



## CURRITUCK COUNTY NORTH CAROLINA

November 17, 2014  
Minutes  
Meeting of the Board of Commissioners

The Board of Commissioners met at 7:00 PM for a regularly scheduled meeting in the Board Meeting Room of the Historic Courthouse with the following members present: Board Chairman Paul O'Neal, Vice-Chairman Paul Martin and Commissioners Marion Gilbert, Vance Aydlett, Butch Petrey, Paul Beaumont, and David Griggs. Staff included County Manager Dan Scanlon, County Attorney Ike McRee and Planning Director Ben Woody.

Chairman O'Neal called the meeting to order at 7 PM, and announced the reception that was held at the Historic Courthouse prior to the regular meeting to honor outgoing Commissioners Petrey and Martin.

- A) Invocation**
- B) Pledge of Allegiance**

Reverend Dawne Hollis of Mt. Zion United Methodist Church gave the invocation and led the Pledge of Allegiance.

### **C) Approval of Agenda**

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

### **Approved Agenda**

***5:30 - 6:30 PM Reception for Outgoing Commissioners***

### **7:00 pm Call to Order**

- A) Invocation-Reverend Dawne Hollis, Mt. Zion United Methodist Church
- B) Pledge of Allegiance-Reverend Dawne Hollis, Mt. Zion United Methodist Church
- C) Approval of Agenda
- D) Public Comment

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

### **Administrative Reports**

#### **A) Presentation-School Capacity and Residential Development Public Hearings**

- A) **Closure of Coral Lane, Walnut Island, Grandy**
- B) **Renaming of the Whalehead Club and Currituck Heritage Park, Corolla**
- C) **Public Hearing and Action: PB 14-25 Wilbur Griggs Sand Mine:** Request for a use permit to operate an extractive industry (13.2 acre sand mine) on property owned by Bittersweet Farms, LLC located in Powells Point at 8528 Caratoke Highway, Tax Map 124, Parcel 137J, Poplar Branch Township.

- D) **Public Hearing and Action: PB 14-27 Bissell Professional Group:** Request to amend the Unified Development Ordinance Chapter 5: Development Standards, and Chapter 6: Subdivision and Infrastructure Standards, to modify the street intersection standards of the UDO.
- E) **Public Hearing and Action: PB 14-26 Old Bay Ridge:** Request for a preliminary plat/use permit for a 5 lot subdivision located in Currituck on the east side of Tulls Creek Road, approximately 600 feet north of Brumsey Road, Tax Map 49, Parcel 82C, Crawford Township.
- F) **Public Hearing and Action: PB 14-16 Lake View at Currituck** Development Agreement - Request for a development agreement between Currituck County and Survey Road, LLC for property located in Moyock on Survey Road west of the intersection with Caratoke Highway, Tax 15, Parcel 83, Moyock Township.
- G) **Public Hearing and Action: PB 14-16 Lake View at Currituck** PUD Variance - Variance request from the Unified Development Ordinance under which the development plan is vested to allow modified setbacks. The property is located at 120 Survey Road, adjacent to Eagle Creek subdivision, Tax Map 15, Parcel 83, Moyock Township.
- H) **Public Hearing and Action: PB 14-16 Lake View at Currituck** Amended Preliminary Plat/Use Permit - Request for an amended preliminary plat/use permit for 146 residential lots and 7.21 acres of commercial allocation located on Survey Road adjacent to Eagle Creek subdivision, Tax Map 15, Parcel 83, Moyock Township.

## **New Business**

### **A) Consent Agenda:**

1. Approval of Minutes for November 3, 2014
2. Budget Amendments
3. 2012 CDBG Language Access Plan
4. Surplus Resolution-EMS
5. Tax Department-2014 Order of Collections
6. Firemen's Relief Fund Officers; Carova Beach VFD, Corolla VFD, Crawford VFD, Knotts Island VFD, Moyock VFD, Lower Currituck VFD

### **B) Commissioner's Report**

### **C) County Manager's Report**

Adjourn

### **D) Public Comment**

Chairman O'Neal opened the public comment period.

Mary Etheridge, Shawboro, discussed litigation her family has been in with the county since December, 2011, regarding approval of a junkyard behind her home. She wants to let citizens know that the same thing can happen to them, and the lawsuit has cost thousands of dollars. She would like some compensation from the County. Attorney McRee recounted the court ruling which stated that although the approval of the junkyard was determined to be illegal spot zoning, no attorney fees were awarded. Commissioner Martin asked, legally, if the Board could vote to consider a payment, to which Mr. McRee said he would need to review the State constitutionality of the request.

Barbara Snowden, Currituck, announced the tree-lighting at 6 PM, Sunday, November 30<sup>th</sup>, at the Courthouse. She addressed the building of the proposed NC DOT Ferry Welcome Center, to be built in Currituck at the Knotts Island ferry dock in Currituck, near the Historic Courthouse. She recounted comments from citizens, saying people feel the building does not fit in with the character of the community. She has sent petitions to Malcolm Fearing of NC Department of Transportation (NCDOT), and would like to have a resolution passed so changes can be made to the design, making it fit better within the community. She does not want the building to dominate the Historic Courthouse. County Manager Scanlon passed on comments from DOT, who felt they had made a good faith effort after meeting with Mrs. Snowden. There was Board discussion as to the design of the building, including concerns about the purpose of a toll booth.

After discussion, Commissioner Aydlett moved to contact state representatives and Secretary Tata to request discussion for implementation of a design that fits better within the community. Commissioner Martin seconded, and the motion carried unanimously.

Mary Simmons, Moyock, had attended the tournament held at the new soccer fields in the Maple complex on opening day and wants to applaud Commissioners for funding the facility. She would like the county to allow food trucks for large events, as the lines at concessions were very long. She also does not approve of the current DOT Ferry Welcome Center design.

John Elliott, Grandy, said his neighbor is filing complaints against him for performing a hobby on nights and weekends in his garage. He feels the County Attorney and his neighbor are ganging up on him, levying fines, and not treating him fairly. Mr. McRee recounted how a determination was made that Mr. Elliott is running a business, causing citations to be issued, as a business is not permitted on the property and Mr. Elliott will not cease the activity. Mr. McRee said he will speak to Mr. Elliott's attorney to discuss the matter.

Bill Richardson, Grandy, said he is the neighbor to whom Mr. Elliott refers. Mr. Richardson went on to speak to the Ferry building design, stating he was the one who initiated the emails requesting a redesign. He said the design and the process is what bothers people, not the building itself. He discussed the need to preserve character, and questioned the vetting, stating he believed county staff and leaders were surprised. Mr. Richardson submitted his comments in writing to the Clerk to the Board.

Wende Shannon, Moyock, is a member of the Concerned Citizens of Moyock, and is concerned with the Moyock Small Area Plan and its use. She addressed the County allowing residential hookup to the wastewater plant, Moyock flooding, schools, and development. She feels the rural atmosphere is gone. Chairman O'Neal said many meetings were held to get public input for creation of the Moyock Small Area Plan. She asked how they can stop what's going on, and was informed that planning talks will begin at the beginning of next year.

Elliot Sauer, Currituck, thanked the Board for all they will do to try and help with the matter of the design of the new ferry building. He does not believe it fits in with the character of the area.

Sandra Justiss, Currituck, is currently restoring a historic house in the County on NC 168, and has worked on many historic homes and been on many boards and committees dealing with such. The courthouse loop has a great historic significance, and she feels the proposed Ferry Welcome Center does not fit. She questioned the toll area as a mark of things to come.

With no one else wishing to speak, Chairman O'Neal closed the Public Comment period.

### **Administrative Reports**

#### **A) Presentation-School Capacity and Residential Development**

Ben Woody, Planning Director, explained how student capacities are calculated and tracked. He reviewed in detail how county staff and the school board determine needs, and discussed the implementation of new subdivisions into the calculations. He presented the current and projected capacity needs figures to the Board, stating the calculation formula has been found to be very accurate. There was discussion regarding absorption rates and when a determination of the need to build a new school is made. Mr. Scanlon said the School Capital Construction Fund, which is continuously funded for future construction, maintains funding should the need for a new school arise. There is usually a 5 year window from the determination of need in which to construct a new school. Chairman O'Neal recognized staff for their fiscal responsibility.

### **Public Hearings**

#### **A) Closure of Coral Lane, Walnut Island, Grandy**

Attorney McRee reviewed the request for closure, and the previous adoption by the Board of the preliminary resolution. Brian Dailey is the property owner, which was inherited from his father. His father had assumed

the maintenance responsibility, along with an adjoining property owner, years ago at the request of Walnut Island. Mr. McRee explained this process was necessary in order for Mr. Dailey to complete the sale and transfer ownership.

Chairman O'Neal opened the public hearing. With no one wishing to speak, the hearing was closed, and Commissioner Petrey moved to approve the Resolution to close the Coral Lane cul-de-sac, Walnut Island subdivision, Block 2, Section 7, Poplar Branch Township. The motion was seconded by Commissioner Martin and carried unanimously.

**B) Renaming of the Whalehead Club and Currituck Heritage Park, Corolla**

Ray Meiggs, Whalehead Club Director, announced Christmas in Corolla and the "Night of a Thousand Stars" reading challenge. Mr. Meiggs spoke of Historic Corolla and he, along with Holly White of the Currituck County Planning Department, discussed the Corolla Small Area Plan, signage and wayfinding. Mr. Meiggs, based on input from marketing professionals, area business owners, the public, and residents, presented a few names to the Board for consideration. He reviewed the reasons why the name changes were important, and it was suggested that the Whalehead Club be changed to Whalehead and the Currituck Heritage Park changed to Historic Corolla Park. Commissioner Beaumont asked what operational costs might be incurred with the changes. Mr. Meiggs said those changes have been made already, as the Whalehead Club has been using the suggested name for some time on their marketing and letterhead. It is now a matter of new signage and what to put on them.

Chairman O'Neal opened the public hearing.

Barbara Snowden said she liked the new name and gave an historical account of how the names came to be in the first place. She said we need to make the site as welcoming as possible.

No one else wished to speak and Chairman O'Neal closed the public hearing.

Commissioner Aydlett moved to approve the name changes, Whalehead Club becoming Whalehead, and Currituck Heritage Park changing to Historic Corolla Park, as suggested, and Commissioner Griggs seconded the motion.

After the motion, Barbara Snowden explained to Chairman O'Neal how the site moved from honoring our hunting history to becoming more like museum. Mr. Meiggs added they will continue to expand the story and history of the County by implementing programs like maritime history and boat building.

- C) Public Hearing and Action: PB 14-25 Wilbur Griggs Sand Mine:** Request for a use permit to operate an extractive industry (13.2 acre sand mine) on property owned by Bittersweet Farms, LLC located in Powells Point at 8528 Caratoke Highway, Tax Map 124, Parcel 137J, Poplar Branch Township.

The parties were sworn, and Mr. Woody presented the request to the Board.

DATE: November 17, 2014  
PB 14-25 Wilbur Griggs Sand Mine

**ITEM:** PB 14-25 Wilbur Griggs Sand Mine request for a use permit to operate an extractive industry (sand mining)

**LOCATION:** Powells Point - 8528 Caratoke Highway, Poplar Branch Township

**TAX ID:** 0124-000-137J-0000

**ZONING DISTRICT:** HI – Heavy Industrial  
GB – General Business AG -  
Agricultural

**PRESENT USE:** Inactive mining operation  
Industrial storage area

**OWNER:** Bitterweeet Farms, LLC

**APPLICANT:** H.D. Newbern, III, F&H Land Development

	<b>Land Use</b>	<b>Zonina</b>
<b>NORTH:</b>	Industrial/Business/Residential/Undeveloped	HI/GB/AG
<b>SOUTH</b>	Residential/Warehouse/Industrial	GB/LI/AG
<b>EAST:</b>	Residential/Warehouse/Golf Course	GB/MXR/AG
<b>WEST:</b>	Albemarle Sound	N/A

**LAND USE/ZONING OF SURROUNDING PROPERTY:**

**LAND USE PLAN  
CLASSIFICATION:**

The 2006 Land Use Plan classifies the site as Full Service and Conservation within the Point Harbor subarea.

**SIZE OF SITE:** 314.56 acres

**COMMUNITY MEETING:** A community meeting was held on August 25, 2014. The community concerns included impacts to land and water levels in existing, adjacent ponds, impacts of in use wells, application authority, and existing violations.

**I. NARRATIVE OF REQUEST:**

- H.D. Newbern, III submitted a use permit application to allow an unpermitted sand mine operation at 8528 Caratoke Highway on property owned by Bittersweet Farms, LLC. NCDENR issued a mining permit (27-50) and dewatering permit (NCG020000) for the Wilbur Griggs Sand Mine to Curtis S. Balance DBA Griggs Sand Company.
- A written request was submitted to NCDENR in August to transfer the permit ownership to H.D. Newbern, III.
- The proposed mining activities are located on a 314.56 acre tract. The total mine will consist of the following:
  - 12.29 acres existing excavation areas (boundary)
  - 0.80 acre proposed excavation expansion
  - The state permit was issued for a 13.2 acre sand mine and the applicant is requesting the county permit be issued for 13.2 acres as well.
- The applicant proposes to expand the mine by 0.80 acres and mine the existing pond to an expected average depth of 25 feet and a maximum depth of 30 feet. In addition, the proposed dewatering will be approximately 20 feet below the seasonal high water level.
- The property contains an existing cemetery and the existing excavation edge is located at or near the cemetery boundary. Current mine depths of 4-6 feet will be maintained within the 150' cemetery setback.
- In order to establish groundwater baseline measurements, the applicant will install four groundwater level monitoring wells as identified on the plan and two staff gauges in existing ponds (Foltz pond and Griggs field pond).
- The applicant will install enhanced ditching along the northeast permit boundary of the Griggs Sand Mine for use during dewatering activities.

- The applicant provided a written warranty for water supply wells located within 200 feet of the Griggs sand mine for 10 years. The warranty will include the repair or replacement of the pump and/or replacement and installation of a new well. In the event valid problems or complaints arise from the use of dewatering activities at Griggs Sand Mine, F&H Land Development will immediately cease dewatering operations until all problems have been resolved.
- The mining operation is bordered by the Harbinger Marshes that are identified as a significant natural heritage area.

## II. USE PERMIT REVIEW STANDARDS: Use Permit Criteria and Staff Findings:

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

### 1. *The use will not endanger the public health or safety.*

Based on the suggested findings provided by the applicant, staff has determined it is probably true that the use will not endanger the public health or safety.

#### **Suggested Findings:**

- a. The sand mine area will only be accessible through a gated, private access road to prevent inadvertent public entry, controlled by operator and landowner.
- b. The mine will be screened from public view by distance and existing trees and foliage around all sides of the permit area.
- c. "No Trespassing" signs will be posted every 250 feet around the perimeter of the mine.
- d. Groundwater monitoring wells and pond level monitoring stations will be established on the lands east of the permit area to monitor and help prevent possible adverse effects of excavation activities to the water table.

### 2. *The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.*

Based on the suggested findings provided by the applicant, staff has determined it is probably true that the use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

#### **Suggested Findings:**

- a. The excavation area is located 2,900 feet from the nearest public highway and 1,750 feet from the nearest dwelling.
- b. The permit area is located behind an existing visual screen of full-growth trees, fields, and wetlands on all sides.
- c. Current primary use of property is industrial (Barnhill Contracting storage yard 1,400 feet east) and agricultural. The proposed use will not decrease value of the site or that of adjacent properties.
- d. The permit area is located in lightly populated HI (Heavy Industrial) zoned area. Sand mining is an accepted use in the HI zone with a use permit.

- e. Griggs Sand Mine will conform to the harmony of area by use of foliated perimeter berms and full ground cover on affected areas during and after use.

At the end of the use a reclaimed pond will serve as wildlife habitat and recreational addition to the landowner's property.

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

Based on the suggested findings, staff has determined it is probably true that the use will be in conformity with the Land Use Plan or other officially adopted plans.

**Suggested Findings:**

The 2006 Land Use Plan classifies this site as Full Service and Conservation within the Point Harbor subarea. Although a majority of the proposed mining operation is located within the Full Service area, a small portion of the existing operation is located in the Conservation subarea. With respect to nonresidential uses in the Full Service area, it is essential that the existing community character be preserved. The policy emphasis for the Point Harbor subarea in the LUP is to allow portions of Point Harbor to continue to evolve as a full service community with policies that will work to preserve and enhance the appearance along US 158, place stricter controls over mining to assure that such operations do not adversely impact nearby areas, cluster retail and service businesses, require vegetated buffers around nonresidential uses to protect existing planned neighborhoods, require vegetated buffers along shorelines to preserve public access and open space, and coordinate with NCDOT for strategic placement of traffic signals along US 158.

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

POLICY ID8: MINING ACTIVITIES, or secondary impacts of mining activities not subject to permit approval by the State of North Carolina, may be subject to review and management by Currituck County. Activities to be addressed may include, but not be limited to, the adequacy of roads serving the mine site, visual impacts during operation and after closing of the mine site, noise and dust considerations, etc.

4. *The 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).*

Based on the suggested findings, staff has determined it is probably true that the 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.

**Staff Findings:**

- a. The access road to the mine permit area is a wide, paved, and gravel surfaced that permits full access to emergency or law enforcement vehicles.
- b. Permanent buildings and public utilities are not proposed in the permitted area.

**III. TECHNICAL REVIEW COMMITTEE RECOMMENDATION:**

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

1. The 150 foot cemetery setback shall be properly marked and maintained during the mining activities. No excavation associated with this permit shall take place within the 150 setback. The existing significant vegetation located around the perimeter of the cemetery shall be preserved for stabilization and a visual screen.

2. Staff gauges shall be installed in existing ponds (Foltz pond and Griggs field pond) to monitor water levels. Measurements shall be collected monthly prior to commencing dewatering operations to establish baseline water levels and monthly thereafter with quarterly reports submitted to Currituck County until the mine is reclaimed.
3. Four groundwater level monitoring wells shall be installed in accordance with the Permit Area Mining Plan. Measurements shall be collected monthly prior to commencing dewatering operations to establish baseline water levels and monthly thereafter with quarterly reports submitted to Currituck County until the mine is reclaimed.
4. Construct and maintain enhanced ditching along the northeastern permit boundary of the mining operation for use during dewatering operations in accordance with the Permit Area Mining Plan and specifications.
5. In the event an in-use well is adversely affected within 2000 feet of the Wilber Griggs Sand Mine for a period of 10 years from the date the use permit is granted, dewatering operations shall cease until all problems related to the contamination or diminution of groundwater are resolved.

Item for the Board to consider:

6. The UDO allows mining activities from dawn to dusk Monday through Saturday. To reduce the traffic concerns, the board may include a condition that would prohibit hauling on Saturday from Memorial Day to Labor Day.

#### **IV. PLANNING BOARD RECOMMENDATION:**

Mr. Cartwright moved to approve PB 14-25 with the findings of fact, technical review committee recommendations, and staff recommendation included in the case analysis. Ms. Newbern seconded the motion and motion carried unanimously.

#### **PLANNING BOARD DISCUSSION (10/14/14)**

Mr. Cooper said even though the mine is not active there is a current state permit for it. Expanding the mine by 0.80 acres would still fall within the guidelines of the current state permit.

Ms. Voliva stated yes.

Mr. Cooper asked if the offsite pond, which will be used for monitoring, does the applicant have permission to use.

Ms. Voliva stated the applicant has provided written permission from the landowner.

Mr. Elliott provided an overview of the request. Quarterly reports will be provided to the county and the state.

Mr. Cooper asked about the dewatering process.

Mr. Elliott said the applicant will install enhanced ditching along the northeast permit boundary of the mine for use during dewatering activities.

Mr. Cooper said it is his understanding the applicant will install four groundwater level monitoring wells, and two staff gauges in existing ponds (Foltz pond and Griggs field pond).

Mr. Newbern talked about how the water will flow off the property during dewatering.

Mr. Wright asked what will happen if a future development should be proposed for the surrounding area.

Ms. Voliva said if a development should build up they will be aware that there is an active mine operating.

Ms. Ballance, co-manager of Bittersweet Farms, LLC said all the rules and regulations have been met she hopes the board will approve this request.

Mr. Ballance, co-manager of Bittersweet Farms, LLC hopes the board will approve this request.

Mr. Ray Griggs said this property is currently owned by Bittersweet Farms, LLC, which is a family business. The property was owned by his father and when he passed away it was given to his mother. Mr. Ray Griggs said his mother recently passed away and her estate has not been settled. Mr. Ray Griggs is asking the board to table this request until his mother's estate and legal litigation is settled.

Mr. Ken Griggs said he and his brother (Ray Griggs) are representing eleven out of thirteen members of the LLC. Mr. Ken Griggs is asking the board to table this request until his mother's estate and legal litigation is settled.

Mr. Cooper said it is the Planning Board's understanding that staff and the county are satisfied with the signatures on the application and it is considered a complete application.

Ms. Voliva said yes it is considered a complete application. One of the requirements of a complete application is that the owner signs it. The North Carolina Department of The Secretary of State office does list Pamela Ballance as one of the managing members of the LLC, so they have met the requirement of filing the application.

Mr. Ken Griggs said the board may want to talk to the county attorney before this request moves forward. Mr. Griggs said they did attend the community meeting and voice their concerns.

Mr. Cooper closed the public hearing.

## **ACTION**

Mr. Cartwright moved to approve PB 14-25 with the findings of fact, technical review committee recommendations, and staff recommendation included in the case analysis. Ms. Newbern seconded the motion and motion carried unanimously.

After review, Commissioner Aydlett discussed staff use of the word "probably" as it related to some of the findings. Mr. Woody said it is a legal description, as the staff are not experts in that topic and cannot give complete assurance. Mr. McRee stated the finding of fact burden remains on the applicant. Commissioner Griggs expressed his concern about what burden is placed on the Board. He questions if the Board should make decisions based on staff recommendations or testimony from the applicant. Chairman O'Neal asked if the application was complete and if the applicant followed the UDO. Mr. Woody said yes. Commissioner Petrey clarified the current location of operations within the property and the expansion.

Chairman O'Neal opened the Public Hearing.

C. Shay Ballance, Jarvisburg, cleared up confusion based on the ownership of the mine, and stated his grandmother resigned as manager of Bittersweet Farms, LLC, and has not been an owner since 2012. Himself and his mother, Pam, are managers. He asks for approval.

H.D. Newbern, Jarvisburg, have been working on the conditional use permit and has all equipment necessary for monitoring of wells.

Jim Carnahan, representing his parents in Powells Point, whose property is adjacent to the mine. Mr. Carnahan expressed his wanting to safeguard his parents interests. He referenced the application and discussion, and wanted to ensure his parents' were protected. He said there was no statement as to what happens if things go bad, and noted the word "probably" was used often throughout the Technical Review

Committee meeting. He asks the County monitor water quality and drawdown, addressing the well and pond on his parents' property. Mr. Carnahan also discussed noise, the continuous water operations, and asks for County representation of their interests, as well as reasonable restrictions for the protection of other area residents.

The Board asked for confirmation of the location of the property, and Mr. Woody said the Planning Department would act as advocates for Mr. Carnahan's parents.

Ken Elliott, Elliot Consulting, Aydlett, stated they do not want to negatively affect any neighboring wells, and they preemptively installed well monitors. He discussed hydrological studies, and previous studies that were done on area mines, and felt those results were a fair indicator of what the reaction will be. Upon approval of the permit, water level measurements will begin immediately. He said they will construct and maintain enhanced ditching. Mr. Newbern has signed an agreement to be responsible for repair of any affected wells, along with immediate cessation of the dewatering process. Mr. Elliott reviewed standard practices for monitoring and submission of required reports. The applicant agrees to monitor noise levels, and said natural buffers will help to mitigate sound. He stated operations would run 24 hours, but not 365 days a year.

Commissioner Petrey addressed the dawn to dusk operating hours, and Commissioner Griggs asked if our County noise ordinance would apply. Mr. McRee said yes. Mr. Woody stated that, as written, we are locked into the dawn to dusk hours, but similar operations have not garnered any noise complaints. Commissioner Petrey did not want to approve until Mr. Carnahan's issues are addressed, and asked what guarantees could be put into place.

Commissioner Griggs asked about water levels, and was told that when the pumps are turned off the water levels go right back up. Chairman O'Neal asked who would advocate on behalf of Mr. Carnahan's family. Mr. Woody said the Planning Department will enforce and advocate based on the parameters of the use permit. Mr. Elliott said the state will address neighboring property issues as well, and agreed to work with the family.

Commissioner Petrey asked if the applicant was willing to adjust the dawn to dusk hours? Mr. Elliott said yes.

Everett Thompson, Elizabeth City, represents ten members of Bittersweet Farms, LLC, who have a lawsuit pending against Shay and Pam Ballance. Mr. Thompson stated Shay and Pam Ballance do not have a legal right to lease the property. He requests the matter be tabled until the suit has been settled, as the lease assignment is not valid.

Chris Seawell, Manteo, represents the managers of Bittersweet Farms, LLC, and asked the Board to consider the request under the ordinance, and not on the basis of court proceedings. Mr. McRee clarified the proper applicant is before the Board and the matter should be considered as presented.

With no further discussion, Chairman O'Neal closed the public hearing.

Commissioner Martin moved to approve PB 14-25 with staff findings and recommendations. Particularly, the hours of operation be limited to 7 AM till 7 PM, operations to cease on weekends from Memorial Day to Labor Day, a warrantee or guarantee for neighboring wells, all monitoring findings be shared with neighbors, as requested, and Mr. Woody, as Planning Director, would be overseer. The motion was seconded by Commissioner Petrey and carried unanimously.

**D) Public Hearing and Action: PB 14-27 Bissell Professional Group:** Request to amend the Unified Development Ordinance Chapter 5: Development Standards, and Chapter 6: Subdivision and Infrastructure Standards, to modify the street intersection standards of the UDO.

Mr. Woody reviewed the text amendment, requesting modifications.

To: Board of Commissioners

From: Planning Staff

Date: October 21, 2014

Subject: PB 14-27 Street Intersection Separation Standards

The enclosed text amendment submitted by Bissell Professional Group modifies the street intersection separation standards of the UDO. Currently all intersections must be separated by 400 feet, and all intersections with a major arterial street must be separated by 1,000 feet.

As the county continues to see growth, it is becoming more difficult for developments to meet the current separation standards as adjacent developments or environmentally sensitive areas may prevent new streets from being installed in logical and safe areas. The county also allows for more clustered and smaller lot development through MXR and Planned Development zoning, and conservation subdivisions. Due to the smaller lot sizes, it is often impractical to require the intersections to be 400 feet apart.

Staff has worked with Bissell Professional Group on this application and has prepared language that reduces the separation standards. Under this proposal, the separation of intersections is based off the type and speed limit of the street. Interior subdivision streets typically do not need a large separation in order to maintain safe vehicular travel; while intersections on heavily traveled streets with high speed limits do need a wider separation in order to provide for adequate reaction time. NCDOT has reviewed the proposed language and has found it to be more conservative than their standards.

Staff recommends approval of this request as it:

- II. Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;

POLICY HN3: Currituck County shall especially encourage two forms of residential development, each with 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.
- 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.

2. Is not in conflict with any provision of this UDO or the County Code of Ordinance;

- Addresses a demonstrated community need;
- Is consistent with the purpose and intent of the zoning districts in the UDO, or would improve compatibility among users and ensure efficient development within the county;
- Would result in logical and orderly development pattern; and
- Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

The Planning Board recommended unanimous approval at their October 14, 2014 meeting.

**PLANNING BOARD DISCUSSION (10/14/14)**

Ms. Overstreet asked how this request will affect NC12.

Mr. Schuler said it would reduce the current standards of the UDO as it applies to NC12 now. When you get up to 55 mph there is a 1000 foot separation, but the county does allow this to be reduced as the speed limit goes down.

Ms. Overstreet asked if this will change any of the existing driveways or intersections that are on NC12 now. Mr. Schuler said no, it would apply to new development.

Mr. Cooper asked how this would affect the 120 foot lots on NC12.

Mr. Schuler said the proposed language allows for the Planning Director to reduce the standards upon advice from NCDOT, exactly like the driveway standards.

Mr. Bissell complimented Mr. Schuler on doing a good job with this text amendment. The current UDO does not provide an opportunity for an exception to the standard.

Mr. Cooper closed the public hearing.

**ACTION**

Mr. Cooper moved to approve PB 14-27 due to its consistency with the 2006 Land Use Plan and that the request is reasonable and in the public interest and promotes orderly growth and development. Ms. Bell seconded the motion and motion carried unanimously.

After review, Chairman O’Neal opened the public hearing.

Mark Bissell, Kitty Hawk, said the staff did a great job with the text amendment. He agreed current requirements are restrictive and offered to answer questions.

Chairman O’Neal closed the public hearing and confirmed with Mr. Woody that the County is using best practices in transportation engineering. Commissioner Petrey moved to approve PB 14-27 due to its consistency with the Land Use Plan and that the request is reasonable and in the public interest because it encourages a compact street network, policy HN3. Commissioner Martin seconded, and the motion carried unanimously.

- E) **Public Hearing and Action: PB 14-26 Old Bay Ridge:** Request for a preliminary plat/use permit for a 5 lot subdivision located in Currituck on the east side of Tulls Creek Road, approximately 600 feet north of Brumsey Road, Tax Map 49, Parcel 82C, Crawford Township.

Parties were sworn in, after which Mr. Woody presented and reviewed the application for a use permit.

**CASE ANALYSIS FOR THE**

**Board of Commissioners DATE: November 17, 2014 PB 14-26 Old Bay Ridge**

- ITEM:** PB 14-26 Old Bay Ridge, Preliminary Plat/Use Permit for a 5 lot residential subdivision.
- LOCATION:** Currituck, approximately 600 feet north of Brumsey Road on the east side of Tulls Creek Road, Crawford Township.
- TAX ID:** 0049-000-082C-0000

**ZONING DISTRICT:** Single-Family Mainland (SFM)

**PRESENT USE:** Undeveloped, wooded site

**OWNER/ APPLICANT:**

H. Kim Old PO Box 428  
Moyock, NC 27958

**LAND USE/ZONING OF SURROUNDING PROPERTY:**

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Undeveloped/farmland/Residential (Wedgewood Lakes Subdivision)	SFM
<b>SOUTH</b>	Residential	SFM
<b>EAST:</b>	Undeveloped/Farmland/Residential (Brumsey Landing Subdivision)	SFM
<b>WEST:</b>	Residential	SFM

**LAND USE PLAN CLASSIFICATION:**

The 2006 Land Use Plan classifies the site as a Limited Service Area within the Courthouse subarea.

**SIZE OF SITE:** 13.5 acres (total tract)

**NUMBER OF UNITS:** 5 Residential lots

**PROJECT DENSITY:** .37 units per acre

**OPEN SPACE:** 4.05 acres required open space (30% of the total tract)  
6.66 acres provided open space

**UTILITIES:** The individual lots will be served by county water and on-site septic systems.

**III. NARRATIVE OF REQUEST:**

- The property owner is requesting preliminary plat/special use permit approval of a 5 lot residential subdivision with an overall project density of .37 units per acre.
- This subdivision is considered a Type II major as the property is located on the same parent parcel as other major subdivisions, Brumsey Landing and Brumsey Ridge.
- Of the 13.5 acres, 6.32 acres are wetlands. A 50 foot wetland buffer is required around the wetlands and is located within the proposed lots. Due to the location of the wetlands and required buffer, the applicant is proposing to install the street (Jasons Trail) approximately 125 feet from an existing intersection. This is not meeting the UDO requirement of having all intersections be separated by 400 feet. However, the applicant has submitted a text amendment application (PB 14-27) that would allow for a reduction in the intersection spacing requirements. That text amendment application would have to be approved in order for this proposed subdivision to comply with the UDO.
- The applicant is proposing to keep a 5' landscaped buffer between the road right-of-way and the adjoining lot. Also, the applicant is proposing to preserve existing vegetation within Lot 2 along Tulls Creek Road.
- The applicant will identify any heritage trees within the proposed development area with the construction drawings. Any heritage trees located must comply with the tree protection standards of the UDO.
- Payment in lieu of parkland dedication is being proposed for this subdivision. The payment is in the amount of \$892.

#### **IV. USE PERMIT REVIEW STANDARDS: Use Permit**

##### **Criteria and Staff Findings:**

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

- *The use will not endanger the public health or safety.*  
Based on the suggested finding provided by the applicant, staff has determined it is probably true that the use will not endanger the public health or safety.

##### **Suggested Finding:**

- The use will adhere to county health and safety standards, including recommendations made by Albemarle Regional Health Services, except for the one remote lot, no lot will connect directly to Tulls Creek Road. The project should not adversely affect the public health or safety.
- *The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.*  
Based on the suggested findings provided by the applicant, staff has determined it is probably true that the use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

##### **Suggested Findings:**

- Tracts to the north and east have been developed into single family homes; the developable portion of this tract will be developed in a manner that is similar to other developments in the area. 50' wetland buffers are provided. A tree buffer to Tulls Creek Road is being provided along lot 2.
  - The use will not injure the value of adjoining or abutting lands and will be in harmony with the area.
3. *The use will be in conformity with the Land Use Plan or other officially adopted plan.*

Based on the suggested findings, staff has determined it is probably true that the use will be in conformity with the Land Use Plan or other officially adopted plans.

##### **Suggested Findings:**

The 2006 Land Use Plan classifies this site as Limited Service within the Courthouse subarea.

The Limited Service area identifies a residential base development density to be 1 unit per acre, but could be increased to 1.5 units per acre through overlay zoning depending upon services available and potential impacts on the surrounding area.

The policy emphasis for the Courthouse subarea indicates 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. The proposed development density is 0.37 units per acre.

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

**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.

**POLICY PR6:** All new residential development shall provide for ADEQUATE OPEN SPACE AND RECREATION IMPROVEMENTS including, as may be appropriate, funding in proportion to the demand created by the development. The amount of open space and improvements may be determined according to the number of dwelling units in the development and/or by a percentage of the total acreage in

the development. Fees in lieu of land dedication shall be based on the inflation adjusted assessed value of the development or subdivision for property tax purposes.

**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 4042 permit program of the Clean Water Act, as well as Section 4013 water quality certifications by the State of North Carolina.

**POLICY WQ5:** Development that preserves the NATURAL FEATURES OF THE SITE, including existing topography and significant existing vegetation, shall be encouraged. If COASTAL AND NON-COASTAL WETLANDS are considered part of a lot's acreage for the purpose of determining minimum lot size or development density, Low Impact Development techniques or appropriate buffers shall be integrated into the development. Open space developments shall be encouraged to REDUCE IMPERVIOUS SURFACE AREAS associated with new development and redevelopment.

2. *The 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.*

Based on the suggested findings, staff has determined it is probably true that the 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.

**Suggested Findings:**

- a. Based on the student generation rates, this subdivision will generate the following students:
  - 1 elementary student
  - 0 middle school student
  - 1 high school student
- b. The proposed development will not exceed the county's ability to provide adequate public facilities

**e. TECHNICAL REVIEW COMMITTEE RECOMMENDATION:**

Pursuant to the Unified Development Ordinance, the Technical Review Committee recommends conditional approval of the proposed 5 lot residential subdivision with the following conditions:

**f. PLANNING BOARD RECOMMENDATION:**

Mr. Bell moved to approve PB 14-26 with the findings of fact and the technical review committee recommendations included in the case analysis. Ms. Bell seconded the motion and motion carried unanimously.

Use Permit Conditions

4. NCDOT must review and approve the proposed street layout prior to approval of the preliminary plat.
5. A 5' landscaped buffer shall be provided and maintained along the southern side of the proposed right-of-way.
6. Existing landscaping shall be preserved within Lot 2 along Tulls Creek Road.
7. Currituck County will accept payment in lieu of recreation and park area dedication in accordance with the UDO.

**PLANNING BOARD DISCUSSION (10/20/14)**

Mr. Bissell provided an overview of the project. Mr. Bissell said the area between Lots 1 and 2 there is an existing pond, which all the stormwater can be run too.

Ms. Bell asked if the 6.66 acres of open space provided could be changed to 6.67 acres.

Mr. Bissell said they could make that change. Mr. Cooper

asked if the fire flow will be okay.

Mr. Bissell said as long as they stay under 48,000 sq. ft. per lot they will be fine.

Mr. Old said the subdivision is single family zoning, the wetland delineation and site evaluations have been completed, and asking the board for approval.

Mr. Cooper closed the public hearing.

**ACTION**

Mr. Bell moved to approve PB 14-26 with the findings of fact and the technical review committee recommendations included in the case analysis. Ms. Bell seconded the motion and motion carried unanimously.

After review, Mr. Woody stated TRC and Planning Board recommend approval with conditions as stated. Chairman O'Neal opened the public hearing.

Mark Bissell, Kitty Hawk, stated that the Department of Transportation condition has been satisfied and that the other TRC conditions have been agreed to by the applicant.

The public hearing was closed and Commissioner Petrey moved to approve PB 14-26 with the staff findings and recommendations in the case analysis and reference specific findings and reasons using the case analysis as a guide. Commissioner Aydlett seconded, and the motion carried unanimously.

- F) Public Hearing and Action: PB 14-16 Lake View at Currituck Development Agreement - Request for a development agreement between Currituck County and Survey Road, LLC for property located in Moyock on Survey Road west of the intersection with Caratoke Highway, Tax 15, Parcel 83, Moyock Township.**

Mr. Woody gave an explanation of the Development Agreement, which is for installation of a force main for a county wastewater connection. A map was shown with the property to be serviced and current line extension. Commissioner Aydlett confirmed the area would need to be rezoned in order to increase density in the area.

He also confirmed with Mr. Woody that the density would not change if they decided to put in their own wastewater system.

Mr. John Morrison, Attorney, recounted the recessed Public Hearing from the prior meeting. Chairman O'Neal asked if anyone wished to speak to this item, as no one was signed up.

George Winslow, Carrollton, VA, said he was neither for nor against, but wanted to ensure there was no intention of changing the line between properties and buffers in place. Chairman O'Neal said there was no change.

Chairman O'Neal closed the public hearing.

Mr. Morrison asked if there were any questions. Chairman O'Neal asked if the developer would meet the current stormwater requirements. Mr. Morrison said the client is prepared to meet the current requirements.

Mark Bissell stated they are falling within the parameters of the current stormwater requirements.

Chairman O'Neal questioned the cost of installing an on-site facility. Mr. Bissell answered the difference in cost would not be that great, and would be about \$1.25 million either way. Chairman O'Neal confirmed with Mr. Woody that the development would be the same with the force main line or a standalone system. There was some discussion regarding patio homes and small lots, and confirmed that they could not be approved unless the Board took action to do so.

Commissioner Gilbert asked about the commercial component, with Mr. Bissell stating the inclusion of six building sites.

At the close of the discussion, Commissioner Martin moved to deny PB 14-16. The motion was seconded by Commissioner Gilbert, but did not pass, with nay votes from Chairman O'Neal and Commissioners Petrey, Aydlett, Griggs, and Beaumont.

Commissioner Petrey moved to approve PB 14-16, Development Agreement, using the case analysis as a guide, removing the setback variance and cleaning of the ditch, and meeting current stormwater requirements. Commissioner Aydlett seconded and the motion carried 6-1, with Commissioner Martin voting against.

- G) Public Hearing and Action: PB 14-16 Lake View at Currituck PUD Variance - Variance request from the Unified Development Ordinance under which the development plan is vested to allow modified setbacks. The property is located at 120 Survey Road, adjacent to Eagle Creek subdivision, Tax Map 15, Parcel 83, Moyock Township.**

John Morrison, attorney for the applicant, informed the Board during discussion of the Development Agreement, that the application for this item had been withdrawn.

- H) Public Hearing and Action: PB 14-16 Lake View at Currituck Amended Preliminary Plat/Use Permit - Request for an amended preliminary plat/use permit for 146 residential lots and 7.21 acres of commercial allocation located on Survey Road adjacent to Eagle Creek subdivision, Tax Map 15, Parcel 83, Moyock Township.**

Parties were sworn, and Mr. Woody reviewed the permit request. He explained the intersection connection, relocation of sidewalks, and revision of the phasing plan. Staff recommends approval.

Chairman O'Neal opened the public hearing.

Mark Bissell, Kitty Hawk, stated both the Department of Transportation and traffic engineer performed an analysis and approved the current configuration. He reviewed the sidewalk and trail system and phasing and addressed connectivity, saying it was resolved by the previously approved amendment.

Commissioner Aydlett inquired about the plan for an entrance at a different location. Mr. Bissell explained the requirements to acquire an easement. Commissioner Aydlett asked whether the UDO was preventing the easement. Mr. Bissell said it would have been easier without the in-fee requirement.

With no one else wanting to speak, Chairman O'Neal closed the public hearing.

Commissioner Petrey moved to approve PB 14-16 with staff findings and recommendations included in the case analysis. Commissioner Aydlett seconded, and the motion carried unanimously.

To: Board of Commissioners  
From: Planning Staff  
Date: November 6, 2014  
**Subject: PB 14-16 Lake View at Currituck – Development Agreement, Amended Preliminary Plat and Use Permit**

James O. Myers submitted an application for a Development Agreement between Survey Road, LLC (the "Developer") and Currituck County for the proposed Lake View at Currituck subdivision located at 120 Survey Road in the Moyock Township. The use of a development agreement is authorized in North Carolina General Statutes 153A-379.1– 153A-379.13 and Section 2.4.18 of the Currituck County Unified Development Ordinance (UDO); the purpose and intent of a development agreement is to:

- V. Encourage comprehensive planning and capital facilities planning;
- VI. Ensure the provision of adequate public facilities for development;
- VII. Encourage the efficient use of resources, while providing certainty in the process of obtaining development permits and approvals; and
- VIII. Reduce the economic costs of development by providing greater regulatory certainty.

The Development Agreement proposed between the Developer and Currituck County requires that the Developer install a new oversized public sewer force main to connect the Lake View at Currituck subdivision to the Moyock Central Sewer System. The sewer mains, pump stations, and appurtenances subject to the development agreement will be dedicated to the county upon completion and acceptance by the Technical Review Committee. Through approval of the development agreement the county will reserve capacity in in the Moyock Central Sewer System for the build out of the Lake View at Currituck subdivision and will consider the cost of installation of the sewer force main as a cost of development for the purpose of establishing zoning vested rights. Detailed obligations of the Developer and county are included in the Conditions section of the Development Agreement.

The Developer is also submitting an amended sketch plan and preliminary plat for approval, as well as requesting modifications to the current (special) use permit. The significant changes to the plan include:

- *Removal of road connection through Eagle Creek open space.* The third entrance road across Eagle Creek open space is proposed for removal. The entrance roads in the subdivision were reviewed by a traffic engineer and NCDOT and the revised plans reflect the recommendations.
- *Reduction in sidewalks and widths.* The applicant is requesting removal of sidewalks from one side of the street and footbridge over the lake. The resubmitted plans now include sidewalks along one side of the street interconnected in open space and neighborhood commercial areas.
- 3. *Removal of county dedication, increase in commercial area, and decrease in open space.* The 1.75 acre tract previously dedicated to the county on the preliminary plat is proposed to revert to the developer, allocated for commercial, and removed from open space in exchange for installing a 6 inch sewer force main off-site of the development. (See Development Agreement)

3. *Reduction in street intersection separation.* The approved preliminary plat provides intersection separation of approximately 270 feet for the interconnection street (formally known as Chip's Road). The revised plans reduce that spacing to approximately 175' which is below the approved separation (270' approximate) and the current UDO requirement (400'). Bissell Professional Group submitted a text amendment to reduce intersection separation. The planned street interconnectivity is consistent with the proposed text amendment. If the board does not approve the text amendment the sketch plan and preliminary plat must be modified to meet the minimum required separation provided on the current approved plan (270')
4. *Revised phasing plan.*
5. *Removed specific playground equipment summary for pocket parks.*
6. *Reduction in structure setbacks/drainage easements.* The approved preliminary plan allows setbacks to be as follows:
  - a. 20' setback to NCDOT 50' right of way and 22' setback to back of curb.
  - b. 20' separation between principal structures and 5' pool setback to property line.
  - c. 10' rear setback

The developer is requesting a PUD variance in setbacks as follows (See PUD Variance Case Analysis):

  - g. 20' front setback
  - h. 5.5' side setback 5' pool setback to the property line (residential lots) not to exceed 30% of the lots (reduction in utility easements is proposed for side property lines – 5')
  - i. 10' rear setback to open space.
8. *Removal of community wastewater references.* The developer has removed the community wastewater plant from the plans and the area is shown as future development.
9. *Modifications to the current (special) use permit.* The developer proposes to delete conditions related to subdivision access alignment and construction of the community wastewater system.

The TRC recommendations related to the resubmitted plans include the following:

5. The proposed street interconnection does not meet the required 400' intersection separation. Since there is not precedent for further reduction, staff recommends maintaining the intersection spacing of the approved preliminary plat (approximately 270'). The Board will consider a text amendment on November 17, 2014 meeting that proposes to reduce the minimum intersection separation to 125 feet for local streets. If approved, the proposed plans will meet the 125 foot spacing requirement.
  6. The approved preliminary plat was given under the previous UDO which allowed for patio style development (reduced lot sizes and setbacks). The current UDO does not provide for patio home development and the proposed setbacks are not consistent with the approved preliminary plat or transition standards of the current UDO. The applicant submitted a PUD Variance request to allow for reduced side setbacks. A PUD Variance was previously approved to allow on-street parking.
- IV.** The interconnection street shall include street trees and pavement to the property lines. A performance guarantee may be posted for the improvement if not installed at final plat.
- V.** Street names are currently under review by GIS.

Enclosed please find a draft version of the Development Agreement that includes an amended sketch plan, preliminary plat and special use permit.

Planning staff recommends **approval** because the proposed development agreement is consistent with the Moyock Small Area Plan and the subject property and sewer main extension are located in a Full Service area which is consistent with the Land Use Plan because it focuses sewer service in existing developed areas

and in nearby targeted growth areas (POLICY WS3); and the development agreement demonstrates the impact on the future provision of public sewer capital improvements by the county.

The Planning Board *recommended unanimous approval* at their August 12, 2014 meeting.

**PLANNING BOARD DISCUSSION (8/12/14)**

Mr. Woody provided an overview of the development agreement.

Mr. Cooper asked if the county would accept the sewer line that is being installed before the final plat is recorded.

Mr. Woody said yes.

Mr. Wright asked if the additional phasing of the development would require an increase in sewer capacity. Does this set a precedent for the county to have to expand the sewer capacity?

Mr. Woody said yes.

Mr. Craddock said anticipated revenues from sewer commission fees and monthly users fees for sewer service will help to offset the investment the county will have to make with the expansion.

Ms. Bell is concerned with the side setbacks.

Mr. Cooper said tonight the board is considering the Development Agreement and not the changes.

Mr. Craddock asked by removal of the conditions from the use permit, is this giving them the ability to create higher density by lowering these side setbacks.

Mr. Woody said lowering the setbacks doesn't create the ability to have a higher density.

Mr. Bissell provided an overview of the proposal, wastewater treatment for the subdivision, phasing, sidewalks, and setbacks.

Mr. Cooper asked when the agreement would expire.

Mr. Woody said once it is adopted it is effective for 10 years. Mr. Bissell said

everything should be platted within 4 to 5 years.

Mr. Winslow said he has the adjacent farm, Lindsey Farm. Will there be any change in the already approved buffer zone between the farm and this project?

Mr. Woody said it will remain the same.

Mr. Winslow said the sewer line will run down the farm side of the road, is the intent to put it on farm property?

Mr. Woody said the intent is to put it in DOT right-of-way. Mr. Winslow

asked where the overflow from the lake will go.

Mr. Bissell said it will go to Survey Road and under 168 Hwy. and out. Mr. Winslow

asked will there be any enlargement of the existing ditch?

Mr. Bissell said no.

Mr. Clark closed the public hearing.

**ACTION**

Mr. Craddock moved to approve PB 14-16 due to its consistency with the Moyock Small Area Plan and the 2006 Land Use Plan and the request is reasonable and in the public interest and does promote orderly growth and development. Mr. Cooper seconded the motion and motion carried unanimously.

**New Business**

**D) Consent Agenda:**

1. Approval of Minutes for November 3, 2014
2. Budget Amendments
3. 2012 CDBG Language Access Plan
4. Surplus Resolution-EMS
5. Tax Department-2014 Order of Collections
6. Firemen's Relief Fund Officers; Carova Beach VFD, Corolla VFD, Crawford VFD, Knotts Island VFD, Moyock VFD, Lower Currituck VFD

Commissioner Gilbert moved to approve the consent agenda, seconded by Commissioner Petrey. The motion carried unanimously.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b> Decrease Revenue or Increase Expense	<b>Credit</b> Increase Revenue or Decrease Expense
50442-596100	Professional Services		\$ 200,000
50442-590002	Connecting Corolla Bike Path	\$ 200,000	
		<hr/> \$ 200,000 <hr/>	<hr/> \$ 200,000 <hr/>

**Explanation:** Connecting Corolla (50442) - Transfer funds from Professional Services to the Connecting Corolla Bike Path line to consolidate the project.

**Net Budget Effect:** County Governmental Construction Fund (50) - No change.



<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
50512-594500	Contract Services	\$ 94,500	
50512-596100	Professional Services	\$ 27,802	
50512-588000	Contingency		\$ 122,302
		\$ 122,302	\$ 122,302

**Explanation:** Animal Shelter (50512) - Transfer contingency funds within the Animal Shelter project for design/build contract.

**Net Budget Effect:** County Governmental Construction Fund (50) - No change.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10530-540000	Worker's Compensation	\$ 3,443	
10530-502000	Salaries - Regular		\$ 3,443
10510-540000	Worker's Compensation	\$ 3,401	
10795-540000	Worker's Compensation	\$ 2,719	
10540-540000	Worker's Compensation	\$ 1,611	
10540-502000	Salaries - Regular		\$ 1,611
10340-456001	Zoning Violation Fees		\$ 3,541
10340-456510	Sheriff Fees		\$ 2,579
61818-540000	Worker's Compensation	\$ 1,073	
61360-471000	Tap & Connection Fees		\$ 1,073
66868-540000	Worker's Compensation	\$ 3,217	
66360-470000	Utility Charges		\$ 3,217
		\$ 15,464	\$ 15,464

**Explanation:** Various Departments - Transfer and increase funds for the FY 2014 Worker's Compensation Audit to actual.

**Net Budget Effect:**

Operating Fund (10) - Increased by \$6,120.  
Mainland Water (61) - Increased by \$1,073.  
Southern Outer Banks Water (66) - Increased by \$3,217.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10760-561000	Professional Services	\$ 2,500	
10760-561000	Professional Services		
10760-561000	Nonreimbursable	\$ 6,000	
10390-499900	Fund Appropriate Balance		\$ 8,500
		<u>\$ 8,500</u>	<u>\$ 8,500</u>

**Explanation:** SOCIAL SERVICES ADMIN (750) - Currituck County's portion of the 1571 Software Uplift project. COUNTY ASSISTANCE (760) - Additional funds for forensic exams, and testimony costs for court. This cost is determined by the need of clients receiving services through Child Protective Services.

**Net Budget Effect:**

Operating Fund (10) - Increased by \$8,500.

**R E S O L U T I O N**

**WHEREAS**, the Board of Commissioners of Currituck County, North Carolina during its regularly scheduled meeting held on November 17, 2014 authorized the following, pursuant to GS 160A and 270(b), the property listed below be declared surplus because it will be used as a trade in for a 2015 Chevrolet remount

Asset 5828 2003 Ford Ambulance Vin 1FDXE45F63HB49020

**ADOPTED**, this 17th day of November, 2014.

STATE OF NORTH CAROLINA  
COUNTY OF CURRITUCK

ORDER OF COLLECTIONS

TO THE TAX COLLECTOR OF THE COUNTY OF CURRITUCK:

You are hereby authorized, empowered, and commanded to collect the taxes, current and past due, set forth in the tax records filed in the office of the Tax Collector and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the County of Currituck, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this \_\_17th\_\_ day of \_November \_\_\_\_, 2014\_\_.

**E) Commissioner's Report**

Commissioner Petrey said thank you, and said it's been fun.

Commissioner Gilbert thanked the public for her re-election and she looks forward to the next four years.

Commissioner Beaumont described an event held at the Rural Center that included 59 horses with 220 judged events. 47 of those horses were from Virginia, he said. He stated people were very impressed with the facility and many were interested in moving horse shows here.

Commissioner Martin announced the Senior Center craft show on November 22, with proceeds going to the Backpack for Kids program.

Commissioner Aydlett wished Commissioners Martin and Petrey all the best, saying it was a pleasure to serve with them.

Chairman O'Neal thanked Commissioners Martin and Petrey, stating he considers them both friends and that they brought unique strengths and ideas to the Board.

**F) County Manager's Report**                      No report

**Adjourn**

With there being no further business, Commissioner Petrey moved to adjourn. The motion was seconded by Commissioner Martin. The motion carried unanimously and the meeting was adjourned.