

CURRITUCK COUNTY
NORTH CAROLINA
September 2, 2008

The Board of Commissioners met at 6:00 p.m. prior to the regular meeting with the Department of Transportation to review the Secondary Road Program.

The Board of Commissioners met 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 Walter Gallop was present to give the invocation.

Approval of Agenda

Commissioner Gregory moved to amend the agenda by deleting Item 3 and Item 11, add Item 12A, Update on Carova Beach Park and add to consent agenda Moyock Library Lease Agreement and funding for OLF citizens group for \$2500.00. Commissioner Taylor seconded the motion. Motion carried.

Public Comment

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

- Item 3 **Recognition of Shawboro Ruritan Club**
- Item 4 **Chris Hooper, Chairman Board of Elections** to present a proclamation for "Voter Awareness Month"
- Item 5 **Public Hearing and consideration of resolution to close portion of Rock Lane, Shad Lane and Shark Lane**
- Item 6 **Public Hearing and Action** PB 08-29 Moyock Land Company, LLC: Request to rezone 27.66 acres from Agricultural (A) to Conditional District - General Business (CD-GB). The property is located approximately 570 feet southeast of Puddin Ridge Road at the terminus of Moyock Commons Drive, Tax Map 15, Parcel 79, Moyock Township.
- Item 7 **Public Hearing and Action** PB 08-03 Backwoods Hideaway: Request for a Sketch Plan/Special Use Permit for a 16 lot Conservation Residential subdivision. The property is located on Northwest Backwoods Road, 1.3 miles north of the intersection with South Mills Road, Tax Map 3, Parcel 3A, Moyock Township.
- Item 8 **Public Hearing and Action** PB 08-36 Maple Industrial Park (Currituck County): Request for a Sketch Plan/Special Use Permit for 23 Commercial Lots located adjacent to the Currituck County Airport and to the rear of the Central Elementary School property, Tax Map 52, Parcels 14 and 16, Crawford Township.
- Item 9 **Public Hearing and Action** PB 08-33 Highland Properties, Inc.: Request to rezone 101.14 acres from Commercial (C) to Conditional District - General Business (CD-GB). The property is located

approximately 1/4 mile south of Guinea Road on Caratoke Highway (US 168), Tax Map 22, Parcel 88, Poplar Branch Township.

- Item 10 **Public Hearing and Action** PB 08-34 Campbell/Jarvis (Poyners Rd.): Request to rezone 137 acres from Agricultural (A) to Conditional District - Residential (CD-R). The properties are located at the intersection of Tulls Creek Road and Poyners Road. The properties included in the application for rezoning are Tax Map 31, Parcels 1, 15 and 18, Crawford Township.
- Item 11 **Discussion on Requesting Game Commission to Review 4:20 p.m. Law**
- Item 12 **Consideration of Bid Award Recommendation-Raw Water Mains**
- Item 13 **Consent Agenda:**
1. Budget Amendments
 2. Jarvisburg Elementary School-Change Order #5-B&M Contractors, Inc.
 3. Appointment of Dr. Alison Boone-Heyder to Library Board
 4. Albemarle Mental Health-Fourth Quarter Fiscal Monitoring Report
 5. Approval of August 18, 2008, Minutes
- Item 14 Commissioner's Report
- Item 15 County Manager's Report
- Adjourn

Public Comment

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

Chairman Nelms opened the public comment period.

April Bennett, Bells Island, stated that there would be a benefit for Currituck Kids on September 5 from 4-7:00 p.m.

Bob Henley, invited the public to the Currituck Wildlife Festival September 6 & 7 at the High School.

Bob Kohler, American Legion Coinjock, and John Jasinski, recognized Sheriff Susan Johnson as Law Enforcement Officer of the Year.

Tracy Costa, invited the public to the first Currituck County Fair September 11 - 14.

Dennis Anderson, Grave Digger, will be the sponsor of the Fair and invited public to attend.

Chairman Nelms requested that this be advertised on the Welcome sign in Moyock.

Randy Black, expressed his concerns with the 4:20 hunting rule and Game Board's decision not to consider the sundown hunting rule.

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

Recognition of Shawboro Ruritan Club

deleted

Chris Hooper, Chairman Board of Elections to present a proclamation for "Voter Awareness Month"

Chris Hooper, Chairman, Board of Elections, presented a proclamation from Governor Easley recognizing this month as Voter Awareness Month.

Public Hearing and consideration of resolution to close portion of Rock Lane, Shad Lane and Shark Lane

Ike McRee, County Attorney, reviewed the resolution.

Chairman Nelms opened the public hearing.

Hood Ellis, Attorney for the applicant, stated that the access will be put in only when subdivision was platted and put to record. If this was not done, no roads would be closed.

Lynne Wilson, expressed concerns with limited access and opposes the request.

Chris Herman, expressed concerns with closing and opposes the request to close streets.

Ben Hannagan, expressed his concerns with closing of the roads.

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

A RESOLUTION OF THE BOARD OF COMMISSIONERS FOR THE COUNTY OF CURRITUCK DECLARING ITS INTENTION TO CONSIDER THE PERMANENT CLOSING OF A PORTION OF ROCK LANE IN FRUITVILLE TOWNSHIP

WHEREAS, a preliminary resolution declaring the intent of the Currituck County Board of Commissioners to close a portion of Rock Lane in Fruitville Township, more fully described below, was adopted at a regular meeting of the Currituck County Board of Commissioners on August 4, 2008 and a public hearing on the question was called for 7:00 P.M. on September 2, 2008 in the Historic Currituck Courthouse for the purpose of hearing objections to the closing of a portion of said street; and

WHEREAS, notice of such public hearing has been published once a week for three successive weeks in a newspaper published and having a general circulation in

Currituck County, North Carolina and a notice of the closing and the public hearing has been prominently posted in at least two places along the portion of Rock Lane proposed for closure and abandonment; and

WHEREAS, the public hearing has been conducted at 7:00 P.M. on September 2, 2008 in the Historic Currituck Courthouse, and said public hearing was conducted for the purpose of hearing objections to the closing of the said portion of Rock Lane in Fruitville Township, at which time all parties and persons interested were given an opportunity to be heard; and

WHEREAS, the Currituck County Board of Commissioners, after considering all matters has determined that the closing of the hereinafter described portion of Rock Lane in Fruitville Township would not be detrimental to the public interest or to any individual property rights and further the Currituck County Board of Commissioners is satisfied that closing the hereinafter described portion of Rock Lane is not contrary to the public interest and no individual owning property in the vicinity of said portion of Rock Lane to be closed or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property;

NOW THEREFORE, BE IT RESOLVED by the Currituck County Board of Commissioners that:

Section 1. The Currituck County Board of Commissioners hereby declares the hereinafter described portion of Rock Lane located in Fruitville Township, Currituck County, North Carolina to be permanently closed and abandoned, and that the right, title and interest in the hereinafter described portion of Rock Lane be vested in the owners of the parcel of land adjoining said portion of Rock Lane which is hereby closed and abandoned, said portion of Rock Lane, which is hereby declared closed and abandoned being more particularly described as follows:

Rock Lane

Being a certain tract of land lying and situated in Fruitville Township, Currituck County, North Carolina and being further described as follows:

Beginning at a point situated at the south west corner of Lot 15, Block 4, Section 1, Carova Beach recorded in the Currituck County Public Registry, Deed Book 116, Page 1, and Map Book 2, Page 113, and also being situated on the northeast corner of the intersection of Sandfiddler Road, a 60' public right of way and Rock Lane, a 60' public right of way. Said point of beginning also being located on the northern right of way of the aforementioned Rock Lane at a point where Rock Lane becomes a 40' public right of way.

Thence leaving said point of beginning and running and binding with the northern right of way line of the aforementioned Rock Lane and the southern line of the aforementioned Lot 15 N 88°15'00" E approximately 536.95 feet to a point, the Mean High Water Line of the Atlantic Ocean as observed on February 14, 2008. Thence running with the aforementioned Mean High Water Line S 00°43'42" E approximately 40.01 feet to a point situated on the southern right of way line of the aforementioned Rock Lane, said point also being on the northern boundary of Carova Beach Business Area, Lot A, Section 2, Carova Beach recorded in the Currituck County Public Registry, Deed Book 115, Page 453 and Map Book 2, Page 125.

Thence leaving the Mean High Water Line of the Atlantic Ocean and running and binding with the south right of way of the aforementioned Rock Lane and the north line of the aforementioned Lot A S88°15'00" W approximately 536.24 feet to a point at the intersection of the south right of way of the aforementioned Rock Lane and the east right of way of the aforementioned Sandfiddler Road, said point also being situated at the north west corner of the aforementioned Lot A.

Section 2. This resolution shall be effective on the date and at the time a final plat for that subdivision application dated August 21, 2008 entitled in part "Carova Beach Business Block, Section 2, Proposed Open Space Subdivision" is filed for record in the Currituck County Registry and on that date and at that time the Clerk to the Board of Commissioners shall record a certified copy of this resolution in the Currituck County Registry.

**A RESOLUTION OF THE BOARD OF COMMISSIONERS FOR THE COUNTY
OF CURRITUCK DECLARING ITS INTENTION TO CONSIDER THE
PERMANENT CLOSING OF A PORTION OF SHAD LANE IN FRUITVILLE
TOWNSHIP**

WHEREAS, a preliminary resolution declaring the intent of the Currituck County Board of Commissioners to close a portion of Shad Lane in Fruitville Township, more fully described below, was adopted at a regular meeting of the Currituck County Board of

Commissioners on August 4, 2008 and a public hearing on the question was called for 7:00 P.M. on September 2, 2008 in the Historic Currituck Courthouse for the purpose of hearing objections to the closing of a portion of said street; and

WHEREAS, notice of such public hearing has been published once a week for three successive weeks in a newspaper published and having a general circulation in Currituck County, North Carolina and a notice of the closing and the public hearing has been prominently posted in at least two places along the portion of Shad Lane proposed for closure and abandonment; and

WHEREAS, the public hearing has been conducted at 7:00 P.M. on September 2, 2008 in the Historic Currituck Courthouse, and said public hearing was conducted for the purpose of hearing objections to the closing of the said portion of Shad Lane in Fruitville Township, at which time all parties and persons interested were given an opportunity to be heard; and

WHEREAS, the Currituck County Board of Commissioners, after considering all matters has determined that the closing of the hereinafter described portion of Shad Lane in Fruitville Township would not be detrimental to the public interest or to any individual property rights and further the Currituck County Board of Commissioners is satisfied that closing the hereinafter described portion of Shad Lane is not contrary to the public interest and no individual owning property in the vicinity of said portion of Shad Lane to be closed or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property;

NOW THEREFORE, BE IT RESOLVED by the Currituck County Board of Commissioners that:

Section 1. The Currituck County Board of Commissioners hereby declares the hereinafter described portion of Shad Lane located in Fruitville Township, Currituck County, North Carolina to be permanently closed and abandoned, and that the right, title and interest in the hereinafter described portion of Shad Lane be vested in the owners of the parcel of land adjoining said portion of Shad Lane which is hereby closed and abandoned, said portion of Shad Lane, which is hereby declared closed and abandoned being more particularly described as follows:

Shad Lane

Being a certain tract of land lying and situated in Fruitville Township, Currituck County, North Carolina and being further described as follows:

Beginning at a point situated on the south west boundary of Carova Beach Business Area, Lot A, Section 2, Carova Beach recorded in the Currituck County Public Registry, Deed Book 115, Page 453, and Map Book 2, Page 125, and also being situated on the northeast corner of the intersection of Sandfiddler Road, a 60' public right of way and Shad Lane, a 60' public right of way. Said point of beginning also being situated S 01°45'00" E 310.00 feet of the intersection of the aforementioned Sandfiddler Road and Rock Lane, a 60' public right of way and also being located on the northern right of way of the aforementioned Shad Lane.

Thence leaving said point of beginning and running and binding with the northern right of way line of the aforementioned Shad Lane and the southern line of the aforementioned Lot A S 46°45'00" E 56.57 feet to a point. Thence running and binding with the northern right of way of Shad Lane and the south line of Lot A N 88°15'00" E approximately 492.73 feet to a point, the Mean High Water Line of the Atlantic Ocean as observed on February 14, 2008. Thence running with the aforementioned Mean High Water Line S 00°35'07" W approximately 30.02 feet to a point on the Mean High Water Line. Thence running with the Mean High Water Line S 01°45'00" E 30.00 feet to a point situated on the southern right of way line of the aforementioned Shad Lane, said point also being on the northern boundary of Lot 1, Block 1, Section 2, Carova Beach recorded in the Currituck County Public Registry, Deed Book 893, Page 809 and Map Book 2, Page 125.

Thence leaving the Mean High Water Line of the Atlantic Ocean and running and binding with the south right of way of the aforementioned Shad Lane and the north line of the aforementioned Lot 1 the following two (2) courses and distances:

- 1) S 88°15'00" W approximately 491.51 feet to a point
- 2) S 43°15'00" W 56.57 feet to a point situated in the intersection of the south right of way of the aforementioned Shad Lane and the east right of way of the

aforementioned Sandfiddler Road, said point also being situated at the south west corner of the aforementioned Lot 1.

Thence leaving the south right of way of Shad Lane and running and binding with the east right of way of Sandfiddler Road N 01°45'00"W 140.00 feet to a point, the point and place of beginning, containing 33,509 square feet more or less.

Said parcel of land being a portion of Shad Lane, a 60' public right of way including the intersection triangle with Sandfiddler Road extending from the east right of way of Sandfiddler Road to the Mean High Water Line of the Atlantic Ocean.

Section 2. This resolution shall be effective on the date and at the time a final plat for that subdivision application dated August 21, 2008 entitled in part "Carova Beach Business Block, Section 2, Proposed Open Space Subdivision" is filed for record in the Currituck County Registry and on that date and at that time the Clerk to the Board of Commissioners shall record a certified copy of this resolution in the Currituck County Registry.

A RESOLUTION OF THE BOARD OF COMMISSIONERS FOR THE COUNTY OF CURRITUCK DECLARING ITS INTENTION TO CONSIDER THE PERMANENT CLOSING OF A PORTION OF SHARK LANE IN FRUITVILLE TOWNSHIP

WHEREAS, a preliminary resolution declaring the intent of the Currituck County Board of Commissioners to close a portion of Shark Lane in Fruitville Township, more fully described below, was adopted at a regular meeting of the Currituck County Board of Commissioners on August 4, 2008 and a public hearing on the question was called for 7:00 P.M. on September 2, 2008 in the Historic Currituck Courthouse for the purpose of hearing objections to the closing of a portion of said street; and

WHEREAS, notice of such public hearing has been published once a week for three successive weeks in a newspaper published and having a general circulation in Currituck County, North Carolina and a notice of the closing and the public hearing has been prominently posted in at least two places along the portion of Shark Lane proposed for closure and abandonment; and

WHEREAS, the public hearing has been conducted at 7:00 P.M. on September 2, 2008 in the Historic Currituck Courthouse, and said public hearing was conducted for the purpose of hearing objections to the closing of the said portion of Shark Lane in Fruitville Township, at which time all parties and persons interested were given an opportunity to be heard; and

WHEREAS, the Currituck County Board of Commissioners, after considering all matters has determined that the closing of the hereinafter described portion of Shark Lane in Fruitville Township would not be detrimental to the public interest or to any individual property rights and further the Currituck County Board of Commissioners is satisfied that closing the hereinafter described portion of Shark Lane is not contrary to the public interest and no individual owning property in the vicinity of said portion of Shark Lane to be closed or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to their property;

NOW THEREFORE, BE IT RESOLVED by the Currituck County Board of Commissioners that:

Section 1. The Currituck County Board of Commissioners hereby declares the hereinafter described portion of Shark Lane located in Fruitville Township, Currituck County, North Carolina to be permanently closed and abandoned, and that the right, title and interest in the hereinafter described portion of Shark Lane be vested in the owners of the parcel of land adjoining said portion of Shark Lane which is hereby closed and abandoned, said portion of Shark Lane, which is hereby declared closed and abandoned being more particularly described as follows:

Shark Lane

Being a certain tract of land lying and situated in Fruitville Township, Currituck County, North Carolina and being further described as follows:

Beginning at a point situated at the south west corner of Lot 15, Block 4, Section 5, Carova Beach recorded in the Currituck County Public Registry, Deed Book 463, Page 574, and Map Book 2, Page 139, and also being situated N 35°07'12" E 100.00 feet of the south east intersection of Sandfiddler Road a 60' public right of way and Shark Lane,

a 60' public right of way. Said point of beginning also being located on the eastern right of way of the aforementioned Sandfiddler Road.

Thence leaving said point of beginning and running and binding with the southern line of the aforementioned Lot 15 N 88°15'00" E approximately 639.62 feet to a point, the Mean High Water Line of the Atlantic Ocean as observed on February 14, 2008. Thence running with the aforementioned Mean High Water Line S 01°49'58" E approximately 20.00 feet to a point situated on the northern line of the Lot 2A, the north 100 feet of Business Area A, Section 5, Carova Beach recorded in the Currituck County Public Registry, Deed Book 353, Page 652 and Map Book 2, Page 139.

Thence leaving the Mean High Water Line of the Atlantic Ocean and running and binding with the north line of the aforementioned Lot 2A S 88° 15'00" W approximately 639.65 feet to a point at the intersection of the east right of way of the aforementioned Sandfiddler Road, said point also being situated at the north west corner of the aforementioned Lot 2A.

Thence leaving the north line of Lot 2A and running and binding with the east right of way of Sandfiddler Road N 01°45'00"W 20.00 feet to a point, the point and place of beginning, containing 12,793 square feet more or less.

Said parcel of land being a 20' public pedestrian beach access extending from the east right of way line of Sandfiddler Road to the Mean High Water Line of the Atlantic Ocean.

Section 2. This resolution shall be effective on the date and at the time a final plat for that subdivision application dated August 21, 2008 entitled in part "Carova Beach Business Block, Section 5, Proposed Open Space Subdivision" is filed for record in the Currituck County Registry and on that date and at that time the Clerk to the Board of Commissioners shall record a certified copy of this resolution in the Currituck County Registry.

Public Hearing and Action PB 08-29 Moyock Land Company, LLC: Request to rezone 27.66 acres from Agricultural (A) to Conditional District - General Business (CD-GB). The property is located approximately 570 feet southeast of Puddin Ridge Road at the terminus of Moyock Commons Drive, Tax Map 15, Parcel 79, Moyock Township.

Ben Woody, Planning Director, reviewed the request.

TYPE OF REQUEST: To rezone 27 acres from "Agricultural (A) to Conditional District General Business (CD-GB)"

LOCATION: Located off of Puddin Ridge Road, SR 1216, behind Moyock Commons Shopping Center.

TAX ID: Tax Map 15, Parcel 79
0025-000-0079-000

OWNER/APPLICANT: Moyock Land Company, LLC.
500 Pacific Avenue, #607
Virginia Beach, VA 23451

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

CURRENT ZONING: Agricultural (A)

PROPOSED ZONING: Conditional District- General Business (CD-GB)

ZONING CONDITIONS:

1. The applicant has excluded the following GB uses from the property:
 - Automotive services, repair, sales and rental
 - Boat services, repair, sales, and rental
 - Heavy equipment services, sales, repair, and rental
 - Retail sales of manufactured/modular homes
 - Landfills
2. No outdoor storage except for equipment and materials associated with utilities which must be fully screened from adjacent properties.
3. An opaque visual screen consisting of fencing and /or plant materials shall be provided along the northern property line.

ZONING HISTORY: The property was zoned Agricultural (A) on April 2, 1989.

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Moyock Commons/Residential	GB/R
SOUTH:	Agricultural/Quail Run Subdivision	A/R
EAST:	Business	GB
WEST:	Agricultural/Residential	A/R

EXISTING LAND USE: Agricultural/Undeveloped.

PROPOSED LAND USE: General Business.

LAND USE PLAN CLASSIFICATION:

The 2006 Land Use Plan classifies this site as **Full Service** within the **Moyock Sub-Area**. Areas designated as Full Service are those parts of the County where an extensive range of infrastructure and service investments have been provided or will be made available to the public/private sectors. These infrastructure investments may include community level or centralized water, parks schools, fire, and rescue facilities. In Full Service Areas, central wastewater treatment and disposal (public or community) is considered acceptable.

Commercial development in Full Service Areas should be designed to protect and preserve the existing community in

scale, architectural style, materials, landscaping, and site design. In addition, nonresidential uses may include clusters of businesses serving the immediate area and, where appropriate, a more extensive market territory. In an attempt to protect existing agricultural operations, efforts should be made to buffer them from encroaching development through the use of landscaping and conservation oriented design.

The policy emphasis of the 2006 plan for the Moyock Sub-Area is to properly manage the increased urban level of growth that will occur in the next decade. It will be important to closely look at traffic management on secondary and local roads. In addition, if sewage treatment collection systems are built, whether publicly or privately, all systems should be designed to be tied together into a single system in the future. It is not the County's intention that all of Moyock be developed intensely but rather create specific service centers.

The following Land Use Plan policies are also relevant to this request:

POLICY CD5: Incompatible or poorly planned COMMERCIAL ENCROACHMENT within or immediately adjoining existing residential areas shall be prohibited. Such incompatible encroachments often include, but are not limited to, large-scale commercial uses or automobile-oriented commercial uses such as service stations, car lots, car washes, drive through restaurants, and the like. (Also see Policy HN9)

POLICY CD6: Appropriate OFFICE AND INSTITUTIONAL DEVELOPMENT, such as professional offices, small churches, individual medical offices, and the like, shall be encouraged to locate as a transitional land use between residential areas and commercial or industrial activities of higher intensity. "Activities of higher intensity" are typically large-scale commercial uses or automobile-oriented commercial development but may also include major thoroughfares.

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

POLICY CA3: LANDSCAPE IMPROVEMENTS at existing and new commercial developments, particularly as related to breaking up and softening the appearance of expansive parking areas, and absorbing storm water runoff, shall be required.

**PUBLIC SERVICES
AND UTILITIES:**

The Moyock Fire Department provides fire protection for this area. Electric, telephone, cable television, and public water are available.

TRANSPORTATION:

The site is accessible from Moyock Commons Drive and by means of two easements off Puddin Ridge Road.

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

WETLANDS: Approximately 7.5 acres of potential wetlands are located on the site.

SOILS: The Currituck County Soils map indicates the property contains primarily non-suitable soils for on-site septic systems.

**COMMUNITY
MEETING:**

Bissell Professional Group conducted a community meeting at Moyock Elementary School on July 30, 2008 at 6:30 pm. Approximately 36 members of the public and 3 staff members were present. The majority of residents that spoke at the meeting were opposed to the rezoning. The main issues of concern for adjacent property owners were stormwater, the setting of a precedent for future development of the vacant acreage between the proposed rezoning property and Quail Run Subdivision, development of incompatible uses on the rezoned property, access to the proposed development, screening/buffering of uses between adjacent properties, and designation of the area as a Full Service Area according to the Land Use Plan.

Citizens felt there are existing stormwater problems that may be further exacerbated by additional development. In addition, they felt that the existing problems should be remedied prior to additional development occurring.

All the citizens agreed that whatever development was permitted on the proposed rezoning site would set a precedent for the remaining 48 agriculturally zoned, vacant acres between Moyock Commons and Quail Run Subdivision. The citizens concurred that the developer had not provided enough information on what is proposed for the site. Additionally, they felt that the uses allowed in the general business zoning designation had not been narrowed down enough. The general consensus was that the property not be developed for commercial or retail use. Citizens overwhelmingly agreed that they prefer the adjacent properties be developed as single family residential. Regardless of how the property develops, citizens felt strongly that the new development should provide buffering/screening that surpasses the current standard.

Another concern of citizens is how the developer proposes to access the site. Everyone agreed they did not want additional traffic flow down Puddin Ridge Road and Quail Run Subdivision. Moreover, residents of Quail Run Subdivision preferred that a connection, between the neighborhood and the proposed rezoning site, not be made unless the development occurring was residential.

Residents in the area were also troubled by the fact that the proposed rezoning site and the majority of developed residential parcels was designated Full Service by the 2006 Land Use Plan. They further inquired about how the Full Service designation could be changed.

The citizens were informed about the upcoming Planning Board and Board of Commissioners meetings. The meeting adjourned at 8:45 pm.

**STAFF
RECOMMENDATION:**

Staff recommends **approval** of the request to establish a 27 acre tract from Agricultural (A) to Conditional District- General Business (CD-GB) for the following reasons:

Reasons for approval: The following points support the approval of this request as presented.

1. The proposed request is in general compliance with the Full Service designation of the 2006 Land Use Plan and the Moyock Sub-Area Policy Emphasis.
2. The proposed zoning conditions are consistent with the objectives of the Currituck County Unified Development Ordinance and 2006 Land Use Plan and promote compatibility between the subject property and surrounding area. (LUP Policy CA3)
3. The adjacent property to the north-east is zoned General Business and encompasses an existing commercial development (Moyock Commons).

Outstanding Staff Concerns: The conditional zoning process provides an opportunity for an applicant to propose use limitations or development conditions that ensure development proposals are consistent with the policies set forth in adopted plans. Staff feels the following concerns could be appropriately addressed through the conditional zoning process.

1. All development should be constructed and maintained so that adjacent properties are not unreasonably burdened with surface water as a result of such development. It is recommended that the applicant conduct a stormwater analysis to identify downstream impediments. These impediments may restrict flow to a point of making development prohibitive and must be addressed by the applicant. This problem should be corrected by storing excess stormwater on site or improving downstream flow with the consent of all property owners adjacent to the drainage way.
2. This site is accessed by Moyock Commons Drive and two unimproved easements off Puddin Ridge Road through residential areas. The 2006 Land Use Plan advises that access to higher intensity development should not be permitted through a lower intensity development. Therefore, it is recommended that if the site should be developed for nonresidential uses, sole vehicular access should be provided via Moyock Commons Drive (LUP Policies TR11, CD2). For the purposes of adding a zoning condition, staff would recommend the vehicular access exclusion apply only to nonresidential uses. Should a mixed use or multifamily project be proposed, access restrictions could be determined as part of the SUP process based on the contemplated

development intensity. However, an SUP may not be required for a nonresidential use, so it would be appropriate to consider this type of access restriction as part of the zoning change.

3. The applicant has excluded several GB uses on the property. Staff would also recommend that the following uses be excluded due to potential secondary impacts on adjoining residential properties (LUP Policies CD5, CD7):
 - Carwash
 - Mini Warehousing
 - Mobile Homes
4. Staff initially suggested that office warehousing uses be allowed with restrictions on hours of operation. This concern was discussed at the Planning Board meeting; however, staff feels this may not be an appropriate zoning condition due to difficulty of enforcement.
5. In an effort to reduce dangerous or disabling glare and avoid illumination of adjacent residential properties, it is recommended that (CD 5, CD 7):
 - All exterior luminaries, including security lighting, should be full cut-off fixtures.
 - The maximum height for exterior light fixtures should be 25 feet above natural grade; but, should not exceed the building height if the buildings are less than 25 feet.
 - The maximum illumination at the property line should not exceed 1.5 foot-candles measured at ground level by a measuring device.
 - The maximum permitted foot-candle should not exceed 15 at any commercial location.
6. It is suggested that a 50 foot buffer of existing vegetation be retained along the northwest side of the property along "E" Street (as shown on the site plan) and parcel number 014B00000650000. In areas where the buffer does not meet or exceed the above requirement, additional plantings should be incorporated (Policies CD 5, CD 7). The applicant has expressed concern with the buffer width; however, considering the uncertainty of development intensity, staff feels it is appropriate to plan for the worst case scenario.

PLANNING BOARD DISCUSSION – August 12 meeting

Mr. West asked for clarification on the amount of wetlands on the site.

Mr. Woody stated the wetlands map shows approximately 7.5 acres of potential wetlands located on the site, which it could be more or less wetlands. The map is based on general data and not site specific.

Mr. Bissell stated that they received this afternoon a copy of the draft report from the environmental consultant to perform a wetland delineation on the site. The indication is that there is actually less than 7/10's of an acre of wetlands on the property. Mr. Bissell stated that they did have a community meeting and had a good turnout. Mr. Bissell stated that most the people attending the meeting were really against any type of development on the property. They have worked with the planning staff to narrow the use of the site and to eliminate what cannot be put on the site. The biggest concerns that they heard from the community meeting was drainage issues, wetlands, provide more details to what is proposed on the site, and provide more restrictions as to what can and cannot go on the site.

Mr. Bissell stated there is a drainage project that Mike Doxey is working with NCDOT to improve the drainage to the north of Puddin Ridge Road. The landowner has met with Mike to find ways to participate and to help with the drainage project so it can extend further up on his property. Mr. Bissell stated that the board cannot expect his client to solve all the existing drainage problems that have existed for years, but he is willing to do what he can. As far as the development of this property, any submittal of a site specific development plan will required a downstream analysis and a stormwater analysis. This project will not make the drainage situation worse it will make it better.

Mr. Bissell stated that there are really no wetlands to speak of on the site. As far as a more detail development plan his client doesn't have one right now. Mr. Bissell stated that Currituck County has approved numerous projects this year without a site specific development plan and this is not any different. Mr. Bissell stated it is premature to place more restrictions like it was mentioned.

Mr. Bissell addressed the outstanding staff concerns: (1) In agreement; (2) They would consider restricting the access but would like to wait until the site specific development plan to address this; (3) Currently there is a existing carwash and mini warehousing on the Currituck commercial zone tract and if this was done on this tract, it could be done adjacent to the other existing uses and buffered in such a way that it would not have a major impact; (4) Agreement with delivery restrictions; (5) Agreement with lighting; (6) It was Mr. Bissell's understanding that it was a 25 ft. buffer and not a 50 ft. buffer.

Mr. Woody stated the ordinance requires a 25 ft. buffer, but would like to see the Planning Board's comments on this.

Mr. Bissell stated the property is in an area slated for development and in a full service district which staff has recommended for approval.

Mr. Kovacs stated that in #3, under the outstanding staff concerns, mobile homes be excluded. Mr. Kovacs asked Mr. Bissell if he would be in agreement of this.

Mr. Bissell stated there are no plans for mobile homes for this site.

Mr. West stated the letter that Mr. Bissell had submitted stating that only 7/10's of the property had wetlands was from the environmental consultant and not the Army Corps of Engineers who are the ones that make the determination of wetlands on property.

Mr. Bissell stated the letter is requesting that the Army Corps of Engineers visit the site and concurred with this analysis which is in the letter. He stated that he did not pass out all the data sheets but would be happy to do so.

Mr. West asked Mr. Bissell that this letter really is just asking the Army Corps of Engineers to make a determination of the wetlands on this property.

Mr. Bissell stated that the letter does show that it has been delineated in accordance with the Corps of Engineers 1987 wetlands delineation manual and only the areas marked has the characteristics for it to be classified as wetlands. He stated that Mr. West is correct in his assumption.

Mr. Winslow thanked the board, Mr. Bissell and property owners for attending the community meeting on July 30th. A lot of good questions and answers came from the meeting. Mr. Winslow is concerned with the Lindsay ditch flooding and it should be accounted for.

Ms. Kinney stated that the White Pines access should not be opened. She submitted a petition against the rezoning which has over 50 signatures.

Ms. Scaff provided a picture showing flooding in her yard and is concerned with the drainage.

Mr. Scaff stated he is concerned with drainage and the Board of Commissioners need to protect existing homeowners.

Ms. Lusk stated that the drainage will continue to be a problem because of the stormwater run off and soil conditions. She is scared what the first parcel will be used for and what precedent this will set for the two existing parcels. Ms. Lusk stated that in Chapter Two of the UDO you can see what can be put on this property. Ms. Lusk stated that Moyock needs to have more residents that will keep property values up and it doesn't need more commercial encroaching on residential. She is concerned with multi-family housing that general business zoning would open up. Ms. Lusk would like to see it kept residential.

Mr. Bissell stated this will not be adding 27 acres to the drainage system because these 27 acres are already a part of the system. Mr. Bissell and the owner understand that a problem exists for drainage and when a site specific development plan is submitted this will be addressed at this time. Mr. Bissell stated these issues have been addressed by the staff recommendations. Mr. Bissell stated they have offered a lot of restrictions than what was recommended. This property has been in the full service district for a long time and it has too much value to remain farmland. Mr. Bissell is asking for the board's agreement that the property be rezoned.

Mr. Keel stated that if he knew what was going on the property then he could look at the drainage, but without knowing it makes it difficult.

Mr. West asked Mr. Bissell if he could be more specific to what will be going there.

Mr. Bissell stated a lot of things are being kicked around but nothing specific.

Mr. West stated that he thought conditional zoning was to allow the applicant to say what he will be doing with the property rather than what he isn't going to do with it.

Mr. Bissell stated that conditional zoning also allows the board to add conditions that the UDO would not allow you to do.

Mr. Kovacs stated that a wastewater treatment plant was a big part of the planning board meeting last month; would Mr. Bissell consider adding this as an exclusion to this site.

Mr. Bissell stated he didn't think this is reasonable question.

Mr. West stated the big issue is drainage and stormwater. He doesn't know how the planning board can address the drainage issues which involve landowners, NCDOT, and railroads that they have no control over. A lot of different agencies need to be involved to make it happen. Mr. West stated that the county needs to help the residents who have a flooding problem and being

impacted by heavy rains. Mr. West stated he is concerned with a treatment plant 40,000 gallons vs. a 500,000 gallons plant.

Mr. Keel asked Mr. Woody if a sewer treatment plant could be put in an agricultural zoning district without a conditional use permit. Is this correct?

Mr. Woody stated that you could apply for a permit through the state, but from a county perspective they are approved administratively in every zoning district.

Mr. Midgette asked if the UDO would need to be changed to require a Special Use Permit for a wastewater treatment plant.

Mr. Woody stated that an amendment to the UDO to specify that a Special Use Permit be required for a wastewater treatment plant.

Mr. West asked if someone wanted to come in and put a wastewater treatment plant on a piece of property they would not need to have a public hearing.

Mr. Woody stated it is permitted by right of the UDO.

ACTION

Mr. Kovacs motioned to recommend denial to rezone 27.66 acres from Agricultural (A) to Conditional District – General Business (CD-GB) because it is not enough information to what will be going on the property and the drainage problems. Mr. Keel seconded the motion. Motion carried unanimously.

PLANNING BOARD DISCUSSION – July 8 meeting

Mr. Keel asked that when conditional zoning was approved more specifics would be known as to what was going on the property.

Mr. Woody stated that a couple of cases have come to the Planning Board for conditional zoning for which conditions specify what the use will be and included a layout. Mr. Woody stated that conditional zoning is a tool that is flexible and is used in a way that makes sense for each situation.

Mr. Bell asked about the access to the property.

Mr. Woody stated that the applicant expressed that Moyock Commons Drive would be his primary access to the property. Mr. Woody stated if other access to the property were used that improvements would have to be made.

Mr. West stated that since there were easements on Puddin Ridge Road that it may not be possible to make improvements.

Mr. Woody stated that on Quail Drive the improvements have been done, but on Puddin Ridge Road the easement is 50 feet wide which would allow for a proper road to be installed.

Mr. Bissell stated he is in agreement with staff recommendations and this request is compatible with a full service district that conforms to the county's LUP and UDO. They have added additional zoning conditions to protect the adjacent property even though they do not have a specific site development plan they have identified uses that they feel are incompatible. Mr. Bissell stated they understand that the wetlands need to be protected and solve the drainage problems. They have had an environmental consultant take a look at the site which has identified only small pockets of delineated wetlands on the property. The drainage from the site runs at the south end of Moyock Commons. A development plan would be submitted showing that the drainage and the pre-development drainage would be met. Good points were made on connectivity. Mr. Bissell stated that a carwash or mini warehousing on the property could be designed so it would have no secondary impact on the area. Mr. Bissell stated that a possible use

of the property would be some type of wastewater system and the carwash would be a way to utilize the water.

Mr. West asked Mr. Bissell if a possible use of the property would be for a wastewater system.

Mr. Bissell stated the applicant has a Letter of Intent with the County on a joint venture of a wastewater treatment and disposal system in the Moyock area. If this were approved the treatment system would be located on the southeast portion of the property adjacent to the Currituck Commercial Center.

Mr. West stated that the wastewater treatment system would be approximately 500,000 gallons, did Mr. Bissell know what the Food Lion size was.

Mr. Bissell stated 40,000 gallons.

Mr. West was trying to show what a 500,000 gallons treatment facility would look like vs. a 40,000 gallons facility.

Mr. Bissell stated the system would not be a drain field system, that it would be infiltration pond system similar to what is at Moyock Commons.

Mr. West asked about the odor/smell to residents.

Mr. Bissell stated they would not expect any odor to residents because it would be located in the southeast corner of the property which is about 1,000 feet from the nearest resident.

Mr. Kovacs asked what the size of the plant is at Eagle Creek.

Mr. Bissell stated it is 360,000 gallons.

Mr. Kovacs stated that Eagle Creek's system has an odor which can be smelled by residents.

Mr. Bissell stated it would be a different kind of system and better designs have been made since the one in Eagle Creek was installed.

Mr. Kovacs stated to put a treatment system next to a residential area is not a good practice.

Mr. West stated that the Moyock area needs some type of wastewater treatment system, but this may not be the right location for one.

Mr. Bissell stated this is one of the locations that the county would like to see this done.

Mr. West stated the soils are questionable in the area.

Mr. Woody stated that the ordinances for Conditional Zoning requests recommends that the applicant hold a neighborhood meeting. The applicant did not have a neighborhood meeting before this request came to the Planning Board.

Mr. Midgette asked Mr. Bissell if he was aware that he was to have a neighborhood meeting.

Mr. Bissell stated yes.

Mr. Winslow stated that the Lindsay ditch cannot handle anymore drainage. The county needs to talk with the State of NC to put in more drainage pipes underneath Hwy. 168. Mr. Winslow is concerned that the water will drain on his farm which will destroy crops which mean no income. His concern is with the drainage issue.

Ms. Scaff provided pictures of the drainage problems in this area. Drainage is her main concern.

Mr. Scaff stated that drainage is a problem in the area and his concern.

Ms. Lusk stated she served on the Stormwater District Committee which was formed to address the problems of drainage in the Moyock area. Ms. Lusk is concerned with the soil, bacterial problems, residential areas given less priority to commercial, odor, lack of covets, lack of attractive shrubbery, wetlands and emergency services. Moyock is being developed without consideration to the residential areas.

Mr. Bissell stated that what he is hearing the main issue is drainage, wastewater treatment system is suitable for this location, and additional shrubbery/screening, but primarily the drainage needs to be improved. Mr. Bissell stated that according to the county's ordinances if this property is developed 6.3 inches of rainfall must be retained on the site. This project would not add to the drainage issue, but may help it. Mr. Bissell stated they are not asking for the wastewater system tonight and this is something that may or may not happen. They plan to add attractive shrubbery as a buffer which the planning department will enforce. The property is compatible with this request, full service area, LUP and UDO.

Mr. West asked clarification on the soil type.

Mr. Woody stated the soils map indicates the property contains primarily non-suitable soils for on-site septic systems.

Mr. West asked if the Food Lion treatment plant is the same type of soil.

Mr. Woody stated yes. If a development plan was submitted then the county's engineer would ensure that the site is being developed to the local and state regulations.

Mr. West asked if the county has worked with Mike Doxey to solve the drainage problem in this area.

Mr. Woody stated he would contact Mr. Doxey and pass this information to him.

Mr. Webb stated that the county has made a request to the Department of Transportation approximately 4 years ago and does not know what the hold up is.

Mr. Bissell stated that the drainage problems need to be addressed, but that is a Special Use Permit issue and not a rezoning issue.

Mr. Midgette asked Mr. Bissell if the Planning Board tabled this request would he be willing to hold a community meeting to address some of these issues.

Mr. Bissell stated yes.

ACTION

Mr. West motioned to table this item so a community meeting can be held to address these issues with neighboring residents. Mr. Etheridge seconded the motion. Ayes: Mr. Etheridge, Mr. Keel, Mr. Winter, Mr. West, Mr. Bell and Mr. Midgette. Nays: Mr. Kovacs. Motion carried.

Chairman Nelms opened the public hearing.

Mark Bissell, representing the developer, stated that there was a community meeting to address concerns.

George Winslow, adjacent property owner, expressed concerns with drainage.

Johannah Kinney, stated that there was a drainage problem and expressed concerns with traffic on the road and opposes the request. She presented a petition opposing request.

James Sanderlin, stated that the drainage issues have not been resolved.

Marvin Scaff, opposes the request.

Marion Scaff, presented pictures of the drainage and flooding.

Chairman Nelms closed the public hearing.

Chairman Nelms moved to deny the request. Commissioner Taylor seconded the motion. Motion carried.

Public Hearing and Action PB 08-03 Backwoods Hideaway: Request for a Sketch Plan/Special Use Permit for a 16 lot Conservation Residential subdivision. The property is located on Northwest Backwoods Road, 1.3 miles north of the intersection with South Mills Road, Tax Map 3, Parcel 3A, Moyock Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning Director, reviewed the request.

ITEM: PB 08-03 Backwoods Hideaway: Sketch Plan/ Special Use Permit for a 16 lot Conservation Residential Subdivision

LOCATION: Northwest Backwoods Road, 1.3 miles north of the intersection with South Mills Road

TAX ID: 0003-000-003A-0000

ZONING DISTRICT: Agricultural (A)

OWNER: Old Brothers, LLC
Swain & Temple, LLC
PO Box 62
Moyock, NC 27958

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

NARRATIVE OF REQUEST:

- Old Brothers, LLC is requesting approval of a sixteen lot conservation subdivision.
- According to the Development Impact Statement submitted December 10, 2007:
 - The development will have homes that are 1,600 SF or larger with a minimum of 3 bedrooms and 2 bathrooms.
 - The average value of a home/ lot will be \$259,800
 - The projected property taxes would be \$15,796 per year.
- The Yield Plan indicates 14 lots can be created that meet that required three acre minimum lot size, after four- one acre lots are created.

- The proposed plan shows 16 possible lots with a size that exceeds 40,000 square feet.
- This lot configuration and density will only be possible if the applicant can demonstrate that the open space requirements can be met.

PRESENT USE: Vacant forest

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH:	Agricultural/ Low Density Residential	Zoned: A
SOUTH:	Agricultural/ Low Density Residential	Zoned: A
EAST:	Agricultural/ Low Density Residential	Zoned: A
WEST:	Wetlands	Zoned: A

SCHOOL DISTRICT: Moyock

SIZE OF SITE: 54.4 acres

NUMBER OF LOTS: 16

DENSITY: 0.29 unit per acre

MINIMUM LOT SIZE: 40,000 SF for the first 4 lots, then three (3) acre minimum

ZONING and SUBDIVISION HISTORY:

This site was zoned Agricultural on the 1989 zoning atlas. A 2 lot minor subdivision of 6.36 and 7.83 acres was recorded August 11, 1989 (Plat Cabinet D, Slide 115). A one lot 38,947 SF minor subdivision lot was created on November 1, 1991 from the parent parcel (Plat Cabinet D, Slide 367). A survey of the parcel was recorded on April 2, 1985 (Plat Cabinet B, Slide 53) that showed a partition that was not a subdivision. The 1985 plat received no county approval.

STREETS: The street will be built to NCDOT Design and Construction standards. The developer expects the street will be dedicated to NCDOT for maintenance.

WATER: There is no county water available on Northwest Backwoods Road. The applicant is planning to use individual wells for each home site.

FIRE: This development is located within the jurisdiction of the Moyock Volunteer Fire Department.

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

SOILS: The Currituck County Soils Map indicates the areas proposed for development contains marginal and not- suitable soils for on-site septic systems.

OPEN SPACE: A Conservation Subdivision requires 45% open space after the primary conservation areas, including wetlands, and 10% of the land for road right-of-ways has been deducted. The primary conservation areas on this tract total 16.39 acres. The required open space is 14.657 acres. The plan dated 8-1-2008 indicates 11.87 acres of open space that is not primary conservation area. An additional 2.79 acres of upland open space is required.

DRAINAGE: The applicant is proposing roadside ditches and property line swales to drain into roadside ditches on Northwest Backwoods

Road and the wetlands to the west of the property. NC DOT has not commented on the proposed stormwater system.

TECHNICAL REVIEW STAFF:

On June 18, 2006, Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – Approved as is.
2. **Currituck Soil & Water Conservation** - Approved as is.
3. **Currituck County Fire Services**–Approved with the following comment: Will water be available? (no)
4. **Currituck County Water Department**- Approved with the following comments and conditions:
Cash payment for the waterline escrow will be due.
16 lots x \$5000 = \$80,000 tap fees
The first 10 lots are 100' each and the remaining 4 lots are 20' each for a total of 1,080 feet.
1,080' x \$25 = \$27,000; Plus the total amount of piping to cover the sub-division times \$25 and the complete piping total plus 20%
5. **Currituck County Planning and Inspections, Inspections Division**-Approved as is.
6. **Albemarle Regional Health Services** – Site evaluations will be needed before Preliminary Plat.
7. **Currituck County GIS** - Approved as is.
8. **County Parks & Recreation Department** - No comments received.
9. **Currituck County Emergency Management** – No comments received.
10. **NC Department of Transportation**: Approved with following comments: turn lanes maybe required on SR 1218 (Northwest Backwoods Road) with future development.
11. **N C Dominion Power** - No comments received.
12. **Sprint Telephone** – Approved with no comment,

SPECIAL USE PERMIT CRITERIA:

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 (Section 11.7(F)(12)):

- a. *The application is complete.*
Based on staff review all required information has been submitted for review.
- b. *The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".*
A conservation subdivision with single family homes is a permitted use in the Agricultural zoning district.

- c. *The conditions proposed meet or exceed the minimum requirements of this ordinance and are agreed to by the applicant.*
The ordinance can be met if the required changes are made to the plan.
- d. *The special use will not endanger the public health or safety.*
Public health and safety will be addressed through the Preliminary Plat permitting process as required by the UDO and NC laws.
- e. *The special use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.*
The proposed residential subdivision should have no negative impact on adjoining property. The adjoining uses are low density, agricultural uses.
- f. *The special use will be in conformity with the Land Use Plan, Thoroughfare Plan, or other officially adopted plan.*

The 2006 Land Use Plan classifies this area as Conservation class within the Moyock sub-Area. 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.

Much of the land included in the Conservation classification is environmentally sensitive and therefore already protected through existing, federal, state, and local regulations. However, for areas within the classification that would be considered developable, uses such as agriculture, agriculture related services, and extremely low density residential development (1 unit per 3 acres or less) would be permitted. With the exception of agricultural related uses, nonresidential uses should not be encouraged. It is anticipated that any uses within the Conservation area would be served by individual on-site water and wastewater.

The policy emphasis for the Moyock Sub-Area 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 areas where on-site wastewater is proposed and other County services are limited, development density should be limited to 1-2 units per acre. However in areas where central sewer is proposed or existing, additional services are available and the character of the surrounding areas supports it, higher density ranging from 3-4 units per acre could be considered through the use of overlay zones.

The proposed density of this development is 1 unit per 3.4 acres, less dense than the recommended density of 1 per 3 acres. Because the sketch plan is lower than the recommended density and complies with the Moyock sub-area statements, this application **complies** with the 2006 Land Use Plan if the Natural Heritage Areas are fully protected.

- g. *The special use 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 two years after the initial approval of the plan (sketch plan in the case of major subdivisions).*

The revised capacity formula and generation rates taken from the Tischler & Associates, Inc. study was used to calculate the capacity under the existing ordinance. The proposed development will yield the following calculations:

	Available Capacity at build out of approved Sketch Plans	Demand	Remaining Capacity if approved
Backwoods Hideaway-16 lots			
Elementary School	64	4	60
Middle School	43	1	42
High School	46	2	44

STAFF RECOMMENDATION:

Staff recommends **conditional approval** of the application contingent upon satisfaction of all TRC comments, subject to a finding that adequate public facilities exist, and subject to the following conditions and plan corrections:

Code and Technical Review Committee Requirements:

1. A corrected sketch plan that meets the requirements of the UDO for a conservation subdivision shall be submitted for review and approval by the Planning Department prior to the special use permit being issued.
2. The revised sketch plan shall provide 14.657 acres of upland open space.
3. The revised plan shall show the following in accordance with UDO section 10.3.8(I):
 - a. Provide a 50 foot buffer between all lots and wetland areas.
 - b. No land disturbing activities, including timbering, shall occur within the primary conservation open space. This is to ensure compliance with the N.C. Natural Heritage Program’s designation as part of the “Green Sea” Natural Heritage Area.
 - c. The NC Natural Heritage Program shall approve a management plan for all conservation areas prior to Preliminary Plat approval and advise on best management practices for the subdivision.
 - d. A conservation easement approved by county staff shall be placed on all areas designated as conservation areas.
 - e. A pedestrian circulation system with hard surface loop trails shall be shown on the plan and installed prior to Final Plat.
4. The revised plan shall identify the home sites, which are required to be no closer than 50 feet from primary conservation areas.(10.3.8(G))
5. The applicant shall submit a recreational amenity plan for review and approval by the Planning Department prior to the special use permit being issued.
6. All applicable state and local permits to construct the infrastructure will be required at Preliminary Plat submission.
7. A 404 wetlands delineation map approved by the US Army Corps of Engineers will be required with submission of the Preliminary Plat.
8. The open space table shall be corrected to reflect that all areas designated as wetlands by delineation or N.C. wetland maps shall be primary conservation areas. (10.3.8)
9. No land disturbance activities including clearing or grading shall take place prior to the Planning Department issuing the authorization to construct.

- 10. Correct the parcel identification number to 0003-000-003A-0000.
- 11. The applicant shall construct all required improvements including roads, drainage systems, and street trees; and have them inspected and certified prior to submission of the Final Plat.

Chairman Nelms opened the public hearing.

Eddie Hyman, Engineer, reviewed the request.

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

Commissioner Etheridge moved to approve with findings of fact and TRC comments. Commissioner Taylor seconded the motion. Motion carried.

Public Hearing and Action PB 08-36 Maple Industrial Park (Currituck County): Request for a Sketch Plan/Special Use Permit for 23 Commercial Lots located adjacent to the Currituck County Airport and to the rear of the Central Elementary School property, Tax Map 52, Parcels 14 and 16, Crawford Township.

Sworn testimony was given prior to making statements.

Ben Woody, Planning Director, reviewed the request.

ITEM: PB 08-36 Maple Industrial Park, Sketch Plan/ Special Use Permit for 23 Commercial Lots

LOCATION: Adjacent to the Currituck County Airport and to the rear of the Central Elementary School property.

TAX ID: Parcel 1: Map 52, Parcel 14 (0052000014A0000)
Parcel 2: Map 52, Parcel 16 (005200000160000)

**OWNER/
APPLICANT:** Currituck County
PO Box 39
Currituck, NC 27929

ENGINEER: McKim and Creed
380 Cleveland Place
Virginia Beach, VA 23462

NARRATIVE: Currituck County is proposing development of the 115 acre Maple Industrial Park. The subject project includes a portion of the airport property and the tract with the Cooperative Extension Center. The boulevard constructed for the Extension Center (Aviation Parkway) will be extended into the airport property and connect to a road leading to the terminal building and hangars.

The commercial building types typically found at this proposed project will be one and two-story metal frame buildings built on grade with concrete slab foundations. Typical building sizes could range from 5,000 square feet to 50,000 square feet.

The target markets for this proposed subdivision are regional and national manufacturing, distribution and service-oriented companies, especially those with a strong aviation aspect or inter-modal transportation dependence. This project will place a significant block of heavy-manufacturing zoned land into service, creating one of Currituck County's first industrial parks with exclusive HM zoning and access to the Currituck Regional Airport.

- CURRENT ZONING:** Airport Property is zoned Heavy Manufacturing (HM)
Tract II is zoned Agricultural (A)
- ZONING HISTORY:** The airport property was zoned HM on the 1989 zoning atlas.
Tract 2 was zoned A on the 1989 zoning atlas.
- LAND AREA- TOTAL:** Airport Property: 554.51 acres
Parcel 2: 33.48 acres
- LAND AREA-SUBDIVISION:** 115 acres
- OPEN SPACE:** Open space is not required for a commercial subdivision.
However, 29.42 acres of utility open space will be created for a waste water plant and stormwater ponds.
- SURROUNDING PROPERTY:**
- | | Land Use | Zoning |
|---------------|-------------------------------------|---------------|
| NORTH: | Vacant Wetlands, Residential | A |
| SOUTH | Elementary School, vacant woodlands | A and GB |
| EAST: | Agricultural | A |
| WEST: | Residential, Residential Airpark | A and RAD |
- EXISTING LAND USE:** Well fields and shooting range
- UTILITIES:** Telephone and electric service are available to the site.
- TRANSPORTATION:** The site is accessed from US 158 (Shortcut Road)
- FLOOD ZONE:** The area for the lots is outside of flood zones (Zone X). Some remaining parts of the airport property to the northeast are in zones AE (4) and Shaded X.
- SOILS:** The Currituck County soils map shows this land is a mix of suitable and marginal soils for on-site septic.
- WATER SERVICE:** Public water for domestic use and fire protection will be provided by the Currituck County public water supply system. Assuming wastewater flows at 80% of water demands, the water system usage would be 192,500 gallons per day. The Industrial Park will be fed by a 10" water main. The County water system has adequate supply and pressure to serve this project.
- WASTEWATER:** The Industrial Park will provide central sewer consisting of collection, treatment and disposal. The collection system will consist of gravity sewer with 2 major pump stations to convey wastewater to a central treatment facility. Treatment will be

provided to a very high standard to minimize disposal setbacks. Disposal will be provided through high rate infiltration ponds.

Demand at build-out for the Industrial Park is estimated at 154,000 gallons per day. In order to allow future connection by the surrounding facilities, it has been determined the wastewater system site could accommodate up to 300,000 gallons per day. Total cost of the collection and 300,000 treatment facility is estimated at \$10,200,000.

The County is investigating the possibility of creating a Phase I to the Industrial Park consisting of lots 3-6 and 23. These lots would be served by onsite treatment facilities. All treatment facilities will be designed to have no impact on ground water quality.

DRAINAGE:

The preliminary drainage design calls for lot line swales to feed stormwater into roadside ditches. Two stormwater ponds will collect the stormwater until it is released into the on-site wetlands areas.

Technical Review Committee

A TRC meeting was held on June 18, 2008 and the reviewing agencies had the following comments and requirements:

1. **NCDOT:** Approved with the following comments:
Waiting for comments from Traffic Branch for any required improvements to US 158
2. **CURRITUCK COUNTY SOIL AND WATER:** Approved with the following comments:
Show existing shooting range and loop road.
3. **CURRITUCK COUNTY ENGINEER/ PUBLIC WORKS:** Approved with the following comments:
 - a) Illustrate the well field road and the shooting range on the plan. Note the shooting range will need to be relocated.
 - b) Stormwater Pond 1 needs to be in the Park property or have an easement.
4. **CURRITUCK COUNTY WATER DEPARTMENT:** Approved as is.
5. **CURRITUCK COUNTY FIRE SERVICES:** Approved with the following conditions:
I wish for fire hydrant located in the bulb of cull de sac to be moved to the base of the bulb. This is so the cul-de-sac is still functional to turn apparatus around during operations.
6. **CURRITUCK INSPECTIONS DEPARTMENT:** No comments at this stage.
7. **N.C. DIVISION OF COASTAL MANAGEMENT:** The plan was reviewed with no comment.
8. **ALBEMARLE REGIONAL HEALTH SERVICES:** No Comments Received
9. **CURRITUCK COUNTY RECREATION:** Approved with the following comment: This will take away a good portion of trails. There may be some complaints by the public, mostly horse back riders.
10. **CURRITUCK COUNTY EMERGENCY MANAGEMENT:** No comment.

11. CURRITUCK COUNTY GIS/ TAX MAPPING: Approved with the following comments: Addresses will be assigned by GIS during the Preliminary Plat phase and before Final Plat. Street names were previously approved.

12. NC OFFICE OF STATE ARCHEOLOGY: Approved as is.

13. EMBARQ (Hester Jones): Approved with the following comments: Provide a plan that will show where the new road and utility connections will be for existing buildings at the airport. There will need to be cable facilities relocated if airport road is closed.

SPECIAL USE PERMITS CRITERIA:

Special use permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. In order to approve a special use permit, certain criteria must be satisfied. The criteria are outlined as follows:

a. *The application is complete.*

The application has met the submission requirements for a special use permit.

b. *The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".*

A subdivision is a permitted use.

c. *The conditions proposed meet or exceed the minimum requirements of this ordinance and are agreed to by the applicant.*

If all of the conditions are adopted, the proposal will meet the requirements of the UDO.

d. *The special use will not endanger the public health or safety.*

This development will be required at the Preliminary Plat stage to demonstrate it meets applicable environmental laws.

e. *The special use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.*

The existing forest will provide a buffer for the industrial uses from the school and adjacent agricultural and residential uses.

f. *The special use will be in conformity with the Land Use Plan, Thoroughfare Plan, or other officially adopted plan.*

These properties are in the **Full Service Area** within the **Barco/Coinjock/Airport sub-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.

The policy emphasis of this plan is for the Barco/Coinjock/Airport area to emerge as the principal community center serving the central area of the mainland and is therefore included as a Full Service Area. Further, as the area comes into its own as a distinct community center, the reciprocal needs of homes and businesses will feed off each other, adding even more growth to the area. As is the case with the Courthouse area, care should be taken to encourage quality development and the preservation of open space in conjunction with development approvals.

Because this will serve as a part of the airport community center, this proposal **complies** with the 2006 Land Use Plan.

- g. *The special use 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 two years after the initial approval of the plan (sketch plan in the case of major subdivisions).*

The development impact statement indicates that this proposal will not exceed the existing county facilities.

STAFF RECOMMENDATION

Staff recommends **approval** of the application subject to satisfaction of the TRC comments, and subject to the following conditions:

CODE and SPECIAL USE PERMIT REQUIREMENTS:

The development shall comply with all requirements of the Currituck UDO.

STAFF RECOMMENDED CONDITIONS:

1. Staff recommends that no further on-site wastewater systems be allowed in this subdivision until a cost-benefit analysis is done to show why the sewage treatment plant is not being built at the beginning of the project. This should include a revision to the wastewater figures to reflect the addition of the county recreation center. This analysis should also include information on how on-site septic systems would affect water quality versus a central wastewater system.
2. Staff recommends a hard surface pedestrian access system be integrated into existing recreational trails.
3. A center turn lane should be installed on US 158 to accommodate the 300 trips per hour estimated for full build out. NCDOT will provide the requirements for road improvements at the Preliminary Plat stage.
4. A plan should be made to move the Sheriff's Department shooting range. A shooting range would not be a compatible use to industrial type businesses.

Chairman Nelms opened the public comment period.

John Snowden, Maple Road, requested the Board be a good neighbor to citizens and requested a buffer for the airport.

Commissioner Etheridge requested to be recused. Commissioner moved to allow. Commissioner Gregory seconded the motion. Motion carried.

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

Public Hearing and Action PB 08-33 Highland Properties, Inc.: Request to rezone 101.14 acres from Commercial (C) to Conditional District - General Business (CD-GB). The property is located approximately 1/4 mile south of Guinea Road on Caratoke Highway (US 168), Tax Map 22, Parcel 88, Poplar Branch Township.

Ben Woody, Planning Director, reviewed the request.

TYPE OF REQUEST: To rezone 101.14 acres from "Commercial (C) to Conditional District General Business (CD-GB)

LOCATION: Located on Caratoke Highway, approximately ¼ mile from Guinea Road, south on Hwy 168

TAX ID: Tax Map 22, Parcel 88
002200000880000

OWNER/APPLICANT: Highland Properties, Inc.
378 Caratoke Hwy.
Moyock, NC 27958

AGENT: Brian Innes
378 Caratoke Hwy.
Moyock, NC 27958

CURRENT ZONING: Commercial (C)

PROPOSED ZONING: Conditional District- General Business (CD-GB)

- ZONING CONDITIONS:**
1. The applicant has excluded the following GB uses from the property:
 - Reclamation landfill
 - Security landfill
 - Demolition landfill
 - Convenience Center
 2. Outdoor storage must be fully screened from public rights of way using a combination of landscaping or opaque fencing.

- ZONING HISTORY:** The property was zoned:
- Commercial (C) on June 21, 2004.
 - Agricultural (A) on April 2, 1989

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Agricultural, vacant land	A/R
SOUTH:	Agricultural, vacant land	A/R
EAST:	Agricultural, vacant land, & low density residential	A
WEST:	Commercial & Residential, vacant land, & residential	C/R/A

EXISTING LAND USE: Agricultural/Undeveloped.

PROPOSED LAND USE: General Business.

LAND USE PLAN CLASSIFICATION:

The 2006 Land Use Plan classifies this site as **Rural** within the **Moyock Sub-Area**. Areas designated as Rural are preferred for open space and agricultural preservation. Rural areas are

intended to provide for agriculture, forestry, and other allied uses traditionally associated with a rural area.

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.

The policy emphasis of the 2006 plan for the Moyock Sub-Area is to properly manage the increased urban level of growth that will occur in the next decade. Moyock Sub-Area residential development densities should be medium to high depending upon available services. In areas where central sewer is proposed/existing, additional services are available, and the character of the surrounding areas supports it, higher density development ranging from 3-4 units per acre could be considered through the use of overlay zones. If sewage treatment collection systems are built, whether publicly or privately, all systems should be designed to be tied together into a single system in the future.

There are existing environmentally sensitive areas that cannot support higher density development and do not have access to services that are therefore classified in either the Conservation or Rural Areas. It is not the County's intention that all of Moyock be developed intensely but rather create specific service centers.

The following Land Use Plan policies are also relevant to this request:

POLICY ES1: New development shall be permitted to locate only in areas with SUITABLE SOIL and where ADEQUATE INFRASTRUCTURE is available. For existing development located on poor soils, and where sewage treatment upgrades are necessary, engineering solutions may be supported, provided that environmental concerns are fully addressed.

POLICY HN1: Currituck County shall encourage development to occur at densities appropriate for the location. LOCATION AND DENSITY FACTORS shall include whether the development is within an environmentally suitable area, the type and capacity of sewage treatment available to the site, the adequacy of transportation facilities providing access to the site, and the proximity of the site to existing and planned urban services.

POLICY HN3: Currituck County shall encourage residential development that satisfies the objective of avoiding traditional suburban sprawl:

- COMPACT, MIXED USE DEVELOPMENTS or DEVELOPMENTS NEAR A MIXTURE OF USES that promote a return to balanced, self-supporting community centers generally served by centralized water and sewer. The types of development are contemplated for the Full Service Areas identified on the Future Land Use Map.

POLICY CD4: HIGHWAY ORIENTED COMMERCIAL USES should be clustered along segments of highways and contain

land uses which are mutually compatible and reinforcing in use and design; they should be designed in such a way as to minimize signage, access points, and to prevent unsightly, dysfunctional STRIP DEVELOPMENT. (See esp., Policy CD9 below concerning connected parking areas.)

POLICY ED1: NEW AND EXPANDING INDUSTRIES AND BUSINESSES should be especially encouraged that: 1) diversify the local economy, 2) train and utilize a more highly skilled labor force, and (3) are compatible with the environmental quality and natural amenity-based economy of Currituck County.

POLICY CD7: Attractive, environmentally beneficial LANDSCAPING shall be provided by new commercial or office developments, and in the rehabilitation and upgrading of existing developments. Appropriate BUFFERING or other effective DESIGN FEATURES may be employed to allow less intensive forms of commercial and office development to adjoin existing or planned residential uses.

POLICY WQ3: Currituck County supports policies, plans and actions that help protect the water quality of the county's estuarine system by preventing SOIL EROSION AND SEDIMENTATION, and by controlling the quantity and quality of STORMWATER RUNOFF entering the estuary.

POLICY WQ6: Currituck County supports the retention or preservation of VEGETATED BUFFERS along the edge of drainage ways, streams and other components of the estuarine system as an effective, low cost means of protecting water quality.

POLICY ML4: Currituck County recognizes that the appearance and traffic moving function of the NC 168/ US 158 CORRIDOR is of exceptional importance to both the near term quality of life and long-term economic prospects for residents and property owners in the Mainland Area.

**PUBLIC SERVICES
AND UTILITIES:**

The Moyock Fire Department provides fire protection for this area. Public water is available.

TRANSPORTATION:

The site is accessible from Caratoke Hwy (Hwy 168).

FLOOD ZONE:

This site has been designated an AE flood zone (within the 100 year floodplain) by FEMA with a Base Flood Elevation of 5 feet.

WETLANDS:

Approximately 74 acres of potential wetlands are located on the site.

SOILS:

The Currituck County Soils map indicates the property contains primarily non-suitable soils for on-site septic systems.

STAFF

RECOMMENDATION:

Staff recommends **approval** of the request to rezone 101.14 acres from "Commercial (C) to Conditional District General Business (CD-GB) for the following reasons:

Justifications for approval:

1. The proposed request is in general compliance with the 2006 Land Use Plan Moyock Sub-Area Policy Emphasis. The subject property is bounded on 3 property lines by Full Service Areas, as designated by the 2006 Land Use Plan, as close as 200 feet.
2. The proposed zoning conditions are consistent with the objectives of the Currituck County Unified Development Ordinance.
3. A 100 acre parcel across Caratoke Highway, to the west, is zoned Commercial.
4. This property was rezoned to Commercial (C) in 2004. The principal difference between Commercial and General Business zoning classifications is the ability to develop residential uses in the General Business classification.

Outstanding Staff Concerns: The conditional zoning process provides an opportunity for an applicant to propose use limitations or development conditions that ensure development proposals are consistent with the policies set forth in adopted plans. Staff feels the following concerns could be appropriately addressed through the conditional zoning process.

1. This site is currently accessed by a gravel easement off of Caratoke Hwy. The 2006 Land Use Plan encourages minimizing access points for commercial development. Therefore as this property is developed, it is recommended that site access be limited to one access point from Caratoke Highway (LUP Policies TR 4, ML 4, CD2)
2. This site is adjacent to Rowland Creek Canal which is a tributary of Rowland Creek and Tulls Creek. In an effort to preserve water quality, priority should be given to the retention and preservation of wetlands. It is recommended that no more than one-tenth of one acre of development or land disturbing activities, except for roads, utilities, or other necessary public improvements, occur in Army Corps of Engineers delineated 404 wetlands. In addition, a 50' buffer along the upland portion of the property adjacent to Rowland Creek Canal (on north-west side of the property) is requested. No land disturbance or development should occur in this buffer area except as needed for required maintenance of the canal. Maintenance of the canal would require approval from the necessary state and local agencies (LUP Policies ES2, WQ 3, WQ 4, WQ 6)
3. Installation of a Type D Buffer is suggested between incompatible commercial and residential uses (Policies

CD 5, CD 7). This concern was discussed at the Planning Board meeting; however, to accommodate a mixed use development, staff feels this may not be necessary to add as a condition of the rezoning.

4. The applicant has excluded several General Business uses on the property. Staff would also recommend that all uses of mobile homes be excluded due to the incompatibility with other uses in the General Business District and concerns with soil suitability (LUP Policies ES1, HN1, HN 3):

PLANNING BOARD DISCUSSION

Mr. West stated that the planning staff has addressed the issue of access under #1 in outstanding staff concerns, but that this property is located on an elevated curve and the staff and applicant should work closely with NCDOT.

Mr. Woody stated the applicant is agreeable to one access point and they will work closely with NCDOT.

Mr. West asked if the county owned or had a long term agreement for the water tower on this property.

Mr. Woody stated the tower is located in an easement.

Mr. Kovacs asked why this is being presented as a General Business (GB) zoning if housing for an assisted living facility is going on this site.

Mr. Innes stated they have obtained a driveway permit from NCDOT which provides only one access point to the property. The property which the water tower is located has been donated to the county. They are looking at building an assisted living facility with non-assisted living in the other half of the building. As a prerequisite for the sale of the property a GB zoning district will be required. They also plan to have a hotel on this site which also requires a GB zoning district.

Mr. Kovacs stated he hopes this assisted living facility goes through.

ACTION

Mr. Kovacs motioned to recommend approval with staff recommendations to rezone 101.14 acres from Commercial (C) to Conditional District General Business (CD-GB) as presented. Ms. Robbins seconded the motion. Motion carried unanimously.

Chairman Nelms opened the public hearing.

Brian Innes, developer, was present to answer questions.

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

Commissioner Taylor moved to approve with zoning conditions 1 - 5. Commissioner Etheridge seconded the motion. Motion carried.

Public Hearing and Action PB 08-34 Campbell/Jarvis (Poyners Rd.): Request to rezone 137 acres from Agricultural (A) to Conditional District - Residential (CD-R). The properties are located at the intersection of Tulls Creek Road and

Poyners Road. The properties included in the application for rezoning are Tax Map 31, Parcels 1, 15 and 18, Crawford Township.

Ben Woody, Planning Director, reviewed the request.

TYPE OF REQUEST: To rezone 137 acres from Agricultural (A) to Conditional District Residential (CD-R)

LOCATION: The properties are located at the intersection of Tulls Creek Road and Poyners Road.

TAX ID: Tax Map 31, Parcels 1, 15, 18
00310000010000
003100000150000
003100000180000

OWNER/APPLICANT: Margaret D. Jarvis Estate
c/o Bill Rich, The Rich Companies
400 S. Water Street, Suite 204
Elizabeth City, NC 27909

AGENT: MSA, PC
5033 Rouse Drive
Virginia Beach, VA 23462

CURRENT ZONING: Agricultural (A)/Residential (R)

PROPOSED ZONING: Conditional District – Residential (CD – R)

ZONING CONDITIONS: No development shall occur in the conservation area as shown on the 2006 Land Use Plan

ZONING HISTORY: The property was zoned Agricultural (A) on April 2, 1989

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Agricultural, vacant land	A/R
SOUTH:	Agricultural, vacant land	A/R
EAST:	Agricultural, vacant land, & low density residential	A
WEST:	Commercial & Residential, vacant land, & residential	C/R/A

EXISTING LAND USE: Agricultural/Undeveloped.

PROPOSED LAND USE: General Business.

LAND USE PLAN CLASSIFICATION:

The 2006 Land Use Plan classifies these properties as Limited Service and Conservation within the Courthouse Sub-Area. Areas designated as Conservation provide for long-term management and protection of significant, limited, or

irreplaceable areas. The Limited Services Area class provides for primarily residential development at low densities.

The Conservation class should be applied to areas that should not be developed at all (preserved), or if developed, done so in a very limited manner characterized by careful planning and cautious attention to the conservation of environmental features. Infrastructure and services, public or private, should not be provided in these areas as a catalyst that could stimulate development. With the exception of agricultural related uses, nonresidential uses should not be encouraged. It is anticipated that any uses within the Conservation area would be served by individual on-site water and wastewater.

Because many of the areas identified for Limited Service also include prime farmland efforts should be made to ensure that thriving agricultural operations are protected from encroaching development through the use of buffering, landscaping, and conservation oriented design.

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. In the same instances where slightly higher density is considered appropriate a moderate mix of housing types such as semi-detached would also be considered reasonable.

The policy emphasis of the 2006 plan for the Courthouse Sub-Area is for the Courthouse area to continue to grow as a small community center. Therefore, much of the area is designated Full Service and Limited Service. The Courthouse Sub-Area residential densities should be medium to high depending upon available services. In areas where on-site wastewater is proposed and other County services are limited, development density should be limited to 1-2 units per acre. However in areas where central sewer is proposed or existing, additional services are available and the character of the surrounding areas supports it, higher density ranging from 3-4 units per acre could be considered through the use of overlay zones. Regardless of the level of growth, care should be taken to encourage quality development and the preservation of open space in conjunction with development approvals.

The following Land Use Plan policies are also relevant to this request:

POLICY ES1: New development shall be permitted to locate only in areas with SUITABLE SOIL and where ADEQUATE INFRASTRUCTURE is available. For existing development located on poor soils, and where sewage treatment upgrades are necessary, engineering solutions may be supported, provided that environmental concerns are fully addressed.

POLICY ES2: NON-COASTAL WETLANDS, including FRESHWATER SWAMPS, AND INLAND, NON-TIDAL WETLANDS, shall be conserved for the important role they play in absorbing floodwaters, filtering pollutants from stormwater runoff, recharging the ground water table, and providing critical habitat for many plant and animal species. Currituck County supports the efforts of the U.S. Army Corps of Engineers in protecting such wetlands through the Section 404 permit program of the Clean Water Act, as well as Section 401 water quality certifications by the State of North Carolina.

POLICY AG4: County growth management tools, including particularly zoning, should provide PROTECTION TO AGRICULTURE and other RESOURCE BASED ACTIVITIES from incompatible land uses, such as a residential subdivision in the midst of generally uninterrupted farm land.

POLICY HN1: Currituck County shall encourage development to occur at densities appropriate for the location. LOCATION AND DENSITY FACTORS shall include whether the development is within an environmentally suitable area, the type and capacity of sewage treatment available to the site, the adequacy of transportation facilities providing access to the site, and the proximity of the site to existing and planned urban services.

POLICY HN3: Currituck County shall encourage residential development that satisfies the objective of avoiding traditional suburban sprawl:

- OPEN SPACE DEVELOPMENTS that cluster homes on less land, preserving permanently dedicated open space and often employ on-site or community sewage treatment. These types of developments are likely to occur primarily in the Conservation, Rural, and to a certain extent the Limited Service areas identified on the Future Land Use Map.

POLICY HN4: Currituck County shall discourage all forms of housing from "LEAPFROGGING" INTO THE MIDST OF FARMLAND and rural areas, thereby eroding the agricultural resource base of the county.

POLICY TR4: ACCESS TO THE COUNTY'S MAJOR ROADWAYS shall be managed so as to preserve the intended purpose of the highway, protect taxpayer dollars invested, and minimize hazardous turning movements in and out of traffic flows. Methods may include, for example, limits on the frequency of driveway cuts, shared driveway access, minimum lot frontages, connections between adjoining parking lots, central medians, etc.

POLICY ML1: Currituck County recognizes the particular interest of residents and property owners in the Mainland Area in PRESERVING FARMLAND AND OPEN SPACE. The County shall exercise diligence in applying policies, plans and actions that will encourage compact growth and the preservation of farmland and open space in the Mainland Area.

**PUBLIC SERVICES
AND UTILITIES:**

The Crawford Volunteer Fire Department provides fire protection for this area. Public water is available.

TRANSPORTATION:

These properties are accessible from Poyners, Elrod, and Tulls Creek Road.

FLOOD ZONE:

These sites are split between the AE (within the 100 year floodplain) and Shaded flood zone designations. The AE flood zone has a Base Flood Elevation of 5 feet.

WETLANDS:

Approximately 32 acres of potential wetlands are located on the site.

SOILS:

The Currituck County Soils map indicates the property contains primarily non-suitable and marginal soils for on-site septic systems. An approximately 12 acre portion of the property on the corner of Tulls Creek Road and Poyners Road is suitable for on-site septic.

**STAFF
RECOMMENDATION:**

Staff recommends **approval** of the request to rezone 137 acres from Agricultural (A) to Conditional District Residential (CD-R) for the following reasons:

Justifications for approval:

1. The proposed request is in general compliance with the Limited Service and Conservation designation of the 2006 Land Use Plan and the Courthouse Sub-Area Policy Emphasis.
2. The proposed zoning conditions are consistent with the objectives of the Currituck County Unified Development Ordinance and 2006 Land Use Plan and promote compatibility between the subject property and surrounding area. (LUP Policy CA3)
3. The parcel at the intersection of Tulls Creek Road and Poyners Road, Parcel ID number 003100000010000, is split zoned Residential (R) and Agricultural (A). In addition, properties located along the north of Tulls Creek Road are zoned Residential (R).

Outstanding Staff Concerns: The conditional zoning process provides an opportunity for an applicant to propose use limitations or development conditions that ensure development proposals are consistent with the policies set forth in adopted plans. Staff feels the following concerns could be appropriately addressed through the conditional zoning process.

1. The 2006 Land Use Plan encourages minimizing access points for commercial development. Therefore as this property is developed, it is recommended that site access be limited to one access point from Poyners

Road and no access be available from Tulls Creek Road. Access to the properties from Elrod Road is preferred (LUP Policies TR 2, TR 4).

2. A portion of this site is adjacent to Tulls Creek. In an effort to preserve water quality and minimize disturbance in sensitive wetland areas, priority should be given to the retention and preservation of wetlands. It is recommended that no development, land disturbing, or logging activities occur in areas designated by the 2006 Land Use Plan as Conservation. (LUP Policies ES2, WQ 5, WQ 6, ML1).
3. Staff recommends that all uses of mobile homes be excluded due to the incompatibility with the surrounding character of the community and concerns with soil suitability (LUP Policies ES1, HN1, HN 3).
4. The establishment of a planted buffer between the proposed development and all adjacent residential properties could help ensure compatibility (Policy ML1). This concern results from ongoing discussions with surrounding property owners.

PLANNING BOARD DISCUSSION

Mr. West asked with this being a conservation area, why is this being requested to be rezoned residential and not leave it at agricultural.

Mr. Woody stated that the advantages they get for putting the request in from Agricultural (A) to Conditional District – Residential (CD-R) is they are able to cluster the density out of that.

Mr. West asked if they would be better to leave it zoned agricultural.

Mr. Woody stated that if it is zoned agricultural, by right, they could potentially clear the property or build some houses. By adding zoning conditions we are able to use zoning to ensure that nothing happens to this area. The applicant will get some density out of it, but the county gets some protection of the natural resources.

Mr. West asked how many lots they will benefit from by doing this.

Mr. Woody stated approximately 30 lots.

Mr. Perry stated they have done a wetlands delineation and they also have provided a service for suitable soil for the septic was done. They have not done a lot layout. Mr. Perry stated he is there to answer any questions that the board may have.

Mr. Tyrell stated he is concerned with a high density housing development, ground water contamination, and decreasing property values due to a high density housing development.

Mr. Horton stated that at this point he does not know how many lots will be on the property. The single family homes will be priced below \$300,000. Mr. Horton stated that at the corner of Tulls Creek Road and Poyners Road is the best soil which he will need during the development process. This area will be dug out to create a beautiful lake at this corner and a community center adjacent to it. Mr. Horton stated he is fine with making the access off Elrod Road.

Mr. Etheridge stated he is concerned with maintaining access to the graveyard.

Mr. Reuter stated he is concerned with the conservation area south of Elrod Road and west of Poyners Road. Mr. Reuter asked if there is a wildlife impoundment in this area. Mr. Reuter stated that the water, electric, and phone supply in this area are already strained. This area has drainage and flooding issues. Mr. Reuter is concerned with providing adequate public facilities. The area of infrastructure will not support more residents on Tulls Creek and Poyners Road. Mr. Reuter stated he is concerned that this development will set a precedent for urban sprawl from Virginia.

Mr. Horton addressed a few of the concerns. The graveyard in the conservation area will have a fence around it and access to the graveyard will be provided. This development will not depend on ditches for draining because the lake at Tulls Creek and Poyners Road will be a holding pond. Mr. Horton stated that instead of putting a private sewer system on the property, he is going to run a 6 inch sewer line, 3.2 miles down Tulls Creek Road which will connect into the wastewater treatment system which is going to be built on Guinea Road.

Mr. West stated that he has a graveyard on his property and asked if the graveyard on this property is deeded.

Mr. Horton stated that the property has not been purchased and is subject to the rezoning.

Mr. West stated that when the property is sold it needs to state in the deed regarding the graveyard.

Mr. Horton stated that he is leaving the conservation area which does have some land which could be built on.

ACTION

Mr. Etheridge motioned to recommend approval with staff recommendations to rezone 137 acres from Agricultural (A) to Conditional District – Residential (CD-R). Mr. Kovacs seconded the motion. Ayes: Mr. Keel, Mr. Bell, Mr. Etheridge, Mr. Winter, Mr. Kovacs, Ms. Robbins and Mr. Midgette. Nays: Mr. West. Motion carried.

Chairman Nelms opened the public hearing.

Charles Acey, MSA represented the developer, was present to answer questions.

Janet Rose, Poyners Road, opposes the request and would like to keep area rural.

RC Sifford, opposes request.

Danyel Sifford, opposes request.

Phil Barnard, opposes request.

Virginia Barnard, opposes the request.

R.G. Tanner, opposes the request.

Richard Royals, opposes the request.

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

Commissioner Etheridge moved to deny request. Commissioner Gregory seconded the motion. Motion carried.

Discussion on Requesting Game Commission to Review 4:20 p.m. Law

deleted

Consideration of Bid Award Recommendation-Raw Water Mains

Commissioner Etheridge moved to award the bid to Hendrix Barnhill in the amount of \$280,992. Commissioner Taylor seconded the motion. Motion carried.

Jason Weeks, Recreation Director, update on Carova Beach Park.

Jason Weeks, updated the Board on Carova Park and showed pictures of the shelter and restrooms. The park should be open by Friday.

Consent Agenda:

1. Budget Amendments
2. Jarvisburg Elementary School-Change Order #5-B&M Contractors, Inc.
3. Appointment of Dr. Alison Boone-Heyder to Library Board
4. Albemarle Mental Health-Fourth Quarter Fiscal Monitoring Report
5. Approval of August 18, 2008, Minutes
6. Moyock Library Lease Agreement
7. Funding OLF citizens group, \$2500.

Commissioner Taylor 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
62828-511000	Telephone & Postage	\$ 350	
62828-561000	Professional Services		\$ 350
		\$ 350	\$ 350

Explanation: Newtown Road Sewer (62828) - To transfer funds for increased postage costs for Newtown Road Sewer.

Net Budget Effect: Newtown Road Sewer District Fund (62) - No change.

Debit	Credit
Decrease Revenue or	Increase Revenue or

<u>Account Number</u>	<u>Account Description</u>	<u>Increase Expense</u>	<u>Decrease Expense</u>
10410-561000	Professional Services	\$ 10,000	
10441-490000	Capital Outlay	\$ 10,540	
10460-592000	Projects	\$ 114,474	
10530-590000	Capital Outlay	\$ 28,880	
10531-545000	Contract Services	\$ 12,714	
10535-590000	Capital Outlay	\$ 206,500	
	Transfer to School		
10900-547051	Construction	\$ 6,000,000	
	Fund Balance		
10390-499900	Appropriated		\$ 6,383,108
		<u>\$ 6,383,108</u>	<u>\$ 6,383,108</u>

Explanation: To carry-forward funds for the Shawboro Elementary School appropriated in prior year and purchase orders from the general fund issued in FY 2008 that were not completed prior to year end as follows:

Purchase Order	Description	Vendor	Amount
20081602	Hist Crthouse renovations	Alee Construction	\$ 99,117
	Jail demolition	Stroud, Pence & Assoc	\$ 15,357
20081338			
20081403	Stormwater Lobbyist	Beaufort County	\$ 10,000
20081610	EMS Vehicle	Courtesy Ford	\$ 28,880
20081388	Emerg Op Plan update	Beck	\$ 6,753
20081523	Statewide Hurricane Ex	Beck	\$ 5,961
	Remove/Replace Tower	Gately	\$ 178,470
20081342-44		Communications	
20081604	Testing for tower	GET Solutions	\$ 2,875
20080927	Orthophotography	Sanborn	\$ 25,155
20080436	Recreation Software	Vermont Systems	\$ 10,540
	Shawboro Elem School		\$ 6,000,000
		Total	<u>\$ 6,383,108</u>

Net Budget Effect: Operating Fund (10) - Increased by \$6,383,108.

<u>Account Number</u>	<u>Account Description</u>	<u>Debit</u> Decrease Revenue or Increase Expense	<u>Credit</u> Increase Revenue or Decrease Expense
10550-590000	Capital Outlay	\$ 2,500	
10550-545000	Contract Services		\$ 2,500
		<u>\$ 2,500</u>	<u>\$ 2,500</u>

Explanation: Airport (10550) - To transfer funds from contract services to capital outlay to install a secure enclosure in the terminal building.

Net Budget

Effect: Operating Fund (10) - No change.

Commissioner's Report

Chairman Nelms commented on the unfair practice of the 4:20 rule and it should be the same countywide.

County Manager's Report

The County Manager stated that Emergency Management was tracking the storms in the Atlantic.

Adjourn

There being no further business, the meeting adjourned.