

CURRITUCK COUNTY
NORTH CAROLINA
July 2, 2012

The Currituck County Board of Commissioners met at 6:00 p.m. to discuss rules and regulations for Advisory Boards.

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

A) Invocation

B) Pledge of Allegiance

Glenn McCranie, Retired Navy Chaplain, was present to give the invocation.

C) Senior Bell Choir to Perform Patriotic Music

The Currituck County Senior Citizen Bell Choir members performed Patriotic Music for the Board.

The Board commended the Senior Bell Choir for their performance.

D) Approval of Agenda

Commissioner Martin moved to approve the agenda. Commissioner Gilbert seconded the motion. Motion carried.

E) Public Comment

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

Public Hearings

- A) **Public Hearing and Action:** PB 12-12 A1 Towing: Request for a special use permit to operate a towing impound lot and equipment and material storage areas. The property is located at 1221 Ponton Lane, Tax Map 14, Parcel 3S, Poplar Branch Township.
- B) **Public Hearing and Action:** PB 12-11 Ryan Anderson: Request for a special use permit for outdoor entertainment, special events, and light manufacturing. The property is located at 5650 and 5666 Caratoke Highway, Tax Map 84, Parcels 19A and 19B, Poplar Branch Township.

New Business

A) Board Appointments:

1. Appointments to ABC Board

2. Appointment to Board of Adjustment
3. Appointments to Public Library Board of Trustees
4. Appointment to East Albemarle Regional Library (EARL)
5. Appointment to Tourism Board
6. Designation of Voting Delegate to NCACC Annual Conference

B) Consent Agenda:

1. Approval of June 18, 2012 Minutes
2. Lottery Application to Replace Chiller at Central Elementary School for \$150,000; Replace 2 HVAC systems at CCMS and 1 at Griggs for \$146,000; Replace roofs at Knapp and Moyock Elementary for \$126,000

C) Commissioner's Report

D) County Manager's Report

Adjourn

E) Public Comment

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

Chairman Rorer opened the public comment period.

Commissioner Gilbert is working on a committee for young adults to educate them on driving and pedestrians on the roadways.

Commissioner Etheridge would like to schedule a meeting with DOT and this committee.

Commissioner O'Neal stated that DOT has contacted staff and will review the areas where two young adults were killed.

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

Public Hearings

A) Public Hearing and Action: PB 12-12 A1 Towing:

Request for a special use permit to operate a towing impound lot and equipment and material storage areas. The property is located at 1221 Ponton Lane, Tax Map 14, Parcel 3S, Poplar Branch Township.

Sworn Testimony was given prior to making comments. Ben Woody, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE
Board of Commissioners
DATE: July 2, 2012
PB 12-12 A1 Towing SUP**

ITEM: PB 12-12 A1 Towing, Special Use Permit Request

LOCATION: The property is located on Ponton Ln. adjacent to the Currituck County future well site in Villages at Ocean Hill.

TAX ID: Tax Map 14, Parcel 3S

ZONING DISTRICT: The site is currently located in General Business zoning and within the Villages at Ocean Hill PUD overlay district.

PRESENT USE: A1 Towing site (automobile services)

OWNER: Midlantic Builders, LLC
P.O. Box 2225
Kitty Hawk, NC 27949

APPLICANT: Michael Cherry

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Undeveloped-Ocean Hill Tract 1	Commercial GB
SOUTH:	Persimmon Residential/Commercial	Street CD-GB/RO1
EAST:	Undeveloped-Ocean Hill Tract 1	Commercial GB
WEST:	Undeveloped	RO1

LAND USE PLAN

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

SIZE OF SITE: Parcel Area: 19.7 acres; SUP area: 1.13 acres

STREETS: Access to the site is from a newly constructed access road within an existing legal easement.

NUMBER OF UNITS: NA

PROJECT DENSITY: NA

UTILITIES: There will be no new utilities associated with the use.

OPEN SPACE: There will be no change in open space.

I. NARRATIVE OF REQUEST:

On September 7, 2010 the Board of Commissioners moved to extend the Special Use Permit to operate a towing company impound lot with the condition that an access road must be constructed within the existing legal easement by December 31, 2010 or the permit would be revoked.

The original SUP was revoked. Since that time, the access road was constructed and the applicant has submitted a new SUP application.

In addition to the towing and impound lot uses, the applicant is requesting approval of two equipment storage/stockpile areas.

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. The proposed uses are permissible with a Special Use Permit

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

Suggested Findings:

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

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

Suggested Findings:

- a. The proposed use should have little or 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 use is not visible from NC12 nor located within close proximity to residential dwellings and should be in harmony with the surrounding areas.

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 Corolla subarea. Insert LUP classification narrative. The proposed use is in keeping with the policies of the plan, some of which are:

- (a) Policy ID5: WAREHOUSING, STORAGE AND DISTRIBUTION facilities shall have access to thoroughfares of adequate traffic carrying capacity, and shall be appropriately designed and/or visually buffered according to the visibility of their location.

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 county should have adequate public facilities to service this subdivision.

III. TECHNICAL REVIEW COMMITTEE RECOMMENDATION:

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

1. Prior to placement of any new structures on the property, the applicant will coordinate with the fire marshal and the building inspections department.

IV. PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the SUP with the following conditions:

1. The proposed uses shall not generate frequent use of the Ponton Lane access road by the general public.
2. The Ponton Lane access road shall be frequently maintained to prevent the formation of potholes and other potentially dangerous situations.
3. With regard to the towing operation, the access road shall only be used for transporting vehicles to and from the impound lot. The towing operation shall provide assistance with vehicle retrieval when necessary.
4. The impound lot shall not be used for storage of non-towing related vehicles, including but not limited to, storage of vehicles for off road area vacationers.
5. All proposed uses and associated areas of disturbance shall have no direct impact on the adjacent wetlands. This shall include, but not limited to, the use of vegetative buffers and the treatment of stormwater through vegetative perimeter swales as prescribed.
6. Drainage within the use areas shall also be provided and maintained so as not to create problems with standing water and should direct runoff to the vegetative buffers and perimeter swales noted above.
7. No hazardous waste material shall be stored on site.
8. The existing earthen surfaces to be used for access, loading, parking and circulation areas shall be adequately maintained by their respective operators. Specific use areas are not delineated to allow flexibility but shall be arranged to allow adequate access for fire and rescue purposes.
9. No fill, storage of equipment and materials, and accessory structures shall be located within 10 feet of the subject property boundary.

10. This plan proposes only minimal impervious improvements (3 storage sheds). However, if additional impervious coverages are proposed to exceed a total of 10,000 S.F., a NCDENR State Stormwater Permit and county approval will be required prior to their installation.
11. Land disturbances exceeding 1.0 acre will require an NCDENR State Sedimentation and Erosion Control Permit and county approval.
12. A minimum of 20' of separation must be provided between areas of open material storage and the edge of perimeter swales or means of sediment containment must be utilized where separation is less than 20' minimum.
13. A final site plan meeting all requirements of the UDO must be approved by the Technical Review Committee.

V. PLANNING BOARD RECOMMENDATION:

The Planning Board recommended **approval** of PB 12-12 with the findings of fact and staff recommendations.

Chairman Rorer opened the public hearing.

Commissioner O'Neal commented on the 2001 access agreement to improve easement and questioned if the county still had authority to use easement.

Jim Bickford, was present to answer any questions.

Mark Bissell, Engineer, stated that the access road has been improved and located in the correct place.

Michael Cherry, Applicant, stated that the easement has been completed.

Matt Ragaller, Attorney for Ocean Hill, commented on the settlement agreement to relocate easement and expanding scope of the access.

Commissioner Etheridge questioned if the easement was in correct location.

Ike McRee, County Attorney, stated that the improved easement is in the correct location. Any other issues between the applicant and Ocean Hill are civil issues.

Starkey Sharp, Attorney, agreed with County Attorney's statements on the easement.

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

Commissioner Aydlett moved to approve request with findings of fact and staff recommendations included in the case analysis. Commissioner Gilbert seconded the motion. Motion carried.

B) Public Hearing and Action: PB 12-11 Ryan Anderson: Request for a special use permit for outdoor entertainment, special events, and light manufacturing. The property is located at 5650 and 5666 Caratoke Highway, Tax Map 84, Parcels 19A and 19B, Poplar Branch Township.

Sworn testimony was given prior to making comments. Ben Woody, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE
Board of Commissioners
DATE: July 2, 2012
PB 12-11 Ryan Anderson**

ITEM: PB 12-11 Ryan Anderson, Special Use Permit request for Outdoor Entertainment, Special Events, and Light Manufacturing.

LOCATION: 5650 and 5666 Caratoke Highway (Diggers Dungeon) Poplar Branch Township.

TAX ID: 0084-000-019A-0000 and 0084-000-019B-0000

ZONING DISTRICT: General Business (GB) and Agricultural (A)

PRESENT USE: Retail, Light Manufacturing, Special Events, Restaurant

OWNER: Dennis and Carissa Anderson, Julie Anderson
5650 Caratoke Highway
Poplar Branch NC 27965

APPLICANT: Ryan Anderson
 5650 Caratoke Highway
 Poplar Branch NC 27965

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Retail	GB/A
SOUTH	Retail	GB/A
EAST:	Low density residential	GB
WEST:	Undeveloped	A

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as Limited Service within the Aydlett-Waterlily-Churches Island subarea.

SIZE OF SITE: 11.75 acres

UTILITIES: County water and an on-site septic system service this project.

I. NARRATIVE OF REQUEST:

While several permits have been granted to these properties throughout the years, the applicant is seeking a special use permit to cover all uses on the two properties. The special use permit request is for outdoor entertainment, special events, and light manufacturing. Some of the uses for the property include a Power Wheels track, monster truck rides, signing events, Easter Egg hunts, retail, and the manufacturing, repairing, and maintenance of monster trucks. A 7,500 sf shop to the rear of the existing shop is also proposed as a part of this project.

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. When a combination of uses compromises two or more principal uses that require different types of permits including zoning, special use, and conditional use, then a special use permit shall be required if any of the uses require a special use permit. (UDO Section 2.4.3). Outdoor entertainment and special events are listed as special use permits in the GB zoning district.

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

Suggested Findings:

- a. The conditions proposed appear to meet the minimum requirements of the UDO.

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

Suggested Findings:

- a. Public health and safety should not be endangered.
- b. The applicant will be working directly with Emergency Medical Services, Sheriff's Office, Health Department, Building Inspector, Fire Marshal, etc. for special events to insure adequate public resources are available.

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 uses are similar to the existing uses of the property; therefore, property value and harmony with the area should not change.

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 Limited Service within the Aydlett/Waterlily/Churches Island subarea. With respect to nonresidential uses, it is essential that the existing community character be preserved in the Limited Service classification.

Also, businesses designed to serve the tourist industry should not be prohibited provided the character and intensity of the use is in keeping with the character of the surrounding area. The proposed use is in keeping with the policies of the plan, some of which are:

POLICY ID1: To diversify the local economy and broaden the local tax base, the County shall encourage a public service and regulatory environment conducive to COMPATIBLE INDUSTRIAL DEVELOPMENT. "Compatible" shall be defined as, among other things, industries that do not adversely impact the environmental quality of the area, or overburden the local infrastructure.

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 ED4: In addition to the recruitment and expansion of major new industries, the considerable value of SMALL BUSINESS START-UPS, EXPANSIONS AND SPIN-OFFS shall also be recognized.

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 uses should not exceed the county's ability to provide adequate public facilities. The applicant will coordinate each special event with Emergency Medical Services, Sheriff's Office, Health Department, Building Inspector, Fire Marshal, etc. The applicant also plans to provide private security as necessary at the events.

III. TECHNICAL REVIEW COMMITTEE RECOMMENDATION:

Pursuant to the Unified Development Ordinance, the Technical Review Committee recommends approval subject to the following plan correction and comments:

1. Show the location of the proposed fire hydrant and corresponding water lines. (Fire Marshal)

2. Without careful planning and full cooperation of the applicant with fire, EMS, and LE the size, nature, and use of alcohol at the activities will present a public health and safety concern. Participants and visitors are of all ages. There is over night camping. While camping here visitors do not know the proper location to give to the 911 center during overnight emergencies. While the applicant expresses that most of his activities are of no significant size, he is unable to give any quantitative measurements. Staff of Fire, EMS, and LE are striving for a ratio of their staff required to meet the needs of the particular events. (Fire Marshal)
3. EMS and LE plan for nearly a year ahead for county activities. In this economy we are working with strained staffing and volunteers. These agencies are committed with assisting the applicant but it must be on the terms of available staffing and funds for staffing. Planning must be in place not to affect other events needing additional services and scheduling such as tourism events on the outer banks, biker events on the mainland, and school events, not to mention day to day operations increased by summer tourism. (Fire Marshal)
4. It is my recommendation that the permit be required to be reissued every year in order to assure the focus of cooperation among all parties involved toward the result of optimal public health and safety. (Fire Marshal)
5. The applicant must be aware that this permit does not circumvent additional state and local requirements such as fireworks permits, tent permit, construction permits, etc. All non conforming elements of his present operation should be brought into compliance prior to the additional activities. (Fire Marshal)
6. I would consider the event to require minimum of two Deputies if there is no security provided by the applicant at the events. Applicant should provide a schedule of events as soon as possible to coordinate off duty work assignments if required to have law enforcement present during the event. (Sheriff)

IV. PLANNING STAFF RECOMMENDATION:

Planning Staff recommends approval of this request subject to the following conditions and special requirements of the UDO:

1. That all TRC comments be satisfactorily addressed.

2. That all special events be coordinated with the Sheriff's Office, Emergency Medical Services, Building Inspector, Fire Marshal, and any other relevant agency at least 30 days in advance of each event to ensure adequate public services are available for each event.
3. The existing fabrication and engine shop was originally approved for residential use only through Building Permit #20044275. Please coordinate with the building inspector, fire marshal, etc. regarding commercial use of the building.
4. Special Events, Section 3.10.4:
 - A. The hours of operation allowed shall be compatible with the uses adjacent to the activity.
 - B. The amount of noise generated shall not disrupt the activities of adjacent land uses.
 - C. The applicants shall guarantee that all litter generated by the special event be removed at no expense to the county.
 - D. Parking generated by the event shall be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners to the beneficial use and enjoyment of their property.
 - E. In cases where it is deemed necessary, the board may require the applicant to post a bond to ensure compliance with the conditions of the special use permit.
 - F. If the permit applicant requests the county to provide extraordinary services or equipment or if the county otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the county a fee sufficient to reimburse the county for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.
5. Light Manufacturing in a commercial zoning district, in Section 3.8.2:
 - A. Light manufacturing use must include retail sales on the premises.
 - B. Where the use abuts a residential use or a residential zone an opaque (Type A) screen shall be installed to shield neighboring property from the view of any building. If a fence is used to accomplish the opaque screen, evergreen vegetation shall be planted outside of the screen such that within six years the fence will not be visible from

a distance of at least ten feet. A semi-opaque (Type B) screen shall be required along all street right-of-ways. Existing vegetation shall be preserved to the maximum extent possible.

- C. Buffer and setback areas in the side and rear may not be used for parking.
- D. No open storage shall be permitted. All materials, supplies or products shall be stored under roof or shall be screened from view with opaque fencing. This shall not apply to finished products presented in the open for display and sale.
- E. The use shall not generate more noise, smoke, odor, fumes, vibrations or other disturbance than is characteristic of permitted business uses located within 1,000 feet in any direction when observed, measured, or monitored from the closest property line. In cases where such monitoring, measuring or observation is required, it shall be the responsibility of the applicant to provide adequate information to the Board of Adjustment.

V. PLANNING BOARD RECOMMENDATION:

The Planning Board recommended **approval** of PB 12-11 with the findings of fact and staff recommendations included in the case analysis.

PLANNING BOARD DISCUSSION (6-12-12)

Mr. Anderson stated it was recommended by Sheriff Susan Johnson that he hire two Deputies when he has a special event on the property. Mr. Anderson stated he does not agree that he needs to do this since it will be family events and free admission. To hire two Deputies would be expensive.

Ms. Glave stated this was a recommendation by Sheriff Johnson, but not a requirement. Ms. Glave stated the applicant could handle security informally and if it is a need for formal security then it would be handled on a case-by-case basis. Camping on the property will be addressed 30 days prior to the event.

PLANNING BOARD ACTION

Ms. Wilson moved to approve PB 12-11 with the findings of fact and staff recommendations included in the case analysis. Ms. Everhart seconded the motion. Motion carried unanimously.

Chairman Rorer opened the public hearing.

Dennis Anderson, applicant stated that he was present to answer any questions and that he is trying to grow his business.

Commissioner Aydlett commented on how many people he employs, which is about 88.

Commissioner Etheridge commended his efforts and sponsorship of the kids.

Chairman Rorer closed the public hearing.

Commissioner Aydlett moved to approve with findings of fact and staff recommendations included in the case analysis. Commissioner Petrey seconded the motion. Motion carried.

New Business

A) Board Appointments:

1. Appointments to ABC Board

Commissioner O'Neal reappointed Horace Bell and David Myers. Commissioner Aydlett seconded the motion. Motion carried.

2. Appointment to Board of Adjustment

Commissioner Petrey moved to change Theresa Dozier from Alternate to permanent member. Commissioner Martin seconded the motion. Motion carried.

Commissioner Martin moved to table his appointment. Commissioner Gilbert seconded the motion. Motion carried.

3. Appointments to Public Library Board of Trustees

Commissioner Aydlett moved to appoint Shelly Haskell. Commissioner O'Neal seconded the motion. Motion carried.

4. Appointment to East Albemarle Regional Library (EARL)

Commissioner Etheridge moved to appoint Dr. Norman Dahm.
Commissioner O'Neal seconded the motion. Motion carried.

5. Appointment to Tourism Board

Commissioner Gilbert moved to appoint Janice Farr.
Commissioner Etheridge seconded the motion. Motion carried.

6. Designation of Voting Delegate to NCACC Annual Conference

Commissioner Aydlett moved to appoint Commissioner Etheridge. Commissioner Gilbert seconded the motion. Motion carried.

B) Consent Agenda:

1. Approval of June 18, 2012 Minutes
2. Lottery Application to Replace Chiller at Central Elementary School for \$150,000; Replace 2 HVAC systems at CCMS and 1 at Griggs for \$146,000; Replace roofs at Knapp and Moyock Elementary for \$126,000

Commissioner Petrey moved to approve. Commissioner Aydlett seconded the motion. Motion carried.

C) Commissioner's Report

Commissioner Martin reminded the citizens that fireworks were not permitted.

Commissioner O'Neal stated that the Whalehead ramp is closed the 4th of July for safety reasons. This was done at the request to the Coast Guard.

D) County Manager's Report

No comments

Adjourn

There being no further business, the meeting adjourned.

