

CURRITUCK COUNTY
NORTH CAROLINA
MAY 2, 2005

The Currituck County Board of Commissioners met at 5:30 p.m. prior to the regular meeting with the Planning Board and Land Use Committee to discuss the Land Use Plan.

The Currituck County Board of Commissioners met on Monday, May 2, 2005, 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 Martin, and Commissioners Bowden, Miller, Etheridge, and O'Neal.

Invocation and Pledge of Allegiance

Bob Henley, was present to give the invocation.

Approval of Agenda

Commissioner O'Neal moved to delete Items 5 and 6 and to add to consent agenda a budget amendment and request to add a road to the state system. Commissioner Miller seconded the motion. Motion carried.

- Item 1 Approval of Agenda
- Item 2 Public Comment
Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.
- Item 3 Dick Hamilton, WRC, to review proposed bear legislation.
- Item 4 Public Hearing and Action on PB 84-11 Corolla Light PUD, Phase 3, Amended Preliminary Plat to construct a skateboard park at the Corolla Light Town Center located on Ocean Trail just north of Austin Street; Tax Map 115B, Lot 2P2B, Fruitville Outer Banks Township.
- Item 5 Public Hearing and Action PB 04-71 Swan Beach Corolla, LLC Amendment to UDO Section 127 to create off road historic Village Commercial Overlay Beach.
- Item 6 Public Hearing and Action on PB 04-72 Swan Beach Corolla, LLC. Rezone 25.77 acres from Residential Outer Banks Limited Access (RO2) to Village Commercial Overlay District on property located on Ocean Pearl Road north of intersection of Albatross Lane Swan Beach. Tax Map 101, Lot 1, and Tax Map 101A, Lots C & D Section 1, Fruitville-Outer Banks Township.
- Item 7 Action PB 04-17 Grandy Acres, Phase 2 Amended Preliminary Plat for 7 single family lots at the end of Betsy Court. Tax may 94, lot 172N, Poplar Branch Township
- Item 8 Public Hearing and Action on PB 05-02 Clay Clark Rezone ¼ acre from Heavy Manufacturing (HM) to Agricultural (A) on property located along Grandy Road Tax Map 108, Lot 56, Poplar Branch Township.
- Item 9 Public Hearing and Action PB 05-09 Christopher Rainwater Rezone .99 acres from Agricultural (A) to Residential (R) on property located on Grandy Road approximately 1,200' south of Summer Woods Road. Tax Map 108, Lot 62P, Poplar Branch Township.
- Item 10 Public Hearing and Action PB 05-05 OBX Rodeo Special Use Permit for a 2 day Rodeo event to be held on property on the north side of Riverlane Road, approximately 400' West of Caratoke Highway. Tax Map 110, Lot 79, Poplar Branch Township.
- Item 11 Consent Agenda:
Budget Amendments
Approval of March 21, April 4 and 18, minutes.
- Item 12 Commissioner's Report

Item 13 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 Martin opened the public comment period and allowed those that signed up for Items 5 and 6 Public Hearings to speak at this time.

Ron Darroch, Carova, opposes the request for commercial district.

Mark Kornechuk, Carova, opposes the request for commercial district.

Donna Snow, Corolla Wild Horse Fund, opposes commercial overlay district.

Nila Johnson, opposes commercial overlay district.

Gene Walters, opposes commercial overlay district.

Jack White, Winston Salem, opposes commercial district.

Abby Porter, NC Coastal Federation, Jan DeBlieu, opposes commercial district.

Chuck Sowers, opposes commercial district.

Bobby Harris, Camden County, supports Bear Legislation.

Garry Barco, supports Bear Legislation.

Wayne Twiford, submitted petition for Bear Legislation.

Carl Newton, Swan Beach, opposes commercial district.

John Larson, Heritage Museum Old Salem, opposes commercial district.

Commissioner Miller, expressed his concerns with recent news articles not being accurate.

Commissioner O'Neal, stated that the county has not hired a FBO for the airport. He also requested a letter to DOT for a stoplight at Edgewater Drive in Harbinger.

Chairman Martin, apologized to the people that had to travel to meeting and the items were canceled at the last minute.

There being no further comments, the public comment period was closed.

Dick Hamilton, WRC, to review proposed bear legislation.

Mr. Dick Hamilton, Executive Director, Wildlife Resources Commission, discussed the Bear Management Program and expressed his concerns with management by local law.

Mr. Hamilton met in the conference room with several of the bear hunters at the meeting and discussed what the best way to manage the bears was.

Commissioner O'Neal moved to request Representative Owens to present the legislation as written to the House for approval, to which the WRC would offer no opposition. If approved by the House the Board proposes that the bill cross over to the Senate but that it not be heard during this session. If at a later date, the Board still wishes to go forward with the bill as is, a request would be made to have it heard by the Senate during its short session. Commissioner Miller seconded the motion. Motion carried.

This course of action would provide WRC with the time to conduct a bear population study and bring a proposal to the Board for WRC to implement a standardized regional management plan.

Public Hearing and Action on PB 84-11 Corolla Light PUD, Phase 3, Amended Preliminary Plat to construct a skateboard park at the Corolla Light Town Center located on Ocean Trail just north of Austin Street; Tax Map 115B, Lot 2P2B, Poplar Branch Outer Banks Township.

Gary Ferguson, Planning Director, reviewed the request.

**ANALYSIS FOR THE BOARD OF COMMISSIONERS
MEETING DATE: MAY 2, 2005**

ITEM: PB 84-11 COROLLA LIGHT PHASE 3, AMENDED PRELIMINARY PLAT/SITE PLAN TO CONSTRUCT A SKATE PARK

LOCATION: On the east side of Ocean Trail, NC 12, centered within the Corolla Light Town Center formerly known as the Corolla Light Village Shops commercial area.

TAX ID: 115B-000-2P2B-0000

ZONING DISTRICT: R01/P.U.D. Commercial

OWNER:
Corolla Light Town Center, LLC
C/o Todd Ottenstein
P.O. Box 303
Corolla, NC 27927

APPLICANT/AGENT
Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Waste Water Treatment Plant - zoned R01
SOUTH: Single Family Residential - zoned R01/PUD
EAST: Single Family Residential - zoned R01/PUD
WEST: Single Family & Historic Whalehead Club - zoned R01 & R01/PUD

NARRATIVE OF REQUEST:

The applicant requests Amended Preliminary Plat/Site Plan approval to allow the construction of a skateboard park within the Corolla Light Town Center (a.k.a. Corolla Light Village Shops). The skateboard Park will be a 4,589 sf open concrete structure. It will contain a 4 foot and a 6 foot inter-connecting bowls with various ramps and jumps on the upper level of the skateboard park. There will be an 8 foot wood security fence with locking gate and no trespass signs around the perimeter of the skateboard park. The park will make use of the existing public handicapped accessible restrooms located in the adjacent building #7. Ocean Atlantic Rentals has an existing rental shop in Building #3 and is will be the operator of the Skateboard Park.

In conjunction with the skate park construction, the developer will construct 16 additional parking spaces and drive aisles. These improvements are proposed to be graveled.

STAFF COMMENTS:

The skate park will be located in the middle on the existing Corolla Light Town Center at building site #8. The applicant states that the skate park will not be visible from any public roads. The Town Center is a 6.83 acre site that has a commercial designation.

The owner of the Corolla Light Town Center has an additional Amended Preliminary Plat/Site Plan for the Corolla Light Town Center under review at this time. The additional changes in the center are for the development of the remaining of three building sites with approximately 24,000 sf of retail and restaurant and six - two bedroom apartments. The property owner and operator of the Skateboard Park are requesting this Preliminary Plat/Site plan approval at the present time so they can begin construction as soon as this Amended Preliminary Plat/Site Plan is granted approval.

The property owner has been recently making improvements to the site including enclosing the dumpster site with wood fencing and has cleaned up debris from the previous clearing of the site.

STAFF RECOMMENDATION

Staff recommends for **approval** subject the following conditions:

- 1) That the structure shall be constructed in accordance with the state building code;
- 2) That applicant will not erect any temporary signage for the proposed use;
- 3) That no building signage has been reviewed or approved as a part of this application;
- 4) That all required fire hydrants for the Corolla Light Town Center shall be installed according to the approved plans;
- 5) That the new drive aisle and parking area shall be paved;
- 6) That the Skateboard Park will be enclosed with an 8 foot high aesthetically pleasing privacy fence with locking gate and no trespass signs. That county approval is required for the type and style of non-chain link fencing surrounding the skate park;
- 7) That required landscape buffers and shading be installed in the new parking areas and drive aisles. That a Type "A" landscape buffer shall be installed along the pond's edge (residential land use on the other side of pond);
- 8) The applicant shall submit a landscaping plan for county approval;
- 9) That all areas where land disturbance has occurred shall be stabilized;
- 10) That the park shall be operated under all of the conditions which were approved under the Special Use Permit;
- 11) Preliminary plat approval shall remain valid for 24 months. If after one year of approval, if no work has commenced, the preliminary plat will not retain a vested right against any amendment to the UDO which would cause the plat as approved to be in violation of any of the UDO provisions. The developer may request a maximum two year extension on the plat approval prior to the expiration of the preliminary plat approval;
- 12) The applicant shall meet all requirements of the county's Unified Development Ordinance, including but not limited to, parking spaces, landscaping, shading, not exceeding maximum building height, lighting, etc;
- 13) 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, a current copy of which will be filed in the office of the Planning and Inspections Department; and
- 14) That as a continuing condition to this approval, the applicant will continue to meet all requirements of the county's Unified Development Ordinance.

Chairman Martin opened the public hearing.

John Herlig, reviewed the drainage issues.

Greg Honeycutt, was available to answer any questions.

Pat Lewis, Manager of the skate park, was present to support.

Todd Ottenstein, Developer, stated that the drainage issues have been addressed.

There being no further comments, the public hearing was closed.

Commissioner O'Neal moved to approve with findings of fact. Commissioner Etheridge seconded the motion. Motion carried.

Public Hearing and Action PB 04-71 Swan Beach Corolla, LLC Amendment to UDO Section 127 to create off road historic Village Commercial Overlay Beach.

Deleted

Public Hearing and Action on PB 04-72 Swan Beach Corolla, LLC. Rezone 25.77 acres from Residential Outer Banks Limited Access (RO2) to Village Commercial Overlay District on property located on Ocean Pearl Road north of intersection of Albatross Lane Swan Beach. Tax Map 101, Lot 1, and Tax Map 101A, Lots C & D Section 1, Fruitville-Outer Banks Township.

Deleted

Action PB 04-17 Grandy Acres, Phase 2 Amended Preliminary Plat for 7 single family lots at the end of Betsy Court. Tax may 94, lot 172N, Poplar Branch Township

Gary Ferguson, Planning Director, reviewed the request.

LOCATION: At the end of Betsy Court, approximately 450' from its intersection with Poplar Branch Road, Poplar Branch Township.

ZONING DISTRICT: Residential

OWNER:	APPLICANT/AGENT
Johnny R. McCandless	Hyman & Robey, PC
P.O. Box 111	150-A U.S. Hwy 158 East
Jarvisburg, NC 27947	Camden, NC 27921

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Vacant - zoned R (proposed Tucker's Lair subdivision)

SOUTH: Residential - zoned R

EAST: Residential - zoned R

WEST: Vacant - zoned R & GB

NARRATIVE OF REQUEST:

In April 2004, the Board of Commissioners granted Sketch Plan approval for a seven lot subdivision. Due to soil unsuitability for septic systems, in August 10, 2004, the applicant only presented four lots for Preliminary Plat approval. The BOC approved the Preliminary Plat on September 7, 2004.

Since the Preliminary Plat approval, the drainage improvements have been installed including side lot line swales. The three lots which failed the initial soil evaluation, and were not included in the Preliminary Plat approval, were re-tested in February of this year, and were found to be acceptable for septic systems.

Johnny McCandless is seeking Amended Preliminary Plat approval to add the remaining three lots to the rest of the development. This will bring the total of approved lots for Preliminary Plat to seven. The total acreage of the entire development is approximately 7.57 acres.

This property is zoned Residential, therefore the minimum lot size required utilizing a conventional layout is 40,000 sq. ft. Lot sizes within this development range from approximately 40,000 sf to 56,550 sf. Since the subdivision consists of less than 20 lots, no open space is required or provided.

The subdivision will have one point of entry onto Poplar Branch Road. The lots will front on an extension of Betsy Court, a private gravel road which will be upgraded to NCDOT standards. All of the lots have been approved for individual septic systems and the developer will be required to install a waterline and a fire hydrant.

OTHER IMPORTANT ELEMENTS TO THIS PLAN:

STREETS: All of the proposed lots will front on Betsy Court. The existing Betsy Court is a private gravel road which will be improved to NCDOT standards out to Poplar Branch Road, an existing NCDOT maintained right-of-way.

WATER: This development will be served by county water.

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

WASTEWATER: All lots have been approved for Individual, on-site septic systems.

- OPEN SPACE:** No open space is required or provided.
- DRAINAGE:** Roadside and property line swales/ditches are being used to address the drainage for this property.
- FLOOD ZONES:** This development is outside of the 100 year flood zone (Flood Zone C).

STAFF COMMENTS:

- The Sketch Plan/Special Use Permit for this development was approved by the Board of Commissioners on April 5, 2004 for 7 lots. Preliminary Plat approval for 4 lots was granted on September 7, 2004
- The 7 Lot preliminary Plat was reviewed by the Technical Staff on July 8, 2004. At the TRC meeting, the primary concern was with location of water meters, blow-off assembly and fire hydrants; clarification of drainage swales and easements; correct the street cross section to show a 45' right-of-way; and the need to re-grade the existing ditch along the northern property line. The Preliminary Plat was revised to address concerns expressed by the Technical Review staff including the drainage issues which were resolved to the satisfaction of the County Engineer and the Soil & Water Conservation District.
 - (a) County Engineer - reviewed & approved
 - (b) Soil Conservation Service - reviewed & approved
 - (c) Fire Marshal - reviewed & approved
 - (d) County Water Department - reviewed & approved
 - (e) Health Services - reviewed & approved
 - (f) Lower Currituck VFD Fire Chief - no comments received
 - (g) County Mapper - approved as is
 - (h) Emergency Management - approved as is
 - (i) County Dept. of Recreation - reviewed with no comment
 - (j) NCDEHNR, Land Quality - reviewed and approved the Erosion and Sedimentation Control Plan; letter of approval has been issued
 - (k) NCDEHNR, Water Quality - reviewed and approved a Low Density Stormwater Permit
 - (l) NCDEHNR, Public Water Supply Section - reviewed and approved a permit for the authorization to construct the waterlines
 - (m) NCDOT - reviewed and issued a driveway permit.
 - (n) Phone Company - no comments received
 - (o) Superintendent of Schools - reviewed with no comments
 - (p) N C Power - no comments received
 - (q) CAMA - no comment; not within CAMA's jurisdiction
 - (r) USACOE - no comments; not within USACOE jurisdiction
- Following corrections shall be made to the Preliminary Plat:

- (1) Total Site Area shall be corrected to 7.56 ac
- (2) Total Lot Area shall be corrected to 6.92 ac
- (3) Certificate of Survey needs to be completed
- (4) Legend and Plan - Call the easement designation as utility and drainage easement
- (5) Note for Utility easements in box - need to state "except as shown on plan"
- (6) Sheet 2 - Update note 13 to include all lots.

STAFF RECOMMENDATION:

Staff recommends **approval** subject to the following conditions:

1. That the following corrections be made to the plans:
 - (a) Certificate of Survey needs to be completed
 - (b) Total Area shall be corrected to 7.56 ac
 - (c) Total Lot Area shall be corrected to 6.92 ac
 - (d) Certificate of Survey needs to be completed
 - (e) Legend and Plan - Call the easement designation as utility and drainage easement
 - (f) Note for Utility easements in box - need "except as shown on plan"
 - (g) Sheet 2 - Update Lot 13 to include all lots
2. ***That the corrected Preliminary Plat be submitted and approved by the Planning Department prior to the Board of Commissioners meeting.*** To be scheduled for the first BOC meeting of the following month, the corrected plans must be submitted to the Planning Department within one week of the Planning Board meeting.
3. That street trees shall be planted on both sides of the street in accordance with Section 513(1) of the Unified Development Ordinance prior to submission for final plat approval.
4. That the required water and street improvements be installed and accepted prior to submittal for Final Plat approval.
5. That the drainage improvements shall be installed and certified prior to submission for final plat approval.
6. Preliminary plat approval shall remain valid for 24 months. If after one year of approval, no work has commenced, the preliminary plat will not retain a vested right against any amendment to the UDO which would cause the plat as approved to be in violation of any of the UDO provisions. The developer may request a maximum two year extension on the plat approval prior to the expiration of the preliminary plat approval.
7. 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, a current copy of which will be filed in the office of the Planning and Inspections Department.

8. That should any conditions within this permit conflict with any other permit(s) issued for this activity, then the more restrictive condition shall prevail.

PLANNING BOARD On April 12, 2005 the Planning Board
RECOMMENDATION: reviewed this request and recommended approval.

PLANNING BOARD DISCUSSION:

Mr. Kovacs stated that ARHS denied because the lots weren't suitable.

Mr. Ferguson said that the water table was lowered and the lots perked.

Mr. Hawley asked if the drainage ditches were going to the highway.

Mr. Ferguson said that they are draining toward Poplar Branch Rd.

Mr. Hawley asked if the drainage ditches were on Betsy Court.

Mr. Kear said yes.

Mr. Kovacs motioned to approve the request as presented. Mr. Riley seconded the request. Motion passed unanimously.

Commissioner O'Neal moved to approve. Commissioner Bowden seconded the motion. Motion carried.

Public Hearing and Action on PB 05-02 Clay Clark Rezone ¼ acre from Heavy Manufacturing (HM) to Agricultural (A) on property located along Grandy Road Tax Map 108, Lot 56, Poplar Branch Township.

Gary Ferguson, Planning Director, reviewed the request.

TYPE OF REQUEST: Rezone .25 acre lot from HM (Heavy Manufacturing) to A (Agricultural).

PURPOSE OF REQUEST: To build a conforming structure (house) in a zone that permits this use.

LOCATION: This site is located in Poplar Branch on the east side Grandy Road (SR 1125) approximately 825' north of Nathan Drive (Oakwood Subdivision) and approximately 250 feet south of Butler Lane.

TAX ID: Map 108, Parcel 56.

APPLICANT: Clay Clark, 551 Grandy Road, Grandy, NC 27939
(252) 491 4273

ZONING: Current HM (Heavy Manufacturing) Proposed A (Agricultural)

ZONING HISTORY: Property has been zoned HM (Heavy Manufacturing) since 1989.

SURROUNDING

ZONING/LAND USE:	<u>Zoning</u>	<u>Land Use</u>
NORTH:	HM (Heavy Manufacturing)	R (Residential)
SOUTH:	A (Agricultural)	R (Residential)
EAST:	A (Agricultural)	R (Residential)
WEST:	A (Agricultural)	R (Residential)

EXISTING LAND USE: Wooded parcel with no buildings.

LAND USE PLAN: The 1990 Land Use Plan shows this property as "Rural". This class is intended for residential developments with low density of approximately one unit per gross acre with on site water and sewer. This rezoning is Consistent with the Land Use Plan.

TRANSPORTATION: Property has approximately 110 feet of frontage on Grandy Road, (NC 1125) classified as a Minor Arterial in the 1988 NCDOT Thoroughfare Plan.

PUBLIC SERVICES AND UTILITIES: Lower Currituck South Volunteer Fire Department provides fire protection for this area. County water, electric, telephone and cable are currently available at this location.

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

SOILS: According to the Currituck County Soil Survey, the property consists of Conetoe loamy sand which consists of well drained soils that are favorable for septic systems. On-lot septic system permits are being issued for the surrounding new home construction.

STAFF COMMENTS:

- The lot is sandwiched on all sides with residential development. The Oakwood Subdivision of 16 lots is approximately 825 feet to the South on Grandy Road (SR 1125) and is completely built out.

- All the contiguous land is zoned as Agricultural including west, cross Grandy Road.
- Since 1989, effective date of the current UDO, several lots in the surrounding area have been rezoned to allow single family residential development.

STAFF RECOMMENDATION:

Staff recommends approval of this application for the following reasons:

1. Proposed rezoning is compatible with surrounding land use.
2. The proposed rezoning is consistent with the Land Use Plan.

PLANNING BOARD RECOMMENDATION:

On April 12, 2005 the Planning Board reviewed this request and recommended approval.

PLANNING BOARD DISCUSSION:

Mr. Hawley asked if the property needed to be 3 acres to be rezoned.

Mr. Kear said no because it is an existing lot of record and the zoning change doesn't affect this parcel.

Mr. Riley motioned to approve the request as presented. Mr. Etheridge seconded the request. Motion passed unanimously.

Chairman Martin opened the public hearing.

Starkey Sharp, Attorney, reviewed the request.

Chairman Martin closed the public hearing.

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

Public Hearing and Action PB 05-09 Christopher Rainwater Rezone .99 acres from Agricultural to Residential on property located on Grandy Road approximately 1,200 south of Summer Woods Road, Tax Map 108, lot 62P, Poplar Branch Township.

Gary Ferguson, Planning Director, reviewed the request.

**Zoning Staff Report: PB 05-09
Christopher Rainwater Rezoning**

TYPE OF REQUEST: Request for rezoning a 43,303 sf lot from Agricultural (A) to Residential (R).

LOCATION: This site is located in Grandy along the east side of Grandy Road, approximately 800' north of Butler Lane; Poplar Branch Township.

TAX ID: TM 108, Parcel 62P

PROPERTY OWNER: Christopher Lee Rainwater

APPLICANT: Christopher Lee Rainwater

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Agricultural	Residential

ZONING HISTORY: Property has been zoned Agricultural since 1989.

SURROUNDING ZONING/LAND USE:

NORTH:	Agricultural/Farmland
SOUTH:	Agricultural/Woodland
EAST:	Agricultural/Farmland
WEST:	Agricultural/Farmland

EXISTING LAND USE: Farmland/vacant

PROPOSED LAND USE: The applicant wishes to construct a single family home on the site. Since the lot was not legally created, the placement of a home is prohibited.

LAND USE PLAN: The property is classified as "Rural" in the 1990 Land Use Plan. The "Rural" area described in the LUP calls for "low density dispersed single-family residential uses at a gross density of approximately one unit per acre." This rezoning is consistent with the Land Use designation.

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

TRANSPORTATION: Property has approximately 150' of frontage on Grandy Road which is classified as a Minor Collector in the 1988 NCDOT Thoroughfare Plan.

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

SOILS: According to the Currituck County Soil Survey, the property is composed soils which are considered marginally acceptable for conventional septic systems.

STAFF COMMENTS:

- In August 1989 the previous landowner began subdividing the 190 acre tract without going through the proper subdivision review process. Many of the divisions were for lots in excess of 10 acres which are exempt from the County's Subdivision regulations, yet are still required to be reviewed and approved by a Review Officer for recordation.
- In December 1993 a boundary survey was recorded and a 36 acre parcel was transferred. The boundary survey isolated a one acre parcel from the remaining portion of the residual parcel. Due to the creation of the smaller lot, this land division was not eligible to be considered an exempt subdivision. Since the land division did not go through the proper county review, an illegal lot was created.
- Prior to the applicant purchasing the property, staff was requested to research why the property was not eligible for a building permit. As mentioned above, it was determined that the property was not a legal lot of record since it was not legally created.
- After the research was completed, staff recommended that the property owner apply for a variance to allow a lot smaller than three acres to be created in the Agricultural zone, instead of pursuing the rezoning route. Since the "new" lot would not be entitled to an administrative review, the next course of action would be to process the single lot as a major subdivision.
- In December the applicant went before the Board of Adjustment (BOA) for a lot size variance. The applicant's request was withdrawn by their attorney since it was determined that there was a conflict of interest due to the BOA and applicant's attorneys being from the same firm.
- The nearest Residential zoned property is approximately 1,900' south of the site, yet there are a few existing lots smaller than 3 acres proximate to the subject property.
- The property is only 43,303 sf and Staff considers this to be spot zoning.

**STAFF
RECOMMENDATION:**

Although the proposed rezoning would be consistent with the Land Use Plan, this property is only 43,300 sf in size and is not contiguous to a Residential zoning district. Staff recommends denial of this application on the basis of spot zoning especially since there is relief to the property owner through pursuing a variance.

**PLANNING BOARD
RECOMMENDATION:**

On April 12, 2005 the Planning Board reviewed this request and recommended approval.

PLANNING BOARD DISCUSSION:

Mr. Keel asked what size the contiguous lots are.

Mr. Sharp said that the BOA issue was that there was no conflict of interest but that the BOA attorney said he must go to the BOC since this was a self imposed hardship

Mr. Sharp said that this is not spot zoning since other houses are there now with even smaller lots. This is in conformance with other similar lots are there and the owner wants to make something legal that is illegal.

Mr. Doxey said that he received the deed to the parcel from the owner and was not advised that this lot was illegal and he does not oppose the lot being rezoned. He does not feel this lot is spot zoning because the lots around it are zoned residential.

Mr. Sharp said that this situation is unique and the people who acted illegally are not involved and that the new property owner is the one who will suffer.

Mr. Bell said that the board has historically been against spot zoning.

Mr. Hawley said the board is splitting hairs and should bend a little.

Mr. Ferguson said that if the board is for upholding the rules, the board should deny. If they are here to help the citizens, they can approve it even though it breaks the rules.

Mr. Hawley motioned to approve the request as presented. Mr. Etheridge seconded the request. Motion passed 8-1 with Mr. Keel voting no.

Chairman Marin opened the public hearing.

Starkey Sharp, Attorney, reviewed the request.

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

Commissioner O'Neal moved to approve. Commissioner Etheridge seconded the motion. Motion carried.

Public Hearing and Action PB 05-05 OBX Rodeo Special Use Permit for a 2 day Rodeo event to be held on property on the north side of Riverlane Road, approximately 400' West of Caratoke Highway. Tax Map 110, Lot 79, Poplar Branch Township.

Deleted

Consent Agenda:

Budget Amendments

Approval of March 21, April 4 and 18, minutes.

Request DOT to add Jerrod Road to State System

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

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10640-532000	Supplies	\$ 2,500	\$
10640-516000	Repairs & Maintenance		1,500
10640-511000	Telephone & Postage		1,000
		\$ 2,500	\$ 2,500

EXPLANATION: Cooperative Extension (640) – Transfer budgeted funds to supplies to be used for news letterhead and copies, which have been used more due to increased bulk mailings to residents.

NET BUDGET EFFECT: Operating Fund (10) – No change.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10530-533900	Ambulance supplies	\$ 5,000	\$
10530-526000	Advertising		1,000
10530-516000	Repairs & Maintenance		4,000
		\$ 5,000	\$ 5,000

EXPLANATION: Emergency Medical Services (530) – Transfer budgeted funds to ambulance supplies in order to equip the new ambulance.

NET BUDGET EFFECT: Operating Fund (10) – No change.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10760-532900	Adoption Assistance	\$ 9,000	\$
10330-430200	Adoption Assistance		9,000
		\$ 9,000	\$ 9,000

EXPLANATION: County Assistance (760) – To increase budgeted line items due to increase in State funding.

NET BUDGET EFFECT: Operating Fund (10) – Increased by \$9,000.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10390-499900	Fund Balance Appropriated	\$ 7,269	\$
10560-545000	Contract Services		1,795
10330-430600	Elderly & Disabled Transportation		5,474
		\$ 7,269	\$ 7,269

EXPLANATION: Inter-County transportation (560) – To adjust budgeted line items to match State funding.

NET BUDGET EFFECT: Operating Fund (10) – Decreased by \$7,269.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10510-511000	Telephone & Postage	\$ 1,000	\$
10510-531000	Gas, Oil, Etc	33,000	
10510-545000	Contract Services	1,000	
10510-502100	Sheriff Overtime	22,500	
10510-505000	Sheriff FICA	1,951	
10510-507000	Retirement	1,219	
10510-508000	Supplemental Retirement	1,275	
10511-547000	Meals		36,831
10511-513000	Utilities		7,500
10511-503000	Salaries - Part time		15,000
10511-505000	Jail FICA		1,147
10511-507000	Retirement		1,467
		\$ 61,945	\$ 61,945

EXPLANATION: Sheriff (510) & Jail (511) – To transfer budgeted funds between line items of the Sheriff and Jail to cover unanticipated expenses associated with moving to the new Law Enforcement facility and to increase Sheriff overtime for special assignments and ATV Patrol during May and June.

NET BUDGET EFFECT: Operating Fund (10) – No change.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10512-531000	Gas, Oil, Etc	\$ 1,500	\$
10512-513000	Utilities		1,500
		\$ 1,500	\$ 1,500

EXPLANATION: Animal Control (512) – To transfer budgeted funds to gas, oil, etc needed for fuel for the remainder of the year due to continuing increases in fuel prices.

NET BUDGET EFFECT: Operating Fund (10) – No change.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10550-503000	Salaries - Part time	\$ 20,738	\$
10550-516000	Repairs & Maintenance	2,028	
10550-531002	Aviation Fuel	20,000	
10550-532000	Supplies	500	
10550-502000	Salaries - Full time		20,738
10550-506000	Insurance Expense		500
10550-507000	Retirement Expense		2,028
10350-467100	Aviation Fuel		20,000
		\$ 43,266	\$ 43,266

EXPLANATION: Airport (550) – Transfer budget funds from full-time to part-time salaries because funds were originally appropriated for one full-time employee and the operations could be covered more effectively by hiring three part-time employees. Also, transfer funds to increase repairs and maintenance for emergency repair of the Jet A fuel assembly and increase supplies necessary for operations due to increase use of facility. Increase line item for fuel due to increases in fuel prices and increase in activity at the airport.

NET BUDGET EFFECT: Operating Fund (10) – Increased by \$20,000.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
63838-545002	Disposal Fees	\$ 200,000	\$
63838-571500	Recycling	80,000	
63360-470000	Utilities Charges		280,000
		\$ 280,000	\$ 280,000

EXPLANATION: Solid Waste (63838) – Increase budget line items for disposal fees and recycling due to increase in population and volume of refuse.

NET BUDGET EFFECT: Solid Waste Fund (63) – Increased by \$280,000.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10460-514000	Travel	\$ 1,000	\$
10460-514500	Training & Education	1,000	
10460-521000	Rent		2,000
		\$ 2,000	\$ 2,000

EXPLANATION: Public Works (460) – Transfer budgeted funds for continuing education for certification classes for sewer operator and engineer.

NET BUDGET EFFECT: Operating Fund (10) – No change.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
15446-532000	Supplies	\$ 1,120	\$
15446-545000	Contract Services	2,500	
15446-590000	Capital Outlay	19,700	
15380-481000	Investment Earnings		23,320
		\$ 23,320	\$ 23,320

EXPLANATION: Tourism (15446) – Increase budgeted line items for the following items for the Visitor’s Center at Corolla:

- Six stainless steel shelves \$2,700
- Two benches for exterior of building 8,000
- One brochure rack 3,000
- One cabinet/map holder 3,000
- Conference table with eight chairs 3,000

- Move key card reader to exterior door 2,500
- Other miscellaneous supplies 1,120

NET BUDGET EFFECT: Occupancy Tax Fund (15) – Increased by \$23,320.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
10775-532000	Supplies	\$ 900	\$
10775-590000	Capital Outlay		900

\$ 900 \$ 900

EXPLANATION: Senior Citizens Center (775) – Transfer budgeted funds from Capital outlay to purchase a portable shuffle board.

NET BUDGET EFFECT: Operating Fund (10) – No change.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
51390-495042	Transfer from Transfer Tax	\$ 386,664	\$
51380-425000	Public School Cap Bldg Fund		386,664
		\$ 386,664	\$ 386,664

EXPLANATION: School Construction (51) – Decrease transfer tax funds used for the Moyock Elementary School addition and use funds available as of April 25, 2005 through the Public School Capital Building fund for this project.

NET BUDGET EFFECT: School Construction Fund (51) – No change.

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEBIT</u>	<u>CREDIT</u>
50510-594500	Contract Services -Prison	\$ 15,000	\$
50510-597000	Reimbursable Expenses	1,000	
50380-481000	Investment Earnings		16,000
		\$ 16,000	\$ 16,000

EXPLANATION: Governmental Facilities Construction (50) – Increase budgeted line items for completion of the Maple Law Enforcement Center which will be funded through increased earnings on investments.

NET BUDGET EFFECT: Governmental Facilities Construction Fund (50) – Increased by \$16,000.

**COUNTY OF CURRITUCK
CAPITAL PROJECT ORDINANCE**

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

SECTION 1. The project authorized is to purchase mobile classroom units for the Currituck High School to be financed by currently available financial resources.

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

Contract Services	\$	150,000
		<hr/>
	\$	<u>150,000</u>

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

Fund Balance	\$	
Fund balance appropriated		150,000
		<hr/>
	\$	<u>150,000</u>

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

SECTION 5. SPECIAL APPROPRIATIONS AND RESTRICTIONS

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

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

SECTION 6. CONTRACTUAL OBLIGATIONS

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

- a. He may execute contracts for construction or repair projects which do not require formal competitive bid procedures.
- b. He may execute contracts for (1) purchases of apparatus, supplies, and materials, or equipment which are within the budgeted departmental appropriations; (2)

leases of personal property for a duration of one year or less and within budgeted departmental appropriations; and (3) services which are within budgeted departmental appropriations.

- c. He may execute contracts, as the lessor or lessee of real property, which are of a duration of one year or less which are within the budgeted departmental appropriations.

SECTION 7. USE OF BUDGET ORDINANCE

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

Commissioner's Report

Commissioner Bowden reviewed what was previously commercial business in Carova. He also commented on the number of citizens that participated in the Land Use Plan.

Commissioner O'Neal stated that the people who rent their houses in Carova are conducting a commercial business. He also requested a review of the UDO and for someone to investigate the fill on Snowden Road.

Commissioner Etheridge commented on having a survey for the Land Use Plan.

Commissioner Miller requested update on Shingle Landing Bridge and letter; and he requested the Board to discuss 5 lot subdivisions at a later meeting.

Chairman Martin requested the county to request a DMV office in Currituck County.

County Manager's Report

County Manager Scanlon reminded the Board about a budget work session on Wednesday.

There being no further business, the meeting adjourned.