

CURRITUCK COUNTY
NORTH CAROLINA
NOVEMBER 5, 2007

The Board of Commissioners met on November 5, 2007, at 7:00 p.m. for its regularly scheduled meeting at the Historic Courthouse in the Commissioners Meeting Room with the following members present: Chairman Nelms, Commissioners Bowden, Gregory, Taylor and Etheridge.

Chairman Nelms called the meeting to order.

Invocation and Pledge of Allegiance

The Reverend Scott Wilson-Parsons was present to give the invocation.

Approval of Agenda

Commissioner Gregory moved to amend the agenda by deleting Item 3. Commissioner Taylor seconded the motion. Motion carried.

- Item 2 Public Comment
Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.
- Item 3 **Ed Lazaron, update on Moyock Library**
- Item 4 **Public Hearing and Action on PB 88-66 VILLAGES AT OCEAN HILL**
AMENDED SKETCH PLAN FOR 1 RESIDENTIAL LOT: The property is located on Lakeside Drive, adjacent to Bluewater Court within the Villages at Ocean Hill PUD, Tax Map 114, Parcel 3L, Poplar Branch Township.
- Item 5 **Public Hearing and Action on PB 07-62 COOPER FIELDS II/ RONNIE COOPER** Rezone approximately 21.70 acres from Agricultural to Residential. Located on North Gregory Road, ¼ of a mile north of the intersection with US 158 (Shortcut Road). The rear of the property is 345 feet from the Camden County line, Tax Map 27, Parcels 5F and 5G, Crawford Township.
- Item 6 **Public Hearing and Action on PB 07-63 PHILLIP GARRETT** Rezone approximately 51 acres from Agricultural to Residential. Located on South Mills Road approximately 1 mile east of Camden County, Tax Map 6, Parcel 1N, Moyock Township.
- Item 7 **Public Hearing and Action on PB 87-56 MONTERAY SHORES, PHASE III (COROLLA BAY)** Amended Sketch Plan to increase the allowed density for Corolla Bay from 115 units to 256 units. Located in Corolla adjacent to the Currituck Sound, west of the Whalehead Subdivision, and north of the existing Monteray Shores Phase I; Tax Map 115E, Parcels 1, 8-36, FL, and OPEN Tax Map 115, Parcels 3XB, 3XE, and 3XC, Poplar Branch Township.
- Item 8 **Public Hearing and Action on PB 06-24 LAUREL WOODS ESTATES** Sketch Plan/Special Use Permit for 160 lot Conservation Subdivision on property located at on the west side of Caratoke Highway, ½ mile north of the intersection with Bells Island Rd. Tax Map 50, Lots 70A, 70B, Crawford Township.
- Item 9 **Consideration of Amendment to the Noise Ordinance - 2nd Reading**
- Item 10 **Consideration of Amendment to Solid Waste Ordinance - 2nd Reading**

- Item 11 **Appointment to Jury Commission**
- Item 12 **Appointment to Land Transfer Tax Appeals Board**
- Item 13 **Appointment to Wild Horse Advisory Board**
- Item 14 **Nomination for Appointment to Coastal Resources Commission**
- Item 15 **Consent Agenda:**
 - 1. Resolution Declaring Parcel 110D-029-0007-0000, Albemarle Sound Beach Estates, to be Surplus Property
 - 2. Resolution Authorizing Upset Bid Process
 - 3. NC Cooperative Extension Service Center Project Change Order Number: 001
 - 4. Jarvisburg Elementary School Change Order Number: 2
 - 5. Jarvisburg Elementary School Change Order Number: 4
 - 6. Budget Amendments
 - 7. Knotts Island VFD Project Ordinance
 - 8. Approval of October 15, 2007, Minutes
 - 9. Albemarle Mental Health Center's Quarterly Fiscal Monitoring Report for First Quarter FY 2007-08
 - 10. Budget Amendment - Sheriff's Office
 - 11. Consideration of Water Purchase Contract with South Camden Water & Sewer District
 - 12. Approval of Resolution in Support of Tobacco-Free Environments
 - 13. Approval of Lower Currituck Volunteer Fire Department Request to Spend Funds for Repairs to Grandy Station
 - 14. Approval of notice to exchange property in Whalehead Subdivision
- Item 16 Commissioner's Report
- Item 17 County Manager's Report
- Item 18 **Closed Session:**
 - 1. According to GS 143-318.11 (5) to discuss land acquisition

Public Comment

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

Chairman Nelms opened the public comment period.

Eric Weatherly, County Engineer, presented an update on the state-wide drought.

John Snowden, expressed concerns with land acquisition and fence at the airport.

Commissioner Etheridge, requested an ordinance to prohibit sex offenders at county parks and schools.

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

Ed Lazon, update on Moyock Library

deleted

Public Hearing and Action on PB 88-66 VILLAGES AT OCEAN HILL AMENDED SKETCH PLAN FOR 1 RESIDENTIAL LOT: The property is located on Lakeside Drive, adjacent to Bluewater Court within the Villages at Ocean Hill PUD, Tax Map 114, Parcel 3L, Poplar Branch Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning Director, presented the request.

**CASE ANALYSIS FOR THE BOARD OF COMMISSIONERS
MEETING DATE: November 5, 2007
PB 88-66 VILLAGES AT OCEAN HILL PUD**

ITEM: PB 88-66 VILLAGES AT OCEAN HILL, AMENDED SKETCH PLAN FOR 1 RESIDENTIAL LOT

LOCATION: The property is located on Lakeside Drive, adjacent to Bluewater Court within the Villages at Ocean Hill PUD

TAX ID: Tax Map 114, Parcel 3L

ZONING DISTRICT: RO1/PUD

PRESENT USE: Utility Lot

PLAN DATE: August 20, 2007

OWNER:
Corolla North Utilities
PO Box 2225
Kitty Hawk, NC 27949

ENGINEER:
Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

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

	Land Use	Zoning
NORTH:	Residential/Villages at Ocean Hill	RO1/PUD
SOUTH	Vacant, Future phase of Villages at Ocean Hill`	RO1/PUD
EAST:	Residential/Villages at Ocean Hill	RO1/ PUD
WEST:	Residential/Villages at Ocean Hill	RO1/PUD

SCHOOL DISTRICT: Poplar Branch (Griggs)

FIRE DISTRICT: Corolla V.F.D.

SIZE OF SITE: Villages at Ocean Hill Total = 153.50 acres
Subject Property
0.271

NUMBER OF LOTS: 1 requested for this approval to bring the total approved Sketch Plan lots to 274. Previous Sketch Plans had approved 273 lots.

DENSITY: 1.77 units per acre (3 units/acre permitted)
Density is required to be 3 units/ acre or less.

MINIMUM LOT SIZE: 10,000 SF

STREETS: There is an existing road (Lakeside Drive) that would serve this lot.

WATER: The site will be served by the Southern Outer Banks Water Plant.

WASTEWATER: Centralized wastewater treatment is proposed. Enviro-Tech has allotted 533 gallons per day per home from the Villages at Ocean Hill wastewater plant.

OPEN SPACE: No additional open space is required for this lot. The PUD currently has over 55% open space (84.162), exceeding the required 35%.

DRAINAGE: The preliminary drainage plan indicates the lots will drain to road side ditches.

LAND USE PLAN CLASSIFICATION: The 2006 Land Use Plan classifies this property as Full Service. Planned Unit Developments are appropriate in the Full Service class.

NARRATIVE OF REQUEST:

Midlantic Builders is seeking Amended Sketch Plan approval to increase the density of the Villages at Ocean Hill by 1 lot. The property appeared on previous Sketch Plans as a Homeowners Association site and a utility site.

HISTORY OF APPROVALS:

1. Original sketch plan was approved by the Board of Commissioners on January 3, 1989 for 314 units with a density of 2.04 units per net acre. Initial approval was

- delayed over 1 year because the developer was cited by the Corps of Engineers for unauthorized filling of wetlands.
2. Amended Sketch Plan approved was granted on February 17, 1992 reducing total number of units to 299.
 3. Amended Sketch Plan approval was granted on August 2, 1994 reducing the total number of units from 299 to 268 (1.75 units/acre) and to increase the commercial acreage from 2.0 acres to 10.76 acres (7%).
 4. On August 16, 1999 the BOC granted Amended Sketch Plan approval to increase commercial area to 11.23 acres with a total density of 268 units.
 5. At the applicant's request, on April 16, 2001 the BOC tabled and never acted on a request to decrease the commercial areas and increase the density by five units to allow for apartments.
 6. On February 19, 2003, Planning Director Gary Ferguson administratively approved a additional lot by well site #3 to be off-set by creating additional open space in Phase 5. This increased the total units to 269, for a density of 1.75 units/acre.
 7. On March 5, 2007 the Commissioners approved 4 lots that had previously been well sites as residential lots to bring the total approved Sketch Plan lots to 273. Previous Sketch Plans had approved 269 lots.

TECHNICAL REVIEW STAFF:

On August 15, 2007 Technical Review staff reviewed this application. The following comments were made on the re-submittal:

Currituck County Public Works – Approved as is.

1. **Soil & Water Conservation** - Approved as is.
2. **Currituck County Fire Services**– Approved with the following comment: The new cul-de-sac should be 96' diameter pavement with no structures or utilities in the middle of the cul-de-sac,
3. **Albemarle Regional Health Services** – No comments received, not within their regulatory jurisdiction.
4. **Currituck County Water Department, Southern Outer Banks System:** Approved as is.
5. **Currituck County GIS** - Approved with no comment, street names we previously approved.
6. **County Parks & Recreation Department** - reviewed with no comments
7. **Emergency Management** – no comments received
8. **Corolla VFD**– no comments received
9. **NC Department of Transportation:** Approved as is.
10. **US Army Corps of Engineers:** (Tom Steffens) –No comments received.

11. **NC Department of Natural Resources, Division of Coastal Management** – No comments received, not within their regulatory jurisdiction.
12. **NC Department of Natural Resources, Division of Environmental Health, Public Water Supply:** No comments received. Permit if needed will be required at Preliminary Plat submittal.
13. **NC Department of Natural Resources, Division of Water Quality-** No comments received. Permit if needed will be required at Preliminary Plat submittal.
14. **NC Department of Natural Resources, Division of Land Resources** – No comments received. Permit if needed will be required at Preliminary Plat submittal.
15. **Currituck County Superintendent of Schools-** No comments received.
16. **N C Dominion Power** - No comments received.
17. **Sprint Telephone** – No comments received.
18. **Charter Communications Cable** - No comments received.

STAFF RECOMMENDATION:

Because it appears the application has satisfied the criteria for granting an Amended Sketch Plan within a PUD staff recommends **conditional approval** of the application in accordance with the Technical Review Agencies' comments and subject to the following conditions:

Code and Amended Sketch Plan Requirements:

1. Please show the amount of usable lot area and the amount of area in the lake.
2. Indicate the owner and parcel number of the subject property.
3. Prior to Final plat all of the well sites will be required to be put in easements.
4. Remove the proposed 30' easement from Parcel 2 on Ocean Trail. 2002 amended SP has the easement totally within the commercial lot.
5. Remove the 1' non-access easement from Lakeview Court at Lots 229 and 230.
6. Prior to Preliminary Plat, the applicant shall obtain from the Corps of Engineers a letter and map stating that the proposed lot 274 is not a part of the violation area as described in a letter dated September 21, 2006. This must be done before any land disturbing activities are authorized.
7. This Amended Sketch Plan should reflect any property lines created by deeds in the past to make them legal lots of record.
8. Currituck does not have a "beach" township- it is all Poplar Branch.
9. A new Special Use Permit application for the outdoor storage area for A-1 Towing shall be approved prior to any further Preliminary Plats being granted in the Villages of Ocean Hill. The current outdoor storage permit expired September 7, 2005.

PLANNING BOARD DISCUSSION

Mark Bissell requested a correction to the history of approvals #1 The developer was different and actually sold the property in 1988. Mr. Bissell stated that Mr. Bickford was not part of this violation nor was he apart of the violation on Ocean Hills Venture.

Jim Bickford stated in reference to the special use permit, part of the property is now owned by the county as a well site and there had to be a resolution on how to make an application.

Mr. Webb asked Mr. Bissell if the ownership deed was resolved with the issues dating back to 1995. Mr. Webb stated this is the first step to fixes these issues.

PLANNING BOARD ACTION

Mr. West motioned to recommend approval of the requested amended sketch plan for 1 residential lot with staff recommendations as presented. Mr. Etheridge seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Mark Bissell, Engineer, was present to answer questions.

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

Commissioner Bowden moved to approve with findings of fact. Commissioner Gregory seconded the motion. Motion carried.

**Public Hearing and Action on PB 07-62 COOPER FIELDS II/
RONNIE COOPER Rezone approximately 21.70 acres from
Agricultural to Residential. Located on North Gregory Road,
¾ of a mile north of the intersection with US 158 (Shortcut
Road). The rear of the property is 345 feet from the Camden
County line, Tax Map 27, Parcels 5F and 5G, Crawford
Township.**

Ben Woody, Planning Director, presented the request.

TYPE OF REQUEST: Rezone approximately 21.70 acres from Agricultural to Residential

LOCATION: Located on North Gregory Road, ¾ of a mile north of the intersection with US 158 (Shortcut Road). The rear of the property is 345 feet from the Camden County line.

TAX ID: Tax Map 27, Parcels 5F and 5G
(0027000005F0000 and 0027000005G0000)

OWNERS: Ronnie and Mabel Cooper
 PO Box 149
 Poplar Branch, NC 27965

AGENT: Cooper Quality Construction, Inc.
 (John Cooper)
 PO Box 129
 Poplar Branch, NC 27965

ZONING: **Current Zoning** **Proposed Zoning**
 Agricultural (A) Residential (R)

ZONING HISTORY: The property was zoned Agricultural (A) on the 1989 zoning atlas.
 A 4 lot minor subdivision was created from the 2 properties in March of 2006.

WETLANDS: Approximately 10 acres of the site are wetlands according to the N.C. generalized wetlands maps.

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Agricultural	A
SOUTH	Agricultural	A
EAST:	Low Density Residential	A
WEST:	Agricultural	A

EXISTING LAND USE: Agricultural/ Vacant Wetlands

PROPOSED LAND USE: According to the application received August 30, 2007:
 The surrounding properties are being used for residential purposes. The rezoning is being requested to assure the highest and best use of the property. The soil is suitable for residential use. See attached for the location of single family dwellings and/or parcels intended for single family dwellings surrounding the parcel.

MAP SUBMITTED BY APPLICANT

(note: Planning Staff has not verified the information on the map)

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies 11 acres of the site as **Rural** and 10 acres in the **Conservation** class; within the **Shawboro/ Crawford** sub-area. The Rural class is intended to provide for agriculture, forestry, and other allied uses traditionally associated with a rural area. The

purpose of the Conservation class is to provide for the long-term management and protection of significant, limited, or irreplaceable areas. Proper management is needed to conserve the natural, cultural, recreational, scenic or biologically productive values of these areas.

The predominantly rural Shawboro/Crawford area contains some of the best, most extensive agricultural lands in the county. Current development density is 1 unit per 3 acres. There are no schools, parks or utilities serving this area and hence, no incentives for significant residential development to locate here.

The policy emphasis is to encourage the preservation of agriculture and open space in the Shawboro/Crawford area whenever possible. Residential development, when approved, should bear some direct relationship to agricultural activity so as to minimize land use conflicts between farm operations and nearby residents. When residential development does occur, it should be strategically located to minimize conflicts. Common sense examples include placing residential development: (1) upwind of prevailing winds and open fields (2) behind or in and among wooded areas (3) clustered near existing non-farm uses such as a church, general store or other residences. "Leapfrog" residential subdivisions, unrelated to farm activities, and that would interrupt a large expanse of agriculture and open space, should be strongly discouraged.

Because this rezoning would conflict with the existing low density developments and would interrupt the agricultural use pattern, staff concludes that this rezoning **DOES NOT COMPLY** with the 2006 Land Use Plan.

**PUBLIC SERVICES
AND UTILITIES:**

The Crawford Volunteer Fire Department provides fire protection for this area. Electric service, telephone and county water are available.

TRANSPORTATION:

The site has approximately 70 linear feet of frontage on the south side of North Gregory Road.

FLOOD ZONE:

The property has approximately 13 acres in Flood Zone A and 8 acres in Flood Zone X, outside of the 100 year floodplain.

SOILS:

The Currituck County Soils map indicates the property contains approximately; 4.6 acres of suitable soils, 8 acres

of marginal soils and 10 acres of unsuitable soils for on-site septic systems.

STAFF

RECOMMENDATION: Section 2406 of the Unified Development Ordinance provides the standards by which the Board shall evaluate proposed amendments to the Official Zoning Atlas. Specifically, the Ordinance provides that the “central issue before the board is whether the proposed amendment advances the public health, safety or welfare” of the county.

The Agricultural zoning district allows 1 residential unit per 3 acres. A Residential zoning district would allow 1 unit per 40,000 square feet. In evaluating this rezoning, the currently allowed agricultural zone density would be 7 units. If a rezoning to Residential is approved, approximately 21 units would be possible. The required school seats for development would increase from 3 to 10.

Staff recommends **Denial** of this request for the following reasons:

1. The request does not comply with the 2006 Land Use Plan classification of Rural and Conservation Class.
2. The Land Use Plan recommends this area be left as low density agricultural uses.
3. The existing development pattern in the area is 3 acre and 10 acre lots for residential use. This request would not match this pattern.
4. The site is not adjacent to any residential zoned land and 7 miles from the closest Residential zone.
5. There are no changes in conditions for this area that would make the rezoning necessary.

PLANNING BOARD DISCUSSION

John Cooper, Ronnie Copper, and Richard Lawman appeared before the board. Mr. Webb presented the case analysis to the board.

John Cooper stated that this property is near farm land but also there are houses which are on 1 acre lots. Mr. Cooper provided some photos showing the property and houses that was taken a quarter of a mile near their site. There is a demand for residential housing on 1 or 2 acre lots. Mr. Cooper stated that the use in the area currently doesn't reflect the zoning which is agricultural but there is a lot of residential use in the area. They are proposing the rezoning since many of these lots in the area are being used as residential or sold as building lots. Most people don't want 10 acre lots because they are hard to maintain.

Mr. Manly asked for clarification on the drawings for Lot 6 and Lot 4. Ronnie Cooper provided a clearer copy of the two parcels that Mr. Manly questioned. They would like to put in 10-12 lots, which would be about 2 acres each. These lots would be more manageable.

Richard Lawman stated that he likes the 2 acre lots and would like to see this property rezoned to residential.

PLANNING BOARD ACTION

Mr. Kovacs motioned to recommend denial to rezone 21.70 acres from Agricultural to Residential according to the 2006 Land Use Plan and staff recommendations. Ms. Robbins seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

John Cooper, property owner, supports request and was present to answer questions.

Ronnie Cooper, supports request.

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

Commissioner Etheridge, moved to deny the request. Commissioner Taylor seconded the motion. Motion carried with Commissioner Gregory and Bowden voting no.

**Public Hearing and Action on PB 07-63 PHILLIP GARRETT
Rezone approximately 51 acres from Agricultural to
Residential. Located on South Mills Road approximately 1
mile east of Camden County, Tax Map 6, Parcel 1N, Moyock
Township.**

Ben Woody, Planning Director, presented the request.

TYPE OF REQUEST: Rezone approximately 51 acres from Agricultural to Residential

LOCATION: Located on South Mills Road approximately 1 mile east of Camden County.

TAX ID: Tax Map 6, Parcel 1N
(0006000001N0000)

OWNER: Philip M. Garrett Family Trust
Margaret Garrett Trustee
PO Box 152
Moyock, NC 27958

ENGINEER: Hyman and Robey

PO Box 339
Camden, NC 27921

ZONING: **Current Zoning** **Proposed Zoning**
Agricultural (A) Residential (R)

ZONING HISTORY: The property was zoned Agricultural (A) on the 1989 zoning atlas.

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Low Density Residential- Crown Point Estates- 3 acre lot subdivision	A
SOUTH	Agricultural	A
EAST:	Low Density Residential	A
WEST:	Agricultural	A

The two subdivisions to the north across South Mills Road are Duck Ridge (approved in 1990 when the minimum lot size was 30,000 SF) and Crown Point Estates (Approved in 1998 when the minimum lot size was 3 acres).

EXISTING LAND USE: Agricultural/ Vacant

PROPOSED LAND USE: To have residential development at a density greater than 1 unit per 3 acres.

**LAND USE PLAN
CLASSIFICATION:**

The 2006 Land Use Plan classifies the site as **Rural** within the **Moyock** sub-area. The Rural class is intended to provide for agriculture, forestry, and other allied uses traditionally associated with a rural area. The Rural class is the broadest of the several general land classes and thus constitutes the second largest land area on the Currituck County Land Classification Map. Preferred uses include very low-density dispersed development associated directly with farm uses. Population densities are generally very low and development density is anticipated at no more than 1 unit per 3 acres. In addition, any development in the Rural Areas would be served by individual on-site water and septic.

In the Moyock sub-area, heightened development interest in this area has brought with it pressure for more subdivisions, as well as the retail services that follow such development. It also brings with it concerns about heavier traffic, loss of open space, increased stormwater runoff and drainage issues, overburdened schools, a need for enhanced

police, fire and rescue services, and demand for centralized water and sewer services.

The policy emphasis of this plan is on properly managing the increased urban level of growth that this area is sure to experience over the next decade and beyond. Residential development densities should be medium to high depending upon available services.

In evaluating the Future Land Use Plan Map, it appears the Land Use Plan Steering committee limited Moyock's desired western boundaries for higher density development. The committee classified this area of Moyock as Rural, from the Camden County Line to the current western boundaries of the Eagle Creek and Quail Run subdivisions. Staff considers the mapping a clear policy adopted by the Board of Commissioners for this area and concludes that this rezoning **DOES NOT COMPLY** with the 2006 Land Use Plan.

**PUBLIC SERVICES
AND UTILITIES:**

The Moyock Volunteer Fire Department provides fire protection for this area. Electric service and telephone are the only utilities available along this area of South Mills Road. There is no county water available in this area of the county.

TRANSPORTATION:

The site has approximately 2300 linear feet of frontage on the south side of South Mills Road.

FLOOD ZONE:

The property is in Flood Zone X, outside of the 100 year floodplain.

SOILS:

The Currituck County Soils map indicates the property contains approximately; 33 acres of marginal soils and 18 acres of unsuitable soils for on-site septic systems. The site contains approximately 12 acres of wetlands according to the generalized N.C. wetland map.

STAFF

RECOMMENDATION:

Section 2406 of the Unified Development Ordinance provides the standards by which the Board shall evaluate proposed amendments to the Official Zoning Atlas. Specifically, the Ordinance provides that the "central issue before the board is whether the proposed amendment advances the public health, safety or welfare" of the county.

The Agricultural zoning district allows 1 residential unit per 3 acres. A Residential zoning district would allow 1 unit per 40,000 square feet. In evaluating this rezoning, the currently allowed agricultural zone density would be 17 units. If a rezoning to Residential is approved, approximately 50 units would be possible. The required school seats for development would increase from 8 to 24.

Staff recommends **Denial** of this request for the following reasons:

1. The request does not comply with the 2006 Land Use Plan classification of Rural and
2. There are no existing water or sewer services to serve a development.
3. The existing development pattern in the area is 3 acre lots.
4. The site is not adjacent to any residential zoned land and 2.4 miles from the closet residential zone in Quail Run subdivision.
5. There are no changes in conditions for this area that would make the rezoning necessary.

PLANNING BOARD DISCUSSION

Eddie Hyman, Hyman and Robey and William Rowland appeared before the board. Mr. Webb presented the case analysis to the board.

Eddie Hyman, Hyman and Robey stated that the property is currently zoned agricultural but the area around points to residential. He stated the family is trying to get their estate plans in order and has no immediate plans for the property.

William Rowland stated that he owns parcels adjacent to the property. He does not want to stop future development, but he would like assurance that a border would be put between his property and the property to be rezoned. Mr. Rowland stated that on the east side of the property to be rezoned it drains through his backyard. His property is currently 4 feet below the property requesting rezoning.

Mr. Hyman stated that they are asking for rezoning and if a sketch plan is done in the future, which would be govern by the Unified Development Ordinances (UDO), Mr. Rowland's concerns would be addressed at this time. Mr. Rowland would also be notified if a sketch plan would go to the planning board because he is an adjacent property owner.

PLANNING BOARD ACTION

Ms. Robbins motioned to recommend denial to rezone approximately 51 acres from Agricultural to Residential according to the 2006 Land Use Plan and staff recommendations. Mr. Etheridge seconded the motion. Motion passed unanimously.

Chairman Nelms opened the public hearing.

Margaret Garrett, property owner, requested the Board's support of this request.

Eddie Hyman, Engineer, was present to answer questions.

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

Commissioner Taylor moved to deny. Commissioner Etheridge seconded the motion. Motion carried with Commissioner Gregory and Bowden voting no.

Public Hearing and Action on PB 87-56 MONTERAY SHORES, PHASE III (COROLLA BAY) Amended Sketch Plan to increase the allowed density for Corolla Bay from 115 units to 256 units. Located in Corolla adjacent to the Currituck Sound, west of the Whalehead Subdivision, and north of the existing Monterey Shores Phase I; Tax Map 115E, Parcels 1, 8-36, FL, and OPEN Tax Map 115, Parcels 3XB, 3XE, and 3XC, Poplar Branch Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning Director, presented the request.

ITEM: PB 87-56 MONTERAY SHORES (COROLLA BAY) SECTION III, PUD Amended Sketh Plan/ Special Use Permit to increase the allowed density for Corolla Bay from 115 units to 256 units.

LOCATION: Located in Corolla adjacent to the Currituck Sound, west of the Whalehead Subdivision, and north of the existing Monterey Shores Phase I;, Poplar Branch Township.

ZONING DISTRICT: RO1/ PUD

Parcels (Tax Map/Parcel): Tax Map 115E, Parcels 1, 8-36, FL, and OPEN Tax Map 115, Parcels 3XB, 3XE, and 3XC

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

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

LAND USE/ZONING OF SURROUNDING PROPERTY:
NORTH: Corolla Light PUD – zoned RO1
SOUTH: Buck Island – zoned RO1
EAST: Whalehead Subdivision – zoned RO1
WEST: Currituck Sound

Narrative:

- The purpose of this request is to increase the permitted density of Corolla Bay from 115 units to 256 residential units with 13.76 acres reserved for a mixed commercial development.
- The proposed changes will increase the overall density of Monteray Shores from 1.62 units/ acre to 2.15 units/ acre.
- The total proposed commercial area for Monteray Shores will be 33.81 acres, less than the allowed 35.5 acres.
- This plan indicates Corolla Bay will not build a separate wastewater treatment plant.
- The wastewater will be treated by the Monteray Shores wastewater plant, which should be expanded by spring of 2008. Carolina Water has a contract to provide up to 200,000 GPD of treatment for Corolla Bay.
- As noted on previous sketch plans, Herring Street is proposed to be improved and continue through the Whalehead Club subdivision for vehicular traffic.
- The following summary is based on the maximum wastewater allocation available and not a site specific plan:

<u>Residential Unit Type</u>	<u>Number of Units</u>
Single Family Lots (Sections 1 and 2)	72
Detached Condominium units	57
Multi-Family (attached) units	102
Mixed Residential Units	<u>25</u>
 TOTAL RESIDENTIAL UNITS	 256

PREVIOUS AMENDEDMENTS TO THE MONTEARY SHORES SKETCH PLAN

Original Sketch Plan approval was granted October 13, 1987 for 608 residential lots, 20 acres of commercial areas (5.6%) which were never entirely delineated on original plans, associated recreational amenities and common areas. At the time of approval, applicant was allowed up to 10% (35.5 ac) of total land area (355.6 ac.) for commercial development. Density for the development was 1.94 units/acre.

Since that time, the Board has made the following Sketch Plan Amendments:

CHANGES APPROVED BY BOC ON DECEMBER 6, 1999

1. Decrease density from 658 units to 598 units (loss 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 also requested 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 33,000 square foot 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 single-family lots to 24 multi-family 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 single-family 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 was reduced from 23.67 acres to 14.28 acres. Under this proposal, the total amount of open space for Monterey Shores was 124.46 acres which meets the 35% minimum required.

CHANGES APPROVED BY BOC ON NOVEMBER 15, 2004

1. Phasing (Section) lines within Corolla Bay, Monterey Shores Phase III.;
2. Approval for 36 single family home sites located in Section 1.
3. To show the location of the wastewater treatment system. The wastewater treatment facility will serve the 36 home sites in Section 1 in addition to the 7.32 acre Commercial Site #1 in Section 1, and the future Food Lion site in Section V. The water for the development will be provided by Currituck County from the new SOBWS plant.

CHANGES APPROVED BY BOC ON FEBRUARY 16, 2006

1. The allowed number of lots for Corolla Bay is 115.
2. Change the alignment of the proposed streets from the 2004 plan.
3. Increase the number of lots in Section II from 33 to 40.
4. Decrease the number of lots in Section III from 44 to 39.
5. Increase the size of the utility open space needed to serve as a disposal area from 4.116 acres to 8.574. This area will be the disposal area for the treated water for the 83,600 Gallons per Day (GPD) Corolla Bay Wastewater Treatment system.
6. Place 32 lots in Section III into utility open space, for a total of **83** available lots that can receive Preliminary Plat approval without an Amended Sketch Plan.

Notes:

1. Sections II and III are allowed to create 47 lots according to this Amended Sketch Plan.
2. Section I received Preliminary Plat approval for 36 lots on September 13, 2005.
3. The resulting density for Corolla Bay is 0.39 units per acre. The total density for Monteray Shores is 1.62 units per acre.

THE PLANNING BOARD APPROVED A PRELIMIARY PLAT FOR COROLLA BAY, SECTION I ON SEPTEMBER 13, 2005 FOR:

1. 36 Residential lots located on the west side of NC 12;
2. 7.32 acre site located on the East side of NC-12 to be developed commercially;
3. Construction of an 83,600 GPD wastewater treatment and disposal system to serve 24 eight bedroom homes, 12 seven bedroom homes, 30,000 sq. ft. retail space, and two 150 seat restaurants, and the proposed Food Lion site in Section V.
4. The construction of 1,700 linear feet of roadway called Cruz Bay; 280 linear feet of roadway called Devils Bay and approximately 970 feet of roadway called Herring Street which will tie into Corolla Drive in the Whalehead subdivision.

THE PLANNING BOARD APPROVED A FINAL PLAT FOR COROLLA BAY, SECTION I (30 LOTS) ON MAY 8, 2007

1. The first 30 lots in Corolla Bay will use the Corolla Light wastewater plant for treatment.
2. Any additional lots will require permits to fill wetlands in this section.

ELEMENTS OF THIS PLAN:

STREETS: All lots will front on proposed roads built to NCDOT standards. However, these roads will remain private and be maintained by the Corolla Bay Homeowners Association.

WATER: Water will be provided by the County's Southern Outer Banks Water System (SOBW). The waterlines are specified as 8 inch PVC.

FIRE: The development will be served by the Corolla Fire & Rescue Station and fire hydrants will be installed in accordance with Volume 5 of the NC Building Code.

WASTEWATER: Corolla Bay has been allocated 200,000 GPD from the Monterey Shores plant and there are no plans to construct the treatment plant proposed and permitted in 2004.

OPEN SPACE: Open space in Phase 3 of Monterey Shores - Corolla Bay has been increased from 14.96 acres to 28.95 acres. Under this proposal the total amount of open space for all of Monterey Shores will be 131.51 acres (36.98 %) which meets the 35% minimum required.

DRAINAGE: DWQ issued a "low density" permit for the single family sections 1 and 2 on June 27, 2005. The system of drainage will be by local infiltration within proposed swales which will also be augmented by a detention pond to insure a higher level of drainage. Stormwater management permits will be required for the development on the east side of NC 12.

FLOOD ZONES: Approximately 35% of the property is in the 100 year flood plain.

TECHNICAL REVIEW STAFF:

On May 16, 2007 Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – Approved as is.
2. **Currituck Soil & Water Conservation** - Approved as is.
3. **Currituck County Fire Services**– Approved with the following comment: Submit locations of fire hydrants. I cannot review the plan as is.
4. **Currituck County Southern Outer Banks Water System**- Approved as is.
5. **Currituck County Planning and Inspections, Inspections Division**-Approved as is.
6. **Currituck County GIS** - Approved with the following comment: submit street name approval forms for new streets.
7. **County Parks & Recreation Department** - No comments received.
8. **Currituck County Emergency Management** – No comments received.
9. **NC Department of Transportation:** Approved as is.

STAFF RECOMMENDATION: Staff recommends approval subject to the following conditions:

Code Requirements:

1. An updated wetlands survey shall be submitted with the preliminary plat. (Section 922)

2. Correct the summary table to show the 57 detached condo units on Garden Bay Circle. The total units shown on this plan are 256.
3. Correct the density tables to reflect all of the units indicated on the plan. (Should be 2.15 units per acre)
4. Wastewater treatment for all future phases shall be provided from the Monterey Shores Wastewater Treatment Plant as indicated in the Development Impact Statement.

Staff Recommendations:

1. The following lots appear to need wetland fill permits to be able to build on the lots- please provide an explanation and strategy to accomplish this: 38, 47, 48, 54, 53, 61, 62, 64-69, 71, 72; Patio Home Lots 33-34 and 56. Staff recommends the permits for this fill be obtained prior to Preliminary Plat.

This staff recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning and Inspections. The Board of Commissioners shall give considerable weight to public testimony received during public hearing in considering its decision in this matter.

Planning Board Discussion

Carlos Gomez, Coastal Engineering, appeared before the board.

Mr. Webb presented the case analysis to the board.

Ms. Robbins stated her concerns with the entrance.

Mr. Gomez said that the developer doesn't have any plans for another entrance.

Ms. Robbins asked where the storm water would go.

Mr. Gomez stated that it would go to the south to a pond

Mr. Midgette stated his concern with the storm water in the area as well.

Mr. Gomez said that he believes they have reduced the ground water table for Whalehead already.

Mr. Herb Robbins spoke on behalf of the Whalehead Property Owners Association. The POA is very concerned about this development and stated his opposition. He asked the board to table the request until drainage is addressed. Mr. Robbins said that the adjacent property owners were not notified.

Mr. Midgette asked Mr. Webb for clarification on the notifications.

Mr. Webb stated that there are copies of the certified mail receipts in the file.

Mr. Eric Avery said that he has met with property owners and that they don't have problems with the project. He indicated the property that he gave to the county and offered to put a drainage

pipe in to help with drainage. Whalehead is a higher property and this project could not possibly have an impact on Whalehead drainage.

Mr. Keel asked how many cars would be parked there.

Mr. Gomez said that there could be up to 40 spaces.

Mr. Robbins said that he had spoken with Bob Collins and he had not seen the project before. He stated that there are serious problems in the area. There is a tax planned to solve the drainage problem. The planning process allowed for ponds to be filled and there is no place for stormwater.

Ms. Alicia McDonnell pointed out a cul de sac that slopes into her street. After Ernesto, the residents ended up pumping themselves out after the storm. There were 18" of water in her neighbors basement. She has serious concerns with the possibility of flooding and drainage issues.

Mr. Avery stated that the area referred to is Corolla Shores, not his development. He feels that they have gone over and above state standards to improve the areas drainage.

Mr. Kovacs asked if Mr. Gomez is aware of the staff recommendations and comments.

Mr. Gomez said that the permits are in process. Nothing will continue until the permits are received.

Mr. Webb noted that the State has indicated that the project will not move forward without a plan for the wetlands and drainage.

Planning Board Action

Mr. Kovacs motioned to approve the request as presented. Mr. Keel seconded the motion. Motion passed 4-3 with Mr. Etheridge, Ms. Robbins, Ms. Turner voting no.

Eric Braun, Attorney for applicant, reviewed how evidence would be presented.

Carlos Gomez, Engineer, stated that the request was consistent with the land use plan.

George Wood, presented his professional background, reviewed the stormwater management plan.

Jack Riggle, Real Estate, testified that developer will not harm property values.

Kay Cole, resident of Corolla, supports project.

Norman Bibeau, resident of Corolla, supports project.

Chairman Nelms, commented on how building market has suffered.

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

Commissioner Bowden moved to approve with findings of fact and evidence reported. Commissioner Gregory seconded the motion. Motion carried.

Public Hearing and Action on PB 06-24 LAUREL WOODS ESTATES Sketch Plan/Special Use Permit for 160 lot Conservation Subdivision on property located at on the west side of Caratoke Highway, ½ mile north of the intersection with Bells Island Rd. Tax Map 50, Lots 70A, 70B, Crawford Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning Director, presented the request.

ITEM: PB 06-24 Laurel Woods Estates, Sketch Plan/ Special Use Permit For 160 Residential Lots, Conservation Subdivision

LOCATION: Located at on the west side of Caratoke Highway, ½ miles north of the intersection with Bells Island Rd. Tax Map 50, Lots 70A, 70B, Crawford Township.

TAX ID: Tax Map 50, Lots 70A, 70B (0050-000-070A-0000 and 0050-000-070B-0000)

ZONING DISTRICT: Mixed Residential (RA)

PRESENT USE: Agriculture

OWNERS: Edward A. Brumsey, Jr.
3121 Caratoke Highway
Currituck, NC 27949

ENGINEER: Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

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

	Land Use	Zoning
NORTH:	Low density residential uses and farm fields	RA
SOUTH	Low density residential uses and farm fields	RA
EAST:	Low density residential uses and farm fields	R
WEST:	Farm fields	RA

SCHOOL DISTRICT: Crawford

FIRE DISTRICT: Crawford V.F.D.

SIZE OF SITE: 156.67

NUMBER OF LOTS: 160

- DENSITY:** 1.02 units / acre
- MINIMUM LOT SIZE:** 20,000 Square Feet (Conservation Subdivision)
- STREETS:** The streets will be built to NCDOT Design and Construction standards. The developer expects the streets will be dedicated to NCDOT for maintenance.
- WATER:** The site will be served by County water. The proposed water use is 76,800 GPD.
- WASTEWATER:** On-site septic systems are proposed. On November 17, 2005 On-Site Septic Site Evaluations were performed for 15 lots as a requirement of the Conservation Subdivision requirements. Of these 15 lots, 7 were deemed to be unsuitable (over 50%). On May 2, 2006 Albemarle Regional Health Services stated: "Based upon licensed soil scientist work and monitoring by David Meyer, all lots in Laurel Woods Subdivision are provisionally suitable."
- SOILS** The site contains approximately 84 acres of soils classified as unsuitable, 24 acres of marginal and 48 acres of suitable soils for on-site septic systems.
- OPEN SPACE:** Forty-five (45%) percent of the net area of the lots are required to be open space, which is 63.45 Acres. The applicant is proposing 67.02 acres.
- DRAINAGE:** The preliminary drainage plan indicates infiltration and collector swales. On-site stormwater ponds will also be installed.
- FLOOD ZONES:** Approximately 3 acres of the property near Caratoke Highway is in Flood Zone AE (4). The remainder of the property is not in the 100 year flood zone.

NARRATIVE OF REQUEST:

The applicant is seeking Sketch Plan approval of a 160 lot Conservation Subdivision. The Conservation design is a residential subdivision where lot sizes may be reduced to a minimum of 20,000 square feet and at least 45% open space is provided.

UDO Section 923 States:

The purpose of Conservation Subdivision Design is to preserve agricultural and forestry lands, natural and cultural features, and rural character that would be likely lost through conventional development approaches. To accomplish this goal, greater flexibility and creativity in design of such developments is encouraged. This type of subdivision allows the developer to decrease lot sizes and leave the land "saved" as common open space, thereby lowering development costs and increasing the amenity of the project without increasing the density beyond what would be permissible if the land were to be developed into lots using the conventional subdivision standards.

The Conservation Subdivision standards allow 5% Density Bonus in the Mixed Residential (RA) Zoning District, according to Section 930. The 5% bonus allowed the number of Yield Plan Lots, 152, to increase to 160 lots with a minimum size of 20,000 SF.

This development will include:

- An open space system that will abut most of the 160 lots.
- A 22 acre area to preserve existing trees.
- A reforestation program for over 10 acres of the farmland.
- A 6 foot wide walking trail that will connect all of the areas of the open space.
- A 4.5 acre pond and park area that will include a picnic pavilion, gazebo/ dock, and playground.
- A ½ acre Dog Park area.

Impact Statement Summary:

- The applicant's development impact statement indicates the lots will be built out over a 9 year period with land/home packages in the \$370,000 to \$500,000 range. The homes are expected to range in size from 2,000 to 3,000 sq. ft.
- The Traffic Analysis in the impact statement indicates at full build out, the Trip Generation in 2015 will be 1,600 trips/ day.
- The proposed water use is 76,800 GPD.

The applicant is also proposing the following **Formal Phasing Plan:**

YEAR	PERMITS ISSUED PER YEAR
1 (2007)	10
2 (2008)	30
3 (2009)	30
4 (2010)	30
5 (2011)	30
6 (2012)	30

“Any building permits not issued in a particular building year may be rolled over to the next building year but shall not be counted in the total allowable building permits in that building year. Building year shall be defined as the calendar year (January 1- December 31)”

APPLICATION HISTORY:

A Pre-Application conference was held on February 20, 2006. At that time Bissell Professional Group presented the staff with a 152 lot yield plan and a 160 lot conceptual plan to consider.

The Sketch Plan application was submitted on March 24, 2006.

The Technical Review Committee reviewed the plan on April 19, 2006.

The Planning Board heard the case on May 9, 2006 and recommended approval.

The Board of Commissioners heard the request June 5, 2006 and tabled the case due to water system concerns.

The applicant request the case be withdrawn from the July 17, 2006 Commissioners Meeting.

On July 9, 2007, the applicant reapplied for the Sketch Plan approval. The County Attorney has determined this should be considered as a new application and be considered under the 2006 Land Use Plan.

TRC REVIEW

A Technical Review Meeting was held on April 19, 2006 and the reviewing agencies had the following comments:

1. **NCDOT:** The plan was approved with the following comments:
 - a. A DOT Driveway permit will be required at the Preliminary Plat stage;
 - b. Need to show a typical section with next phase;
 - c. Need to review a drainage plan prior to final plat approval;
 - d. The deceleration lane may need to be re-designed to meet DOT requirements.
2. **CURRITUCK COUNTY PUBLIC WORKS/ CURRITUCK COUNTY SOIL AND WATER:** The plan was approved with the following comment:
Please label existing ditches throughout site.
3. **CURRITUCK COUNTY WATER DEPARTMENT:** Approved with the following: engineer to submit water line extension plans for review. The main along HWY 168 is on the east side, requiring a bore under the HWY. We will need the average ditch depths in front of each lot so we may decide water service locations.
4. **CURRITUCK COUNTY FIRE SERVICES:** The plan was approved with the following comments:
 - a. Move fire hydrant from lot 72 to adjoining line of lots 70/71.
 - b. Remove hydrant from lot 69.
 - c. Symbol at lot 121 should be fire hydrant.
 - d. During construction of all phases codes for cul-de-sacs and fire hydrant spacing apply.
 - e. Note that while the pavement diameter is accurate light poles, signs, utility boxes, gazebos and mail boxes may hamper the movement of fire apparatus if not given careful consideration.
5. **CURRITUCK COUNTY RECREATION:** The plan was approved with no comment.
6. **CURRITUCK COUNTY GIS/ TAX MAPPING:** Approved with the following comments:
 - a. Persimmon Pass as a street name is denied. Only one of the proposed names that begin with "Red" can be used. All other street names proposed are approved.
7. **CURRITUCK COUNTY SCHOOLS:** The plan was reviewed with no comment.
8. **CURRITUCK COUNTY DEPARTMENT OF PLANNING AND INSPECTIONS, INSPECTIONS DIVISION:** The plan was approved with no comment.

9. N.C. DIVISION OF COASTAL MANAGEMENT: The site is not in a CAMA jurisdiction.

10. ALBEMARLE REGIONAL HEALTH SERVICES: The Health Department did not submit comments nor attend the Technical Review Committee Meeting. On May 2, 2006 Albemarle Regional Health Services forwarded a letter that stated: "Based upon licensed soil scientist work and monitoring by David Meyer, all lots in Laurel Woods Subdivision are provisionally suitable."

SPECIAL USE PERMIT CRITERIA:

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. It is recognized that some land uses have a particular impact on the surrounding land that cannot be determined and controlled by general zoning regulation. Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties. In order to approve a Special Use Permit, certain criteria must be satisfied. The criteria are outlined as follows:

1. *Is the application complete?* Based on staff review all required information has been submitted for review.
2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?* The plan generally complies with the provisions of the UDO.
3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*

- (a) *Will not endanger the public health or safety.*

Public health and safety issues including stormwater management, wastewater disposal and access for emergency services have been adequately addressed within this proposal;

- (b) *Will not injure the value of adjoining or abutting property.*

The proposed residential subdivision should have no negative impact on adjoining property because of the vegetative buffers that will be created. The NCDOT did not comment on any traffic impacts the site will have.

- (c) *Will be in harmony with the area in which it is located.*

This low density residential subdivision will be in harmony with the mixed agricultural and residential character of the area.

- (d) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.*

The site is located in the **Limited Services Area** and **Courthouse** sub-area.

The purpose of the Limited Services Area class is to provide for primarily residential development at low densities. Despite the overall low density of these areas, efforts should be made to encourage clusters of residential uses to preserve open space and to provide for a sense of a "community". Base development

density should be 1 unit per acre but could be increased to 1.5 units per acre through overlay zoning depending upon whether service facilities are in place or planned and the potential impact on the surrounding community.

The policy emphasis for the **Courthouse** area to continue to grow as a small community center therefore much of the area is considered Full Service and Limited Service. Residential development densities should be medium to high depending upon available services. In areas where on-site wastewater is proposed and other County services are limited, development density should be limited to 1-2 units per acre.

Also policy WS6 states: Currituck County endorses the proper use and maintenance of APPROVED SEPTIC SYSTEMS in suitable soils as an environmentally acceptable means of treating and dispersing waste from low-density development. With the soils on this site being classified as provisionally suitable only if fill is used, staff questions if this plan is meeting the intent on this policy. The question for the board is, do provisionally suitable soils for septic systems meet the intent of this policy.

It appears that this plan **generally complies** with the 2006 Land Use Plan if the board finds that the provisionally suitable soils are compliant with policy WS6.

- (e) *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within 2 years after the initial approval of the sketch plan. In the case of subdivision and multifamily development at the sketch plan/special use, preliminary plat or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in accordance with Section 2015.*

SCHOOL

CAPACITIES: The revised capacity formula and generation rates taken from the 2004 Tischler & Associates, Inc. study were used to calculate the capacity under the existing ordinance. The proposed development will yield the following calculations:

Laurel Woods Estates (160 SFD lots)	Available Capacity	Demand	Remaining Capacity if approved
Elementary School	122	40	82
Middle School	92	13	79
High School	132	22	110

Staff has determined adequate public facilities are available for the project.

PLANNING STAFF RECOMMENDATION:

Because it appears the application has satisfied the criteria for granting a Special Use Permit as outlined above, staff recommends **conditional approval** if the Board determines the intent of the land use plan septic polices are met and subject to the following conditions:

Code and TRC Requirements:

1. At the Preliminary Plat stage, the applicant will be required to submit septic evaluations, a North Carolina Stormwater Management Permit and a North Carolina Sedimentation and Erosion Control Permit along with the plans required by the UDO.
2. At the Preliminary Plat stage, the applicant will have to provide a landscape plan and recreational improvements detailing the amenities to be provided.
3. At the Preliminary Plat stage the applicant will have to indicate minimum lot setbacks to demonstrate that all lots will support the proposed residences.
4. A reserve utility open space shall be provided in addition to the required open space. The County Engineer shall approve the minimum area required for the reserve utility space prior to submission of Preliminary Plat. (Section 703).
5. Sidewalks are required along both sides of the street. (Section 914)
6. At the Preliminary Plat submission, the applicant shall submit a schedule of recreational improvements that correspond to the phases to be reviewed by staff and the Planning Board.
7. At the TRC meeting, staff recommended street connectivity to properties to the North (Taylor), West (Snowden) and the Caratoke Forest 10 Acre subdivision to the South. The revised plan shows connectivity to the West and South. Staff agrees the current layout meets the intent of the Section 914, Streets. The project engineer indicated that a connection to the North would pass through environmentally sensitive managed pine or wetlands. Staff is not recommending any connections to the Taylor property because of possible damage to the managed pine areas.
8. All street connections shall be paved to the property line with signs installed indicating connection to future development. If the paving is not completed staff is concerned with maintenance of the right of way and the future road will not be completed.
9. The required improvements shall be installed and accepted prior to submission for Final Plat approval for each phase, including streets, sidewalks, and trails. At Preliminary Plat, the applicant shall submit a plan indicating which improvements will be made each year of the phasing plan.
10. No land disturbing activities shall be permitted on site prior to the issuance of the Preliminary Plat approval, including clearing vegetation, grading or filling. (Section 910)
11. Tap fees shall be due prior to Final Plat approval for each lot

Recommendations:

1. Staff recommends the board accept the formal phasing Plan and it be administered by the county allowing only the indicated number of lots to be built on (10 year one, and 30 in subsequent years) to receive Final Plat approval in that calendar year.
2. Staff recommends the applicant coordinate with Cooperative Extension staff to identify the method that will be used to implement a reforestation program.
3. The trail system should be hard surface for accessibility and ease of maintenance. The path should be demarcated where the open space area passes between lots.
4. A variety of street tree species are recommended to avoid monotony and minimize the risk of loss of trees due to weather conditions or disease.
5. Staff recommends a landscape plan be submitted in conjunction with the preliminary plat showing the location, spacing, caliper dimension, and species of proposed landscaping materials. Shrubs shall be at least ten (10) gallons in size, and trees must be at least two (2) inches in caliper at planting.
6. All of the open space areas surrounding the ponds shall be stabilized with grass, vegetation and the proposed landscaping prior to recordation of the first phase.
7. All visual relief open space within each phase should be stabilized and vegetated with grass.

This staff recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning and Inspections. The Board of Commissioners shall give considerable weight to public testimony received during public hearing in considering its decision in this matter.

PLANNING BOARD DISCUSSION – May 9, 2006

Mr. Mark Bissell stated that he doesn't agree with all of the recommendations of staff. Item #4, sidewalks on both sides of streets, is a concern for the development. He proposes sidewalks on one side and extensive trails throughout the development. All lots with exception of those that front the access roads will have access to trail system. He supports the idea of a sidewalk in the front, but adding a second sidewalk adds to construction cost without adding a benefit. He also disagrees with connectivity as requested by staff to the south, because the provisions of the UDO are ambiguous with regard to the concept. He is under the impression that development to the south may be low income rental housing and wants to discourage an 'undesirable element' from congregating there.

Mr. Kovacs asked about proposal for street lighting.

Mr. Bissell said that it has not been considered.

Mr. Webb stated that street lights are required and would be shown at preliminary plat.

Mr. Kovacs stated his desire for cluster mailboxes to cut down on clutter in the development.

Mr. Bissell agreed with the suggestion.

Mr. Kovacs asked if the trail system is paved.

Mr. Kovacs asked about the entrance pond.

Mr. Bissell described it as a fountain, an entrance feature.

Mr. West asked if the lots were 20,000 square feet. He stated that according to his calculations, there should be 89 lots instead of 160. He stated that the soils in the back part of this property are poor. He stated that the county is getting into trouble with open space subdivisions, and they are too cluttered and he doesn't agree with 160 lots on 90 acres.

Mr. Kovacs asked about connectivity to the south and if the lots below were developable.

Ms. Keifer said that there is the potential for development.

PLANNING BOARD ACTION

Mr. Kovacs motioned to **recommend approval** of the request as presented with staff recommendations. Mr. Riley seconded the motion. Motion passed 7-2 with Mr. West and Mr. Etheridge voting no.

BOC Minutes June 5, 2006

Sworn testimony was given prior to making statements.

Sarah Keifer, Planning Director, reviewed the request. She also stated that the County Engineer recommends tabling this for 30 days to review the impact on the mainland water supply.

Chairman O'Neal opened the public hearing.

Mark Bissell, Engineer, was present to answer questions.

Commissioner Bowden moved to continue the public hearing for 30 days. Commissioner Miller seconded the motion. Motion carried.

PLANNING BOARD Minutes- September 11, 2007

DISCUSSION

Mark Bissell appeared before the board.

Mr. Webb presented the case analysis to the board.

Mr. West asked what is the different between an unsuitable and provisionally suitable septic system.

Mr. Webb explained what explained the difference.

Mr. Bissell stated that the Albemarle Regional Health Services performed an evaluation by a licensed soil scientist and all lots in Laurel Woods Subdivision are provisionally suitable.

Mr. West does not feel that that this soil will support a septic system in the back half.

Mr. Bissell stated that this project is modeled very closely after River's Edge subdivision successful for the developer and people.

Mr. West stated that he hears complains that they the lot sizes are too small. They cannot put in swimming pools or trampolines.

Mr. West asked if ½ of the property that doesn't have an arrow in it recently sold at auction.

Mr. Bissell stated that the application is on file but has not closed. It is being sold but not transferred at this point.

Mr. West asked how you can apply for land that you don't own.

Mr. Bissell stated that Mr. Brumsey owns the larger track, the smaller track is owned by Mr. Brumsey and his sister and this track is being sold to another individual who is working with Mr. Brumsey.

Mr. West stated that he had a couple phone calls from people who could not be here tonight and they are opposed to this.

Mr. Bissell stated that this is essentially a plan that they approved last year with one change after the planning board meeting suggesting the relocation of the entrance and a longer acceleration lane. These changes have been made.

Mr. Midgette asked about the school capacity.

Mr. Webb stated that staff has determined adequate public facilities are available for the project.

Mr. Kovacs asked if this is a formal phasing plan.

Mr. Webb explained the phasing plan.

Mr. West has concerns with the lot sizes and soil not suitable for urban development and having a problem with septic systems later.

Mr. Kovacs stated that on the septic system on a 20,000 sq. ft. lot you have to have enough area for the septic and repair area; is there enough space on these lots for a repair area?

Mr. Bissell stated yes.

Mr. Bell asked if the fill on this property will cause a hardship on any of the owners.

Mr. Bissell stated no.

PLANNING BOARD ACTION, September 11, 2007

Mr. Bell motioned to recommend approval of the request for a sketch plan/special use permit for 160 residential lots, conservation subdivision with staff recommendations as presented. Mr. Keel seconded the motion. Motion failed 3-4 with Bobby Bell, Alvin Keel, and Joe Kovacs voting yes and William Etheridge, Arthur Winter, Forrest Midgette, and Manly West voting nay.

Mr. Bissell asked the board the basis of their denials.

Mr. West stated that his reason for denial were the lot sizes and soil not suitable for urban development and having a problem with septic systems later as he stated above.

Chairman Nelms opened the public hearing.

Mary Romm, stated that 160 lots were excessive and expressed her concerns with traffic.

John Flora, Attorney representing property owner, presented samples of the soil on property and that it will support septic systems.

David Myers, Soil expert, stated that soils were suitable.

Mark Bissell, Engineer, stated that request meets all requirements.

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

Commissioner Etheridge moved to table until traffic had been addressed. Commissioner Taylor seconded the motion. Motion failed with Chairman Nelms and Commissioner Gregory and Bowden voting no.

Commissioner Bowden moved to approve. Commissioner Gregory seconded the motion. Motion carried with Commissioner Taylor and Etheridge voting no.

Consideration of Amendment to the Noise Ordinance - 2nd Reading

Ike McRee, Attorney, reviewed the noise ordinance.

Commissioner Gregory moved to approve. Commissioner Taylor seconded the motion. Motion carried.

**AN ORDINANCE OF THE
CURRITUCK COUNTY BOARD OF COMMISSIONERS
AMENDING THE NOISE ORDINANCE FOR CURRITUCK COUNTY**

WHEREAS, pursuant to N.C Gen. Stat. §153A-121 a county may by ordinance define, prohibit, regulate or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-133 a county may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb or frighten its citizens.

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

PART I. Section 9-33 of the Code of Ordinances for Currituck County is amended to read as follows:

Sec. 9-33. Maximum permitted sound levels by use occupancy.

- (a) The use of sound amplifying equipment is limited to the conditions specified in this section.
- (b) Outdoor amplified sound, including a live musical group or individual using sound amplifying equipment, may be produced only if an authorized agent of the sponsoring business, organization or group has been granted an "outdoor amplified sound permit." This permit must be signed by a representative of the business, organization or group holding or sponsoring the event at which the outdoor amplified sound will be produced.
- (c) Except as allowed in subsection (d) below, no person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which at its peak exceeds the limits set forth for the use occupancy categories in Table 1 when measured at or beyond the point on the property line closest to the dwelling located on ~~of~~ the property from which the sound complaint originates. For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges, or

other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line. In all cases the maximum sound level permitted by use occupancy shall be determined on the basis of the use occupancy of the property from which the sound originates and not by the use occupancy of any surrounding property. Sound which originates from a dwelling unit in a duplex or other multifamily housing unit shall be measured from any point which is at least 25 lineal feet, whether inside or outside a building, from the nearest point of the enclosed or habitable space of the dwelling unit from which the sound originates.

TABLE 1
SOUND LEVELS BY USE OCCUPANCY
TABLE INSET:

Use Occupancy Category	Time	Sound Level Limit (dB(A))
Residential	7:00 a.m.--9:00 p.m.	60
	9:00 p.m.--7:00 a.m.	50
Mobile home park	7:00 a.m.--9:00 p.m.	60
	9:00 p.m.--7:00 a.m.	50
Public space, commercial or business	7:00 a.m.--9:00 p.m.	60
	9:00 p.m.--7:00 a.m.	50
Manufacturing or industrial	At all times	70

(d) Sound levels in excess of the limits established in Table 1 will be permitted in public space, commercial or business space, manufacturing, industrial space, but not on residential space, as follows:

TABLE 2
TABLE INSET:

Without Permit (dB(A))	With Permit to exceed (dB(A))
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Friday evening

(5:00 p.m.--11:00 p.m.)	65	80
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Saturday

(10:00 a.m.--11:00 p.m.)	65	80
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Holidays (as defined in section 9-31)

(Noon--11:00 p.m.)	65	80
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- (d) No property owner shall allow a noise-related nuisance or health or safety hazard to be created or maintained by or on account of tenants of the property owner. For purposes of this subsection a noise-related nuisance or health or safety hazard shall be deemed to exist when a tenant or group of tenants at a specific location receives a third citation for a noise ordinance violation pursuant to this article. The property owner shall be liable for the costs of remedying the nuisance or health or safety hazard in accordance with the provisions of section 9-40. A property owner may be held liable for the costs of abating the nuisance or remedying the health or safety hazard only if the property owner has been notified in writing, via actual delivery or certified mail, of the first two ordinance violations.

A property owner shall be liable for the costs of abating the nuisance or remedying the health or safety hazard upon the third and any subsequent action by the same tenant at a specific location, provided the third violation occurs at least 15 days from the date of actual receipt of notice of the second violation. It shall be a complete defense to a citation under the subsection if the owner of the real property involved can prove that he or she is actively pursuing an eviction process according to law, and that the eviction process was begun prior to the date of the third or any subsequent violation by the same tenant at specific location.

- (f) Notwithstanding the above, the playing of any musical instrument or electronic sound-amplification equipment in such manner or with such volume, or the keeping of any animal or bird which makes frequent or long, continued sounds, or the use of any automobile, motorcycle or vehicle so out of repair or in such manner as to create unreasonably loud, disturbing sounds, all of which would unreasonably disturb persons of ordinary and reasonable sensibilities in the vicinity, shall be prohibited.

PART II. Section 9-35 of the Code of Ordinances for Currituck County is amended to read as follows:

Sec. 9-35. Exceptions.

The following are exempt from the provisions of Table 1 and Table 2 of section 9-33:

- (1) Sound emanating from scheduled outdoor athletic events.
- (2) Construction operations from 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends for which building permits have been issued or construction operations not requiring permits; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
- (3) Noise of safety signals, warning devices, emergency pressure relief valves, and all church bells. For purposes of this subsection, the term "church bells" shall not include electronic devices or artificial sound reproduction systems intended to sound like church bells.
- (4) Noise resulting from any authorized emergency vehicle.
- (5) Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or federal law, provided such activity is of a temporary duration lasting no longer than two hours during any 24-hour period.
- (6) Unamplified and amplified sound at street fairs conducted, sponsored or sanctioned by the county.
- (7) Noise from noisemakers on holidays and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to Article 59, Chapter 14 of the General Statutes of North Carolina.
- (8) Unamplified and amplified sound at community concerts conducted, sponsored or sanctioned by the county.
- (9) Practice sessions or performances by marching bands.
- (10) Noise from trains and associated railroad rolling stock when operated in proper repair and manner.
- (11) Noise emanating from agricultural or farm equipment.
- (12) Sound emanating from events for which a special use permit has been issued under the Currituck County Unified Development Ordinance by the Board of Commissioners.

Those places of business found to be in violation of this limit shall be subject to the penalties in section 9-40.

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

PART IV. This ordinance is effective upon adoption.

Consideration of Amendment to Solid Waste Ordinance - 2nd Reading

Commissioner Bowden moved to approve. Commissioner Etheridge seconded the motion. Motion carried.

ARTICLE II. STORAGE AND DISPOSAL

Sec. 11-21. Compliance with article.

No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid waste upon his property that is not stored or disposed of in a manner prescribed by this article.
(Ord. of 5-18-92, § III(A))

Sec. 11-22. Frequency of removal.

The owner, occupant, tenant or lessee of any property shall remove or cause to be removed all solid waste from his property at least once each week (seven-day period).
(Ord. of 5-18-92, § III(B))

Sec. 11-23. Storage of garbage.

Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, watertight, and easily cleaned, with a close-fitting fly-tight cover in place, with adequate handles or bails to facilitate handling. Solid waste receptacles, as defined by this article, may also be used for storage provided they meet the requirements of this section. The number of containers shall be adequate to store one week's accumulation of garbage. Each container shall be kept clean so that no odor or other nuisance condition exists.
(Ord. of 5-18-92, § III(C))

Sec. 11-24. Storage of refuse.

Refuse shall be stored in a manner that will resist harborage to rodents and vermin and will not create a fire hazard. Regulated refuse under this section includes, but is not limited to, lumber, boxes, barrels, bottles, cans, tires, paper, cardboard, rags, old furniture and other bulky waste, and white goods. Useful materials, such as building materials, may be stored on the premises, provided they are stored in a safe manner.
(Ord. of 5-18-92, § III(D))

Sec. 11-25. Storage of bulky waste.

No owner, occupant, tenant, or lessee of a building or dwelling, other than a licensed junk dealer, may place or leave, or cause to be placed or left, outside the building or dwelling any bulky waste for longer than 72 hours.
(Ord. of 5-18-92, § III(E))

Sec. 11-26. Accessibility of airtight containers to children.

No owner, occupant, tenant or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator or other receptacle that has an airtight door without first removing the door.

(Ord. of 5-18-92, § III(F))

Sec. 11-27. Methods of disposal.

- (a) Solid waste shall be disposed of only in one of the following ways:
 - (1) In a landfill approved by the department;
 - (2) In an incinerator that has all required local, state, and federal control permits;
 - (3) By any other method, including recycling and resource recovery, that has been approved by the department.
- (b) In addition to the methods listed in subsection (a) of this section, refuse may be disposed of in a solid waste receptacle provided by the county.
- (c) No person may discard, dispose, leave, or dump any solid waste on or along any street or highway or on public or private property unless such solid waste is placed in a receptacle or at a location designated for the deposit of solid waste.
- (d) Construction wastes must be disposed of at disposal sites approved and permitted by the department.
- (e) Regulated medical, hazardous, and radioactive waste must be disposed of according to written procedures approved by the department.
- (f) Any person collecting and transporting solid waste generated on such person's property for disposal at an approved disposal site shall comply with sections 11-3(a) and (b) of this chapter concerning vehicles and containers.
- (g) All sharps shall be placed in a sealed, punctureproof container prior to disposal.
- (h) Open burning of solid waste is prohibited.

(Ord. of 5-18-92, § III(G)--(N))

Sec. 11-28. Frequency of removal; RO2 zoning district.

The owner, occupant, tenant or lessee of any property in the RO2 zoning district as defined in Section 120 of the Currituck County Unified Development Ordinance shall remove or cause to be removed all solid waste from his property at least two times each week (seven-day period).

(Amd. of 1-18-05)

Sec. 11-29. Enclosure of roll-out carts: RO2 zoning district.

The owner of any property in the RO2 zoning district shall construct an enclosure in which to store solid waste receptacles. Such enclosure shall be four-sided and constructed of wood, concrete, block, brick or other material as approved by the building inspector. Such enclosure shall allow for ventilation and accessibility by the sanitation company. The enclosure shall be

placed within four feet of the right-of-way. The enclosure shall be constructed within 60 days of the adoption of the ordinance from which this section derives.

This section shall only apply to those owners, occupants, tenants, or lessees utilizing a commercial service pick-up. Any owner, occupant, tenant, or lessee disposing of his or her own solid waste at a county solid-waste facility shall not be required to construct an enclosure in which to store solid waste receptacles.

(Amd. of 1-18-05)

Sec. 11-30. Solid waste containers in the RO1 and RO2 districts.

Every residential unit in the RO1 and RO2 districts as defined in Section 120 of the Currituck County Unified Development Ordinance where solid waste exists shall provide a sufficient number of containers for each residential unit in which shall be deposited all solid waste existing or generated at such premises. All containers must meet the requirements of this ordinance and the requirements of the solid waste collection agency. Furthermore:

- (1) Each residential unit in said RO1 and RO2 districts must have a minimum of one container. Each residential unit container in the RO2 district shall not exceed 30 gallons in capacity.
- (2) Each residential vacation rental unit in said RO1 and RO2 districts must have a minimum of one container for each two bedrooms in the residential vacation rental unit. For purposes of this chapter, the required number of containers shall be based on the next interval of two bedrooms (i.e., a residential vacation rental unit with three bedrooms would require two containers; a residential vacation rental unit with nine bedrooms would require five containers.
- (3) For purposes of this section, a bedroom is any room which provides a facility for sleeping, including, but not limited to, day beds (or other convertibles), sleeper sofas or couches, hide-a-beds, cots, roll-away beds or cribs.

(Ord. of 8-7-06)

Sec. 11-31. Recycling containers.

Every residential unit in the RO1 and RO2 districts as defined in Section 120 of the Currituck County Unified Development Ordinance shall provide a sufficient number of containers for each residential unit in which shall be deposited all recyclables existing or generated at such premises. All containers must meet the requirements of this ordinance and the requirements of the recycling collection agency. Furthermore:

- (1) All residential units in said RO1 and RO2 districts shall utilize a minimum of one recycling container for curbside collection per residential unit.
- (2) All residential vacation rental units shall be required to utilize a minimum of one recycling container for every three solid waste containers utilized by the unit in accordance with section 11-30.

(Ord. of 8-7-06)

Secs. 11-32--11-40. Reserved.

Appointment to Jury Commission

Chairman Nelms reappointed Dorothy Jones. Commissioner Gregory seconded the motion. Motion carried.

Appointment to Land Transfer Tax Appeals Board

Commissioner Etheridge moved to reappoint John Whitehurst. Commissioner Taylor seconded the motion. Motion carried.

Appointment to Wild Horse Advisory Board

Commissioner Bowden moved to appoint Elizabeth Lane. Commissioner Etheridge seconded the motion. Motion carried.

Nomination for Appointment to Coastal Resources Commission

Commissioner Gregory moved to nominate Chairman Nelms. Commissioner Taylor seconded the motion. Motion carried.

Consent Agenda:

1. Resolution Declaring Parcel 110D-029-0007-0000, Albemarle Sound Beach Estates, to be Surplus Property
2. Resolution Authorizing Upset Bid Process
3. NC Cooperative Extension Service Center Project Change Order Number: 001
4. Jarvisburg Elementary School Change Order Number: 2
5. Jarvisburg Elementary School Change Order Number: 4
6. Budget Amendments
7. Knotts Island VFD Project Ordinance
8. Approval of October 15, 2007, Minutes
9. Albemarle Mental Health Center's Quarterly Fiscal Monitoring Report for First Quarter FY 2007-08
10. Budget Amendment - Sheriff's Office
11. Consideration of Water Purchase Contract with South Camden Water & Sewer District
12. Approval of Resolution in Support of Tobacco-Free Environments
13. Approval of Lower Currituck Volunteer Fire Department Request to Spend Funds for Repairs to Grandy Station
14. Approval of notice to exchange property in Whalehead Subdivision

Commissioner Gregory moved to approve with amendment to October 15 minutes to include Commissioner Etheridge's resolution. Commissioner Etheridge seconded the motion. Motion carried.

RESOLUTION

WHEREAS, Currituck County obtained title to parcel 110D-029-0007-0000 located in the Poplar Branch Township through a property tax foreclosure; and

WHEREAS, this parcel is not currently serving a governmental use or purpose; and

WHEREAS, this parcel holds only a nominal value to Currituck County, and the County would be better served if this parcel was returned to the County tax roll.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Currituck County, North Carolina, during its regularly scheduled meeting held on November 5, 2007, authorized that parcel 110D-029-0007-0000 located in Poplar Branch Township, recorded in Deed Book 183, page 715 is declared as surplus property, pursuant to North Carolina General Statute Section 160A-265.

RESOLUTION AUTHORIZING UPSET BID PROCESS

WHEREAS, The County of Currituck owns certain property, PIN 110D-029-0007-0000, 104 Briggs Street, Lot 7, Block 29, Albemarle Sound Beach Estates, Jarvisburg, NC, located within Poplar Branch Township; and

WHEREAS, North Carolina General Statute 160-269 permits the county to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, the County has received an offer to purchase the property described above, in the amount of \$7,500.00, submitted by Steve C. Taylor of Chesapeake, Virginia.

WHEREAS, Steve C. Taylor has paid the required five percent (5%) deposit on this offer;

THEREFORE, THE COUNTY COMMISSIONERS OF CURRITUCK COUNTY RESOLVE THAT:

1. The Board of Commissioners authorizes sale of the property described above through the upset bid procedure of North Carolina General Statute 160A-269.
2. The County Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the County Clerk within 10 days after the notice of sale is published. At the conclusion of the 10-day period the County Clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
4. If a qualifying higher bid is received, the County Clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Board of Commissioners.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The County will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a

qualifying higher bid is received. The County will return the deposit of the final high bidder at closing.

7. The terms of the final sale are that
 - the County Commissioners must approve the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed, and
 - The buyer must pay with cash at the time of closing.
8. The County reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.
9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate County officials are authorized to execute the instruments necessary to convey the property to Steve C. Taylor.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10640-532004	Supplies - Home Economics	\$ 5,000	
10330-449900	Miscellaneous Grants		\$ 5,000
		<u>\$ 5,000</u>	<u>\$ 5,000</u>

Explanation: Cooperative Extension (10640) - To record grant proceeds for contract between NC Department of Insurance - Division of Seniors' Health Insurance Information Program and the County of Currituck to educate and assist Currituck County residents with Medicare issues including: Medicare Prevention Services, enrollment in the Prescription Drug Plan or Medicare Part D, and assistance with the extra help application through the Social Security Administration.

Net Budget Effect: Operating Fund (10) - Increased by \$5,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10446-503500	Temporary Services	\$ 4,800	
10446-505000	FICA	\$ 367	
10380-481000	Investment Earnings		\$ 5,167
		<u>\$ 5,167</u>	<u>\$ 5,167</u>

Explanation: Public Information (10446) - To appropriate funds for an employee to work with Mr. Manson and video board meetings in his absence.

Net Budget Effect: Operating Fund (10) - Increased by \$5,167.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
19609-545000	Contract Services Fund Balance	\$ 3,242	
19390-499900	Appropriated		\$ 3,242
		\$ 3,242	\$ 3,242

Explanation: Northwest Watershed Service District (19609) - To appropriate funds for contract to excavate and clear trees in the Northwest Watershed Service District.

Net Budget Effect: Northwest Watershed Service District Fund (19) - Increased by \$3,242.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10430-532000	Supplies	\$ 6,100	
10430-590000	Capital Outlay Fund Balance	\$ 143,900	
10390-499900	Appropriated		\$ 150,000
		\$ 150,000	\$ 150,000

Explanation: Elections (10430) - To appropriate fund balance to purchase a modular building for the Board of Elections, set-up and furnishings.

Net Budget Effect: Operating Fund (10) - Increased by \$150,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10531-511010	Data Transmission	\$ 450	
10535-511010	Data Transmission	\$ 450	
10531-532000	Supplies		\$ 450
10535-545000	Contract Services		\$ 450

\$	900	\$	900
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Explanation: Emergency Management (10531); Communications (10535) - To transfer budgeted funds for air cards for Emergency Management Director and Communications Supervisor.

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
22690-545002	Contract Services	\$ 35,000	
	Fund Balance		
22390-499900	Appropriated		\$ 35,000
		<u>\$ 35,000</u>	<u>\$ 35,000</u>

Explanation: Knotts Island Fire Department (22690) - To carry-forward appropriation for used engine approved in FY 2007.

Net Budget Effect: Fruitville Fire District Fund (22) - Increased by \$35,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10790-545000	Contract Services	\$ 3,740	
10790-511000	Telephone & Postage		\$ 2,000
10790-516000	Repairs & Maintenance		\$ 740
10790-503500	Temporary Services		\$ 1,000
		<u>\$ 3,740</u>	<u>\$ 3,740</u>

Explanation: Library (10790) - To transfer funds for cleaning contract for the Corolla Library for the remainder of this fiscal year.

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
		Increase Expense	Decrease Expense
10795-576015	Community Tackle Football	\$ 825	
10350-469015	Tackle Football Revenue		\$ 825
		\$ 825	\$ 825

Explanation: Parks & Recreation (10795) - To increase budgeted line items needed due to increased participation in the fall tackle football program. This will be funded through recreation fees collected.

Net Budget Effect: Operating Fund (10) - Increased by \$825.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
		Increase Expense	Decrease Expense
10530-532000	Supplies	\$ 1,226	
10530-514500	Training & Education		\$ 399
10530-590000	Capital Outlay		\$ 827
		\$ 1,226	\$ 1,226

Explanation: Emergency Services (10530) - To transfer budgeted funds to supplies for a binding machine and for portable radios that did not meet the capital outlay threshold.

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
		Increase Expense	Decrease Expense
10510-545000	Contract Services	\$ 2,000	
10510-511010	Data Transmission		\$ 2,000
		\$ 2,000	\$ 2,000

Explanation: Sheriff (10510) - Request for additional money for contracted services to pay for snakes and exotic animals when they have to be housed with non-county facilities.

Net Budget

Effect: Operating Fund (10) - No change.

**COUNTY OF CURRITUCK
CAPITAL PROJECT ORDINANCE**

BE IT ORDAINED by the Currituck County Board of Commissioners, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

SECTION 1. The project authorized is design and construction of a fire department facility located in Knotts Island, North Carolina.

SECTION 2. The following amounts are appropriated for the project:

Contract Services	\$	1,552,720
Furnishings	\$	75,000
Professional Services	\$	70,400
Contingency	\$	101,880
		\$ 1,800,000

SECTION 3. The following revenues are available to complete this project:

USDA Loan	\$	800,000
Transfer from Transfer Tax Capital Fund	\$	1,000,000
		\$ 1,800,000

SECTION 4. The Finance Director is hereby directed to report, on a quarterly basis, on the financial status of each project element delineated in Section 2 above.

SECTION 5. SPECIAL APPROPRIATIONS AND RESTRICTIONS

The Budget Officer is hereby authorized to transfer appropriations within the fund as contained herein under the following conditions:

- a. He may transfer amounts between object line items within the fund up to One Thousand dollars (\$1,000).

SECTION 6. CONTRACTUAL OBLIGATIONS

The County Manager is hereby authorized to execute contractual documents under the following conditions:

- a. He may execute contracts for construction or repair projects which do not require formal competitive bid procedures.

- b. He may execute contracts for (1) purchases of apparatus, supplies, and materials, or equipment which are within the budgeted departmental appropriations; (2) leases of personal property for a duration of one year or less and within budgeted departmental appropriations; and (3) services which are within budgeted departmental appropriations.
- c. He may execute contracts, as the lessor or lessee of real property, which are of a duration of one year or less which are within the budgeted departmental appropriations.

SECTION 7. USE OF BUDGET ORDINANCE

The Budget Officer and the Finance Director shall use this capital project ordinance for administration of the budget and for the accounting system.

RESOLUTION IN SUPPORT OF TOBACCO-FREE ENVIRONMENTS

WHEREAS, secondhand smoke has been proven to cause cancer, heart disease, and asthma in both smokers and nonsmokers; and

WHEREAS, the 2006 Surgeon General's Report on the health consequences of involuntary exposure to tobacco smoke states that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, the 2006 Surgeon General's Report documents that separating smokers from nonsmokers, cleaning the air, and ventilating smoke cannot eliminate exposure to secondhand smoke; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and

WHEREAS, exposure to secondhand smoke is costly, costing the nation \$10 billion per year, \$5 billion in direct medical care costs, and \$5 billion in indirect costs according to the 2005 Society of Actuaries; and

WHEREAS, the vast majority of North Carolinians (77.4% of adults) do not smoke; and

WHEREAS, the 2006 Surgeon General's Report documents that eliminating indoor smoking fully protects nonsmokers from exposure to secondhand smoke; and

WHEREAS, the use of tobacco products other than cigarettes may lead to chronic health conditions, and those products include chewing tobacco, dipping tobacco products, smokeless tobacco, pipes, and cigars; and

WHEREAS, Albemarle Regional Health Services buildings are smoke-free, now therefore, the Board of Health resolves that Albemarle Regional Health Services prohibits the use of tobacco products in accordance with G.S.130A-498 at any time on the campus including buildings, parking lots, other grounds and property, and transportation vehicles owned, leased, operated, maintained, or occupied by Albemarle Regional Health Services and seeks support from Currituck County to uphold and adhere to the stated regulations to be effective on January 1, 2008.

PUBLIC NOTICE

EXCHANGE OF REAL PROPERTY

TAKE NOTICE that pursuant to N.C. Gen. Stat. Section 160A-271, the Board of Commissioners for the County of Currituck states its intention to authorize the exchange of certain county-owned property for certain property owned by Whalehead Associates, its successors and assigns.

The exchange involves the following tracts of land:

The county's land is all or a portion of Lot 34-A as shown on that plat entitled in part "Whalehead Club, Section 7" dated February 18, 1972 and of record at Map Book 3, Page 70 of the Currituck County Registry with an estimated tax value of an amount not exceeding \$945,000.00.

The land to be acquired by the county is that area of real estate comprising the rights-of-way for those streets known as Tuna Street, Sturgeon Street, Barracuda Street, Mackerel Street, Coral Street, Sailfish Street, and Marlin Street, the acquisition of which is necessary for, among other things, the construction and maintenance of stormwater management facilities to preserve the public health, safety and welfare and comprising an area comprising approximately 12.16 acres currently owned by Whalehead Properties.

The county has determined that it will receive full and fair consideration for the exchange of its property.

All persons interested in this exchange are invited to attend the meeting of the Currituck County Board of Commissioners to be held in the Commissioners Meeting Room, Historic Currituck Courthouse, 153 Courthouse Road, Currituck, North Carolina, at 7:00 p.m. on Monday, November 19, 2007. At that time the Currituck County Board of Commissioners intends to authorize the exchange of the properties described above.

Commissioner's Report

Commissioner Taylor commented on the 4-H TOP program. She also reminded residents of the Moyock Town meeting.

Commissioner Etheridge commended DOT on installing rumble strips on NC 168.

Commissioner Bowden requested a letter be sent concerning citations that were given to residents in Carova for trespassing.

Chairman Nelms stated that the information in the Daily Advance was incorrect with regards to the water pressure problem in Waterlily.

County Manager's Report

No comments

Closed Session:

According to GS 143-318.11 (5) to discuss land acquisition

Commissioner Gregory moved to go into closed session to discuss land acquisition on Maple Road (parcel ID# 0059-000-0038-00) for the protection of the FAA zones at the airport. Commissioner Taylor seconded the motion. Motion carried

Adjourn

After reconvening from closed session the Board authorized the County Manager to negotiate purchase of property.

There being no further business, the meeting adjourned.