



## CURRITUCK COUNTY NORTH CAROLINA

January 17, 2017  
Minutes – Regular Meeting of the Board of Commissioners

### WORK SESSION

#### 1. 5:00 PM Commercial Fishing Accessory Use

The Board of Commissioners attended a work session at 5:00 PM in the Board Meeting Room of the Historic Courthouse. Planner Donna Voliva and Planning Director Ben Woody led a discussion related to a proposed text amendment which would allow commercial fishing as an accessory use in residential districts. Ms. Voliva used a powerpoint and began with a review of the general standards for home based business operations in residential areas. She presented items of consideration from a staff perspective relative to fishing operations including crabshedding and wholesale and retail operations.

After discussion, Commissioner Payment suggested using a staged approach, first looking at traffic, roads and other immediate concerns. The Board asked that new startups, type of use, and consideration of costs for established businesses be considered and talked about evaluating current operations within the county. The Board agreed they wanted to see language to allow shedding sales with provisions for the protection of surrounding property owners. The Board agreed to allow permitting to be performed at staff level. Storage and intensity of operations would be used to determine appropriate lot sizes for fishing operations, and the Board asked for a visual graphic to use to help gauge what would be appropriate for varying lot sizes.

Staff agreed to hold a community meeting to gather feedback, after which a revised amendment would be brought to the Board for presentation and review at a work session scheduled for the March 6, 2017 Board of Commissioners meeting.

### 6:00 PM CALL TO ORDER

The Currituck County Board of Commissioners held its regular meeting at 6 PM in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina.

Attendee Name	Title	Status	Arrived
Bobby Hanig	Chairman	Present	
Mike D. Hall	Vice Chairman	Present	
Paul M. Beaumont	Commissioner	Present	
Mary "Kitty" Etheridge	Commissioner	Present	
Mike H. Payment	Commissioner	Present	
Bob White	Commissioner	Present	
Marion Gilbert	Commissioner	Absent	

Chairman Hanig called the meeting to order.

**A) Invocation & Pledge of Allegiance-Reverend Joe Griffith, Rehoboth Baptist Church**

Reverend Joe Griffith of Rehoboth Baptist Church led the Pledge of Allegiance and gave the Invocation.

**B) Approval of Agenda**

Chairman Hanig amended the agenda to include the following:

A report from Kathy Romm, Director of Social Services was added to Administrative Reports section.

Item A under Old Business, PB 16-18: Lauren Berry was removed from the agenda.

Planning Board appointments were added to New Business section under Board Appointments

Consideration of an Ordinance requiring Board member compliance with Code of Ethics as New Business Item A.

Commissioner Beaumont seconded and the agenda was unanimously approved as amended.

Approved agenda:

**Work Session**

5:00 PM Commercial Fishing Accessory Use

**6:00 PM Call to Order**

A) Invocation & Pledge of Allegiance-Reverend Joe Griffith, Rehoboth Baptist Church

B) Approval of Agenda

**Public Comment**

*Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 3 minutes.*

**Administrative Reports**

A) Amended Item-Report to the Board from Department of Social Services Director Kathy Romm

B) Land Use Plan Progress Report to the Board-Ben Woody, Director, Planning and Community Development

**Public Hearings**

A) **Public Hearing and Action: PB 14-16 Lake View at Currituck:** Request to amend the use permit to modify the sidewalk/trail setback for Lake View at Currituck. The property is owned by Lake View Land Development, LLC and located in Moyock on Survey Road, Tax Map 15, Parcels 83A, 83B, 83C, 83D and 83E, Moyock Township.

**Old Business**

A) ~~Consideration & Action: PB 16-18 Lauren Berry: A request to amend the Unified Development Ordinance to establish commercial fishing as an accessory use.~~

**New Business**

A) *Amended Addition to Agenda-An Ordinance of the Currituck County Board of Commissioners Amending Chapter 2, Article III, Division 1 of the Code of Ordinances to Provide for County Authority, Board or Commission Member Compliance with Chapter 2, Article II, Division 3, Code of Ethics.*

**B) Board Appointments**

1. Nominations of Commissioners to Advisories
2. *Amended Agenda Item*-Planning Board

**C) Consent Agenda**

1. Approval Of Minutes-January 3, 2017
2. Budget Amendments
3. Salary and Compensation Resolution
4. Approval of Revisions to Personnel Policy

**D) Commissioner's Report****E) County Manager's Report****Special Meeting of the Ocean Sands Water and Sewer District Board**

Budget Amendments for OSWSD

**Special Meeting of the Tourism Development Authority**

Budget Amendments for TDA

**Closed Session**

Closed session pursuant to G.S. 143-318.11(a)(6) to discuss personnel matters.

**Adjourn**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Bobby Hanig, Chairman
<b>SECONDER:</b>	Paul M. Beaumont, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

## PUBLIC COMMENT

*Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 3 minutes.*

Chairman Hanig opened and closed the public comment period, as no one wished to speak and those who had signed up were no longer present.

## ADMINISTRATIVE REPORTS

### A. Amended Item-Report to the Board from Department of Social Services Director Kathy Romm

Kathy Romm, Director of Social Services for Currituck County, said termination letters for some DSS services, including child care, were recently mailed affecting fifty-two families. She has requested additional assistance from the state and the Smart Start program. She said Mr. Scanlon and the state were notified of the department's termination action, and does expect additional state money within the next few days. She acknowledged the impact to families and explained terminations resulted because the usual decrease in services required during the fall season did not happen.

### B. Land Use Plan Progress Report to the Board-Ben Woody, Director, Planning and Community Development

Ben Woody, Planning and Community Development Director, presented an update on the status of the county's Land Use Plan. He reviewed the importance of a land use plan and development process. Mr Woody explained as a coastal county the state requires us to have a land use plan and we are ready to begin with the development of policies and recommendations for each plan element and put those into writing. He reviewed public survey results from residents and out of state property owners, and highlighted some key points. Staff offered to meet to answer any questions and offered the information online for review at [www.curritucklanduseplan.com](http://www.curritucklanduseplan.com). Mr. Woody said the Land Use Plan is a policy document, and zoning will dictate the use of property, and offered to talk with those who disagree with the Land Use Plan designation for their property. Chairman Hanig expressed the Board's appreciation for the efforts, and Mr. Woody publicly thanked the Land Use Plan steering committee.

## PUBLIC HEARINGS

### A. Public Hearing and Action: PB 14-16 Lake View at Currituck:



**STAFF REPORT  
PB 07-10  
BOARD OF COMMISSIONERS  
JANUARY 3, 2017**

**APPLICATION SUMMARY**

<b>Property Owner:</b> Lake View Land Development, LLC 616 Village Drive, Suite G Virginia Beach, VA 23454	<b>Applicant:</b> Lake View Land Development, LLC 616 Village Drive, Suite G Virginia Beach, VA 23454
<b>Case Number:</b> PB 07-10	<b>Application Type:</b> Amended Use Permit
<b>Parcel Identification Number:</b> 0015000083C0000 0015000083A0000 0015000083B0000 0015000083D0000 0015000083E0000	<b>Existing Use:</b> Undeveloped
<b>Land Use Plan Classification:</b> Rural <b>Moyock Small Area Plan:</b> Full Service	<b>Parcel Size (Acres):</b> 74.23 acres
<b>Number of Units:</b> 159	<b>Project Density:</b> 2.37 units per acre
<b>Required Open Space:</b> 25.98 acres	<b>Provided Open Space:</b> 26.45 acres

**SURROUNDING PARCELS**

	LAND USE	ZONING
NORTH	AGRICULTURAL	AG
SOUTH	RESIDENTIAL	AG
EAST	RESIDENTIAL	AG
WEST	AGRICULTURAL	AG

The request submitted by Lake View Land Development, LLC is to amend the use permit to allow the perimeter community walking trail to be located closer than 10 feet from exterior property lines in some locations. A construction error resulted in approximately 620 linear feet of perimeter walkway to now be located between 7.33' and 10' from the exterior property line of the development.

**RECOMMENDATIONS**

**TECHNICAL REVIEW COMMITTEE**

1. THE TECHNICAL REVIEW COMMITTEE RECOMMENDS APPROVAL OF THE USE PERMIT AMENDMENT SUBJECT TO THE MODIFIED CONDITIONS NOTED BELOW.
2. The following conditions of approval necessary to ensure compliance with the review standards of the UDO and to prevent or minimize adverse effects of the development application on surrounding lands for all phases of the Lake View of Currituck (strikethrough text is requested removal and renumber as appropriate):
  1. Fountain Lake Way and Green Lake Road connection stub and associated sidewalks shall terminate no more than five feet from the edge of the existing ditch or drainage easement and the developer shall post a performance guarantee with the county to ensure funds are available to complete the connections.
  2. Wheelchair ramps shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with NCDOT standards. Please provide a curb cut detail with the submittal pre-construction plans.
  3. On street parking, if installed, shall be provided in accordance with the variance issued by the Board of Commissioners.
  4. ~~The pedestrian loop trail system must be located a minimum of 10 feet from all exterior property lines and shall be located such to provide safe movement.~~
  5. A Dominion Power encroachment agreement is required to allow roads, pedestrian trails, required landscape buffers, and wastewater treatment infiltration pond within their 150 foot utility easement. The agreement must be provided at the pre-construction submittal.
  6. Pedestrian easements shall be provided on the final plat where the sidewalk extends beyond the street right-of-way and on private lots. (Development Review Manual)
  7. Given the relatively small size of the proposed lots, deed restrictions or restrictive covenants shall restrict parking of boats and recreational vehicles on individual lots or a boat/rv parking area shall be provided.
  8. The development impact statement references the pedestrian related active recreation element. In the interest of providing a complete and safe active recreation system, the applicant shall provide sidewalks along Survey Road frontage, and between the proposed residential and nonresidential uses.
  9. The required improvements shall be installed and accepted prior to submission of final plat approval for each phase.
  10. The applicant shall submit a home and building design template that will be incorporated with the approval. Residential structures shall be designed with:
    - a. Variation in exterior architectural materials (siding, roofing);
    - b. Vertical and horizontal relief in buildings (roof lines, eaves, bump outs);
    - c. Variation in house styles/types;
    - d. Inclusion of front porches, projecting bays, vestibules; and,
    - e. The units shall have proportional attributes including overall height to width ratios of existing building facades, doors, windows, projecting canopies, and other architectural features with in the vernacular of the area.
  11. All open space areas surrounding the lake shall be stabilized with grass, vegetation, and proposed landscaping prior to recordation of the first phase.

12. All visual relief open space within each phase shall be stabilized and vegetated with grass and proposed landscaping buffer.
13. Low impact development techniques should be integrated in the project to manage treatment of stormwater. (WQ3, WQ6, WQ7)
14. Internal pedestrian circulation shall be required for all commercial areas through the use of clearly defined walkways. (CD8, CD9)
15. In commercial areas, parking located between a commercial building and street rights-of-way shall be screened with a Type B Bufferyard. (CA3, CD7, CD8)
16. Dumpsters or similar solid waste receptacles, HVAC equipment, commercial mechanical units, or similar appurtenances shall be screened from view using a combination of solid landscaping or opaque fencing. (LUP CA3)
17. Landscape islands shall be incorporated into the commercial parking areas. (LUP CD7, CD8, CA3)
18. In commercial areas pedestrian plazas or similar shaded outdoor seating areas shall be provided. (LUP CD7, CD8, CD9)
19. Neighborhood serving commercial development shall integrate pedestrian scale and design (proportional relationship of buildings and spaces to pedestrians). Retail, office, and entertainment uses shall be appropriately designed, small-scale businesses. (LUP CD1, CD5, CD6, CD7, CD8, CD9).
20. The maximum amount of pond aeration devices allowed by NC DWQ shall be installed.
21. The driveways shall be two vehicle deep parking (including garage).
22. Cluster mailboxes shall be used.
23. The building pad elevations shall be raised a minimum of 18 inches above existing grade, except in Phase 3A where building pad elevations will meet current UDO and stormwater manual requirements in effect on April 4, 2016.
24. A solid vegetative buffer and fencing between shall be provided to the adjacent agricultural properties.
25. Phase 3A shall be subject to the development agreement and use permit, as amended.
26. A solid vegetative buffer and fencing between shall be provided to the adjacent agricultural properties except in Phase 3A where the farmland buffer shall meet the UDO requirements in effect on April 4, 2016.
27. The development shall be subject to the Homeowners or Property Owners Association requirements of Section 6.1.4 of the UDO as amended; and in effect on April 4, 2016. In addition, all streets shall meet NCDOT standards at the time of transfer to the association.

INFRASTRUCTURE	
WATER	PUBLIC
SEWER	PUBLIC SEWER
TRANSPORTATION	STREETS: THE STREETS WILL BE DESIGNED AND CONSTRUCTED TO NCDOT STANDARDS.
	PEDESTRIAN: A SIDEWALK IS PROPOSED ALONG ONE SIDE OF THE STREET WITHIN THIS REQUESTED PHASE.
	CONNECTIVITY SCORE: 2.0

SCHOOLS	ELEMENTARY STUDENTS GENERATED: 3 (39 – TOTAL FOR 159 LOTS)
	MIDDLE SCHOOL STUDENTS GENERATED: 1 (12 – TOTAL FOR 159 LOTS)
	HIGH SCHOOL STUDENTS GENERATED: 1 (22 – TOTAL FOR 159 LOTS)
DESIGN STANDARDS	SEE AMENDED USE PERMIT
LIGHTING	COUNTY APPROVAL WILL BE REQUIRED PRIOR TO INSTALLATION OF ANY STREET LIGHTS
LANDSCAPING	50' FARMLAND BUFFER AND STREET TREES ARE REQUIRED IN PHASE 3A.
PARKING	NONE
RECREATION AND PARK AREA DEDICATION	PAYMENT IN LIEU OF RECREATION AND PARK AREA DEDICATION IS RECOMMENDED FOR THE PROPOSED 13 LOTS WHICH IS \$4,019.29
RIPARIAN BUFFERS	NONE

## USE PERMIT REVIEW STANDARDS

A USE PERMIT SHALL BE APPROVED ON A FINDING THAT THE APPLICANT DEMONSTRATES THE PROPOSED USE WILL MEET THE BELOW REQUIREMENTS. IT IS STAFF'S OPINION THAT THE EVIDENCE IN THE RECORD, PREPARED IN ABSENCE OF TESTIMONY PRESENTED AT A PUBLIC HEARING, SUPPORTS THE PRELIMINARY FINDINGS

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

PRELIMINARY APPLICANT FINDINGS:

1. THE WALKWAY IS ADA COMPLIANT AND ADJACENT SLOPES MEET THE REQUIREMENTS OF THE UDO.
2. THE USE WILL NOT ENDANGER 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.**

PRELIMINARY APPLICANT FINDINGS:

1. ADJACENT PROPERTIES ARE FARMLANDS, COMMON AREAS, AND GOLF COURSE ROUGH AREA AND HAVE AN EXISTING VEGETATIVE BUFFER.
2. THE AMENDMENT WILL NOT INJURE THE VALUE OF ADJACENT PROPERTY AND WILL BE IN HARMONY WITH EXISTING LAND USES.

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

PRELIMINARY APPLICANT FINDINGS:

1. THE LAND USE PLAN CLASSIFIES THIS AREA AS RURAL BUT ADJACENT TO FULL SERVICE WITHIN THE MOYOCK SUBAREA.
2. THE MOYOCK SMALL AREA PLAN CLASSIFIES THE AREA AS FULL SERVICE. THE PROPOSED DEVELOPMENT DENSITY IS 2.37 UNITS PER ACRE, WHICH IS WITHIN THE RANGE OF DENSITIES ENVISIONED IN THE MOYOCK SMALL AREA PLAN.
3. THE FOLLOWING LAND USE PLAN AND MOYOCK SMALL AREA PLAN POLICIES ARE RELEVANT TO AND SUPPORT THIS REQUEST:

2006 LUP POLICY PR4: THE COUNTY SHALL SEEK TO IDENTIFY, PLAN FOR AND DEVELOP A SYSTEM OF OPEN SPACE GREENWAYS, HIKING AND BIKING TRAILS AS OPPORTUNITIES MAY ALLOW. THE USE OF (1) NATURAL CORRIDORS SUCH AS STREAMS AND FLOODPLAINS, AND (2) MAN-MADE CORRIDORS SUCH AS UTILITY AND TRANSPORTATION RIGHTS-OF-WAY AND EASEMENTS, SHALL BE EMPHASIZED.

MSAP POLICY R1 EXPAND AND DEVELOP RECREATIONAL OPPORTUNITIES FOR ALL AGES AND USERS INCLUDING ACCESS TO THE WATER AND NATURAL ENVIRONMENT, WALKING TRAILS, MULTI-PURPOSE FIELDS, MULTI-PURPOSE COMMUNITY BUILDING, AND OTHER NON-TRADITIONAL TYPES OF RECREATIONAL OPPORTUNITIES THAT ARE CONSISTENT WITH THE CURRITUCK COUNTY PARKS AND RECREATION MASTER PLAN.

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.

PRELIMINARY APPLICANT FINDINGS:

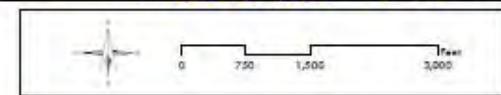
1. THE CHANGE WILL HAVE NO IMPACT ON THE COUNTY'S ABILITY TO PROVIDE ADEQUATE PUBLIC FACILITIES.

THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE

Planning Board: [www.co.currituck.nc.us/board-of-commissioners-minutes-current.cfm](http://www.co.currituck.nc.us/board-of-commissioners-minutes-current.cfm)



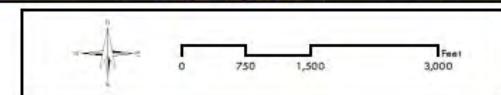
PB 07-10  
Lake View at Currituck  
Aerial



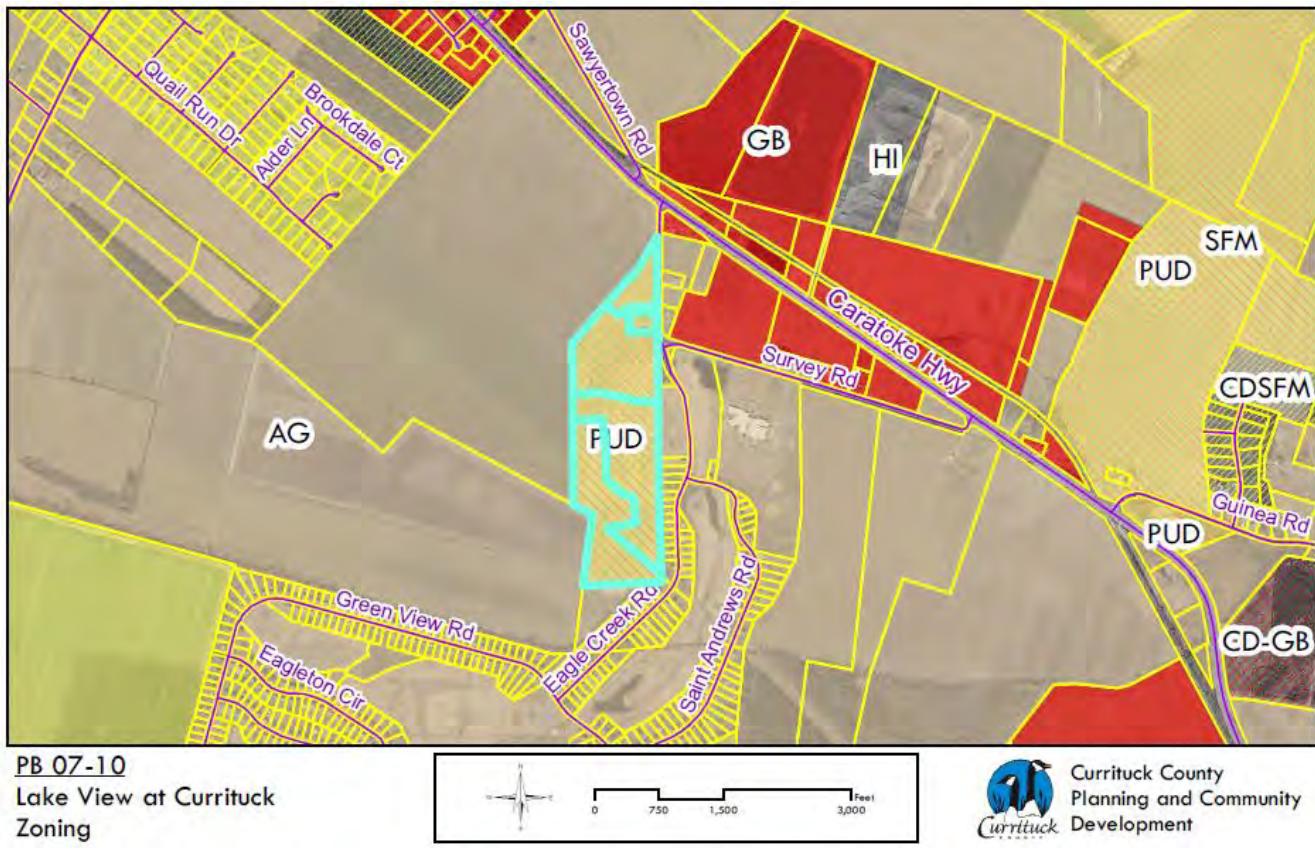
Currituck  
County  
Planning and Community  
Development



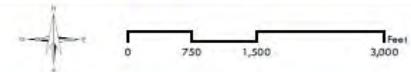
PB 07-10  
Lake View at Currituck  
Moyock Small Area Plan



Currituck  
County  
Planning and Community  
Development



PB 07-10

Lake View at Currituck  
ZoningCurrituck  
County  
Planning and Community  
Development

Parties were sworn and Mr. Woody recalled the last meeting where the applicant was asked by the Board of Commissioners to contact the adjoining property owners to see if they had any issues with the sidewalk encroachment.

Mark Bissell reviewed a powerpoint with photos of the sidewalk and encroachment areas into Eagle Creek open space and the golf course property. Mr. Bissell said the sidewalk does comply with the county's current Unified Development Ordinance (UDO). An email he entered into the record from Eagle Creek Golf Club owner, Tim Paasch, stated he had no issue with the sidewalk location. Mr. Bissell does not believe a precedent would be set since the sidewalk meets the county's current rules.

No one wished to speak to the matter and the public hearing was closed.

Commissioner Hall said he spoke with Mr. Paasch and Mr. Whiteman, President of the community homeowners association, and both had no objections.

Commissioner Hall made a motion for approval:

**The use will not endanger public health or safety: THE WALKWAY IS ADA COMPLIANT AND ADJACENT SLOPES MEET THE REQUIREMENTS OF THE UDO. THE USE WILL NOT ENDANGER 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: ADJACENT PROPERTIES ARE FARMLANDS, COMMON**

AREAS, AND GOLF COURSE ROUGH AREA AND HAVE AN EXISTING VEGETATIVE BUFFER; THE AMENDMENT WILL NOT INJURE THE VALUE OF ADJACENT PROPERTY AND WILL BE IN HARMONY WITH EXISTING LAND USES.

The use will be in conformity with the Land Use Plan or other officially adopted plans:

1. THE LAND USE PLAN CLASSIFIES THE AREA AS RURAL BUT ADJACENT TO FULL SERVICE WITHIN THE MOYOCK SUBAREA.
2. THE MOYOCK SUBAREA PLAN CLASSIFIES THE AREA AS FULL SERVICE. THE PROPOSED DEVELOPMENT DENSITY IS 2.37 UNITS PER ACRE, WHICH IS WITHIN THE RANGE OF DENSITIES ENVISIONED IN THE MOYOCK SMALL AREA PLAN.
3. THE FOLLOWING LAND USE PLAN AND MOYOCK SMALL AREA PLAN POLICIES ARE RELEVANT AND SUPPORT THIS REQUEST USING THE 2006 LAND USE PLAN POLICY PR4: THE COUNTY SHALL SEEK TO IDENTIFY PLANS AND DEVELOP A SYSTEM OF OPEN SPACE GREENWAYS, HIKING AND BIKING TRAILS AS OPPORTUNITIES MAY ALLOW. THE USE OF NATURAL CORRIDORS SUCH AS STREAMS AND FLOODPLAINS, AND MAN-MADE CORRIDORS SUCH AS UTILITY AND TRANSPORTATION RIGHTS-OF-WAY AND EASEMENTS, SHALL BE EMPHASIZED.

**MSAP POLICY R1: EXPAND AND DEVELOP RECREATIONAL OPPORTUNITIES FOR ALL AGES AND USERS INCLUDING ACCESS TO THE WATER AND NATURAL ENVIRONMENT, WALKING TRAILS, MULTI-PURPOSE FIELDS, MULTI-PURPOSE COMMUNITY BUILDINGS, AND OTHER NON-TRADITIONAL TYPES OF RECREATIONAL OPPORTUNITIES ARE CONSISTENT WITH THE CURRITUCK COUNTY PARKS AND RECREATION MASTER PLAN.**

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. State standards and guidelines shall be followed for determining when public facilities are adequate. THE CHANGE WILL HAVE NO IMPACT ON THE COUNTY'S ABILITY TO PROVIDE ADEQUATE PUBLIC FACILITIES.

The motion was seconded by Commissioner White and carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Mike D. Hall, Vice Chairman
<b>SECONDER:</b>	Bob White, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

## OLD BUSINESS

### **A. Consideration & Action: PB 16-18 Lauren Berry: A request to amend the Unified Development Ordinance to establish commercial fishing as an accessory use.**

This item was removed from the agenda.

## NEW BUSINESS

**A. An Ordinance of the Currituck County Board of Commissioners Amending Chapter 2, Article III, Division 1 of the Code of Ordinances to Provide for County Authority, Board or Commission Member Compliance with Chapter 2, Article II, Division 3, Code of Ethics.**

Ike McRee, County Attorney, reviewed the ordinance amendment which would provide that those serving on county boards, authorities and commissions would be expected at a minimum to comply with the same code of ethics that commissioners must comply with themselves. He noted adoption at a first reading must receive a unanimous vote and the absence of Commissioner Gilbert would require a second reading, at which time it can be adopted by a simple majority.

Beaumont moved for approval of the ordinance change. Commissioner White seconded.

All commissioners present voted in favor of the ordinance amendment, which will be brought back for a second reading.

Commissioner Beaumont said a copy of the code of ethics should be provided to advisory board members at their introduction.

**AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS AMENDING CHAPTER 2, ARTICLE III, DIVISION 1 OF THE CODE OF ORDINANCES TO PROVIDE FOR COUNTY AUTHORITY, BOARD OR COMMISSION MEMBER COMPLIANCE WITH CHAPTER 2, ARTICLE II, DIVISION 3, CODE OF ETHICS**

WHEREAS, pursuant to N.C. Gen. Stat. §153A-76 a board of commissioners may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-77 a board of commissioners may appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the board of commissioners.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for the County of Currituck, North Carolina as follows:

PART I. Chapter 2, Article III, Division 1 of the Code of Ordinances, Currituck County, North Carolina is amended by adding a new section to read as follows

**Sec. 2-101. - Code of Ethics.**

All members of a county authority, board or commission are subject to and must abide by the standard of conduct provided under Chapter 2, Article II, Division 3 of this code.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance is effective immediately upon adoption.

<b>RESULT:</b>	<b>ORDINANCE PASSED FIRST READING [UNANIMOUS] Next: 2/6/2017 6:00 PM</b>
<b>MOVER:</b>	Paul M. Beaumont, Commissioner
<b>SECONDER:</b>	Bob White, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

## B) Board Appointments

### 1. Nominations of Commissioners to Advisories

Commissioner Hall read the respective Boards on which each Commissioners will serve:

Commissioner Beaumont: Albemarle Regional Planning Organization, the Fire Advisory Board, and Recreation Advisory Board.

Commissioner Etheridge: Social Services Board, the Juvenile Crime Prevention Council and the Senior Citizens Advisory Board.

Commissioner Gilbert: Albemarle Commission and Animal Services and Control Advisory.

Commissioner Hall: College of the Albemarle Board of Trustees and the Local Emergency Planning Committee

Chairman Hanig: Albemarle Regional Solid Waste Authority and Trillium Health.

Commissioner Payment: ABC Board, the Albemarle Regional Planning Organization Alternate and the Albemarle Regional Health Board.

Commissioner White: Tourism Advisory Board and the Economic Development Board

Commissioner Hall noted the appointment still needed for the Historic Boat and Building Advisory. He moved to approve nominations as read and was seconded by Commissioner Etheridge. The motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Mike D. Hall, Vice Chairman
<b>SECONDER:</b>	Mary "Kitty" Etheridge, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

### 2. Amended Agenda Item-Planning Board

Commissioner Beaumont nominated Shay Balance to serve on the Planning Board. Commissioner Hall seconded and the nominee was unanimously approved.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Paul M. Beaumont, Commissioner
<b>SECONDER:</b>	Mike D. Hall, Vice Chairman
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

### 3. Economic Development Advisory Board

Commissioner White said Planning Board member Mark Cason told him he no longer wished to serve on the Economic Development (ED) Board and nominated Jeff O'Brien to replace him. Commissioner Etheridge seconded and the nominee was approved. However, Mr. Cason serves on the Planning Board and Commissioner White moved to remove Mr. O'Brien from the ED Board until clarification could be determined on which Board Mr. O'Brien wished to serve. Commissioner Etheridge seconded and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Bob White, Commissioner
<b>SECONDER:</b>	Mary "Kitty" Etheridge, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

### C) Consent Agenda

Commissioner Hanig moved to approve Consent Agenda. Commissioner Beaumont seconded and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Bobby Hanig, Chairman
<b>SECONDER:</b>	Paul M. Beaumont, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

#### 1) Approval Of Minutes-January 3, 2017

##### 1. Minutes for January 3, 2017 Board of Commissioners

##### 2. Budget Amendments

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10795-536000	Uniforms	\$ 100	
10795-576010	Youth Cheerleading		\$ 100
		<u>\$ 100</u>	<u>\$ 100</u>

**Explanation:** Parks and Recreation (10795) - Transfer budgeted funds for additional uniform costs associated with new employee.

**Net Budget Effect:** Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
66868-533200	Lab Tests	\$ 4,000	
66868-513000	Utilities	\$ 20,000	
66868-545000	Contracted Services		\$ 1,000
66868-590000	Capital Outlay		\$ 3,000
66360-450500	Administrative Revenue		\$ 20,000
		<u>\$ 24,000</u>	<u>\$ 24,000</u>

**Explanation:** Southern Outer Banks Water System (66868) - Transfer funds for State required monitoring and increases in utility costs.

**Net Budget Effect:** Southern Outer Banks Water System Fund (66) - Increased by \$20,000.

**Explanation:** Public Utilities (10461) - Increase appropriations to record insurance proceeds for Public Utilities vehicle.

**Net Budget Effect:** Operating Fund (10) - Increased by \$1,685.

		Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
Account Number	Account Description		
10510-590000	Capital Outlay	\$ 2,000	
10510-511010	Data Transmission		\$ 2,000
		\$ 2,000	\$ 2,000

**Explanation:** Sheriff (10510) - Transfer funds to capital outlay to purchase guns that were ordered in FY 2016 and not delivered until December 2016.

**Net Budget Effect:** Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10430-503000	Salaries - Part Time	\$ 300	
10430-5034300	Poll Workers		\$ 300
		<b>\$ 300</b>	<b>\$ 300</b>

**Explanation:** Elections (10430) - Transfer funds due to additional part-time salaries required during the November election.

**Net Budget Effect:** Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
63838-571501	Recycling - Electronics	\$ 45,000	
63838-571500	Recycling		\$ 45,000
		<b>\$ 45,000</b>	<b>\$ 45,000</b>

**Explanation:** Solid Waste (63838) - Transfer budgeted funds for increase in electronics recycling.

**Net Budget Effect:** Solid Waste Fund (63) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
68888-553000	Dues & Subscriptions	\$ 1,386	
68360-470000	Utilities Charges		\$ 1,386
		<b>\$ 1,386</b>	<b>\$ 1,386</b>

**Explanation:** Walnut Island Sewer District (68888) - Increase funding for required permits.

**Net Budget Effect:** Walnut Island Sewer District Fund (68) - Increased by \$1,386.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
67878-545100	Credit Card Fees	\$ 600	
67878-553000	Dues & Subscriptions	\$ 200	
67878-531000	Fuel		\$ 800
		<b>\$ 800</b>	<b>\$ 800</b>

**Explanation:** Moyock Central Sewer System (67878) - Transfer budgeted funds for operations.

**Net Budget Effect:** Moyock Central Sewer System Fund (67) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10512-511010	Data Transmission	\$ 800	
10512-514800	Fees Paid to Officials	\$ 1,500	
10512-532000	Office Supplies	\$ 1,000	
10512-532512	Pet Supplies/Meds/Food	\$ 5,000	
10512-557100	Software License Fees	\$ 87	
10512-513000	Utilities		\$ 6,229
10380-483512	Animal Services Donations		\$ 2,158
		<b>\$ 8,387</b>	<b>\$ 8,387</b>

**Explanation:** Animal Services and Control (10512) - Increase appropriations for fees paid to the Animal Services Advisory Board and transfers for operations.

**Net Budget Effect:** Operating Fund (10) - Increased by \$2,158.

### 3. Salary and Compensation Resolution

CURRITUCK COUNTY  
NORTH CAROLINASALARY AND COMPENSATION RESOLUTION  
FOR THE FISCAL YEAR ENDING JUNE 30, 2017

BE IT RESOLVED by the County Commissioners that the following salaries and other compensation

## SECTION 1 - BOARDS

Board of Adjustments

Members \$50. per meeting

Airport Advisory Board

Members \$50. per meeting

Animal Services and Control Advisory Board

Members \$50. per meeting

Board of Commissioners

Chairman \$1300. per month

Members \$1200. per month

Stormwater Advisory Board

Members \$50. per meeting

Economic Development Board

Members \$50. per meeting

Tourism Development Authority

Members \$50. per meeting

Board of Elections

Chairman \$75. per month plus \$8.00 per meeting hour plus travel reimbursement at per

Members \$25. per month plus \$8.00 per meeting hour plus travel reimbursement at per

Chief Judge \$170. on election day, \$20. on canvass day, \$15. on instruction day plus travel reimbursement at per diem rate, \$20. on recount day

Judge	\$125. on election day, \$15. on instruction day plus travel reimbursement at per diem
Assistants	\$110 on election day, \$15. on instruction day plus travel reimbursement at per diem
 <u>Board of Equalization</u>	
Members	\$100. per day; \$50. per half day
 <u>Land Transfer Tax Appeals Board</u>	
Members	\$50. per meeting
 <u>Library Board of Trustees</u>	
Members	\$50. per meeting
 <u>Other</u>	
Jury Commission	\$50. per day
 <u>Planning Board</u>	
Members	\$50. per meeting
 <u>Social Services Board</u>	
Members	\$50. per meeting
Chairman	\$75. per meeting
 <u>Parks and Recreation Board</u>	
Members	\$50. per meeting
 <u>Fire And EMS Board</u>	
Members	\$50. per meeting
 <u>Senior Citizens Advisory Board</u>	
 <u>Nutrition Board</u>	\$50. per meeting

Payments made to board members (except the Board of Commissioners and Board of Elections) are considered fees for the payment of all expenses incurred while serving in a voluntary capacity unless additional compensation is provided for in the enacting ordinance.

#### SECTION 3 - NEW APPOINTMENTS

##### Compensation

The County Manager is authorized without further approval to enroll new personnel at a grade level not to exceed that of step 3; however, no new position may be established or salaries increased without the approval of the County Board of Commissioners.

Minimum Wage

Not notwithstanding the above, the County Manager may raise the salary of any employee to the Federal minimum wage level without further approval from the County Board of Commissioners.

**SECTION 4 - PART-TIME AND TEMPORARY EMPLOYEE BENEFITS**

County employee benefits, including but not limited to vacation leave, holiday leave, sick leave, retirement, 401k, and health insurance, shall not be provided for part-time and temporary employees unless otherwise provided for by the Board of Commissioners.

PART-TIME/TEMPORARY PAY RATES

Hourly

EMT Basic - Temporary	\$14.24 per hr
EMT Intermediate - Temporary	\$16.40 per hr
EMT Paramedic - Temporary	\$19.81 per hr
Airport Lineman - Part-time	\$14.24 per hr
Library Assistant I - Part-time	\$13.31 per hr
Clerical Position - Temporary	\$11.45 per hr
Deputy Trainee - Part-time	\$17.03 per hr
Deputy I - Part-time	\$17.95 per hr
Deputy II - Part-time	\$18.88 per hr
Detention Officer - Part-time	\$14.22 per hr
Maintenance Helper - Temporary	\$12.38 per hr
Camp Counselors - Seasonal	\$9.00 per hr
Visitor Relations Coordinator - Temporary	\$13.31 per hr
Tour Guides - Whalehead	\$13.31 per hr
Summer Intern - Whalehead	\$13.31/\$13.82 per hr
Telecommunicator Trainee - Part-time	\$15.74 per hr
Telecommunicator - Part-time	\$16.10 per hr

Parks & Recreation Temporary Staff

Janitor - All Sports	\$7.25 per hr
Scorekeeper - All Sports	\$7.25 per hr

Score Board Operator - Tackle Football	\$18.00 per game
Site Coordinator - All Sports	\$14.50 per hr
Referee - 5 - 9 yr old Basketball	\$18.00 per game
Referee - 10 - 15 yr old Basketball	\$20.00 per game
Referee - Flag Football	\$18.00 per game
Referee - Youth Volleyball	\$18.00 per game
Referee - Soccer	\$18.00 per game
Umpire - Baseball Ages 7 - 8	\$18.00 per game
Umpire - Softball 8U	\$18.00 per game
Umpire - Baseball Ages 9 - 10	\$24.00 per game
Umpire - Softball 10U - 16U	\$24.00 per game
Umpire - Baseball Ages 11 - 15	\$27.00 per game
Umpire - Softball 18U	\$30.00 per game

**SECTION 5 - TRAVEL****Per Diem Rate**

Subject to the approval of their department head, employees are entitled to travel reimbursement for use of a personal vehicle while transacting County business at the current standard mileage rate allowed by the Internal Revenue Service.

Adopted this 6th of June 2016.

Amended this 17th of January 2017.

ATTEST.

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Bobby Hanig  
Chairman, Board of Commissioners

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Leeann Walton  
Clerk to the Board

**4. Approval of Revisions to Personnel Policy****D) Commissioner's Report**

Commissioner White read an excerpt from a state Strategic Transportation Planning document which discussed funding for transportation needs, specifically discussing motor fuel sales tax. Summarizing, Commissioner White believes the state will be looking at tax hikes on fuel and vehicles.

Commissioner Payment asked staff to find out about road resurfacing plans for areas at the south end of the county.

**E) County Manager's Report**

The County Manager had nothing to report.

Chairman Hanig recessed the regular meeting of the Board of Commissioners to convene a special meeting of the Ocean Sands Water and Sewer District Board.

### **SPECIAL MEETING OF THE OCEAN SANDS WATER AND SEWER DISTRICT BOARD**

The Currituck County Board of Commissioners held a Special Meeting sitting as the Ocean Sands Water and Sewer District Board on Tuesday, January 17, 2017, at 7 PM in the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina. Present were Chairman Bobby Hanig, Vice-Chairman Mike Hall, and Commissioners Paul Beaumont, Mary Etheridge, Mike Payment and Bob White. Commissioner Marion Gilbert was absent.

#### **1. Budget Amendments for OSWSD**

County Manager Dan Scanlon reviewed the purpose for the three requested Budget Amendments. Commissioners questioned credit card processing fees and after discussion Mr. Scanlon said he would look into modifications pertaining to those fees.

Commissioner Beaumont moved to approve and was seconded by Chairman Hanig. The motion passed unanimously.

With no further business Chairman Hanig closed the meeting of the Ocean Sands Water and Sewer District Board.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
60808-516001	Repairs and Maintenance		\$ 7,000
60808-533601	System Supplies	\$ 7,000	
60808-545005	Purchase Water From Other	\$ 50,000	
60808-545100	Credit Card Processing	\$ 2,500	
60360-470000	Utilities Charges - Water		\$ 25,000
60360-470001	Utilities Charges - Sewer		\$ 25,000
60380-481000	Investment Earnings		\$ 2,500
		<b>\$ 59,500</b>	<b>\$ 59,500</b>
<b>Explanation:</b>	Ocean Sands Water and Sewer District (60808) -Increase appropriations increased water usage and transfers for additional repairs of the sewer system.		
<b>Net Budget Effect:</b>	Ocean Sands Water and Sewer District Fund (60) - Increased by \$52,500.		

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
60808-561000	Professional Services - Water	\$ 30,000	
60808-561001	Professional Services - Sewer	\$ 30,000	
60390-499900	Retained Earnings Appropriated		\$ 60,000
		<u>\$ 60,000</u>	<u>\$ 60,000</u>

**Explanation:** Ocean Sands Water and Sewer District (60808) - Increase appropriations for legal fees.

**Net Budget Effect:** Ocean Sands Water and Sewer District Fund (60) - Increased by \$60,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
60808-587059	T T - Ocean Sands Construction	\$ 300,000	
60390-499900	Retained Earnings Appropriated		\$ 300,000
		<u>\$ 300,000</u>	<u>\$ 300,000</u>

**Explanation:** Ocean Sands Water and Sewer District (60808) - Transfer fund balance to construction fund for sewer replacement and expansion.

**Net Budget Effect:** Ocean Sands Water and Sewer District Fund (60) - Increased by \$300,000.

**RESULT:**

**APPROVED [UNANIMOUS]**

**MOVED:**

Paul M. Beaumont, Commissioner

**SECONDER:**

Bobby Hanig, Chairman

**AYES:**

Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

## SPECIAL MEETING OF THE TOURISM DEVELOPMENT AUTHORITY

The Currituck County Board of Commissioners held a Special Meeting sitting as the Tourism Development Authority on Tuesday, January 17, 2017, at 7:05 PM in the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina. Present were Chairman Bobby Hanig, Vice-Chairman Mike Hall, and Commissioners Paul Beaumont, Mary Etheridge, Mike Payment and Bob White. Commissioner Marion Gilbert was absent.

### 1. Budget Amendments for TDA

County Manager Dan Scanlon reviewed the budget amendment.

Commissioner Hall moved to approve. Commissioner White seconded and the motion passed unanimously.

With no further business Chairman Hanig closed the meeting of the Tourism Development Authority.

**RESULT:** **APPROVED [UNANIMOUS]**  
**MOVED:** Mike D. Hall, Vice Chairman  
**SECONDED:** Bob White, Commissioner  
**AYES:** Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

## **CLOSED SESSION**

Chairman Hanig reconvened the regular meeting of the Currituck County Board of Commissioners.

**1. Closed session pursuant to G.S. 143-318.11(a)(6) to discuss personnel matters.**

Chairman Hanig moved to enter closed session pursuant to G.S. 143-318.11(a)(6) to discuss personnel matters.

Commissioner Beaumont seconded and the motion passed unanimously. The Board of Commissioners moved into closed session.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Bobby Hanig, Chairman
<b>SECONDER:</b>	Paul M. Beaumont, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

## ADJOURN

### **Motion to Adjourn Meeting**

The Board of Commissioners returned from closed session. With no further business, Commissioner Beaumont moved to adjourn. The motion was seconded by Commissioner Hall and carried unanimously, concluding the regular meeting of the Board of Commissioners.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Paul M. Beaumont, Commissioner
<b>SECONDER:</b>	Mike D. Hall, Vice Chairman
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner



**STAFF REPORT  
PB 07-10  
BOARD OF COMMISSIONERS  
JANUARY 3, 2017**

### APPLICATION SUMMARY

<b>Property Owner:</b> Lake View Land Development, LLC 616 Village Drive, Suite G Virginia Beach, VA 23454	<b>Applicant:</b> Lake View Land Development, LLC 616 Village Drive, Suite G Virginia Beach, VA 23454
<b>Case Number:</b> PB 07-10	<b>Application Type:</b> Amended Use Permit
<b>Parcel Identification Number:</b> 0015000083C0000 0015000083A0000 0015000083B0000 0015000083D0000 0015000083E0000	<b>Existing Use:</b> Undeveloped
<b>Land Use Plan Classification:</b> Rural <b>Moyock Small Area Plan:</b> Full Service	<b>Parcel Size (Acres):</b> 74.23 acres
<b>Number of Units:</b> 159	<b>Project Density:</b> 2.37 units per acre
<b>Required Open Space:</b> 25.98 acres	<b>Provided Open Space:</b> 26.45 acres

### SURROUNDING PARCELS

	<b>Land Use</b>	<b>Zoning</b>
North	Agricultural	AG
South	Residential	AG
East	Residential	AG
West	Agricultural	AG

### STAFF ANALYSIS

The request submitted by Lake View Land Development, LLC is to amend the use permit to allow the perimeter community walking trail to be located closer than 10 feet from exterior property lines in some locations. A construction error resulted in approximately 620 linear feet of perimeter walkway to now be located between 7.33' and 10' from the exterior property line of the development.

### RECOMMENDATIONS

#### TECHNICAL REVIEW COMMITTEE

1. The Technical Review Committee recommends approval of the use permit amendment subject to the modified conditions noted below.

2. The following conditions of approval necessary to ensure compliance with the review standards of the UDO and to prevent or minimize adverse effects of the development application on surrounding lands for all phases of the Lake View of Currituck (strikethrough text is requested removal and renumber as appropriate):
  1. Fountain Lake Way and Green Lake Road connection stub and associated sidewalks shall terminate no more than five feet from the edge of the existing ditch or drainage easement and the developer shall post a performance guarantee with the county to ensure funds are available to complete the connections.
  2. Wheelchair ramps shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with NCDOT standards. Please provide a curb cut detail with the submittal pre-construction plans.
  3. On street parking, if installed, shall be provided in accordance with the variance issued by the Board of Commissioners.
  4. ~~The pedestrian loop trail system must be located a minimum of 10 feet from all exterior property lines and shall be located such to provide safe movement.~~
  5. A Dominion Power encroachment agreement is required to allow roads, pedestrian trails, required landscape buffers, and wastewater treatment infiltration pond within their 150 foot utility easement. The agreement must be provided at the pre-construction submittal.
  6. Pedestrian easements shall be provided on the final plat where the sidewalk extends beyond the street right-of-way and on private lots. (Development Review Manual)
  7. Given the relatively small size of the proposed lots, deed restrictions or restrictive covenants shall restrict parking of boats and recreational vehicles on individual lots or a boat/rv parking area shall be provided.
  8. The development impact statement references the pedestrian related active recreation element. In the interest of providing a complete and safe active recreation system, the applicant shall provide sidewalks along Survey Road frontage, and between the proposed residential and nonresidential uses.
  9. The required improvements shall be installed and accepted prior to submission of final plat approval for each phase.
  10. The applicant shall submit a home and building design template that will be incorporated with the approval. Residential structures shall be designed with:
    - a. Variation in exterior architectural materials (siding, roofing);
    - b. Vertical and horizontal relief in buildings (roof lines, eaves, bump outs);
    - c. Variation in house styles/types;
    - d. Inclusion of front porches, projecting bays, vestibules; and,
    - e. The units shall have proportional attributes including overall height to width ratios of existing building facades, doors, windows, projecting canopies, and other architectural features within the vernacular of the area.
  11. All open space areas surrounding the lake shall be stabilized with grass, vegetation, and proposed landscaping prior to recordation of the first phase.
  12. All visual relief open space within each phase shall be stabilized and vegetated with grass and proposed landscaping buffer.
  13. Low impact development techniques should be integrated in the project to manage treatment of stormwater. (WQ3, WQ6, WQ7)
  14. Internal pedestrian circulation shall be required for all commercial areas through the use of clearly defined walkways. (CD8, CD9)
  15. In commercial areas, parking located between a commercial building and street rights-of-way shall be screened with a Type B Bufferyard. (CA3, CD7, CD8)

16. Dumpsters or similar solid waste receptacles, HVAC equipment, commercial mechanical units, or similar appurtenances shall be screened from view using a combination of solid landscaping or opaque fencing. (LUP CA3)
17. Landscape islands shall be incorporated into the commercial parking areas. (LUP CD7, CD8, CA3)
18. In commercial areas pedestrian plazas or similar shaded outdoor seating areas shall be provided. (LUP CD7, CD8, CD9)
19. Neighborhood serving commercial development shall integrate pedestrian scale and design (proportional relationship of buildings and spaces to pedestrians). Retail, office, and entertainment uses shall be appropriately designed, small-scale businesses. (LUP CD1, CD5, CD6, CD7, CD8, CD9).
20. The maximum amount of pond aeration devices allowed by NC DWQ shall be installed.
21. The driveways shall be two vehicle deep parking (including garage).
22. Cluster mailboxes shall be used.
23. The building pad elevations shall be raised a minimum of 18 inches above existing grade, except in Phase 3A where building pad elevations will meet current UDO and stormwater manual requirements in effect on April 4, 2016.
24. A solid vegetative buffer and fencing between shall be provided to the adjacent agricultural properties.
25. Phase 3A shall be subject to the development agreement and use permit, as amended.
26. A solid vegetative buffer and fencing between shall be provided to the adjacent agricultural properties except in Phase 3A where the farmland buffer shall meet the UDO requirements in effect on April 4, 2016.
27. The development shall be subject to the Homeowners or Property Owners Association requirements of Section 6.1.4 of the UDO as amended; and in effect on April 4, 2016. In addition, all streets shall meet NCDOT standards at the time of transfer to the association.

## INFRASTRUCTURE

Water	Public
Sewer	Public sewer
Transportation	Streets: The streets will be designed and constructed to NCDOT standards.
	Pedestrian: A sidewalk is proposed along one side of the street within this requested phase.
	Connectivity Score: 2.0
Schools	Elementary Students Generated: 3 (39 – total for 159 lots)
	Middle School Students Generated: 1 (12 – total for 159 lots)
	High School Students Generated: 1 (22 – total for 159 lots)
Design Standards	See Amended Use Permit
Lighting	County approval will be required prior to installation of any street lights
Landscaping	50' Farmland buffer and street trees are required in Phase 3A.
Parking	None
Recreation and Park Area Dedication	Payment in lieu of recreation and park area dedication is recommended for the proposed 13 lots which is \$4,019.29
Riparian Buffers	None

## USE PERMIT REVIEW STANDARDS

**A use permit shall be approved on a finding that the applicant demonstrates the proposed use will meet the below requirements. It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the preliminary findings**

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

Preliminary Applicant Findings:

1. The walkway is ADA compliant and adjacent slopes meet the requirements of the UDO.
2. The use will not endanger 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.**

Preliminary Applicant Findings:

1. Adjacent properties are farmlands, common areas, and golf course rough area and have an existing vegetative buffer.
2. The amendment will not injure the value of adjacent property and will be in harmony with existing land uses.

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

Preliminary Applicant Findings:

1. The Land Use Plan classifies this area as rural but adjacent to full service within the Moyock subarea.
2. The Moyock Small Area Plan classifies the area as full service. The proposed development density is 2.37 units per acre, which is within the range of densities envisioned in the Moyock Small Area Plan.
3. The following Land Use Plan and Moyock Small Area Plan policies are relevant to and support this request:

2006 LUP POLICY PR4: The county shall seek to identify, plan for and develop a system of OPEN SPACE GREENWAYS, HIKING and BIKING TRAILS as opportunities may allow. The use of (1) natural corridors such as streams and floodplains, and (2) man-made corridors such as utility and transportation rights-of-way and easements, shall be emphasized.

MSAP POLICY R1 Expand and develop recreational opportunities for all ages and users including access to the water and natural environment, walking trails, multi-purpose fields, multi-purpose community building, and other non-traditional types of recreational opportunities that are consistent with the Currituck County Parks and Recreation Master Plan.

**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.**

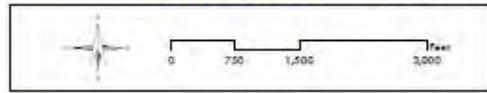
Preliminary Applicant Findings:

1. The change will have no impact on the county's ability to provide adequate public facilities.

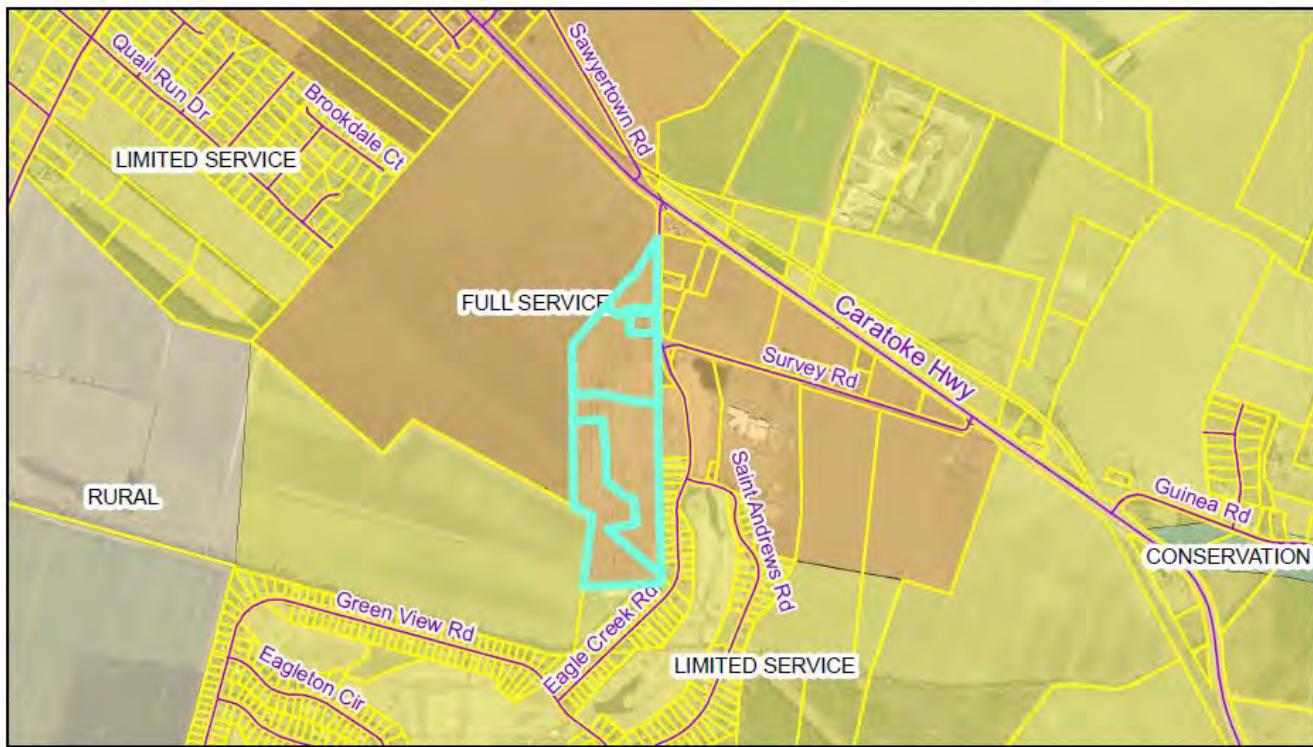
**THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE  
Planning Board: [www.co.currituck.nc.us/board-of-commissioners-minutes-current.cfm](http://www.co.currituck.nc.us/board-of-commissioners-minutes-current.cfm)**



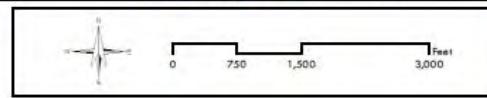
PB 07-10  
Lake View at Currituck  
Aerial



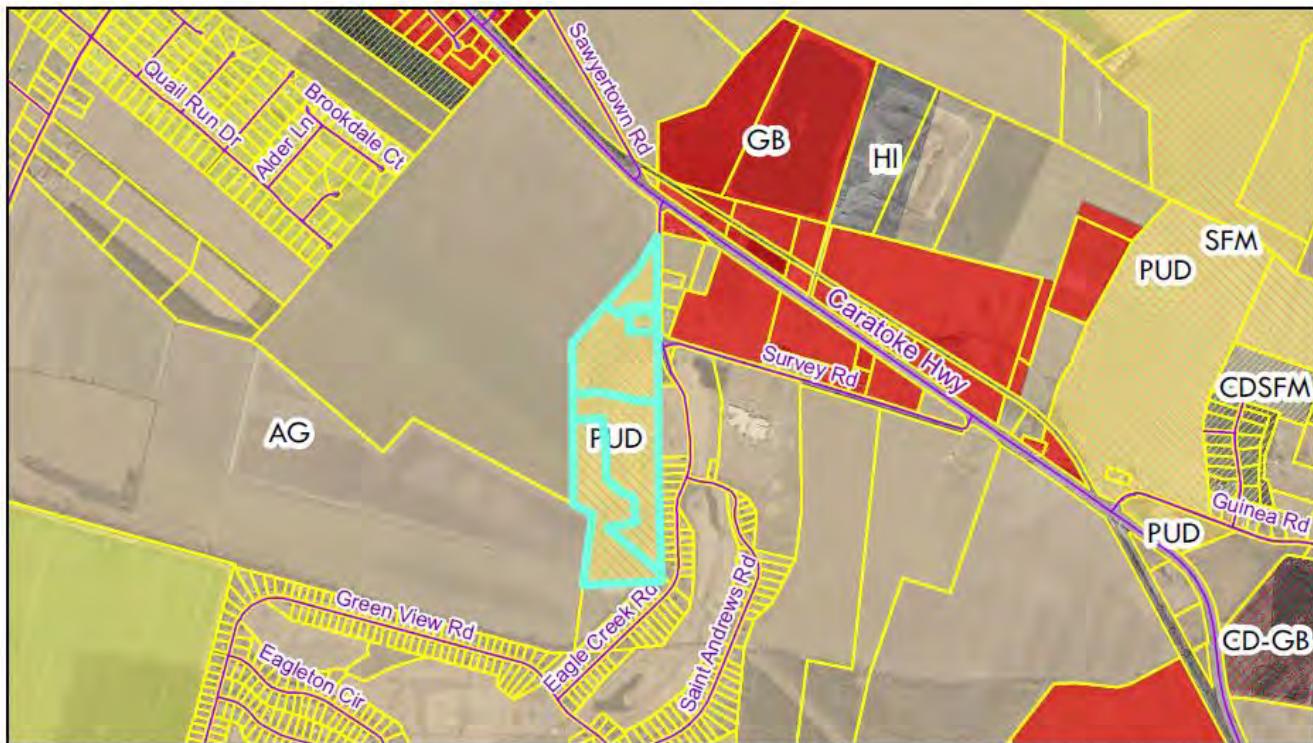
Currituck  
County  
Planning and Community  
Development



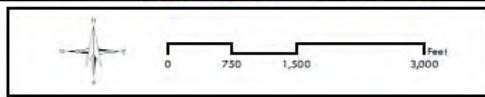
PB 07-10  
Lake View at Currituck  
Moyock Small Area Plan



Currituck  
County  
Planning and Community  
Development



PB 07-10  
Lake View at Currituck  
Zoning



Currituck County  
Planning and Community  
Development



## Use Permit Application

OFFICIAL USE ONLY:  
 Case Number: \_\_\_\_\_  
 Date Filed: \_\_\_\_\_  
 Gate Keeper: \_\_\_\_\_  
 Amount Paid: \_\_\_\_\_

### Contact Information

APPLICANT: James O. Myers, Jr.  
 Name: Lake View Land Development LLC  
 Address: 616 Village Dr., Suite G  
 Virginia Beach, VA 23454  
 Telephone: 757-969-7422  
 E-Mail Address: [jmyers@franciscushomes.com](mailto:jmyers@franciscushomes.com)

PROPERTY OWNER: James O. Myers, Jr.  
 Name: Lake View Land Development LLC  
 Address: 616 Village Dr., Suite G  
 Virginia Beach, VA 23454  
 Telephone: 757-969-7422  
 E-Mail Address: [jmyers@franciscushomes.com](mailto:jmyers@franciscushomes.com)

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: VP of Franciscus Homes - Manager of Lake View Land Development, LLC

### Property Information

Physical Street Address: 120 Survey Road, Moyock, NC

Location: Moyock, NC

0015-000-083A-0000, 0015-000-083B-0000, 0015-000-083C-0000,

Parcel Identification Number(s): 0015-000-083D-0000, 0015-000-083E-0000

Total Parcel(s) Acreage: 74.23AC

Existing Land Use of Property: Residential development under construction & farmland

### Request

Project Name: Lake View at Currituck

Proposed Use of the Property: Planned Unit Development

Deed Book/Page Number and/or Plat Cabinet/Slide Number: P.C. "N", Slides 181-182

Total square footage of land disturbance activity: \_\_\_\_\_

Total lot coverage: \_\_\_\_\_

Total vehicular use area: \_\_\_\_\_

Existing gross floor area: \_\_\_\_\_

Proposed gross floor area: \_\_\_\_\_

### Community Meeting

Date Meeting Held: \_\_\_\_\_ Meeting Location: \_\_\_\_\_

Purpose of the Use Permit and Project Narrative (please provide on additional paper if needed): \_\_\_\_\_  
 Amendment to Condition No. 4 of the existing Use Permit to allow community walking trails to be located closer than 10 feet from exterior property lines in some locations. A construction error has resulted in approximately 620 linear feet of perimeter walkway to now be located between 7.33' and 10' from the exterior property line of the development. The walkway could be demolished and replaced, but the adjacent land has been graded, drained and stabilized (please refer to attached photograph), and the relocation of the walkway would involve relocation/regrading of an existing stabilized swale and adjacent open space areas. The existing walkway appears to meet the intent, if not the letter, of the U.D.O. and the Use Permit for this development.

The applicant shall provide a response to the each one of the following issues. The Board of Commissioners must provide specific findings of fact based on the evidence submitted. All findings shall be made in the affirmative for the Board of Commissioners to issue the use permit.

A. The use will not endanger the public health or safety.

The walkway is ADA-compliant and adjacent slopes meet the requirements of the U.D.O. The use will not endanger public health or safety.

B. 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.

Adjacent properties are farmlands, common areas and golf course "rough" area and have an existing vegetated buffer. The amendment will not injure the value of adjacent property and will be in harmony with existing land uses

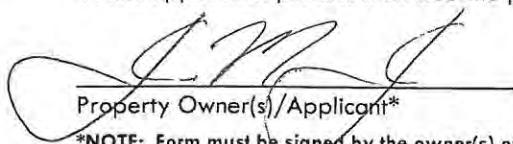
C. The use will be in conformity with the Land Use Plan or other officially adopted plan.

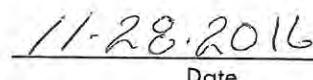
The Land Use Plan and Moyock Small Area Plan promote pedestrian trail systems and connectivity (Land Use Plan Policy PR-4, and Moyock SAP Policy R2).

D. 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.

The change will have no impact on the County's ability to provide adequate public facilities.

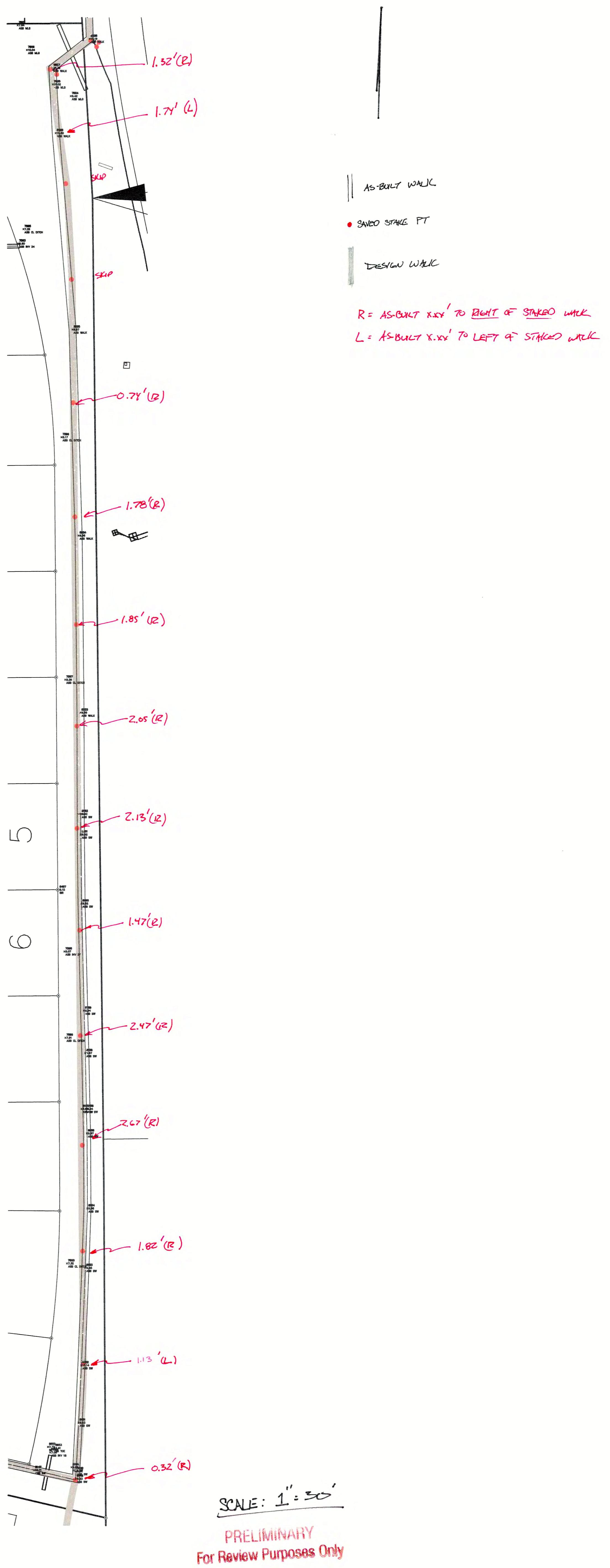
I, the undersigned, do certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief. Further, I hereby authorize county officials to enter my property for purposes of determining zoning compliance. All information submitted and required as part of this application process shall become public record.

  
 Property Owner(s)/Applicant\*

  
 Date

\*NOTE: Form must be signed by the owner(s) of record, contract purchaser(s), or other person(s) having a recognized property interest. If there are multiple property owners/applicants a signature is required for each.

Use Permit Application  
 Page 6 of 8





Attachment: Lake View at Currituck Walkway Photograph (1742 : Lake View at Currituck)



## Currituck County

Planning and Community Development Department  
*Planning and Zoning Division*  
 153 Courthouse Road, Suite 110  
 Currituck, North Carolina 27929  
 252-232-3055 FAX 252-232-3026

To: Board of Commissioners  
 From: Planning Staff  
 Date: November 14, 2016  
 Subject: PB 16-18 Lauren Berry Text Amendment REVISED

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Lauren Berry initially submitted a text amendment to establish commercial fishing (watermen) as a principal use. After reviewing the proposed language, it did not appear to be consistent with the land use plan policies and goals. Ms. Berry worked with staff to address concerns related to the proposed text amendment.

There are portions of the commercial fishing operation that present concerns (i.e. outdoor storage of equipment, watercraft, and number of employees). The revised text amendment provides outdoor storage regulations associated with commercial fishing on-site operations. The revised text amendment provides a maximum outdoor storage limit (10%), buffers to adjacent properties, and requires the operation meet the accessory use general standards in the UDO. The number of watercraft or vessels and employees are not specifically addressed but would require the operation to maintain the residential neighborhood character of the community.

### **BACKGROUND**

In many instances, commercial fishing operations are home occupations or accessory uses to principal uses of property. The home occupation standards require a dwelling unit on the property and limit the size and appearance of the commercial activity.

Occasionally, the county receives complaints related to commercial fishing operations near residential subdivisions. The complaints range from crab pot storage, boat storage, parking, noise, and odor. A notice of violation was sent to Wayne Burch in April, 2016 for not meeting the home occupation standards related to a commercial fishing and crabbing operation. Lauren Berry and Wayne Burch met with staff and elected to submit a text amendment in an effort to allow larger commercial fishing operations in residential districts by modifying the crab shedding principal use regulations. On November 3, 2016 after discussing the county concerns related to the proposed amendment, Ms. Berry modified her request to establish accessory use standards for commercial fishing. It should be noted that current operations may continue to

operate under their approved permits. Expansions of operations or operations not approved would be subject to the text amendment.

In 2009, a stakeholder steering committee was established to assess the storage of boats for commercial fishermen. A draft text amendment was proposed and, no action was taken by the Board of Commissioners. During the 2013 UDO re-write many of the industrial uses found in the UDO were evaluated to determine what districts the use should be allowed. The 2013 UDO re-write removed crab shedding as a principal use from residential zoning districts.

The activities typically associated with commercial fishing often include:

- Outdoor storage of boats, nets, crab pots, refrigeration units, and other types of equipment.
- Crab shedding
- Traffic
- On site sales and storage of fish, crabs, bait, and equipment.

### **LAND USE PLAN CONSISTENCY**

The 2006 Land Use Plan states, “traditional commercial crabbing activities, both on Knotts Island and the Mainland have generated some conflicts with sound front residential uses but with no associated water quality impacts.” The 2006 Land Use Plan Policy statements that are relevant to the request and the secondary impacts are as follows:

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

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

The 2006 Land Use and Development Goals relevant to the request are as follows:

10. To properly distribute development forms in accordance with the suitability of the land, infrastructure available and the compatibility of surround land uses.

### **RECOMMENDATION**

The board may include limitations on the number of employees and watercraft not owned by the property owner to be consistent with home occupation standards. Planning staff recommends approval of the revised text amendment since the request is consistent with the goals, objectives, and policies of the Land Use Plan, and is reasonable and in the public interest by providing setbacks and buffers from adjacent properties that will improve the compatibility among uses to ensure efficient development within the county.

### Planning Board Discussion (11/8/2016)

Donna Voliva gave a revised staff report to the board members. Originally, PB 16-18 Lauren Berry was a request to amend the Unified Development Ordinance (UDO) to modify the standards and title of crabshedding uses and allow commercial watermen in the single family mainland (SFM) and Agriculture (AG) zoning districts as a principal use. Ms. Berry worked with staff to revise the language so it would be more consistent with the land use plan policies and goals. The revised text amendment would permit commercial fishing uses as an accessory use instead of a principal use.

Ms. Voliva said at least once per year they receive a complaint regarding something related to commercial fishing. It is usually related to outside storage, too many boats, noise, etc. Commercial fishing as proposed as an accessory use will allow for storage that was not allowed under the home occupation standards. This text amendment attempts to minimize the impacts by having some additional general requirements and additional standards in the AG and SFM districts as outlined in the revised staff report. Some requirements are having 10 foot setbacks, onsite freezing and packing are allowed, no increased traffic, no onsite signs. No retail sales of products, but wholesale would be allowed. Excluding personal vehicles, one additional vehicle and one trailer (8 x 32) are allowed. Also, one employee is allowed. Most of these requirements are already in the crabshedding regulation, with the exception of outdoor storage. Outdoor storage would be permissible at 10 percent of the total lot area or 1,000 square feet, whichever is greater. Outdoor storage has to be buffered with a minimum of a 6 foot opaque fence or retained vegetation equivalent to a six foot opaque fence. The storage cannot exceed the height of the buffer or must be in an enclosed building and has to be located to the side or rear of the principal structure.

Ms. Voliva said the planning staff is recommending approval for the revised text amendment because it is consistent with the goals and objectives, policies of the Land Use Plan and it is considered reasonable in the public interest by providing setbacks and buffers from adjacent properties that would improve the compatibility among uses to ensure efficient development within the county.

Ms. Overton asked if this would apply in an industrial zone and Ms. Voliva said this text amendment would not apply to that zone and an additional text amendment would be needed if that was required.

Ms. Bell asked what prolonged means in the General Terms and said it was vague and unenforceable. Mr. Whiteman agreed with Ms. Bell with the use of the words prolonged and excessive. Mr. Whiteman also said that the excessive noise is redundant since we already have a noise policy in the county. Chairman Cooper said if something is redundant and unenforceable then we need to strike it.

Chairman Cooper asked the applicant to come and present her case.

Applicant, Lauren Berry, appeared before the board. Ms. Berry said Currituck County has approximately 100 full time watermen and ninety percent of all the catch is through crabpots. The county has a long history that was built around the water and we need to allow for commercial crabbing to continue. She said the average income of commercial fisherman in Currituck County is \$24,000 and the average medium income is \$32,000. Ms. Berry said the waterman's lower income does not allow for the ability to rent a building for \$2,000 per month to maintain their business. Ms. Berry said the reason the word prolonged was included in the

General Requirements (b) was for protection of the waterman when a complaint is received on a boat that just came in with their catch.

Chairman Cooper asked Ms. Berry what a normal day was like for a waterman. Ms. Berry said they start work depending on sunrise that day. Their boats are already in the water in their backyards. They usually have one to two dock hands. They go out to get their catch; they bring it back in and load it into baskets into the back of a pickup truck to take to the wholesaler. Normally, one of the dock hands stays and cleans the boat. The waterman does not want to leave their boat dirty since this is their means of making money. There is a smell when they come in, but after it's cleaned the smell is gone.

Mr. Whiteman asked what the average size house is for a waterman. Ms. Berry said she does not know the average size for all, but Mr. Burch's house is approximately 750 feet. Ms. Berry said with the old policy of 25 percent only gives you 250 square feet of storage for a 1000 square foot home and this is not enough storage space. This is why this text amendment is important.

Mr. Whiteman asked how long crab pots are stored and how long before they are used again. Ms. Berry said they are usually in the water, but by regulation they have to be out of the water about 30 days around January-February. There will also be times, such as during a hurricane when the watermen will bring in their pots since they are valued at \$50 each. They may also bring them in for maintenance.

Chairman Cooper asked for clarification on the 25 percent and 10 percent. Ms. Voliva said the 25 percent would be mainly for refrigeration units and structures. The 10 percent will be mostly crab pot storage.

Chairman Cooper opened the public hearing.

Terry Overton appeared before the board. He said he was unable to purchase a house at one time in Woodard Acres due to people complaining about fifty crab pots in his yard. So when the issue came up with Wayne Burch, he decided to support him because of what he had been through.

Melvin Lewis appeared before the board. He said he had been through this some ordeal back in 1993 in Shawboro. His competitors made several complaints on him to the county. He planted a buffer and ran his business until 2003 with no complaints from residences. Mr. Lewis said storage is the problem. Crab pots have a smell when they first come in off the boats, but after spraying them down, they will not smell the next day. Boats will also smell, but bleach and spraying them down takes away the smell. The bait comes in frozen on pallets and goes into the freezer so there is no smell.

Daniel Boan appeared before the board and said he has 300 crab pots which he stacks five high in a 40' x 40' area and he has not received any complaints.

Karen Dupie appeared before the board. She said her retired military husband is working as a fisherman. He has 400 pots and two boats without any complaints, but does need the additional square footage for storage.

Retired Navy Chief, William Dupie appeared before the board and said he works with Wayne Burch and was present when a complaint was made on the refrigerators being too loud. When the sheriffs did the noise test, it was no louder than an air conditioner.

Mark Roman appeared before the board and said he has been a commercial fisherman for 30 years. He stacks his crab pots 3 high. He has twelve acres and does not currently have a problem with any complaints, but is here to support the waterman who have smaller lot sizes and need the storage area.

Heidi Smith who works with Lauren Berry appeared before the board in support of the text amendment.

Chairman Cooper closed the public hearing.

**Motion** - Mr. Whiteman motioned to approve the text amendment with the following modification: Remove "excessive noise" from General Requirements (b) and remove "or 1,000 square feet whichever is greater" from Additional Standards in the AG and SFM Districts. Approval for this text amendment is consistent with the goals and objectives, policies of the Land Use Plan and it is considered reasonable in the public interest by providing setbacks and buffers from adjacent properties that would improve the compatibility among uses to ensure efficient development within the county. Ms. Overstreet seconded the motion and the motion carried unanimously.

<b>RESULT:</b>	<b>RECOMMENDED APPROVAL [7 TO 0]</b>	<b>Next: 12/5/2016 6:00 PM</b>
<b>MOVER:</b>	Fred Whiteman, Board Member	
<b>SECONDER:</b>	Jane Overstreet, Board Member	
<b>AYES:</b>	John Cooper, Chairman, Carol Bell, Vice Chairman, Robert (Bobby) Bell, Board Member, Mike Cason, Board Member, John McColley, Board Member, Jane Overstreet, Board Member, Fred Whiteman, Board Member	
<b>RECUSED:</b>	Steven Craddock, Board Member	

### Planning Board Discussion (10/11/2016)

A motion was made by Mr. Cartwright to table PB 16-18 Lauren Berry to the next Planning Board Meeting to be held on November 8, 2016 since the applicant nor was a representative present. Mr. Craddock recused himself from voting. Mr. Whiteman seconded the motion and the motion carried unanimously.

<b>RESULT:</b>	<b>TABLED [6 TO 0]</b>	<b>Next: 11/8/2016 7:00 PM</b>
<b>MOVER:</b>	Clay Cartwright, Board Member	
<b>SECONDER:</b>	Fred Whiteman, Board Member	
<b>AYES:</b>	Carol Bell, Vice Chairman, Robert (Bobby) Bell, Board Member, Clay Cartwright, Board Member, John McColley, Board Member, Jane Overstreet, Board Member, Fred Whiteman, Board Member	
<b>RECUSED:</b>	Steven Craddock, Board Member	

**PB 16-18**  
**LAUREN BERRY**

Amendment to the Unified Development Ordinance, Chapter 4. Use Standards establish commercial fishing as an accessory use.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

**Item 1:** That Chapter 4. Use Standards, Section 4.3 Accessory Use Standards is amended by adding the following underlined language and renumber accordingly:

**TABLE 4.3.2.E: TABLE OF COMMON ACCESSORY USES**

P = Permitted by-right Z = Zoning Compliance Permit; U = Use Permit; MP = Allowed with Master Plan; CZ= Allowed in a Conditional Zoning District blank cell = Prohibited

ACCESSORY USE TYPE	ZONING DISTRICT														ADDITIONAL REQ. (4.3.____)	
	RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	PD-R	PD-M	PD-O
<b>INDUSTRIAL USE CLASSIFICATION</b>																
Commercial Fishing		Z	Z					Z								3.F

**F. Commercial Fishing**

Commercial fishing uses shall be permitted as an accessory use and shall comply with the following standards:

**(1) General Requirements**

(a) All phases of the operation must be conducted not less than 10 feet from the property line and not less than 50 feet from any adjacent dwelling;

(b) No prolonged, excessive, odor, fumes, excessive noise, or traffic shall be allowed; and,

*Commentary: Planning Board recommends removal of "excessive noise" since the Code of Ordinances regulates noise.*

(c) On-premise freezing, packing and preparation for shipping is allowed.

**(2) Additional Standards in the AG and SFM Districts**

- (a) The accessory use shall not change the character of the residential neighborhood in terms of appearance, noise, odors, traffic, or other impacts;
- (b) On-premise signage shall not be allowed;
- (c) On-premise retail sales of products shall not be allowed;
- (d) Excluding personal vehicles, no more than one truck, van, car, or other vehicle, or part of a vehicle, which is visible from adjacent public streets may be kept on the site;
- (e) No vehicle or trailer which is larger than 8 feet by 32 feet shall be maintained on-site; and,
- (f) Outdoor storage shall be subject to the following standards:
  - (i) Outdoor storage shall not exceed 10 percent of the total lot area or 1,000 square feet whichever is greater;  
*Commentary: The Planning Board recommends removal of 1,000 square foot since the statement will only apply to lots less than 10,000.*
  - (ii) Outdoor storage shall be buffered from adjacent properties with opaque fencing a minimum of six feet in height or retained vegetation equivalent to a six foot opaque fence.;
  - (iii) Outdoor storage shall be located to the side or rear of the principal structure; and,
  - (iv) Temporary storage of crab pots shall be located inside a fully enclosed building or not exceed the height of the opaque buffer.

**Item 3:** The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

**Item 4:** This ordinance amendment shall be in effect from and after the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Board of Commissioners' Chairman  
Attest:

Leeann Walton  
Clerk to the Board

DATE ADOPTED: \_\_\_\_\_  
MOTION TO ADOPT BY COMMISSIONER: \_\_\_\_\_  
SECONDED BY COMMISSIONER: \_\_\_\_\_  
VOTE: 7 AYES 0 NAYS  
.....

PLANNING BOARD DATE: 11/08/2016  
PLANNING BOARD RECOMMENDATION: Approval  
VOTE: 7 AYES 0 NAYS  
ADVERTISEMENT DATE OF PUBLIC HEARING: 11/20/2016 and 11/30/2016  
BOARD OF COMMISSIONERS PUBLIC HEARING: 12/05/2016  
BOARD OF COMMISSIONERS ACTION: \_\_\_\_\_  
POSTED IN UNIFIED DEVELOPMENT ORDINANCE: \_\_\_\_\_  
AMENDMENT NUMBER: \_\_\_\_\_



## **Text Amendment Application**

**OFFICIAL USE ONLY:**  
Case Number: \_\_\_\_\_  
Date Filed: \_\_\_\_\_  
Gate Keeper: \_\_\_\_\_  
Amount Paid: \_\_\_\_\_

### Contact Information

**APPLICANT:**

Name:

### Address:

**Telephone:**

E-Mail Address:

Lauren Berry  
117 Alex Lane  
Moyock NC 27958  
252-722-2494  
Zenlane @outlook.com

## Request

I, the undersigned, do hereby make application to change the Currituck County UDO as herein requested.

**Amend Chapter(s)** \_\_\_\_\_ **Section(s)** \_\_\_\_\_ **as follows:**

\*Request may be attached on separate paper if needed.

**Petitioner**

8-9-16  
Date

**Chapter 4: Use Standards****Section 4.2: Use Specific Standards****Subsection 4.5.5: Industrial Uses****B. Industrial Services****(I) Commercial Watermen-persons holding a NC Commercial Fishing or Dealer's License**

Commercial watermen uses located within a residential zoning district shall comply with the following standards:

**(a) General Standards**

- (i) All phases of the operation must be conducted not less than 10 feet from the property line and not less than 50 feet from any adjacent dwelling;
- (ii) No prolonged, excessive, odor, fumes, noise, or traffic shall be allowed;
- (iii) On-premise freezing, packing and preparation for shipping is allowed;
- (iv) No more than one truck, van, car, or other vehicle, or part of vehicle, which is visible from adjacent public streets may be kept on the site; and
- (v) No vehicle or trailer which is larger than 8 feet by 32 feet shall be maintained on-site.
- (vi) A sign not exceeding six square feet is allowed
- (vii) On-premise sale of products is allowed; and
- (viii) Open storage must not be visible from the front access road

**AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS  
AMENDING CHAPTER 2, ARTICLE III, DIVISION 1 OF THE CODE OF  
ORDINANCES TO PROVIDE FOR COUNTY AUTHORITY, BOARD OR  
COMMISSION MEMBER COMPLIANCE WITH CHAPTER 2, ARTICLE II,  
DIVISION 3, CODE OF ETHICS**

WHEREAS, pursuant to N.C. Gen. Stat. §153A-76 a board of commissioners may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-77 a board of commissioners may appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the board of commissioners.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for the County of Currituck, North Carolina as follows:

PART I. Chapter 2, Article III, Division 1 of the Code of Ordinances, Currituck County, North Carolina is amended by adding a new section to read as follows

## **Sec. 2-101. – Code of Ethics.**

All members of a county authority, board or commission are subject to and must abide by the standard of conduct provided under Chapter 2, Article II, Division 3 of this code.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance is effective immediately upon adoption.

ADOPTED this 6th day of February, 2017.

---

Bobby Hanig, Chairman

ATTEST:

Leeann Walton  
Clerk to the Board

**APPROVED AS TO FORM:**

---

Donald I. McRee, Jr.  
County Attorney

1  
2 Date adopted: \_\_\_\_\_  
3  
4 Motion to adopt by Commissioner \_\_\_\_\_  
5 Second by Commissioner \_\_\_\_\_  
6 Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS  
7 S:\Legal\Ordinances\

## BOARDS ON WHICH COMMISSIONERS SERVE

<u>COMMISSIONER</u>	<u>BOARD</u>
Paul Beaumont	Albemarle Rural Planning Organization (RPO) Fire and EMS Advisory Board (FEAB) Recreation Advisory Board <del>Trillium Health</del>
Kitty Etheridge	<b>Social Services Board</b> <b>Local Emergency Planning Committee (LEPC)</b>
Marion Gilbert	Albemarle Commission Animal Services & Control Advisory
Mike Hall	COA Board of Trustees Juvenile Crime Prevention Council (JCPC) Senior Citizens Advisory Board
Bobby Hanig	<b>Albemarle Regional Solid Waste Authority</b> <b>Trillium Health</b>
Mike Payment	ABC Board Albemarle Rural Planning Org-Alternate <del>Economic Development Board</del> <del>Social Services Board</del> <b>Albemarle Regional Health Board</b>
Bob White	<b>Tourism Advisory Board</b> <b>Economic Development Board</b>

## **Commissioner Appts Needed:**

David Griggs      Historic Boat & Building Advisory

PLANNING BOARD  
2 Year Terms

Incumbent	Nominated by	New Appointee	Nominated by	Date of Appointment	End of Term
Mike Cason	District 1		Bob White	January 5, 2014	1st Term 12/31/2016
Steven Craddock	District 2		Bobby Hanig	January 2013	1st Term 12/31/2016
John Cooper	District 3		Mike Payment	January 2012	2nd Term 12/31/2016
Daniel Cartwright	District 4		Paul Beaumont	January 2012	2nd Term 12/31/2016
Carol Bell	District 5		Marion Gilbert	January 4, 2016	2nd Term 12/31/2017
Fred Whiteman	At-Large		Mike Hall	January 2012 January 3, 2017	2nd Term 12/31/2018
John McColley	At-Large		Kitty Etheridge	April 18, 2016	1st Term 12/31/2017
Jane Overstreet	Outer Banks		Consensus	December 2013	1st Term 12/31/2016
Robert Bell	Mainland		Consensus	January 5, 2015 January 2012	2nd Term 12/31/2016

\*Must be Replaced

\*Can be Reappointed



**CURRITUCK COUNTY  
NORTH CAROLINA**

January 3, 2017  
Minutes – Regular Meeting of the Board of Commissioners

**WORK SESSION**

**1. 5:00 PM Letendre Text Amendment Discussion**

The Board of Commissioners attended a work session at 5 PM in the Board Meeting Room of the Historic Courthouse to receive information and background on a proposed text amendment. The Letendre's are requesting the text amendment because elements of their project under construction on the 4-wheel drive beach were determined to not fit the definition of single-family in the county's Unified Development Ordinance (UDO).

Mr. Woody reviewed a timeline starting with the initial letter of determination in April, 2013, which said the project consisted of three separate structures and did not meet the UDO definition of single family. Building connections were made and the structure was accepted in November 2013 as a single unit. Legal challenges filed by a neighboring property owner ultimately resulted in a June 2016 North Carolina Court of Appeals decision stating the structure does not meet the definition of single-family.

Mr. McRee reviewed the court of appeals decision and opinion, explaining the court determined the project consisted of multiple buildings with no principal structure and no accessory structures, and therefore does not meet the county's definition. Mr. McRee said the remedy would be a modification of the text in the UDO.

Mr. Woody and Mr. McRee answered Board questions regarding accessory structures and presented information regarding the existing Coastal Area Management Act (CAMA) permit for the property. Setbacks and gazebo construction were discussed.

**6:00 PM CALL TO ORDER**

The Currituck County Board of Commissioners met at 6 PM in the Board Meeting Room of the Historic Currituck Courthouse, 153 Courthouse Road, Currituck, North Carolina, for its regular meeting.

Attendee Name	Title	Status	Arrived
Bobby Hanig	Chairman	Present	
Mike D. Hall	Vice Chairman	Present	
Paul M. Beaumont	Commissioner	Present	
Mary "Kitty" Etheridge	Commissioner	Present	
Marion Gilbert	Commissioner	Present	
Mike H. Payment	Commissioner	Present	
Bob White	Commissioner	Present	

Chairman Hanig called the meeting to order.

**A) Invocation & Pledge of Allegiance-Reverend Walter Gallop, Air Force Chaplain, Retired**

Reverend Walter Gallop gave the Invocation and led the Pledge of Allegiance.

**B) Approval of Agenda**

The agenda was amended as follows:

Commissioner Hall moved for the removal of Nomination of Commissioners to Advisories under New Business, Board Appointments, to be rescheduled for the January 17, 2017 meeting of the Board, and added board appointments to the Recreation Advisory, Planning Board and Historic Preservation Commission.

Commissioner Payment seconded and the agenda was approved.

**Work Session**

5:00 PM Letendre Text Amendment Discussion

**6:00 PM Call to Order**

- A) Invocation & Pledge of Allegiance-Reverend Walter Gallop, Air Force Chaplain, Retired
- B) Approval of Agenda

**Public Hearings**

**A) Public Hearing and Action: PB 16-15 Elizabeth Letendre:** Request to amend the Unified Development Ordinance Chapter 10: Definitions and Measurement, to remove the structural portion of the Dwelling, Single-Family Detached definition.

**B) Public Hearing and Action: PB 14-16 Lake View at Currituck:** Request to amend the use permit to modify the sidewalk/trail setback for Lake View at Currituck. The property is owned by Lake View Land Development, LLC and located in Moyock on Survey Road, Tax Map 15, Parcels 83A, 83B, 83C, 83D and 83E, Moyock Township.

**C) Public Hearing & Action: PB 16-22 Barnhill Contracting Co.:** Request for conditional rezoning of 25 acres located in Powells Point approximately .25 miles south of South Bayview Road on the east side of Caratoke Highway, Tax Map 111, Parcel 3, Poplar Branch Township.

**New Business**

- A) An Ordinance of the Currituck County Board of Commissioners Imposing a Moratorium on the Acceptance, Processing or Consideration of Applications for Solar Arrays Pursuant to N.C. Gen. Stat. Section 153A-340(h)
- B) An Ordinance of the Currituck County Board of Commissioners Amending Section 2-65 of the Currituck County, North Carolina Code of Ordinances Providing for the Location of Public Comments on the Agenda and Time Allotted for Public Comments.
- C) Board Appointments
  - 1. ~~Nominations of Commissioners to Advisories~~ ***Amended agenda removed this item***
  - 2. Planning Board-Amended Agenda Item
  - 3. Recreation Advisory-***Amended Agenda Added Item***
  - 4. Historic Preservation Commission-***Amended Agenda Added Item***
- D) Consent Agenda
  - 1. Approval Of Minutes for December 5, 2016
  - 2. Budget Amendments
  - 3. Surplus Resolution-Animal Quarantine Building
  - 4. Surplus Resolution - 2008 Nissan Titan (EMS)
  - 5. EIC-Community Services Block Grant Funding Submission
- E) Commissioner's Report
- F) County Manager's Report

**Public Comment**

*Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 5 minutes.*

**Closed Session**

Closed Session pursuant to G. S. 143-318.11(a)(3) to consult with the county attorney in order to preserve the attorney-client privilege related to the following matters: R.F. London and Mermaids, Inc. v. Currituck County and Currituck County Board of Adjustment; Swan Beach Corolla, LLC v. Currituck County; Ocean Hill Commercial, LLC and others v. James Bickford,

Midlantic Builders, Ocean Hill 1 Property Owners Association and Currituck County; Ocean Hill Commercial, LLC and others v. Currituck County; Moyock Commercial Properties, LLC and Charles S. Friedman v. Currituck County; Coastland Corporation and James E. Johnson, Jr. v. Currituck County and Ocean Sands Water and Sewer District; Ecplexus, Inc., Fresh Air Energy II, LLC and Currituck Sunshine Farm, LLC v. Currituck County and Teresa Wheeler v. Currituck County.

**Adjourn**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Mike D. Hall, Vice Chairman
<b>SECONDER:</b>	Mike H. Payment, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

**PUBLIC HEARINGS**

**A. Public Hearing and Action: PB 16-15 Elizabeth Letendre:**

Ben Woody, Planning and Community Development Director, reviewed the text amendment application and staff report with the Board.

To: Board of Commissioners  
 From: Planning Staff  
 Date: December 28, 2016  
 Subject: PB 16-15 Elizabeth Letendre Text Amendment

The enclosed text amendment submitted by Ms. Elizabeth Letendre is intended to amend the definition of Single-Family Detached Dwelling to remove the structural portion of the definition (Attachment A).

**Background**

Ms. Letendre has substantially constructed a residential project on an oceanfront lot in the Ocean Beach subdivision in the off-road area of Currituck County. Prior to applying for a building permit, in 2013 the Planning Director determined the proposed project was a single-family detached dwelling; the Board of Adjustment affirmed the Planning Director's decision; the Superior Court agreed with the decision and affirmed the Order of the Currituck County Board of Adjustment.

Following the decision of the Superior Court entered on December 8, 2014, and while an appeal was pending before the North Carolina Court of Appeals, Ms. Letendre proceeded with construction of the residential project. The county issued a building permit on February 25, 2015 for the project; however, county staff verbally advised Ms. Letendre's representatives that an appeal was pending which could adversely affect the project as permitted. Additional correspondence regarding the construction of the project while an appeal was pending occurred between Mr. George Currin, representing the plaintiffs, and Mr. Greg Wills, representing Ms. Letendre (Attachments B and C).

On August 21, 2015 the North Carolina Building Code Council overturned an interpretation of the North Carolina Department of Insurance and ordered that the Letendre project meets the definition of a one family dwelling as required by the North Carolina Residential Code (Attachment D).

In its decision entered on June 21, 2016, the North Carolina Court of Appeals reversed the Superior Court, holding that the Letendre project is not a single-family dwelling as defined by the UDO (Attachment E).

Ms. Letendre petitioned the North Carolina Supreme Court for discretionary review. The petition for review was denied resulting in the finality of the Court of Appeals decision.

The project currently has temporary power approval, is under a stop work order issued by the Planning Director, and has not received a certificate of occupancy.

A detailed timeline of the Letendre project is enclosed (Attachment M).

#### **Amendment Request**

According to the applicant, the amendment is necessary in light of the decision rendered by the North Carolina Court of Appeals in the case of *Long v. Currituck County*. In its decision the Court found that the Letendre project does not fit within the plain language of the single-family dwelling definition. Further, the Court found that any determination that this project fits within the current definition of single-family dwelling requires disregarding the structural elements of the definition, including the singular "a" at the beginning of the definition to describe "building" and allowing multiple attached "buildings" to be treated as a single-family dwelling in clear contravention of the Unified Development Ordinance (UDO).

The applicant concludes that if the definition, as outlined in the Opinion of the Court, is applied throughout the county it will be overly restrictive, particularly for pile constructed dwellings or additions to existing dwellings. The applicant also expresses concern that the Opinion of the Court requires planning staff to evaluate construction methods instead of focusing on the intended function or use of a dwelling.

#### **Benchmarking**

The staff reviewed definitions from other North Carolina coastal communities, both counties and municipalities, to determine how consistent the Currituck County UDO is with defined terms from other jurisdictions. During this review process, staff found terms within the UDO that were unclear or undefined. The benchmarking matrix includes the following defined terms: Accessory Structure, Addition, Building, Single-Family Dwelling, and Structure (Attachment F).

Most of the surveyed definitions of Single-Family Dwelling include the reference to "[a]" building, which is one of the structural elements included in Currituck County's current definition. Two of the jurisdictions, Brunswick County and Holden Beach, appear to define Single-Family Dwelling based only upon the function of the project by referencing "[a]" dwelling unit.

Most of the jurisdictions specifically define Building except Currituck County and Emerald Isle, although several jurisdictions cross reference Structure in the definition.

While many of the jurisdictions do not define Addition, among those that do, Currituck County is the only locale that references connection by a common load bearing wall; even the North Carolina Residential Building Code does not include this structural element in its definition.

The definitions of Accessory Structure and Structure are generally consistent among the surveyed communities.

#### **Land Use Plan Consistency**

The UDO requires that the Board of Commissioners adopt a statement of consistency and reasonableness that describes whether the decision on the amendment is consistent with county adopted plans that are applicable and why the decision is reasonable and in the public interest. The 2006 Land Use Plan is the controlling plan and the following policy statements are relevant to this request:

LUP POLICY OB3: Currituck County recognizes that, on the Outer Banks in particular, "single-family" homes are being built that accommodate 15, 20, 25 or more people. Thus, these LARGE RESIDENTIAL STRUCTURES are circumventing existing zoning laws that could not anticipate the advent of these building forms. Development regulations and project approvals shall therefore be based upon the actual nature of the structure rather than the label (e.g. single-family) that may be attached to it.

LUP POLICY OB9: LARGE HOMES ON OCEANFRONT LOTS IN THE OFF-ROAD AREA should be located as far west as possible. Structures should not be built forward of protective dunes, thereby impeding dune recovery. County minimum setbacks may exceed CAMA minimum setback in the ocean erodible areas.

The applicant also included a consistency statement referencing the 2006 Land Use Plan Housing and Neighborhood Development Policies (Attachment A). Staff does not consider these policies relevant to the proposed amendment.

When considering the Land Use Plan in the context of the Letendre project, or other oceanfront development in the off-road area, the amendment **appears to have a consistency conflict with LUP POLICY OB9**. By

applying only a functional element of the single-family dwelling definition, oceanfront development is able to utilize the least restrictive CAMA Ocean Hazard setback and not locate large residential structures as far west as may otherwise be required.

The amendment has no obvious consistency conflicts when applying only a functional element of the single-family dwelling definition in a broader county-wide context.

### Text Amendment Review Standards

*Staff note: The suggested finding for each review standard is organized by the applicant's proposed amendment (Option A) and the staff's revised amendment (Option B).*

The advisability of amending the text of the UDO is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the proposed text amendment:

- (1) Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;
  - a. *Option A: for oceanfront parcels in the off-road area (Single Family Remote Zoning District), removal of the structural component from the definition of Single Family Detached Dwelling will allow new development of any size to use the least restrictive CAMA Ocean Hazard setback and not locate a large house as far west as required.*
  - b. *Option B: for oceanfront parcels in the off-road area (Single Family Remote Zoning District), including the definitional reference to "[a]" building may allow new development of any size to use the least restrictive CAMA Ocean Hazard setback and not locate a large house as far west as required, depending on how the Division of Coastal Management permits the development.*
- (2) Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
  - a. *Option A: eliminates the structural component of the single family dwelling definition and is not in conflict with the other definitions or standards in the UDO.*
  - b. *Option B: revises current terms and addresses undefined terms and is not in conflict with the other definitions or standards in the UDO.*
- (3) Is required by changed conditions;
  - a. *Option A: due to the North Carolina Court of Appeals decision in the case of Long v. Currituck County, the applicant is not able to use the improvements on their property.*
  - b. *Option B: due to the North Carolina Court of Appeals decision in the case of Long v. Currituck County, the county may no longer be able to permit single-family dwellings, and additions, as it has historically.*
- (4) Addresses a demonstrated community need;
  - a. *Option A: the applicant's interpretation of the NC Court of Appeals decision will be overly restrictive on building methods and too onerous on planning staff to evaluate construction methods.*
  - b. *Option B: this revised language is consistent with how staff has interpreted and applied the UDO in the past and how staff issues development permits.*
- (5) Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the county;
  - a. *Option A: is consistent with the intent of residential zoning districts because it only allows one single-family dwelling on a lot*
  - b. *Option B: is consistent with the intent of residential zoning districts because it only allows one single-family dwelling on a lot*
- (6) Would result in a logical and orderly development pattern; and
  - a. *Option A: only allows one single-family dwelling per lot in residential zoning districts, whatever construction methods are used.*
  - b. *Option B: only allows one single-family dwelling per lot in residential zoning districts, whatever construction methods are used.*
- (7) 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.
  - a. *Option A: does not adversely impact the natural environment.*
  - b. *Option B: does not adversely impact the natural environment.*

### Staff Recommendation

As prepared and presented by the applicant (Option A), the amendment modifies the definition of single-family dwelling to rely upon the function or use of a project. By removing the structural components of the definition, the construction method of a project is no longer a matter of review. The North Carolina Court of Appeals

decision in *Long v. Currituck County* even states the respondents (Currituck County and Elizabeth Letendre) would be correct if the UDO defined single-family dwelling based only upon the function of the project. The applicant's request uses this statement as a basis for their proposed text amendment.

The Letendre project is the obvious focal point for this amendment; however, the Board must consider this request in the broader context of the entire county. There are instances when the planning and inspections staff has permitted multiple structural elements under a common roof as a single-family dwelling (Attachment G). While it is correct that most of the single-family dwellings permitted in this manner could also be permitted as separate structures (principal and accessory), there is still precedent for approving these "buildings" as single-family dwellings.

Notwithstanding the required statement of consistency and reasonableness, a central question for the Board is how much flexibility in construction and design methodology should be allowed when applying the defined term of Single-Family Detached Dwelling. The applicant has submitted an amendment (Option A) that provides maximum flexibility - the review of a single family dwelling would be predicated only upon the use of the property, with no limits on how structural elements are attached or configured. Possible unintended outcomes of not including a structural element in the definition include occupying multiple structures that are more similar to group housing than a traditional single-family dwelling or avoiding a more restrictive CAMA Ocean Hazard setback.

As an alternative, Staff has developed a revised amendment (Option B) that better aligns the UDO definitions with the benchmarking matrix as well as how the planning and inspection staff has historically permitted single-family dwellings. This approach broadly provides flexibility in construction and design methodology, but also establishes parameters for how this flexibility can occur, thereby minimizing unintended outcomes. While this option may not directly cure the issue for the Letendre project, it is staff's opinion it is the most reasonable approach from a county-wide perspective.

In subsequent meetings to discuss this text amendment, the applicant indicated they are able to comply with Option B. **While the original staff interpretation viewed the Letendre project as a single principal structure for permitting purposes, the Court of Appeals held this interpretation was incorrect.** Similar to the current UDO standard, Option B requires a single-family dwelling to be a single building. This single building (or principle structure) standard must be met under Option B for the Letendre project to comply with the Unified Development Ordinance. It is unclear how the Division of Coastal Management (DCM) would view such a change to the Letendre project with respect to the existing CAMA Major Permit - it is logical to assume that at least part of the justification for the Court of Appeals decision remains if Ms. Letendre describes the project as three buildings to the DCM.,

The Board must also consider the consistency and reasonableness statement that is required for their approval or denial of a text amendment. Staff's review of the Land Use Plan found no explicit policy direction for developing UDO definitions related to the function, use, construction, or design methodology of single-family dwellings. There are policies that include clear direction on limiting the size and impact of large residential structures; however, as of the date of this staff report, the county has been unwilling to implement these policies. It is important to remember that this amendment request is not about the size or use of a single-family dwelling, but rather how UDO definitions are applied to these projects.

As referenced above in the staff report, when considering Option A in the context of oceanfront development in the off-road area, the amendment appears to have a consistency conflict with LUP POLICY OB9. By applying only a functional element of a single-family dwelling definition, oceanfront development is able to utilize the least restrictive CAMA Ocean Hazard setback and not locate large residential structures as far west as may otherwise be required. Option B has no obvious consistency conflicts when applying the proposed single-family dwelling definition in a broader county-wide context.

Considering the request from a county-wide context, Staff recommends adoption of a revised text amendment (Option B) because it complies with all applicable review standards of the UDO and is consistent with the 2006 Land Use Plan.

#### **Planning Board Recommendation**

Mr. Craddock motioned to deny the proposed text amendment both A and B of the applicant's and the staff's options since this text amendment conflicts with current land use and will cause a negative affect with surrounding houses and also since it would cause a problem countywide.

Ms. Overstreet seconded the motion and the motion carried unanimously.

#### **UDO AMENDMENT REQUEST**

**PB 16-15 Elizabeth Letendre**

**OPTION A**

Amendment to the Unified Development Ordinance Chapter 10: Definitions and Measurement, to remove the structural portion of the Dwelling, Single-Family Detached definition.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

**Item 1:** That Section 10.5 Definitions is amended by adding the following underlined language and deleting the strikethrough language:

**DWELLING, SINGLE-FAMILY DETACHED**

A single dwelling unit on its own lot ~~residential building containing not more than one dwelling unit to be occupied by one family, not physically attached to any other principal structure. For regulatory purposes, this term does not include but excluding~~ manufactured homes, recreational vehicles or other forms of temporary or portable housing. Manufactured buildings constructed for use as single-family dwelling units (manufactured home dwellings) are treated similar to single-family detached dwellings.

**Item 2:** The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

**Item 3:** This ordinance amendment shall be in effect from and after the    day of   , 2016.

**UDO AMENDMENT REQUEST**

PB 16-15 Staff Alternate Version

**OPTION B**

Amendment to the Unified Development Ordinance Chapter 10: Definitions and Measurement, to remove the structural portion of the Dwelling, Single Family Detached definition.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

**Item 1:** That Section 10.5 Definitions is amended by adding the following underlined language and deleting the strikethrough language:

**ADDITION**

An extension or increase in floor area or height of a building or structure ~~Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition that is connected by a fire wall or is separated by an independent perimeter load bearing wall is new construction.~~

**BUILDING**

See "Structure" Any structure having a roof supported by columns or walls and intended for supporting or sheltering any use or occupancy.

**DWELLING, SINGLE-FAMILY DETACHED**

A residential building containing not more than one dwelling unit to be occupied by one family, ~~not physically attached to any other principal structure. For regulatory purposes, this term does not include but excluding~~ manufactured homes, recreational vehicles or other forms of temporary or portable housing. Manufactured buildings constructed for use as single-family dwelling units (manufactured home dwellings) are treated similar to single-family detached dwellings.

**Staff commentary: the following definition of single-family dwelling was used by the county from April 2, 1992 until December 31, 2012. This is included as an alternative and to provide context for how single-family dwellings were previously permitted. A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units. Attachment F includes all relevant definitions from the previous UDO.**

**STRUCTURE**

Anything constructed, installed, or portable, the use of which requires a location on the ground or attachment to something having location on the ground or water, ~~on a parcel of land~~. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

**Item 2:** The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

**Item 3:** This ordinance amendment shall be in effect from and after the    day of   , 2016.

After review, Mr. Woody noted staff recommended approval of Option B, and the Planning Board recommended denial of both options A and B. Mr. Woody answered questions pertaining to definitions within the Unified Development Ordinance (UDO), the construction and layout of the structure, setbacks, CAMA concerns, and a mainland comparison.

Chairman Hanig opened the Public Hearing.

John Cronin introduced the builder, Bernie Mancuso, Mancuso Development. Mr. Mancuso said the court of appeals ruling changed the county UDO's definition of a single family dwelling by adding a structural component to it. Mr. Cronin, the property owner, talked to the Board about CAMA permitting, the home construction process and reviewed the legal challenge. They were aware of the appeal and made the decision to move forward based on their trust in those who were providing them information. Mr. Cronin said they have followed the rules and they must move forward. A video of the interior layout of the home was shown depicting the connections made between the buildings. Mr. Cronin said there are no doors closing off the bedroom wings from the main area. Mr. Mancuso said a one dwelling unit has been created, and he read statements from the Board of Adjustment hearing and the Department of Insurance Building Code Council ruling, both of which concluded the project meets requirements for a single-family dwelling. Mr. Mancuso reviewed portions of the CAMA permit which refers to the structure as a "home" and said there were no CAMA permit violations, and the conflict lies only with the court of appeals. Mr. Mancuso answered questions regarding CAMA setback requirements and square footage. He said the court of appeals was in error and did not have all of the information when they made their ruling.

Mr. McRee explained the Court of Appeals made a determination only as to whether the structure met the county's definition, not whether it met the state building code.

Mr. Mancuso reviewed possible impacts to the county and showed pictures of a similar, permitted designs and highlighted the attached buildings which appeared to exceed the 25% rule for accessory structures. Mr. Mancuso said either Option A or B would work for them.

Marie Long, Ocean Pearl and neighbor of the Letendre property, said she is not

opposed to the large home but there are three structures with only one dwelling unit. She provided information to some earlier questions posed by the Board regarding accessory structures, the construction of the gazebo, and CAMA setbacks. Ms. Long countered some of Mr. Mancuso's earlier comments and said the video only showed the top floor and the downstairs is not connected. She also reviewed the processes from Board of Adjustment to Court of Appeals. She discussed safety feature requirements determined by the Department of Insurance and said she did not appeal the CAMA permit because they did not disagree with their determination that the project was three buildings. She said the pictures presented earlier by the applicant could all be considered accessory use.

Ms. Long read a prepared statement saying the UDO allows one building and the project contains three. She said the building was constructed in such a way as to avoid the 455 foot CAMA setback requirements. She objects to the approval of the text amendment as it would change what a single-family dwelling would look like and could result in unforeseen consequences. She said the Court of Appeals decision will not affect future building and referred to several comments in the staff report to support her position. She read the names of individuals and citizen groups who wrote to Commissioners in opposition to the text amendment and asked the Board to deny the request.

Mr. Mancuso returned and explained wetlands determined the location of the structures and confirmed that CAMA suggested the three buildings due to required setbacks.

Greg Wills, Attorney for the applicant, said the set of plans submitted to CAMA is the set of plans Mr. Woody reviewed, and there were no misrepresentations. He said a structural component now exists.

Bill Collins, Ocean Hill, spoke on behalf of the Corolla Civic Association (CCA). He said the CCA voted unanimously to oppose the amendment.

Jane Overstreet expressed concerns about infrastructure and voted to deny as a member of the county Planning Board.

David Knoch, Currituck Club, Corolla, spoke in opposition to the text amendment.

Ed Cornet, Corolla, said the proposed changes would reduce the county's authority to regulate future development and was opposed to the text amendment.

Jake Overton, Outer Banks Homebuilders Association President, spoke in favor of the text amendment, and said they are asking that the county keep the UDO as it has been interpreted for years. He responded to several questions posed by the Board and discussed future construction in Currituck County.

Jay Overton of Kill Devil Hills spoke in favor of adopting the text amendment in order to continue with the intent of UDO.

Willo Kelly, Outer Banks Association of Realtors and Homebuilders Government Liason, expressed concern with existing structures becoming non-conforming. She asked for

clarification if the court of appeals decision renders some structures non-conforming.

Mr. McRee reiterated the Court of Appeals decision referred only to this project and its three independent buildings. He noted any time the Board adopts or revises text it can create non-conforming structures and savings clauses will allow for continued uses.

George Wood, CAMA expert from Kill Devil Hills, said the CAMA permit is valid and will remain so. He responded to Board questions and confirmed Mr. Mancuso would not have been permitted by CAMA to build the home had it not been three structures. He said CAMA may issue a variance but would have to be very specific. He addressed the home and contrasted various setback requirements.

Gary Dunston of Nags Head said he was not opposed to the amendment.

Jim Daffron of Moyock said changes happen all the time and this would not be out of the norm.

Bernie Mancuso stated they looked to Mr. Woody and Mr. McRee and relied on their opinion and interpretation.

Ms. Long said their lawyer addressed Ms. Kelly's concerns in a letter, and does not dispute a valid CAMA permit.

Chairman Hanig closed the Public Hearing.

Commissioner Hall stated he stopped building several times while building his home and said delays are part of doing business.

Commissioner White asked Mr. Woody if the UDO is compromised. Mr. Woody said there are some structures that could not be replicated as they sit today, but many probably could. He contrasted the Pine Island home, saying the two projects are not comparable other than they are both big houses, as Pine Island was one structure and did not have the complexity with its CAMA permit.

Commissioner Beaumont moved to deny PB 16-15, Elizabeth Letendre, because the request is not consistent with the Land Use Plan (LUP) because it allows oceanfront development to utilize the least restrictive CAMA ocean hazard setback contrary to county policy providing structures shall be located as far west as possible (LUP Policy OB-9); it does not accommodate low-density traditional single-family detached homes consistent with the purpose of the SFR zoning district; the request is not reasonable and not in the public interest because it is not required by changing conditions since single-family dwellings can reasonably meet the current standards; it allows unintended outcomes by allowing multiple structures on a property which is more similar to group housing; and quoting from the court opinion of Long v. Currituck County, page 14: "Were we to adopt respondent Currituck County's interpretation, a project including ten 5,000 square foot buildings, all attached by conditioned hallways, which will be used as a residential dwelling for one family with a kitchen facility in only one of the buildings would qualify as a Single Family Dwelling."; and, it would have a destructive effect on the natural environment and oceanfront property values. Commissioner Beaumont

clarified his motion includes denial of both Option A and Option B.

Commissioner White seconded the motion and the motion passed unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Paul M. Beaumont, Commissioner
<b>SECONDER:</b>	Bob White, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

### ) Recess

A brief recess was called. Chairman Hanig reconvened the meeting at 9:18 PM.

### B. Public Hearing and Action: PB 14-16 Lake View at Currituck:

Mr. Woody reviewed the application with the Board.

### Application Summary

#### Property Owner:

Lake View Land Development, LLC  
616 Village Drive, Suite G  
Virginia Beach, VA 23454

#### Applicant:

Lake View Land Development, LLC  
616 Village Drive, Suite G  
Virginia Beach, VA 23454

#### Case Number:

PB 07-10 Application Type: Amended Use Permit

#### Parcel Identification Number:

0015000083C0000 0015000083A0000  
0015000083B0000 0015000083D0000  
0015000083E0000

#### Existing Use:

Undeveloped

#### Land Use Plan Classification:

Rural

#### Moyock Small Area Plan:

Full Service 74.23 acres

#### Parcel Size (Acres):

Number of Units: 159

Project Density: 2.37 units per acre

Required Open Space: 25.98 acres

Provided Open Space: 26.45 acres

### SURROUNDING PARCELS

North	Agricultural	AG
South	Residential	AG
East	Residential	AG
West	Agricultural	AG

### STAFF ANALYSIS

The request submitted by Lake View Land Development, LLC is to amend the use permit to allow the perimeter community walking trail to be located closer than 10 feet from exterior property lines in some locations. A construction error resulted in approximately 620 linear feet of perimeter walkway to now be located between 7.33' and 10' from the exterior property line of the development.

## RECOMMENDATIONS

## Technical Review Committee

1. The Technical Review Committee recommends approval of the use permit amendment subject to the modified conditions noted below.
2. The following conditions of approval necessary to ensure compliance with the review standards of the UDO and to prevent or minimize adverse effects of the development application on surrounding lands for all phases of the Lake View of Currituck (strikethrough text is requested removal and renumber as appropriate):
  1. Fountain Lake Way and Green Lake Road connection stub and associated sidewalks shall terminate no more than five feet from the edge of the existing ditch or drainage easement and the developer shall post a performance guarantee with the county to ensure funds are available to complete the connections.
  2. Wheelchair ramps shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with NCDOT standards. Please provide a curb cut detail with the submittal pre-construction plans.
  3. On street parking, if installed, shall be provided in accordance with the variance issued by the Board of Commissioners.
  4. ~~The pedestrian loop trail system must be located a minimum of 10 feet from all exterior property lines and shall be located such to provide safe movement.~~
  5. A Dominion Power encroachment agreement is required to allow roads, pedestrian trails, required landscape buffers, and wastewater treatment infiltration pond within their 150 foot utility easement. The agreement must be provided at the pre-construction submittal.
  6. Pedestrian easements shall be provided on the final plat where the sidewalk extends beyond the street right-of-way and on private lots. (Development Review Manual)
  7. Given the relatively small size of the proposed lots, deed restrictions or restrictive covenants shall restrict parking of boats and recreational vehicles on individual lots or a boat/rv parking area shall be provided.
  8. The development impact statement references the pedestrian related active recreation element. In the interest of providing a complete and safe active recreation system, the applicant shall provide sidewalks along Survey Road frontage, and between the proposed residential and nonresidential uses.
  9. The required improvements shall be installed and accepted prior to submission of final plat approval for each phase.
  10. The applicant shall submit a home and building design template that will be incorporated with the approval. Residential structures shall be designed with:
    - a. Variation in exterior architectural materials (siding, roofing);
    - b. Vertical and horizontal relief in buildings (roof lines, eaves, bump outs);
    - c. Variation in house styles/types;
    - d. Inclusion of front porches, projecting bays, vestibules; and,
    - e. The units shall have proportional attributes including overall height to width ratios of existing building facades, doors, windows, projecting canopies, and other architectural features within the vernacular of the area.
  11. All open space areas surrounding the lake shall be stabilized with grass, vegetation, and proposed landscaping prior to recordation of the first phase.
  12. All visual relief open space within each phase shall be stabilized and vegetated with grass and proposed landscaping buffer.
  13. Low impact development techniques should be integrated in the project to manage treatment of stormwater. (WQ3, WQ6, WQ7)
  14. Internal pedestrian circulation shall be required for all commercial areas through the use of clearly defined walkways. (CD8, CD9)

15. In commercial areas, parking located between a commercial building and street rights-of-way shall be screened with a Type B Bufferyard. (CA3, CD7, CD8)
16. Dumpsters or similar solid waste receptacles, HVAC equipment, commercial mechanical units, or similar appurtenances shall be screened from view using a combination of solid landscaping or opaque fencing. (LUP CA3)
17. Landscape islands shall be incorporated into the commercial parking areas. (LUP CD7, CD8, CA3)
18. In commercial areas pedestrian plazas or similar shaded outdoor seating areas shall be provided. (LUP CD7, CD8, CD9)
19. Neighborhood serving commercial development shall integrate pedestrian scale and design (proportional relationship of buildings and spaces to pedestrians). Retail, office, and entertainment uses shall be appropriately designed, small-scale businesses. (LUP CD1, CD5, CD6, CD7, CD8, CD9).
20. The maximum amount of pond aeration devices allowed by NC DWQ shall be installed.
21. The driveways shall be two vehicle deep parking (including garage).
22. Cluster mailboxes shall be used.
23. The building pad elevations shall be raised a minimum of 18 inches above existing grade, except in Phase 3A where building pad elevations will meet current UDO and stormwater manual requirements in effect on April 4, 2016.
24. A solid vegetative buffer and fencing between shall be provided to the adjacent agricultural properties.
25. Phase 3A shall be subject to the development agreement and use permit, as amended.
26. A solid vegetative buffer and fencing between shall be provided to the adjacent agricultural properties except in Phase 3A where the farmland buffer shall meet the UDO requirements in effect on April 4, 2016.
27. The development shall be subject to the Homeowners or Property Owners Association requirements of Section 6.1.4 of the UDO as amended; and in effect on April 4, 2016. In addition, all streets shall meet NCDOT standards at the time of transfer to the association.

## INFRASTRUCTURE

Water	Public
Sewer	Public sewer
Transportation standards.	Streets: The streets will be designed and constructed to NCDOT
within this requested phase.	Pedestrian: A sidewalk is proposed along one side of the street
Schools	Connectivity Score: 2.0 Elementary Students Generated: 3 (39 - total for 159 lots) Middle School Students Generated: 1 (12 - total for 159 lots) High School Students Generated: 1 (22 - total for 159 lots)
Design Standards	See Amended Use Permit
Lighting lights	County approval will be required prior to installation of any street
Landscaping	50' Farmland buffer and street trees are required in Phase 3A.
Parking	None
Recreation and Park Area Dedication	Payment in lieu of recreation and park area dedication is recommended for the proposed 13 lots which is \$4,019.29
Riparian Buffers	None

## USE PERMIT REVIEW STANDARDS

A use permit shall be approved on a finding that the applicant demonstrates the proposed use will meet the below requirements. It is staff's opinion that the evidence in the record,

**prepared in absence of testimony presented at a public hearing, supports the preliminary findings**

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

Preliminary Applicant Findings:

1. The walkway is ADA compliant and adjacent slopes meet the requirements of the UDO.
2. The use will not endanger 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.**

Preliminary Applicant Findings:

1. Adjacent properties are farmlands, common areas, and golf course rough area and have an existing vegetative buffer.
2. The amendment will not injure the value of adjacent property and will be in harmony with existing land uses.

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

Preliminary Applicant Findings:

1. The Land Use Plan classifies this area as rural but adjacent to full service within the Moyock subarea.
2. The Moyock Small Area Plan classifies the area as full service. The proposed development density is 2.37 units per acre, which is within the range of densities envisioned in the Moyock Small Area Plan.
3. The following Land Use Plan and Moyock Small Area Plan policies are relevant to and support this request:

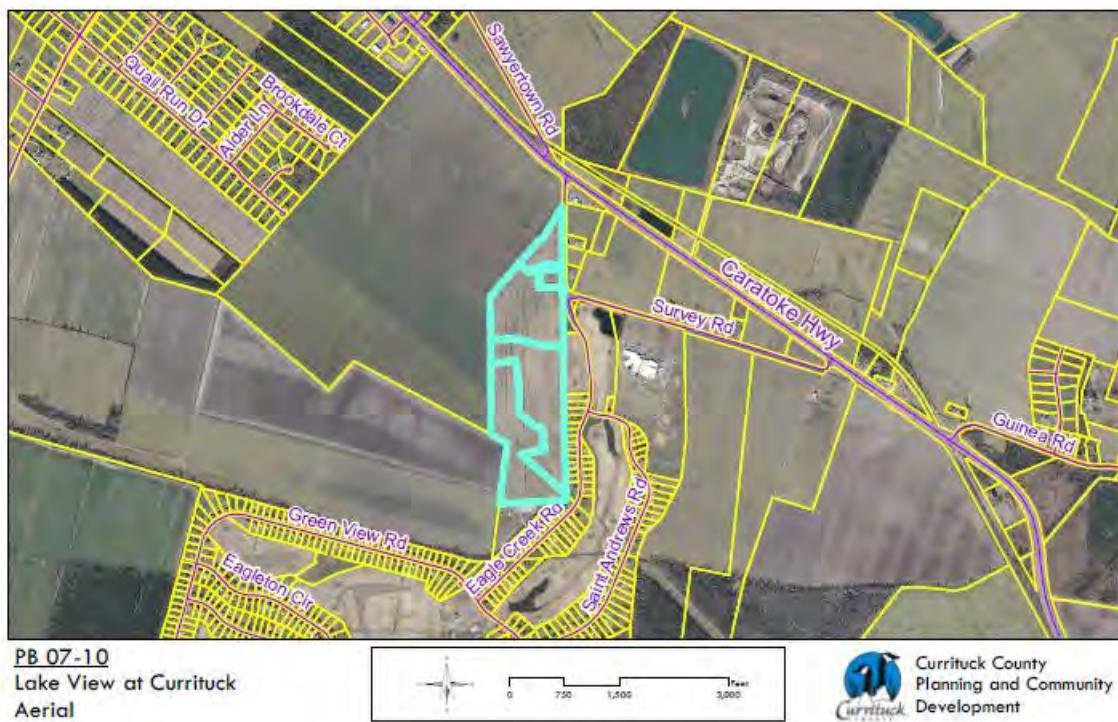
2006 LUP POLICY PR4: The county shall seek to identify, plan for and develop a system of OPEN SPACE GREENWAYS, HIKING and BIKING TRAILS as opportunities may allow. The use of (1) natural corridors such as streams and floodplains, and (2) man-made corridors such as utility and transportation rights-of-way and easements, shall be emphasized.

MSAP POLICY R1 Expand and develop recreational opportunities for all ages and users including access to the water and natural environment, walking trails, multi-purpose fields, multi-purpose community building, and other non-traditional types of recreational opportunities that are consistent with the Currituck County Parks and Recreation Master Plan.

**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.**

Preliminary Applicant Findings:

1. The change will have no impact on the county's ability to provide adequate public facilities.



Mr. Woody answered questions posed by the Board, clarifying some of the elements of the encroachment, sidewalk and ditching.

Engineer Mark Bissell said he is not certain how the error occurred, as the area was staked. He said the encroachment varies in distance and meanders some. He said there is over a mile constructed with about fifty feet encroaching into the setback. Mr. Bissell asked that the Use Permit condition be changed, and believes there would be no negative impact with modification. Mr. Woody said no feedback has been received from adjoining property owners.

Chairman Hanig believes precedents are set when the Board allows for exceptions.

No one wished to speak at the Public Hearing.

Commissioner Payment and Commissioner Hall agreed with Chairman Hanig's position. Commissioners confirmed that the sidewalk would conform with today's UDO. Mr. McRee said permit revisions are at the Board's discretion.

Commissioner Hall moved to continue the item to the next meeting to allow time for the Board to receive comments from the two neighboring property owners regarding the encroachment. Commissioner Etheridge seconded and the motion passed unanimously.

<b>RESULT:</b>	<b>CONTINUED [UNANIMOUS]</b>	<b>Next: 1/17/2017 6:00 PM</b>
<b>MOVER:</b>	Mike D. Hall, Vice Chairman	
<b>SECONDER:</b>	Mary "Kitty" Etheridge, Commissioner	
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner	

### C. Public Hearing & Action: PB 16-22 Barnhill Contracting Co.:

Mr. Woody reviewed the rezoning application with the Board.

#### APPLICATION SUMMARY

Property Owner:  
Alan Foster Forbes  
51047 Lunar Dr.  
Kitty Hawk NC 27949 Applicant:  
Barnhill Contracting Company  
PO Box 7948  
Rocky Mount NC 27804

Case Number: PB 16-22	Application Type: Conditional Rezoning
Parcel Identification Number:	01111-000-0003-0000
Existing Use:	Vacant
Land Use Plan Classification: Full Service	Parcel Size (Acres): 25 acres
Zoning History: A-40 (1975); A (1989) yard	Plan Request: Asphalt Plant and Bulk Materials Storage
Current Zoning: AG	Proposed Zoning: C-HI

#### SURROUNDING PARCELS

North	Single Family Dwelling, Active Farmland	GB
South	Single Family Dwellings	AG
East	Active Farmland	AG
West	Single Family Dwellings, Retail	GB

#### STAFF ANALYSIS

Barnhill Contracting is relocating its Currituck operations since the OBX Waterpark Adventure project is being constructed at its current location. This conditional zoning request is in direct conflict with the Land Use Plan (see below) and presents compatibility issues with adjoining residences and with its proximity to Caratoke Highway. The applicant has proposed increased buffers for the development to attempt to minimize adverse impacts. Staff's opinion is the better approach, that is consistent with county policy, is to site this type of use in an existing or planned industrial park (See attachments A and B).

The applicant states "The current zoning request with the proposed buffers will do less to diminish the desirability of existing and planned non-industrial developments that full development under the current GB zoning would allow. Further, GB development directly on US 158 will have a greater negative impact for residents located directly on the highway, verses project proposed by Barnhill contracting." Since the adoption of the current UDO on January 1, 2013, unsightly industrial development is no longer permitted in the GB zoning district, which comprises a significant number of parcels along Caratoke Highway. This policy change implements the Highway Corridor appearance policies in the Land Use Plan. While the applicant's statements regarding GB development on the corridor may have been true under the previous UDO, it is not accurate under the current UDO.

The current UDO provides for non-residential design standards (including architectural standards), community compatibility standards, off-street parking and loading standards, and landscaping standards (including streetscapes) that insure compatibility of GB uses with existing uses and protects and enhances property values and aesthetic qualities. These design standards are intended to implement the county's goals and expectations for higher quality commercial, office, and mixed-use development that is more compatible with residential development in the county. Stating that GB development on Caratoke Highway will have a greater negative impact for residents than a heavy industrial use such as an asphalt plant is unfounded. Hot mix asphalt plants will generate odor, noise, visual impacts, etc. that are not present in GB uses.

The applicant indicated at the Planning Board meeting that the proposed location is near several septic and sludge fields that operate as an industrial use. The Unified Development Ordinance permits septic and sludge fields as an accessory use to agricultural activity on a property, not as an industrial use. Septic and sludge fields are allowed in the AG and HI zoning districts and perform similarly to a traditional agricultural activity.

The NC Division of Waste Management allows septic and sludge fields, but requires continuous agricultural activities on the sites as part of the required state permit. For example:

#### Septage

Acreage is broken down into fields with a 30 day waiting period between last application and harvest. The 30 day waiting period between the last application of septic and the harvest of a crop is met by alternating septic application between fields. All crops are used as animal feed. A general summary of Division of Waste Management permits for county issued conditional use permits:

Crop	Annual Planting Season	Harvest Season
Coastal Bermuda	Spring	Cut and baled every 6-8 weeks
Grass/Ryegrass		
Millet/Corn	Spring	Fall
Wheat/Oats	Fall	Spring

#### Sludge

A crop management plan is filed for each operation. Allowable crops include: Alfalfa, Coastal Bermuda Grass, Blue Grass, Corn, Cotton, Fescue, Forest, Milo, Small Grain (Wheat/Barley/Oats), Sorghum, Soybeans, Timothy/Orchard/Rye Grass. Animal feed crops must wait 30 days after last application for harvest. Depending on the food crop, there is a 14-38 month harvest delay.

In staff's opinion the intensity of use and equipment used for a septic and sludge operation (trucks, sprayers, combines, etc.) is more similar to a traditional agricultural operation than a heavy industrial use.

### RECOMMENDATIONS TECHNICAL REVIEW COMMITTEE

The Technical Review Committee recommends **denial** of the conditional rezoning because:

- It is inconsistent with the goals, objectives, and policies of the Land Use Plan, specifically policies ID2, ID3, ID6, CA1, and ML4. (UDO Section 2.4.3.C.1)
- It does not address a demonstrated community need since the existing Barnhill Contracting Company facility does not have an asphalt plant. There has not been an asphalt plant at that location since approximately 2012. (UDO Section 2.4.3.C.4)
- It is not compatible with the existing uses surrounding the land subject to this application as this project is surrounded by single-family dwellings on three sides. It is not the appropriate zoning district and use for the land because it adjoins Caratoke Highway. (UDO Section 2.4.3.C.5)
- The project would adversely impact nearby lands as a hot mix asphalt plant will generate odor, noise, visual impacts, etc. (UDO Section 2.4.3.C.6)
- It would not result in a logical and orderly development pattern since it will not be an extension of an existing industrial zoning district. (UDO Section 2.4.3.C.7)

### PLANNING BOARD

The Planning Board recommends **denial** of the conditional rezoning due to the same reasons listed by the TRC above.

### CONSISTENCY STATEMENT

The conditional zoning request is **not consistent** with the 2006 Land Use Plan because it conflicts with the following policies:

- **POLICY ID2:** Industrial uses should not be located in areas that would diminish the desirability of existing and planned NON-INDUSTRIAL DEVELOPMENTS, nor shall incompatible non-industrial uses be allowed to encroach upon existing or planned industrial sites.
- **POLICY ID3:** Industrial development shall be located on land that is physically suitable and has unique locational advantages for industry. Advanced planning for the identification of such land shall be encouraged. Designation of "CERTIFIED" INDUSTRIAL SITES shall be especially pursued.
- **POLICY ID6:** New industrial development shall be encouraged to locate in existing and/or planned

**INDUSTRIAL PARKS.**

- **POLICY CA1:** The important economic, tourism, and community image benefits of attractive, functional MAJOR HIGHWAY CORRIDORS through Currituck County shall be recognized. Such highway corridors, beginning with US 158 and NC 168, shall receive priority attention for improved appearance and development standards, including driveway access, landscaping, buffering, signage, lighting and tree preservation.
- **POLICY ML4:** Currituck County recognizes that the appearance and traffic moving function of the NC 168/ US 158 CORRIDOR is of exceptional importance to both the near term quality of life and long-term economic prospects for residents and property owners in the Mainland Area. The Transportation and Community Appearance policy sections of this plan shall be implemented to give priority to this issue.

The request is **not reasonable and not in the public interest** because:

- It establishes a new industrial site adjoining Caratoke Highway instead of locating in an existing or planned industrial park.
- Hot mix asphalt plants will generate odor, noise, visual impact, etc. that could negatively impact the surrounding properties and dwellings.

**CONDITIONS OF APPROVAL**

Only conditions mutually agreed to by the owner(s) may be approved as part of a conditional zoning district. Conditions shall be limited to those that address conformance of development and use of the site with county regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use. No condition shall be less restrictive than the standards of the parallel general use zoning district.

**Suggested conditions of approval:**

If the board approves this request, staff recommends the following conditions:

1. A Type D buffer is required along the side and rear property lines. Show what existing vegetation will remain undisturbed (permanently) in the buffers along the sides and rear property lines and how those buffers will be supplemented to create the required buffer.
2. Show what existing landscaping will be left undisturbed (permanently) within the 300' front buffer.
3. Install a fence or wall surrounding the entire compound for safety and security reasons. A fence/wall detail is required. (UDO Section 5.3/Administrative Manual)
4. Demonstrate the location of storm drainage patterns and facilities intended to serve the development. (Administrative Manual)
5. If the property is rezoned, a major site plan submittal and review is necessary for the project.

**Applicant's Proposed Zoning Condition:**

- 300 feet wooded buffer along Highway 158 Corridor and attractive subdivision type entrance to conceal use of property.

**THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE**

Planning Board: [www.co.currituck.nc.us/planning-board-minutes-current.cfm](http://www.co.currituck.nc.us/planning-board-minutes-current.cfm)  
[<http://www.co.currituck.nc.us/planning-board-minutes-current.cfm>](http://www.co.currituck.nc.us/planning-board-minutes-current.cfm)

**Planning Board Discussion (10/11/2016)**

Tammy Graves gave a brief review of the staff report and the decision of the Technical Review Committee (TRC). Barnhill Contracting Company previously occupied land labeled as full service in Land Use Plan. The existing site was taken over by the future OBX Waterpark. The TRC reviewed PB 16-22 Barnhill Contracting Company's request for conditional rezoning at its meeting on September 21, 2016 and recommended denial.

Realtor Gary Woodson appeared before the board. Mr. Woodson said of Barnhill's fifteen plants across the state, seven are within fifteen hundred feet of residential properties and no complaints have been received. Mr. Woodson reference a letter in the Planning Board packet saying the trend of the area is industrial.

Appraiser Kim Tate appeared before the board. Mr. Tate referred to sewage spray fields and waste debris sites located in the general area of the property. He said Currituck is growing and they see industrial growth within the county. The impact on existing property would be to the older smaller homes already located next to the four lane road and these homes would possibly become businesses in the future. The property would have executive style gating with a buffer and would not be visible from the road.

Kim Hamby of East Carolina Engineering appeared before the board. Ms. Hamby said the site is suitable due

to its good sandy soil with a slope. One third of the property would be dedicated to a buffer. The existing trees are already forty-five feet in height and very dense. If they choose another site it would take years for trees to grow and produce a good buffer. The sides would be obscured and the silo would only be seen from one-quarter mile away. The silo would be the only permanent piece on site. Currituck does not refer to Sand Business, septic spray business, etc., as Industrial on the Land Use Plan, but these businesses are considered industrial in a large amount of other areas.

Shannon Douglas with Barnhill Contracting Company appeared before the board. Mr. Douglas said the emissions would be mostly steam and it has a whisper jet burner to decrease the noise. We have been in this area for twenty-five years and would like to stay in the area.

Vice Chairman Bell asked if the board had any questions for the applicant. Mr. Whiteman asked for the definition of adjacent since the applicant had referenced the proposed site being adjacent to other industrial sites, but the adjacent sites appeared to all be residential or agricultural. Mr. Woody read the definition of adjacent.

Mr. Craddock said this site does not seem suitable if you have twenty-five acres requiring a buffer which causes so much loss of land. Mr. Craddock inquired to the number of sites that were examined for potential use and Mr. Douglas said they examined every available site within fourteen miles with ten acres or more which is approximately fifty sites.

Vice Chairman Bell opened the public hearing.

Robert Griffin of Poplar Branch said this proposed site is located north and east of farmed land. He opposes the site and said it would open a new access point to NC158 and would negatively affect his property value as agricultural land.

Diane Newbern asked the board to deny the rezoning due to it not being compatible with our current Land Use Plan.

The applicant gave rebuttal. Mr. Douglas said this rezoning would be beneficial to the land owners because we are willing to put a nice buffer to obscure the site. Once this land is purchased by someone else it may become a convenient store and would lose its entire buffer.

Vice Chairman Bell closed the public hearing.

#### Board Discussion:

The board discussed the current plan which says industry has to occur in a planned industrial area and if changed all agriculture land would have to be rezoned. Mr. Craddock asked the Planning Department if there were other areas that were better suited for the Barnhill Contracting site. Mr. Woody said the county does not have a lot of land zoned Industrial, some are Light Industrial. There are currently forty-nine acres available in the Currituck Industrial Park that could be rezoned from Light Industrial to Heavy Industrial.

Vice Chairman Bell asked to entertain a motion and Mr. Cartwright recused himself from voting. Bobby Bell recommended a denial with a second from Mr. Craddock and the motion carried.



When asked about spot zoning, Mr. McRee said it could be conceived as spot zoning based on the court's definition. He said if approved and considered spot zoning, the Board would be required to make findings to show a reasonable basis for the rezoning.

Gary Woodson, Shore Drive, represented the applicant and spoke in support of approval. He reviewed the land search and described the existing site as a staging site and intermittent use as an asphalt plant. He described the manufacturing equipment and reviewed considerations such as buffers, easements, noise and the uses of nearby sites. He said the area chosen is trending toward industrial uses and contrasted the look of a proposed conservation area on the highway versus general business zoning on the corridor. He said there was no contamination of the prior site when assumed by the water park.

Commissioner Payment said spot zoning is a concern of his. Mr. Woodson said there are several different zones nearby and again stressed the infrequent need to manufacture asphalt. He believes industrial is better closer to the highway.

Chairman Hanig opened the Public Hearing.

Ken Elliott, Aydlett, owns at 1768 Caratoke Highway 500 feet from the property. He is opposed to the rezoning as it is not the best use for the land.

Fannie Newbern of Powells point, and adjacent property owner, said the rezoning will not increase the value of the property and asked the Board to deny the request.

Robert Griffin of Poplar Branch Road and adjoining land owner is opposed to the rezoning. His mother's home is nearby and he said she is also opposed. He expressed concern with spot zoning and compatibility with the land use plan.

Stephanie Smith of Kill Devil Hills and an adjacent property owner spoke in opposition. She has done appraisals as a real estate Broker and said heavy industrial is not compatible.

Ken Griggs of Powells Point represented the Griggs family and an owner of a portion of the property that sold to the water park, which left Barnhill looking for another property. He spoke in support of the rezoning, saying as good stewards over 27 years he believes Barnhill will be just as good at the other site and would hate to see them leave the county.

Mr. Woodson said value was addressed and they assessed other land within heavy-industrial zoned parks but could not make it work. He believes they chose the best possible site.

Chairman Hanig closed the public hearing.

Commissioner Payment said he had concerns with the location and possible spot zoning and moved to deny PB 16-22 because it is not consistent with the Land Use Plan: Industrial uses should not be located in areas that would diminish the desirability of existing and planned non-industrial developments; industrial development shall be located on land that is physically suitable and has unique advantages for the industry; new industry development shall be encouraged to locate in existing and/or planned industrial parks; the important economic study that we did with the development of Lower Currituck and the major highway corridors with our intent to address the landscaping and the looks of the corridor. It is not reasonable and not in the public interest because it's established a new industrial site adjoining Caratoke Highway instead of locating in a planned industrial park; it does have hot mix asphalt plant that will generate odors, noise and negative impact; and it's not compatible with our existing use of surrounding with the land subject to this application with the single-family dwellings.

The motion was seconded by Commissioner Gilbert and passed unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Mike H. Payment, Commissioner
<b>SECONDER:</b>	Marion Gilbert, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

## NEW BUSINESS

### A. An Ordinance of the Currituck County Board of Commissioners Imposing a Moratorium on the Acceptance, Processing or Consideration of Applications for Solar Arrays Pursuant to N.C. Gen. Stat. Section 153A-340(h)

Mr. McRee reviewed the Ordinance with the Board which would impose a moratorium on Solar Arrays within the county. He reviewed the proposed findings before the Board.

Commissioner Etheridge disclosed to the Board that Sun Energy has been trying to purchase 9.5 acres of family land on East Ridge Road and they sent a floral arrangement upon the passing of her sister. She said her decision would not be influenced.

A public hearing is required:

Owen Etheridge, Moyock, questioned proper advertising. He said agriculture is struggling and landowners have to do something to generate revenue. He said solar farms provide a positive tax flow for the county without demanding services. He said he has property that Sun Energy is looking at. Mr. Etheridge said the Board does not have a valid, legal reason to implement a moratorium.

Steve Fentress of Grandy Road said he has researched solar farms for a year and a half, as they are dangerous, pay very little taxes, and the only reason they exist is because of subsidies. He favors the moratorium and encouraged the Board to pass it.

Chairman Hanig closed the public hearing.

Mr. Woody answered questions, saying currently solar arrays are only allowed in conditional zoning districts. Mr. McRee said going forward the Board should be cognizant of the land use policy which discourages development of solar farms. Commissioner Payment believes we need to discuss where we want the county to be with regard to solar farms. Commissioner Hall suggested errors may have been made, and we need to do better going forward.

Commissioner Beaumont said he is sensitive to property rights, but not at the expense of our neighbors and agreed with Commissioner Hall's comments.

Commissioner Beaumont moved to approve the moratorium on solar development in the county for sixty days. The motion was seconded by Commissioner Gilbert and passed unanimously.

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

The Board of Commissioners for the County of Currituck, North Carolina, at its regularly scheduled January 3, 2017 meeting, after due advertisement as by law required, conducted a public hearing and heard from the interested public and county officials for the purpose of gathering information and taking appropriate action within the confines of applicable law regarding imposition of a moratorium on the acceptance, processing or consideration of applications for solar arrays. From the same, the Board of Commissioners makes the following findings of fact, conclusions and legislative determination:

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

- A. Pursuant to Section 4.1.2 Use Table of the Currituck County Unified Development Ordinance solar arrays are permitted when conditionally zoned in the AG (Agricultural) zoning district which is contrary to Policy ID9 of the 2006 Currituck County Land Use Plan providing that Currituck County "shall not support the exploration or development of ENERGY PRODUCING FACILITIES within its jurisdiction including, but not limited to, oil and natural gas wells, and associated staging, transportation, refinement, processing or on-shore services or support facilities."
- B. There exists in the county two solar arrays, one approximately 2,000 acres in size and located adjacent to residential uses of land, that has resulted in numerous complaints to the county of incompatible activity on the solar array site with use of adjacent property for residential purposes. Additionally, there is pending in the Currituck County Superior Court the appeal from denial of a use

permit for solar array on property most recently used as a golf course and surrounded by property developed and used for residential purposes.

- C. In a February 10, 2016 report to the North Carolina General Assembly the North Carolina Department of Environmental Quality expressed concern for the loss of agricultural land and jobs in the state from conversion of agriculturally used property to use for solar arrays and the loss of wildlife habitat due to large areas encompassed by solar arrays that are fenced and affect food availability for wildlife. The North Carolina Utilities Commission Public Staff also reported to the North Carolina General Assembly on February 10, 2016 that as of January 31, 2016 Currituck County was ranked fifth among the top ten counties in the number of pending North Carolina Utilities Commission certificate applications.
- D. County residents have reported adverse effects of solar array construction, activity and operation including aesthetic impacts and potential impacts on residential and other property values. Absent the adoption of this ordinance incompatible solar array projects may be established that could adversely impact the quality of life for county residents.
- E. It is anticipated that the county may receive a number of applications to construct new solar arrays in the near future that may be incompatible with residential and other land uses and the county's 2006 Land Use Plan requiring a period of time to develop amendment to the Currituck County Unified Development Ordinance to properly reflect land development patterns as set forth in that plan.
- F. In addition, after further consideration it is not certain or apparent that the use of land for solar arrays to the extent developed in the county and that which is anticipated is in the best interest of the county.
- G. Modification regarding the use land for solar arrays will require amendment of the Unified Development Ordinance which process will be compromised and futile if additional solar array approval is sought prior to the time required to address the concerns set forth herein.

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

Imposition of a moratorium on the acceptance, processing or consideration of solar array applications will prevent the approval of solar arrays as an acceptable use of land in the county.

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

Regulation to prohibit the use of land for solar arrays will require amendment of the Unified Development Ordinance. Therefore, time is required to review existing ordinances, draft proposed amendments and process any proposed amendment through relevant county boards or agencies. It is anticipated that a minimum of 60 days will be required to complete that process.

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

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

- A. Review the Currituck County Unified Development Ordinance and 2006 Land Use Plan to determine amendment to the Unified Development Ordinance that is advisable to meet and preserve the stated goals established by the Currituck County 2006 Land Use Plan; and

B. Process any land use ordinance amendments through the Currituck County Planning Board so that a public hearing may be held on any amendments prior to the expiration of this ordinance.

**V. IMPOSITION OF MORATORIUM**

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS FOR THE COUNTY OF CURRITUCK that after careful, deliberate and studied contemplation of the above does hereby implement and impose, effective from the date and time of the adoption of this ordinance, to and including the end of March 4, 2017, a moratorium prohibiting the acceptance, processing or consideration by any county employee, or appointed or elected board any application for use of land within the county for a solar array.

ADOPTED the 3rd day of January, 2017 at \_\_\_\_\_ o' clock \_\_\_\_\_.m.

Bobby Hanig, Chairman  
Board of Commissioners

ATTEST:

Leeann Walton, Clerk to the Board

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Paul M. Beaumont, Commissioner
<b>SECONDER:</b>	Marion Gilbert, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

**B. An Ordinance of the Currituck County Board of Commissioners Amending Section 2-65 of the Currituck County, North Carolina Code of Ordinances Providing for the Location of Public Comments on the Agenda and Time Allotted for Public Comments.**

Mr. McRee reviewed the proposed ordinance with the Board of Commissioners. The ordinance would move the public comment period toward the beginning of the agenda and reduce the time allotted for speakers to three minutes.

Commissioner Hall moved to approve. Commissioner Etheridge seconded and the motion passed unanimously.

**SECTION 2-65 OF THE CURRITUCK COUNTY, NORTH CAROLINA CODE OF ORDINANCES PROVIDING FOR THE LOCATION OF PUBLIC COMMENTS ON THE AGENDA AND TIME ALLOTTED FOR PUBLIC COMMENTS**

WHEREAS, pursuant to N.C. Gen. Stat. §153A-71 a board of commissioners may adopt its own rules of procedure in keeping with the size and nature of the board and in the spirit of generally accepted principles of parliamentary procedure.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for the County of Currituck, North Carolina as follows:

PART I. Sec. 2-65 of the Code of Ordinances, Currituck County, North Carolina is amended to read as follows

**Sec. 2-65. - Order of business.**

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- (1) Call to order;
- (2) Invocation and pledge of allegiance;
- (3) Approval of agenda;
- (4) ~~Administrative reports~~ Public comment;
- (5) ~~Public hearings~~ Administrative reports;
- (6) ~~Old business~~ Public hearings;
- (7) ~~New business~~ Old business;
- (8) ~~Board appointments~~ New business;
- (9) ~~Consent agenda~~ Board appointments;
- (10) ~~Approval of minutes~~ Consent agenda;
- (11) ~~Commissioner's report~~ Approval of minutes;
- (12) ~~County manager's report~~ Commissioner reports;
- (13) ~~Public comment~~ County manager's report;
- (14) Adjournment.

Without objection, the chair may call items in any order most convenient for the dispatch of business.

PART II. Sec. 2-69 of the Code of Ordinances, Currituck County, North Carolina is amended to read as follows:

**Sec. 2-69. - Informal public comments.**

The clerk to the board shall include on the agenda of each regular meeting time for comments or questions from the public in attendance on any item on the agenda or not on the agenda, so long as the topic is not concerned with any matter that is the subject of a public hearing on the agenda. Each person wishing to address the board shall place their name and address and the topic of ~~his~~ their comments on the sign-up sheet. ~~Each speaker shall be allotted three minutes to address the board~~. The chairman shall specify the time allotted to each speaker and shall chair the public comment portion of the agenda. When a speaker's time for informal public comment has expired, the county attorney shall advise.

PART III. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART IV. This ordinance is effective immediately upon adoption.

ADOPTED this 3rd day of January, 2017.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Mike D. Hall, Vice Chairman
<b>SECONDER:</b>	Mary "Kitty" Etheridge, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

**C) Board Appointments****1. Nominations of Commissioners to Advisories**

This item was removed from the agenda.

<b>RESULT:</b>	<b>WITHDRAWN</b>
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**2. Planning Board-Amended Agenda Item**

Commissioner Hall reappointed Fred Whiteman to serve on the Planning Board. Commissioner Gilbert seconded and the nominee was approved.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Mike D. Hall, Vice Chairman
<b>SECONDER:</b>	Marion Gilbert, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

### 3. Recreation Advisory-Amended Agenda Item

Commissioner Etheridge moved to reappoint Ellen Owens to the Recreation Advisory Board. Commissioner Payment seconded and the nominee was approved.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Mary "Kitty" Etheridge, Commissioner
<b>SECONDER:</b>	Mike H. Payment, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

### 4. Historic Preservation Commission-Amended Agenda Item

Commissioner Hall moved to appoint five applicants to serve on the Historic Preservation Commission:

Josh Bass  
 Horace Bell  
 Virginia Serpico  
 Mary Simmons  
 Barbara Snowden

Nominations were seconded by Commissioner Payment and all were unanimously approved.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Mike D. Hall, Vice Chairman
<b>SECONDER:</b>	Mike H. Payment, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

### D) Consent Agenda

Commissioner Gilbert moved to approve the consent agenda. Commissioner Beaumont seconded and the motion passed unanimously.

**RESULT:** APPROVED [UNANIMOUS]  
**MOVED:** Marion Gilbert, Commissioner  
**SECONDER:** Paul M. Beaumont, Commissioner  
**AYES:** Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

**1) Approval Of Minutes for December 5, 2016**

**1. BOC Meeting Minutes for December 5, 2016**

**2. Budget Amendments**

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
16609-514800	Fees Paid to Officials	\$ 4,200	
16609-545000	Contract Services		\$ 4,200
		<b>\$ 4,200</b>	<b>\$ 4,200</b>

**Explanation:** Ocean Sands and Crown Point Watershed (16609) - Transfer funds for advisory board fees.

**Net Budget Effect:** Ocean Sands and Crown Point Watershed Fund (16) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10510-526000	Advertising	\$ 618	
10330-424000	Officer Fees		\$ 618
		<b>\$ 618</b>	<b>\$ 618</b>

**Explanation:** Sheriff (10510) - Increase appropriations for legal advertisement for writ of execution advertisement. Funds collected from Renaissance Construction.

**Net Budget Effect:** Operating Fund (10) - Increased by \$618.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10510-532000	Supplies	\$ 6,000	
10510-590000	Capital Outlay	\$ 18,000	
10330-449900	Miscellaneous Grants		\$ 24,000
		<b>\$ 24,000</b>	<b>\$ 24,000</b>

**Explanation:** Sheriff (10510) - Increase appropriations to record 100% funded grant from the NC Department of Public Safety to purchase 3 radar trailers, bicycle helmets, locks and reflective gear and community watch brochures.

**Net Budget Effect:** Operating Fund (10) - Increased by \$24,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
12543-516103	Buildings & Grounds	\$ 2,800	
12543-553003	Dues & Subscriptions	\$ 2,100	
12543-545000	Contract Services		\$ 2,800
12543-536103	Personal Protective Equipment		\$ 2,100
		<b>\$ 4,900</b>	<b>\$ 4,900</b>

**Explanation:** Moyock Volunteer Fire Department (12543) - Transfer budgeted funds within the Moyock VFD fire contract per email from Chief Pervere dated 12/7/2016.

**Net Budget Effect:** Fire Services Fund (12) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10450-590000	Capital Outlay	\$ 6,671	
10350-468000	Sale of Fixed Assets		\$ 6,671
		<b>\$ 6,671</b>	<b>\$ 6,671</b>

**Explanation:** Tax (10450) - Increase appropriations to record fees associated with foreclosure on property at 103 Bluefish Court, Grandy.

**Net Budget Effect:** Operating Fund (10) - Increased by \$6,671.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
61818-533800	Chemicals		\$ 4,500
61818-561000	Professional Services		\$ 5,000
61818-590000	Capital Outlay		\$ 16,850
61818-532000	Supplies	\$ 15,000	
61818-516000	Repairs and Maintenance	\$ 10,000	
61818-514500	Training and Education	\$ 350	
61818-514000	Travel	\$ 1,000	
		<b>\$ 26,350</b>	<b>\$ 26,350</b>

**Explanation:** Mainland Water System (61818) - Transfer for operations of the Mainland water system.

**Net Budget Effect:** Mainland Water System Fund (61) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10415-561000	Professional Services	\$ 80,000	
10380-488400	ABC Profits		\$ 80,000
		<b>\$ 80,000</b>	<b>\$ 80,000</b>

**Explanation:** Legal (10415) - Increased appropriations for increases in attorney fees for litigation.

**Net Budget Effect:** Operating Fund (10) - Increased by \$80,000.

Account Number	Account Description	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10511-561000	Professional Services		\$ 8,000
10511-516200	Vehicles Repairs	\$ 6,800	
10511-516000	Repairs & Maintenance	\$ 1,200	
		<b>\$ 8,000</b>	<b>\$ 8,000</b>

**Explanation:** Detention Center (10511) - Transfer budgeted funds for repairs for the remainder of this fiscal year.

**Net Budget Effect:** Operating Fund (10) - No change.

Account Number	Account Description	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
64848-516000	Repairs & Maintenance	\$ 2,500	
64848-532000	Supplies	\$ 2,500	
64848-590000	Capital Outlay		\$ 5,000
		<b>\$ 5,000</b>	<b>\$ 5,000</b>

**Explanation:** Maple Commerce Park (64848) - Transfer for operations of the Maple Commerce Park sewer system.

**Net Budget Effect:** Maple Commerce Park Sewer fund (64) - No change.

### 3. Surplus Resolution-Animal Quarantine Building

#### SURPLUS RESOLUTION

**WHEREAS**, the Board of Commissioners of Currituck County, North Carolina during its regularly scheduled meeting held on \_\_\_\_\_, 2017, authorized the following, pursuant to GS 160A and 270(b), that the following property is declared surplus and is to be demolished:

Asset # 5344 - Animal Quarantine Building (damaged in Hurricane Matthew)

ADOPTED THIS THE 3rd day of January, 2017.

CURRITUCK COUNTY BOARD OF COMMISSIONERS

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 Chairman

ATTEST:

---

 Leeann Walton  
 Clerk to the Board

#### 4. Surplus Resolution - 2008 Nissan Titan (EMS)

##### RESOLUTION

WHEREAS, THE Board of Commissioners of the County of Currituck, North Carolina during its regularly scheduled meeting authorized the following, pursuant to G.S. 160A and 270(b) that the property listed below will be sold at auction, negotiated sale or will be disposed of if not sellable.

County

Asset Tag

Description

Serial Number

6809	2008 Blizzard Nissan Titan	1N6AA07C68N352304
------	----------------------------	-------------------

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the County of Currituck reserves the right to reject any and all bids.

ADOPTED, this 3RD day of January, 2017.

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 Bobby Hanig, Chairman  
 County of Currituck, Board of Commissioners

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 Leeann Walton  
 Clerk to the Board (Seal)

#### 5. EIC-Community Services Block Grant Funding Submission

##### E) Commissioner's Report

Commissioner Hall encouraged citizen service on advisory boards.

Commissioner Gilbert said the Wounded Warriors were coming to Currituck on Sunday for a parade and will be passing the judicial center between 9 and 9:45 AM.

##### F) County Manager's Report

No report.

#### PUBLIC COMMENT

***Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 5 minutes.***

No one wished to speak at public comment.

#### CLOSED SESSION

1. Closed Session pursuant to G. S. 143-318.11(a)(3) to consult with the county attorney in order to preserve the attorney-client privilege related to the following matters: R.F. London and Mermaids, Inc. v. Currituck County and Currituck County Board of Adjustment; Swan Beach Corolla, LLC v. Currituck County; Ocean Hill Commercial, LLC and others v. James Bickford, Midlantic Builders, Ocean Hill 1 Property Owners Association and Currituck County; Ocean Hill Commercial, LLC and others v. Currituck County; Moyock Commercial Properties, LLC and Charles S. Friedman v. Currituck County; Coastland Corporation and James E. Johnson, Jr. v. Currituck County and Ocean Sands Water and Sewer District; Ecoplexus, Inc., Fresh Air Energy II, LLC and Currituck Sunshine Farm, LLC v. Currituck County and Teresa Wheeler v. Currituck County.

Chairman Hanig moved to enter Closed Session pursuant to G.S. 143-318.11(a)(3) to consult with the county attorney in order to preserve the attorney-client privilege related to the following matters: R.F. London and Mermaids, Inc. v. Currituck County and Currituck County Board of Adjustment; Swan Beach, LLC v. Currituck County; Ocean Hill Commercial, LLC and others v. James Bickford, Midlantic Builders, Ocean Hill 1 Property Owners Association and Currituck County; Ocean Hill Commercial, LLC and others v. Currituck County; Moyock Commercial Properties, LLC and Charles S. Friedman v. Currituck County; Coastland Corporation and James E. Johnson, Jr. v. Currituck County and Ocean Sands Water and Sewer District; Ecoplexus, Inc., Fresh Air Energy II, LLC and Currituck Sunshine Farm, LLC v. Currituck County; and Teresa Wheeler v. Currituck County. Commissioner Etheridge seconded and the motion passed unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Bobby Hanig, Chairman
<b>SECONDER:</b>	Mary "Kitty" Etheridge, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

## ADJOURN

### Motion to Adjourn Meeting

The Board had no further business after returning from closed session. Commissioner Beaumont moved to adjourn and was seconded by Commissioner Gilbert. The motion passed unanimously and the regular meeting of the Board of Commissioners was concluded.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Paul M. Beaumont, Commissioner
<b>SECONDER:</b>	Marion Gilbert, Commissioner
<b>AYES:</b>	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

ber 2017049

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10795-536000	Uniforms	\$	100		
10795-576010	Youth Cheerleading			\$	100
		<hr/>	<hr/>	<hr/>	<hr/>
		\$	100	\$	100

**Explanation:** Parks and Recreation (10795) - Transfer budgeted funds for additional uniform costs associated with new employee.

**Net Budget Effect:** Operating Fund (10) - No change.

Minute Book # \_\_\_\_\_, Page # \_\_\_\_\_

Journal # \_\_\_\_\_

Clerk to the Board \_\_\_\_\_

per

2017050

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
66868-533200	Lab Tests	\$ 4,000	
66868-513000	Utilities	\$ 20,000	
66868-545000	Contracted Services		\$ 1,000
66868-590000	Capital Outlay		\$ 3,000
66360-450500	Administrative Revenue		\$ 20,000
		<hr/> \$ 24,000	<hr/> \$ 24,000

**Explanation:** Southern Outer Banks Water System (66868) - Transfer funds for State required monitoring and increases in utility costs.

**Net Budget Effect:** Southern Outer Banks Water System Fund (66) - Increased by \$20,000.

Minute Book # \_\_\_\_\_, Page # \_\_\_\_\_

Journal # \_\_\_\_\_

Clerk to the Board

ber

2017051

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10461-516200	Vehicle Maintenance	\$	1,685		
10380-484001	Insurance Recovery			\$	1,685
		<hr/>	<hr/>	<hr/>	<hr/>
		\$	1,685	\$	1,685

**Explanation:** Public Utilities (10461) - Increase appropriations to record insurance proceeds for Public Utilities vehicle.

**Net Budget Effect:** Operating Fund (10) - Increased by \$1,685.

Minute Book # \_\_\_\_\_, Page # \_\_\_\_\_

Journal # \_\_\_\_\_

Clerk to the Board \_\_\_\_\_

per 2017052

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10510-590000	Capital Outlay	\$	2,000		
10510-511010	Data Transmission			\$	2,000
		<hr/>	<hr/>	<hr/>	<hr/>
		\$	2,000	\$	2,000

**Explanation:** Sheriff (10510) - Transfer funds to capital outlay to purchase guns that were ordered in FY 2016 and not delivered until December 2016.

**Net Budget Effect:** Operating Fund (10) - No change.

Minute Book # \_\_\_\_\_, Page # \_\_\_\_\_

Journal # \_\_\_\_\_

Clerk to the Board

ber 2017053

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10430-503000	Salaries - Part Time	\$	300		
10430-5034300	Poll Workers			\$	300
		<hr/>	<hr/>	<hr/>	<hr/>
		\$	300	\$	300

**Explanation:** Elections (10430) - Transfer funds due to additional part-time salaries required during the November election.

**Net Budget Effect:** Operating Fund (10) - No change.

Minute Book # \_\_\_\_\_, Page # \_\_\_\_\_

Journal # \_\_\_\_\_

Clerk to the Board \_\_\_\_\_

per

2017054

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
63838-571501	Recycling - Electronics	\$ 45,000	
63838-571500	Recycling		\$ 45,000
		<u><hr/></u> \$ 45,000	<u><hr/></u> \$ 45,000

**Explanation:** Solid Waste (63838) - Transfer budgeted funds for increase in electronics recycling.

**Net Budget Effect:** Solid Waste Fund (63) - No change.

Minute Book # \_\_\_\_\_, Page # \_\_\_\_\_

Journal # \_\_\_\_\_

Clerk to the Board \_\_\_\_\_

cer

2017055

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
68888-553000	Dues & Subscriptions	\$ 1,386	
68360-470000	Utilities Charges		\$ 1,386
		<u>\$ 1,386</u>	<u>\$ 1,386</u>

**Explanation:** Walnut Island Sewer District (68888) - Increase funding for required permits.

**Net Budget Effect:** Walnut Island Sewer District Fund (68) - Increased by \$1,386.

Minute Book # \_\_\_\_\_, Page # \_\_\_\_\_

Journal # \_\_\_\_\_

Clerk to the Board \_\_\_\_\_

cer

2017056

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
67878-545100	Credit Card Fees	\$	600		
67878-553000	Dues & Subscriptions	\$	200		
67878-531000	Fuel			\$	800
		<u>\$</u>	<u>800</u>	<u>\$</u>	<u>800</u>

**Explanation:** Moyock Central Sewer System (67878) - Transfer budgeted funds for operations.

**Net Budget Effect:** Moyock Central Sewer System Fund (67) - No change.

Minute Book # \_\_\_\_\_, Page # \_\_\_\_\_

Journal # \_\_\_\_\_

Clerk to the Board \_\_\_\_\_

per

2017057

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10512-511010	Data Transmission	\$ 800	
10512-514800	Fees Paid to Officials	\$ 1,500	
10512-532000	Office Supplies	\$ 1,000	
10512-532512	Pet Supplies/Meds/Food	\$ 5,000	
10512-557100	Software License Fees	\$ 87	
10512-513000	Utilities		\$ 6,229
10380-483512	Animal Services Donations		\$ 2,158
		<u><u>\$ 8,387</u></u>	<u><u>\$ 8,387</u></u>

**Explanation:** Animal Services and Control (10512) - Increase appropriations for fees paid to the Animal Services Advisory Board and transfers for operations.

**Net Budget Effect:** Operating Fund (10) - Increased by \$2,158.

Minute Book # \_\_\_\_\_, Page # \_\_\_\_\_

Journal # \_\_\_\_\_

Clerk to the Board \_\_\_\_\_

CURRITUCK COUNTY  
NORTH CAROLINA

SALARY AND COMPENSATION RESOLUTION  
FOR THE FISCAL YEAR ENDING JUNE 30, 2017

BE IT RESOLVED by the County Commissioners that the following salaries and other compensation

SECTION 1 - BOARDS

Board of Adjustments

Members \$50. per meeting

Airport Advisory Board

Members \$50. per meeting

Animal Services and Control Advisory Board

Members \$50. per meeting

Board of Commissioners

Chairman \$1300. per month  
Members \$1200. per month

Stormwater Advisory Board

Members \$50. per meeting

Economic Development Board

Members \$50. per meeting

Tourism Development Authority

Members \$50. per meeting

Board of Elections

Chairman	\$75. per month plus \$8.00 per meeting hour plus travel reimbursement at per diem
Members	\$25. per month plus \$8.00 per meeting hour plus travel reimbursement at per diem
Chief Judge	\$170. on election day, \$20. on canvass day, \$15. on instruction day plus travel reimbursement at per diem rate, \$20. on recount day
Judge	\$125. on election day, \$15. on instruction day plus travel reimbursement at per diem
Assistants	\$110 on election day, \$15. on instruction day plus travel reimbursement at per diem

Board of Equalization

Members	\$100. per day; \$50. per half day
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Land Transfer Tax Appeals Board

Members	\$50. per meeting
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Library Board of Trustees

Members	\$50. per meeting
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Other

Jury Commission	\$50. per day
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Planning Board

Members	\$50. per meeting
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Social Services Board

Members	\$50. per meeting
---------	-------------------

## Chairman

\$75. per meeting

Parks and Recreation Board

Members	\$50. per meeting
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Fire And EMS Board

Members	\$50. per meeting
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Senior Citizens Advisory Board

\$50. per meeting

Nutrition Board

\$50. per meeting

Payments made to board members (except the Board of Commissioners and Board of Elections) are considered fees for the payment of all expenses incurred while serving in a voluntary capacity unless additional compensation is provided for in the enacting ordinance.

### SECTION 3 - NEW APPOINTMENTS

#### Compensation

The County Manager is authorized without further approval to enroll new personnel at a grade level not to exceed that of step 3; however, no new position may be established or salaries increased without the approval of the County Board of

#### Minimum Wage

Notwithstanding the above, the County Manager may raise the salary of any employee to the Federal minimum wage level without further approval from the County Board of Commissioners.

### SECTION 4 - PART-TIME AND TEMPORARY EMPLOYEE BENEFITS

County employee benefits, including but not limited to vacation leave, holiday leave,

#### PART-TIME/TEMPORARY PAY RATES

#### Hourly

EMT Basic - Temporary	\$14.24 per hr
EMT Intermediate - Temporary	\$16.40 per hr
EMT Paramedic - Temporary	\$19.81 per hr
Airport Lineman - Part-time	\$14.24 per hr
Library Assistant I - Part-time	\$13.31 per hr
Clerical Position - Temporary	\$11.45 per hr
Deputy Trainee - Part-time	\$17.03 per hr
Deputy I - Part-time	\$17.95 per hr
Deputy II - Part-time	\$18.88 per hr
Detention Officer - Part-time	\$14.22 per hr
Maintenance Helper - Temporary	\$12.38 per hr
Camp Counselors - Seasonal	\$9.00 per hr
Visitor Relations Coordinator - Temporary	\$13.31 per hr
Tour Guides - Whalehead	\$13.31 per hr

Summer Intern - Whalehead	\$13.31/\$13.82 per hr
Telecommunicator Trainee - Part-time	\$15.74 per hr
Telecommunicator - Part-time	\$16.10 per hr

### Parks & Recreation Temporary Staff

Janitor - All Sports	\$7.25 per hr
Scorekeeper - All Sports	\$7.25 per hr
Score Board Operator - Tackle Football	\$18.00 per game
Site Coordinator - All Sports	\$14.50 per hr
Referee - 5 - 9 yr old Basketball	\$18.00 per game
Referee - 10 - 15 yr old Basketball	\$20.00 per game
Referee - Flag Football	\$18.00 per game
Referee - Youth Volleyball	\$18.00 per game
Referee - Soccer	\$18.00 per game
Umpire - Baseball Ages 7 - 8	\$18.00 per game
Umpire - Softball 8U	\$18.00 per game
Umpire - Baseball Ages 9 - 10	\$24.00 per game
Umpire - Softball 10U - 16U	\$24.00 per game
Umpire - Baseball Ages 11 - 15	\$27.00 per game
Umpire - Softball 18U	\$30.00 per game

### SECTION 5 - TRAVEL

#### Per Diem Rate

Subject to the approval of their department head, employees are entitled to travel reimbursement for use of a personal vehicle while transacting County business at the current standard mileage rate allowed by the Internal Revenue Service.

Adopted this 6th of June 2016.

Amended this 17th of January 2017.

ATTEST.

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Bobby Hanig  
Chairman, Board of Commissioners

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Leeann Walton  
Clerk to the Board



# ARTICLE 7

## Employee Benefits

### Section 701 Insurance Benefits

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- A. The County offers both medical and dental coverage, under the County's group health plan, to all regular full-time employees and regular part-time employees occupying budgeted positions. For clarification purposes, regular part-time employees are those who work a minimum of thirty hours per week. Each employee shall be enrolled for coverage in accordance with the Health Plan provisions. Coverage will begin on the first day of the month following a waiting period of thirty (30) calendar days. Resigning employees will be responsible for paying their individual medical and dental premiums if they are not on the payroll a minimum of half the working days during the calendar month of resignation. Employees who are on FMLA as of their resignation date will have individual medical and dental coverage paid for by the County.
- B. Payroll deductions shall be allowed, at the option of the employee, to provide coverage for dependents in accordance with the provisions of the County's Group Health Plan.
- C. All employees with a hire date through September 1, 2007 who are covered under the County's Group Health Plan and retiring from the County with at least ten years continuous creditable service with Currituck County and eligible for retirement benefits from the North Carolina Local Government Retirement System, are eligible for coverage under the County's Group Health Plan. Employees who have left full-time employment with Currituck County and returned to full-time County service with no longer than a ten (10) day break in service are eligible to contribute accumulated vacation time to account for the break in service. This accumulated vacation time contribution will be based on an hour-for-hour basis not to exceed eighty hours. The County will pay a pro rata share, according to the following schedule, of a retiree's individual coverage but in no instance shall the benefit cost exceed that of an active employee:

## Section 609 Military Leave

- A. An employee who is a member of the National Guard or Armed Forces Reserve will be allowed eighty hours (80) ~~ten (10)~~ ~~work days~~ of military training leave with pay annually and will be entitled to receive regular compensation in addition to the compensation received from the U.S. Armed Forces while on military leave. If such military duty is required beyond this period of eighty hours (80) ~~ten (10)~~ ~~working days~~, the employee shall be eligible to take accumulated personal leave or be placed on military leave-without-pay status or reschedule the work hours at the option of the employee.
- B. While on military leave with partial or full pay the employee's leave credits and other benefits shall continue to accrue as if the employee remained with the County during this period. Employees who are guardsmen and reservists have all job rights specified in the Veterans Readjustment Assistance Act and USERRA. While on military leave without pay, the employee's benefits (such as vacation, etc.) do not accrue but when the service member returns to work, he or she would be entitled to the accrual schedule that would apply if he or she had been continuously employed during military service.
- C. The County may request that the employee provide copies of official orders or other appropriate documentation for all periods of active duty training. The employee may also be asked to provide a memorandum from the Unit Commander for periods of inactive duty training (weekend duty).
- D. Employees who are called to active duty or returning from active duty will have the rights provided for under the Uniformed Services Employment and Re-employment Rights Act of 1994. More information can be found at the following link: <http://webapps.dol.gov/elaws/vets/userra/userra.asp>

## Section 610 Court Leave

County employee called for jury duty or as a job-related court witness for the Federal or State government, or a subdivision thereof, is entitled to a leave with pay for the period of absence required. Leave is granted for the period of time an employee is required to be in court. Employee shall be required to provide documentation from the court verifying attendance. When the court releases an employee with instructions to report back at a later time, the employee is expected to return to the regular work schedule for that day. The employee is entitled to regular compensation, plus fees received for jury duty. Employees shall take vacation or unpaid leave for court appearances that are not jury duty or

**Step 13 Dismissal:** Dismissal is the removal of an employee from duty, thereby ending the employment with the County. This is the most severe disciplinary action which may be imposed by management and requires approval by the Department Head and County Manager. Prior to deciding to dismiss a regular employee, the following steps shall be taken:

- The supervisor and/or Department Head recommending dismissal shall discuss the recommendation with the Human Resources Director and the County Manager before any action is taken.
- The supervisor shall attempt to hold a conference with a regular employee. Advance written notice of the conference shall be given to the employee of the time, location, and the issue for which dismissal has been recommended. The amount of advance notice shall be as much as is practical under the circumstances. The purpose of this conference is to receive and consider any new information the employee may present. If an employee fails to, or refuses to, attend the conference, the employee may be dismissed. The supervisor shall notify the employee of the conference in writing to include the reasons for the conference.
- The conference will be conducted by the supervisor limiting attendance to the employee, the employee's supervisor, the Human Resources Director, and the Department Head. If the person conducting the conference chooses, security may be present. No attorney shall represent either side at the conference.
- In the conference, the supervisor will inform the employee orally and in writing of the recommendation for dismissal and summarize the reasons supporting the recommendation. The employee will then have the opportunity to respond to the facts presented and to add any additional information in the favor.
- After the conference, management will review and consider any new information presented in the conference and will, after twenty-four hours (24) and within three (3) working days after the conference, make a decision regarding the recommended dismissal. These time frames shall be utilized to minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information.
- If the decision is to dismiss the employee, the County Manager will give the employee written notice of the dismissal and the reasons for the dismissal, the effective date of the dismissal, and the employee's grievance rights. A copy of the written notice of dismissal will be made part of the employee's personnel record.

The County Manager may immediately suspend an employee for twenty-four hours (24) for egregious behavior. In cases of egregious behavior the employee is not given advance written notice of a conference, nor the right to a conference.

The County Manager may then dismiss the employee twenty-four hours (24) after the suspension. In the County Manager's discretion, the effective date for the dismissal of a regular employee for unsatisfactory job performance may be up to two (2) weeks from the date of notice of dismissal. The effective date of the dismissal may not be earlier than the date of the letter of dismissal or it may not be later than fourteen (14) calendar days after the date of the letter of dismissal.

## **Section 912 Employee Grievance**

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A regular employee wishing to grieve a final written warning or dismissal may present the matter using the grievance procedure prescribed in Article 10 of this ordinance. Time limits for filing a grievance do not begin until the employee receives written notice of any applicable grievance rights.

## **Section 913 Inactivation of Warnings**

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Disciplinary actions are deemed inactive after the Department Head or Supervisor notes in the employee's personnel file that the reason for the disciplinary action has been resolved; or eighteen (18) months have passed since the first warning or disciplinary action during which the employee does not have another active warning or disciplinary action and the Department Head has not issued to the employee written notice of an extension to the disciplinary period. Department Heads may consider the history of inactive warnings if additional personal conduct and/or job performance incidents arise.

## **Section 914 Re-employment**

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Currituck County will consider former employees for re-employment. Employees who are dismissed or who resign in lieu of dismissal for unacceptable personal conduct or for grossly inefficient job performance will not be eligible for rehire. Employees leaving the County for any other reason, including performance reasons or position elimination, are eligible to apply for rehire. If a former employee reapplies, the County will review performance and employment history, as well as current qualifications. A review of the requirements for the open position and a determination whether to proceed with the interview process will be conducted based on qualifications and requirements. Rehired former employees will be subject to serving a probationary period.

## **Personnel Policy Non-Substantive Changes Effective January 7, 2017**

### **Article 1**

Page 1.3 Section 104 Definitions: Essential Public Safety Personnel. Change "Emergency Management Services" to "Emergency Medical Services".

Page 1.5 Section 104 Definitions: Pay Period. Remove B.

### **Article 2**

Page 2.2 Section 205 Location of Position Classification Plan: Remove underline.

### **Article 3**

Page 3.2 Section 304 Hiring Rate/Starting Salary: Change "Emergency Management Services" to "Emergency Medical Services".

Page 3.3 Section 308 Longevity Pay Plan: Remove space before period in 1<sup>st</sup> sentence of 4<sup>th</sup> paragraph.

### **Article 4**

Page 4.1 Section 403 Position Vacancy Announcements: 1 Remove underline.

### **Article 5**

Page 5.7 Section 507 A.3. Use and Operation of County Owned Vehicles: § Remove underline.

Page 5.21 Section 513 Credentials: Remove underline. Change "Emergency Management Services" to "Emergency Medical Services".

Page 5.21 Section 514 Use of Personal Cell Phone and Mobile Devices: Remove underline.

### **Article 6**

Page 6.2 Section 603 Holidays - When Work is Required: full-time, part-time Remove underlines.

Page 6.5 Section 606 E. Sick Leave: . Remove period.

Page 6.7 Section 608 B.2.e. 1 Remove underline.

### **Article 7**

Page 7.3 Section 704 Retirement Benefits: Governmental. Remove underline.

Page 7.4 Section 709 A. Benefits - Other (Fixed): 1. Remove underline.

### **Article 8**

Page 8.2 Section 803 Pre-employment Testing: **Insert sentence** "If the second test is negative, the results of the initial positive test will not be used to deny employment". If the second test ~~is negative~~, is again positive, the offer of employment with the County will be withdrawn. **Delete "is negative"**.

### **Article 9**

Page 9.2 Section 904 Separation Due to Administrative Termination: Remove "that" as it is duplicated.

**Page 9.6 Section 911 Steps in Disciplinary Procedure:** Change "or" to "of".

Page 9.12 Section 911 Step 13: Steps In Disciplinary Procedure: respond to the facts presented and to add any additional information in the favor. Remove underline.

Page 9.13 Section 911 Step 13. 1 Remove underline.

Page 9.13 Section 912 Employee Grievance: Grievance. Remove strike-thru.

Page 9.13 Section 913 Inactivation of Warnings:    Remove underline.

## **Article 11**

Page 11.1 Section 1102 C. Information Open to the Public: services. Remove "s".

Page 11.3 Section 1104 H.1. Confidential Information: Remove space.

per OS20170001

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

Account Number	Account Description	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
60808-516001	Repairs and Maintenance		\$ 7,000
60808-533601	System Supplies	\$ 7,000	
60808-545005	Purchase Water From Other	\$ 50,000	
60808-545100	Credit Card Processing	\$ 2,500	
60360-470000	Utilities Charges - Water		\$ 25,000
60360-470001	Utilities Charges - Sewer		\$ 25,000
60380-481000	Investment Earnings		\$ 2,500
		<u>\$ 59,500</u>	<u>\$ 59,500</u>

**Explanation:** Ocean Sands Water and Sewer District (60808) -Increase appropriations increased water usage and transfers for additional repairs of the sewer system.

**Net Budget Effect:** Ocean Sands Water and Sewer District Fund (60) - Increased by \$52,500.

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Clerk to the Board

per OS20170002

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
60808-561000	Professional Services - Water	\$ 30,000	
60808-561001	Professional Services - Sewer	\$ 30,000	
60390-499900	Retained Earnings Appropriated		\$ 60,000
		<u><u>\$ 60,000</u></u>	<u><u>\$ 60,000</u></u>

**Explanation:** Ocean Sands Water and Sewer District (60808) - Increase appropriations for legal fees.

**Net Budget Effect:** Ocean Sands Water and Sewer District Fund (60) - Increased by \$60,000.

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Clerk to the Board

per OS20170003

## BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 17th day of January 2017, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
60808-587059	T T - Ocean Sands Construction	\$ 300,000	
60390-499900	Retained Earnings Appropriated		\$ 300,000
		<u>\$ 300,000</u>	<u>\$ 300,000</u>

**Explanation:** Ocean Sands Water and Sewer District (60808) - Transfer fund balance to construction fund for sewer replacement and expansion.

**Net Budget Effect:** Ocean Sands Water and Sewer District Fund (60) - Increased by \$300,000.

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Clerk to the Board

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## BUDGET AMENDMENT

The Currituck County Board of Commissioners sitting as the Tourism Development Authority, at a meeting on the 7th day of November 2016, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2017.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
15447-516000	Repairs & Maintenance		\$ 1,000
15447-516200	Vehicle Maintenance	\$ 1,000	
15447-516001	Signs		\$ 480
15447-511000	Postage & Telephone	\$ 480	
		<hr/> <u>\$ 1,480</u>	<hr/> <u>\$ 1,480</u>

**Explanation:** Occupancy Tax - Tourism Related/Whalehead (15447) - Operating transfers for this fiscal year.

**Net Budget Effect:** Occupancy Tax Fund (15) - No change.

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Clerk to the Board \_\_\_\_\_