

CURRITUCK COUNTY
NORTH CAROLINA
OCTOBER 1, 2007

The Board met in a work session prior to the regular meeting at 6:00 p.m. to discuss the Moyock Library.

The Board of Commissioners met on October 1, 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 Bowden, Gregory, Taylor and Etheridge.

Invocation and Pledge of Allegiance

The Reverend Dennis Crehan was present to give the invocation.

Approval of Agenda

Commissioner Etheridge moved to amend the agenda by deleting Items 5, 10, and 15. Commissioner Taylor seconded the motion. Motion carried with Commissioners Bowden and Gregory voting no to having Item 5, Resolution opposing OLF site removed.

- 7:00 p.m. Invocation
 Pledge of Allegiance
- 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 **Consideration of Albemarle Rural Planning Organization** updated Memorandum of Understanding and Bylaws
- Item 4 Diane Sawyer, update on Tourism
- Item 5 Consideration of Resolution opposing OLF site in Northeastern North Carolina and Resolution supporting local government representation on committee.
- Item 6 **Public Hearing and Action on Ordinance Imposing a Moratorium on the Acceptance or Processing of Permit Applications for Planned Residential Developments (PRD) under the Unified Development Ordinance**
- Item 7 **Discussion on moratorium** for rezoning pending approval of conditional use zoning.
- Item 8 **PUBLIC HEARING and ACTION PB 07-44 CLOVER BEND (OLD BROTHERS, LLC):** Rezone approximately 53.32 Acres from Agricultural to Residential. Located on the northwest side of Guinea Road (SR 1214), approximately 200' north of the intersection with Guinea Mill Road (SR 1282), Moyock Township, Tax Map 22, Parcel 71X.

- Item 9 **PUBLIC HEARING AND ACTION PB 07-53 CHARLES DOZIER REZONING:** Rezone 21.5 acres of a 58.78 acre property from Agricultural (A) to Residential (R). Located on the east side of Jarvisburg Road approximately 8/10th of a mile north of the intersection with Buster Newbern Road and 1 mile south of the site of the new Jarvisburg Elementary School, Tax Map 109, Parcel 40A, Poplar Branch Township.
- Item 10 **PUBLIC HEARING AND ACTION PB 07-58 JARVIS LANDING REZONING:** Rezone approximately 15.1 acres from Residential to General Business. Located at 7400 Caratoke Highway, approximately 750 feet North of Case Landing Rd, Tax Map 110, Parcel 74, Poplar Branch Township.
- Item 11 **PUBLIC HEARING AND ACTION PB 07-54 JOHN FORBES- MACEDONIA CHURCH ROAD REZONING:** Rezone approximately 39.68 acres from Agricultural to General Business. Located at the north corner of Caratoke Highway and Macedonia Church Road, Poplar Branch Township, Tax Map 93, Parcel 141, Poplar Branch Township.
- Item 12 **PUBLIC HEARING AND ACTION PB 07-55 JOHN FORBES REZONING:** Rezone approximately 38.88 acres from Agricultural to General Business. Located on the east side of Caratoke Highway 400 feet north of the intersection with Garrenton Road, Tax Map 108, Parcel 35, Poplar Branch Township.
- Item 13 **PUBLIC HEARING AND ACTION PB 07-49 TULLS CREEK LANDING, OPEN SPACE SUBDIVISION:** Sketch Plan/Special use Permit for a 37-lot open space residential subdivision. The 58.22 acre property is located on the northeast side of Tulls Creek Road, 0.3 mile southeast of Caratoke Highway, and adjacent to Shingle Landing Creek, Moyock Township. Tax Map 9, parcel 41.
- Item 14 **PUBLIC HEARING AND ACTION PB 07-19 MARCO VENTURES REZONING:** Rezone approximately 262 acres from Agricultural (A) to Residential (R). Located on Puddin Ridge Road to the north of Wildwood Acres and due west of Eagle Creek, Tax Map 10, Parcel 19, Moyock Township.
- Item 15 **Consideration of awarding bid** for Ground Water Storage Tank in Maple.
- Item 16 **Consent Agenda:**
1. Declare Surplus Property
 2. Approval of September 4 and 17, 2007, Minutes
 3. Budget Amendments
 4. Appoint members to the Volunteer Fireman's Relief Fund for Knotts Island, Moyock, Carova Beach and Lower Currituck Volunteer Fire Departments
 5. Resolution Providing for Application to the Local Government Commission for Approval of Water System Revenue Bonds; Requesting Local Government Commission Approval of Such Water System Revenue Bonds; and Certain Related Matters and Findings
 6. Approval of Jarvisburg Elementary School Change Order Number 1
- Item 17 Commissioner's Report
- Item 18 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.

Gary Davis, Cooper Garrett Road, requested Board adopt resolution opposing OLF site location in Camden.

Paul O'Neal, requested his statement be read into the minutes opposing Navy's OLF site due to noise, property values and negative impact on tourism.

William Baker, Wildwood Acres, opposes OLF site and requested the Board to take a formal position opposing this site.

Juanita Krause, Summit Farms, opposes OLF site and requested information on Moyock Library.

Elizabeth Cubler, presented a resolution from the Outer Banks Home Builders Association opposing new Coastal Stormwater Rules.

Troy Breathwaite, opposes OLF site and requested the Board to take a stand.

Sherry Motes, Summit Farms, opposes OLF site.

Ken Corbo, supports opposition to new Stormwater Rules.

Willo Kelly, OB Home Builders Association, opposes Coastal Stormwater Regulations.

Chairman Nelms stated that the Moyock Library is moving forward.

Commissioner Etheridge, expressed his views supporting a fair hearing only for the Navy and all parties concerned with OLF site.

Commissioner Gregory stated his concerns with the OLF site and was disappointed that the Resolution opposing this was removed from the agenda. He further stated that the value of property would be reduced and the noise it produced.

Commissioner Bowden opposes the OLF site.

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

Consideration of Albemarle Rural Planning Organization updated Memorandum of Understanding and Bylaws

Adrian Cox, Albemarle Rural Planning, reviewed the updated Memorandum of Understanding along with the by-laws.

Diane Sawyer, update on Tourism

Diane Sawyer, Director of Tourism, reviewed the summer season annual report that would soon be ready for the Board to review. Ms. Sawyer also reviewed the new visitor's guide and other tourism reports.

Consideration of Resolution opposing OLF site in Northeastern North Carolina and Resolution supporting local government representation on committee.

Deleted

Public Hearing and Action on Ordinance Imposing a Moratorium on the Acceptance or Processing of Permit Applications for Planned Residential Developments (PRD) under the Unified Development Ordinance

Ike McRee, County Attorney, reviewed the Ordinance.

Chairman Nelms opened the public hearing.

Ken Griggs, questioned applications already in the process.

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

Commissioner Etheridge moved to approve and this will not affect Mill Landing. Commissioner Taylor seconded the motion. Motion carried.

AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS IMPOSING A MORATORIUM ON THE ACCEPTANCE, PROCESSING OR CONSIDERATION OF APPLICATIONS FOR PLANNED RESIDENTIAL DEVELOPMENTS PURSUANT TO N.C. GEN. STAT. SECTION 153A-340(h)

The Board of Commissioners for the County of Currituck, North Carolina, at its regularly scheduled October 1, 2007 meeting, after due advertisement as by law required, conducted a public hearing and heard from the interested public and county officials for the purpose of gathering information and taking appropriate action within the confines of applicable law regarding imposition of a moratorium on the acceptance, processing or consideration of applications for Planned Residential Developments. From the same, the Board of Commissioners makes the following findings of fact, conclusions and legislative determination:

I. STATEMENT OF THE PROBLEM NECESSITATING A MORATORIUM; THE COURSES OF ACTION ALTERNATIVE TO A MORATORIUM CONSIDERED AND THEIR INADEQUACY ~ NCGS 153A-340(h)(1)

- A. Pursuant to the 1990 Land Use Plan, Currituck County implemented Unified Development Ordinance regulations encouraging cluster development and affordable housing through the use of Planned Residential Developments.

- B. The 1990 Land Use Plan further encouraged as a goal the use of package treatment plants for Planned Residential Developments to insure that development is sensitive to the physical constraints of land. Accordingly, it was intended as implementation of the stated goal that centralized wastewater treatment plants be required for all Planned Residential Developments.
- C. Since adoption of the 1990 Land Use Plan, Article 9 of the Unified Development Ordinance has been amended to continue allowance of Planned Residential Developments but with inconsistent language that might allow on-site wastewater treatment systems rather than the stated goal to require centralized wastewater treatment plants.
- D. Policy HN3 of the Currituck County 2006 Land Use Plan provides that to avoid traditional suburban sprawl the county encourages open space development and compact, mixed use development that often or generally employs centralized water and sewer.
- E. Despite the goals and policies set forth in the 1990 Land Use Plan and Currituck County 2006 Land Use Plan, Planned Residential Development applications have been presented to the county with the stated intent to treat wastewater with on-site systems rather than through the use of centralized wastewater treatment systems.
- F. In addition, after further consideration of the practical application of Planned Residential Development it is not certain or apparent that the use of land at the level of density typical of Planned Residential Development is in the best interest of the county particularly as more density relates to the proper treatment of wastewater and the ability of the county to provide other mandated services to a growing population.
- G. Modification regarding the use of Planned Residential Developments will require amendment of the Unified Development Ordinance which process will be compromised and futile if additional Planned Residential Development approval is sought prior to the time required to address the concerns set forth herein.

II. STATEMENT OF DEVELOPMENT APPROVAL SUBJECT TO THE MORATORIUM AND HOW SUCH MORATORIUM WILL ADDRESS THE EXISTING PROBLEMS ~ NCGS 153A-340(h)(2)

Imposition of a moratorium on the acceptance, processing or consideration of Planned Residential Development applications will prevent the approval of Planned Residential Development as an acceptable method of residential land development in the county.

III. DATE FOR TERMINATION AND THE REASONABLE NECESSITY FOR ITS LENGTH TO ADDRESS THE PROBLEMS GIVING RISE TO THE IMPOSITION OF A MORATORIUM ~ NCGS 153A-340(h)(3)

Regulation to prohibit Planned Residential Developments or continue to allow Planned Residential Developments with modification such as the requirement for centralized wastewater treatment or increased lot size will require amendment of the Unified

Development Ordinance. Therefore, time is required to review existing ordinances, draft proposed amendments and process any proposed amendment through relevant county boards or agencies. It is anticipated that a minimum of 180 days will be required to complete that process.

IV. STATEMENT OF ACTIONS AND SCHEDULE FOR THOSE ACTIONS PROPOSED TO BE TAKEN DURING THE EXISTENCE OF A MORATORIUM REASONABLY NECESSARY TO ADDRESS THE PROBLEMS AND CONDITIONS LEADING TO THE IMPOSITION OF THE MORATORIUM ~ NCGS 153A-340(h)(4)

During the existence of this moratorium the appropriate Currituck County staff shall:

- A. Review the Planned Residential Development concept and existing Unified Development Ordinance language to determine amendment to the Unified Development Ordinance that is advisable to either prohibit Planned Residential Development or to modify the use of Planned Residential Development to meet and preserve the stated goals established by the Currituck County 2006 Land Use Plan; and
- B. Process any land use ordinance amendments through the Currituck County Planning Board so that a public hearing may be held on any amendments prior to the expiration of this ordinance.

V. IMPOSITION OF MORATORIUM

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS FOR THE COUNTY OF CURRITUCK that after careful, deliberate and studied contemplation of the above does hereby implement and impose, effective from the date and time of the adoption of this ordinance, to and including the end of March 29, 2008, a moratorium prohibiting the acceptance, processing or consideration by any appointed or elected board an application for Planned Residential Developments. Notwithstanding the foregoing, this ordinance shall not apply to applications for Planned Residential Developments that have received Technical Review Committee evaluation prior to the date and time of this ordinance is adopted.

Discussion on moratorium for rezoning pending approval of conditional use zoning

Commissioner Etheridge expressed concerns with rezoning over 1,000 lots, and the impact on schools and water. He further stated that he would like to put a hold on rezoning property until the Board discussed conditional use zoning.

Chairman Nelms stated that the Board should discuss this in a work session.

PUBLIC HEARING and ACTION PB 07-44 CLOVER BEND (OLD BROTHERS, LLC): Rezone approximately 53.32 Acres from Agricultural to Residential. Located on the northwest side of Guinea Road (SR 1214), approximately 200' north of the

intersection with Guinea Mill Road (SR 1282), Moyock Township, Tax Map 22, Parcel 71X.

David Webb, Chief Planner, reviewed the rezoning.

TYPE OF REQUEST: Rezone approximately 53.32 Acres from Agricultural to Residential

LOCATION: On the northwest side of Guinea Road (SR 1214), approximately 200' north of the intersection with Guinea Mill Road (SR 1282), Moyock Township.

TAX ID: Tax Map 22, Parcel 71X
(0022000071X0000)

OWNER: Old Brothers, LLC
101 Commerce Drive
Moyock, NC 27958
252-232-2233

ENGINEER: Resource International, LLC
751 Thimble Shoals Blvd., Suite N
Newport News, VA 23606
757-873-7711

ZONING:	<u>Current Zoning</u> Agricultural (A)	<u>Proposed Zoning</u> Residential (R)
----------------	--	--

ZONING HISTORY: The property was zoned Agricultural (A) on the 1989 zoning atlas.
A sketch plan for 16- three (3) acre residential lots was granted in December 2005.

SURROUNDING PROPERTY:

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

EXISTING LAND USE: Agricultural

PROPOSED LAND USE: To permit the uses allowed in the R zoning district.

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the subject property as **Full Service** and within the Moyock sub-area. In the Full

Service Area, base residential development density is contemplated to be 1-2 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. A greater diversity in housing types (i.e. semi-detached, attached, multi-family) would be considered appropriate in the Full Service areas.

In the Moyock sub-area, heightened development interest has brought with it pressure for more subdivisions, as well as the retail services that follow such development. It also brings with it concerns about heavier traffic, loss of open space, increased stormwater runoff and drainage issues, overburdened schools, a need for enhanced police, fire and rescue services, and demand for centralized water and sewer services.

POLICY WS6 of the Land Use Plan states: Currituck County endorses the proper use and maintenance of APPROVED SEPTIC SYSTEMS in suitable soils as an environmentally acceptable means of treating and dispersing waste from low-density development.

It appears that none of these soils are considered suitable for on-site wastewater.

The surrounding area, while zoned Agricultural, is emerging in a suburban low-density residential development pattern, particularly as evidenced by the Eagle Creek, Launch Landing and Creekside Estates Subdivisions. The permitted density in the Residential zoning district of 1 unit/ acre is in keeping with the surrounding area and appears to **generally comply** with the policies of the Land Use Plan.

PUBLIC SERVICES AND UTILITIES:

The Moyock Volunteer Fire Department provides fire protection for this area. Electric, telephone and county water are available along Guinea Road.

TRANSPORTATION:

The site has approximately 2302.96 linear feet of frontage on the north side of Guinea Road

FLOOD ZONE:

The property contains approximately 17 acres in Flood Zone AE (5) and 36 acres in Zone X (outside of the 100 year flood zone).

SOILS:

The Currituck County Soils map indicates the three properties contain property contains approximately 14 acres

of marginal soils and 39 acres of unsuitable soils 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.”

The Agricultural zoning district allows 1 residential unit per 3 acres. A Residential zoning district would allow 1 unit per 40,000 square feet. In evaluating this rezoning, the currently allowed residential density would be 16 units. If a rezoning to Residential is approved, approximately 48 units would be possible. The rezoning would also increase the number of school seats needed from 12 to 36.

Upon evaluating the application, staff recommends **approval** for the following reasons:

- 1) The request complies with the 2006 Land Use Plan classification of Full Service and the Moyock sub-area.
- 2) The permitted density is in keeping with the character of the surrounding area.
- 3) The site has access to a state maintained road and county water.
- 4) Although the soils are generally unsuitable for on-site septic systems, the type of development proposed would dictate the wastewater system requirements.

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

Mr. West stated concerns with soil suitability and soil types.

SURROUNDING PROPERTY:

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

EXISTING LAND USE: Agricultural

PROPOSED LAND USE: To enable the owner to use the land for more purposes.

LAND USE PLAN CLASSIFICATION:

The property is contains 37.5 acres of land designated **Conservation** class and 21.5 acres of **Limited Service** in the 2006 Land Use Plan. The parcel is 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.

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. The area is encompassed both the Conservation and Limited Service classifications and an average density of 1 unit per acre is contemplated.

The purpose of the Conservation class is to provide for the long-term management and protection of significant, limited, or irreplaceable areas. Proper management is needed to conserve the natural, cultural, recreational, scenic or biologically productive values of these areas.

A Residential zone would comply with the Limited Service classification and but not the Conservation classification.

PUBLIC SERVICES AND UTILITIES:

The Lower Currituck Fire Department provides fire protection for this area. Electric and telephone are currently available. County water is not available.

TRANSPORTATION:

The site has 1063 feet of frontage on Jarvisburg Road.

WETLANDS:

Approximately 38 acres of the site are wetlands according to the North Carolina general wetland maps. A wetland delineation

certified by the US Army Corps of Engineers would be needed to determine the exact wetlands limits.

SOILS: The Currituck County Soils map indicates the property contains approximately 8.1 acres of suitable soils and 12.1 acres of marginal and 39 acre of un-suitable soils 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.”

Because the request is in general compliance with the 2006 Land Use Plan, staff recommends **approval** of the request to rezone 21.5 acres to Residential (R). The requested zoning line follows the Conservation Class Land Use Plan.

PLANNING BOARD DISCUSSION

Charles Dozier stated he is fine with what is showing up on the screen displaying his site.

Jerry Wright stated that he has a piece of property adjacent to this property and has no opposition to this rezoning. He asked the board to consider public access to the sound when Mr. Dozier comes back with a plat.

Mr. Dozier stated he is not interested in public access for the property.

PLANNING BOARD ACTION

Mr. Bell motioned to recommend approval of the request to only rezone 21.5 acres of the 58.78 acres to residential and the other 37.5 acres to remain agricultural. Mr. Winter seconded the motion. Motion passed unanimously.

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

Commissioner Bowden moved to approve with findings of fact and is consistent with the Land Use Plan. Commissioner Gregory seconded the motion. Motion carried with Commissioner Etheridge voting no.

PUBLIC HEARING AND ACTION PB 07-58 JARVIS LANDING REZONING: Rezone approximately 15.1 acres from Residential to General Business. Located at 7400 Caratoke Highway, approximately 750 feet North of Case Landing Rd, Tax Map 110, Parcel 74, Poplar Branch Township.

Deleted

PUBLIC HEARING AND ACTION PB 07-54 JOHN FORBES- MACEDONIA CHURCH ROAD REZONING: Rezone approximately 39.68 acres from Agricultural to General Business. Located at the north corner of Caratoke Highway and Macedonia Church Road, Poplar Branch Township, Tax Map 93, Parcel 141, Poplar Branch Township.

David Webb, Chief Planner, reviewed the request.

TYPE OF REQUEST: Rezone approximately 39.68 acres from Agricultural to General Business

LOCATION: Located at the north corner of Caratoke Highway and Macedonia Church Road, Poplar Branch Township

TAX ID: Tax Map 93, Parcel 141
0110-000-0074-0000

OWNER: John Forbes, Jr.
139 South Mills Road
Moyock, NC 27958

ZONING:	<u>Current Zoning</u> Agricultural (A)	<u>Proposed Zoning</u> General Business (GB)
----------------	--	--

ZONING HISTORY: The property was zoned Agricultural (A) on the 1989 zoning atlas.

SURROUNDING PROPERTY:

NORTH:	Agricultural	A and GB
SOUTH:	Residential	A
EAST:	Residential and Agricultural	GB
WEST:	Residential	GB and A

EXISTING LAND USE: Vacant/ Agricultural

PROPOSED LAND USE: To be consistent with surrounding properties for any future development.

Uses Permitted by Right in a General Business District:

Sales and rental of goods, merchandise and equipment
Convenience Store
Wholesale Sales
Professional offices
Physician or dentist office less than 10,000 sf
Office/warehouse
Movie theater
Publicly owned outdoor recreational facility (athletic field, golf course, park, boat ramp)
Restaurants
Automobile service station
Gas sales
Automobile repair shop/body shop
Car wash
Motor vehicle and boat wholesale and service
Automobile parking lots/garages
Storage facilities, inside a fully enclosed building
Veterinarian
Pet grooming facility inside a fully enclosed structure
Silvicultural operations
Post office
ABC store
Dry cleaner
Laundromat
Utility facilities
Farm and craft market
Towers, less than 50 feet in height
Cemetery, family and church
Day Care
Commercial Greenhouse/Nursery
Agribusiness

LAND USE PLAN

CLASSIFICATION:

The 2006 Land Use Plan classifies the site as 33.43 acres of **Limited Service Area** and 6.25 acres of **Conservation Area** within the **Aydlett, Waterlily and Churches Island** sub-area.

The purpose of the Limited Services Area class is to provide for primarily residential development at low densities. 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. In general, neighborhood commercial uses are more appropriate than large scale commercial complexes.

The purpose of the Conservation class is to provide for the long-term management and protection of significant, limited, or irreplaceable areas. Proper management is needed to conserve the natural, cultural, recreational, scenic or biologically productive values of these areas.

The policy emphasis of this plan is for developable areas of Aydlett, Waterlily and Churches Island to remain as low-density residential areas at 1 unit per acre.

**PUBLIC SERVICES
AND UTILITIES:**

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

TRANSPORTATION:

The site has approximately 1,254 linear feet of frontage on Caratoke Highway and 1,076 feet of frontage on Macedonia Church Road.

FLOOD ZONE:

This site has been designated an X Flood Zone by FEMA and is therefore out of the 100 year floodplain.

SOILS:

The Currituck County Soils map indicates the property contains suitable soils for on-site septic systems in the area outside of the wetlands.

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.”

In addition, Section 2407 of the Ordinance states that “[a]reas 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.

Upon evaluating the application, staff maintains that the proposed rezoning does not satisfy the above-referenced criteria for the reasons listed below and therefore recommends **denial**. If the Board chooses to approve the request, staff recommends the Conservation Area of 6.25 acres be excluded from the rezoning.

- 1) The proposed rezoning **does not** comply with the 2006 Land Use Plan designation of a Limited Service or Conservation area due to there are uses permitted by right in a General Business zone would not be neighborhood commercial uses.
- 2) As recommended by the Land Use Plan, design criteria **has not** been established to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping, and site design
- 3) While the properties border an existing General Business zone, the issue before the Board is will higher intensity uses be allowed in areas along Caratoke Highway.
- 4) There are no conditions that have changed on the property or in the surrounding area that would make this request necessary.
- 5) There appears to be over ample land zoned General Business in this area of the county to meet the needs. This request does not appear to meet a public need for additional land zoned General Business in this area.
- 6) The 1994 US Highway 158 & N.C. Highway 168 Corridor Plan supports nodal development of business areas and there is such an area to the south along Caratoke Highway, however this location was not identified by the plan for commercial development.
- 7) The 1994 Corridor Plan recommends: Rezoning of additional property to commercial along US 158 and NC 168 should only be allowed in rare circumstances where unusual conditions warrant such rezoning. Rezoning requests should be carefully scrutinized for their benefit to the community.

PLANNING BOARD DISCUSSION

John Forbes stated that he is asking for the property to be rezoned to general business because there is a cemetery back of this property which limits property being sold.

Mr. West stated that the cemetery is in Laural Memorial Cemetery. Mr. West asked Mr. Forbes his proposed use of the land.

Mr. Forbes stated he has no proposed use for it.

Mr. Midgette stated that the committee has already denied a request earlier tonight because general business is such a wide range of uses.

Mr. Webb stated that the wide range of uses under general business is a concern of his staff.

Mr. West asked if Mr. Webb anticipated a decision on limited or full service rule on general business.

Mr. Webb estimated by the end of the year.

PLANNING BOARD ACTION

Mr. West motioned to recommend this request be tabled until further direction from the Board of Commissioners could be obtained. Mr. Bell seconded the motion. Mr. West withdrew this motion because Mr. Forbes asked that the Planning Board to deny his rezoning request so it could move forward to the Board of Commissioners.

Mr. Keel motioned to recommend denial to rezone approximately 39.68 acres from agricultural to general business as presented. Mr. Winter seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Ronnie Cooper, supports request.

Howard Forbes, request Board's support for request.

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

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

**PUBLIC HEARING AND ACTION PB 07-55 JOHN FORBES REZONING:
Rezone approximately 38.88 acres from Agricultural to
General Business. Located on the east side of Caratoke
Highway 400 feet north of the intersection with Garrenton
Road, Tax Map 108, Parcel 35, Poplar Branch Township.**

David Webb, Chief Planner, reviewed the rezoning.

TYPE OF REQUEST: Rezone approximately 38.88 acres from Agricultural to General Business. The property contains approximately 22 acres of wetlands.

LOCATION: Located on the east side of Caratoke Highway 400 feet north of the intersection with Garrenton Road.

TAX ID: Tax Map 108, Parcel 35
0108-000-0035-0000

OWNER: John Forbes, Jr.
139 South Mills Road
Moyock, NC 27958

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

ZONING HISTORY: The property was zoned Agricultural (A) on the 1989 zoning atlas.

SURROUNDING PROPERTY:

NORTH:	Agricultural	A and GB
SOUTH:	Agricultural and Retail (The Cotton Gin)	A and GB-235 deep along the highway
EAST:	Currituck Sound	NA
WEST:	Retail and Agricultural (across highway)	GB and A

EXISTING LAND USE: Agricultural

PROPOSED LAND USE: To be consistent with surrounding properties for any future development.

Uses Permitted by Right in a General Business District:

- Sales and rental of goods, merchandise and equipment
- Convenience Store
- Wholesale Sales
- Professional offices
- Physician or dentist office less than 10,000 sf
- Office/warehouse
- Movie theater
- Publicly owned outdoor recreational facility (athletic field, golf course, park, boat ramp)
- Restaurants
- Automobile service station
- Gas sales
- Automobile repair shop/body shop
- Car wash
- Motor vehicle and boat wholesale and service
- Automobile parking lots/garages
- Storage facilities, inside a fully enclosed building
- Veterinarian

Pet grooming facility inside a fully enclosed structure
Silvicultural operations
Post office
ABC store
Dry cleaner
Laundromat
Utility facilities
Farm and craft market
Towers, less than 50 feet in height
Cemetery, family and church
Day Care
Commercial Greenhouse/Nursery
Agribusiness

LAND USE PLAN

CLASSIFICATION:

The 2006 Land Use Plan classifies the site as 16.38 acres of **Limited Service Area** and 22.5 acres of **Conservation Area** within the **Jarvisburg** sub-area.

The purpose of the **Limited Services Area** is to provide for primarily residential development at low densities. 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. In general, neighborhood commercial uses are more appropriate than large scale commercial complexes.

The purpose of the **Conservation** class is to provide for the long-term management and protection of significant, limited, or irreplaceable areas. Proper management is needed to conserve the natural, cultural, recreational, scenic or biologically productive values of these areas.

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.

**PUBLIC SERVICES
AND UTILITIES:**

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

TRANSPORTATION:

The site has approximately 320 linear feet of frontage on Caratoke Highway.

SOILS: The Currituck County Soils map indicates the property contains 8.8 acres of suitable soils, 4.9 acres of marginal soils and 25.2 acres of un-suitable soils for on-site septic systems in the area outside of the wetlands.

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.”

In addition, Section 2407 of the Ordinance states that “[a]reas 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.

Upon evaluating the application, staff maintains that the proposed rezoning does not satisfy the above-referenced criteria for the reasons listed below and therefore recommends **denial**. If the Board chooses to approve the request, staff recommends the Conservation Area of 22.5 acres be excluded from the rezoning.

- 1) The proposed rezoning **does not** comply with the 2006 Land Use Plan designation of a Limited Service or Conservation area due to there are uses permitted by right in a General Business zone would not be neighborhood commercial uses.
- 2) As recommended by the Land Use Plan, design criteria **has not** been established to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping, and site design
- 3) While the properties border an existing General Business zone, the issue before the Board is will higher

intensity uses be allowed in areas along Caratoke Highway.

- 4) There are **no** conditions that have changed on the property or in the surrounding area that would make this request necessary.
- 5) There appears to be over ample land zoned General Business in this area of the county to meet the needs. This request does not appear to meet a public need for additional land zoned General Business in this area.
- 6) The 1994 US Highway 158 & N.C. Highway 168 Corridor Plan supports nodal development of business areas and there is such an area to the north in Grandy along Caratoke Highway, however this location was not identified by the plan for commercial development.
- 7) The 1994 Corridor Plan recommends: Rezoning of additional property to commercial along US 158 and NC 168 should only be allowed in rare circumstances where unusual conditions warrant such rezoning. Rezoning requests should be carefully scrutinized for their benefit to the community.

PLANNING BOARD DISCUSSION

John Forbes asked if the Planning Board had any questions.

Jerry Wright stated that he and his brother own property North and South of the proposed rezoning property. If you go to general business this is a 700% increase density on this property. If you go to residential it is a 300% increase. The general business allows to much density. Pine Island is a huge example of conservation. He opposes this rezoning. Mr. Wright said the letter said it was 27 acres, but it actually is 38.88 acres.

David Webb said the deed is 40 to 50 years old and the land has not been surveyed.

PLANNING BOARD ACTION

Mr. Kovacs motioned to recommend denial to rezone approximately 38.88 acres from agricultural to general business as presented. Mr. Etheridge seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Howard Forbes, applicant, requests that only 20 acres be rezoned.

Jerry Wright, adjacent property owner, opposes this request and stated that quality of county depends on conservation and preserving wildlife. He supports 400 ft. depth for rezoning.

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

Commissioner Bowden moved to approve rezoning 20 acres. Chairman Nelms seconded the motion. Motion carried with Commissioner Etheridge voting no.

PUBLIC HEARING AND ACTION PB 07-49 TULLS CREEK LANDING, OPEN SPACE SUBDIVISION: Sketch Plan/Special use Permit for a 37-lot open space residential subdivision. The 58.22 acre property is located on the northeast side of Tulls Creek Road, 0.3 mile southeast of Caratoke Highway, and adjacent to Shingle Landing Creek, Moyock Township. Tax Map 9, parcel 41.

Sworn testimony was given prior to making comments.

David Webb, Chief Planner, reviewed the request.

ITEM: PB 07-49 Tulls Creek Landing: Sketch Plan/ Special Use Permit for a 37-lot open space residential subdivision.

LOCATION: The 58.22 acre property is located on the northeast side of Tulls Creek Road, 0.3 mile southeast of Caratoke Highway, and adjacent to Shingle Landing Creek, Moyock Township.

TAX ID: Tax Map 9, Parcel 41

ZONING DISTRICT: Residential
History: Property rezoned from A to R 9/18/06

OWNER: Bonnie Tynes Christine, et al
1550 Beach Blvd.
Biloxi, MS 39530

ENGINEER: Hyman & Robey
150 US Hwy 158 E.
PO Box 339
Camden, NC 27921
252-338-2913

PRESENT USE: Agricultural/Residential

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Residential	R & GB
SOUTH:	Commercial/Residential	GB
EAST:	Residential/Wetlands	R
WEST:	Residential	A

SCHOOL DISTRICT: Moyock Elementary

SIZE OF SITE: 58.22 Acres

NUMBER OF LOTS: 37

DENSITY: 0.64 of a unit per acre

MINIMUM LOT SIZE: 20,000 SF (allowable) if the difference between 40,000 sf and 20,000 sf is placed into open space.

STREETS: The streets will be built to NCDOT Design and Construction standards and potentially dedicated to NCDOT. The proposed 3,066 linear feet of streets will contain an improved connection to Moyock Landing Drive within Shingle Landing subdivision.

WATER: This development is proposing to connect to county water.

FIRE: This development is located within the jurisdiction of the Moyock Volunteer Fire Department. This development contains more than 20 lots and fire hydrants are proposed within 500 feet of each lot.

WASTEWATER: Individual, on-site septic systems are proposed.

SOILS: The Currituck County Soil Suitability map indicates the soils to the northern third of the property are suitable and the soils on the remainder of the property are not suitable for conventional waste water disposal system due to soil wetness conditions. Fill will be required in some portions of the proposed development site.

OPEN SPACE: An open space subdivision (between 31 and 40 lots) requires 30% of the total tract area to be open space excluding all CAMA wetlands. In addition, lot area that is reduced from the required 40,000 sf for each lot must be provided as open space. This 58.22 acre site will require approximately 17.47 acres open space and 5.8 acres for the lot reduction with a total of 23.27 required open space. The proposed development provides 8.09 acres of upland open space, 15.67 acres of wetland open space, and 2.52 acres of

reserve utility open space. The applicant is requesting a waiver of 3.55 acres to the 50% upland open space requirement. A detailed CAMA wetland survey/delineation has not been provided to determine existence of CAMA wetlands.

DRAINAGE: The applicant is proposing infiltration swales along lot lines and road rights-of-way.

NARRATIVE OF REQUEST:

- The Gee's Group is seeking sketch plan approval of a 37-lot open space residential subdivision.
- On September 18, 2006, the property was rezoned from A (Agricultural) to R (Residential).
- According to the Development Impact Statement, the developer's anticipated sale price of the lot and home combinations will range from \$447,000 to \$540,000. The proposed homes will contain a minimum of 2,300 sf with three to four bedrooms and two baths.

TECHNICAL REVIEW STAFF COMMENTS (July 18, 2007):

1. Soil and Water
 - a. Approved as is.
2. NC Department of Transportation
 - a. Turn lanes are required. *(Staff comment: The plan has been revised to include a deceleration lane and a center left turn lane.)*
 - b. Cul-de-sac required at the end of Creek Crossing. *(Staff comment: The plan has been revised to include interconnection with the proposed CTX, Inc. future commercial property.)*
 - c. A copy of the drainage plan must be submitted for review.
3. Fire Marshal
 - a. All fire hydrants shall be placed so they are within 500 feet of all road frontage and measurements are linear. *(Staff comment: The plan has been revised to include one additional hydrant).*
4. Water Department
 - a. The developer shall show how this development will not be a liability to the county (include cost of schools, emergency services and law enforcement).
 - b. Upon approval of sketch plan, submit plans and specifications for water line extension to the water department for review and comment.
5. County Engineer
 - a. Approved as is.
6. NC DENR, Division of Coastal Management

- a. If any work is at or near the water that could be considered navigable, a CAMA permit will be required.
 - b. Provide evidence that waters are or are not navigable and verified by CAMA.
7. Albemarle Regional Health Services
 - a. The health department evaluated ten areas at random, and they were found acceptable for development of onsite wastewater treatment systems.
 - b. Some areas will require fill where soil wetness is less than 24 inches.
 - c. All systems should be located in the front of the lot.
 8. Currituck County Planning and Inspections, Inspections Division
 - a. No comment received.
 9. Currituck County GIS
 - a. Approved street names.
 10. Currituck County Parks & Recreation Department
 - a. No comment received.
 11. Currituck County Emergency Management
 - a. No comment received.
 12. US Army Corps of Engineers
 - a. No comment received.
 13. NC DENR, Division of Water Quality
 - a. No comment received.
 14. NC DENR, Division of Land Quality
 - a. No comment received.
 15. Currituck County Superintendent of Schools
 - a. No comment received.
 16. NC Dominion Power
 - a. No comment received.
 17. Sprint Telephone
 - a. No comment received.

SPECIAL USE PERMIT CRITERIA:

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. It is recognized that some land uses have a particular impact on the surrounding land that cannot be determined and controlled by general zoning regulation. Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding

properties. In order to approve a Special Use Permit, certain criteria must be satisfied. The criteria are outlined as follows:

1. *Is the application complete?*
 - a. Based on staff review all required information has been submitted for review.
2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?*
 - a. The applicant is requesting a waiver or modification of Section 913, Open Space Standards for Residential Subdivisions. The waiver request, if approved by the board, would reduce the required open space by 3.55 acres or 6%.
3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*
 - (a) *Will not endanger the public health or safety.*
 - i. Public health and safety issues including stormwater management, wastewater disposal and access for emergency services have been adequately addressed within this proposal.
 - (b) *Will not injure the value of adjoining or abutting property.*
 - i. The proposed 37-lot residential subdivision should have no negative impact on adjoining property. The adjoining uses include wetlands, residential, and commercial uses.
 - (c) *Will be in harmony with the area in which it is located.*
 - i. The proposed residential subdivision should be similar and compatible with the neighborhood, and have no negative impact on the adjoining property.
 - ii. The 404 wetlands subject to US Army Corps jurisdiction are being preserved within open space.
 - (d) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.*
 - i. The 2006 Land Use Plan classifies this property within the two classifications, **Full Service Area and Rural Area** within the Moyock sub-area. Full service areas are located in parts of the county that provide a broad range of infrastructure and service investments. A greater diversity of housing types would be considered in full service areas. The base development density should be two units per acre but could be increased to 3-4 units per acre with overlay zoning depending on service availability and potential impacts on the community. Rural areas are located in parts of the county that provide very low-density dispersed development associated directly with farm uses. The base development density should be one unit per acre but could be increased to 1.5 units per acre through overlay zoning

- depending on service availability and potential impacts on the community. The proposed subdivision is in keeping with the Land Use Plan designation.
- ii. The 2006 Land Use Plan policy statement HN3 1. encourages open space development to avoid traditional suburban sprawl.
- (e) *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within 2 years after the initial approval of the sketch plan. In the case of subdivision and multifamily development at the sketch plan/special use, preliminary plat or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in accordance with Section 2015.*
- i. The revised capacity formula and generation rates taken from the Tischler & Associates, Inc. study were used to calculate the capacity under the existing ordinance. The proposed development will yield the following calculations:

Tulls Creek Landing (37 SFD lots)	Available Capacity	Demand	Remaining Capacity if approved
Elementary School	128	10	118
Middle School	97	3	94
High School	139	6	133

- ii. Based on the expected growth rates as experienced in the past five years, the water department has adequate water to serve the proposed development.
- iii. Staff has determined adequate public facilities exist to serve this subdivision

STAFF RECOMMENDATION:

The developer could meet all requirements of the UDO; however, a portion of the wetlands would be included in the lot area. With the proposed design, the developer has ensured that all wetlands located within the subdivision will be placed inside open space and not included within any lot area. The staff finds the proposed sketch plan will provide an equal or better performance by including 3.55 acres of wetlands in the required upland open space and will yield a better design by excluding 404 wetlands from any lot area.

The planning staff recommends **approval** of the sketch plan for Tulls Creek Landing subject to the Board adopting all TRC comments listed above as well as the following conditions and waiver:

Waiver

- 1. A waiver of section 913, Open Space Standards for Residential Subdivisions, to allow 3.55 acres (6%) of wetlands to be included in the required upland open space calculation.

Code and Technical Review Committee Requirements:

1. The developer/engineer must specify the type of development. It appears from the information provided the development will be an open space subdivision.
2. If the proposed subdivision will be developed under the open space subdivision requirements the following must be met:
 - a. A minimum 30% open space is required (excluding CAMA wetlands). At least 50% of the open space required by the UDO shall be lands suitable for development. (Section 913) *Staff comment: The applicant is requesting from the Board of Commissioners a waiver to Section 913, Open Space Standards for Residential Subdivisions.*
3. The yield plan shall be the maximum number of lots that may be created from the single parcel after all CAMA wetlands, 404 wetlands and streets have been removed. (Section 905, 913) *(Staff comment: The applicant must provide CAMA wetland determination to determine existence of CAMA jurisdictional wetlands).*
4. The yield plan identifies parcel one and parcel two accessed by a 50' easement. The current tax record does not identify this property as two parcels, please explain. *(Staff comment: The plat identifying the easement and two parcels was not recorded and has been removed from the revised plan).*
5. Subdivisions with more than 20 lots, adjacent to public trust or estuarine waters, must provide an adequate area suitable for access to the water with a minimum area of 20,000 square feet and shall be contiguous to the tract being developed and accessible to all property owners within the development. (Section 924) A portion of the required open space shall be improved for recreational use (i.e. ball fields, children's playground, swimming pools, tennis courts, etc). The plan shall indicate all recreational improvements proposed. (Section 702) *(Staff comment: The revised plan indicates a 20,000 sf canoe launch site that is consistent with policy statement PA2 of the Land Use Plan).*
6. The board did not require interconnectivity within Shingle Landing subdivision (located to the north) and Shingle Landing Farm subdivision (located to the west), interconnectivity to Shingle Landing subdivision to the north should be provided to relieve traffic that might travel along Tulls Creek Road (schools, convenience center, etc.) from accessing Caratoke Highway to Tulls Creek Road. (Section 914) (LUP policy statement TR8) *(Staff comment: The revised plan provides interconnectivity with the proposed future commercial development of Shingle Landing subdivision. The sketch plan should provide an improved temporary cul-de-sac at property line unless the complete, improved connection to Moyock Landing Drive can be provided prior to final plat approval).*
7. The UDO requires permanent dead-end streets to be developed as a cul-de-sac and not be less than 100 feet in length. The BOC may at its discretion or upon request from the subdivider, modify any standard or requirement of Article 9 where it is determined that an equal or better evaluation shall be made with regard to the overall performance in carrying out the purposes of these

- regulations. (Section 904, 914) *(Staff comment: The revised plan provides interconnectivity to Moyock Landing Drive therefore meeting the requirements of the UDO).*
8. Subdivisions containing more than 20 lots that will be served by septic tanks shall reserve an area, in addition to the open space area required by the UDO. The developer must provide plans and specifications to ensure adequate reserve utility open space meets the satisfaction of the county engineer and the board of commissioners. (Section 703, 917) *(Staff comment: The revised plan provides 109,938 sf of reserve utility open space. The developer must provide plans and specifications that indicate the reserved area is adequate to the satisfaction of the county engineer and Board of Commissioners).*
 9. The subdivision shall provide property line swales along all side property lines unless the stormwater plan adequately addresses drainage as approved by the county engineer. (Section 922)
 10. A maintenance access drainage easement shall be required for all ditches, creeks and major waterways. (Section 922)
 11. The sketch plan should indicate existing driveways on the opposing side of Tulls Creek Road to ensure proper alignment.
 12. The 10' x 70' site triangle shall be provided at road intersections. (Section 914) *(Staff comment: The plan indicates the 10' x 70' site triangle).*
 13. The applicant shall provide assurances/commitments from service providers (county water) that water will be available to serve the proposed development. (Section 917) *(Staff comment: A copy of the letter from the county engineer has been provided).*
 14. The proposed development shall retain all existing trees 18" or more in diameter. The preliminary plat shall address tree protection/ preservation. (Section 514, 516)
 15. The applicant shall submit the preliminary engineering certification stating that the approximate layout of proposed streets, house lots, and open space lands complies with the county regulations, particularly those sections governing the design of the subdivision streets and stormwater management facilities. (Section 933)
 16. A copy of the completed adjoining property owner letter must be submitted.
 17. NCDOT will require a deceleration lane and a center left turn lane into the subdivision. The revised plan provides the deceleration lane and center turn lane.
 18. No land disturbing activities shall be permitted on site prior to the issuance of the Preliminary Plat approval, including clearing vegetation, grading, filling the property or installing bulkheads. (Section 910)
 19. Section 914 of the UDO currently (as of 8-20-2007) requires all subdivisions over 20 lots to install concrete sidewalks along both sides of all proposed streets in accordance with NCDOT regulations.

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

Mr. Eddie Hyman and Jay Synder appeared before the board.

Mr. Webb presented the case analysis to the board.

Mr. Kovacs questioned the inclusion of wetlands in open spaces.

Mr. Webb stated 50% of the wetlands can be used as open space.

Mr. Hyman stated the property is well drained, and the health department performed on site evaluations for 10 lots and all are suitable for the onsite septic systems.

Mr. Synder stated that the open space will be nicely landscaped.

Mrs. Turner questioned if the development would comply with open space requirements should the total wetlands be counted.

Mr. Hyman stated he could include some wetlands in the lot area however planning staff would like the wetlands preserved. Mr. Hyman added the Board of Commissioners could approve a waiver of the subdivision regulations as stated in Section 904 of the UDO. A text amendment could take several months and could delay the project.

Mr. Kovacs questioned the size of recreation and parking area.

Mr. Webb stated the utility open space is separate from required open space. Required open space can be no more than 50% wetlands with the remaining to be uplands for recreational open space. This development proposes natural trails thru the wetlands and kayak launching area.

Mr. West agreed with the size of the lots however he doesn't believe wetlands should be considered open space.

Mr. Hyman stated we are not including any of the wetlands within the lots since the builder could possibly apply for permits to fill a portion of the wetlands within the lot.

PLANNING BOARD ACTION

Mr. Kovacs motioned to recommend approval of the sketch plan and special use permit subject to the findings of fact stated above, plan corrections sidewalks provided on both sides of all proposed streets, interconnectivity with the proposed commercial subdivision of Shingle Landing, and a waiver to Section 913 of the UDO to reduce the required open space for residential subdivisions from the Board of Commissioners. Mrs. Turner seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Eddie Hyman, requested Board to waive sidewalk requirements.

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

Commissioner Taylor moved to approve with findings of fact. Commissioner Bowden seconded the motion. Motion carried.

PUBLIC HEARING AND ACTION PB 07-19 MARCO VENTURES REZONING: Rezone approximately 262 acres from Agricultural (A) to Residential (R). Located on Puddin Ridge Road to the north of Wildwood Acres and due west of Eagle Creek, Tax Map 10, Parcel 19, Moyock Township.

David Webb, Chief Planner, reviewed the request.

TYPE OF REQUEST: Rezone approximately 262 acres from Agricultural to Residential

LOCATION: Located on Puddin Ridge Road to the north of Wildwood Acres and due west of Eagle Creek.

TAX ID: Tax Map 10, Parcels 19
(001000000190000)

OWNERS:
Marco Ventures, LLC
PO Box 609
Moyock, NC 27958

ENGINEER: Bissell Professional Group
Mark Bissell
PO Box 1068
Kitty Hawk, NC 27949

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

ZONING HISTORY: The property was zoned Agricultural (A) on the 1989 zoning atlas.

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Residential and Agricultural	A
SOUTH	Low Density Residential	A
EAST:	Agricultural	A
WEST:	Agricultural and Residential (Eagle Creek)	A and R

EXISTING LAND USE: Agricultural

PROPOSED LAND USE: To permit the uses allowed in the R zoning district.

**LAND USE PLAN
CLASSIFICATION:**

The 2006 Land Use Plan classifies the site as **Rural** within the **Moyock** sub-area. The Rural class is intended to provide for agriculture, forestry, and other allied uses traditionally associated with a rural area. The Rural class is the broadest of the several general land classes and thus constitutes the second largest land area on the Currituck County Land Classification Map. Preferred uses include very low-density dispersed development associated directly with farm uses. Population densities are generally very low and development density is anticipated at no more than 1 unit per 3 acres. In addition, any development in the Rural Areas would be served by individual on-site water and septic.

In the Moyock sub-area, heightened development interest in this area has brought with it pressure for more subdivisions, as well as the retail services that follow such development. It also brings with it concerns about heavier traffic, loss of open space, increased stormwater runoff and drainage issues, overburdened schools, a need for enhanced police, fire and rescue services, and demand for centralized water and sewer services.

The policy emphasis of this plan is on properly managing the increased urban level of growth that this area is sure to experience over the next decade and beyond. Residential development densities should be medium to high depending upon available services.

In evaluating the Future Land Use Plan Map, it appears the Land Use Plan Steering committee limited Moyock's desired western boundaries for higher density development. The committee classified this area of Moyock as Rural, from the Camden County Line to the current western boundaries of the Eagle Creek and Quail Run subdivisions. Staff considers the mapping a clear policy adopted by the Board of Commissioners for this area and concludes that this rezoning **DOES NOT COMPLY** with the 2006 Land Use Plan.

**PUBLIC SERVICES
AND UTILITIES:**

The Moyock Volunteer Fire Department provides fire protection for this area. Electric service and telephone are the only utilities available along this area of Puddin Ridge Road.

TRANSPORTATION: The site has approximately 335 linear feet of frontage on the southwest side of Puddin Ridge Road.

FLOOD ZONE: The property is in Flood Zone X, outside of the 100 year floodplain.

SOILS: The Currituck County Soils map indicates the property contains approximately 19.5 acres of suitable soils; 5.5 acres of marginal soils and 237 acres of unsuitable soils 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.”

The Agricultural zoning district allows 1 residential unit per 3 acres. A Residential zoning district would allow 1 unit per 40,000 square feet. In evaluating this rezoning, the currently allowed **Agricultural** zone density would be **87** units. If a rezoning to **Residential** is approved, approximately **285** units would be possible. Staff notes the adjacent Eagle Creek subdivision was developed at a density less than 1 unit per acre and remains in the Agricultural Zoning District. The required school seats for development would increase from 41 to 137.

Because the request does not comply with the 2006 Land Use Plan classification of Rural and there are no existing water or sewer services to serve a development, staff recommends **Denial** of this request.

DISCUSSION

Mark Bissell, Bissell Professional Group stated that in November 2006 the planning board recommended approval of 77 acres Onley track and he read from the staff recommendations. The Marco Ventures rezoning request is almost identical to the Onley track.

Mr. Kovacs had concerns about accessible and if Eagle Creek could handle another 262 acres of residential land.

Tom Doshen provided a picture of his property 2-years ago from a rain storm and the flooding on his property. His concern is water damage to his property and increased traffic.

Laura Godfrey asked if Oxford Drive has 10 acres lots and Eagle Creek has 3 acres lots so they are not compatible and what is the distance between her property line and the proposed building site.

Mr. Webb stated that it is 25 feet off the property line to build.

Charles Jarvis does not want to see this agricultural land rezoned to residential.

Earl Brickhouse that his mother owns property across street and he is speaking on her behalf. Part of her land is residential and agricultural and they have been paying taxes for residential which is zoned residential. Mr. Brickhouse opposes this project. He asked if the entrance and exit was going to be on Puddin Ridge Road or at Eagle Creek. Puddin Ridge Road is busy and congestive.

Dale Jones is concerned about the rezoning from agricultural to residential due to utility issues, police and fire, and schools. This would put another strain on Moyock.

William Jarvis is an adjacent land owner and part owner of the land and is committed to agricultural.

Donna Brickhouse lives on Puddin Ridge Road and has seen a lot of flooding on her property due to rain. An Indian bury ground is located on her property. Ms. Brickhouse doesn't want anymore traffic on this road and is in opposition of this rezoning.

Melanie Bachanan stated she opposes the rezoning due to overcrowding in the area now.

Mark Bissell stated that the drainage, traffic and infrastructure are issues that will be addressed.

ACTION

Mr. West motioned to recommend denial to rezone approximately 262 acres from agricultural to residential as presented. Mr. Etheridge seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Charles Jarvis, opposes request and would like it kept at 10 acre lots.

Laura Godfrey, opposes because of traffic, and drainage issues.

Mark Bissell, Engineer, stated request complies with 2006 Land Use Plan.

Linda Knox, expressed concerns with traffic on Puddin Ridge Road.

Chairman Nelms stated he has also heard many concerns with this road and traffic.

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

Commissioner Taylor moved to approve and it is consistent with the 2006 Land Use Plan. Commissioner Bowden seconded the motion. Motion carried with Commissioner Etheridge voting no.

Consideration of Resolution on Coastal Stormwater Rules.

Commissioner Etheridge moved to adopt following resolution. Commissioner Taylor seconded the motion. Motion carried.

RESOLUTION OPPOSING PROPOSED AMENDMENTS TO COASTAL STORMWATER RULES – 15A NCAC 02H .1005

WHEREAS, the Department of Environment and Natural Resources and the Division of Water Quality are proposing amendments to Coastal Stormwater Rules for 20 coastal counties that are similar and even more restrictive than the Federal Phase II rules; and

WHEREAS, the topography in the Federal Phase II Counties is very different from the land topography in Northeast North Carolina and a one size fits all approach to stormwater regulations is impractical; and

WHEREAS, the proposed rules increase vegetative buffers from 30 feet to 50 feet, which may prevent redevelopment opportunities in existing small lot subdivisions; and

WHEREAS, the proposed rules decrease the land disturbance threshold from 1 acre to 10,000 square feet placing an undue burden on many single family homes and other small projects which may now be required to obtain stormwater permitting; and

WHEREAS, A 24% impervious surface threshold will result in eliminating much of the affordable housing in coastal counties while increasing the cost of constructing public infrastructure, the cost of which is borne by the taxpayers; and

WHEREAS, the proposed rules increase the workload of the NC Department of Water Quality Stormwater Permit Office, which may increase the time required for permit approval; and

WHEREAS, the proposed rules do not address existing development, redevelopment and vested rights; and

WHEREAS, the proposed rules do not address existing problems such as the lack of maintenance in swales and ditches; and

WHEREAS, the proposed rules do not address the potential economic impacts to local government, residents, businesses or industry, which may result in more expensive development costs; and

WHEREAS, there has been no cost benefit analysis performed, and there has been no environmental impact study done to estimate the actual benefit of these rules;

NOW, THEREFORE, BE IT RESOLVED, that the Currituck County Board of Commissioners strongly opposes the proposed changes to Coastal Stormwater Rules 15A NCAC 02H.1005 as they lack supporting scientific evidence as to their benefits, they are impractical and would have a severe detrimental economic impact on our area.

Consideration of awarding bid for Ground Water Storage Tank in Maple.

Deleted

Consent Agenda:

1. Declare Surplus Property
2. Approval of September 4 and 17, 2007, Minutes
3. Budget Amendments
4. Appoint members to the Volunteer Fireman's Relief Fund for Knotts Island, Moyock, Carova Beach and Lower Currituck Volunteer Fire Departments
5. Resolution Providing for Application to the Local Government Commission for Approval of Water System Revenue Bonds; Requesting Local Government Commission Approval of Such Water System Revenue Bonds; and Certain Related Matters and Findings
6. Approval of Jarvisburg Elementary School Change Order Number 1

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

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10541-590000	Capital Outlay	\$ 72,000	
10390-495012	Transfer from Fire Services		\$ 72,000
12541-587010	Transfer to Operating Fund	\$ 72,000	
12390-499900	Fund Balance Appropriated		\$ 72,000
		\$ 144,000	\$ 144,000

Explanation: Fire Services (10541; 12541) - To carry-forward funds remaining for turn-out gear. This was appropriated in Fund 12 for FY 2007 and moved to Fund 10 for FY 2008.

Net Budget Effect: Operating Fund (10) - Increased by \$72,000.

Fire Services Fund (12) - Increased by \$72,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10790-532441	Technology < \$1000	\$ 400	
10790-532000	Supplies	\$ 5,500	
10790-590000	Capital Outlay Fund Balance	\$ 35,500	
10390-499900	Appropriated		\$ 41,400
		\$ 41,400	\$ 41,400

Explanation: Library (10790) - To carry-forward funds for the renovations to the Corolla Library.
Net Budget Effect: Operating Fund (10) - Increased by \$41,400.

Commissioner's Report

No comment

County Manager's Report

No comment

Adjourn

There being no further business, the meeting adjourned.