

CURRITUCK COUNTY
NORTH CAROLINA
March 1, 2010

The Board of Commissioners met at 6:00 p.m. to discuss Code Enforcement.

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

Invocation Pledge of Allegiance

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

Approval of Agenda

Commissioner Etheridge moved to approve. 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 **Proclamation Girl Scout Week**
- Item 4 **Public Hearing and Action:** PB 09-15 A-1 Towing: Request for a special use permit to operate a towing company impound lot at 1221 Ponton Lane in Corolla, Tax Map 114, Parcel 3M, Poplar Branch Township.
- Item 5 **Public Hearing and Action:** PB 87-56 Monterey Shores, PUD: Request for an amended special use permit to designate an additional 1.10 acres of commercial zoning within the Planned Unit Development (PUD). The property is located in Monterey Shores, PUD, Tax Map 116, Parcels 3W and 10, Poplar Branch Township.
- Item 6 **Public Hearing and Action:** PB 09-38 Corolla Fun Park: Request for a special use permit to establish a 36-hole miniature golf course; go-kart track; spin zone; children's playground area; and arcade with limited retail, snack bar, and office on property located within Monterey Shores, PUD and Buck Island, PUD, Tax Map 116, Parcels 3W and 10 and Tax map 116D, Parcel 3D, Poplar Branch Township.
- Item 7 **Public Hearing and Action** on Intent to Permanently Close Milburn Sawyer Road in Poplar Branch Township
- Item 8 **Consideration of** ordinance amending Article III, Section 10-134 to allow dogs at the Rural Center (second reading)
- Item 9 **Discussion and Consideration** of Resolution establishing Single Family Residential Permitting Incentive Plan
- Item 10 **Consideration** of modified Golf Cart Ordinance
- Item 11 **Recommendation of Award** for the Corolla Greenway Multi Use Path Project

- Item 12 **Appointment** to Library Board of Trustees
- Item 13 **Appointment** to Fire and EMS Advisory Board
- Item 14 **Appointment** to Senior Citizen Advisory Board
- Item 15 **Appointments** to Whalehead Board of Trustees
- Item 16 **Consent Agenda:**
1. Pilmoor Methodist Church Food Bank \$2,500
 2. Budget Amendments
 3. Order the Tax Collector to advertise the 2009 real estate tax liens
 4. Petition to NCDOT for addition to state maintained system of sections of Rita Street, Parker Street and Neal Avenue in Albemarle Sound Beach Estates
 5. Resolution Authorizing Sheriff's Office to Dispose of Vehicles by Trade-in
 6. Disposal of Building Permit Files
 7. Resolution Surplus property Ocean Sands
 8. Approval of February 15, 2010, Minutes
- Item 17 Commissioner's Report
- Item 18 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 O'Neal opened the public comment period.

Tracy Hale, Jarvisburg, commented on the roads in Albemarle Sound Beach Estates and requested the Board's assistance.

Gene Staples, also requested the Board's support with the roads.

Barbara Otto, Neal Avenue, requests the Board's support for the roads.

The Board directed staff to meet with residents after DOT reviewed the roads.

Commissioner Nelms thanked the citizens, Lower Currituck Fire Department and Dominion Power for their help with a house fire this weekend.

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

Proclamation Girl Scout Week

Chairman O'Neal presented the following proclamation.

Girl Scout Week Proclamation

WHEREAS, March 12, marks the 98th anniversary of Girl Scouts of the USA, founded by Juliette Gordon Low in 1912 in Savannah, Georgia; and,

WHEREAS, throughout its distinguished history, Girl Scouting has inspired millions of girls and women with the highest ideals of courage, confidence, and character; and,

WHEREAS, through the Girl Scout leadership experience, girls develop the skills and lessons that will serve them a lifetime so that they may contribute to their communities; and,

WHEREAS, Girl Scouting takes an active role in increasing girls' awareness of the opportunities available to them today in math, science, sports, technology and other fields that can expand their horizons; and,

WHEREAS, more than 3 million current Girl Scout members nationwide will be celebrating 98 years of this American tradition, with nearly 50 million women who are former Girl Scouts and living proof of the impact of this amazing Movement;

NOW, THEREFORE, the Board of Commissioners of Currituck County, North Carolina, does hereby applaud the commitment Girl Scouting has made to support the leadership development of America's girls and proudly proclaims the week of March 7, 2010, as Girl Scout Week.

Public Hearing and Action: PB 09-15 A-1 Towing: Request for a special use permit to operate a towing company impound lot at 1221 Ponton Lane in Corolla, Tax Map 114, Parcel 3M, Poplar Branch Township.

Sworn Testimony was given prior to making comments.

Ben Woody, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE BOARD OF COMMISSIONERS
DATE: March 1, 2010
PB 09-15: A-1 Towing
Special Use Permit - Villages at Ocean Hill**

ITEM: PB 09-15 Villages at Ocean Hill, Special Use Permit, Site Plan Approval, Zoning Map Revision for A-1 Towing Site

LOCATION: The property is located on Ponton Lane adjacent to the Currituck County future well site in Villages at Ocean Hill.

TAX ID: Tax Map 114, Parcel 3M

ZONING: The site is currently located in both General Business and RO1 zoning. The applicant is requesting a special use permit and zoning map revision to remove the A-1 Towing site from the county well site and relocate the entire operation within a General Business Zone. The site is also located in a PUD overlay district.

PRESENT USE: A-1 towing site, Currituck County future well site

OWNERS: Midlantic Builders, LLC
P.O. Box 2225
Kitty Hawk, NC 27949

ENGINEER: Bissell Professional Group.
P.O. Box 1068
Kitty Hawk, NC 27949.

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

	Land Use	Zoning
NORTH:	Vacant-Ocean Hill Commercial Tract 1	GB
SOUTH	Persimmon Street Residential/Commercial	CD-GB/RO1
EAST:	Vacant-Ocean Hill Commercial Tract 1	GB
WEST:	Vacant	RO1

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as a **Full Service Area** within the **Corolla** subarea.

SIZE OF SITE: Parcel Area: 13.56 acres; SUP Area: 0.36 acres.

STREETS: Existing access road construction is acceptable so long as the commercial parking element is excluded from the use.

UTILITIES: There will be no new utilities associated with the use.

OPEN SPACE: There will be no change in open space.

I. NARRATIVE OF REQUEST:

- The applicant is seeking SUP approval for the A-1 Towing site within Villages at Ocean Hill planned unit development.
- The applicant is proposing to shift portions of the submitted an amendment to reflect those changes. The relocate 31,913 square feet of GB zoning to other areas of the site, resulting in no net increase of commercial area. The A-1 Towing site in its entirety will be located within an area zoned for GB.

- All portions of the A-1 Towing use including a small amount of GB zoning will be removed from the 100' isolation radius of the Currituck County well site. The well point and its radius will be shifted to resolve an existing encroachment onto Ocean Hill Commercial property.
- The Ponton Ln. access easement will be shifted to avoid Currituck County well site.
- This case was reviewed at the May 2009 TRC meeting.

II. UNRESOLVED TRC COMMENTS:

- **Planning Staff Comment #1:** The existing access road does not fall within the boundaries of the legal access easement from NC 12. The legal easement must be relocated to the existing road site (Ocean Hill Commercial, Parcel 2), or the necessary permits must be obtained to improve an access road within the existing legal easement (Ocean Hill Commercial, Tract 1). *Staff Commentary: The owner of Parcel 2 has not agreed to allow legal access through the existing road site. Tract 1, which includes the existing legal easement, is currently under an active Army Corps of Engineers wetland fill violation. In order to improve an access within the legal easement a permit to fill wetlands is required. Due to the outstanding Corps violation, this appears to be unfeasible. As a result, the applicant is proposing to continue using the historic access via the Coral Lane stub located on the west side of NC12.*

III. QUESTION(S) BEFORE THE BOARD:

Special Use Permit Criteria and Staff Findings:

Special use permits (SUP) are intended to allow the Board of Commissioners flexibility in the administration of the UDO. Through the SUP 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 the SUP, certain criteria must be satisfied. The criteria and suggested findings of fact are outlined as follows:

1. COMPLETENESS OF THE APPLICATION

Suggested Findings:

- a. The application is complete.

2. THE PROPOSED USE IS AMONG THOSE LISTED IN THE TABLE OF PERMISSIBLE USES AS A SPECIAL USE INDICATED WITH AN "S"

Suggested Findings:

- a. The proposed use is permissible with a Special Use Permit

3. THE CONDITIONS PROPOSED MEET OR EXCEED THE MINIMUM

REQUIREMENTS OF THIS ORDINANCE.

Suggested Findings:

- a. The conditions proposed meet the minimum requirements of this ordinance except for the unresolved TRC comment concerning the access from NC12.

4. THE SPECIAL USE WILL NOT ENDANGER THE PUBLIC HEALTH OR SAFETY:

Suggested Findings:

- a. The proposed use should have little to no impact on public health or safety.

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

Suggested Findings:

- a. The use is not visible from NC12 nor located within close proximity to residential dwellings and should be in harmony with the surrounding area.

6. The special use will be in conformity with the Land Use Plan or other officially adopted plan.

Suggested Findings:

- a. The 2006 Land Use Plan classifies this site as Full Service area within the Corolla subarea and the proposed use is in keeping with the policies of the plan, such as:

- i. Policy ID5: WAREHOUSING, STORAGE AND DISTRIBUTION facilities shall have access to thoroughfares of adequate traffic carrying capacity, and shall be appropriately designed and/or visually buffered according to the visibility of their location.

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 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).

Suggested Findings:

- a. The county should have adequate public facilities to service this subdivision.

IV. STAFF RECOMMENDATION:

Since the submittal appears to meet the minimum requirements for SUP approval, staff recommends **conditional approval** of this SUP/Site Plan/Zoning Amendment with the following conditions:

- Evidence must be presented to the Board that establishes Mid-Atlantic Builders, LLC and its assignees as legal users of the Coral Lane right-of-way.
- The proposed use and associated areas of disturbance shall have no direct impact on adjacent wetlands. This shall include but is not limited to the use of vegetated

buffers and the treatment of stormwater through vegetative swales.

- The requirements of UDO Chapter 5: Landscaping, Bufferyards, & Shading must be satisfied within two months of site plan approval.
- A lighting plan meeting the requirements of the Outer Banks Overlay District shall be submitted and approved prior to the installation of any lighting on the property.
- No hazardous waste material shall be stored on the site.
- The use permit is limited to a towing operation and impound lot (Automobile Services).
- A revised site plan meeting all requirements of the UDO shall be re-submitted to the Technical Review Committee for review and approval.

V. PLANNING BOARD RECOMMENDATION:

The Planning Board **recommended approval** of the special use permit with the staff recommendations.

PLANNING BOARD DISCUSSION (2/9/10)

Mr. Kovacs asked if the county uses the Coral Road access.

Mr. Woody stated yes.

Mr. Bissell stated that the plan has been modified since the last time the board saw it so there are no impacts on future irrigation areas or green areas which have been confirmed with the state. Mr. Bissell talked about the three possibilities for access which A-1 Towing can use. Mr. Bissell stated this request is to go back to the access that was approved in 1989 and to review that part of the A-1 Towing application in 1991-2001.

Mr. West asked if Coral Lane is the access that A-1 Towing has legal access too.

Mr. Bissell stated yes.

Mr. Weaver stated he owns A-1 Towing and the purpose of the storage area is to keep cars and contents in a secure area.

Mr. Cornet stated he is the president of the Ocean Hill Section 1 Property Owners Association (OH1POA). Mr. Cornet stated OH1POA believes that any special use permit that relies on the use of the Coral Lane stormwater area for vehicular access to RT12 should be denied because:

- OH1POA is the owner of the right-of-ways within the OH1 subdivision that include Coral Lane. Although the roads and right-of-ways are dedicated to public use, by court order OH1POA has responsibility for operation and maintenance and has the authority to issue easements. No easement has been granted.
- Vehicles enter by driving over private property on a narrow track that has been created by filling wetlands.
- OH1POA is against issuing an easement until three issues can be resolved.
 - Public health issues due to flooding on Coral Lane and Rt. 12.
 - Public safety issues at a dangerous intersection.
 - Destruction of value and harmony in a residential only subdivision.

Ms. Cole stated she lives adjacent to Coral Lane. Ms. Cole stated A-1 Towing has been a good neighbor and does not have any problems with them. A-1 Towing was to move the access north of Coral Lane. Right after A-1 Towing was approved, in 2001 they did improve the access just north of Coral Lane but it was never recorded. Ms. Cole stated it is important that it gets recorded and a dedicated legal access is moved. Ms. Cole recommended that A-1 Towing have a chance to get it straight and continue to operate.

Mr. Bissell stated that ownership and public dedication are two different things. The original developer did a quick claim deed to the property owners association, but the key is that it was dedicated to public use. What they are trying to do is re-approve what was originally approved. Mr. Bissell read a portion of a letter from Starkey Sharp an attorney for Midlantic Builders that states, "The roadway was part of the original Ocean Hill subdivision. There is a spur of the road which comes west off NC12 at the south end of the Villages at Ocean Hill project. The roadway was dedicated at the time the plat was recorded showing that road. The property into which Coral Lane runs is owned by Midlantic Builders, LLC and is part of the Villages at Ocean Hill PUD. The dedication of the street segment which occurred with the recording of the plat remains effective; In addition, the roadway is necessary to provide access to properties within the PUD and has been in continuous use for many years. I understand a property owners group from the original Ocean Hill subdivision may dispute what I have summarized in the letter. I believe the case law will support the position I have outlined." Mr. Bissell stated the applicant has the continually legal right to use the road.

Mr. Midgette asked Mr. Bissell if he is okay with staff recommendations.

Mr. Bissell stated yes.

ACTION

Mr. Clark motioned to recommend approval with staff recommendations of PB 09-15 A-1 Towing for a special use permit to operate a towing company impound. Mr. West seconded the motion. Motion carried unanimously.

Ike McRee, County Attorney, opened the public hearing.

Mark Bissell, Engineer, and Jim Bickford, representing Mid Atlantic Builders, LLC., presented their reason for using Coral Lane access, which they have used for many years. Mr. Bickford stated that he is willing to work with the homeowners to resolve the access issue.

Chairman O'Neal questioned the wetland area.

Commissioner Aydlett, asked if Mr. Bickford could meet with Mr. Freidman and resolve the access issue.

Tom Nash, Attorney for Ocean Hill Section I, Property Owners Association, presented a letter from Mike Brough, Attorney, opposing the use of Coral Lane as the access point. The property owners feel that this should not be used as the access for A-1 Towing. They are not opposed to A-1 Towing's operation.

Ike McRee, County Attorney, opened the hearing for comments.

Mr. Bickford submitted a plat showing the wetland area.

Kay Cole, stated that, in 1999, the homeowners opposed this use of their access on Coral Lane.

Alicia McDonnell, opposes the use of Coral Lane by A-1-Towing.

Bonnie McCarthy, opposes the use of Coral Lane.

Ed Ish, opposes the use of access on Coral Lane.

Bill Schnider, opposes the use of access on Coral Lane.

Rachel Schrote, opposes the use of access on Coral Lane.

Larry Weaver, A-1-Towing, stated that he has used this access and would not have a problem with another access.

Karen Ish, questions why the homeowners have to be involved in the issues with Mr. Bickford and Mr. Freidman, opposes the use of access on Coral Lane.

Buddy Ponton, Commercial Fisherman, has used this access and has permission to do so because he is also a resident.

Commissioner Nelms questioned how long it would take to get a legal easement.

Ike McRee, County Attorney, closed the hearing.

Commissioner Aydlett moved to **approve** PB 09-15 with the findings of fact and the staff recommendations included in the case analysis and the following conditions:

- The Permit is valid for six months, during which time the applicant shall pursue an alternative access for the use. The applicant must reapply at the end of the six month period for reconsideration of the Permit.
- Additional insurance costs born by the Ocean Hill One home owners association shall be paid by the applicant.
- A-1 Towing shall continue to use the existing access (parcel 0114000003G0000) until such time as it is closed by the property owner.

Commissioner Rorer seconded the motion. Motion carried with Commissioners Nelms and Etheridge voting no.

Public Hearing and Action: PB 87-56 Monterey Shores, PUD: Request for an amended special use permit to designate an additional 1.10 acres of commercial zoning within the Planned Unit Development (PUD). The property is located in Monterey Shores, PUD, Tax Map 116, Parcels 3W and 10, Poplar Branch Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE
BOARD OF COMMISSIONERS
DATE: March 1, 2010**

PB 87-56 Monterey Shores, Planned Unit Development

ITEM: PB 87-56 Monterey Shores, Planned Unit Development, Amended Special Use Permit, to designate an additional 1.10 acres of commercial zoning within the PUD.

LOCATION: Corolla, Monterey Shores, PUD, Poplar Branch Township.

TAX ID: 0116-000-003W-0000 0116-000-0010-0000

ZONING

DISTRICT: Outer Banks Standard Residential (R01) with PUD overlay.

PUD Overlay (R01):	320.04 acres
PUD Overlay (GB):	34.46 acres
PUD Overlay (GB):	1.10 acres proposed

PRESENT USE: Planned Unit Development, church site and undeveloped lands

OWNER: Monterey Shores, Inc.
5299 Pennock Point Road
Jupiter, FL
Corolla Worship Center
PO Box 668
Nags Head, NC 27959

DEVELOPER: IG Holdings, LLC
PO Box 120
Kitty Hawk, NC 27949

ENGINEER: Coastal Engineering & Surveying
934 W. Kitty Hawk Road
PO Box 1129
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Open Space/Commercial/Apartments	PUD-RO1/GB
SOUTH	Open Space/Undeveloped Commercial	PUD-RO1/GB
EAST:	Commercial	PUD-RO1/GB
WEST:	Open Space	PUD-RO1

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as **Full Service and Conservation** within the **Corolla** subarea.

OPEN SPACE: The required open space for Monterey Shores is 35% (124.46 acres). According to the proposed development plan Monterey Shores provides 37.1% (131.94 acres) of open space.

I. NARRATIVE OF REQUEST:

- The developer is seeking to amend the special use permit to allocate an additional 1.10 acres of commercial designation within the Monterey Shores PUD.
- The developer is also seeking a PUD variance that would allow the General Business (GB) zoning designation within the PUD. The UDO currently requires that commercial properties be designated as Limited Business-Hotel (LBH) designation. The request is to provide zoning consistency within the PUD.

II. OUTSTANDING TECHNICAL REVIEW COMMITTEE COMMENTS:

Planning

- A. There is a discrepancy between the dedicated green area and the NC DENR wastewater permit allocations of green area. (*Staff commentary: Green area is land that is set aside for future wastewater needs*). In 2007, the original developer of Monterey Shores, PUD, dedicated easements and recorded green area maps within the PUD. Approximately two months later, Carolina Water submitted a request to NC DENR to expand the wastewater treatment

facility. The request included a revised map that dedicated additional green area on property owned by Monterey Shores, Inc. (the original developer). According to Bob DeGabrielle, Monterey Shores, Inc., did not provide easements or dedication for the additional green area. It is the opinion of the county attorney and Mr. DeGabrielle that this additional allocation is not legally permitted since Monterey Shores, Inc. did not authorize or make available the additional land for wastewater green area. In addition, Carolina Water, permit holder, must modify the green area and legally acquire additional lands suitable for wastewater disposal. Outside of all concerns outlined, it remains uncertain whether Carolina Water has legal authority to locate green area within the utility easement identified on the recorded easement plat (plat cabinet K, slide 49).

III. QUESTION(S) BEFORE THE BOARD:

Special Use Permit Criteria and Staff Findings:

Special use permits (SUP) are intended to allow the Board of Commissioners flexibility in the administration of the UDO. Through the SUP 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 an SUP, certain criteria must be satisfied. The criteria and suggested findings of fact are outlined as follows:

1. Completeness of application.
Suggested Findings:
 - a. The application is complete provided assurances for wastewater disposal are submitted from NC DENR and Carolina Water.
2. The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".
Suggested Findings:
 - a. Chapters 3 and 10 of the UDO allow a planned unit development as a permissible use with a special use permit.
3. The conditions proposed meet or exceed the minimum requirements of this ordinance.
Suggested Findings:
 - a. The conditions proposed meet the minimum requirements of this ordinance.
4. The special use will not endanger the public health or safety:
Suggested Findings:
 - a. The proposed development and conditions should have little to no negative impact on public health or safety.

5. The special use will not injure the value of adjoining in harmony with the area in which it is located

Suggested Findings:

- a. The Unified Development Ordinance indicates that a planned unit development is allowed in the R01 base zoning district and PUD overlay with a special use permit.
 - b. The requested zoning designation meets the UDO maximum commercial designation for a PUD.
6. The special use will be in conformity with the Land Use Plan or other officially adopted plan.

Suggested Findings:

- a. The 2006 Land Use Plan classifies this site as Full Service and Conservation (.178 acre) within the Corolla subarea. The Full Service classification supports the density and commercial allocations of a planned unit development provided design criteria is established to ensure commercial development protects and preserves the existing community. The Conservation classification provides for long-term management and protection of significant, limited, or irreplaceable natural resources. The classification is typically applied to areas that should not be developed (preserved), or if developed, done so in a very limited manner characterized by careful planning and cautious attention to the conservation of environmental features. With the exception of the proposed .178 acre commercial designation within the Conservation classification, the proposed use and conditions, are in keeping with the LUP Policy statements and the Corolla subarea policy emphasis, some of which are:

Policy HN3: Currituck County shall especially encourage two forms of residential development, each with the objective of avoiding traditional suburban sprawl:

1. OPEN SPACE DEVELOPMENTS that cluster homes on less land, preserving permanently dedicated open space and often sewage treatment. These types of developments are likely to occur primarily in the Conservation, Rural, and to a certain extent the Limited Services areas identified on the Future Land Use Map.
2. COMPACT, MIXED USE DEVELOPMENTS or DEVELOPMENTS NEAR A MIXTURE OF USES that promote a return to balanced, self-supporting community centers generally served by centralized water and sewer. The types of development are contemplated for the Full Service Areas identified on the Future Land Use Map.

Policy CD2: Commercial and office development of greater than a neighborhood scale shall be encouraged to cluster in COMMERCIAL OR MIXED-USE CENTERS to curtail the proliferation of strip development, and minimize traffic generation.

Policy CD8: MIXED-USE DEVELOPMENTS, properly planned from the outside, which allow for a compatible mixture of residential and non-residential uses with a

pedestrian scale and design, are encouraged. Similarly, businesses may be located adjoining (and therefore convenient to) an existing residential area, when such businesses can be shown to satisfy design considerations similar to a newly planned, pedestrian-scaled, mixed use development.

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 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).

Suggested Findings:

- a. The county has adequate public facilities to service this subdivision.

IV. STAFF RECOMMENDATION:

The submittal appears to meet all of the requirements for SUP, and **staff recommends conditional approval** of the SUP subject to the findings of fact and the following conditions:

1. The commercial designation shall be located within the Full Service classification area and shall not include the .178 acre proposed in Conservation classification area as identified by the 2006 Land Use Plan. This condition excludes the existing 1.03 acre allocation of General Business (GB) approved by the Board of Commissioners May 21, 2001 (See approved Amended Sketch Plan dated May 21, 2001 for specific location).
2. Low Impact Development techniques such as cisterns that capture the rainwater from the roof and rain gardens should be provided in environmentally sensitive areas or lands designated Conservation by the 2006 Land Use Plan. Cisterns should not discharge stormwater as sheet flow or concentrated flow across the ground as a means to drain cisterns. Water captured in cisterns should be reused within the development through building design, for maintenance of the building and grounds, in LID techniques such as rain gardens or constructed wetlands, or other uses approved by the county. (LUP Policy WQ5).
3. All inland, non-tidal and coastal wetlands should remain undisturbed excluding elevated walkways and placed into a conservation easement, preservation trust, or turned over to the homeowner's association (LUP Policy ES2, ES3).
4. Any modification to green area must be approved by Currituck County and NC DWQ prior to implementation. Green area shall be identified by an easement,

illustrated on a map, and recorded in the Currituck County Register of Deeds.

5. All projects, residential and non-residential, shall meet the minimum zoning requirements in effect at the time of construction.

V. PLANNING BOARD RECOMMENDATION:

The Planning Board **recommended approval** for an amended special use permit with the staff recommendations and omitting #1.

PLANNING BOARD DISCUSSION (2/9/10)

Mr. Delucia stated the plan already has stormwater approval from the Division of Natural Resources and it has already gone through its first technical review with the site plan. Mr. Delucia stated his client wants to build a family resort. Mr. Delucia provided an overview of what has been done.

- The special use permit has been submitted and gotten comments from the Technical Review Committee.
- The area where the low impact development track is located is already approved for general business. They felt this location would be good to minimize noise and also minimize spectators. Mr. Delucia talked about the stormwater situation and it has been taken care of.
- No wetlands are on the property which will be developed.
- Currently the open space is part of the Monterey Shores PUD and if his client purchases it the open space will be maintained the same way it is now.
- On the site plan they show a 10 foot wide path and a 20 foot easement along the highway and they have also offered to extend the path further to the Buck Island entrance.
- Mr. Delucia talked about the recommended hours of operations 9:00 a.m. to 10:00 p.m. as being problematic for them.
- There is no significant vegetation in the area.
- They intend to include preservation along NC 12.
- The architectural style matches the Corolla area.
- Gas powered vs. electrically powered karts. Mr. Delucia stated his client wants to use gas powered karts but is willing to use 4 stroke engines which don't have the noise level that 2 stroke engines have.

Mr. Wright asked if a study was done that says the area has no significant vegetation.

Mr. Delucia stated they went out to the property and compared it with the definition of "significant vegetation".

Mr. Rary stated he represents the TimBuck II Property Association. Mr. Rary stated they already have these entertainment facilities in Corolla. It is their understanding there is an issue between Carolina Water and Bob DeGabrielle regarding the water line crossings which still remain on this property. Until it is settled then the property should not be rezoned. The stormwater drainage at

Whalehead cannot handle additional water. Property values will go down while your insurance will increase. They are concerned with the increase in traffic and how it will affect their business. People come to Corolla for the family values and quaintness. Mr. Rary asks the board to deny the request.

Mr. Lynch stated he is representing Monterey Shores Homeowners Association. Mr. Lynch stated that they are concerned that the Corolla Fun Park will make property values go down, safety, noise, lighting, toxic waste removal and the RO water plant. Mr. Lynch is asking the board to deny this request.

Mr. Zabloudil lives in Monterey Shores and is a business owner in TimBuck II. He is concerned with stormwater, environment, noise, lighting, and traffic. For these reasons he is asking that the board deny the request.

Mr. Meredith stated he has a lease with TimBuck II for the miniature golf and in the lease it has a non-compete clause for another miniature golf in the area. Mr. Meredith is asking the board to deny the request.

Mr. Wemer stated this is not compatible with Corolla. People come to Corolla for a different experience. Mr. Wemer asked what happens when these fun parks don't do well financially. What are they left with? Mr. Wemer is asking the board to deny the request.

Mr. Delucia stated the driveway connection which is off NC 12 on the site plan has been approved by Department of Transportation. The stormwater will be handled onsite and nothing will go offsite.

Mr. Gray stated the usages they want to put on this property are permittable usages. Many questions have been brought up which staff has brought to the attention of the developer and they have tried to respond back to staff. Mr. Gray stated Carolina Water showed some real estate on the property that they had no right to do so. Mr. DeGabrielle and Carolina Water have been in litigation and now have settled. Part of the settlement is Mr. DeGabrielle giving Carolina Water the pond, the county is negotiation and going to put an easement and run water into that pond as well. The county has done an engineering study as to what type of capacity the pond is capable of handling. This will cause his client, if this project is approved, to have to raise his property up where the facilities are going to be so they don't have overflow to their property. As to the issue if they are subject to the homeowner's association, this is not before the board. This would be between his client and the homeowner's association if he buys the property. Mr. Gray stated they are not part of the lease agreement with TimBuck II. Mr. Gray stated you are hearing a lot that there are plenty of things to do up in Corolla. If his client thought this, would he be spending this kind of money? His client

believes there is a need. Mr. Gray stated his client is putting in 4 stroke engines which are quieter and not 2 stroke engines. These engines are environmental friendly because you don't mix the oil and gas together and they have an automatic shut-off. Mr. Gray stated he can remember when Monterey Shores came to this county and at that point and time there was hardly anything there. The arguments were from the people who lived there were we don't think it is compatible with our community to have such a large subdivision. We are hearing the same argument now.

ACTION

Mr. West motion to recommend approval with staff recommendations with admitting #1 of PB 87-56 Monterey Shores, PUD for an amended special use permit. Ms. Newbern seconded the motion. Motion carried unanimously.

MEMORANDUM

To: Carlos Gomez, Coastal Engineering
John Delucia, Albemarle & Associates

From: Donna Voliva, Planner II

Date: September 10, 2009

Subject: Monterey Shores, PUD Amended Sketch Plan, Special Use Permit

The following comments were received for the September 16, 2009 TRC meeting. Additional comments may be received at the meeting, and comments are valid for six months from the TRC meeting date.

The necessary revisions listed below must be submitted to me by September 21, 2009 in order to remain on the October 13, 2009 Planning Board agenda.

Planning, Donna Voliva

Resubmit

Amended Sketch Plan/Special Use Permit

Required Plan Modifications

1. Based on the plans submitted, two PUD overlay variances are required:
 - a. To allow the zoning designation General Business (GB) on parcel 0116000003W0000 that would be consistent with the remaining business property in Monterey Shores, PUD (Section 4.3.2 C. & D.)
 - b. To allow .08 percent reduction in the minimum required open space of 35 percent (Section 10.4.2)
2. The submitted amended sketch plan provides a development summary for Monterey Shores but does not provide a development plan that illustrates the

locations of all open space, green space, or business areas. There are several phases of Monterey Shores that are being developed by different applicants; formerly Monterey Shores, Phase 3. All phases of Monterey Shores are combined for open space, green space, and business designations. A clear, illustrated map must be provided that defines all required areas that are subject to the business designations, green space as well as open space. Prior piece-meal project modifications are resulting in non-compliance with the PUD designation. The calculation summary appears inconsistent with the Monterey Shores, PUD amended sketch plan open space and business area calculations approved over the years but specifically 2006 for the tract formally identified as Phase 3. There are fluctuations in acreage and percentages. Please provide a map summary that is consistent with the table summary.

3. The Monterey Shores wastewater treatment plan green spaces maps for Corolla Water Service Inc, of NC (dated December 27, 2006) clearly show development within existing available green space. Improvements such as a service drive, proposed stormwater pond, portions of the miniature golf, playground, walkway and paddle boat dock, parking and possibly the proposed building appear to be within the designated green space areas. Please provide the revised plans that have been approved by the utility and the state that exclude the proposed development from green space.
4. Please provide information regarding proposed parcel 6. The submitted amended sketch plan indicates on entire parcel containing 37+ acres; however, the application for the special use permit indicates proposed parcel 6.
5. Please provide a copy of the approved wetland map dated 3-1-05. There appears to be inconsistencies with the map references and the submitted plans.
6. The plat prepared for Carolina Water Service recorded in plat cabinet K, slide 49 indicates the existence of a utility easement in the area of the stormwater pond, gravel service drive, portions of the miniature golf, cart maintenance building, and portions of the go-kart track. Please provide the legal documentation that supports the abandonment of the easement.
7. Please provide written acknowledgement from Carolina Water Service for water and wastewater commitment. A copy of the letter submitted to CWS by Albemarle and Associates was submitted; however, an allocation acknowledgement from CWS must be provided.
8. Stormwater ponds may not be located within 10 feet of any property line.

9. Please indicate the entire Monterey Shores PUD in the vicinity map that is at a scale of 1" = 2000' or larger on the amended sketch plan.
10. The amended sketch plan must be at a scale of 1" = 100' or larger.
11. The zoning classification of the development must be provided on the amended sketch plan.
12. All commercial activities must be located within the General Business zoning designation, including paddle boat dock.
13. Please provide details of the intended ownership of the open space.
14. Understanding the engineering costs for the site plan, the application is requesting the special use permit for the use only and a full site plan must be submitted to the technical review committee at a later date. Although, staff did not evaluate the site plan for full UDO compliance there are some items that do not appear to meet the minimum requirements and must be addressed:
 - a. The dumpster location does not provide for adequate access that will not interfere with proposed parking spaces.
 - b. Proposed parking must meet a 20' vehicular area setback from any street right of- way (proposed or existing).
 - c. The proposed development will be subject to the Maritime Forest Guide.
 - d. The access for this development is proposed through a NCDOT controlled access right-of-way that has not been abandoned and a deeded parcel to NCDOT. Please provide verification that a full movement access is approved at this location (also see suggested plan modifications below). If this location is approved by NCDOT and the Board of Commissioners, an easement is required.

Suggested Plan Modifications

1. The proposed go-kart tract is located within the Conservation land use classification and is considered environmentally significant. Preservation of areas of significant existing vegetation shall be encouraged. (Conserve Environmentally Sensitive Areas Policies and Water Quality Policies)
2. Low Impact Development techniques such as cisterns that capture the rainwater from the roof and rain gardens should be provided. Such cisterns should not directly discharge stormwater to the ground but should be reused within the development. The use of rain gardens should also be considered throughout the project and within the miniature golf and parking areas. (Conserve Environmentally Sensitive Areas Policies and Water Quality Policies)
3. Staff recommends all inland, non-tidal and coastal wetlands to remain undisturbed excluding elevated walkways and placed into a conservation easement,

- preservation trust or turned over the homeowner's association. (Conserve Environmentally Sensitive Areas Policies, Water Quality Policies)
4. The access to the proposed development is within the NCDOT controlled access right-ofway and close to a signalized intersection. Staff recommends accessing the proposed development from Malia Drive. Should NCDOT and the Board of Commissioners allow the NC 12 connection, the access should be restricted to right-in and right-out. (Transportation Policies)
 5. The county has initiated the Corolla Greenway multi-use path along the west side of Ocean Trail. It is anticipated that over time the path will extend the length of Ocean Trail. Staff would request the dedication of a 20 foot pedestrian easement for future multi-use path. (Parks and Recreation Policies)
 6. Based on the elevation information provided with the site plan there are several elevated portions on this property, preservation of the significant existing vegetation and topography is encouraged (i.e. Along NC 12 and interior of the site). Please preserve natural features of this property when developing the site. (Conserve Environmentally Sensitive Areas Policies and Water Quality Policies)
 7. Staff recommends a reduction in parking spaces that would effectively reduce the amount of impervious material by providing bike racks to encourage alternate modes of transportation (Rate: 1 bike rack [each rack accommodating a minimum of 5 bicycles] for every 20 spaces - 1 to 1 reduction with a maximum of 3 parking space reduction). (Transportation Policies and Water Quality Policies)
 8. This site is located at the gateway to Corolla. Should this site be selected for the Mid- County Bridge, it will be the first northbound site as you enter the Outer Banks. Extensive, native landscape improvements should be used on this site (Community Appearance Policies).
 9. Staff encourages the integration of the area's architectural and cultural heritage when designing the buildings on this site. (Historic Preservation Policies)

County Engineer, Eric Weatherly

Approved with corrections

1. CWS provided me with a map indicating their green space and easements which I have forwarded to you. I do not agree that stormwater features and access roads should be allowed on green space.
2. Please indicate all utility and green space information from the information I provided on your site plans for clarity.
3. Provide easements for the existing groundwater discharge and 48 inch pipe.
4. It would appear the 48 inch pipe will be in the way of the future stormwater pond.
5. Provide the commitment letter from CWS.

Utilities, Pat Irwin

Approved

GIS, Harry Lee

Approved

1. Addresses for arcade building and manager's residences will be assigned by GIS at the time of building permit application.

Fire Marshal, James Mims

Approved.

1. Site plan will require additional review.

Soil and Water, Mike Doxey

Approval with corrections

1. Need state erosion and sedimentation control permit and stormwater permit.

Currituck County Schools, Bruce McDonald

Approved

1. No comment.

Albemarle Regional Health Services, Joe Hobbs

Denied/Resubmit

1. Any wastewater approvals for these proposed developments will need to be approved by the NC Division of Water Quality (Washington, NC office 252-946-6481). Consult with Health Department concerning pool and restaurant approvals at 252-232-6603.

NCDOT, Roger Ward

Approval with corrections

1. Not sure if access is allowed across a controlled access right-of-way. May have to go before control of access committee in Raleigh.

US Army Corps of Engineers, Tom Steffens

Denied/Resubmit

1. "New Wetlands Line" noted near the WWTP requires documentation as to origin, verification by USACE with Action ID#, if different from wetland line verified 03/2005. Please submit to USACE before finalizing.

NC Division of Coastal Management, Charlan Owens

No comment

NC DENR, Land Quality, Pat McClain

Approval with corrections

1. An erosion and sedimentation control plan for this project must be approved prior to initiating any land disturbance associated with this project.

The following agencies did not provide a recommendation for this project:

**Currituck County Emergency Management, MaryBeth Newns
Currituck County Sheriff Department, Susan Johnson
Currituck County Building Inspections, Spence Castello
Currituck County Parks and Recreation, Jason Weeks
Corolla Fire and Rescue, Richard Galganski
NCDENR Environmental Management, Roger Thorpe
NCDENR Public Water, Siraj Chohan
NC State Archaeology, Lawrence Abbot
Embarq, Hester Jones
Charter Communications, Sam Scilabba
Dominion Power, Troy Lindsey**

Resubmittal Items:

- 3 - full size copies of all revised plans.
- 10 - 11"x17" copies of the amended sketch plan and special use permit plans.
- 1- 8.5"x11" copy of all revised plans.
- 1- PDF digital copy of all revised documents.

Ike McRee, County Attorney, opened the hearing.

John DeLucia, Engineer, reviewed the request.

Mike Meredith, opposes the request. Chairman O'Neal asked if this was because he operates the same type of business.

Tim Rary, also opposes the request due to the fact he also operates this type of business in the area.

Andrew Meredith, Duck, opposes request and operates same type of business in Duck. He states that this operation is too close to residential area.

Bob Schultz, President of Monterey Shores Property Owners Association, opposes the request because it would reduce property values in the area.

Hui Sun Zabloudil, opposes request due to traffic and noise concerns.

Crouse Gray, Attorney for Developer, stated that they would reduce commercial area in the conservation area to 1.17 acres out of 36 acres.

Ike McRee, County Attorney, closed the hearing.

The Board took no action.

**Public Hearing and Action: PB 09-38 Corolla Fun Park:
Request for a special use permit to establish a 36-hole miniature golf course; go-kart track; spin zone; children's playground area; and arcade with limited retail, snack bar, and office on property located within Monterey Shores, PUD and Buck Island, PUD, Tax Map 116, Parcels 3W and 10 and Tax map 116D, Parcel 3D, Poplar Branch Township.**

deleted

**Public Hearing and Action on Intent to Permanently Close
Milburn Sawyer Road in Poplar Branch Township**

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

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

**Consideration of ordinance amending Article III, Section
10-134 to allow dogs at the Rural Center (second reading)**

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

**AN ORDINANCE OF THE
CURRITUCK COUNTY BOARD OF COMMISSIONERS
AMENDING ARTICLE III, SECTION 10-134 OF THE CURRITUCK COUNTY
CODE OF ORDINANCES**

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

WHEREAS, pursuant to N.C.Gen. Stat. Sect. 153A-169 a county may by ordinance adopt regulations concerning the use of county property.

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

PART 1. Section 10-134. Dogs, of the Code of Ordinances for Currituck County is amended to read as follows:

(a) Except as permitted herein, dogs are not permitted in county parks except service dogs for the disabled. Notwithstanding the foregoing, dogs are permitted in the county park located at 140 Gabbard Lane, Spot, North Carolina when in compliance with the conditions set forth in paragraphs (1) through (7) of Section 10-134(b) of this Code.

(b) Dogs may be permitted in county parks for a particular purpose sponsored by a group, association or organization that has obtained a permit under Section 10-148 of this Code and with the following conditions:

(1) Dogs must have current vaccinations and licenses. Proof of vaccinations and licensure

is required upon request of the group, association or organization permitted to use a county park for a particular purpose, law enforcement officer or animal control officer.

- (2) Dogs under four (4) months of age or female dogs in heat are not permitted.
- (3) Dogs must be under the control of an adult at all times, must wear a collar with any required tags and must be on a leash unless part of a specially trained performing group under the voice control which specially trained performing group is included in the permit of the sponsoring group, association or organization.
- (4) Each dog owner or adult in control of a dog shall remove and dispose of their dog's fecal matter in containers provided for such disposal.
- (5) Aggressive dogs are not permitted and any dog displaying aggression shall be immediately removed from the county park.
- (6) No dog shall be left unattended.
- (7) Dog owners or adults in control of a dog shall provide potable drinking water for their dog.

PART 2. The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and if any phrase, clause, sentence, or paragraph of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutional or invalid phrase, clause, sentence, or paragraph shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the remaining provisions would have been enacted by the Board of Commissioners without the incorporation into this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Discussion and Consideration of Resolution establishing Single Family Residential Permitting Incentive Plan

Commissioner Nelms moved to approve resolution.
Commissioner Etheridge seconded the motion. Motion carried.

RESOLUTION ESTABLISHING SINGLE-FAMILY RESIDENTIAL PERMITTING INCENTIVE PLAN

WHEREAS, pursuant to N.C. Gen. Stat. §153A-102 a county's board of commissioners may fix the fees and commissions charged by county officers and employees for performing duties or services; and

WHEREAS, there currently exists an economic environment not experienced since the Great Depression that nationally and locally is causing low economic investment and performance and high unemployment to the detriment of the public health, safety and welfare; and

WHEREAS, the Board of Commissioners for Currituck County finds that it is in the public's interest to adopt a building permit incentive plan to promote and increase employment, economic growth through the purchase and use of construction supplies and material and the county's tax base.

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

Section 1. The following plan is established:

SINGLE-FAMILY RESIDENTIAL PERMITTING INCENTIVE PLAN

Sec. 1.1 The Single-Family Residential Permitting Incentive Plan is applicable to construction, renovation or improvement of single-family residential structures and accessory or appurtenant structures incidental to the use of a single-family residential structure with value, excluding land value, in an amount not exceeding \$250,000.

Sec 1.2 Every applicant for a building permit with value in an amount not exceeding \$250,000 shall pay at the time of building permit fee application the fees required by the Currituck County Fee Schedule then in effect. The applicant will be issued a certificate and checklist of request applicant for a refund of building permit fees paid at the time of application.

Sec. 1.3 To qualify for refund of building permit fees under this plan the applicant must present to the county's chief building inspector or designee the certificate and checklist of requirements issued with the building permit and documentation satisfactory to the chief building inspector or designee evidencing the following criteria:

a. Construction under the building permit issued for a project began and received one inspection required by the chief building inspector or designee within 30 days of the issuance of the building permit and a certificate of occupancy or completion issued within one year of the issuance of the building permit.

b. The contractor performing work on the project under the building permit is a North Carolina based contractor.

c. Sixty-percent of subcontractors on the project under the building permit are North Carolina based subcontractors.

d. Sixty-percent of supplies and materials used in the construction of the project under the building permit are purchased in North Carolina.

Sec. 1.4 No applicant may receive and have outstanding more than five incentive plan

Sec. 1.5 Upon certification by the chief building inspector or designee that the applicant meets the requirements set forth in this plan the building permit fees paid by the applicant shall be refunded within thirty days from the date of certification.

Section 2. This resolution shall be effective upon its adoption and shall be valid for twelve months thereafter.

Consideration of modified Golf Cart Ordinance

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

**AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS AMENDING THE CURRITUCK COUNTY CODE OF ORDINANCES TO PERMIT AND REGULATE THE OPERATION OF GOLF CARTS ON PUBLIC STREETS AND ROADS WITHIN THE COUNTY
Ordinance No. 10-02**

WHEREAS, pursuant to N.C. Gen. Stat. §153A-245 a county may regulate the operation of golf carts on any public street, road or highway where the speed limit is 35 miles per hour or less;

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

PART I. That the Code of Ordinances, Currituck County, North Carolina is amended by adding an article and section to Chapter 12 to read as follows:

ARTICLE V. OPERATION OF GOLF CARTS ON PUBLIC STREETS AND ROADS

Sec. 12-64. Definitions.

The following words and phrases when used in this article shall have the definitions respectively ascribed to them in this section. Whenever any words or phrases used in this chapter are not defined but are defined in the North Carolina General Statutes, Chapter 20 and amendments thereto, such definitions shall apply.

Driver means the operator of a vehicle, as defined in subdivision (25). The terms "driver" and "operator" and their cognates are synonymous.

Golf cart means a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of twenty (20) miles per hour.

Highway means the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a

matter of right for the purposes of vehicular traffic. The terms "highway", "road", "street", and "public vehicular area (PVA)" and their cognates are synonymous.

Insurance means a liability insurance policy or financial security deposit or by qualification as a self-insurer, as these terms are defined and described in Article 9A, Chapter 20 of the General Statutes of North Carolina, as amended.

Operator means a person in actual physical control of a vehicle which is in motion or which has the engine running. The terms "operator" and "driver" and their cognates are synonymous.

Sec. 12-65. Operation of golf carts on public streets not otherwise designated for such _____ operation.

It shall be unlawful for any person to operate a golf cart on or over any public road in the County, except as provided in this article.

Sec. 12-66. Designation of public streets for operation of golf carts.

Except for U.S. Highway 168, U.S. Highway 158, N.C. State Highway 34, N.C. State Highway 12, Tull's Creek Road and Poplar Branch Road, a golf cart may be operated on all public streets, roads, highways and public vehicular areas where the speed limit is 35 miles per hour or less. Upon receipt of a petition signed by 67% of residents and/or property owners in an area requesting designation of public streets, roads, highways or public vehicular areas on which golf carts are prohibited, the County Board of Commissioners may adopt an ordinance designating the area and public streets, roads, highways or public vehicular areas within the designated area on which golf carts may not be operated.

Sec. 12-667. Limitations and safety criteria.

Golf cart operation on designated public streets of the County shall be in accordance with the following limitations:

(1) No golf cart shall be driven across any road at an intersection where the road being crossed has a posted speed limit of more than thirty-five (35) miles per hour except for the sole purpose of crossing such street in a perpendicular direction at the intersection of a through street or at a signalized location in accordance with the direction of the signal.

(2) The maximum occupancy of a golf cart traveling on streets will be one (1) person per designated seat. No occupants of a golf cart shall stand at any time while the golf cart is in motion.

(3) Golf carts must be operated in accordance with all applicable state and local laws and ordinances, including all laws, regulations and ordinances pertaining to the possession and use of alcoholic beverages.

(4) No person may operate a golf cart unless that person is licensed to drive upon the streets and highways of North Carolina and then, only in accordance with such driver's license. An operator of golf cart must be at least sixteen (16) years of age, with the exception that operators under the age of sixteen (16) years may operate golf cart if they possess a valid learner's permit issued by the state of North Carolina and are accompanied by a licensed driver as required by state law.

(5) If the operator is over the age of sixteen (16) and qualifies for a handicapped parking space the operator may operate a golf cart on public streets upon the submission of a certificate signed by a licensed physician that the driver is able to operate a motorized golf cart on the roadways designated. The operator must have the certificate and handicap parking tag in their possession while operating a golf cart.

(6) Golf carts may be operated only during daylight hours. ~~with the exception that golf carts equipped with operating lights meeting the requirements set forth below may operate only between the hours of 7:00 a.m. to 10:00 p.m.~~

~~a. Two (2) lighted lamps, one (1) on each side of the front of the golf cart visible under normal atmospheric conditions from a distance of at least three hundred (300) feet in front of such golf cart and a red lamp on the rear, exhibiting a red light visible under like conditions from a distance of at least two hundred (200) feet to the rear of such golf cart.~~

(7) Golf carts must be operated at the extreme right of the roadway and must yield to all vehicular and pedestrian traffic.

(8) Golf carts shall not be operated on any sidewalk, pedestrian walkway, multi-use path, jogging path, greenway, park or trail except by law enforcement or by County employees or contractors while on County business who carry on their person County issued credentials evidencing work for the County.

(9) Golf carts shall not be operated during inclement weather or when visibility is impaired by weather, smoke, fog or other conditions.

(10) Golf cart operators shall maintain manufacturer installed safety devices and equipment on the golf cart in good repair and operable condition and ensure that an unobstructed view to the rear is maintained at all times the golf cart is in operation on public streets.

(11) Golf carts operating on public streets of the County pursuant to this article shall be insured as required by G.S. 20-309.

(12) All golf carts shall have the following equipment: locking brake, reverse warning device, main power switch, horn, either hip restraints or hand holds, front and rear reflectors, and a manufacturer's serial number plate. Manufacturer-installed safety labels shall be visible and readable.

(13) In no instance may a golf cart be operated at a speed greater than 20 miles per hour. Even at speeds at or below 20 mile per hour, no golf cart may be operated at a speed greater than is reasonable and prudent for the existing conditions.

(14) No golf cart may be operated in a careless or reckless manner.

(15) Golf carts may not be used for the purpose of towing another cart, trailer or vehicle of any kind including a person on roller skates, skateboards or bicycle . ~~Notwithstanding the foregoing, a golf cart may be used to tow watercraft, utility carts or utility trailers on public streets or public vehicular areas on which the operation of golf carts is authorized by this article but towed watercraft, utility carts or utility trailers shall not be occupied by any person while the golf cart is in operation.~~

Sec. 12-678. Exceptions.

The limitations set forth in section 12-667 shall not apply to golf carts being operated as follows:

(1) To cross a road from one portion of a golf course to another portion thereof or to another adjacent golf course and the speed limit on the road is no more than thirty-five (35) miles per hour; or to cross a road at an intersection where the road has a posted speed limit of not more than thirty-five (35) miles per hour.

(2) To the extent necessary for County employees and County contractors, who carry on their person County issued credentials evidencing work for the County, to fulfill a governmental purpose, provided the golf cart is not operated on a public road of the County with a posted speed limit over thirty-five (35) miles per hour.

(3) In connection with a parade, a festival or other special event provided the consent of the sponsor is obtained and provided the golf cart is only used during such event.

Sec. 12-689. Liability Disclaimer.

Golf carts are not designed for nor manufactured to be used on public streets and the County neither advocates nor endorses the golf cart as a safe means of travel on public streets, roads and highways. All persons who operate golf carts on public streets, roads and highways do so at their own risk and peril, and must observe and be attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists and pedestrians. By permitting golf carts to be operated on public streets, roads and highways under the General Statutes of North Carolina, the County assumes no responsibility or liability for the operation of golf carts.

PART II. That the Code of Ordinances for the County of Currituck is amended by rewriting Section 1-8(i)(4) to read as follows:

(4) Chapter 12, section 12-62- : Article V.

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

Recommendation of Award for the Corolla Greenway Multi Use Path Project

Commissioner Etheridge moved to award bid to Barnhill Construction in the amount of \$413,640. Commissioner Nelms seconded the motion. Motion carried.

Appointment to Library Board of Trustees

Commissioner Nelms moved to appoint Colleen Umphlett. Commissioner Gregory seconded the motion. Motion carried.

Appointment to Fire and EMS Advisory Board

Commissioner Taylor moved to reappoint Hugh McCain Carl Soltow, Mick Lesinski, Stanley Griggs and Greg Laput for a two year term. Commissioner Nelms seconded the motion. Motion carried.

Appointment to Senior Citizen Advisory Board

Commissioner Nelms moved to appoint Rose Wright. Commissioner Taylor seconded the motion. Motion carried.

Appointments to Whalehead Board of Trustees

Commissioner Aydlett moved to appoint the following. Commissioner Etheridge seconded the motion. Motion carried. Terms will begin May 1, 2010.

Bill Richardson, Kimberlee Hoey, Cliff Scott, Josh Bass, Jeanne Meiggs, Gary McGee, Travis Morris, Sharon Twiddy, Allen Ives, and Buck Thornton.

Consent Agenda:

1. Pilmoor Methodist Church Food Bank \$2,500
2. Budget Amendments
3. Order the Tax Collector to advertise the 2009 real estate tax liens
4. Petition to NCDOT for addition to state maintained system of sections of Rita Street, Parker Street and Neal Avenue in Albemarle Sound Beach Estates
5. Resolution Authorizing Sheriff's Office to Dispose of Vehicles by Trade-in
6. Disposal of Building Permit Files
7. Resolution Surplus property Ocean Sands
8. Approval of February 15, 2010, Minutes

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

<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 Appropriated Balance	6,899	
10750-511000	Telephone & Postage	6,500	
10750-513000	Utilities	2,500	
10750-557700	Crisis Intervention	17,900	
10750-561000	Professional Services	15,000	
10752-519202	Title IV-E Adoption Assistance	16,200	
10752-519600	Child Daycare	75,000	
10752-519601	Smart Start Daycare	7,955	
	Contracted Services-Special		
10752-545003	Adoption	23,250	
	Professional Services-Special		
10752-561003	Adoption	23,250	
10330-430200	Adoption Assistance		46,500
10330-431000	DSS Admin		24,799
10330-432800	Day Care		82,955
10750-519800	TANF Transportation		6,000
10750-531000	Gas, Oil, Etc.		3,300
10750-590441	Technology Over \$1,000		14,700
10752-519100	Title IV-E Foster Care		16,200
		<u>\$ 194,454</u>	<u>\$ 194,454</u>

Explanation: SOCIAL SERVICES ADMINISTRATION (750) and PUBLIC ASSISTANCE (752) - Adjust to reflect actual spending in operating expenses; new allocations received from the state and the Smart Start partnership; funds received for finalized adoptions since July 2009; and IV-E Adoption Assistance county payback.

Net Budget Effect: Operating Fund (10) - Increased by \$147,355.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
			Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense
62828-533200	Lab Tests		500		
62828-532000	Supplies		1,900		
62828-561000	Professional Services				2,000
62828-516000	Repair/Maintenance				400
			<u>\$ 2,400</u>		<u>\$ 2,400</u>

Explanation: *Newtown Road Sewer (62828)* - Transfer funds for lab tests and supplies needed for operations.

Net Budget Effect: Newtown Road Sewer (62) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
			Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense
10461-514000	Travel		1,000		
10461-516200	Vehicle Maintenance				1,000
			<u>\$ 1,000</u>		<u>\$ 1,000</u>

Explanation: *Public Utilities (10461)* - Transfer funds to allow wastewater operator to attend the Grade IV Biological Treatment School.

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
65858-590000	Capital Outlay	\$	3,200		
65858-532000	Supplies	\$	8,000		
65858-561000	Professional Services				3,200
65858-533200	Lab Tests				3,000
65858-516000	Repairs/Maintenance				5,000
			<u>\$ 11,200</u>		<u>\$ 11,200</u>

Explanation: *Moyock Commons Sewer (65858)* - To transfer funds to repair the ditch lowering pump and for a tool trailer for Moyock Commons Sewer.

Net Budget Effect: Moyock Commons Sewer Fund (65) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10531-590000	Capital Outlay	\$	7,831		
10531-502000	Salaries - Regular			\$	7,831
		<u>\$ 7,831</u>		<u>\$ 7,831</u>	

Explanation: *Emergency Management (10531)* - Transfer funds to purchase equipment necessary for 800Mhz radios.

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	
10790-511000	Telephone & Postage			\$	1,500
10790-532000	Supplies	\$	1,500		
		<u>\$ 1,500</u>		<u>\$ 1,500</u>	

Explanation: *Library (10790)* - Transfer funds for additional supplies needed for start-up at Moyock library.

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	
10535-590441	Technology over \$1,000	\$	1,252		
10535-532441	Technology under \$1,000			\$	1,252
		<u>\$ 1,252</u>		<u>\$ 1,252</u>	

Explanation: *Communications (10535)* - Transfer funds to replace headsets for telecommunicators.

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
61818-532000	Supplies	\$ 2,220	
61818-513000	Utilities	\$ 53,300	
61818-516000	Repairs and Maintenance		\$ 2,000
61818-516400	Equipment Maintenance		\$ 110
61818-531400	Equipment Fuel		\$ 110
61818-502000	Salaries		\$ 40,000
61818-514500	Training and Education		\$ 800
61818-516200	Vehicle Maintenance		\$ 3,000
61818-526000	Advertising		\$ 500
61818-531000	Gas, Oil, Etc.		\$ 1,000
61818-533200	Lab Tests		\$ 3,000
61818-590003	Fire Hydrants		\$ 5,000
		<u>\$ 55,520</u>	<u>\$ 55,520</u>

Explanation: *Mainland Water (61818)* - Transfer funds for additional filters and increased utilities for the reverse osmosis plant operations.

Net Budget Effect: Mainland Water Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10560-519701	HCCBG - Access Service	\$ 2,222	
10330-432200	HCCBG - Transportation		\$ 2,222
		<u>\$ 2,222</u>	<u>\$ 2,222</u>

Explanation: *Inter-County Transportation (10560)* - Adjust to final grant approval.

Net Budget Effect: Operating Fund (10) - Increased by \$2,222.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
12547-545000	Contract Services	\$ 45,000	
12547-590007	Capital Outlay		\$ 45,000
		\$ 45,000	\$ 45,000

Explanation: *Carova Beach Volunteer Fire Department (12547)* - To transfer funds from Capital outlay to operations. The Swan Beach reserve will not be used this year since there was a loan with the County approved at the February 15, 2010 meeting.

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
10531-526000	Advertising	\$ 100	
10531-514000	Travel	\$ 1,000	
10531-532000	Supplies	\$ 13,689	
10531-590000	Capital Outlay	\$ 7,000	
10330-445000	Emergency Mgmt Grant		\$ 21,789
		\$ 21,789	\$ 21,789

Explanation: *Emergency Management (10531)* - To record additional Emergency Management Planning Grant for FY 2010, this is the 2009 grant cycle. Capital purchases will be for portable lights and explosive ordinance containers.

Net Budget Effect: Operating Fund (10) - Increased by \$21,789.

RESOLUTION

WHEREAS, the Board of Commissioners of Currituck County, North Carolina during its regularly scheduled meeting held on 3/1/2010 authorized the following, pursuant to GS 160A and 270(b), that the property listed below be disposed of:

Asset 2912 Iron Treatment Filters: Part of old Ocean Sands Water Plant that has been demolished.

Asset 2913 Ground Water Storage Tank: Part of old Ocean Sands Water Plant that has been demolished.

Asset 3041 High Water Signal Control Unit: Unit no longer in working condition, not repairable.

Asset 3180 4" Flanged Water Valve: Part of old Ocean Sands Water Plant that has been demolished.

Asset 6108 8 Bull Horn Alarms (Lift Station): Unit no longer in working condition, not repairable.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of County of Currituck reserves the right to reject any and all bids.

Commissioner's Report

Commissioner Taylor stated that the Moyock Volunteer Fire Department has submitted a budget with the requested 5% reduction.

Commissioner Nelms discussed a bike path around Griggs School and Poplar Branch Road.

Commissioner Rorer thanked everyone for their well wishes for his wife.

County Manager's Report

Dan Scanlon, County Manager, updated the Board on the census information.

Adjourn

There being no further business, the meeting adjourned.