

CURRITUCK COUNTY  
NORTH CAROLINA  
April 20, 2009

The Board of Commissioners met at 1:00 p.m. to discuss the FY 09-10 County Budget.

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 Etheridge, Commissioners Aydlett, Nelms, Rorer, Gregory and Taylor. Commissioner O'Neal was absent

### **Invocation and Pledge of Allegiance**

The Reverend Dennis Crehan, Jarvisburg Church, was present to give the invocation.

### **Approval of Agenda**

Commissioner Nelms moved to amend the agenda by deleting Item 15, Closed Session. Commissioner Taylor seconded the motion. Motion carried.

- 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            **CCHS D.R.E.A.M. Team Request Regarding Maple Park**
- Item 4            **Consideration and Discussion:** Recommendations of the Wild Horse Tour Advisory Group.
- Item 5            **Consideration and Action** PB 04-45 Laurel Woods Section C: Request for an extension of a preliminary plat approval for 9 single family lots located on Wildflower Lane off Aydlett Road, Tax Map 92, Parcel 63F, Poplar Branch Township.
- Item 6            **Public Hearing and Action** PB 09-04 Pittman/Williamson: Request to amend the Currituck County Land Use Plan to designate approximately 57.58 acres of the Future Land Use map from Limited Service Area to Full Service Area and to amend Water Quality Policy (WQ5) to promote low impact development techniques. The property is located on Fisher Landing Road, Jarvisburg, Tax Map 96, Parcel 29C, Poplar Branch Township.
- Item 7            **Public Hearing and Action** PB 08-61 High Cotton: Request for a Special Use Permit for 252 multi-family dwellings. The property is located at 1187 Caratoke Highway, Tax Map 22, Parcel 88, Moyock Township.
- Item 8            **Public Hearing and Action** PB 08-49 Currituck County Board of Commissioners: Request to amend the Currituck County Unified Development Ordinance, Chapter 2: Zoning Districts, Section 2.3.4, to require a community meeting for conditional zoning requests.
- Item 9            **Public Hearing and Action** PB 09-10 Currituck County Board of Commissioners: Request to amend the Currituck County Unified Development Ordinance, Chapter 2: Zoning Districts, to reduce the

minimum lot size in the R01 zoning district from 40,000 to 20,000 square feet.

- Item 10      **Public Hearing and Action** PB 08-60 Albemarle & Associates:  
Request to amend the Currituck County Unified Development Ordinance to establish an Offshore Island Limited Access Residential (OI) zoning district. This district would allow for the development of lots for which the only means of access is through public trust waters.
- Item 11      **Appointments to Library Board**
- Item 12      **Consent Agenda:**
1. Budget Amendments
  2. Crowder Construction Co CO#4
  3. Charge Tax Collector the Levy on Motor Vehicles for January Renewals
  4. Resolution supporting an alternative method of recognition for veterans status to Merchant Marine Seamen of WWII
  5. Petition to DOT, Lower Currituck Fire Dept for stop light and lower speed limit
  6. Approval of April 6, 2009, Minutes
- Item 13      Commissioner's Report
- Item 14      County Manager's Report
- Item 15      **Closed Session:**
1. According to 143-318 (5) land acquisition, Donald Stone, Spot Road, to be used for any public purpose

Adjourn

**Public Comment**

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

Chairman Etheridge opened the public comment period.

Doris Flora, Moyock, commended the Board on the county budget and not raising taxes.

April Bennett, Bells Island, commented on a fund raiser for the NC Community Foundation, Currituck Kids for Friday, April 24.

**CCHS D.R.E.A.M. Team Request Regarding Maple Park**

Sue Ingram, Currituck High School, stated that they have received a grant for \$500 to improve the community. They requested to clean up the Maple Park and paint a mural.

Commissioner Aydlett moved to support their efforts and requested that they work with County Staff. Commissioner Gregory seconded the motion. Motion carried.

**Consideration and Discussion: Recommendations of the Wild Horse Tour Advisory Group.**

Kim Hoey, Wild Horse Fund, Karen McCalpin, Director of the Wild Horse Fund, Lynne Wilson, Planning Board member, commented on their recommendations from the committee.

Bob White, Tour Operator, supports more signage and traffic study along with a radio.

Commissioner Aydlett commended the Committee and moved to endorse their recommendations. Commissioner Nelms seconded the motion. Motion carried.

**ATTENDEES**

Jay Bender, Jeff O'Brien, Scott Trabue, Billy Clayton, Banks Meredith, Bob White, Jerry Gillet, Alice Gillet, Kimberlee Hoey, Connie Johnson, Rob Longo, Bob Wright, Jason Banks, Jason Litteral, Karen McCalpin, Lynne Wilson, Ben Woody

The Wild Horse Advisory Group generally agreed that a voluntary approach is most appropriate for the upcoming tourist season. Each of the operators in attendance agreed to follow the below recommendations. The group felt that voluntary compliance with the recommendations will help determine the true impact of wild horse tours on the off-road area. Periodic meetings of the advisory group will continue during the course of the season to discuss and monitor the agreed upon course of action.

**RECOMMENDATIONS**

- TOUR COMPANIES WILL LABEL EACH SIDE OF EVERY COMPANY VEHICLE WITH DOOR DECALS THAT CLEARLY DISPLAY THE COMPANY NAME. THE DECAL SHALL BE OF A SIZE THAT IS CLEARLY LEGIBLE (MINIMUM OF 4 INCHES IN HEIGHT). THIS WILL BE COMPLETED BY MAY 15, 2009.
- THE WILD HORSE FUND WILL ORGANIZE AN EDUCATIONAL PROGRAM FOR THE TOUR COMPANY OWNERS AND STAFF. THE TRAINING WILL INCLUDE MEMBERS OF THE SHERIFF'S OFFICE AND PLANNING DEPARTMENT. UPON COMPLETION OF THE EDUCATIONAL PROGRAM, EACH TOUR COMPANY WILL BE SANCTIONED BY THE WILD HORSE FUND.
- PROVIDE PROMOTIONAL INCENTIVES FROM THE WILD HORSE FUND AND/OR COUNTY TOURISM BOARD FOR TOUR COMPANIES PARTICIPATING IN VEHICLE LABELING AND THE EDUCATIONAL PROGRAM.
- ENCOURAGE REALTY AND PROPERTY MANAGEMENT COMPANIES TO PROVIDE INFORMATION REGARDING WILD HORSE TOURS. THIS INCLUDES WEB LINKS TO RULES AND REGULATIONS, STREAMING AUDIO MESSAGES, AND PROMOTION OF SANCTIONED TOUR OPERATORS.
- CURRITUCK COUNTY WILL ESTABLISH A RADIO TRANSMITTER TO BROADCAST BEACH DRIVING REGULATIONS AND WILD HORSE INFORMATION.
- WRITTEN CORRESPONDENCE SHALL BE SENT TO DARE COUNTY OBX CHRYSLER, ENTERPRISE RENTAL CAR, AND MIDGETTE AUTO INFORMING THEM OF THE WILD HORSE ADVISORY GROUPS RECOMMENDATIONS. THIS INCLUDES COUNTY RULES AND REGULATIONS FOR THE OFF-ROAD AREA.

- SIGNAGE SHOULD BE ERECTED IN THE OFF-ROAD AREA THAT IDENTIFIES UNCONTROLLED INTERSECTIONS. SIGNAGE MAY ALSO BE USED TO ADVISE TOURISTS NOT TO APPROACH WILD HORSES.
- ESTABLISH VOLUNTEER "COURTESY PATROL" TO WATCH TOUR GROUPS AND HELP WITH TRAFFIC SITUATIONS. LOCAL RESIDENTS NEED TO DOCUMENT VIOLATIONS AND REPORT TO THE WILD HORSE FUND, WHICH WILL COLLECT AND QUANTIFY DATA.
- WILD HORSE SANCTUARY PATROL OFFICERS AND TOUR GUIDES WILL CARRY UNIFORM LOG BOOKS TO DOCUMENT SPECIFIC DATA REGARDING OBSERVED VIOLATIONS. THIS INFORMATION WILL BE TURNED OVER TO THE WILD HORSE FUND ON A MONTHLY BASIS.
- THE RECOMMENDATIONS MADE BY THIS ADVISORY GROUP SHALL BE CARRIED FORWARD IN ANY SPECIAL USE PERMITS THAT MAY BE GRANTED.
- THE BOARD OF COMMISSIONERS MAY CONSIDER ESTABLISHING A MORATORIUM ON NEW WILD HORSE TOUR COMPANIES UNTIL SUCH TIME AS REASONABLE REGULATIONS CAN BE STUDIED AND ADOPTED.

**Consideration and Action PB 04-45 Laurel Woods Section C: Request for an extension of a preliminary plat approval for 9 single family lots located on Wildflower Lane off Aydlett Road, Tax Map 92, Parcel 63F, Poplar Branch Township.**

Ben Woody, Planning Director, reviewed the request.

On March 13, 2007, the Planning Board voted to approve the preliminary plat for Laurel Woods, Section C. This is a nine lot subdivision located on Wildflower Lane, off Aydlett Road. The preliminary plat approval is due to expire on March 13, 2009. On March 6, 2009 the applicant, Charles Angus, submitted the attached letter (Attachment 1) requesting a two year preliminary plat extension of the subdivision.

According to Section 11.10.2 of the UDO:

**11.10.2 Special Use and Conditional Use Permits**

- B. The permit issuing authority may extend one time for a period up to two years the date when a permit would otherwise expire, if it concludes that:
1. The permit has not yet expired, (*Applicant submitted extension request prior to plat expiration*)
  2. The permit recipient has proceeded with due diligence and in good faith; and, (*Applicant states in March 6, 2009 letter that clearing and construction has been started. Waterline installation was approved on September 23, 2008*)
  3. Conditions have not changed so substantially as to warrant a new application. Successive extensions shall not be granted. All such extensions may be granted without resort to the formal processes and fees required for a new permit. (*There have been no substantial changes in the application*)

Charles Angus requested a 2 year extension.

Commissioner Nelms moved to approve. Commissioner Aydlett seconded the motion. Motion carried.

**Public Hearing and Action PB 09-04 Pittman/Williamson: Request to amend the Currituck County Land Use Plan to designate approximately 57.58 acres of the Future Land Use map from Limited Service Area to Full Service Area and to amend Water Quality Policy (WQ5) to promote low impact development techniques. The property is located on Fisher Landing Road, Jarvisburg, Tax Map 96, Parcel 29C, Poplar Branch Township.**

Ben Woody, Planning Director, reviewed the request.

Eddie Valdivieso is requesting an amendment to the Currituck County Land Use Plan to designate approximately 57.58 acres of the Future Land Use map from Limited Service area to Full Service area. Staff is also recommending a change to Water Quality Policy (WQ5) to properly promote low impact development techniques.

As required by the Coastal Area Management Act (CAMA), the Board of Commissioners must approve a local resolution of adoption which includes findings that demonstrate this amendment is consistent with the policy objectives of the Plan. Additionally, the County must demonstrate the amendment will not adversely affect the provision of services and infrastructure. Once the appropriate findings and local resolution of adoption are approved, the amendment will then be considered by the Coastal Resources Commission (CRC) for formal certification.

Enclosed please find the following information:

- map of the proposed amendment area (*page 2*)
- case analysis for Full Service area request and addendum for Policy WQ5 (*pages 3 - 9*)
- meeting minutes of the Planning Board (*pages 10 - 11*)
- local resolution of adoption and findings of plan consistency (*page 12*)
- Land Use Plan amendments (*pages 13 - 14*)
- supplementary information submitted by the applicant (*new pages 1 - 33*)

Chairman Etheridge opened the public hearing.

Eddie Valdivieso, Engineer, reviewed the request.

Jerry Wright, stated he supports the concept but he has concerns about the water fowl and how to address with the property owner.

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

Commissioner Rorer moved to approve due to its consistency with the Coastal Area Management Act and that the amendment is consistent with the six management topics outlined in the current land use plan. Further the approval is contingent upon establishment of permit within 5 years, otherwise the approval to Full Service designation is rescinded and the Future Land Use map reverts back to the original Limited Service designation. Chairman Etheridge seconded the motion. Motion carried.

**Public Hearing and Action PB 08-61 High Cotton: Request for a Special Use Permit for 252 multi-family dwellings. The property is located at 1187 Caratoke Highway, Tax Map 22, Parcel 88, Moyock Township.**

Sworn testimony was given before making comments.

Ben Woody, Planning Director, reviewed the request.

**SPECIAL USE PERMIT FOR 252 MULTI-FAMILY DWELLINGS**

**LOCATION:** 1187 Caratoke Highway, Moyock Township

- ZONING DISTRICT:** Conditional District - General Business (CD-GB)
- The following GB uses are excluded from the property:
    - o Reclamation landfill
    - o Demolition landfill
    - o Convenience center
    - o Mobile homes
  - Outdoor storage shall be fully screened from public rights of way using a combination of landscaping and/or opaque fencing.
  - Site access shall be limited to one access point from Caratoke Highway, but access from other roadways is not prohibited.
  - No more than one-tenth of one acre of development or land disturbing activities, except for roads, utilities, or other necessary public improvements, shall occur in Army Corps of Engineers delineated wetlands.
  - A 50' buffer along the upland portion of the property adjacent to Rowland Creek Canal (on north-west side of the property) shall be provided. No land disturbance or development shall occur in this buffer area except as needed for required maintenance of the canal. Maintenance of the canal shall require approval from the necessary state and local agencies

**TAX ID:** Tax Map 22, Parcel 88 (002200000880000)

**OWNER:** Highland Properties

**APPLICANT:** Edgewater Construction

**NARRATIVE:**

Edgewater Construction is requesting a special use permit for a 252 dwelling apartment complex on this 101.1 acre site. In the development impact statement submitted 12-19-08, the applicant states this project will provide workforce housing options in a mixed use development.

This application has been submitted with preliminary engineered construction drawings. Should the Board of Commissioners approve the special use permit, a revised plan including final engineered construction drawings and all State permits must be approved by the Technical Review Committee prior to the commencement of any construction or land development activities.

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

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Residential and Wetlands	Zoned: A
<b>SOUTH:</b>	Agricultural	Zoned: A
<b>EAST:</b>	Agricultural	Zoned: A
<b>WEST:</b>	Agricultural - Ranchland Sub. (Across 168)	Zoned: C, A, R

- DENSITY:** The proposed gross density is 2.49 units per acre on the entire 101 acre property. The multi-family project area is 17.2 acres with a net density of 14.65 units per acre. Since there is no subdivision being proposed, the applicant is utilizing the UDO provision for Multi-Family developments (section 3.2.6) and using the entire 101 acre property for the project.
- STREETS:** The streets are required to be built to NCDOT Design and Construction standards. The proposed entrance road is proposed to be a private street.
- FIRE:** This development is located within the jurisdiction of the Moyock Volunteer Fire Department. The applicant is proposing to install fire hydrants, but is not proposing to install a sprinkler system in the apartments.
- WATER:** This development is proposing to connect to county water. There is an elevated water storage tank on the property.
- WASTEWATER:** This property was denied a conventional wastewater system permit on February 13, 2007 by Albemarle Regional Health Systems. The applicant is proposing to connect to a planned central wastewater system at the Currituck Reserve subdivision.
- SOILS:** The Currituck County Soils Map indicates the areas proposed for development contain poorly drained soils.
- OPEN SPACE:** The required open space for the 101 acre property is 30.3 acres (since the applicant is using the entire 101 acres to calculate density, a corresponding calculation must be used to establish open space). The open space is proposed to be distributed throughout the site, with 6.0 acres common open space provided within the multi-family development.
- DRAINAGE:** The applicant is proposing to use an engineered stormwater system. The initial drainage plan was denied at the November 19, 2008 TRC meeting because it was based on uncertain data. A revised engineered drainage plan has been submitted and reviewed that addresses earlier concerns with regard to site elevation and the seasonal high water table.

**TRC REVIEW**

A Technical Review Meeting was held on November 19, 2008 and the reviewing agencies had the following comments:

**Soil and Water, Mike Doxey**

Approved with the following comments:

- An engineered plan has been submitted that addresses earlier concerns regarding elevations and the seasonal high water table. The proposal is to build up the entire site above the 100 year storm/base flood elevation of 5 feet above seal level. The same principle was used at the Currituck Crossing subdivision.

**Building Inspections, Spence Castello**

Approved with the following comments and conditions:

- Foundations will need to be engineered due to poor soil compaction.
- A soils engineer report will be required for all buildings.
- May need handicap parking at the garage.

**North Carolina Division of Coastal Management, Charlan Owens**

Approved with the following comments:

- A 30 foot buffer is required along the Rowland Creek Canal. Indicate Normal Water Level (NWL) of the canal and the 30 foot buffer on the Master Plan and Site Plan. Activities and/or development within the 30 foot buffer may require a CAMA Permit.

**North Carolina Department of Transportation, Roger Ward**

Denied with the following comments:

- Several of the major land uses have changed from the site plan previously submitted and approved. As such, I think a revised TIA needs to be completed reflecting the new land uses and construction phasing.
- In consideration of all the changes, I would suggest consideration of revoking the driveway permit recently issued. The new revised master plan may require different roadway improvements and/or a different timetable for those improvements to occur. Bonding for a traffic signal and a phase 2 installation was required under the previously submitted site plan and driveway permit.

*\*\*\*Staff notes a revised Transportation Impact Analysis has been submitted to NCDOT for review.*

**QUESTION(S) BEFORE THE BOARD:**

**Special Use Permit Criteria and Suggested Staff Findings:**

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. 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 and suggested findings of fact are outlined as follows:

1. The Application is complete:
  - The application is not complete as it does not include a letter of commitment from a wastewater provider as required by Section 9.2.7.2(E). The applicant will need to demonstrate central wastewater capacity, or the Board of Commissioners will need to issue the Special Use Permit contingent upon the applicant receiving the appropriate approvals.
2. The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S":
  - This use complies with the Table of Permissible uses and is allowed in the CD-GB district placed on the property on 9-2-2008.
3. The conditions proposed meet or exceed the minimum requirements of this ordinance:
  - The project generally meets the requirements of the UDO. Any environmental concerns associated with the development of the site

- must be properly addressed prior to commencement of the proposed use.
- The additional conditions recommended by staff ensure the development will meet or exceed the requirements of this ordinance.
4. The special use will not materially endanger the public health or safety:
    - The use will not directly endanger the public health of safety provided stormwater is properly managed on this site.
  5. 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 adjoining properties are agricultural and low density residential dwellings. This use is not necessarily in harmony with the area because there is not compatible high density or commercial development in the immediate area. However, it may provide an opportunity to establish a controversial use in an otherwise isolated area.
  6. The proposed use will be general conformity with the Land Use Plan or other officially adopted plan:
    - The 2006 Land Use Plan classifies the subject property as **Rural** and within the **Moyock** sub-area.
      - In the Rural Classification, population densities are generally very low and development density is anticipated at no more than 1 unit per 3 acres. Preferred uses include very low density residential and non-residential uses are typically discouraged
      - For the Moyock sub-area, residential development densities should be medium to high depending upon available services. In areas where central sewer is proposed or existing, additional services are available and the character of the surrounding areas supports it, higher density ranging from 3-4 units per acre could be considered through the use of overlay zones. There are existing environmentally sensitive areas that cannot support higher density development and do not have access to services that are therefore classified as Rural or Conservation.
    - Policy ES1 states that new development shall be permitted in areas with suitable soil and where adequate infrastructure is available. For existing development located on poor soils, and where sewage treatment upgrades are necessary, engineering solutions may be supported, provided that environmental concerns are fully addressed.
    - Policy WS3 states that Currituck County endorses utilities extension policies that focus water and sewer services (1) within existing developed areas and in nearby targeted growth areas identified as Full Service and Limited Service areas, (2) where development densities would make the provision of all public services more efficient, (3) where the land is particularly well suited for development and (4) away from environmentally sensitive areas, such as areas with extensive wetlands.
    - Policy HN5 states that affordable forms of housing other than manufactured housing are often overlooked in meeting the needs of young families, workers of modest income, senior citizens and others.
    - Staff feels there are Land Use Plan policies that support attached housing in the County (staff also supports the idea of diverse

housing options spread throughout the county). However, the location and environmental conditions of this particular development are not supported by the Land Use Plan as it is currently adopted. For this reason, this special use **does not** comply with the 2006 Land Use Plan.

7. 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 applicable 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 multi-family 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:
  - The proposed multifamily use will not exceed the county's ability to provide adequate public facilities.

#### **STAFF RECOMMENDATION**

The proposed development **does not** meet the criteria for granting a Special Use Permit and therefore staff recommends **denial** until such time as the following items can be corrected or addressed:

1. The project must provide a letter of commitment from a wastewater provider as required by Section 9.2.7.2(E) of the UDO prior to the development of the property.
2. The current 2006 Currituck County Land Use Plan does not support a high density development on this property. Therefore, staff recommends that this project not be approved until a Moyock small area plan is adopted or the Land Use Plan is amended to reflect the impact of central wastewater on the Moyock Sub-Area.

Should the Board of Commissioners approve this request, staff recommends the following permit conditions:

1. An NC Erosion and Sedimentation Control permit and NC Stormwater permit shall be submitted prior to land disturbing activities.
2. A revised Transportation Impact Analysis must be approved by NCDOT. Any recommended changes by NCDOT shall be included on construction drawings.
3. This project shall not retain any vested rights until a revised site plan and construction drawings are submitted and approved by the Currituck County Technical Review Committee. Any approvals issued by the Board of Commissioners are conditional on receiving full TRC approval prior to being granted a vested right.
4. A minimum 35% of the entire 101 acre site must be reserved for open space associated with the multifamily project. The open space dedication must include 50% upland area and be accessible to the residents of the multifamily development.
5. To ensure the zoning conditions are being met on wetlands disturbance, staff recommends that all land disturbing activities not occur within 5 feet of the wetlands and no improvements be proposed within 10 feet of the wetlands.

#### **PLANNING BOARD DISCUSSION**

Mr. West asked if wetlands were used to determine the density.

Mr. Woody stated yes.

Mr. West asked if the walking trails will be on the wetlands.

Mr. Woody stated that they could have some on wetlands, but 50% of the required open space will have to be on uplands.

Ms. Wilson asked for clarification on where the walking trails will be within the open space area.

Ms. Venable stated the trails they are proposing from the buildings will be one mile long.

Ms. Venable stated that 2 foot of fill will have to be provided on site for the areas that need to be filled.

Ms. Venable addressed the Land Use Plan (LUP) and stated the Board has the ability to overrule the LUP. When the plan was put together water and sewer was not available on the site. One-third of the property is wet which they want to put this into open space. Sixty-seven acres is uplands along Caratoke Highway which is surrounded on three sides with a full service district. Within this property which is zoned general business/commercial you can have mixed uses that would included assisted living, retail, and multi-family. There is a water tower on the site. Ms. Venable provided a letter from the county that stated in 2010 sewer will be provided by the county right in front of the property. If sewer is not available through the county then they would have a sewer system on the back of the site. Ms. Venable provided an overview of the site. It will be a gated community; the buildings will be 3 stories, 1 to 3 bedrooms, a recreation building, pool, open space, walking trail, and a fitness facility.

Mr. Everhart stated that the county will provide Smith Packett (assisted living) a force-main line to the wastewater treatment plant which is scheduled to be completed in July of 2010. The line will be in front of their project, but the question of whether the Board of Commissioners will allow residential hook-up to the sewer system is still being discussed. Mr. Everhart stated if the commissioners do not allow residential hook-up then they would put in a package plant on the site.

Mr. West stated he was under the impression that High Cotton was connected to the assisted living facility.

Mr. Everhart stated they are selling them the property for the assisted living facility.

Mr. West referred to the letter the board received from Mr. Innes referring to this project being affordable housing and a gated community.

Mr. Everhart stated it will be a gated community for security purposes because of the amount of traffic with 252 units.

Mr. West asked Mr. Everhart to define affordable living.

Mr. Everhart stated approximately \$780 per month. They will consist of 1, 2, and 3 bedroom units. There will be seven full time staff on site.

Mr. Clark stated in the letter it states these units are being built so the residents of Currituck will have affordable housing. Is there a plan in place to give Currituck residents priority over other residents?

Mr. Everhart stated they are willing to work this out. Mr. Everhart stated Currituck's work force will get first shot at the units, but they have to be competitive. The project will be built in two phases.

Mr. Kovacs asked if any of the units will be handicap accessible.

Mr. Everhart stated yes.

Ms. Wilson stated she agrees that Currituck does need affordable housing, but is concerned because the current 2006 Land Use Plan does not support a high density development on this property.

Mr. Everhart stated the stormwater system and parking lots will all drain into a peat filtration system. Before any stormwater off these buildings or parking lots gets into one of the retention ponds it will have been filtered 94%.

Mr. Bell asked how long it would take to construct your own wastewater system.

Mr. Everhart stated approximately 3 months using a pre-engineer system which is factory made.

Mr. Clark asked Mr. Woody if the county has any ladder trucks.

Mr. Woody stated that the county has a 35 foot height requirement for buildings.

Mr. West asked if all the Technical Review Committee (TRC) agencies submitted comments on this project.

Mr. Woody stated that all the county departments did review this plan.

Mr. Everhart stated they have had three public meetings on the project and ended up with 150 positive comments and had only one negative comment.

Ms. Kinney stated this project is needed in the community which blends the young and old. Ms. Kinney passed around a petition with signatures in favor of the project. She stated this project is good for the community and it is a good location.

Mr. Innes stated that to succeed in business your product or service must meet two criteria: 1) that people must want it, and 2) that it will benefit the community. The assisted living and multi-family meet these criteria. This is not subsidized housing, it will be a community which is well run, and it will provide homes for people who do not want or cannot afford a single family home.

Mr. Kovacs stated the biggest issue is the LUP, if this request was approved, will this approval change the LUP?

Mr. Woody stated they are just considering the Special Use Permit.

**PLANNING BOARD ACTION**

Mr. Etheridge motioned to recommend approval with staff recommendations for a Special Use Permit for 252 multi-family dwellings. Mr. Kovacs seconded the motion. Motion carried unanimously.

Chairman Etheridge opened the public hearing.

Melisa Venable, Engineer, reviewed the waste water and plans for site.

Brian Innes, supports the request.

Sara Alford, stated that they were not affordable housing.

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

Commissioner Taylor moved to approve with findings of fact and staff recommendations included in the case analysis and

that the application is complete subject to a letter of wastewater commitment and the proposal is consistent with Policy HN5 of the Land Use Plan. Commissioner Nelms seconded the motion. Motion carried with Chairman Etheridge and Commissioner Aydlett voting no.

**Public Hearing and Action PB 08-49 Currituck County Board of Commissioners: Request to amend the Currituck County Unified Development Ordinance, Chapter 2: Zoning Districts, Section 2.3.4, to require a community meeting for conditional zoning requests.**

Ben Woody, Planning Director, reviewed the request.

The enclosed text amendment was withdrawn by the Board of Commissioners at their October 20, 2008 meeting. It is now being moved forward again for reconsideration by the Planning Board and Board of Commissioners.

The amendment as presented would require a community meeting for conditional zoning requests. Currently the Unified Development Ordinance only recommends that a community meeting be held. Additionally, it is worth noting that standard rezoning requests do not recommend or require any type of community meeting. The Planning Board may wish to consider a uniform community meeting standard for any type of rezoning request to avoid discouragement of the conditional zoning process.

What follows are the minutes from the March 10 Planning Board meeting and a draft of the text amendment as described above. The Planning Board recommended unanimous approval of this request with the modification that a Planning Board member be present for the community meeting. Rather than include this modification in the text of the UDO, staff is recommending it be integrated with the application materials.

**PLANNING BOARD DISCUSSION**

Mr. Kovacs asked if the planning board members will be required to participate in the community meeting.

Mr. Woody stated the full planning board does not have to be present but it would be a good idea to have representation of the planning board at these meetings.

**ACTION**

Mr. Kovacs motioned to recommend approval of the text amendment to require a community meeting for conditional zoning requests with the addition that a planning board member be present. Mr. West seconded the motion. Motion carried unanimously.

Chairman Etheridge opened the public hearing.

There being no comments, he closed the public hearing.

Chairman Etheridge moved to approve due to its consistency with the policies of the 2006 Land Use Plan and that the request is reasonable and in the public interest and promotes orderly growth and development. Commissioner Taylor seconded the motion. Motion carried with Commissioner Nelms and Gregory voting no.

**Public Hearing and Action PB 09-10 Currituck County Board of Commissioners: Request to amend the Currituck County Unified Development Ordinance, Chapter 2: Zoning Districts, to**

**reduce the minimum lot size in the R01 zoning district from 40,000 to 20,000 square feet.**

Ben Woody, Planning Director, reviewed the request.

The Currituck County Board of Commissioners is requesting a text amendment that would reduce the minimum lot size in the R01 zoning district from 40,000 to 20,000 square feet. If approved, this request would primarily affect the Whalehead subdivision, Ocean Hill One subdivision, and Corolla Village area. However, it is important to note that the majority of the platted lots in these areas are already in the range of 20,000 square feet in size (particularly in the Whalehead and Ocean Hill One subdivisions).

The remaining subdivisions in the Corolla area are typically zoned as Planned Unit Developments, which allow for a minimum lot size of 10,000 square feet.

What follows are the minutes from the March 10 Planning Board meeting and a draft of the text amendment as described above. The Planning Board recommended unanimous denial of this request.

**PLANNING BOARD DISCUSSION**

Mr. Midgette asked if this is county owned property.

Mr. Woody stated the county wants to create two lots and deed the two lots to a private individual. In return the county would receive east-west roads in the Whalehead subdivision.

**ACTION**

Ms. Wilson motioned to recommend denial of the text amendment to reduce the minimum lot size in the R01 zoning district from 40,000 to 20,000 square feet because the Whalehead subdivision is crowded and smaller ocean front homes are being taken down and replaced with larger homes. Mr. West seconded the motioned. Motion carried unanimously.

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

Commissioner Nelms moved to approve due to its consistency with the policies of the 2006 Land Use Plan and that the request is reasonable and in the public interest and promotes orderly growth and development. Commissioner Aydlett seconded the motion. Motion carried.

**Public Hearing and Action PB 08-60 Albemarle & Associates: Request to amend the Currituck County Unified Development Ordinance to establish an Offshore Island Limited Access Residential (OI) zoning district. This district would allow for the development of lots for which the only means of access is through public trust waters.**

Ben Woody, Planning Director, reviewed the request.

Albemarle and Associates is requesting a text amendment to the UDO to establish an Offshore Island Limited Access Residential (OI) zoning district (Option 1). This would allow for the limited development of lots for which the only means of access is through public trust waters. In other words, this request would create a zoning district that permits

construction activities on a tract of land that does not abut a public or private street, and is only accessible by water.

As an alternative, staff is recommending the consideration of a text amendment that simply allows the development of island lots within the existing zoning and subdivision ordinances (Option 2). Rather than create a separate zoning district for island lot development, this option would allow the owner of an island to receive a building permit under an exemption clause. At their February 10 meeting, the Planning Board motioned to approve this option with additional language requiring a minimum lot size of eight acres and the availability of private parking on the mainland for each dwelling. However, due to a tie vote, the official action was for a recommendation of denial.

Previously in June of 2005 and September of 2007, text amendment requests with similar objectives were submitted for consideration. In both instances, the Planning Board recommended approval. The original amendment request in 2005 was subsequently withdrawn and no action was taken by the Board of Commissioners. The 2007 amendment request was heard and denied by the Board of Commissioners at their January 22, 2008 meeting.

Planning staff did recommend denial of the 2005 request and pointed out that if approved, the amendment would apply countywide and create increased pressure for the provision of County services (there are 21 privately owned islands off the Currituck Mainland, which may or may not be developable). The following reasons were specifically given for denial at that time:

- County services will not be available for lots only accessible through public trust waters. This includes Fire, EMS, Law Enforcement, Public School Transportation, etc.
- Non-availability of public utilities such as water, power, telephone, cable television, etc.
- There is no efficient means to provide solid waste disposal.

The 2007 request generated many of the same concerns as the 2005 request, and as a result, planning staff met with other County departments regarding the provision of services. This meeting was attended by the applicant, Planning Staff, and representatives of the Sheriff's Office, Emergency Management, and Emergency Medical Services.

Several concerns were raised at the meeting, during which it was decided to expand upon the existing draft while relying on the legal guidance of the County Attorney. Following the initial meeting it was determined by the Attorney that the County is not legally liable if there is an inability to provide timely services. It was also recommended that the text amendment include a provision requiring a notification or waiver related to the possible inadequate provision of services.

In contrast to previous amendment requests, this proposal submitted by the applicant takes a different approach by creating a zoning district that provides for the development of island lots. While the procedure by which the development of island lots occurs is different, it still generates the same outcome...the development of lots that are only accessible by public trust waters.

From an administration standpoint, planning staff prefers an amendment request similar to the one filed in 2007, but with additional detail regarding the provision of county services. The creation of a new zoning district is cumbersome and would still require a rezoning application to be processed. If the Board supports the allowance of island lots, it seems more appropriate to handle this in the existing zoning and subdivision ordinances. Provided of course the applicant is able to resolve any issues expressed by the Sheriff's Office, Emergency Management, and Emergency Medical Services.

Finally, an additional meeting was held with the applicant and county service provision departments on December 3, 2008. Concerns expressed at this meeting included a waiver of county services, the possibility of higher density development, and dredging associated with pier access.

What follows are two draft versions of the text amendment as submitted by the applicant. Option 1 creates an island zoning district and option 2 creates an exemption to the street access requirement. Should you have any questions, do not hesitate to contact me at 232-6029.

**PLANNING BOARD DISCUSSION (February 2009 meeting)**

Mr. West stated if there were no county services on these islands and they were to build on the island, then a county building inspector would have to go there to inspect the property.

Mr. Woody stated the applicant would be responsible for providing transportation for the building inspector as well as other county departments.

Mr. Overton stated what they are asking for in this text amendment is for individuals who own an island to have the right to be able to request a building permit. Mr. Overton stated this does not give them a building permit, it does not give them the right to "develop an island", rather it is restoring their right to request a building permit.

Ms. Robbins asked how septic systems would be pumped.

Mr. Overton stated these are issues that would need to be worked out by the applicant. Mr. Overton stated that other coastal counties that do allow dwellings to be built on islands, these same challenges exist there as well and these challenges are addressed.

The planning board discussed parking available on the mainland for each dwelling, the potential to create a major or minor subdivision on an island, creating a unique zoning district vs. creating exceptions to the requirements for street access and density.

Mr. Overton stated that if the owners could exercise their right to request a building permit, then all zoning requirements would be applicable as it is with the mainland.

Mr. Woody estimated that 90% of the potentially developable islands in the county are zoned Residential (R).

Mr. Overton stated they have had several meetings with the sheriff and various emergency departments. Their concern has not been one of providing services but a concern of liability of timelessness.

Mr. Bell stated his concern is with the environmental impact it will have on the islands.

Mr. Clark stated he is concerned with changing the character of Currituck County by changing the zoning district to OI which would allow the possible development of these islands and set a precedent for the development off other islands in Currituck Sound.

Mr. Overton stated that this request is only asking if you owned an island that you have the ability to ask for a building permit.

Mr. West asked if the applicant would put a waiver that there is a density of 1 building per island.

Mr. Overton stated he would prefer the density of 1 per 5 acres.

Mr. Woody stated that density related to CAMA wetlands cannot be used for lot area, so the minimum lot size would have to be exclusive of any CAMA wetlands.

**ACTION**

Mr. Kovacs motioned to recommend approval of Option 2 with the addition of parking available on the mainland for each dwelling unit and a 5 acre minimum lot size. Mr. West amended Mr. Kovacs motion and changed the 5 acres to 8 acres minimum lot size. Mr. Kovacs seconded the motion. Ayes: Mr. West, Mr. Midgette, Ms. Wilson, and Mr. Kovacs. Nays: Mr. Bell, Mr. Clark, Mr. Etheridge, and Ms. Robbins. Motion failed because it did not receive the majority of the votes.

**PLANNING BOARD DISCUSSION (December 2008 meeting)**

Mr. Midgette asked Mr. Webb if the density issue had been discussed with the applicant.

Mr. Webb stated yes.

The Planning Board discussed density, pier access, parking on the mainland, dredging, and a waiver for county services.

Mr. Hain addressed questions from the board on the above issues. Mr. Hain stated they would like to create a new zoning district at this point.

The Planning Board talked about tabling this proposal until they can hold a workshop with the county commissioners so some of the issues can be worked out.

Mr. Hain stated his client would want to go forward with this request and not for it to be tabled.

**ACTION**

Mr. Kovacs motioned to tabled PB 08-60 Island Lots until the Planning Board has a workshop meeting with the county commissioners. Ms. Turner seconded the motion. Motion passed unanimously.

Chairman Etheridge opened the public hearing.

John Delucia, Albemarle & Associates, reviewed the request to the Board.

Commissioner Rorer questioned public safety and response from Sheriff, EMS, etc.

Jay Overton, Albemarle & Associates, requested the Board's support.

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

Commissioner Taylor moved to approve. Chairman Etheridge seconded the motion. Motion failed with Commissioners Aydlett, Gregory, Rorer and Nelms voting no.

**Appointments to Library Board**

Commissioner Nelms moved to table. Commissioner Gregory seconded the motion.

**Consent Agenda:**

1. Budget Amendments
2. Crowder Construction Co CO#4
3. Charge Tax Collector the Levy on Motor Vehicles for January Renewals

4. Resolution supporting an alternative method of recognition for veterans status to Merchant Marine Seamen of WWII
5. Petition to DOT, Lower Currituck Fire Dept for stop light and lower speed limit
6. Approval of April 6, 2009, Minutes

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
23690-545000	Contract Services	\$ 17,013	
	Fund Balance		
23390-499900	Appropriated		\$ 17,013
		<u>\$ 17,013</u>	<u>\$ 17,013</u>

**Explanation:** Moyock Fire District (23690) - To appropriate funds remaining in the Moyock district tax fund for building and vehicle repairs as per letter dated March 23, 2009.

**Net Budget Effect:** Moyock Fire District Tax Fund (23) - Increased by \$17,013.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
66868-545000	Contracted Services		\$ 1,000
66868-511010	Data Transmission	\$ 1,000	
		<u>\$ 1,000</u>	<u>\$ 1,000</u>

**Explanation:** Southern Outer Banks Water System (66868) - Transfer funds for an additional internet connection for the GIS computer for the Southern Outer Banks Water System.

**Net Budget Effect:** Southern Outer Banks Water System (66) - No change.

<b>Debit</b>	<b>Credit</b>
Decrease Revenue or	Increase Revenue or

<u>Account Number</u>	<u>Account Description</u>	<u>Increase Expense</u>	<u>Decrease Expense</u>
55818-563000	Prof Services - Dist System	879	
	Dist Syst - DOT Betterment		
55818-593009	Costs	1,631	
55818-592001	H2O Plant - RO Plant	45,696	
55818-588003	Contingency - Dist System		44,815
55818-593007	Dist Syst - 16" RO to Currituck		3,391
		<u>\$ 48,206</u>	<u>\$ 48,206</u>

**Explanation:** Mainland Water Construction Fund (55818) - To transfer budgeted funds to increase professional services for permit fees and increased cost of DOT betterment on Tulls Creek Road, increase RO Plant for Crowder change order #4, and decrease 16" line from RO plant to Currituck Tower to adjust to bid price.

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

<u>Account Number</u>	<u>Account Description</u>	<u>Debit</u> Decrease Revenue or Increase Expense	<u>Credit</u> Increase Revenue or Decrease Expense
10390-499900	Fund balance appropriated	317,860	
10380-425000	Public School Capital Bldg Fund		317,860
		<u>\$ 317,860</u>	<u>\$ 317,860</u>

**Explanation:** Other Revenues (10380) - To record approval of Public School Capital Building Funds for a portion of the debt payment for the Currituck County High School that is due June 2009.

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

<u>Account Number</u>	<u>Account Description</u>	<u>Debit</u> Decrease Revenue or Increase Expense	<u>Credit</u> Increase Revenue or Decrease Expense
60808-516001	Repairs and Maintenance	\$ 35,000	
60808-545001	Contracted Services		\$ 35,000
		<u>\$ 35,000</u>	<u>\$ 35,000</u>

**Explanation:** Ocean Sands (60808) - To transfer funds for additional repairs for sewer operations.

**Net Budget Effect:**

Ocean Sands Water and Sewer District (60) - No change.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10510-513000	Utilities	\$	2,000		
10510-516000	Repairs & Maintenance	\$	8,000		
10510-531000	Gas, Oil & Tires	\$	10,950		
10510-514000	Travel			\$	2,000
10510-521000	Rent			\$	2,450
10510-561000	Professional Services			\$	3,500
10510-536000	Uniforms			\$	5,000
10510-554000	Insurance & Bonds			\$	305
10510-590000	Capital Outlay			\$	7,695
		\$	20,950	\$	20,950

**Explanation:  
Net Budget Effect:**

Sheriff (10510) - Transfer funds for operations for the remainder of this year.  
Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
61818-557000	Refunds	\$	1,400		
61818-540000	Worker's Compensation			\$	1,400
		\$	1,400	\$	1,400

**Explanation:**

Mainland Water (61818) - This request is to increase refunds in order to refund a water tap fee for a customer that was initially paid in June 1996. This property is in the Hunters Woods subdivision and there is currently no County water in this subdivision.

**Net Budget Effect:**

Mainland Water Fund (61) - No change.

<b>Debit</b>	<b>Credit</b>
Decrease Revenue	Increase Revenue

<u>Account Number</u>	<u>Account Description</u>	or <u>Increase Expense</u>	or <u>Decrease Expense</u>
10795-576017	Community League - Aerobics	\$ 4,000	
10350-469017	Aerobics		\$ 4,000
		<u>\$ 4,000</u>	<u>\$ 4,000</u>

**Explanation:** Parks & Recreation (10795) - To budget funds for aerobics and yoga classes through recreation.

**Net Budget Effect:** Operating Fund (10) - Increased by \$4,000.

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or <u>Increase Expense</u>	Credit Increase Revenue or <u>Decrease Expense</u>
61818-533800	Chemicals	\$ 9,000	
61818-590000	Capital Outlay	\$ 1,500	
61818-514000	Travel		\$ 1,000
61818-526000	Advertising		\$ 500
61818-590003	Hydrants		\$ 7,000
61818-536000	Uniforms		\$ 500
61818-561000	Professional Services		\$ 1,500
		<u>\$ 10,500</u>	<u>\$ 10,500</u>

**Explanation:** Mainland Water (61818) - Transfer for increased chemical cost due to preparations to start up new reverse osmosis plant. We will need to add antiscalant, sodium hypochlorite, and caustic soda along with the existing chemicals we are using. Also for underground sprinkler system for Mainland plant to be installed by staff.

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

Debit

Credit

<u>Account Number</u>	<u>Account Description</u>	Decrease Revenue or <u>Increase Expense</u>	Increase Revenue or <u>Decrease Expense</u>
10660-557000	Refunds	\$ 8,500	
10390-499900	Appropriated fund balance		\$ 8,500
		<u>\$ 8,500</u>	<u>\$ 8,500</u>

**Explanation:** Planning (10660) - To refund special use permit for North Ridge development paid in 2006 and the project application wasn't completed.

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

**A RESOLUTION OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS  
SUPPORTING AN ALTERNATIVE METHOD OF RECOGNITION FOR VETERANS  
STATUS TO MERCHANT MARINE SEAMEN OF WW II**

**WHEREAS**, Public Laws 95-202 and 105-368 bestowed veteran status on US Merchant Marine Seamen of WWII.

**WHEREAS**, two specific U.S. government actions by US government have caused some 10,000 merchant seamen to have been denied their due recognition:

(1) The USCG relieving Masters of tugs, towboats and seagoing barges of the responsibility submitting reports of seamen shipped and discharged and

(2) The National Maritime Administration ordered ship's logbooks to be destroyed because they were too costly to maintain had removed the two main criteria required by the government to issue official recognition to those seamen, and

**WHEREAS**, the average age of the remaining seamen is above 86 and the population of the US veteran is shrinking at an average of 850 per year causing time to be of the essence, and

**WHEREAS**, No costs are associated with this proposal as funds area already included in above public laws.

**WHEREAS**, the Currituck County Board of Commissioners therefore request that immediate action be taken to correct this inconceivable action..

**NOW, THEREFORE, BE IT RESOLVED**, that the Currituck County Board of Commissioners supports the attached proposal and so orders that this Resolution and attached proposal be sent to Senator Kay Hagan, Senator Richard Burr, Congressman Walter B. Jones and Congressman G. K. Butterfield and this matter be placed into action to ensure expedient passage.

**Commissioner's Report**

Commissioner Taylor expressed concerns with railroad crossings.

Commissioner Gregory commented on Mediacom canceling the TV Guide channel.

Commissioner Rorer requested citizens to call the Manager regarding their input on the budget.

**County Manager's Report**

**No comments**

**Closed Session:**

1. According to 143-318 (5) land acquisition, Donald Stone, Spot Road, to be used for any public purpose.  
Deleted

**Adjourn**