

CURRITUCK COUNTY
NORTH CAROLINA
October 6, 2008

The Board of Commissioners met at 5:00 p.m. prior to the regular meeting to discuss the following: Cooperative Extension; Solid Waste Contract; Currituck Game Board.

The Board of Commissioners met 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 Gregory, Taylor, Bowden and Etheridge.

Invocation and Pledge of Allegiance

The Reverend Dennis Crehan was present for the Invocation.

Chairman Nelms recognized Boy Scout Troop 127 and asked them to lead in the Pledge of Allegiance.

Approval of Agenda

Commissioner Gregory moved to amend the agenda as follows. Commissioner Bowden seconded the motion. Motion carried.

Delete Items 4 and 6, reschedule Item 5 for October 20 meeting; add to consent agenda resolution supporting Commercial Fishermen's Access to Spiny Dogfish Fishery; Notification of change of payroll status for Cooperative Extension.

- Item 1 Approval of Agenda
- Item 2 Public Comment
Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.
- Item 3 **Public Hearing and Action** PB 08-30 Weeping Radish Brewery: Request for a Special Use Permit to operate a temporary indoor recreational facility and an outdoor recreational facility at the Weeping Radish Brewery located in Jarvisburg at 6810 Caratoke Highway, Tax Map 108, Parcel 52C, Poplar Branch Township.
- Item 4 **Public Hearing and Action** PB 08-40 Horatio Newbern: Request to rezone 51.99 acres from Agricultural (A) to Conditional District - Heavy Manufacturing (CD-HM). The property is located at 134 Buster Newbern Road, Tax Map 110, Parcel 43, Poplar Branch Township.
- Item 5 **Public Hearing and Action** PB 08-39 Horatio Newbern: Request to rezone 18.87 acres from Agricultural (A) to Conditional District - General Business (CD-GB). The property is located at 231 Buster Newbern Road, Tax Map 110, Parcel 43, Poplar Branch Township.
- Item 6 **Public Hearing and Action** PB 08-38 Horatio Newbern: Request to rezone 61.87 acres from Agricultural (A) to Residential (R). The property is located at 168 Buster Newbern Road, Tax Map 122, Parcel 5A, Poplar Branch Township.
- Item 7 **Public Hearing and Action** PB 84-11 Corolla Light PUD, Phases 10-14: Amended Sketch Plan/ Special Use Permit to add 100 residential

dwellings and rezone 4 parcels to General Business (GB) for Commercial/ Mixed Use. The properties are located in Corolla north of Monteray Shores and adjacent to NC12 and the Whalehead Subdivision, Tax Map 11B, Parcels P2AV, P2AU, 0P5I, P5HC and P5HD, Poplar Branch Township.

Item 8 **Discussion on Lower Currituck Fire Department**

Item 9 **Consent Agenda:**

1. Charge to Tax Collector the Levy on Motor Vehicles for July
2. Declaration of Covenants, Conditions and Restrictions for Ferebee Lane Property
3. Budget Amendments
4. Register of Deeds Fee Schedule Change
5. Second reading of Ordinance Amending Article III, Section 10-134 of the Currituck County Code of Ordinances
6. Approval of Building Inspection Records Disposition
7. Approval of September 2, 2008, Minutes
8. Approval of September 15, 2008, Minutes

Item 10 Commissioner's Report

Item 11 County Manager's Report

Adjourn

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.

Chairman Nelms commented on the complaints and problems with Mediacom. They are upgrading the system but advised to please call Mediacom if no service.

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

Public Hearing and Action PB 08-30 Weeping Radish Brewery: Request for a Special Use Permit to operate a temporary indoor recreational facility and an outdoor recreational facility at the Weeping Radish Brewery located in Jarvisburg at 6810 Caratoke Highway, Tax Map 108, Parcel 52C, Poplar Branch Township.

Sworn testimony was given prior to making statements.

Ben Woody, Planning Director, reviewed the request.

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Farmland	Zoned LM
SOUTH:	Farmland	Zoned LM

EAST:	Convenience Center/Farmland/Woodland	Zoned GB
WEST:	Farmland	Zoned LM

NARRATIVE:

1. The Weeping Radish is requesting a special use permit for the following uses:
 - a. Privately owned outdoor recreational facility. The proposed use will include an outdoor ice slide.
 - b. Temporary indoor recreational facility. The proposed use will include a temporary tent for recreation uses.
2. The property contains 7.5 acres zoned Light Manufacturing.
3. Currituck Eco Brewery submitted a text amendment to allow temporary indoor recreational facilities as a special use permit. The Board of Commissioners approved the text amendment at their September 15 meeting.
4. The Board of Commissioners issued a special use permit for the Weeping Radish Brewery to operate special events on April 2, 2007. A three year extension was granted by the Board of Commissioners on March 17, 2008.

SPECIAL USE PERMIT CRITERIA:

Special use permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. In order to approve a special use permit, certain criteria must be satisfied. The criteria are outlined as follows:

1. **COMPLETENESS OF THE APPLICATION**
Suggested Findings:
 - a. Based on staff review all required information has been submitted.
2. **COMPLIANCE WITH ORDINANCE REQUIREMENTS**
Suggested Findings:
 - a. The proposed development generally complies with the provisions of the UDO.
3. The applicant's proposal will be required to maintain compliance with all UDO requirements and any additional requirements of the Board of Commissioners.
 - a. *The proposed use **will not** materially endanger the public health or safety for the following reasons:*

Suggested Findings:

Public health and safety issues including stormwater management, wastewater disposal and access for emergency services have generally been addressed for this development.

- b. *The proposed use **will not** substantially injure the value of adjoining or abutting property for the following reasons:*

Suggested Findings:

The proposed development should have no negative impact on adjoining property. The adjoining uses include farmland and a county convenience center. The proposed development is consistent with the objectives of the Currituck County Unified Development Ordinance and promotes compatibility between the subject property and surrounding area.

- c. *The proposed use **will** be in harmony with the particular neighborhood or area in which it is to be located.*

Suggested Findings:

The proposed recreational uses should be compatible with the neighborhood, and have no negative impact on the adjoining property.

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

Suggested Findings:

The 2006 Land Use Plan classifies the site as **Full Service** within the **Jarvisburg** sub-area.

The purpose of the Full Service classification is to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping and site design. Commercial uses may include clusters of businesses serving the immediate area and, where appropriate, a more extensive market territory.

The following Land Use Plan policies are also relevant to this request:

POLICY PR7: New park and recreation facilities, as well as improvements to existing facilities, shall give special consideration to the needs of HANDICAPPED PERSONS.

POLICY ED4: In addition to the recruitment and expansion of major new industries, the considerable value of SMALL BUSINESS START-UPS, EXPANSIONS AND SPIN-OFFS shall also be recognized.

The proposed development is consistent with the objectives of the Currituck County Unified Development Ordinance, 2006 Land Use Plan, and promotes compatibility between the subject property and surrounding area.

- 5. *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the 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 the UDO.*

Suggested Findings:

Approval of this request should have no negative impact on public facilities.

TECHNICAL REVIEW COMMENTS:

Fire Marshal Comments (James Mims 252-232-6641):

- 1. The applicant must establish if the structure will be temporary or a permanent membrane structure as defined by the building code.
- 2. The applicant must submit a copy of the manufacture's specifications.
- 3. The applicant must submit a statement identifying the use of the structure, using the definitions from the building code.
- 4. Any permanent structure, as defined by the building code, will require a fire hydrant to be located within 400 feet of all portions of all structures on the property.

Building Inspector Comments (Spence Castello 252-232-6020):

Approved with the following conditions and comments:

- 1. Must have approved lighting in the membrane structure.
- 2. Handicap accessibility required.

Soil Conservation Comments (Mike Doxey 252-232-3360):

Approved as is.

County Engineer Comments (Eric Weatherly 252-232-6035)

Approved as is.

Public Works, Utilities, Comments (Pat Irwin 252-232-2769):

Approved with the following conditions and comments:

1. The water department will move the water service with a cost of materials and labor to the Weeping Radish out of the animal pen or the Weeping Radish can move the fence from around the meter.
2. Chapter 13, Section 13-4 Consumer's Responsibility rules require:
 - a. Where a meter is placed on the premises of a consumer, a suitable place shall be provided by the consumer for placing the meter, unobstructed and accessible at all times to the meter reader.

Albemarle Regional Health Services (David Sweeney):

No comment received regarding the relocation of the septic repair area.

NCDOT Comments (Roger Ward) 252-331-4737:

No comment.

County Manager, Dan Scanlon

No comments received.

STAFF RECOMMENDATION

The proposal appears to meet the criteria for granting a Special Use Permit and staff recommends **APPROVAL** with the following conditions:

1. A site plan and landscape plan must be submitted that meets the requirements of the UDO and the Technical Review Staff (TRC) prior to issuance of a zoning permit, building permit, and commencement of any recreation use authorized by this special use permit.
2. The proposed outdoor recreation area, ice slide, must be identified on the site plan. All equipment, including slides, shall be located a minimum 20 feet from any street right-of-way and maintain all accessory structure setbacks.
3. The applicant shall continue to meet all conditions of the Weeping Radish Brewery special use permit for outdoor events.
4. The special use permit for private outdoor recreation and shall remain valid for five years.

PLANNING BOARD DISCUSSION

Mr. Midgette asked if this request should be tabled until the text amendment goes through the Board of Commissioners (BOC) meeting on 9/15/08.

Mr. Woody asked that the board make a recommendation contingent upon the approval of the text amendment. If the BOC denies the text amendment this request would not need to go forward.

Mr. Cubin stated they are trying to move the project forward and to get open by Thanksgiving.

Mr. Kovacs asked Mr. Cubin to provide more information on the outside recreation slide.

Mr. Cubin showed the location of the slide and provided specs on the slide.

ACTION

Mr. Kovacs motioned to recommend approval with staff recommendations and contingent that the text amendment is approved at the Board of Commissioners meeting on September 15, 2008 for a Special Use Permit to operate a temporary indoor recreational facility and an outdoor recreational facility. Ms. Turner seconded the motion. Motion carried unanimously.

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

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

**Public Hearing and Action PB 08-40 Horatio Newbern:
Request to rezone 51.99 acres from Agricultural (A) to
Conditional District - Heavy Manufacturing (CD-HM). The
property is located at 134 Buster Newbern Road, Tax Map 110,
Parcel 43, Poplar Branch Township.**

Deleted

**Public Hearing and Action PB 08-39 Horatio Newbern:
Request to rezone 18.87 acres from Agricultural (A) to
Conditional District - General Business (CD-GB). The
property is located at 231 Buster Newbern Road, Tax Map 110,
Parcel 43, Poplar Branch Township.**

Moved to October 20 meeting.

**Public Hearing and Action PB 08-38 Horatio Newbern:
Request to rezone 61.87 acres from Agricultural (A) to
Residential (R). The property is located at 168 Buster
Newbern Road, Tax Map 122, Parcel 5A, Poplar Branch
Township.**

Deleted

**Public Hearing and Action PB 84-11 Corolla Light PUD,
Phases 10-14: Amended Sketch Plan/ Special Use Permit to add
100 residential dwellings and rezone 4 parcels to General
Business (GB) for Commercial/ Mixed Use. The properties are
located in Corolla north of Monterey Shores and adjacent to
NC12 and the Whalehead Subdivision, Tax Map 11B, Parcels
P2AV, P2AU, 0P5I, P5HC and P5HD, Poplar Branch Township.**

Sworn testimony was given prior to making statements.

Ben Woody, Planning Director, reviewed the request.

LOCATION: The properties are located in Corolla north of Monterey Shores and adjacent to the Atlantic Ocean, Currituck Sound and Whalehead Subdivision, Tax Map 11B, Parcels P2AV, P2AU, 0P5I, P5HC and P5HD, Poplar Branch Township.
Parcel ID Numbers:
115B000P2AVOPEN
115B000P2AU0000
115B000P5I0000
115B000P5HC0000
115B000P5HD0000

ZONING DISTRICT: RO1/ PUD/ GB

OWNER: Outer Banks Ventures, LLC
Attn: Rick Willis

215 Brooks Ave., Unit 1001
 Norfolk, VA 23510
 757-286-5859

ENGINEER: Coastal Engineering
 Carlos Gomez, P.E.
 PO Box 1129
 Kitty Hawk, NC 27949
 252-261-415

Narrative:

- Outer Banks Ventures, LLC (Richard Brindley and Rick Willis) is requesting sketch plan approval to convert four existing utility sites to commercial areas with retail shops, offices, restaurants and add 100 attached residential dwellings for a total of 563 dwellings in the subdivision. The design and mix of uses for each parcel has not been determined at this time.
- UDO Section 4.3.4 PUD Overlay Special Requirements states: A special use permit may be approved showing the portion of the tract proposed for commercial uses reserved for future development. No construction on any land may take place within such areas until the special use permit is amended to approve specific plans for such areas.
- Each mixed use area will require an additional site specific plan approval from the Board of Commissioners as each is designed.
- The utility sites are currently two wastewater treatment plants and the Corolla Light water treatment plant.
- The proposal is to make the golf course site a commercial area and relocate two existing wastewater treatment plants to one site adjacent to NC12 and Shad Street.
- The Sketch Plan amendment approved by the Board of Commissioners on October 21, 2002 indicated 13.03 acres (4.88%) of commercial areas in Corolla Light after the 4.52 acres of the Beacon Hill section were changed to a residential area.
- This proposal seeks to increase the commercial areas by 13.5 acres, resulting in a total of 26.53 acres of commercial or 9.93%.
- The maximum allowed commercial area in a PUD is 10%.

Total area of Corolla Light = 267.05 acres

<u>Residential Density for Corolla Light</u>	<u>Units</u>
Existing Single Family units	= 316
Existing Multi-Family Units	= 110
Existing Apartments	= 26
Previously Approved -Proposed Apartments (Phase 3-Town Center)	= 11
Proposed Future Multi-Family (Phases 10, 13 and 14)	= 100
Total Residential Units	563 or 2.34 units per acres

<u>Previously approved Commercial Density</u>	<u>Acres</u>
Phase 2A (Exist. Parking Lot Easement and Maint Bldg)	= 1.03
Phase 3 (Exist. Corolla Light Town Center)	= 6.83
Phase 4 (Exist. Corolla Inn)	= 1.66
Phase 4A (Exist. Retail- Outdoor Recreation)	= 0.39
Phase 4B (Exist. Restaurant, Retail, Apartments)	= 0.63
Phase 5G (Exist. Area of Pro-Shop & Parking)	= 0.16
Phase 5J (Exist. Professional/ Office Use)	= 0.70
Phase 5 H (West of Ocean Trail- Golf Course)	= 1.55
Phase 5 H (Maint. Building)	= <u>0.08</u>
Total	= 13.03

Proposed Commercial Allocations:

Phase 3 (Retail- Mixed Use)	=	6.35
Phase 4 (Exist. Corolla Light Inn, Retail and Office)	=	2.16
Phase 5J (Exist. Professional/ Office Use)	=	0.70
Phase 10 (Proposed Commercial)	=	6.88
Phase 11 (Proposed Commercial Use Only)	=	0.87
Phase 13 (Proposed Commercial)	=	4.86
Phase 14 (Proposed Commercial)	=	5.87
 Total Proposed Commercial	=	 26.53 9.93 % of 267.05 AC

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH:	Residential/ Heritage Park	Zoned: RO1 and RO1/ PUD
SOUTH:	Vacant- Future Corolla Bay Commercial and Food Lion	Zoned: GB/ PUD
EAST:	Whalehead Subdivision	Zoned: RO1
WEST:	Wetlands Open Space, Currituck Sound	Zoned: RO1

ELEMENTS OF THIS PLAN:

- STREETS:** All lots will front on existing roads built to NCDOT standards.
- WATER:** Water will be provided by the County's Southern Outer Banks Water System (SOBW). A capacity of 75,000 GPD was granted on August 29, 2008 from the SOBWS to serve the new development.
- FIRE:** The development will be served by the Corolla Volunteer Fire Department and fire hydrants will be installed in accordance with Volume 5 of the NC Building Code.
- WASTEWATER:** Corolla Light is proposing to close the two existing wastewater treatment plants and build a new plant with a capacity of 500,000 GPD.
- OPEN SPACE:** The total open space is 131.83 acres or 49.37 %, which exceeds the minimum required open space or 35%. No changes to open space are proposed.
- DRAINAGE:** Drainage improvements will be required to meet state and local requirements when the buildings are designed.
- FLOOD ZONES:** The subject properties are in a Shaded X zone, outside of the 100 year flood plain.

SPECIAL USE PERMIT CRITERIA:

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 (Section 11.7(F)(12)):

- a. *The application is complete.*
Based on staff review all required information has been submitted for review.
- b. *The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".*
A Planned Unit Development is a permitted use in the RO1 overlay zoning district.

- c. *The conditions proposed meet or exceed the minimum requirements of this ordinance and are agreed to by the applicant.*
The ordinance can be met if the required changes are made to the plan.
- d. *The special use will not endanger the public health or safety.*
Public health and safety will be addressed through the Preliminary Plat permitting process as required by the UDO and NC laws.
- e. *The special use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.*
The proposed mixed use development will be compatible with adjacent residential and commercial uses.
- f. *The special use will be in conformity with the Land Use Plan, Thoroughfare Plan, or other officially adopted plan.*
The 2006 Land Use Plan classifies this area as Full Service within the Corolla Sub Area.

The policy emphasis of the Land Use Plan for the Corolla Subarea is to allow for predominantly medium density residential development (2 to 3 units per acre) with minimal commercial development arranged in clusters. An overall density of no more than 3 units per acre should also apply to PUDs, the prevailing development form in the Corolla area. PUDs should also have a mandated 30% permanent open space requirement. Strip commercial development is to be avoided for both aesthetic as well as traffic moving considerations. Development and redevelopment should be capable of being supported by the area's infrastructure and services—particularly drinking water, sewage treatment, road capacity, parking areas, and required fire suppression capabilities.

The proposed density of this development is 2.37 units per acre. Because the sketch plan density is lower than the recommended density and complies with the Corolla sub-area statements, this application **complies** with the 2006 Land Use Plan.

- g. *The special use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the plan (sketch plan in the case of major subdivisions).*

This development will not exceed the county's ability to provide services. School seats allocation for the Outer Banks area was not calculated due to the low year round occupancy rate of the area.

TECHNICAL REVIEW STAFF:

On August 20, 2008 Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – Disapproved, resubmit with the following:
Provide method to supply potable water in the analysis. (Currituck County has allocated 75,000 GPD from the SOBWS)
2. **Currituck Soil & Water Conservation** - Approved as is.

3. **Currituck County Fire Services**—Approved as is.
4. **Currituck County Southern Outer Banks Water System**- Approved with the following conditions and comments:

At build out of the new commercial/residential area there is an estimated need for 0.24MGD. The SOBWS Water Plant can produce 2 MG and the highest system usage is 1.936 MG. When the new section is built out there will be a potential system demand of 2.176 MG and this is 0.176 MG over the ability of SOBWS Plant to produce water. Currently there is an understanding with the County that SOBWS provides water to Corolla Light and a negotiation for the purchase of that system by the County. If these negotiations end without a resolution and the County no longer sells water to Corolla Light where is the additional water coming from?

(Currituck County allocated 75,000 GPD from the SOBWS on August 29, 2008)

5. **Currituck County Inspections Department**-Approved as is.
6. **Currituck County GIS** – No Comment
7. **County Parks & Recreation Department** - No comments received.
8. **Currituck County Emergency Management** – No comments received.
9. **NC Department of Transportation**: Disapproved, resubmit with the following information:
Additional information will be needed for each site, would prefer access to be from secondary roads and internally. Traffic Engineer will review traffic analysis section of impact statement.
10. **NC Division of Coastal Management** (Charlan Owens)- Indicate the discharge location for the new WWTP proposed on the Phase 12 site. Please email me the applicant's response.
11. **US Army Corps of Engineers** (Tom Steffens)- Approved with the following conditions:
May require USACE Section 404 verification of jurisdictional wetlands onsite before construction begins.

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

Code Requirements:

1. The applicant will provide a narrative prior to any preliminary plat submissions or approvals that explains the steps that will be taken to reconcile the commercial area allocation of the plan with previous approvals, including:
 - A. Recording a recombination plat that moves the property line between the Corolla Light Town Center (Phase 3) and the stormwater pond to removes the pond from the commercial allocation; as shown on the sketch plan. This will require the permission of the owner of the Corolla Light Town Center/
 - B. Recording a recombination plat that moves the property lines between the existing phases 5G (Health Club), 5H (Golf Course and Utility Area), and the residential lots 573-577 that are owned by the Corolla Light Community Association. The recombination shall reflect the lines shown on the sketch plan.
 - C. The applicant shall record a survey of open space and the as-built building locations for Phase 4 that removes any wetland areas from commercial allocations. All structures, piers, docks or parking areas used for any area used for commercial purposes shall be included in survey to determine the open space calculations. Prior to any further Preliminary Plat approvals, the applicant shall demonstrate Phase 4 contains 2.16 acres of commercial area.

2. No land disturbance activities including clearing or grading shall take place prior to the Planning Department issuing the authorization to construct after Preliminary Plat/ Site Plan approval is granted.
3. NCDOT will determine access for each site after the NCDOT Traffic Branch reviews the proposal. Access should be from secondary roads and internally.
4. At the Preliminary Plat stage, all permits for construction of infrastructure including water, wastewater, stormwater controls shall be submitted.
5. The proposed wastewater plant shall receive an authorization to construct from NC DWQ prior to submittal of any Preliminary Plat/ Site Plans for review.

Staff Recommend Conditions:

- (1) The applicant shall submit a design palate for all structure types to be built. Compliance with the approved designs must be demonstrated at building permit application by submission of a certification that the Corolla Light Architectural Review Committee has approved the design.
 - (a) The design palates shall be submitted for Planning staff review and approval prior to submission of Preliminary Plat.
 - (b) With respect to the proposed single-family detached dwellings, staff suggests the following criteria:
 - (i) Variation in exterior architectural materials (siding, roofing);
 - (ii) Vertical and horizontal relief in buildings (roof lines, eaves, bump outs);
 - (iii) Variation in house styles/types; and
 - (iv) Inclusion of front porches, projecting bays, vestibules.
- (2) Commercial Architecture

With respect to the nonresidential structures, staff suggests the following elements be considered:

 - (i) Facades of new buildings shall incorporate, but not mimic, the sense of lightness or weight exhibited in the architecture of existing buildings on neighboring properties or the vernacular of the general area and shall incorporate similar proportions of solids (i.e. siding, blank walls, etc.) to voids (i.e. windows, door openings, etc.);
 - (ii) The principal building façade of proposed buildings shall be oriented toward the primary street frontage and in the same direction as the majority of existing buildings on the frontage street. Proposed buildings on corner or dual frontage properties shall reflect a public façade on both streets.
 - (iii) Facades shall be designed to reduce the massive scale and the one dimensional appearance of large retail buildings and to provide visual interest.
 - (iv) The street facing elevations shall incorporate functioning windows into the overall design concept. Functioning windows are defined as those windows which let light into the interior of the structure and are integrated and related to the interior layout of the space.
 - (v) In addition to functioning windows, the corridor elevations shall contain at least two of the following elements:
 1. A primary entrance door or doors (except for loading doors).
 2. A primary entrance feature, such as a porch, portico, awning, entrance walk, or other similar feature.
 3. Landscaping integrated into the building design concept.

4. Architectural or urban design elements, which link adjacent structures together, such as plazas, walkways, colonnades, or similar features.
 5. Architectural relief, such as vertical and horizontal off-sets in exterior wall elevations, band courses, lintels and sill courses, cornices and the like to create shadow lines.
- (vi) Large expanses of blank walls shall be avoided. The public facade shall incorporate windows and primary doorway entrances along the street frontage as well as projecting elements such as eaves, cornices, canopies, projecting bays, shadow lines, and overhangs.
- (vii) The plan shall incorporate durable exterior surface materials complementary with the color, texture, size, and scale of exterior materials reflected on a historical Currituck County vernacular that shall be developed as part of a pattern book.
- (viii) The general roof shape, ridge and eave heights, and material characteristics proposed shall be visually compatible with these same attributes expressed in existing buildings in the immediate vicinity or in keeping with the historical vernacular of the Currituck County Outer Banks.
- (ix) Building materials include brick, wood, fiber-cement siding, stone textured split face block, tinted and textured concrete masonry, or synthetic stucco. Metal building materials shall only be permitted on elevations not visible from the public right-of-way or used as accent materials.
- (x) A landscape plan shall be submitted in conjunction with the preliminary plan showing the location, spacing, caliper dimension, and species of proposed landscaping materials.

(3) Commercial Parking.

- (i) No parking lot shall be designed to be within the front building setback and shall instead be located behind the front building line. This allows front parking, but increases the space from the street property line.
- (ii) Parking lots shall be arranged in such a manner so that not more than twenty (20) parking spaces in a row shall be permitted without a landscaped island. Parking lot landscape islands shall be a minimum of ten (10) feet wide.
- (iii) Five (5) percent of the interior area of a parking lot shall be reserved for landscape purposes. This provision shall include the landscaping of all required parking islands and medians. Shade trees shall be incorporated within the landscaped islands whenever and wherever practicable.
- (iv) Install interior landscaped islands in the parking lot. The number of islands shall be determined at the site plan review stage.

(4) Commercial Area Landscaping

- (i) 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.
- (ii) Identify all existing trees in the potential buffer areas and design the site to preserve this existing buffer to the maximum extent possible.
- (iii) If additional trees are needed, they should have a minimum caliper of 2 inches, shall be 8-10 feet in height at installation. Shrubs shall be evergreen and 3 feet in height when installed and are expected to reach a minimum height of 6 feet at maturity.
- (iv) Parking lot screening is required adjacent to public rights-of-way - Low profile screening shall be installed when parking spaces would result in vehicles facing onto the roadway in addition to the requirements of Chapter 5 Bufferyard and Shading Requirements. Screening may consist of a low wall, evergreen hedge with minimum height of two (2) feet at time of planting planted three (3) feet apart on center and a maximum

height of three (3) feet at maturity, or earth berm. Should a low wall be used, such wall shall be accompanied by evergreen shrub plantings on the roadway side of the wall and spaced ten (10) feet apart on center.

(5) Outdoor Display Areas.

- (i) All outdoor display areas, including garden centers and any seasonal sales, shall be enclosed on all sides with high-quality fencing such as fencing resembling wrought iron, (chain link fencing is prohibited).
- (ii) All outdoor display areas shall be designated on the site plan and must not extend into parking areas.
- (iii) Mechanical or HVAC equipment shall not be installed at ground level along any portion of a building facing a state maintained street or road or internal street or way unless such location is necessitated by the nature and design of the building it serves. Roof top installation may be allowed provided that such equipment is concealed behind a parapet wall.
- (iv) A solid fence or wall and native plants shall screen any ground level equipment. Block or brick enclosures, if used, may include decorative openings within the block or brick pattern.

PLANNING BOARD DISCUSSION

Mr. Midgette stated that the case is asking for an Amended Sketch Plan/Special Use Permit to add 100 residential dwellings and rezone 4 parcels to General Business (GB) for Commercial/Mix Use. Mr. Midgette asked why these were not introduced as two separate items on the agenda.

Mr. Webb stated because the applicant is proposing a mixed use development. They will have residential and commercial on the same parcel which will be condos that may have a business on the first floor and residential on the second floor.

Mr. West asked what phases have already begun.

Mr. Webb stated Phases 1-9.

Mr. West stated that the applicant is requesting to take two wastewater treatment plants that consist of 6.75 acres and put it on one location that consists of 3 acres.

Mr. Webb stated this is what they are proposing.

Mr. Gomez stated that the old system will be replaced with a state of the art system and technology on these systems has greatly improved. They will be required to get a state permit.

Mr. West asked what is the size of the old system.

Mr. Gomez stated 260,000 gallons and they are proposing a new system up to 500,000 gallons.

Ms. Robbins asked if any thought had been given to replace or upgrade the existing wastewater treatment plant at the north end of the development and leave it at its existing site instead of relocating it. Ms. Robbins has concerns for the residents in Whalehead and in Corolla Light along Morris Drive that will become neighbors of this new wastewater treatment plant.

Ms. Turner stated that it will impact a lot people who brought residential property with no intention of being next to a wastewater plant.

Ms. Turner asked if the proposed new system could be built on the existing site so it would not need to move.

Mr. Gomez stated it could be done, but it is not in the plan. Presently there is a wastewater treatment plant in Phase 10 and Phase 13 and the new treatment plant is being proposed for Phase 12.

The board expressed their concerns with relocating the wastewater treatment plant from Phase 10 and moving it to Phase 12 which is a smaller lot. The board discussed the impact it would have on residents who brought residential property with no intention of being next to a wastewater treatment plant.

Mr. Burgin provided an overview of the new wastewater treatment system. The new site was chosen for the geological features.

Ms. Robbins asked what are some of the factors that influenced one site from another.

Mr. Burgin stated type of ground, soil type, clay and silt contents, hydraulic of the area, but mostly soil type. Mr. Burgin stated that Phase 12 is the best site for a wastewater treatment system.

Mr. Gomez stated that the homeowners of Corolla Light have been made aware of the proposed plan.

Mr. Herb Robbins stated he is on the Board of Directors at Whalehead Property Owners Associations and they have some real concerns with what is being proposed. Mr. Robbins stated that an area along Corolla Drive is part of a wastewater tax district and the residents at Whalehead are paying 4 cents per 100 to have a storm water system put in. Mr. Robbins stated they have a major concern with storm water run off in the area. Mr. Robbins stated that the developers are moving the wastewater plant from Phase 10 to Phase 12 because they are running out of space in Corolla Light and they want to build more housing units. Mr. Robbins stated that when the bridge is built from the mainland to Corolla, you will need public access to the beach and a bathhouse for the public. Mr. Robbins stated he would like to see the wastewater treatment plant to remain in Phase 10 and not in Phase 12.

Rick Willis, Outer Banks Venture stated that one of the reasons this development has been successful is that they have stood by the development and participated with the community and association. Mr. Willis stated circumstances are different today than what they were in 1984 in Currituck County. Mr. Willis stated that Phase 10 was chosen for the wastewater site in 1984 because of the height of the property. Mr. Willis stated that the plant is not in the best location now because it is next to Heritage Park and the Lighthouse. It would be a mistake from a land planning standpoint to put the wastewater plant on this site, Phase 10. Mr. Willis stated that one wastewater plant is 21 years old and the other is 24 years old. The developer at their own cost will replace these plants. This is a reasonable request and would like the board to consider this request.

Mr. West stated in the Technical Review comments that Public Works disapproved the request stating they need to resubmit a plan to provide a method to supply potable water in the analysis. (Currituck County has allocated 75,000 GPD from the SOBWS). A recommendation from the Department of Transportation (DOT) for disapproval and NC Division of Coastal Management had some concerns. Mr. West still has a question on how this treatment plant can be put on three acres. Mr. West stated there are still some unanswered questions.

Mr. Webb stated that the water question has been answered and they have not heard anything back from DOT.

Mr. Gomez stated this is the Amended Sketch Plan/Special Use Permit and once it goes to the Preliminary Plat stage, DOT will be deeply involved with it.

Mr. Midgette asked Mr. Woody if the board could request that the applicant have a public meeting to address some of these concerns.

Mr. Woody stated that there is no requirement to have a public meeting for a Sketch Plan/SUP and the applicant has submitted a request that meets the UDO requirements. Mr. Woody stated

that you could ask them if they would be willing to have one, but would ask the board to go ahead and make a recommendation.

PLANNING BOARD ACTION

Ms. Turner motioned to recommend denial because the special use permit criteria will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located. Ms. Robbins seconded the motion. Motion carried unanimously.

Chairman Nelms opened the public hearing.

Herb Robbins, Whalehead Property Owners Association, opposes Phase 12 wastewater treatment location.

Doug Brindley, supports request.

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

Commissioner Bowden moved to approve with alternate parking and staff recommendations. Commissioner Gregory seconded the motion. Motion carried.

Discussion on Lower Currituck Fire Department

Maureen O'Shea, reviewed the repairs needed to bring the building up to code. The cost is approximately \$325,000.

Commissioner Gregory directed staff to move forward with funding the repairs. Commissioner Bowden seconded the motion. Motion carried.

Consent Agenda:

1. Charge to Tax Collector the Levy on Motor Vehicles for July
2. Declaration of Covenants, Conditions and Restrictions for Ferebee Lane Property
3. Budget Amendments
4. Register of Deeds Fee Schedule Change
5. Second reading of Ordinance Amending Article III, Section 10-134 of the Currituck County Code of Ordinances
6. Approval of Building Inspection Records Disposition
7. Approval of September 2, 2008, Minutes
8. Approval of September 15, 2008, Minutes
9. Resolution Commercial Fisheries
10. Letter for Cooperative Extension Employees.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
61818-545000	Contracted Services	\$ 3,934	

61818-561000	Professional Services	\$	326,999	
61818-590000	Capital Outlay	\$	29,155	
61390-499900	Appropriated Retained Earnings			\$ 360,088
		\$	360,088	\$ 360,088

Explanation: Mainland Water (61818) - To carryforward purchase orders from prior fiscal year as follows:

Purchase Order	Description	Amount
20080374	Currituck Tank Antenna	3,934
20080001	ECU Eco Assessment	129,093
20080003	ECU Eco Assessment	188,788
20080928	Waterline Engineering	9,118
20081205	Pump Control Valves	29,155
	Total	360,088

Net Budget Effect:

Mainland Water (61) - Increased by \$360,088.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
66868-561000	Professional Services	\$	3,201		
66868-590000	Capital Outlay	\$	25,242		
66390-499900	Appropriated retained earnings			\$	28,443
		\$	28,443	\$	28,443

Explanation: Southern Outer Banks Water (66868) - To carryforward purchase orders from prior fiscal year as follows:

Purchase Order	Description	Amount
20080466	Engineering	3,201
20080955	SOBWS High Serv Pump	25,242
	Total	28,443

Net Budget Effect:

Southern Outer Banks Water System (66) - Increased by \$28,443.

Debit	Credit
Decrease Revenue	Increase Revenue

<u>Account Number</u>	<u>Account Description</u>	or <u>Increase Expense</u>	or <u>Decrease Expense</u>
10793-514500	Training & Education	\$ 500	
10793-514000	Travel		\$ 500
		<u>\$ 500</u>	<u>\$ 500</u>

Explanation: Smart Start - Eat Smart, Move More (10793) - To transfer funds to match grant agreement.

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

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or <u>Increase Expense</u>	Credit Increase Revenue or Decrease <u>Expense</u>
55818-591001	600 GPM Deep Wells	\$ 135,827	
55818-588001	Wells - Contingency	\$ 24,173	
55818-591003	Wells - Electrical/SCADA		\$ 160,000
		<u>\$ 160,000</u>	<u>\$ 160,000</u>

Explanation: Mainland Water Construction (55818) - To transfer funds within the mainland water construction project for the Magette Well Drilling contract, which included the electrical in the base Deep well bid.

Net Budget Effect: Mainland Water Construction Fund (55) - no change.

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or <u>Increase Expense</u>	Credit Increase Revenue or Decrease <u>Expense</u>
10795-545000	Contract Services	\$ 11,925	
10350-468000	Sale of Fixed Assets		\$ 11,925
		<u>\$ 11,925</u>	<u>\$ 11,925</u>

Explanation: Recreation (10795) - To increase appropriations for cleaning contract for the

Carova Beach Park.

Net Budget Effect:

Operating Fund (10) - Increased by \$11,925.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10650-514500	Training & Education	\$ 3,500	
10650-592000	Economic Development Projects		\$ 3,500
		<u>\$ 3,500</u>	<u>\$ 3,500</u>

Explanation:

Economic Development (10650) - Transfer funds within the Economic Development budget for training and education for the department.

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
10775-521100	Equipment Lease	\$ 579	
10775-561300	Instructor Fees		\$ 579
		<u>\$ 579</u>	<u>\$ 579</u>

Explanation:

Senior Citizens Center (10775) - To transfer funds within the Senior Citizens Center budget to cover the copier lease for 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
10430-516000	Repairs & Maintenance	\$ 1,100	
10330-420000	Beer & Wine Taxes		\$ 1,100
		<u>\$ 1,100</u>	<u>\$ 1,100</u>

Explanation:

Elections (10430) - To increase funding for building repair due to lightning strike.

Net Budget Effect:

Operating Fund (10) - Increased by \$1,100.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10450-516000	Maintenance & Repair	\$ 1,350	
10450-526000	Advertising		\$ 1,350
		\$ 1,350	\$ 1,350

Explanation: Tax (10450) - Transfer budgeted fund within department for unanticipated vehicle repairs.

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
10960-511000	Postage	\$ 5,000	
10960-531000	Gas, Oil, Etc	\$ 100,000	
10380-481000	Investment Earnings		\$ 105,000
		\$ 105,000	\$ 105,000

Explanation: Central Services (10960) - To increase central service line items due to increases in monthly costs of postage and fuel.

Net Budget Effect: Operating Fund (10) - Increased by \$105,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
12544-590004	Capital Outlay	\$ 4,530	
12544-545000	Contract Services		\$ 4,530
		\$ 4,530	\$ 4,530

Explanation: Crawford Fire Department (12544) - To transfer operating funds to capital outlay

for overage in equipment purchased from equipment replacement funds.

Net Budget Effect:

Fire Services Fund (12) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
24690-545000	Contract Services Appropriated Fund	\$ 9,968	
24390-499900	Balance		\$ 9,968
		<u>\$ 9,968</u>	<u>\$ 9,968</u>

Explanation:

Crawford Fire District Tax (24690) - To appropriate residual fire district tax funds for retro fitting and testing of self contained breathing apparatus in the amount of \$5,220.37 and to repair ladder and hydraulic lines in the amount of \$4,747.50

Net Budget Effect:

Crawford Fire District Tax (24) - Increased by \$9,968.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10794-545000	PASS JCPC Council	\$ 1,075	
10795-545005	Certification Juvenile Crime	\$ 981	
10330-447000	Prevention		\$ 1,808
10380-481000	Investment Earnings		\$ 248
		<u>\$ 2,056</u>	<u>\$ 2,056</u>

Explanation:

Juvenile Crime Prevention Control (10794) - To record increase in State funding and County matching funds of \$248 for the PASS program and JCPC Council Certification.

Net Budget Effect:

Operating Fund (10) - Increased by \$2,056.

<u>Account</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease

<u>Number</u>			<u>Expense</u>
10480-557301	Floodplain Mapping Fees	\$ 5,000	
10340-450500	Administration & Filing Fees		\$ 5,000
		<u>\$ 5,000</u>	<u>\$ 5,000</u>

Explanation: Register of Deeds (10480) - Increase appropriations for Flood Plain Mapping Fees and amounts to remit to the NC Dept of Crime Control & Public Safety for the Flood Plain Mapping fund which became effective October 1, 2008 per G.S. 161-11.1 through 161-11.3.

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

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
10760-532900	Foster Care Supplement Fund Balance	\$ 35,673	
10390-499900	Appropriated		\$ 35,673
		<u>\$ 35,673</u>	<u>\$ 35,673</u>

Explanation: County Assistance (10760) - To carry-forward special adoption funds remaining as of June 30, 2008.

Net Budget Effect: Operating Fund (10) - Increased by \$35,673.

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
50545-545000	Contract Services-LC Fire	\$ 325,000	
50390-495040	T F - Capital Improvements		\$ 325,000
40750-587050	T T - Co Govt Construction	\$ 325,000	
40750-588000	Contingency		\$ 325,000
		<u>\$ 650,000</u>	<u>\$ 650,000</u>

Explanation: Lower Currituck Fire Dept (50545) - To establish a budget for structural repairs to

the Lower Currituck Fire station located in Harbinger.

Net Budget

Effect:

County Govt Construction Fund (50) - Increased by \$325,000.

**RESOLUTION REQUESTING THE GOVERNOR AND THE NORTH
CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES RESTORE NORTH CAROLINA COMMERCIAL FISHERMEN'S
ACCESS TO THE DOGFISH FISHERY**

WHEREAS, The most recent and best available data shows that the stock of spiny dogfish is not overfished and that overfishing is not occurring; and

WHEREAS, North Carolina has historically (1988-2001) averaged 15% of the total dogfish landings on the east coast per year; and

WHEREAS, Since the implementation of the Atlantic States Marine Fisheries Commission's (ASMFC) Spiny Dogfish Fisheries Management Plan in 2002, North Carolina's commercial fishermen have not had access to 15% of the total allowable catch of dogfish, and the bulk of the quota set by ASMFC has been harvested by fishermen in other states thereby cutting the North Carolina fishing season short; and

WHEREAS, The ASMFC has set an 8 million pound total quota for dogfish for the 2008-2009 fishing year and the State of North Carolina should be allocated 15%, or 1.3 million pounds of the quota for 2008-2009; and

WHEREAS, Without a direct allocation to the State of North Carolina of 1.3 million pounds of the dogfish quota for the fishing year of 2008-2009, North Carolina will not be guaranteed a dogfish fishery because the full 8 million pound quota is likely to be harvested by fishermen in other states and the fishing season shortened in North Carolina once again; and

WHEREAS, A dedicated allocation of 1.3 million pounds of dogfish to the State of North Carolina would guarantee North Carolina fishermen their historic share of the dogfish quota, would benefit commercial fishermen, seafood processors, their employees in Hyde County and throughout the State, would lead to the development of dogfish processing facilities in North Carolina, and would have significant positive impacts upon the local economies of the coastal fishing counties including Hyde County and the State as a whole; and

WHEREAS, because the significant economic benefits to coastal fishing counties and the State of North Carolina, the allocation of the 1.3 million pound quota to North Carolina should be accomplished as soon as possible, specifically at the ASMFC meeting in August 2008;

NOW, THEREFORE, RE IT RESOLVED THAT THE Hyde County Board of Commissioners seeks emergency relief for its commercial fishermen. The Board asks that the Governor, without delay, direct the North Carolina Department of Environment and Natural Resources to immediately request the ASMFC to specifically allocate a 1.3 million pound annual spiny dogfish quota specifically allocated to North Carolina for the fishing season 2008-2009, and until such time that the ASMFC modifies the coast wide harvest quota to reflect NC historical landings. The Hyde County Board of Commissioners further requests that

the Director of the North Carolina Division of Marine Fisheries be directed to present and defend this request to the ASMFC at their meeting in August, 2008.

NOW, THEREFORE, BE IT RESOLVED THAT THE Hyde County Board of Commissioners requests the Governor of North Carolina, the North Carolina General Assembly, and the North Carolina Marine Fisheries Commission fully support the North Carolina Department of Environment and Natural Resources and the Director of the North Carolina Division of Marine Fisheries in this effort to restore North Carolina commercial fishermen's access to the spiny dogfish fishery and take all other necessary measures to insure the survival of North Carolina's watermen.

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

Commissioner's Report

Commissioner Taylor asked the County Manager to review the financial status of the county, to which he responded that the county is in very good financial status.

County Manager's Report

No comments.

Adjourn

There being no further business, the meeting adjourned.