 50 are developed.

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

See the findings listed under Criteria "1", "a" and "b" above.

- (e) *Will the proposed use be in general conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the board?*

The 1990 Land Use Plan classifies this land as "Rural". The purpose of the rural classification is to provide for agriculture, forestry, mineral extraction and other allied uses traditionally associated with an agrarian region. Areas meeting the intent of this classification are appropriate for, or presently used for, agriculture, forestry, mineral extraction, and other uses, that due to their hazardous or noxious nature, should be located in a relatively isolated and undeveloped area. Therefore this proposal is consistent with the Land Use Plan.

The proposed site is located along Griggs Acres Road (SR 1101), a Local Road according to the 1988 Thoroughfare Plan.

- (f) *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.?*

Based on the proposed mining use, it will not exceed the county's ability to provide adequate public facilities.

STAFF RECOMMENDATION

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

1. If at any time the State permit issued for this mining operation is suspended or revoked, the suspension or revocation shall cause this Special Use Permit to become void;
2. No more than 30% of the total tract, or 13.83 acres, tract shall be excavated at any given time during the mining operation and after completion. This permit is allow the mining of Phase 2 for a total of 6.90 acres;
3. Any modifications to the State permits shall be filed within 10 working days of issuance or submittal in the Planning/Inspections Department of Currituck County;
4. This Special Use Permit shall be valid for a period of 10

- years from the date it is granted;
5. The maximum dewatering depth shall be 25' below natural ground or an elevation of -16 below MSL;
 6. The maximum mining depth shall be 34' below natural ground or an elevation of -25 below MSL;
 7. A benchmark shall be set proximate to the new mining area to establish the elevation of the natural ground. The benchmark location shall be shown on the mining site plan;
 8. The hours of operation of all mining related activities on this site, as determined by the Currituck County Board of Commissioners, shall be Monday through Friday from _____ a.m. to _____ p.m., Saturday from _____ a.m. to _____ p.m and no mining activity shall occur on Sunday;
 9. No mining activity shall take place in the 120' VEPCO power easement until a written agreement has been reached. The agreement shall be filed within 10 working days of issuance with the Planning/Inspections Department of Currituck County;
 10. Mined materials shall not be stored in excess of 25' in height;
 11. All roads utilized to access the mining site shall be maintained free of dust and sediment and shall be properly graded and drained;
 12. All trucks hauling mined materials shall be covered with a tarpaulin;
 13. Stockpile areas and overburden to be used for future reclamation shall be placed where it will not be disturbed by normal mining activities and shall be stabilized to reduce wind and water erosion;
 14. No bulk waste, hazardous waste, commercial waste, garbage, construction or demolition waste shall be placed on the site;
 15. Off-site discharging of water from the mine site is permitted under this permit. The County may take random samples and have the results tested for settleable solids, turbidity, and pH at the operator's expense. Such testing shall not exceed six tests per year;
 16. "No Trespassing" signs shall be posted around the site being mined at a minimum distance of 250 feet apart indicating that a mining operation is being conducted on the property;
 17. Reclamation shall be conducted simultaneously with mining operations. Annual reclamation reports shall be submitted to the Planning/Inspections Department of Currituck County within 10 days of being filed with the State;
 18. Drainage patterns shall not be altered so as to cause flooding off-site while the permit is valid and after reclamation;

19. All provisions of State and local permits issued for the operation shall be met;
20. No mining activities shall adversely affect surrounding in use wells. Any person owning or operating a mining site in a manner that adversely affects an in use well through contamination or diminution of groundwater shall provide the well owner with a replacement water supply or equal quantity and quality;
21. A reserve fund shall be established, to be held by the property owner, to finance the initial capital expenses of establishing the anticipated future lake use of the property. At a minimum, the estimated capital expense shall be an amount equal to \$1,000 times the number of acres in the total site. The reserve fund shall include an assumed inflationary rate of 5% per year for the expected life of the mining site. Any funds held by the State of North Carolina pursuant to G.S. 74-54 will be credited towards the required amount.
22. The owner shall place funds in the reserve annually in amounts equal to the capital cost estimates provided above divided by the number of years the mining site will be open.

a. The annual amount shall be calculated as follows:

46.1 acres x \$1,000 = \$46,100 - \$11,900 State Bond =
\$34,200 \$34,200/10 years = \$3,420;

Year + 5% Inflationary Rate:

Year 1	\$3,420.00
Year 2	\$3,580.50
Year 3	\$3,759.53
Year 4	\$3,947.50
Year 5	\$4,144.88
Year 6	\$4,352.12
Year 7	\$4,569.73
Year 8	\$4,798.21
Year 9	\$5,038.12
Year 10	\$5,290.03

23. The first payment shall be made prior to commencement of excavation activities and evidence of such payment, in the form of a notarized statement by the property owner, must be presented to the administrator. Such evidence shall be submitted annually, along with the total balance of reserve funds, to the administrator on or before the anniversary of the initial notarized statement. In the event the mining operation permanently discontinues before the expected timetable submitted, the owner shall pay all remaining amounts to the reserve fund as evidenced by a notarized statement to the administrator;
24. The reclamation shall be in accordance with the state approved reclamation plan; and
25. Should any conditions within this permit conflict with any

other permit issued for this activity, then the more restrictive condition shall prevail.

PLANNING BOARD RECOMMENDATION:

On September 14, 2004 the Planning Board reviewed this request and recommended approval (8-0) with the staff recommendation and the following conditions:

That the hours of operation shall be 7 am to 5 pm Monday through Saturday. On Saturdays between Memorial Day and Labor day, there shall be no hauling activity at the mine site.

That warning signs noting "Truck Entering Highway" be posted in both directions on Caratoke Highway before Griggs Acres Road.

Chairman O'Neal opened the public hearing.

Bobby Outten, Attorney, was present to answer questions.

There being no further comments, Chairman O'Neal closed the public hearing.

Commissioner Bowden moved to approve. Commissioner Gregory seconded the motion. Motion carried with Commissioner Martin voting no.

Further discussion on Motor Vehicle Dealerships and Repair businesses.

Commissioner Miller stated that there were 33 licensed auto dealers in the county and requested that staff bring back the UDO amendment for consideration at their November 15th meeting.

Appointment to Nursing Home Advisory Committee.

Commissioner Miller moved to appoint Ruth Phillips. Commissioner Gregory seconded the motion. Motion carried.

Consent Agenda:

Budget Amendments

Appointment of Jane Etheridge to Senior Center Advisory Board.

(Deleted from Agenda)

Resolution on Planning Review Officer appointment.

Proclamation to proclaim October 30 as Weatherization Day.

AARP Resolution

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

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10511-502000	Salaries	215,753	
10511-502100	Overtime	9,048	
10511-502200	Holiday	2,760	
10511-505000	FICA	17,409	
10511-506000	Health Insurance Expense	29,064	
10511-507000	Retirement	22,257	
10511-536000	Uniforms	13,548	
10511-532000	Supplies	3,300	
10511-514000	Travel	3,432	
10511-514500	Training & Education	600	
10511-545000	Contract Services	1,320	
10511-526000	Advertising	1,000	
10390-499900	Fund Balance Appropriated		319,491
		\$ 319,491	\$ 319,491

EXPLANATION: Jail (511) – Increase budgeted line items for additional staff requested to open the new Maple Detention Center. See Attachment for details.

NET BUDGET EFFECT: Operating Fund (10) - increased by \$319,491.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10795-503000	Part time Salaries	5,235	
10795-505000	FICA	401	
10390-499900	Fund Balance Appropriated		5,636
		\$ 5,636	\$ 5,636

EXPLANATION: Parks & Recreation (795) – Increase budgeted funds to allow part-time worker, previously funded partially through the Green Thumb program, to continue working part-time with the Parks and Recreation Department. The Green Thumb program will no longer carry part of this position.

NET BUDGET EFFECT: Operating Fund (10) - increased by \$5,636.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10750-519500	TANF Emergency Assistance	38	
10750-557700	Crisis Intervention	1,542	
10752-519600	Child Daycare	210,293	
10752-519601	Smart Start Daycare	9,204	
10752-519700	HCCBG In Home	27,165	
10390-499900	Fund Balance Appropriated	139,561	
10330-431600	Crisis Intervention		1,542
10330-432800	Daycare		374,497
10330-432200	HCCBG In Home		11,739
10750-558200	Independent Living Skills		25
		\$ 387,803	\$ 387,803

EXPLANATION: Social Services Administration (750) & Public Assistance (752) – To adjust budgeted line items to State funding authorizations.

NET BUDGET EFFECT: Operating Fund (10) – decreased by \$139,561.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
50510-594500	Contract Services - Prison	20,729	
50848-592005	Maple Prison Revovations		20,729
		\$ 20,729	\$ 20,729

EXPLANATION: Law Enforcement Center (50) – Transfer budgeted funds for additional fencing at the Law Enforcement Center as follows:

- Impound yard \$13,315
- 7' perimeter fence 2,000
- 10' section w/Razor wire 5,414
- \$20,729

NET BUDGET EFFECT: Governmental Construction Fund (50) – No change.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
50510-594500	Contract Services - Prison	18,770	
50848-592005	Maple Prison Revovations		18,770
		\$ 18,770	\$ 18,770

EXPLANATION: Law Enforcement Center (50) – Transfer budgeted funds to renovate former laundry/storage building at the Law Enforcement Center as per attached. This space will be used for office space.

NET BUDGET EFFECT: Governmental Construction Fund (50) – No change.

RESOLUTION

WHEREAS, GS 47-30.2 requires the Board of Commissioners in each county, by resolution, to appoint one or more persons as review officers to review plats before they are recorded; and

WHEREAS, appointed review officers shall certify that the plat meets the statutory requirements for recording; and

WHEREAS, the persons appointed as review officers should be experienced in mapping or land records management.

NOW, THEREFORE, BE IT RESOLVED, that the following individuals serving in the positions indicated are hereby designated as review officers as required by GS 47-30.1.

Gary Ferguson, Planning & Inspections Director
Cheryl Eggar, Planner
Tracy Sample, Tax Administrator
Donna Voliva, Planner
Lucy Cardwell, Tax Office
Tammy Glave
David Webb

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the individuals listed above, the Director of Planning & Inspections, Chief Planner and Planner and the Currituck County Register of Deeds.

**PROCLAMATION
OCTOBER AS AARP MONTH**

WHEREAS, AARP is the nation's leading organization for people age 50 and older, with over 35 million members nationally and over 900,000 members in North Carolina; and

WHEREAS, AARP North Carolina has over 1,358 volunteers statewide serving their local communities with financial and consumer education programs, voter education programs, free tax assistance, older driver improvement classes, health and long term care education events, and personal enrichment and socialization opportunities; and

WHEREAS, there are 79 local AARP chapters in the state, whose nearly 5,000 members actively support local community service programs that serve the elderly, the frail, and the children and whose members also provide important educational and social opportunities for the seniors in their communities; and

WHEREAS, AARP is an organization that offers a wide range of information and services to people 50 and older, including AARP *The Magazine*, the *AARP Bulletin*, and a wide range of consumer products and services specially designed to meet the needs of seniors; and

WHEREAS, AARP in North Carolina is an active and vital partner to the state and community organizations and agencies that strive to meet the compelling needs of persons 50 and older.

THEREFORE, the Board of Commissioners proclaims October 1-31, 2004, as "AARP Month in Currituck County" and urges all citizens to commend this observance and join in local AARP activities celebrating the value of the citizens of our community who are 50 and older.

Commissioner's Report

Commissioner Bowden requested a meeting with Planning Director.

Commissioner Martin requested all citizens to be informed and attend the public meetings on incorporation and unified government.

Commissioner Miller questioned staff about storm run-off grant and EMS at county sports.

Chairman O'Neal stated he is opposed to Corolla incorporating.

County Manager's Report

County Manager Scanlon stated that the Sheriff has moved into the new law enforcement building.

Adjourn

There being no further business, the meeting adjourned.