

CURRITUCK COUNTY
NORTH CAROLINA
JULY 2, 2007

The Board of Commissioners met on July 2, 2007, 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 Gregory, Bowden, Taylor and Etheridge.

Invocation and Pledge of Allegiance

Bobbie Henley was present to give the invocation.

Approval of Agenda

Chairman Nelms amended the agenda to delete Item 10, Phill Bragg, Privately owned Airstrip. Commissioner Gregory seconded the motion. Motion carried.

- 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 and Action on Beaver Management Program Ordinance**
- Item 4 **Public Hearing and Action on PB 07-18 MILL LANDING** Request to rezone 60.05 acres from Agricultural (A) to Residential (R) and retain the RET overlay with a density of 150 age-restricted units. The property is located along South Spot Road, approximately 925 feet from the intersection with Caratoke Highway, Map 124, Parcels 28, Poplar Branch Township.
- Item 5 **Public Hearing and Action on PB 07-29 SHIRLEY WEBBER** Request to rezone approximately 226 acres from Agricultural (A) to Residential (R); and 18 acres from Agricultural (A) to Commercial (C). The property is located at 7160 Caratoke Highway, approximately 2/10ths of a mile south of the intersection with Forbes Road, adjacent to the Albemarle Sound, Tax Map 109, Parcels 156 and 120 Poplar Branch Township.
- Item 6 **Public Hearing and Action on PB 07-34 FANNIE NEWBERN** Request to rezone approximately 64.4 acres from Agricultural (A) to Residential (R). The property is located on the west side of Jarvisburg Road approximately 1/10th of a mile north of the intersection with Buster Newbern Road and 1.1 miles south of the site of the new Jarvisburg Elementary School., Tax Map 110, Parcel 1, Poplar Branch Township
- Item 7 **Public Hearing and Action on PB 07-35 FANNIE NEWBERN- MARTIN TRACT** Request to rezone approximately 21.1 acres from Agricultural (A) to Residential (R). The property is located on the north side of Newbern Road, adjacent to the White Acres subdivision, Tax Map 122, Parcel 28F; Poplar Branch Township
- Item 8 **Public Hearing and Action on PB 07-36 JAMES AND CINDY OWENS** Request to rezone 8.1 acres from A to GB. The property is located at 7791 Caratoke Highway, 1/10th of a mile south of the intersection with South Bayview Road., Tax Map 111, Parcel 2; Poplar Branch Township.
- Item 9 **Public Hearing and Action on PB 07-33 SHINGLE LANDING COMMERCIAL :** Sketch Plan/Special Use Permit for an 18 lot commercial subdivision. The property is located in Moyock on the east side of Caratoke Hwy. approximately 1,300' north of intersection with

Tulls Creek Road, Moyock Township, Tax Map 9, Parcel 29K, Moyock Township.

- Item 10 **Public Hearing and Action on PB 07-30 PHILL BRAGG, III (Private Airstrip):** Special Use Permit for a privately owned airstrip (use classification 15.230). The property is located in Moyock at the end of Summit Farms Trail (proposed Summit Farms, Phase III, lot 36), TM 11, Parcel 4D, Moyock Township.

- Item 11 **Public Hearing and Action on PB 07-31 CURRITUCK COUNTY: LBH OUTDOOR SALES UDO AMENDMENT:** An amendment to Articles 13, Permissible Uses and Table, Section 1310, Table of Permissible Uses, to permit sales and rental of goods, merchandise, and equipment in the LBH (Limited Business/ Hotels) zoning district.

- Item 12 **Appointment to Nursing Home Advisory Committee** to Replace Diane Bray

- Item 13 **Consent Agenda:**
 - 1. Amend Lieutenant Shift Supervisor job title to Captain Shift Supervisor within Emergency Medical Services.
 - 2. Reappoint Tracy Sample as County Assessor
 - 3. Resolution on Surplus Property from Emergency Medical Services.
 - 4. Resolution approving Review Officers Planning Dept.
 - 5. Resolution on Surplus Property from Sheriff's Office.

- Item 14 Commissioner's Report

- Item 15 County Manager's Report

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.

Wayne Taylor, Taylor's Road, requested the Board members to work together and stop the bad press they have been getting.

Public Hearing and Action on Beaver Management Program Ordinance

Mike Doxey, Soil and Water Conservation, reviewed the beaver management program and ordinance.

Chairman Nelms opened the public hearing.

John Snowden questioned contractors having to obtain insurance.

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

Commissioner Gregory moved to adopt the ordinance. Commissioner Etheridge seconded the motion. Motion carried.

**CURRITUCK COUNTY, NORTH CAROLINA
BEAVER MANAGEMENT PROGRAM ORDINANCE**

PURPOSE

This Ordinance establishes a uniform system for implementing a program to eradicate problems associated with losses of bottom land timber, agricultural crops, roadways, and personal property caused by beavers.

PREAMBLE

WHEREAS, it is the opinion of the Currituck County Board of Commissioners a uniform system of controlling beavers is needed to regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens; and

WHEREAS, the Currituck County Board of Commissioners is desirous of implementing a Beaver Management Program to eliminate said problems; and

WHEREAS, the Currituck County Board of Commissioners has found and declare it a public necessity for the regulation and control of beavers by posting a bounty on beavers taken in Currituck County; and

WHEREAS, all known applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of the County of Currituck, North Carolina:

SECTION 1. ORDINANCE:

The provisions of this Ordinance are adopted under authority granted by North Carolina General Statute 153A-121(a).

SECTION 2. INTENT:

The intent of this Ordinance is to provide a uniform system of controlling and managing beavers throughout the County's jurisdiction in order to protect the health, safety, and welfare of its citizens and to eliminate dollar losses to bottom land timber, agricultural crops, roadways, and personal property caused by beavers.

SECTION 3. JURISDICTION:

The jurisdiction of this Ordinance includes the entire geographical area of Currituck County, but excludes areas of jurisdiction of incorporated municipalities, unless any municipality requests that this Ordinance apply also within their jurisdiction and presents a valid resolution of evidence of same.

SECTION 4. BEAVER SEASON:

The County of Currituck establishes this Beaver Management Program to coincide with the State trapping season from November 1 until March 31. If the North Carolina Wildlife Commission changes the dates of the trapping season for beavers, the Currituck County Management Program will coincide with the State beaver trapping

season. The County of Currituck will fund a maximum of \$4,000.00 for this program for each beaver season and the program will remain in effect for any beaver season until such funds are depleted or until the County no longer funds the program or until the beaver season ends, whichever shall first occur.

SECTION 5. PERMITS:

Each trapper will need a Beaver Management program permit issued by the County of Currituck and also each trapper must be licensed by the State of North Carolina and must be a resident of Currituck County in order to acquire a Currituck County permit. Each trapper will have to submit a signed application indicating his or her agreement and compliance with the Currituck County Ordinance before a permit is issued. Each permit will be numbered and recorded at the County Soil and Water Conservation office.

SECTION 6. FINES:

It is expressly understood and agreed that the payment of \$35.00 per beaver applies strictly to beavers acquired in Currituck County. A fine will be imposed on anyone bringing beavers from outside Currituck County in the amount of \$500.00 for the first illegal beaver and then \$500.00 for each additional illegal beaver. Each illegal beaver will be considered a separate violation and also will result in a loss of permit issued by Currituck County. A \$500.00 reward will be given to anyone who has any information leading to the arrest and conviction of anyone bringing in beavers from outside Currituck County and trying to or collecting a bounty on them. Any rewards that are paid will be deducted from the \$4,000.00 maximum amount funded for this program. The County of Currituck will pursue any violation of North Carolina criminal statutes for taking of beaver outside the County of Currituck and receiving payment for same, including, but not limited to, obtaining property by false pretense, or any other violation of North Carolina General Statutes concerning criminal violations. Violation of this Ordinance is a misdemeanor punishable as provided in North Carolina General Statutes Section 14-4 plus a fine of \$500.00 per beaver brought in from outside of Currituck County for collection.

SECTION 7. STATE LAWS:

All trappers in Currituck County will have to follow all regulations implemented by the North Carolina Wildlife Commission.

SECTION 8. MONITORING PROGRAM:

The Beaver Management Program will be monitored closely by the Currituck Soil and Water Conservation Department. All trappers will notify Currituck Soil and Water in advance of location and landowners of where the beavers will be trapped. It is the responsibility of the trapper to obtain permission from the landowner.

SECTION 9. PAYMENTS:

In order to get paid the \$35.00 for each beaver tail, a W-9 and a certificate of liability insurance plus workman’s compensation must be filed with the Currituck Finance Department. The beaver tails will be collected by Currituck Soil and Water Conservation and this office will handle purchase orders for the trapper to get paid. Payments of \$35.00 per beaver tail (or up to \$100 for dam removal) will be mailed only on a monthly basis and will be paid on or about the 10th of the following month.

The removal of the beaver dams will be handled on a case by case basis and the county will pay up to \$100 for the removal of the beaver dam.

SECTION 10. SEPARABILITY:

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Public Hearing and Action on PB 07-18 MILL LANDING Request to rezone 60.05 acres from Agricultural (A) to Residential (R) and retain the RET overlay with a density of 150 age-restricted units. The property is located along South Spot Road, approximately 925 feet from the intersection with Caratoke Highway, Map 124, Parcels 28, Poplar Branch Township.

David Webb, Chief Planner, reviewed the request.

**Case Analysis for the Board of Commissioners
July 2, 2007
Zoning Map Amendment:
PB 07-18 Mill Landing- A to R**

TYPE OF REQUEST:	Rezone 60.05 acres from Agricultural (A) to Residential (R) and retain the RET overlay with a density of 150 age-restricted units.
LOCATION:	Located along South Spot Road, approximately 925 feet from the intersection with Caratoke Highway.
TAX ID:	Map 124, Parcels 28
OWNERS:	Idella and Marrol V Owens; Joyce Ann Owens 722 Mayfield Ave. Norfolk, VA 23511
APPLICANT:	Gordon Jones PO Box 1860 Kitty Hawk, NC 27949
ENGINEER:	Bissell Professional Group PO Box 1068 Kitty Hawk, NC 27949

The uses allowed in a residential zoning district conform to the Full Service Land Use Plan designation. This request **complies** with the 2006 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 site has 1,130 feet of frontage on Spot Road.

FLOOD ZONE:

The property is located in Flood Zone (X), outside of the 100 year flood plain.

SOILS:

The Currituck County Soil Suitability map indicates approximately 36 acres are not-suitable, 20 acres marginal and 4.5 acres suitable for on-site septic.

**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.”

This request is in an area that contains land uses that are becoming higher in residential density and are no longer agricultural. A business park lies to the north and the Villas of Kilmarlic, a 53 unit town home community is approved ¼ mile north. The Point Golf Club and Kilmarlic Golf Club are within a ½ mile of the site. Additionally, there are a mix of adjacent land uses and zoning districts, LM, GB and A.

Because the request complies with the 2006 Land Use Plan designation of Full Service and a Residential (R) zone is compatible with the existing surrounding uses, staff recommends **approval** of the request.

Staff notes that the density for a residential zone is one unit per 0.9 acre. The density designated for the RET of 150 units is for an age-restricted development only. To develop the project with no age restrictions, a Planned Residential Development overlay would have to be approved in a separate action.

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.

Planning Board Discussion- May 8, 2007

Mr. Kovacs asked what would be new density and what was the previously approved density.

Ms. Keifer stated the new density would be 1 unit per 40,000 square feet in a Residential zone and the density of the Retirement Overlay was 150 units.

Mr. Kovacs questioned why the change was being made.

Mr. Bissell stated the applicant is trying to remove the age restrictions and will apply for a similar plan and a PUD overlay with mixed housing types. Before that can be applied for, the base zoning has to change to Residential first.

Mr. Kovacs stated there is still a need for retirees housing in the county and did not understand the change.

Mr. Bissell stated the base zoning would be changed to Residential but the Retirement Overlay would remain on the property for now. The developers feel there is not enough of a market for age restricted housing in this part of the county without having waterfront amenities like Waterside Villages.

Mr. West asked why was keeping the RET overlay not included as part of the agenda and in writing.

Ms. Keifer stated that keeping the RET overlay on the property was not what the applicant had discussed with staff or included in the application. Technically the base zoning could change with the overlay staying on the property but she advised this would not be the preferred way to change the zoning.

Mr. West discussed tabling the item to receive clarification from the applicant on their application.

Mr. Bissell stated he would like to change his request to what staff presented and remove the RET and just have a residential zone on the property.

Planning Board Action May 8, 2007

Mr. West motioned to table the item so the applicant can indicate their request properly. Mr. Keel seconded the motion. Motion passed unanimously and the item was **tabled**.

Planning Board Discussion June 12, 2007

Mark Bissell, Bissell Professional Group, appeared before the board.

Mr. Webb presented the following case analysis to the board.

Mr. Kovacs asked if the developer wanted to retain the retirement community overlay.

Mr. Bissell said yes.

Mr. Kovacs asked what the maximum number of lots would be in a retirement community.

Mr. Bissell stated approximately 60.

Mr. Kovacs asked what the density would be in a PUD.

Mr. Webb said that it would be triple the density of a residential zone.

Mr. Kovacs said that it would be roughly 180 instead of 160 units.

Ms. Turner asked if the age restriction could be removed in the approval.

Mr. Webb said yes.

Mrs. Minnie Griggs commented on the rezoning.

Planning Board Action June 12, 2007

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

Chairman Nelms opened the public hearing.

Ken Griggs, supports the request.

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

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

**Public Hearing and Action on PB 07-29 SHIRLEY WEBBER
Request to rezone approximately 226 acres from Agricultural (A) to Residential (R); and 18 acres from Agricultural (A) to Commercial (C). The property is located at 7160 Caratoke Highway, approximately 2/10ths of a mile south of the intersection with Forbes Road, adjacent to the Albemarle Sound, Tax Map 109, Parcels 156 and 120 Poplar Branch Township.**

David Webb, Chief Planner, reviewed the request.

**CASE ANALYSIS FOR THE
BOARD OF COMMISSIONERS
MEETING DATE: July 2, 2007
Zoning Map Amendment:
PB 07-29 Shirley Webber**

TYPE OF REQUEST: Rezone approximately 226 acres from Agricultural (A) to Residential (R) and 18 acres from Agricultural (A) to Commercial (C)

LOCATION: 7160 Caratoke Highway, approximately 2/10ths of a mile south of the intersection with Forbes Road, adjacent to the Albemarle Sound.

TAX ID: Tax Map 109, Parcels 156 and 120
(010900001560000) and (01090000120000)

OWNER/ APPLICANT:
Shirley D. Webber
PO Box 49
Jarvisburg, NC 27947

AGENT:
Quible and Associates, P.C.
Eddie Valdivieso, P.E.
PO Drawer 870
Kitty Hawk, NC 27949
252-261-3300

ZONING:	<u>Current Zoning</u> A (Agricultural)	<u>Proposed Zoning</u> Residential (R) and Commercial (C)
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ZONING HISTORY:
The property was zoned agricultural on the 1989 zoning atlas. On December 14, 2004 the Planning Board reviewed a rezoning request for these properties (PB 04-60) for 10 acres of GB zoning and 234 acres of residential zoning. The Planning Board recommended approval of the rezoning at that time with the condition that the GB zoning not be included. The Board of Commissioners heard the request at the March 21, 2005 meeting and tabled the request to discuss densities with the developer. No other action was taken after that meeting.

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Agricultural/ Residential	A
SOUTH	Agricultural	R
EAST:	Agricultural and Residential (Across Caratoke Highway)	A and GB
WEST:	Albemarle Sound	NA

EXISTING LAND USE: Agricultural

PROPOSED LAND USE: None stated.

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.

With respect to nonresidential uses in a Limited Service area, it is essential that the existing community character be preserved. Design criteria should be established to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping, and site design. In general, neighborhood commercial uses are more appropriate than large scale commercial complexes.

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 226 acres to Residential (1 unit per .9 acre) **complies** with the land use plan. The request to rezone 18 acres to Commercial **does not** comply 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 3/10th of a mile of frontage on Caratoke Highway

FLOOD ZONE:

Approximately 43 acres of the property are located in Flood Zone AE (7). The remaining area is in Flood Zones (X), outside of the 100 year flood plain.

WETLANDS:

A preliminary survey of the wetlands by the applicant indicates approximately 50.5 acres of wetlands on the property.

SOILS:

The Currituck County Soils map indicates approximately 199 acres are suitable or marginal and 45 acres are not suitable for on-site septic systems.

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.”

Additionally, Section 2407 states: Areas zoned for non-residential purposes along the county's major arterials have been carefully selected, taking into account existing needs and uses. Additional areas along these major arterials shall not be rezoned to non-residential districts except upon an extraordinary showing of public need or demand and then only to expand an adjacent zoning district of the same classification as the district requested.

Staff recommends a **modified approval** to rezone all 244 acres to Residential (R) for the following reasons:

1. The site is adjacent to an existing residential zoning district.
2. The 2006 Land Use Plan policies support a Residential zone but not a Commercial zone in this area.
3. The residential zone density of less than 1 unit per acre complies with the Jarvisburg sub-area policies in the Land Use Plan.
4. There are no adjacent Commercial zoning districts or high intensity business uses.
5. There does not appear to be a public need for more Commercial zoned land in this area of the county. Within 5 miles of this site, Fox Knoll, Currituck Industrial and Freedom Business Parks have a combined 120 existing lots with installed infrastructure. Only 20 of these lots have been developed.

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.

Planning Board Discussion

Eddie Valdivieso, Quible and Associates, appeared before the board.

Mr. Webb presented the case analysis to the board.

Mr. Bell asked about previous discussion on the property.

Mr. Webb said that it was recommended that there not be any commercial development at all. The project was never acted upon by the board of commissioners so the applicant has come up with another design.

Mr. Valdivieso said that the owners are in agreement with the recommendations of staff.

Planning Board Action

Ms. Turner motioned to approve the request as presented with no commercial. Mr. Bell seconded the motion. Motion passed unanimously

Chairman Nelms opened the public hearing.

Tommy Wright, Jarvisburg, requested the Board to look at the impact this would have on our schools and effect on the community.

John Wright, opposed the increased density.

Charles Dozier, Jarvisburg, supported the request.

Jerry Wright, Jarvisburg, requested that the board be careful with growth in this area and the impact it will have for years to come.

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

Commissioner Bowden moved to approve to include the 18 acres for commercial. Chairman Nelms seconded the motion. Motion carried with Commissioner Etheridge voting no.

**Public Hearing and Action on PB 07-34 FANNIE NEWBERN
Request to rezone approximately 64.4 acres from Agricultural (A) to Residential (R). The property is located on the west side of Jarvisburg Road approximately 1/10th of a mile north of the intersection with Buster Newbern Road and 1.1 miles south of the site of the new Jarvisburg Elementary School., Tax Map 110, Parcel 1, Poplar Branch Township**

David Webb, Chief Planner, reviewed the request.

**CASE ANALYSIS FOR THE
BOARD OF COMMISSIONERS
MEETING DATE: July 2, 2007
Zoning Map Amendment:
PB 07-34 Fannie Newbern**

TYPE OF REQUEST:	Rezone approximately 64.4 acres from Agricultural (A) to Residential (R)
LOCATION:	Located on the west side of Jarvisburg Road approximately 1/10 th of a mile north of the intersection with Buster Newbern

Road and 1.1 miles south of the site of the new Jarvisburg Elementary School.

TAX ID: Tax Map 110, Parcel 1
011000000010000

OWNER/ APPLICANT:
William Newbern Sr. Estate
c/o Fannie Newbern
PO Box 132
Powells Point, NC 27966

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

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

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Agricultural and Residential	A
SOUTH	Agricultural	A
EAST:	Agricultural	A
WEST:	Agricultural	A

EXISTING LAND USE: Agricultural

PURPOSE FOR REQUEST: Residential zoning allows more options if sold or given to family members than agricultural zoning.

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 64.4 acres to Residential (1 unit per .9 acre) **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 1/2 of a mile of frontage on Jarvisburg Road

FLOOD ZONE:

The property is in Flood Zones (X), outside of the 100 year flood plain.

WETLANDS:

Approximately 1.7 acres of the property are potential wetlands.

SOILS:

The Currituck County Soils map indicates approximately 59.4 acres are suitable or marginal and 5 acres are not suitable for on-site septic systems.

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** to rezone 64.4 acres to Residential (R) for the following reasons:

1. The 2006 Land Use Plan policies support a Residential zone in this area.
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 within 1 mile of county recreation and school facilities.

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.

Planning Board Discussion

Fannie Newbern appeared before the board.

Mr. Webb presented the case analysis to the board.

Mr. Kovacs asked if there would be development on the property to the east.

Mr. Webb said that most of the property is wetlands. He indicated the potential wetlands on the property in question.

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.

Fannie Newbern was present to answer any questions.

Charles Dozier, supports the request.

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

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

Public Hearing and Action on PB 07-35 FANNIE NEWBERN- MARTIN TRACT Request to rezone approximately 21.1 acres from Agricultural (A) to Residential (R). The property is located on the north side of Newbern Road, adjacent to the White Acres subdivision, Tax Map 122, Parcel 28F; Poplar Branch Township

David Webb, Chief Planner, reviewed the request.

**CASE ANALYSIS FOR THE
BOARD OF COMMISSIONERS
MEETING DATE: July 2, 2007
Zoning Map Amendment:
PB 07-35 Fannie Newbern- Martin Tract**

TYPE OF REQUEST: Rezone approximately 21.1 acres from Agricultural (A) to Residential (R)

LOCATION: Located on the north side of Newbern Road, adjacent to the White Acres subdivision.

TAX ID: Tax Map 122, Parcel 28F
0122000028F0000

OWNER/ APPLICANT:
William Newbern Sr. Estate
c/o Fannie Newbern
PO Box 132
Powells Point, NC 27966

ZONING:	<u>Current Zoning</u> A (Agricultural)	<u>Proposed Zoning</u> Residential (R)
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ZONING HISTORY: The property was zoned agricultural on the 1989 zoning atlas.

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Sand Mining and Residential	A
SOUTH	Residential	R and A
EAST:	Vacant Wetlands	A
WEST:	Residential	A

EXISTING LAND USE: Agricultural

PURPOSE FOR REQUEST: Residential zoning allows more options if sold or given to family members than agricultural zoning.

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 21.1 acres to Residential (1 unit per .9 acre) **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 645 feet of frontage on Newbern Road (SR 1119)

FLOOD ZONE:

Approximately 10 acres are with Flood Zone AE (6). The balance of the property is outside of the 100 year flood zone.

WETLANDS:

Approximately 4.4 acres of the property are potential wetlands.

SOILS:

The Currituck County Soils map indicates approximately 17.54 acres are suitable or marginal and 4.4 acres are not suitable for on-site septic systems.

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** to rezone 21.1 acres to Residential (R) for the following reasons:

1. The 2006 Land Use Plan policies support a Residential zone in this area.
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 adjacent to an existing Residential zoning district and single family subdivision.

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.

Planning Board Discussion

Fannie Newbern appeared before the board.

Mr. Webb presented the case analysis to the board.

Ms. Newbern stated that there are no immediate plans for

Jessica Heier, adjacent property owner, stated her concerns with the request. She has concerns with the amount of development on this road.

Patricia Young, property owner in White Acres, stated her concerns with the road that may come with development.

Planning Board Action

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

Chairman Nelms opened the public hearing.

Bobby Smith, adjacent property owner, supports request.

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

Chairman Nelms moved to approve. Commissioner Bowden, seconded motion. Motion carried.

Public Hearing and Action on PB 07-36 JAMES AND CINDY OWENS Request to rezone 8.1 acres from A to GB. The property is located at 7791 Caratoke Highway, 1/10th of a mile south of the intersection with South Bayview Road., Tax Map 111, Parcel 2; Poplar Branch Township.

David Webb, Chief Planner, reviewed the request.

**CASE ANALYSIS FOR THE
BOARD OF COMMISSIONERS
MEETING DATE: July 2, 2007
Zoning Map Amendment:
PB 07-36 James and Cindy Owens**

TYPE OF REQUEST: Rezone approximately 8.1 acres from A to GB.

LOCATION: 7791 Caratoke Highway, 1/10th of a mile south of the intersection with South Bayview Road.

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

OWNER/ APPLICANT: James and Cindy Owens
PO Box 135
Aydlett, NC 27916

ZONING: Current Zoning Proposed Zoning
A (Agricultural) General Business (GB)

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

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Agricultural/ Residential	A
SOUTH	Agricultural	A
EAST:	Agricultural	A
WEST:	Residential (Across Caratoke Highway)	GB

EXISTING LAND USE: Residential/ Agricultural (previously operated a farm market)

PROPOSED LAND USE: Any uses allowed in the General Business zoning district for future development. The application states:

- 9. Any use allowed in the General Business zoning district.

In further support of the application it is noted that the property is designated by the 2006 Land Use Plan as within a Full Service Area. The applicant submits that the uses allowed within the General Business zoning district are consistent with the 2006 Land Use Plan along the Caratoke Highway corridor in the vicinity of the subject property as shown by properties currently zoned General Business across Caratoke Highway and to the west of the subject property and across S. Bayview Road and to the north of the subject property.

GENERAL BUSINESS USES:

There are well over 100 uses allowed in the General Business zoning district. The General Business zoning district contains the following sample of uses:

Single Family Residence	Automotive Repair
Banks	Convenience Stores
Sales	Restaurants
Outdoor or Indoor Mini Storage	Hotels
Motor Vehicle and Boat Sales	General Offices

**LAND USE PLAN
CLASSIFICATION:**

The property is designated **Full Service** and within the **Point Harbor** sub-area by the 2006 Land Use Plan. With respect to residential development in Full Service Areas, base development density is contemplated to be 2 units per acre but could be increased to 3-4 units per acre through overlay zoning depending upon services available and the potential impact on the surrounding area.

With respect to nonresidential uses, it is essential that the existing community character be preserved. Design criteria should be established to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping, and site design. Nonresidential uses may include clusters of businesses serving the immediate area and, where appropriate, a more extensive market territory.

This property is at the northern end of the Point Harbor Sub-Area. The policy emphasis of this plan is to allow portions of the Point Harbor area to continue to evolve as a full service community, but with better attention to the planning needed to protect residential areas and the natural features that make the area so attractive.

This request **complies** with the 2006 Land Use Plan designation of Full Service.

**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 1/10th of a mile of frontage on Caratoke Highway

FLOOD ZONE:

Approximately 8/10th of an acre of the property is located in Flood Zone AE (7). The remaining area is in Flood Zones (X), outside of the 100 year flood plain.

WETLANDS:

There are no wetlands indicated on the property by the generalized GIS wetlands maps.

SOILS:

The Currituck County Soils map indicates the soils are suitable for on-site septic systems.

**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.”

Additionally, Section 2407 states: Areas zoned for non-residential purposes along the county's major arterials have been carefully selected, taking into account existing needs and uses. Additional areas along these major arterials shall not be rezoned to non-residential districts except upon an extraordinary showing of public need or demand and then only to expand an adjacent zoning district of the same classification as the district requested.

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

- 1) It is in compliance with the 2006 Land Use Plan designation of Full Service.
- 2) Although this is an expansion of a General Business district along a major arterial; the analysis of the Land Use Plan concludes this is an area suitable for a higher intensity of use that a General Business zoning district would bring.
- 3) The property is adjacent to existing General Business zones across Caratoke Highway.
- 4) The property has access to a major arterial road (NC 168).

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.

Planning Board Discussion

James Owens appeared before the board.

Mr. Webb presented the case analysis to the board.

Mr. Kovacs stated his concern with more GB zoning.

Mr. Webb explained the logic of the staff recommendation.

Mr. Midgette asked what the plans were for the property.

Mr. Owens stated that there are no immediate plans for the property.

Mr. Kovacs stated his preference for a commercial district rather than General Business.

Mr. Webb said that would make the existing homes non conforming.

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.

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

Public Hearing and Action on PB 07-33 SHINGLE LANDING COMMERCIAL: Sketch Plan/Special Use Permit for an 18 lot commercial subdivision. The property is located in Moyock on the east side of Caratoke Hwy. approximately 1,300' north of intersection with Tulls Creek Road, Moyock Township, Tax Map 9, Parcel 29K, Moyock Township.

Commissioner Etheridge moved to table because applicant was not present. Commissioner Taylor seconded the motion. Motion carried.

Public Hearing and Action on PB 07-30 PHILL BRAGG, III (Private Airstrip): Special Use Permit for a privately owned airstrip (use classification 15.230). The property is located in Moyock at the end of Summit Farms Trail (proposed Summit Farms, Phase III, lot 36), TM 11, Parcel 4D, Moyock Township.

deleted

Public Hearing and Action on PB 07-31 CURRITUCK COUNTY: LBH OUTDOOR SALES UDO AMENDMENT: An amendment to Articles 13, Permissible Uses and Table, Section 1310, Table of Permissible Uses, to permit sales and rental of goods, merchandise, and equipment in the LBH (Limited Business/Hotels) zoning district.

David Webb, Chief Planner, reviewed the request.

Attached please find a text amendment requested in response to concerns from the Board of Commissioners regarding Outdoor Sales and Rentals in the Limited Business/Hotel (LBH) zoning district. While similar uses are permitted in the General Business and Limited Business/Hotel districts, outdoor display for the purpose of sales and rental is permitted only in the General Business district. In the interest of equity, the proposed

ordinance revises the Table of Permissible Uses to permit outdoor sales and rentals in the LBH district in the same manner it is permitted in the GB district.

Should you have any questions, please do not hesitate to contact me.

Thank you.

Planning Board Discussion

Mr. Webb presented the case analysis to the board.

Mr. Midgette asked for clarification on the LBH zoning district and the difference between that and a PUD.

Planning Board Action

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

Outdoor Sales and Rental in the LBH Zoning District

PB 07-31

**CURRITUCK COUNTY COMMISSIONERS
UDO AMENDMENT REQUEST**

An amendment to Articles 13, Permissible Uses and Table, Section 1310, Table of Permissible Uses, to permit sales and rental of goods, merchandise, and equipment in the LBH (Limited Business/ Hotels) zoning district

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 Article 13, Permissible Uses and Table, Section 1310, Table of Permissible Uses the following section be amended by adding the following underlined language:

Section 1310 Table of Permissible Uses.

	A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM
2.000 Sales and Rental of Goods, Merchandise and Equipment											
2.200 Storage and Display of Goods Outside Fully Enclosed Building Allowed											
2.210 High Volume Traffic Generation							C	C	<u>C</u>	ZS	ZS
2.220 Low Volume Traffic Generation							C	C	<u>C</u>	ZS	ZS
2.230 Wholesale Sales							C	C	<u>C</u>	ZS	ZS
2.300 Shopping center, subject to Section 805							S	S			

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. There being no comments, he closed the public hearing.

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

Appointment to Nursing Home Advisory Committee to Replace Diane Bray

Chairman Nelms moved to appoint Donna Forcht. Commissioner Taylor seconded the motion. Motion carried.

Commissioner Etheridge requested a list of all boards and members with date and time of meetings.

Action on ATV Ordinance

Commissioner Etheridge moved to have the County Attorney to review and bring back a draft for adoption. Commissioner Gregory seconded the motion. Motion carried.

Consent Agenda:

1. Amend Lieutenant Shift Supervisor job title to Captain Shift Supervisor within Emergency Medical Services.
2. Reappoint Tracy Sample as County Assessor
3. Resolution on Surplus Property from Emergency Medical Services.
4. Resolution approving Review Officers Planning Dept.
5. Resolution on Surplus Property from Sheriff's Office.

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

**RESOLUTION
SURPLUS PROPERTY**

WHEREAS, the Board of Commissioners of Currituck County, North Carolina during its regular meeting held on July 2, 2007 authorized the following property listed below, be declared surplus and disposed of; and

WHEREAS, equipment from the Emergency Medical Services will be disposed of by auction on E-Bay and funds used to replace equipment.

List attached of stretcher and stair chair inventory.

**STRETCHER AND STAIR CHAIR INVENTORY
CCFEMS**

Description	Serial#	Model#
Stryker Mx-Pro 500lb	990339155	6080
Stryker Mx-Pro 6001b	011239583	6082
Stryker Mx-Pro 6001b	020339244	6082 R3
Stryker Mx-Pro 6001b	030139747	6082 R3
Ferno Pro Flexx 6501b	L-759909	35-P
Ferno Pro Flexx 6501b	L-729169	35-P
Ferno Xcalibur 600lb	JJ-243487	MT6
Ferno Stair Chair	L-44868	
Ferno Stair Chair	J-87652	
Ferno Stair Chair	L-305631	
Ferno Stair Chair	H-20162	
Feeno Stair Chair	I-50328	
Ferno Stair Chair	L-651698	
Ferno Stair Chair	L-228666	
Dyna-Med Stair Chair	None	

Submitted By;

Duane Minnick
FF/EMT-I
CCFEM

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.

Tracy Sample, Tax Administrator
Donna Voliva, Planner
Lucy Cardwell, Tax Office
Tammy Glave
David Webb
Maureen O'Shea

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.

RESOLUTION SURPLUS PROPERTY

WHEREAS, the Board of Commissioners of Currituck County, North Carolina during its regular meeting held on July 2, 2007, authorized the following property listed below, be declared surplus and disposed of; and

WHEREAS, Sheriff Johnson has requested that upon the retirement of Deputy Glenn Chaney that his duty weapon, a Glock 23 semi-automatic handgun, serial # DVK023 be given to him.

Commissioner's Report

Commissioner Taylor commented on meeting at Northwest Base.

Commissioner Etheridge wished everyone a safe July 4th.

County Manager's Report

No comments

Adjourn

There being no further business, the meeting adjourned