

CURRITUCK COUNTY
NORTH CAROLINA
AUGUST 16, 2004

The Currituck County Board of Commissioners met prior to the regular meeting at 5:00 p.m. with Mediacom representatives. The Board also met to discuss the animal control amendment.

The Currituck County Board of Commissioners met on Monday, August 16, 2004, at 7:00 p.m. for their regularly scheduled meeting at the Historic Courthouse in the Commissioners Meeting Room with the following members present: Chairman O'Neal and Commissioners Miller, Martin, Bowden and Gregory.

The Reverend Glenn McCranie was present to give the invocation.

Approval of Agenda

Commissioner Bowden moved to amend the agenda by deleting Items 8, 9 and 11 and add to consent agenda schedule of tax values. Commissioner Gregory seconded the motion. Motion carried.

- Item 3 Presentation of Community Service Award to Whalehead Board of Trustee members.
- Item 4 Cheryl Lange, Albemarle Commission Youth Services Coordinator, to make a presentation on program for youth in Currituck county.
- Item 5 Action on PB 87-56 Monterey Shores Phase 3: Amended sketch plan/special use permit to create 36 residential lots and a commercial area for a temporary disposal area located immediately north of Monterey Shores, Phase 1, Poplar Branch Township.
- Item 6 Public Hearing and Action on amendment to Animal Control Ordinance.
- Item 7 Public Hearing and Action on ordinances dealing with public nuisance.
- Item 8 Public Hearing and Action on PB 04-12: Amendment to Section 940 of the UDO to allow patio homes within the planning unit developments.
- Item 9 Public Hearing and action on PB 94-49 CURRITUCK CLUB: Amended Sketch Plan/Special Use Permit to replace 45 previously approved condo units with 32 patio homes, Tax Map 126G, Lot D, Poplar Branch Township.
- Item 10 Public Hearing and Action PB 03-28 Waterside Villages of Currituck, amended sketch plan to add 18 additional single family units for a total of 250 units in this planned adult retirement community.
- Item 12 Willo Winterling, Currituck Chamber, to discuss business licenses. Consideration of UDO amendment for Motor Vehicle Dealerships and Repairs.
- Item 13 Appointment to ABC Board.
- Item 14 Appointment to Whalehead Drainage District.
- Item 15 Consent Agenda:
 - Approval of July 19, 2004, minutes.
 - Approval of sale of property located in Albemarle Sound Beach Estates.
 - Approval of grant for Project Lifesaver.
 - Tax Dept. schedule a public hearing on the proposed schedules, standards and rules for September 7, 2004.
 - Moyock Fire Dept. purchase of Generator for Station #3.

Item 16 Albemarle Mental Health Quarterly Fiscal Monitoring Report.
Commissioner's Report
Item 17 County Manager's Report
Adjourn

Public Comment:

Chairman O'Neal opened the public comment period.

Commissioner Bowden questioned the UDO as it related to a carport constructed on an empty lot next to property owner's home. He requested that staff needed to review the rules.

Bob Henley, Coinjock, stated that the Ruritan Club would be presenting a Wildlife Festival in September.

Gladys Taylor, Courthouse Road, expressed her desire for the county to give back property that once belonged to her father.

There being no further comments, Chairman O'Neal closed the public comment period.

Presentation of Community Service Award to Whalehead Board of Trustee members.

Chairman O'Neal presented a Community Service Award to the following:

Jerry Wright
Walton Carter
Nancy Wright
Neal Conoley
Andy Keeney
Travis Morris
Norris Austin

Cheryl Lange, Albemarle Commission Youth Services Coordinator, to make a presentation on program for youth in Currituck county.

Cheryl Lange, Albemarle Commission, reviewed the Workforce Investment Act. The program is to provide employment and training services to youth in-school 14-18 and out of school unemployed, underemployed, high school dropouts 16-21 years old.

Action on PB 87-56 Monteray Shores Phase 3: Amended sketch plan/special use permit to create 36 residential lots and a commercial area for a temporary disposal area located immediately north of Monteray Shores, Phase 1, Poplar Branch Township.

Gary Ferguson, Planning Director, reviewed the request.

**STAFF ANALYSIS FOR THE BOARD OF COMMISSIONERS
MEETING DATE: JULY 19, 2004**

**ITEM: PB 87-56 MONTERAY SHORES, PUD, AMENDED SKETCH PLAN
APPROVAL**

LOCATION: Immediately north of Whalehead Club, Poplar Branch –
Outer Banks Township.

ZONING DISTRICT: RO1

OWNER:
Corolla Bay LLC
821 Ocean Trail
Corolla, NC 27927

APPLICANT/AGENT
Coastal Engineering & Surveying
934 W. Kitty Hawk Road
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Corolla Light PUD – zoned RO1
SOUTH: Buck Island - zoned R01
EAST: Whalehead Subdivision - zoned R01
WEST: Currituck Sound

PURPOSE OF REQUEST:

The applicant requests an Amended Sketch Plan/Special Use Permit approval for Corolla Bay, located in Monterey Shores Phase 3, to show the location of the wastewater treatment system. This treatment facility will serve the 36 home sites found in Phase 1 in addition to the 7.32 acre commercial area on the eastern side of Ocean Trail, NC 12, and the 1.23 acre commercial site on the western side of Ocean Trail, NC 12. The water for the development will be provided by Currituck County.

This plant is designed in accordance with the new guidelines requiring 200 gallons per day per bedroom for resort oriented housing in addition to the providing sufficient capacity for the two commercial areas. The plant will be designed to produce “reuse” quality effluent from the plant, thus the water coming “out” of the plant will be of sufficient quality and purity to qualify for reuse. This plant will be expandable to handle future demands as they arise.

In conjunction with the wastewater treatment system, a spray bed area is required. It is proposed to locate the spray bed in a temporary disposal area over 21 home sites which are allocated for Phase 3. The term “temporary” might become permanent.

Also shown is a phasing layout for all of Section 3. As noted on the sketch plan, Herring Street is proposed to be improved and continue through Whalehead Club subdivision. If opposition to this occurs, and the BOC does not wish for this connection, then the developer will need to provide a cul-de-sac or redesign Virgin Gorda Crescent to provide a turnaround.

CHANGES APPROVED BY BOC ON DECEMBER 6, 1999

1. Decrease density from 658 units to 598 units (lose of 60 units). Overall density will be reduced from 2.36 units/acre to 2.14 units/acre which is below the 3 units/acre allowed within PUD's.
2. Increase of open space from 38.6% (137.22 ac.) to 39.3% (139.75 ac.) which exceeds the minimum 35% required within PUD's.
3. Increase commercial area from 20.05 ac. to 34.1 ac. which equals 9.59% (up to 10.0% allowed). Applicant is requesting a LBH designation.
4. Addition of 2 amenities areas (1 at south end; 1 at north end) plus dedication of a sound access easement to Currituck County at the south end.
5. Proposed roadway connections with Whalehead Subdivision at both Herring and Perch Streets.

CHANGES APPROVED BY BOC ON SEPTEMBER 11, 2000

1. To show a 33,000sf. Food Store on northernmost commercial parcel;
2. To depict a minor variation in the overall commercial boundary ("404" wetland areas have been delineated and taken out of the original commercial area);
3. To convert 72 SF lots to 24 MF and 48 Hotel units;
4. To show parking lot within area to be dedicated to Currituck County for public sound access; and,
5. Increase minimum lot area within all SF lots.

CHANGES APPROVED BY BOC ON JUNE 17, 2002

1. Further defined development intent within the "Phase IV" commercial portion of Corolla Shores. Phase IV portion of the amended sketch plan showed approximately 75,000 square feet of retail/restaurant commercial complex within ten (10) proposed buildings. It should be noted that this did not represent an increase in overall commercial acreage within Corolla Shores as it remains at 14.05 acres.
2. Increased the total number of single family home sites from 92 to 116.
3. Reduced the total number of multi-family/hotel/lodge density from 72 to 48.
4. Reduced open space from 28.92 acres to 23.67 acres which still exceeds the minimum 35% required with PUD's.

CHANGES APPROVED BY BOC ON DECEMBER 1, 2003

1. The 10.07 acre site that Currituck County has purchased is reflected on the new Sketch Plan and has been designated residential. This area was previously designated as commercial.
2. The total amount of commercial area in Phase 3 was reduced from 14.05 acres to 13.95 acres.
3. The total number of single family home sites was reduced from 134 to 115 units.
4. Open space in Phase 3 has been reduced from 23.67 acres to 14.28 acres. Under this proposal, the total amount of open space for Monterey Shores will be 124.46 acres which meets the 35% minimum required.

STAFF COMMENTS:

- There is a pond in Phase 3 which could serve either as a stormwater retention basin or as a pond for the reuse quality water from the wastewater treatment system.

- Based on the stormwater retention needs and opposition to a tie in with the Whalehead Club subdivision, the developer should provide a turnaround at the boundary between Corolla Bay and the Whalehead Club Subdivisions..
- This plan was reviewed by the Technical Review Committee in May, 2004. The plan has been revised and adequately addresses concerns noted during the meeting.

STAFF RECOMMENDATION:

Staff recommends approval of the Amended Sketch Plan/Special Use Permit of Monterey Shores, Phase 3, Corolla Bay with the following conditions:

1. That Virgin Gorda Crescent be redesigned to provide a turnaround at the border with the Whalehead Club;
2. That the summary table be corrected to reflect the 115 residential units approved for Phase 3 as per the Amended Sketch Plan approved December 1, 2003;
3. That as a continuing condition to this approval, the applicant will continue to meet all requirements of the county's Unified Development Ordinance; and
4. That applicant meet all requirements of the county's Unified Development Ordinance, including but not limited to, parking spaces, landscaping, shading, not exceed maximum building height, lighting, lot coverage, etc.

Terry Ruggles, WHPOA, stated that there was standing water and opposes the road design and drainage issues.

George Mears, Corolla, is an engineer and opposed comments made by the representative of the developer.

Dave Holton, representing the developer, was present to answer questions and clarify some of the concerns.

Commissioner Bowden stated he opposes wells on public parking lots and does not agree with this plan.

Commissioner Miller moved to approve. Chairman O'Neal seconded the motion. Motion failed with Commissioners Martin, Gregory and Bowden voting no.

Public Hearing and Action on amendment to Animal Control Ordinance.

Kate McKenzie, Attorney, reviewed the amendment to the ordinance.

Chairman O'Neal opened the public hearing.

Dusty Fall, Rowland Creek Road, stated that she has many cats and does not want to give them up.

Martha Midgett, Harbinger, expressed her concerns with cats that are kept in a house with no owner and they are fed once a week. She supports the ordinance.

Nathan Sawyer, expressed concerns with odor from house that has many cats.

There being no further comments, Chairman O'Neal closed the public hearing.

Commissioner Martin moved to adopt the ordinance with changes noted. Commissioner Miller seconded the motion. Motion carried.

Animal Nuisance Ordinance

3-92. Definition of Animal

Under this animal nuisance ordinance, an animal shall be defined as any creature under the care, ownership, or possession of a human.

3-93. General duties of keepers/owners of animals

It shall be unlawful for any person to keep animals under unsanitary or inhumane conditions or to fail to provide proper food and water daily, shelter from the weather and reasonably clean quarters for such animals, or to fail to provide proper medical attention for sick, diseased or injured animals, as well as adequate inoculation against disease according to the species of the animal kept.

3-94. Public nuisances prohibited.

(a) The actions of an animal constitute a public nuisance when an animal disturbs the rights of, threatens the safety of, or in any way injures a member of the general public, or interferes with the ordinary use and enjoyment of another's property.

(b) It shall be unlawful for any person to own, keep, possess, or maintain an animal in such a manner as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or possessor of an animal are hereby declared to be a public nuisance and are therefore unlawful:

- (1) Having an animal that disturbs the rights of, threatens the safety of, or in any way injures a member of the general public, or interferes with the ordinary use and enjoyment of one's property.
- (2) Allowing or permitting an animal to damage the property of anyone other than its owner/possessor, including, but not limited to, turning over garbage containers, or damaging gardens, flowers, or vegetables, or defecating upon the property of another.
- (3) Maintaining the animals in an unsanitary environment which results in offensive odors or is dangerous to the animal or the public health, safety, or welfare, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.
- (4) Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density, or location of the animals on the property.
- (5) Allowing or permitting an animal to bark, whine, howl, crow, or cackle in a long-continued or frequent fashion so as to interfere with the reasonable use and enjoyment of neighboring premises.
- (6) Maintaining an animal that is diseased and dangerous to the public health.
- (7) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, animals walked on a leash by owners, bicycles, or other vehicles.
- (8) Being repeatedly at large and failing to exercise sufficient restraint necessary to control a dog.
- (9) Failing to confine a female dog or cat while in heat in a building or secure

enclosure in such a manner that she will not be in contact with another dog or cat or attract other animals; provided, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of the animal which is being bred. There shall be an exception to this section for dogs and cats on agricultural premises.

In addition to any other enforcement remedies available under this chapter, if the animal control supervisor declares an animal to be a nuisance under this section, then the animal control supervisor has the authority to order the owner to confine the animal in accordance with the animal control supervisor's instruction. It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order.

3-95. Mistreatment of animals prohibited.

It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions.

(a) *Adequate food and water.* No person owning or responsible for any animal may fail to supply the animal with sufficient supply of food and water as prescribed in this section.

(1) *Adequate food.* The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be provided in a sanitary manner.

(2) *Adequate water.* A constant access to a supply of clean, fresh water provided in a sanitary manner.

(b) *Necessary medical attention.* No person owning or responsible for any animal shall fail to supply the animal with necessary medical attention when the animal

is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.

(c) *Proper shelter, protection from the weather and humanely clean conditions.* No person owning or responsible for any animal shall fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section.

(1) *Indoor standards.* Minimum indoor standards of shelter shall be as follows:

- a. The ambient temperature shall be compatible with the health of the animal.
- b. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

(2) *Outdoor standards.* Minimum outdoor standards of shelter shall be as follows:

- a. When direct sunlight is likely to cause heat exhaustion of an animal tied or confined outside, shade by natural or artificial means (shelter) shall be provided to protect the animal from direct sunlight.
- b. Shelter shall be as follows:
 1. An artificial shelter with a minimum of three sides, a floor above ground, and a waterproof roof shall be provided as necessary for the health of the animal.
 2. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size with a floor above ground and waterproof roof shall be provided to accommodate the dog and protect it from the weather

and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of dog due to cold weather for an extended period of time.

- (3) *When confinement prohibited.* No animal may be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.
- (4) *Standards for chaining.* No animal may be chained outdoors unattended without a chain/cable designed and placed to prevent choking or strangulation. Such chain/cable or restraint shall not be less than ten feet in length with the area free of obstacles so that the animal may have access to his food, water, and shelter.
- (5) *Space standards.* Minimum space requirements for both indoor and outdoor enclosures shall include the following:
 - a. The housing facility shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.
 - b. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.
- (6) *Humanely clean conditions.* Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleaning to remove excretions and other waste materials, dirt and trash to minimize health hazards.

(d) *Properly fitted collars required.* An owner or keeper of a dog or cat shall not permit injury to or infliction of pain upon such animal from an improperly

fitting or embedded collar.

3-96. Sanctions and penalties.

Any person who fails, refuses or otherwise violates this article shall be subject to the following sanctions or penalties:

(a) Pursuant to G.S. 19A-46, animal control may obtain a magistrate's order to take possession of the animal.

(b) If the conditions pose an immediate threat to the health or safety of the animal or the public, animal control may summarily seize the animal in accordance with the following:

(1) A notice of seizure describing the exigent circumstances warranting the seizure shall be left with the owner or affixed to the premises. Examples of circumstances include but are not limited to the following:

- a. Unsanitary conditions resulting from the number of animals involved.
- b. Unsanitary conditions resulting from the owner's inability or unwillingness to clean the area where the animals are housed.

(2) The owner of the animal seized pursuant to this section may appeal the seizure by filing a request for appeal with the office of the sheriff as set forth in section (f).

(3) If the owner fails to redeem the animal within the time limit provided by this chapter or fails to timely request an appeal or fails to timely appeal the sheriff's decision, the animal shall become the property of the county.

(c) If it is determined by the animal control officer that the animal is not in immediate danger or the problem which gives rise to the inadequate or cruel treatment can be corrected within 72 hours, the office

may, in lieu of subsection (a) or (b) of this section, issue a written notice of violation directing the owner or possessor of the animal to correct the problem within 72 hours. If the condition or problem is not corrected within 72 hours, the animal control officer may take action as outlined in subsection (a) or (b) of this section.

(d) *Criminal penalties.* Any person who violates any section of this chapter is guilty of a class 3 misdemeanor as defined by state law at the time of the offense, unless otherwise provided by law.

(e) *Civil penalties.* Animal control is authorized to assess civil penalties in the following manner:

- (1) A civil penalty of \$25.00 shall be assessed for the first violation of any section of this chapter.
- (2) A civil penalty of \$75.00 shall be assessed for the second violation of any section of this chapter.
- (3) A civil penalty of \$150.00 shall be assessed for the third violation of any section of this chapter.
- (4) A civil penalty of \$250.00 shall be assessed for the fourth and any subsequent violations of any section of this chapter.

A civil penalty is due and owing upon assessment. Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding civil penalty that was assessed prior to the animal being surrendered or as a result of the animal being impounded. If payment of a civil penalty is not received within five working days of issuance, animal control may initiate legal proceedings to recover the amount of the penalty.

(f) *Challenge to seizure order.* If the owner wishes to challenge the seizure order, then the owner must submit in writing the basis of the challenge within five days of the seizure of the animal, not counting the day of seizure of the animal. The challenge must be filed with the office of the Director of the area

Health Department. The Director is authorized to hear and decide the challenge to the seizure order. The Director shall conduct a hearing to determine if the decision is correct or incorrect that the animal is in circumstances that pose a danger to the public safety or public health, is a nuisance as defined herein, or is being subjected to unsanitary or inhumane conditions as defined herein. If the Director determines the circumstances to pose a danger to the public safety or public health, then the animal control officer shall turn the animal over to the county animal shelter. The decision of the Director shall be mailed to the person requesting the appeal by certified mail, return receipt requested within three working days of the final decision. If the decision of the Director is against the person requesting the appeal, such person may appeal the decision to the county superior court by filing a notice of appeal and petition for judicial review within ten days of the written decision. Any sanctions or penalties imposed shall be enforceable during the pendency of any appeal. In the event of an appeal to the courts from the sheriff's decision, the animal shall be confined at the animal shelter, and a cash bond shall be requested for all costs whatsoever attendant upon county's retention of the animal.

Public Hearing and Action on ordinances dealing with public nuisance.

Kate McKenzie, Attorney, reviewed the ordinance.

Chairman O'Neal opened the public hearing.

Dusty Fall, expressed concerns with her animals.

There being no further comments, Chairman O'Neal closed the public hearing.

Commissioner Miller moved to adopt the ordinance. Commissioner Martin seconded the motion. Motion carried.

Sec. 9-7. Certain conditions declared nuisances.

The existence of any of the following conditions on any lot, whether improved or not, or other parcel of land within the county limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (1) *Growth of weeds and grass.* The uncontrolled growth of noxious weeds or grass causing or threatening to cause a hazard detrimental to the public health or safety.

- (2) *Accumulations of animal or vegetable matter.* Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.
- (3) *Accumulations of rubbish.* Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.
- (4) *Conditions violating health department rules.* Any condition detrimental to the public health which violates the rules and regulations of the local health department.
- (5) *Burned or partially burned buildings or structures.* Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the county building official can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.
- (6) *Storm or erosion damaged structures and resulting debris.* The existence of any of the following conditions associated with storm-damaged or erosion-damaged structures or their resultant debris shall constitute a public nuisance:
 - a. Damaged structure in danger of collapsing;
 - b. Damaged structure or debris from damaged structures where it can reasonably be determined that there is a likelihood of personal or property injury;
 - c. Any structure, regardless of condition, or any debris from damaged structure which is located in whole or in part in a public trust area or public land.
- (7) *Structurally deteriorated, or storm damaged automobile service station canopies.* Any automobile service station canopy with loose, unanchored, or missing cladding, or fascia panels prone to progressive collapse, or structurally unsound members damaged by storms, vehicles, or deterioration.
- (8) *Vicious animals.* The keeping of a vicious animal as defined in Sec. 3-62.

- (9) *Miscellaneous.* Any other condition that is specified as a nuisance in this Code.

Sec. 9-8. Investigation of complaints.

The county manager, upon notice from any person of the existence of any of the conditions described in section 9-7, shall cause to be made, by the appropriate local health department official or county official, such investigation as may be necessary to determine whether such conditions exist as to constitute a public nuisance as declared in section 9-7.

Sec. 9-9. Notice and order to abate on finding of existence.

- (a) Upon a determination that conditions constituting a public nuisance exist, the county manager shall notify, upon writing, the owner, occupant or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within 30 days from the receipt of such written notice. Receipt shall be deemed to occur on the third day after the date of the postmark if the notice is deposited in a United States Post Office.
- (b) Abatement of a public nuisance shall consist of taking whatever appropriate steps are reasonably necessary to remove the condition or conditions which result in the declaration of a public nuisance. Without limitation the county manager, in ordering the abatement of a public nuisance, may require the removal of debris, rubbish, accumulations of animal or vegetable matter, growth of weeds and grass, burned or partially burned buildings, the isolation of the condition to be abated so that access cannot be gained by persons or property which may be injured by the nuisance or such other steps which are reasonably necessary to abate the nuisance.
- (c) Any person may seek judicial review of a final administrative decision by the County Manager by filing a petition for writ of certiorari within thirty (30) days after receipt of notice by registered or certified mail, but not thereafter, with the Superior Court of Currituck County and with a copy to the County Manager of Currituck County.

Sec. 9-10. Abatement by county.

- (a) *Generally.*
- (1) If any person, having been ordered to abate a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the

order given pursuant to section 9-9, the county manager shall cause such condition to be removed or otherwise remedied by having employees of the county or independent contractors go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the county manager.

- (2) Any person who has been ordered to abate a public nuisance may, within the time allowed by this chapter, request the county in writing to remove such condition, the cost of which shall be paid by the person making such request.
 - (3) If a local contractor cannot be obtained after a reasonable effort, the county manager shall be authorized to obtain the services of a contractor outside the immediate local area, and the costs thereof shall be deemed to be reasonable.
- (b) *Costs.* The actual cost incurred by the county in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land; and it shall be the duty of the tax collector to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days from the mailing thereof. If such costs charged in accordance with this section are not paid as stated in this section, the costs shall be a lien upon the land or premises where the nuisance arose and shall be collected as unpaid taxes.

Public Hearing and Action on PB 04-12: Amendment to Section 940 of the UDO to allow patio homes within the planning unit developments.

Deleted

Public Hearing and action on PB 94-49 CURRITUCK CLUB: Amended Sketch Plan/Special Use Permit to replace 45 previously approved condo units with 32 patio homes, Tax Map 126G, Lot D, Poplar Branch Township.

Deleted

Public Hearing and Action PB 03-28 Waterside Villages of Currituck, amended sketch plan to add 18 additional single family units for a total of 250 units in this planned adult retirement community.

Gary Ferguson, Planning Director, reviewed the request.

**ANALYSIS OF ITEMS FOR THE BOARD OF COMMISSIONERS
MEETING DATE: AUGUST 16, 2004**

ITEM: **PB 03-28 WATERSIDE VILLAGES OF CURRITUCK,
AMENDED SKETCH PLAN TO ADD 18 ADDITIONAL
SINGLE FAMILY UNITS FOR A TOTAL OF 250 UNITS
IN THIS PLANNED ADULT RETIREMENT
COMMUNITY**

LOCATION: In Grandy off of Caratoke Highway (NC 158) just south
of Soundside Estates, Poplar Branch Township.

TAX ID: 0108-000-0020-0000, 0108-000-0021-0000,
0108-000-022B-0000, 0108-000-022C-0000
and 0108-000-022D-0000

ZONING DISTRICT: General Business and Agricultural

OWNER: Waterside Villages at Currituck VOC, LLC P.O. Box 147 Harbinger, NC 27941	APPLICANT/AGENT Currituck Resort Shores, LLC P.O. Box 10096 Raleigh, NC 27605
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ADJACENT/SURROUNDING PROPERTY:

NORTH:	Residential – zoned GB & A
SOUTH:	Farmland – zoned A
EAST:	Currituck Sound
WEST:	Residential & Commercial – zoned GB

PURPOSE OF REQUEST:

The applicant requests an Amended Sketch Plan/Special Use Permit approval to allow 18 additional single family home sites and to increase the green area of the wastewater disposal area within Waterside Villages of Currituck.

The amended sketch plan included the following changes:

1. The Walnut Island Sanitary District is proposing to allocate all of its centralized wastewater disposal and treatment facilities, which represents 4.73 acres of land, to Waterside Villages.
2. In return, Waterside Villages will provide wastewater treatment service for all of the Walnut Island camper lots. This amounts to 30,000 gpd of wastewater that Waterside Villages will now accept as part of their wastewater treatment operations.
3. Waterside Villages will then be able to construct 18 additional single family units on this 4.73 acres of land that was previously obligated for the wastewater treatment.

In summary, this will provide a higher level of wastewater treatment for the Walnut Island camper lots as these lots will now be tied to a new wastewater treatment system. It will also provide additional land area for the Waterside Villages developer to construct 18 more single family units.

The Amended Sketch Plan also reflects a slight reconfiguration of the condominium buildings in order to improve the views from the units and improve traffic circulation. The density of the multi-family units remains unchanged.

The project entrance from Caratoke Highway has been slightly modified to add a deceleration lane and to afford the traffic an opportunity to loop around the gatehouse.

PROJECT DESCRIPTION:

Waterside Villages received initial Sketch Plan approval for 232 adult retirement residences from the Board of Commissioners on September 15, 2003. The approved residential mix is comprised of 148 single family lots and 84 multi-family units. The minimum lot size is 5,200 sf. Lots will be connected to a centralized wastewater treatment system and to the county's water system. Although a centralized wastewater system exists currently on this site, a new wastewater disposal system will be installed with this development. The development includes sound access with a marina, pier, nature trails, indoor/outdoor swimming pools and a clubhouse as recreational amenities.

All lots will front on an improved private subdivision street which will be maintained by the developer until such time as they are turned over to the homeowner's association. The subdivision will have one ingress/egress point to Caratoke Hwy. (US 158), for the residential section of the development and one ingress/egress along Caratoke Highway for a proposed Urgent Care Facility.

STAFF COMMENTS:

1. This parcel is located in the "Rural with Services" and "Conservation" classification.
2. Lower Currituck Fire & Rescue provides fire coverage for the area.
3. County water will serve this development.
4. Amended state stormwater management, wastewater treatment expansion, erosion & sedimentation control permits will be required in addition to authority to construct the water line.
5. Army Corp of Engineers & approval is required for any land disturbance in the 404 wetland area. CAMA approval is required for any work within the AEC zone.
6. Technical Review staff reviewed this application. Staffs concerns included the following:
 - a. The Fire Marshall :
 - i. If a condominium building's height exceeds 30', a 26' fire lane is required in front of the building.
 - ii. In the future, if the local Fire Department gets an aerial truck, the minimum improved cul-de-sac radius will be 53'.
 - iii. During the phasing development, temporary cul-de-sacs shall be required.

- b. NCDOT is requiring that the deceleration lane be restricted to the project's street frontage. This will require some reconfiguration of the entry road.
- c. Additional street names need to be submitted for review and approval.

STAFF RECOMMENDATION:

Staff has reviewed the request and recommends for **approval** subject to the following conditions:

1. That the following corrections be made:
 - a. Street names be corrected with approved names.
 - b. That the tax ID's be updated to reflect the current numbers
 - c. In the development summary, the total area for the lots be shown; the clarify the upland open space area; that the open space numbers be corrected to properly add up.
2. That applicant shall be required to meet all requirements of the UDO including, but not limited to the planting of street trees along all newly paved streets; installation of waterlines; fire hydrants; and adequate drainage facilities to serve the development;
3. Prior to Preliminary Plat approval, all required state permits, including the 30,000 gpd wastewater treatment system expansion shall have been approved and the agreement with the Walnut Island Sanitary District be finalized.
4. That a Preliminary Plat shall be submitted for review within 24 months from the date the Amended Sketch Plan is approved by the Board of Commissioners; and
5. That as a continuing condition to this approval, the applicant will meet and continue to meet all requirements of the County's Unified Development Ordinance.

Chairman O'Neal opened the public hearing.

Loretta Robinson, supports the proposal but had questions about the 7 lots given to the developer.

Jimmy Oakley, questioned why they had to pay additional funds for sewer hook up.

Dan Scanlon, County Manager, stated that if this is approved before an agreement with property owners, it would encumber the drain-field.

Commissioner Gregory moved to recess the public hearing until September 20 when agreement has been made with developer and property owners. Commissioner Martin seconded the motion. Motion carried.

Willo Winterling, Currituck Chamber, to discuss business licenses.

Deleted

Consideration of UDO amendment for Motor Vehicle Dealerships and Repairs.

Commissioner Miller requested to continue for further information. Commissioner Gregory seconded the motion.

Staff to research how many dealerships are in the county.

Appointment to ABC Board.

Commissioner Bowden moved to appoint Harold Capps for a 2 year term. Commissioner Miller seconded the motion. Motion carried.

Donald Jones will serve a 1 year term.

Appointment to Whalehead Drainage District.

Commissioner Bowden moved to re-appoint Bob Morris. Commissioner Martin seconded the motion. Motion carried.

Consent Agenda:

Approval of July 19, 2004, minutes.

Approval of sale of property located in Albemarle Sound Beach Estates.

Approval of grant for Project Lifesaver.

Tax Dept. schedule a public hearing on the proposed schedules, standards and rules for September 7, 2004.

Moyock Fire Dept. purchase of Generator for Station #3.

Albemarle Mental Health Quarterly Fiscal Monitoring Report.

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

Commissioner's Report

Commissioner Bowden commented on the flooding on the Outer Banks.

County Manager's Report

County Manager Scanlon, thanked the staff for their work during Hurricane Charley.

Adjourn

There being no further business, the meeting adjourned.