

Holden Beach West Road Is Private, Judge Rules

BY RAHN ADAMS

A Superior Court judge's ruling last week upheld the rights of private property owners in the Holden Beach West subdivision, but at the same time guaranteed limited public access to the western end of Holden Beach.

Last Thursday in Brunswick County Superior Court in Bolivia, Judge Bruce Briggs of Madison County ruled in favor of Holden Beach Enterprises Inc., the defendant in a lawsuit brought by a group called Concerned Citizens of Brunswick County Taxpayers Association and the state.

Concerned Citizens attorney James Maxwell of Durham and Assistant Attorney General Allen Jernigan of Raleigh both gave notice of appeal immediately following the judge's ruling last week.

Holden Beach Enterprises was represented by Southport attorney Robert Serra.

The suit, which was first filed in 1985, involved the citizens' contention that Ocean View Boulevard West through the subdivision was a public right-of-way to Shallotte Inlet, even though the developer had constructed a gate and guardhouse at the entrance to Holden Beach West to restrict public traffic.

After it was filed in 1985, the lawsuit was withdrawn, and a modified suit was refiled in 1986.

"That's Round One—or Round Two, should I say," commented Concerned Citizens spokesman Raymond Cope, after hearing the judge's ruling last week. "It's going to the Court of Appeals, and we'll just have to wait and see what happens."

"I think we've got a right to be on that end of the island, and that's the way it stands," Cope said.

Following the trial, Holden Beach Enterprises President James Griffin Jr. said he was pleased with Briggs' ruling because "it's kind of the way we felt

about it (the case) all along."

Griffin said Friday that the guardbooth at Holden Beach West would remain manned, as it had been for the past 2½ years, and that trespassers would be prosecuted, if necessary.

"Anyone that goes in 'hostilely,' we would feel we have to (prosecute)," Griffin said, "but we don't want to do that to anybody... We have to protect our interests and the interests of the property owners."

But from the state's standpoint, the rights of the public are just as important.

(See ROAD, Page 2-A)

HOAG & SONS BOOK BINDERY
12/31/88
SPRINGPORT MI 49284

BRUNSWICK BEACON

Twenty-sixth Year, Number 2

1987 THE BRUNSWICK BEACON

Shallotte, North Carolina, Thursday, November 19, 1987

25c Per Copy

38 Pages Plus Insert

Round 1 In Tank Debate Ends With Neither Group Swayed

BY SUSAN USHER

Round one in the Holden Beach septic tank permit bout ended Tuesday afternoon with both property owners and health officials firmly entrenched in opposing corners of the ring.

More than 60 property owners and local officials packed into the town hall to meet with state and local environmental health officers. They were concerned that 1982 regulations were being unfairly applied to finger canal lots built in the 1960s, with significant impact on the island's future development, loss of its current tax base and loss of personal investments.

For approximately one month, issuance of septic tank permits in the canal areas of Holden Beach have been "on hold" by the Brunswick County Health Department, awaiting advice from state officials.

That hold was lifted Tuesday. "We got our answer today," said John Crowder, supervisor of the county health department's environmental section. "We will be taking appropriate actions from this day on."

That doesn't mean, he added, that all permit applications for canal lots will be denied since sites are evaluated on their own merits.

Many in the audience didn't like

what they heard during the 2½-hour meeting; some said afterwards they planned to fight the stepped-up enforcement.

Space Also Problem

"You've got high density city-type development trying to use septic systems," Steve Steinbeck, supervisor of the state's on-site sewage disposal program, told the group. "You can't stretch those lots but so far. Not only are soils a problem, you've got a space problem as well."

"There's not enough space (on most lots) to build a house, park cars and dispose of sewage even if the soils were perfect."

One property owner, Fayetteville plumbing contractor Landis Chavis, disagreed with the state's assessment of the situation. He has taken his complaints as far as Attorney General Lacy Thornburg's office, and isn't through fighting.

He told the group, "You people should do something; I'm certainly going to do something as soon as I get back to my office... We need some help at Holden Beach."

He asked the officials to treat him and other property owners alike—to either approve his lots or not approve all the others.

Several property owners indicated later that help might be available through the state legislature.

Also, Steinbeck told incoming commissioner Georgia Langley that he would be willing to document in writing to the Environmental Protection Agency some of the island's specific problem areas, but that he wouldn't support efforts for a "regional" sewer system, only smaller innovative or cluster type proposals.

Chavis sought permits for two Durham Street canal lots which county sanitarians said were unsuitable. He hired a consultant whose test results were questioned by the state.

Steinbeck and state soil specialist/troubleshooter Robert Uebler confirmed the local site assessment in a second check of those lots and two others Tuesday morning.

If not exactly the same, problems encountered with Chavis' lots are representative of those on other finger canal lots for which the owners have been unable to obtain permits.

Fill 'Unpredictable'

The lots checked Tuesday were over original or naturally occurring soils that restrict wastewater flow and allow it to run into the canals, Uebler said. Specifically, he said the fill was over silty-type soils that also had low permeability clay. Some of the lots didn't meet requirements for one-foot separation from the water

table at mean high tide; some were wet, with cattails and other types of wetland vegetation.

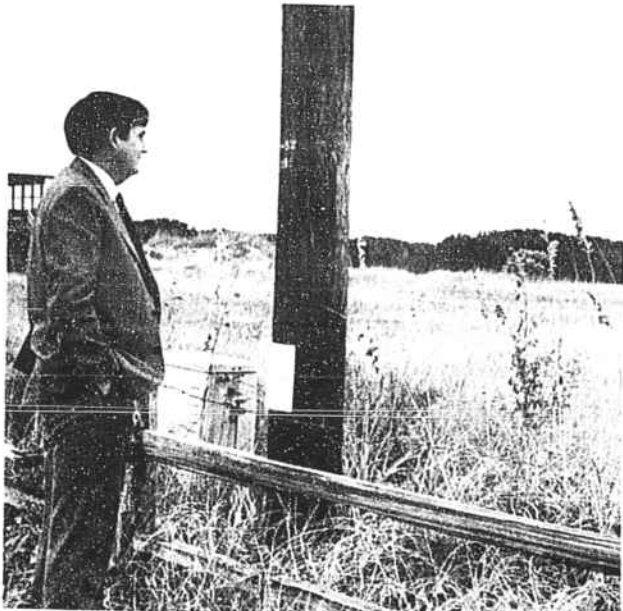
In general, he said, fill dirt is unpredictable in how they handle wastewater, which is why the naturally-occurring soil on each potential septic tank site is considered. "It tends to hold sewage back or it all tends to go through at one spot; you don't get uniform flow or treatment. It typically goes through too quickly for adequate treatment and pollutes the canals."

Another property owner, High Point Street resident Bob Moyers, said he was denied a permit for the lot adjacent to his home.

"You say the soil is unsuitable and is going into the groundwater. Can you go to my lot and do a test that shows I am polluting?" he asked. "I am polluting. I want to do something about it. Otherwise I don't want to be arbitrarily denied a permit."

One option, not recommended for individual property owners because of the expense, is a dye injection test that checks the "travel time," or time it takes wastewater to reach the canals. Uebler said times have been generally four hours to 60 hours. But viruses of health concern, such as hepatitis, live much longer.

(See ROUND 1, Page 2-A)



JUDGE BRUCE BRIGGS visits Lot 1-A at the intersection of Sunset Boulevard and Main Street in Sunset Beach last Wednesday following the conclusion of the trial between the Sunset Beach Taxpayers' Association and Beach Enterprises Inc., over ownership of the lot.

Judge Is Weighing Sunset Beach Decision

BY RAHN ADAMS

"It strikes a pretty even balance," said Judge Bruce Briggs last week in describing the yet to be resolved legal battle between the Sunset Beach Taxpayers' Association and Beach Enterprises Inc., over ownership of what is known as "Lot 1-A," an oceanfront lot at the intersection of Sunset Boulevard and Main Street.

The lawsuit, filed in 1985 by the taxpayers' association and several of its members, was heard last week in Brunswick County Civil Superior Court in Bolivia. The non-jury trial began Nov. 9 and ended Nov. 11, after about 1½ days of testimony.

Briggs, of Madison County, last Wednesday instructed attorneys from both sides to file proposed judgments in the case within 20 days for his further consideration.

"I'll either sign one or the other, or write a new one," Briggs told the attorneys.

The taxpayers' association was represented by Durham attorney James Maxwell, while Beach Enterprises was represented by Shallotte attorney Roy Trest.

The suit claims that the public has the right to use the lot, which was first platted in 1955 as an extension of Sunset Boulevard to the Atlantic Ocean.

Local developer Ed Gore and Beach Enterprises reclaimed the lot in 1970, after the Town of Sunset Beach passed a resolution which allowed dedication of the right-of-

way to be withdrawn.

At the close of last week's trial, Briggs indicated that his decision in the case could go in either side's favor.

"I feel like once a right-of-way has been dedicated and people have bought property relying on that... then it should stay in force," Briggs said in open court. "On the other hand, I certainly don't fault Mr. Gore and his father (M.C. Gore)... for being involved in free enterprise."

At Briggs' request during last Wednesday's lunch recess, Bailiff Billy Gurganus drove the judge to Sunset Beach for a firsthand look at Lot 1-A.

But whatever Briggs' judgment, the case undoubtedly will be appealed.

"I think both sides would tell you candidly, I think the case is going on appeal no matter what," Maxwell said last week. "The judge did comment on that. He said he sort of hoped it would (be appealed), because it's an important issue that's not been tried, and we sort of need to know."

"I'm pleased with the way the case went from our standpoint," Maxwell said. "We put on the best evidence we can to get that road or that parking lot or whatever it's going to be—we've done the best we can do to get that."

"I can draw a judgment that says we ought to win. I'm sure Mr. Trest

(See JUDGE, Page 2-A)

Shallotte Firefighters Threaten Walk Out

BY DOUG RUTTER

Shallotte Volunteer Fire Department members have threatened to walk out unless the town board agrees to negotiate with them on recent revisions of ordinances and bylaws affecting the department.

According to Ed Ferster, vice president of the newly-formed Shallotte V.F.D. Association, "Either they talk with us Wednesday night, or we'll just leave our gear there."

Ferster said fire department members voted unanimously at a Nov. 9 special meeting to walk out unless the town shows its willingness to negotiate at the Nov. 18 regular meeting. He added that approximately 80 percent of the 12 current members were present at the special meeting.

"If they don't (negotiate)," explained Ferster, "then what it amounts to is that they will have to find some new firefighters."

Aldermen David Gause and Wilton Harrelson could not comment on

whether or not the town would renegotiate with the fire department.

Harrelson said, "Personally, I'm always willing to listen. I don't have a closed mind to anything."

According to Gause, "I wish they wouldn't even consider doing something like that."

He added that when the board made the revisions, it did so for the benefit of the town and the fire department.

"It's a bad situation," explained Gause. "I just hope we can get it all straightened out."

Shallotte Mayor Jerry Jones was out of town and could not be reached for comment.

Ferster predicted that if the members quit, the people within the fire district will either be left with no protection or poor quality protection.

Shallotte Aldermen revised five separate ordinances and bylaws affecting the fire department at their Nov. 4 meeting.

One amended ordinance, which was contested at the time by fire

department member Ricky Danford, called for the annual appointment of the fire chief by the town board following the submission of the names of three nominees from the fire department membership.

The town board also adopted an ordinance authorizing the town clerk to disburse all funds of the department and requiring that all expenditures or purchases of more than \$500 have prior approval of the board of aldermen.

Departmental bylaws were also

amended to require annual elections of an assistant chief, captain, two lieutenants, secretary and treasurer. Another change in the bylaws prohibits probationary members from voting in departmental elections of officers.

Concerning these revisions, Ferster said, "We're really dissatisfied with the changes. It's just not the way things should be done."

He said the fire department was

(See FIREFIGHTERS, Page 2-A)

Deadlines Moved Up Next Week

All deadlines of The Brunswick Beacon will be a day earlier next week because of the Thanksgiving holiday.

Since there will be no mail delivery Thursday, local mail subscribers should receive their paper on Wednesday.

In order to publish a day earlier, the deadline for real estate advertising is moved to 5 p.m. Thursday. The deadline for all other advertising and news copy is noon Monday.

The Beacon office will be closed Thanksgiving and will reopen Friday morning at 8:30.

Two Drug Defendants Plead Guilty; Both Receive Suspended Sentences

BY RAHN ADAMS

A Holden Beach businessman and a Lillington woman—both indicted by a special investigative grand jury in June—entered guilty pleas to reduced charges and received suspended sentences Monday in Brunswick County Superior Court.

One other drug defendant who was indicted by the same grand jury was sentenced on Tuesday and received an active prison term.

According to the Brunswick County Clerk of Court's office, James D. Griffin Jr., 45, of Holden Beach, pleaded guilty Monday to a charge of felonious possession of between one

gram and 28 grams of cocaine, in a plea bargaining arrangement.

Judge Henry W. Hight Jr. gave Griffin a two-year suspended sentence, with two years of supervised probation.

Griffin also was ordered to pay a \$250 fine and court costs, and to perform 50 hours of community service work within the next 150 days.

In June, Griffin was indicted on two counts of conspiracy to traffic and two counts of trafficking by possession, involving more than 28 grams of cocaine.

According to Special Assistant District Attorney Bill Wolak, Griffin

faced a maximum sentence of 60 years in prison on the original indictments. The mandatory minimum sentence would have been 28 years.

Tami Lynn Miller, 28, of Lillington, former director of a local program for troubled youths, also pleaded guilty Monday to felonious possession of between one gram and 28 grams of cocaine, in a plea bargain.

Like Griffin, she received a two-year suspended sentence, with two years of supervised probation.

Also, she was ordered to pay a \$250 fine, court costs and \$1,000 attorney fees, and to perform 50 hours of community service work within 150 days.

Ms. Miller was originally indicted on three counts each of conspiracy to traffic in cocaine and trafficking by possession, with a possible maximum sentence of 90 years, Wolak said.

Wolak Tuesday explained why Griffin and Ms. Miller were allowed to enter guilty pleas to reduced charges.

"Both of those people totally cooperated with the investigators in identifying other defendants who have been convicted," Wolak said.

He added that consideration also was given to the severity of the original charges against Griffin and

Ms. Miller as compared to more serious charges against other drug defendants.

Lloyd Neil Strickland, 36, of Route 1, Winnabow, was sentenced Tuesday after entering guilty pleas on Nov. 2 to 10 counts of conspiracy to possess cocaine, involving amounts of more than 28 grams to more than 400 grams.

Wolak said Strickland received a 15-year active prison term and a \$100,000 fine.

Some 20 drug defendants from indictments in June and July have entered guilty pleas and are awaiting

sentencing in Brunswick County Superior Court.

According to Wolak, at least 12 of that number are expected to be sentenced Nov. 19 and 20.

Wolak said defendant Alvin Bryan Willis III, 32, of Shallotte, will be sentenced Dec. 7 in Whiteville, which is the 13th District's next scheduled session of Superior Court.

Willis pleaded guilty Nov. 2 to one count of conspiracy to traffic in more than 400 grams of cocaine, in a plea bargaining arrangement.

Six of the 38 drug defendants who were indicted here in June and July are awaiting trial.