

CURRITUCK COUNTY
NORTH CAROLINA
July 5, 2011

The Board met at 6:00 p.m. prior to the regular meeting to discuss the Maple Airport Overlay district.

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 Aydlett, Commissioners O'Neal, Gilbert, Martin, Etheridge, Petrey, and Rorer.

Invocation and Pledge of Allegiance

Bobbie Henley, was present to give the invocation.

Approval of Agenda

Commissioner Martin moved to amend the agenda by adding to consent agenda a Resolution approving retiree insurance for Albemarle Mental Health and Tideland Mental Health and a closed session. Commissioner Gilbert seconded the motion. Motion carried.

- Item 1 Approval of Agenda
- Item 2 Public Comment
Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.
- Item 3 **Certificate of Appreciation for Paul O'Briant, Interim Superintendent**
- Item 4 **Presentation by Project Graduation Committee**
- Item 5 **Public Hearing and Action** PB 08-03 Backwoods Hideaway: Request for a preliminary plat/special use permit for 16 lots located on Northwest Backwoods Road, approximately 1.4 miles north of the intersection with South Mills Road, Tax Map 3, Parcel 3A, Moyock Township.
- Item 6 **Public Hearing and Action** PB 04-15 Shingle Landing Farm: Request for an amended preliminary plat/special use permit for 11 lots within Shingle Landing Farms subdivision located in Moyock at 116, 121, 122, 125, and 126 Fox Lane, Tax Map 9C, Parcels 3,4,5,6, and 7, Moyock Township.
- Item 7 **Appointments to Senior Citizen Advisory Board**
- Item 8 **Appointment of Senior Tar Heel Legislature Delegate and Alternate**
- Item 9 **Consent Agenda:**
1. Approval of June 20, 2011, Minutes
 2. Approval of contract to purchase property owned by the State of NC, on Maple Road and U.S. Highway 158, Maple, NC.
 3. Approval of contract to purchase property owned by Serena Breckinridge and Julia Harris, located on 592 Shortcut Road, Barco, NC,
 4. Approval of Board of Equalization and Review Minutes
 5. Request DOT to add Cooper Landing Drive to State system
 6. Request DOT to add Creekside Estates roads to State system
 7. Resolution supporting House Resolution 715 to Observe Firefighters Week in NC

8. Resolution approving retiree insurance for Albemarle Mental Health and Tideland Mental Health.

Item 10 Commissioner's Report

Item 11 County Manager's Report

Closed Session

Adjourn

Public Comment

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

Josh Bass, President of Currituck Chamber of Commerce, thanked the Board for their support at the Ace Hardware grand opening.

Commissioner Etheridge commended staff and volunteers with the July 4th celebration.

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

Certificate of Appreciation for Paul O'Briant, Interim Superintendent

The Board presented Paul O'Briant a certificate of appreciation for his service as Interim Superintendent.

Presentation by Project Graduation Committee

Sandy Kinzel, Assistant Superintendent, along with Teresa Brinkley and Chrystal Shultz thanked the Board for its support for Project Graduation.

Public Hearing and Action PB 08-03 Backwoods Hideaway: Request for a preliminary plat/special use permit for 16 lots located on Northwest Backwoods Road, approximately 1.4 miles north of the intersection with South Mills Road, Tax Map 3, Parcel 3A, Moyock Township.

Sworn testimony was given prior to making comments.

Chairman Aydlett opened the public hearing.

Ben Woody, Planning Director, reviewed the request.

ITEM: PB 08-03 Backwoods Hideaway, preliminary plat/special use permit.

LOCATION: Northwest Backwoods Road, approximately 1.4 miles north of the intersection with South Mills Road.

TAX ID: 0003-000-003A-0000

ZONING DISTRICT: Agricultural (A)

PRESENT USE: Vacant

OWNER: Old Brothers LLC and Swain and Temple, Inc

APPLICANT: Hyman and Robey
PO Box 339
Camden NC 27921

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Vacant	A
SOUTH	Vacant	A
EAST:	Single Family Dwelling	A
WEST:	Vacant	A

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as Conservation within the Moyock subarea.

SIZE OF SITE: 54.4 acres

NUMBER OF UNITS: 16 lots

PROJECT DENSITY: .29 units per acre

UTILITIES: Private wells and septic tanks. Water demands are expected to be between 360-480 gallons per day per dwelling.

I. NARRATIVE OF REQUEST:

This is a request for a 16 lot major subdivision. The developer has chosen to reduce minimum lot size for 12 of the lots in order to cluster the lots. The reduced square footage has been added to open space. The developer intends to build homes that will be 1,600 square feet or larger and have a minimum of 2 bathrooms and 3 bedrooms. The lot and home combinations are expected to have an average price of \$250,000.

II. QUESTION(S) BEFORE THE BOARD:

Special Use Permit Criteria and Staff Findings:

Special use permits (SUP) are intended to allow the Board of Commissioners flexibility in the administration of the

UDO. Through the SUP 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 SUP, certain criteria must be satisfied. The criteria and suggested findings of fact are outlined as follows:

1. Completeness of application.

Suggested Findings:

- a. The application is complete.

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

Suggested Findings:

- a. A major subdivision with single family dwellings is a permitted use in the A zoning district.

3. The conditions proposed meet or exceed the minimum requirements of this ordinance.

Suggested Findings:

- a. The conditions proposed meet or exceed the minimum requirements of this ordinance.

4. The special use will not endanger the public health or safety:

Suggested Findings:

- a. The request should have no impact on public health or safety.

5. 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

Suggested Findings:

- a. The proposed residential subdivision should have no negative impact on adjoining property. The adjoining uses include low density single family dwellings and agricultural uses.

6. The special use will be in conformity with the Land Use Plan or other officially adopted plan.

Suggested Findings:

The 2006 Land Use Plan classifies this site as Conservation within the Moyock subarea. 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. Extremely low densities (1 unit per 3 acres) would be permitted.

The policy emphasis for the Moyock subarea states that it is not the County's intention to develop all of

Moyock intensely but rather create specific service centers and to provide a buffer of Limited Service Areas at lower density development between Full Service Areas and those within the Rural and Conservation classifications.

The proposed use is in keeping with the policies of the plan, some of which are:

Policy AG2: Farms and woodlands shall be recognized as an integral part of the county's open space system. Efforts to keep these areas viable as part of the area's resource-based economic section, shall be encouraged.

Policy HN3: Currituck County shall especially encourage open space developments that cluster homes on less land, preserving permanently dedicated open space. The objective is to avoid traditional suburban sprawl in these areas.

7. 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).

Suggested Findings:

- a. The subdivision should not exceed the county's ability to provide adequate public facilities.

III. TECHNICAL REVIEW COMMITTEE RECOMMENDATION:

Pursuant to the Unified Development Ordinance, the Technical Review Committee recommends approval subject to the following:

1. The exempt subdivision plat creating the lot must be recorded prior to final plat approval.
2. Please provide an active recreational amenities plan. Parks and Recreation will approve active amenities based on expected demographics and the number of lots in a subdivision.
3. Please note on the plat that this property is located within an 'Unnumbered A flood zone' that will require base elevation calculations prior to building permit application. Base Flood Elevation must be determined according to Section 6.4.3 of the UDO. (*Applicant plans to determine base flood elevations prior to final plat approval*)
4. Please note that these 16 divisions will count towards the total number of lots to determine the required open space for further divisions of this property when either of the following situations exist:

- a. The new subdivision uses common infrastructure and a common access point to a state road to create a subdivision; or,
 - b. The property is part of the same parcel as it existed April 2, 1989.
5. The subdivision will be subject to a cash deposit for the water lines at final plat. The amendment to the UDO allows the owner to substitute a surety bond or letter of credit if the water lines have not been put in within three years.
 6. Pre-Construction submittal will require a Stormwater Management Plan (i.e. Stormwater Calcs, elevations, etc.)
 7. More than one acre will be disturbed in the course of developing the infrastructure. An E & S plan must be approved prior to initiating any land disturbance associated with developed.
 8. Any impacts to jurisdictional waters or wetlands regulated by the US Army Corps of Engineers will require prior approval by the Wilmington District Office.

IV. PLANNING STAFF RECOMMENDATION:

Staff recommends approval of this request subject to the findings of fact, TRC comments, and the following:

1. The applicant has indicated that all of the open space should be left as natural area. Considering the remote location, small number of lots, and Conservation classification, staff recommends all open space, with the exception of recreational amenities and stormwater infrastructure, be retained by the developer and placed into a conservation easement. This easement shall include a provision that no land disturbance or logging operations take place. The developer shall be responsible for contracting with a conservation receiving agency to hold the easement to the property.

V. PLANNING BOARD RECOMMENDATION:

The Planning Board **recommended approval** of the preliminary plat/special use permit with the findings of fact, staff recommendations, and one recommendation:

- Where the interconnectivity is proposed at the front and back of the development it be noted on these lots that there may be future development.

PLANNING BOARD DISCUSSION (6-14-11)

Mr. Bell asked will there be future development later.

Mr. Woody stated it is likely.

Mr. West asked what the soil type in the area is because it backs up to wetlands.

Mr. Dail stated the soil changes as it gets closer to the wetlands. The Health Department has deemed the soil suitable. The lots would be built up with 2 feet of fill. Mr. Dail has recommended that stormwater infrastructure be built in the open space in place of the recreational amenities.

Mr. Woody stated this is reasonable.

The Planning Board discussed interconnectivity, logging operations and flooding problems.

Mr. Dail stated some stormwater ponds will be added along with ditches around the perimeter of the property.

Mr. Rowland stated this property is wetlands and every time it rains the property is under water. The only drainage this property has is road front property.

Mr. Dail stated a portion of the property is located in a flood zone and the back half of the property is wetlands. Stormwater infrastructure will be installed on the site. A narrative has been provided on how the stormwater will be handled, touching on the pre and post runoff.

Mr. West stated he doesn't like filling lots to build on or adding fill for a septic system.

Mr. Rowland stated the soil type is peat and nothing but swamp.

ACTION

Mr. Clark made a motion to deny the request but withdrew the motion.

Mr. Kovacs moved to approve PB 08-03 with the findings of fact and staff recommendations included in the case analysis and the following conditions:

- Where the interconnectivity is proposed at the front and back of the development it be noted on these lots that there may be future development.

Ms. Newbern seconded the motion. Ayes: Mr. Bell, Ms. Newbern, Ms. Taylor, Ms. Wilson, Mr. Kovacs and Mr. Midgette. Nays: Mr. West and Mr. Clark.

Tina McCutcheon, adjoining property owner, had concerns with street location into the development.

Scott Kemna, also expressed his concerns with the street location.

Eric Dail, Engineer, commented on street right of way.

Commissioner Gilbert moved to table public hearing until next meeting so staff could meet with property owners and work out issues. Commissioner Rorer seconded the motion. Motion carried.

Public Hearing and Action PB 04-15 Shingle Landing Farm: Request for an amended preliminary plat/special use permit for 11 lots within Shingle Landing Farms subdivision located in Moyock at 116, 121, 122, 125, and 126 Fox Lane, Tax Map 9C, Parcels 3,4,5,6, and 7, Moyock Township.

Sworn testimony was given prior to making comments.

Chairman Aydlett opened the public hearing.

Ben Woody, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE
BOARD OF COMMISSIONERS
DATE: July 5, 2011
PB 04-15 Shingle Landing Farms**

ITEM: PB 04-15 Shingle Landing Farms amended preliminary plat/special use permit approval for 11 residential lots.

LOCATION: Moyock, Fox Lane which is located approximately 1300 feet southeast of the intersection of Caratoke Highway and Tulls Creek Road, Moyock Township.

TAX ID: 009C-000-0003-0000
009C-000-0004-0000
009C-000-0005-0000
009C-000-0006-0000
009C-000-0007-0000

ZONING DISTRICT: CD-R 10-15

PRESENT USE: Residential Subdivision

OWNER: EKMS, Inc.
Eldon L. Miller, III
PO Box 729
Moyock, NC 27958
252-435-6116

APPLICANT: Hyman & Robey, PC
PO Box 339

Camden, NC 27921

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Vacant/Assisted Living	GB
SOUTH:	Residential	GB/A
EAST:	Cropland/Woodland	R
WEST:	Commercial	GB

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as Full Service within the Moyock subarea.

SIZE OF SITE: 15 acres

NUMBER OF LOTS: 11 (reconfiguration of 5 lots)

PROJECT DENSITY: .73 units per acre (reconfigured area)

UTILITIES: The development will be served by county water and individual on-site septic systems. The estimated maximum water demand for the new lots will be 2,880 gpd.

V. NARRATIVE OF REQUEST:

The developer obtained amended sketch plan approval on August 16, 2010 for the reconfiguration of 5 (3 acre) residential lots into 11 (40,000+sf) residential lots. The amended plan includes an extension of Fox Lane. A supplementary cul-de-sac was added to meet the maximum road length requirements.

VI. QUESTION(S) BEFORE THE BOARD:

Special Use Permit Criteria and Staff Findings:

Special use permits (SUP) are intended to allow the Board of Commissioners flexibility in the administration of the UDO. Through the SUP 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 SUP, certain criteria must be satisfied. The criteria and suggested findings of fact are outlined as follows:

1. Completeness of application.
Suggested Findings:
 - a. The application is complete.

2. The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".
Suggested Findings:
 - a. Chapter 10 of the UDO requires a special use permit for major subdivisions.

3. The conditions proposed meet or exceed the minimum requirements of this ordinance.
Suggested Findings:
 - a. The conditions proposed will meet the minimum requirements of the ordinance.

- b. Conditional rezoning of the property was approved June 21, 2010 (CD-R 10-15).
4. The special use will not endanger the public health or safety:
Suggested Findings:
 a. The proposed development should have little to no negative impact on the public health or safety.
 b. The property is located within a residential subdivision.
5. 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
Suggested Findings:
 a. The proposed development is located within a residential subdivision with similar lot sizes.
 b. The single family subdivision, as proposed, will maintain harmony with the existing single family neighborhood.
6. The special use will be in conformity with the Land Use Plan or other officially adopted plan.

Suggested Findings:

The 2006 Land Use Plan classifies this site as Full Service within the Moyock subarea. Full Service areas provide for a base development density of 2 units per acre but could be increased to 3-4 units per acre through overlay zoning depending upon services available and the potential impact on the surround area. The Moyock subarea policy emphasis is to manage growth and provide for development densities of 1-2 units per acre in areas where on-site wastewater is proposed. The proposed use is in keeping with the policies of the plan, some of which are:

POLICY ES2: NON-COASTAL WETLANDS, including FRESHWATER SWAMPS, AND INLAND, NON-TITAL 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 US 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 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. For example, projects falling within the Full Services areas of the Future Land Use Map would be permitted a higher density because of the availability of infrastructure as well as similarity to the existing development pattern. Such projects could be developed at a density of two (2) or more dwelling units per acre. Projects within areas designated as Limited Service would be permitted a density of one (1) to one and one half (1.5) units per acre depending upon the surrounding development pattern

and availability of resources. Projects within areas designated as Rural or Conservation by the Future Land Use Plan would be permitted a much lower density of 1 dwelling unit per 3 acres because of the lack of infrastructure in the area, the existing low density development pattern, and presence of environmentally sensitive natural areas.

7. 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).

Suggested Findings:

- a. It appears the county has adequate public facilities to service this development.

VII. TECHNICAL REVIEW COMMITTEE RECOMMENDATION:

Pursuant to the Unified Development Ordinance, the Technical Review Committee recommends conditional approval subject to the following:

Planning Department

1. Expired maintenance bonds must be renewed or infrastructure must be accepted by the homeowner's association prior to approval of the preliminary plat.

IV. PLANNING STAFF RECOMMENDATION:

The proposed development meets the criteria for granting a special use permit and therefore staff recommends conditional approval provided the following items are addressed:

1. Expired maintenance bonds must be renewed or infrastructure must be accepted by the homeowner's association prior to approval of the preliminary plat.

V. PLANNING BOARD RECOMMENDATION:

The Planning Board **recommended approval** of the amended preliminary plat/special use permit with findings of fact and staff recommendations.

Eldon Miller, III, applicant was present to answer questions.

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

Commissioner O'Neal moved to approve with finding of facts and staff recommendations. Commissioner Etheridge seconded the motion. Motion carried.

Appointments to Senior Citizen Advisory Board

Commissioner Martin moved to appoint Marcia Steele.
Commissioner Rorer seconded the motion. Motion carried.

Commissioner Rorer moved to appoint Edith Meekins.
Commissioner Martin seconded the motion. Motion carried.

Appointment of Senior Tar Heel Legislature Delegate and Alternate

Commissioner Martin moved to appoint Rosalie Rose as delegate and Joanne DiBello as alternate. Commissioner O'Neal seconded the motion. Motion carried.

Consent Agenda:

1. Approval of June 20, 2011, Minutes
2. Approval of contract to purchase property owned by the State of NC, on Maple Road and U.S. Highway 158, Maple, NC.
3. Approval of contract to purchase property owned by Serena Breckinridge and Julia Harris, located on 592 Shortcut Road, Barco, NC,
4. Approval of Board of Equalization and Review Minutes
5. Request DOT to add Cooper Landing Drive to State system
6. Request DOT to add Creekside Estates roads to State system
7. Resolution supporting House Resolution 715 to Observe Firefighters Week in NC
8. Resolution approving retiree insurance for Albemarle Mental Health and Tideland Mental Health.

Commissioner Rorer moved to approve. Commissioner Martin seconded the motion. Motion carried.

**Resolution Supporting
House Resolution 715**

Encouraging the citizens of North Carolina to Observe Firefighters Week in North Carolina

WHEREAS, Representative Graham introduced House Resolution 715 to recognize the duties and services that firefighters provide by observing Firefighters Week; and

WHEREAS, Currituck County Firefighters provide valuable services to the citizens of Currituck County.

NOW, THEREFORE, BE IT RESOLVED, that Currituck County Board of Commissioners would like to support HR 715 and encourage the citizens of Currituck County to observe the week in September of each year containing September 11, as Firefighters Week in North Carolina.

**for QUALIFIED RETIREES OF ALBEMARLE MENTAL HEALTH
and TIDELAND MENTAL HEALTH**

WHEREAS, July 1, 2007, four counties from Tideland Mental Health (Tideland) merged with the six counties comprising Albemarle Mental Health (Albemarle); and

WHEREAS, certain qualified employees retired from Albemarle and Tideland and therefore were and are entitled to post retirement health insurance benefits as set forth in policies approved by the Boards of each of those agencies; and

WHEREAS, neither Albemarle or Tideland is an ongoing entity; and

WHEREAS, the ten counties that were the remaining member counties of Albemarle Mental Health upon its dissolution are Camden, Chowan, Currituck, Dare, Hyde, Martin, Pasquotank, Perquimans, Tyrrell, and Washington; and

WHEREAS, funds were provided by Tideland at the time of merger for the purpose of funding the post retirement health insurance benefits for qualified Tideland employees and funds were provided by the State of North Carolina at the time of dissolution to assist with the funding of these benefits for both Albemarle and Tideland retirees; and

WHEREAS, Martin County has agreed to handle the administration of providing the retiree health insurance and therefore Martin County has possession of the funds available for same and Martin county is willing to do so for no compensation but also has no individual liability to provide these benefits in the event the funds set aside for this purpose are exhausted; and

WHEREAS, Martin County will provide a financial report to each of the county managers no later than July 31st each year which will include at a minimum the beginning balance of the fund, charges to the fund and the ending balance of the fund; and

WHEREAS, in the event the funds are exhausted prior to the retirees no longer being eligible for coverage the counties will determine what action to take and if it is to make up the shortfall it shall be done on a per capita basis for each county; and

WHEREAS, the county managers of each county are collectively given the authority to make any necessary administrative decisions regarding these funds with the exception of decisions regarding funds being exhausted.

NOW, THEREFORE BE IT RESOLVED that each of the counties named below evidenced by the signature of the Chairman of the Board of Commissioners hereby agrees to the recitals above regarding the provision of post retirement health insurance benefits to those eligible former employees of Albemarle Mental Health and Tideland Mental Health.

Commissioner's Report

Commissioner Martin commented on his trip to the Veterans Memorial Park in Fayetteville.

Commissioner Etheridge requested an explanation of why boat basin and ramp at the Whalehead Club were closed all day July 4th.

Commissioner O'Neal wanted to know if the boat ramp could be closed only part of the day on July 4th. He also recognized Eldon Miller, III, for cleaning up the ditches along the railroad property in Moyock. Commissioner O'Neal requested thank you letters to all board members that have served on county advisory boards.

Chairman Aydlett, requested contacting Congressman Jones to request help with the dredging project at the Whalehead Club property.

Commissioner Rorer recognized the new businesses that have come to Currituck.

Commissioner Petrey commended the staff for their work on getting water to the Outer Banks over the weekend.

Commissioner Gilbert commended staff on the July 4th celebration.

County Manager's Report

Dan Scanlon, County Manager, thanked the Board for commending staff and SOB Water System staff for working over the holiday to restore water to the Outer Banks.

Closed Session according to GS 143-318.11(3)(6) to consult with attorney on attorney client privilege and personnel.

Commissioner Rorer moved to go into closed session as stated. Commissioner Gilbert seconded the motion. Motion carried.

After reconvening from closed session, the following action was taken.

Whalehead Trust

Commissioner O'Neal moved to forward a draft of property license agreement for operation and management of the Currituck County Heritage Park to the Whalehead Trust. Commissioner Petrey seconded the motion. Motion carried.

ALAL contract

The Board agreed to extend the Animal Lovers Assistance League contract for 30 days.

Adjourn

There being no further business, the meeting adjourned.