

CURRITUCK COUNTY  
NORTH CAROLINA  
AUGUST 20, 2007

The Board met at 6:00 p.m. in the conference room to discuss the Kitty Hawk Kite lease agreement, ATV Ordinance and Noise Ordinance.

The Board of Commissioners met on August 20, at 7:00 p.m. for its regularly scheduled meeting at the Historic Courthouse in the Commissioners Meeting Room with the following members present: Chairman Nelms, Commissioners Bowden, Gregory, Taylor and Etheridge.

### **Invocation and Pledge of Allegiance**

Reverend Steve Castle was present to give the invocation.

### **Approval of Agenda**

Chairman Nelms amended the agenda to delete Items 4, 7, 9 and add Item 2A, recognition of fire departments. Commissioner Gregory 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            **Public Hearing to receive comments on a proposed resolution and map redefining County Commissioner residency districts.**
- Item 4            **Paul O'Neal, update** on College of the Albemarle
- Item 5            **Public Hearing & Action on PB 07-51 CURRITUCK COUNTY UDO AMENDMENT-SIDEWALKS IN SUBDIVISION** Text Amendment to UDO section 914 Streets, to require sidewalks on both sides of the street in subdivisions greater than 20 lots.
- Item 6            **Public Hearing & Action on PB 07-43 CURRITUCK COUNTY UDO AMENDMENT- PERK TESTS** Text Amendment to the UDO to delete perk test requirements for minor subdivision.
- Item 7            **Public Hearing & Action PB 07-59 CURRITUCK COUNTY UDO AMENDMENT- PRD & PUD WASTEWATER** Text Amendment to the UDO to clarify PRD & PUD wastewater requirements.
- Item 8            **Public Hearing & Action on PB 07-38 WRIGHT/LIPMAN REZONING:** Request to rezone approximately 48 acres of a 124 acre property from Agricultural (A) to Residential (R). The property is located at 1118 Forbes Road, approximately 3/10th of a mile east of the intersection with Caratoke Highway, Tax Map 111, Parcel 2, Poplar Branch Township.
- Item 9            **Public Hearing & Action on PB 06-24 LAUREL WOODS ESTATES** Sketch Plan/Special Use Permit for a 160 lot Conservation Subdivision on property located at on the west side of Caratoke Highway, ½ mile north of the intersection with Bells Island Rd. Tax Map 50, Lots 70A, 70B, Crawford Township.
- Item 10           **Discussion on** Corolla Community Building

- Item 11        **Appointment to** Community Child Protection Team & Community Fatality Protection Team Membership
- Item 12        **Appointment to** Stormwater Advisory Board
- Item 13        **Consent Agenda:**
- 1. Budget Amendments
  - 2. Approval of North Elementary School Change Order No. 1
  - 3. Albemarle Mental Health Center's Quarterly Fiscal Monitoring Report
  - 4. Re-appointment of Mike Doxey to Albemarle RC&D Council
- Item 14        Commissioner's Report
- Item 15        County Manager's Report
- Item 16        **Closed Session:**  
According to GS 143-318.11(5) to discuss land acquisition

**Public Comment**

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

Chairman Nelms opened the public comment period.

Ed McCarthy, Corolla, commended the Board for the Corolla Seal program and the new library expansion.

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

**Recognition of Corolla, Crawford, Moyock and Lower Currituck Volunteer Fire Departments.**

Chairman Nelms presented a plaque in recognition of the Departments hard work in bringing down their ISO rating.

**Public Hearing to receive comments on a proposed resolution and map redefining County Commissioner residency districts.**

Dan Scanlon, County Manager, reviewed Map E the proposed by the Board to redefine County Commissioner residency districts.

Chairman Nelms opened the public hearing.

Gwenn Cruickshanks, commended the County Manager on his presentation and supports Map E.

Dan Shytles, presented a letter he read for the minutes. He questioned how the Board can argue that the last process by the previous Board involving thousands of residents was not reflective of the public's will.

Annette Argandona, presented her statement for the record which questioned Map E because of the great discrepancy in population.

John Rorer, presented his statement for the record which he stated that the public was duly educated regarding the referendum and concerns that a handful of Commissioners can overturn a decision of thousands that voted.

Charlotte Martin, stated that when this Board took office, Chairman Nelms publicly claimed the process of redistricting under the previous BOC was illegal and initiated a request form the Attorney General's office and why it was not made public.

Chairman Nelms stated he reviewed the last Board's decision and looked at the tapes of the meetings and stated that there were no public hearings and no public input on this decision.

Mo Moore, supports Map E and is fair to everyone.

Roy Sawyer, stated that there was no public hearing before this and commended the Board on providing public hearings. He supports Map E.

John Snowden, questioned the dividing line in Maple.

Fannie Newbern, supports Map E.

Paula Lipman, thanked the Board and Manager for the presentation and supports Map E.

Herb Robbins, thanked the Board and commended the County Manager on the presentation. He supports Map E.

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

**Paul O'Neal, update on College of the Albemarle**

**deleted**

**Public Hearing & Action on PB 07-51 CURRITUCK COUNTY UDO AMENDMENT-SIDEWALKS IN SUBDIVISION Text Amendment to UDO section 914 Streets, to require sidewalks on both sides of the street in subdivisions greater than 20 lots.**

David Webb, Chief Planner, reviewed the amendment.



**MEMORANDUM**

To: Board of Commissioners

CC: Dan Scanlon, County Manager  
Ike McRee, County Attorney

FROM: David Webb, AICP  
Chief Planner

DATE: August 10, 2007

SUBJECT: PB 07-51 Sidewalks in Subdivisions

The Planning Board requested staff draft an amendment to the UDO to require sidewalks on both sides of the street in major subdivisions 20 lots or greater. The UDO currently requires sidewalks on one side of the street for 41 lots or more. Enclosed please find a text amendment as recommended by the Planning Board and staff.

The following are adopted statements from the Land Use Plan relevant to the county's policy on sidewalks:

POLICY CD8: MIXED-USE DEVELOPMENTS, properly planned from the outset, which allow for a compatible mixture of residential and non-residential uses with a pedestrian scale and design, are encouraged. Similarly, businesses may be located adjoining (and therefore convenient to) an existing residential area, when such businesses can be shown to satisfy design considerations similar to a newly planned, pedestrian-scaled, mixed use development.

POLICY TR8: Local streets shall be designed and built to allow for convenient CIRCULATION WITHIN AND BETWEEN NEIGHBORHOODS and to encourage mobility by pedestrians and bicyclists. Care shall be taken to encourage local street "connectivity" without creating opportunities for cut-through traffic from outside the connected areas.

POLICY TR9: BIKEWAY FACILITIES shall be encouraged as energy-efficient, healthful, and environmentally sound alternatives to the automobile. The inclusion of bikeways, sidewalks, trails, and other alternatives to the automobile shall be encouraged in both public and private developments.

The amendment is attached. Please contact me if you have any questions.

**Planning Board Discussion**

Mr. West if this is in place of walking paths.

Mr. Webb said that it would be in addition to a path.

Mr. Kovacs stated that Currituck Reserve is the only subdivision that has come in with sidewalks on both sides of the street.

**Planning Board Action**

Ms. Turner motioned to approve the request with the minimum lots changed from 40 to 20. Mr. Winter seconded the motion. Motion passed unanimously.

**Sidewalks in Subdivisions**  
PB 07-51  
CURRITUCK COUNTY PLANNING BOARD  
UDO AMENDMENT REQUEST

Text Amendment to UDO section 914 Streets, to require sidewalks on both sides of the street in subdivisions greater than 40 lots.

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:**

**Section 914 Streets**

9. Within all residential subdivisions over ~~40~~ **19** lots, the subdivider shall be required to install concrete sidewalks along ~~one side~~ **both sides** of all proposed streets in accordance with NCDOT regulations, except in the RO2 District.

**Item 2:**

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

Chairman Nelms opened the public hearing.

Willo Kelly, Homebuilders Assoc., questioned stormwater management with sidewalks and the added cost to developer.

Commissioner Taylor questioned the expense of sidewalks on both sides.

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

Commissioner Bowden moved to approve. Chairman Nelms seconded the motion. Motion carried with Commissioner Taylor voting no.

**Public Hearing & Action on PB 07-43 CURRITUCK COUNTY UDO  
AMENDMENT- PERK TESTS Text Amendment to the UDO to delete  
perk test requirements for minor subdivision.**

David Webb, Chief Planner, reviewed the amendment.



Currituck County

Department of Planning and Inspections

Post Office Box 70

Currituck, NC 27929

252-232-3055 /Fax 252-232-3026

**MEMORANDUM**

TO: Board of Commissioners

CC: Dan Scanlon, County Manager  
Ike McRee, County Attorney

FROM: Planning Staff

DATE: August 10, 2007

SUBJECT: PB 07-43 Amendment to the UDO to Delete Perk Test Requirements for  
Minor Subdivisions

Currently, the UDO requires applicants for minor subdivisions (5 lots or less) to submit a perk test from the Albemarle Regional Health Services to ensure that a lot will support a septic system before the subdivision plat can be approved. Staff has been directed to remove this requirement from the ordinance. In order to advise potential buyers of this change, it is requested that the following note be added to all minor subdivision plats:

**“The lots shown on this plat have not been evaluated through a perk test by the Albemarle Regional Health Services to ensure that the lots are suitable to support a septic system. There is no assurance from the county that these lots are buildable.”**

The Planning Board recommended denial of this request on July 10, 2007.

The amendment is attached. Please let staff know if you have any questions.

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**Planning Board Discussion**

Mr. West said that if a septic permit expires after 3 years and an individual waits 10 years to develop, he needs another permit.

Mr. Webb stated that was correct. Mr. Webb explained the permit versus improvement.

Mr. West stated that he feels this amendment takes away protection from a buyer and he can't, in good conscious, support this amendment.

Ms. Turner stated that a site evaluation is relatively inexpensive.

**Planning Board Action**

Mr. West motioned to deny the request as presented. Ms. Turner seconded the motion. Motion passed unanimously.

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**CURRITUCK COUNTY BOARD OF COMMISSIONERS**  
PB 07-43  
UDO AMENDMENT REQUEST  
MINOR SUBDIVISIONS – NO PERK TEST REQUIRED

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:**

**Section 604 Determining Compliance With Section 603**

1. 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 A.R.H.S. regulatory jurisdiction may not be granted until the 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. 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, 9/20/04)

**Item 2:**

**Section 906 Five Lots or Less Subdivisions**

1. Applicants proposing a subdivision of five lots or less are required to obtain all necessary permits certifying compliance with local and State agencies including, but not limited to, ~~Albemarle Regional Health Services approval for septic tanks or sand-lined trench waste water treatment systems, or~~ NCDEHNR approval when connecting to existing central sewer systems prior to the review and approval of the Subdivision Plat.

**Item 3:**

**APPENDIX 9-B (Amended 4/21/03)**

**I. REQUIRED PLAT INFORMATION for SUBDIVISIONS of FIVE LOTS or LESS**

- A. Initially the subdivider shall submit one copy along with the required application, **and** submittal fees ~~and site/soil evaluation by the Albemarle Regional Health Services~~ for each lot. Once the review has been completed, the subdivider shall submit **two one** signed mylars, four copies, and one 8.5" x 11" reduced copy;

**Item 4:**

**APPENDIX 9-B**  
**II. CERTIFICATION BLOCKS**

Required Certifications for all subdivisions of five lots or less:

**Additional Certifications and Notes:**

**5. Not Evaluated for Septic Suitability**

**The lots shown on this plat have not been evaluated through a perk test by the Albemarle Regional Health Services to ensure that the lots are suitable to support a septic system. There is no assurance from the county that these lots are buildable.**

**Item 5:** The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application

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

Commissioner Gregory moved to approve. Commissioner Bowden seconded the motion. Motion carried with Commissioners Etheridge and Taylor voting no.

**Public Hearing & Action PB 07-59 CURRITUCK COUNTY UDO AMENDMENT- PRD & PUD WASTEWATER Text Amendment to the UDO to clarify PRD & PUD wastewater requirements.**

deleted

**Public Hearing & Action on PB 07-38 WRIGHT/LIPMAN REZONING: Request to rezone approximately 48 acres of a 124 acre property from Agricultural (A) to Residential (R). The property is located at 1118 Forbes Road, approximately 3/10th of a mile east of the intersection with Caratoke Highway, Tax Map 111, Parcel 2, Poplar Branch Township.**

David Webb, Chief Planner, reviewed the request.

**TYPE OF REQUEST:** Rezone approximately 48 upland acres of a 124 acre property from Agricultural (A) to Residential (R).

**LOCATION:** 1118 Forbes Road, approximately 3/10<sup>th</sup> of a mile east of the intersection with Caratoke Highway

**TAX ID:** Tax Map 111, Parcel 2  
(011100000020000)

**OWNER/ APPLICANT:**  
Charles Wright Testamentary Trust  
Paula Lipman, Trustee  
PO Box 9  
Jarvisburg, NC 27947

**AGENT:** Hyman and Robey, PC  
PO Box 339  
Camden, NC 27921

**ZONING:** Current Zoning Proposed Zoning  
A (Agricultural) Residential (R)

**ZONING HISTORY:** The property was zoned agricultural on the 1989 zoning atlas.

**SURROUNDING PROPERTY:**

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Agricultural/ Residential	A
<b>SOUTH</b>	Agricultural/ Elementary School	A
<b>EAST:</b>	Wetlands/ Currituck Sound	A
<b>WEST:</b>	Agricultural	A

**EXISTING LAND USE:** Agricultural

**PROPOSED LAND USE:** Residential Subdivision

**LAND USE PLAN**

**CLASSIFICATION:** The property is designated **Limited Service** and within the **Jarvisburg** sub-area by the 2006 Land Use Plan. The purpose of the Limited Services Area class is to provide for primarily residential development at low densities. While low-density development may continue to locate in these areas, it is recognized that soil limitations, flood prone areas, and a lack of infrastructure and services may prevent these areas from ever reaching an urban level of development.

Despite the overall low density of these areas, efforts should be made to encourage clusters of residential uses to preserve open space and to provide for a sense of a "community". Base development density should be 1 unit per acre but could be increased to 1.5 units per acre through overlay zoning depending upon whether service facilities are in place or planned and the potential impact on the surrounding community.

The policy emphasis of the 2006 plan is to allow the Jarvisburg area to accommodate quality residential development at low

densities while preserving the rural landscape between such developments. Similar to the Grandy area, but at a lower overall density, new residential development should be encouraged to locate in compact, village like clusters, preferably near existing, non-agricultural activities and services. The area is encompassed both the Conservation and Limited Service classifications and an average density of 1 unit per acre is contemplated.

The request to rezone to Residential **complies** with the land use plan.

**PUBLIC SERVICES  
AND UTILITIES:**

The Lower Currituck Volunteer Fire Department provides fire protection for this area. Electric, telephone, County water and cable are currently available.

**TRANSPORTATION:**

The property has 1/10<sup>th</sup> of a mile of frontage on Forbes Road

**FLOOD ZONE:**

Approximately 107.5 acres are in Flood Zone AE (5). The remainder of the property is in zone X or Shaded X, out of the 100 year flood zone.

**WETLANDS:**

Approximately 78 acres of the property are wetlands according to the NC Wetlands maps.

**SOILS:**

Approximately 14 acres are suitable, 26 acres marginal and 84 acres unsuitable for on-site septic systems according to the Currituck Soils Maps.

**STAFF  
RECOMMENDATION:**

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

Staff recommends **approval** of the request for the following reasons:

- 1) It is in compliance with the 2006 Land Use Plan designation of Limited
- 2) The residential zone density of less than 1 unit per acre complies with the Jarvisburg sub-area policies in the Land Use Plan.

- 3) The site is across the street from county recreation and school facilities.

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

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### **Planning Board Discussion**

Eddie Hyman, Hyman & Robey, appeared before the board.

Mr. Webb presented the case analysis to the board.

Mr. Hyman stated that this rezoning is in compliance with the Land Use Plan.

Mr. Jerry Wright, resident of Jarvisburg, stated his concerns with the area. He indicated that the back of the tract of land has a severe tidal flooding problem and has poor soils. He wanted to go on record and make the board aware of the issues. He feels that if the density is placed on the west end of the property it would be best to consider that area because of the wild life as well.

Mr. West and Mr. Keel stated that the concerns Mr. Wright brings forward are issues to be addressed at the sketch plan stage and not during rezoning.

### **Planning Board Action**

Mr. Etheridge motioned to approve the request as presented. Ms. Turner seconded the motion. Motion passed unanimously.

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

Chairman Nelms moved to approve. Commissioner Bowden seconded the motion. Motion carried with Commissioner Etheridge voting no.

**Public Hearing & Action on PB 06-24 LAUREL WOODS ESTATES Sketch Plan/Special Use Permit for a 160 lot Conservation Subdivision on property located at on the west side of Caratoke Highway, ½ mile north of the intersection with Bells Island Rd. Tax Map 50, Lots 70A, 70B, Crawford Township.**

**deleted**

**Discussion on Corolla Community Building**

Commissioner Bowden wanted to know what the Board thought of building a Community Building in Corolla on property owned by the County.

Chairman Nelms suggested that the ED Director request a master plan for the 6 acres.

Earl Wemer, supports a community building.

Herb Robbins, suggested a committee be appointed to study the needs of the Outer Banks and a long range plan.

Jackie MacKenzie, supports a community center.

The Board agreed to look at a master plan.

**Appointment to Community Child Protection Team & Community Fatality Protection Team Membership**

Commissioner Etheridge moved to appoint the following. Commissioner Gregory seconded the motion. Motion carried.

Mary Jane Wilson-Parsons, Chief Mike Carter, Brenda Dunford and Melissa Ferrell.

**Appointment to Stormwater Advisory Board**

Chairman Nelms moved to table. Commissioner Etheridge seconded the motion. Motion carried.

**Consent Agenda:**

1. Budget Amendments
2. Approval of North Elementary School Change Order No. 1
3. Albemarle Mental Health Center's Quarterly Fiscal Monitoring Report
4. Re-appointment of Mike Doxey to Albemarle RC&D Council

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b> Decrease Revenue or Increase Expense	<b>Credit</b> Increase Revenue or Decrease Expense
12543-590003	Capital Outlay	\$ 2,804	
12543-544003	Volunteer Assistance		\$ 2,804
		\$ 2,804	\$ 2,804

**Explanation:** Moyock Volunteer Fire Department (12543) - To transfer budgeted funds to capital outlay for increases in prices for Hurst equipment that was approved in the budget process.

**Net Budget Effect:** Fire Services Fund (12) - No change

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
65858-590000	Capital Outlay	\$ 345,000	
65858-561000	Professional Services	\$ 20,000	
65390-499900	Fund Balance Appropriated		\$ 365,000
		\$ 365,000	\$ 365,000

**Explanation:** Moyock Commons Sewer District (65858) - To carry forward funds for replacement of the Moyock Commons Sewer Plant.

**Net Budget Effect:** Moyock Commons Sewer District (65) - Increased by \$365,000.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
15447-545000	Contract Services	\$ 20,000	
15320-415000	Occupancy Tax		\$ 20,000
		\$ 20,000	\$ 20,000

**Explanation:** Occupancy Tax - Tourism Related (15447) - To increase appropriations for County commitment for a left turn lane at Corolla. This is approved by resolution in FY 2007 and project will begin this fiscal year.

**Net Budget Effect:** Occupancy Tax (15) - Increased by \$20,000.

**Effect:**

**Commissioner's Report**

Commissioner Etheridge mentioned the ground breaking for the Shawboro School

Commissioner Bowden requested staff to allow the Carova Beach Fire Department to place red flags on beach.

Chairman Nelms gave an update on the Moyock Library. He also updated the Board on Racy Newbern's permits for his site.

**County Manager's Report**

Dan Scanlon, County Manager, introduced the new ED Director, Peter Bishop.

**Closed Session:**

**According to GS 143-318.11(5) to discuss land acquisition to purchase Carolina Water Service.**

Chairman Nelms moved to go into closed session. Commissioner Gregory seconded the motion. Motion carried.

**Adjourn**

After reconvening from closed session, no action was taken.

There being no further business, the meeting adjourned.