

CURRITUCK COUNTY
NORTH CAROLINA
March 15, 2010

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 Randy Blanchard, Pilmoor Methodist Church, was present to give the invocation.

Approval of Agenda

Commissioner Etheridge moved to approve. Commissioner Gregory 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 **Presentation** by College of the Albemarle
- Item 4 **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 5 **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 6 **Public Hearing and Action:** PB 10-02 Beach Jeeps of Corolla: Request for a special use permit for an outdoor tour operator. The property is located at 103A Austin Street, Tax Map 115B, Parcel 2P2B, Poplar Branch Township.
- Item 7 **Consideration and Action:** PB 08-42 Blackwater Training Center: Renewal of Special Use Permit for a Security Training Operations and Services Facility on property located at the South end of Puddin Ridge Road, adjacent to the Camden County border, Tax Map 12, Parcel 1, and Tax Map 17, Parcel 1A, Moyock Township.
- Item 8 **Consideration of Ordinance** prohibiting sand bags and beach push on Currituck Outer Banks
- Item 9 **Appointment** to Library Board
- Item 10 **Appointment** Whalehead Board of Trustees
- Item 11 **Consent Agenda:**

1. Sagar Family Residence waive fees for landfill
2. Job Description for Marketing Program Manager
3. Budget Amendments
4. Maple Commerce Park Project Ordinance
5. Approval of March 1, 2010 Minutes

Item 12 Commissioner's Report

Item 13 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.

Barbara Snowden, stated that UNC TV will be showing a program highlighting Currituck County waterways on March 21 and 29. Ms. Snowden updated the Board on the Old Jail restoration.

Commissioner Etheridge commented on the Arts Council Show that took place at the High School.

Andy Keeney, stated that he felt the agenda was a procedural error regarding Item 5, Corolla Fun Park.

Ike McRee, County Attorney, responded that the meeting was procedurally proper.

There being no further comments, the Public Comment period was closed.

Presentation by College of the Albemarle

Matt Wood, Chairman of the College of the Albemarle Board of Trustees. Mr. Wood reviewed the funding and the cuts in funding. Mr. Wood stated that he will send a letter to the Board outlining funding requests to be considered during the next budget year.

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.

Ike McRee, County Attorney, stated that the hearing was closed during the last meeting and asked the Board if they had any further questions.

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-R01/GB
SOUTH	Open Space/Undeveloped Commercial	PUD-R01/GB
EAST:	Commercial	PUD-R01/GB
WEST:	Open Space	PUD-R01

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-of-way 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.

Commissioner Aydlett moved to approve with findings of fact and staff recommendations. Commissioner Rorer seconded the motion. Motion carried.

**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.**

Ike McRee, County Attorney, stated that the applicant has requested this be continued due to information just received by the applicant.

Commissioner Rorer moved to continue. Commissioner Aydlett seconded the motion. Motion carried with Commissioner Nelms voting no.

**Public Hearing and Action: PB 10-02 Beach Jeeps of Corolla:
Request for a special use permit for an outdoor tour operator. The property is located at 103A Austin Street, Tax Map 115B, Parcel 2P2B, Poplar Branch Township.**

Sworn testimony was taken prior to making statements.

Ben Woody, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE
 BOARD OF COMMISSIONERS
 MEETING DATE: March 15, 2010
 Special Use Permit
 PB 10-02 Beach Jeeps of Corolla**

ITEM: SPECIAL USE PERMIT - OUTDOOR TOUR OPERATOR

LOCATION: 103B Austin Street

ZONING DISTRICT: General Business (GB) - PUD Overlay District

TAX ID: 115B0002P2B0000

OWNER: Corolla Light Town Center, LLC
 PO Box 1237
 Nags Head, NC 27959-1237

APPLICANT: Bob White
 Beach Jeeps of Corolla
 1159H Austin Street
 Corolla, NC 27927

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Commercial	Zoned GB
SOUTH:	Residential	Zoned R01
EAST:	Residential	Zoned R01
WEST:	Residential	Zoned R01

LAND USE PLAN

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

NARRATIVE:

1. The applicant is requesting a Special Use permit for conducting unguided horse tour rentals in the off-road areas of Corolla.
2. The Board of Commissioners adopted an ordinance on September 21, 2009 that established outdoor tour operators as a specific land use. Subsequently, any business operating as a vehicular tour operator with a base operation within the jurisdiction of Currituck County is required to apply for a new special use permit.

3. The Special Use Permit application pertains to the property located at 103B Austin Street. Associated activities that may occur off-site are subject to the conditions included in the approved Permit.
4. There are several policies in the Currituck County 2006 Land Use Plan that support this type of endeavor. Some are as follows:
 - a. POLICY ED1: new and expanding industries and businesses should be especially encouraged that:
 - 1) diversify the local economy,
 - 2) train and utilize a more highly skilled labor force, and
 - 3) are compatible with the environmental quality and natural amenity-based economy of Currituck County.
 - b. POLICY HP3: Development of the tourism and educational potential of the area's architectural, historic and cultural resources shall be encouraged.

It appears this request is consistent with the policies and objectives of the Land Use Plan provided care is taken to ensure the outdoor tours are conducted in an environmentally sustainable manner. The Planning Department is particularly encouraged to see a growing emphasis on eco-tourism industries that expose the general public to the natural resources of Currituck County.

QUESTION(S) BEFORE THE BOARD:

Special Use Permit Criteria and 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. COMPLETENESS OF THE APPLICATION
Suggested Findings:
 - a) The application is complete.
2. COMPLIANCE WITH ORDINANCE REQUIREMENTS
Suggested Findings:
 - a) The applicant's proposal will be required to maintain compliance with all UDO requirements and

any additional requirements of the Board of Commissioners.

- i. The proposed use **will not** materially endanger the public health or safety for the following reasons:

Suggested Findings:

- The parcel has adequate on-site parking and is located in a well established commercial area.

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

Suggested Findings:

- The Unified Development Ordinance indicates that outdoor tour operators are a permitted land use with a Special Use Permit in a General Business (GB) zoning district.

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

Suggested Findings:

- The parcel is located in Corolla Light Town Center which is a well established commercial area and is therefore in keeping with the character of the surrounding area.

- iv. The proposed use **will** be in general conformity with the Land Use Plan, and any other plan officially adopted by the Board of Commissioners.

Suggested Findings:

- The 2006 Land Use Plan classifies this site as Full Service in the Corolla Subarea and the proposed use is in keeping with the policies of the plan.

- v. The proposed 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.

Suggested Findings:

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

STAFF RECOMMENDATION

The proposal appears to meet the criteria for granting a Special Use Permit for the property at 103B Austin Street and staff recommends **APPROVAL** with the following conditions:

1. Tour vehicles shall be labeled with decals or paint markings that clearly display the company name. Label font size shall be a minimum of four inches.
2. All tours must be guided from Memorial Day to Labor Day. Tag-a-long tours are permitted as long as the lead vehicle is operated by an employee of the tour company and subsequent vehicles are under the employee's supervision.
3. Tours shall comply with Chapter 3: Article II. Wild Horses, Chapter 10: Article II. Beaches and all other applicable provisions of the Currituck County Code of Ordinances. Tours shall also operate in accordance with all State and Federal laws.
4. There shall be one parking space required for every vehicle seating 1-5 persons, two parking spaces required for every vehicle seating 6-10 persons etc., and one parking space required for every two employees. If any additional activities or uses occur on-site, additional parking may be required per the Unified Development Ordinance. Currently there is adequate parking available at the proposed location.

Use	Parking Requirement	Quantity	Parking Total
Horse Tour Rentals	Tour vehicle seating 1-5 persons = 1 space per vehicle	10 Jeeps	10
Employees (largest shift)	1 space/2 employees	4 employees	2
Total Required:			12

5. Vehicles held in reserve in the event of inclement weather or breakdowns may be used as long as the parking requirements and all other conditions of this permit are met. Reserve vehicles must be stored at an approved location.
6. This special use permit shall be reviewed administratively on an annual basis and a report shall be filed with the Currituck County Board of Commissioners detailing the nature of any complaints received by the Planning Department. At the

discretion of the Code Enforcement Officer or Board of Commissioners, the special use permit shall be subject to revocation or modification by the permit issuing authority following a public hearing.

7. The Board of Commissioners may establish a maximum number of vehicles as part of the special use permit approval process.

PLANNING BOARD RECOMMENDATION

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

PLANNING BOARD DISCUSSION (February 9, 2010)

Mr. White stated he has been conducting unguided horse tour rentals in the off-road areas of Corolla for four years. They have a route marked out for them to go too and they are on their own for approximately 2.5 hours.

Ms. Taylor asked if there is a minimum age limit to drive the vehicle.

Mr. White stated they have to be 25 years of age or older and have full insurance coverage.

Mr. Clark asked if they have ever had any problems with the law regarding his rentals.

Mr. White stated they have had people call and say a vehicle is doing something wrong. This year it makes it easy because they had decals or paint markings that clearly display the company's name. Mr. White stated they donate to the Wild Horse Fund. Mr. White stated it is hard to find responsible people to do guided tours. There are companies in Dare County who do not have any stipulations. One option is to have a caravan tour where you have 4 to 5 jeeps in one tour.

Mr. West stated he liked the fact that you have to be 25 years or older to drive but one thing in the past is that they need to be guided tours.

Mr. Woody stated that the special use permit will be for one year and then it will come back to the BOC for renewal.

Mr. Wright asked if the Wild Horse has a position on guided vs. unguided.

Mr. Woody stated the Wild Horse Tours are guided at the applicant request.

Mr. Midgette asked Mr. White if he was okay with staff recommendations.

Mr. White stated yes.

Ms. Wilson stated living in the Corolla area the tours are under the microscope and having an unguided tour may be self-destructive.

Mr. White stated he has a lot of money tied up in his business and he keeps the money in the community. If the tours were guided he may see a 5% reduction but maintenance cost of vehicles would go down. The public really enjoys the unguided tours.

Mr. Lanucci stated he is concerned about unguided tours and is in favor of guided tours.

Mr. Rothrock stated he would like to see a number on the jeeps along with the company name so when you call the sheriff department you can give them a number along with the company name. Control the number of permits which in turn will control the number of vehicles up in the off road area. Mr. Rothrock asked who is spending more money, the person who rents the jeep for 2.5 hours or rents a home for a week.

Mr. Lampe stated he likes a one year permits and he is in favor of guided tours.

ACTION

Mr. West motion to recommend approval with staff recommendations and that the tours be guided during the months of Memorial Day through Labor Day for a special use permit for an outdoor tour operator. Ms. Taylor seconded the motion. Motion carried unanimously.

MEMORANDUM

To: Bob White, Beach Jeeps of Corolla
From: Planning Staff
Date: January 20, 2010
Re: PB 10-02 Special Use Permit - Outdoor Tour Operator

The following comments have been received for the December 16, 2009 TRC meeting.

Planning, Jennie Newbern
Approved

1. Tour/Rental vehicles shall be labeled with decals or paint markings that clearly display the company name. Label font size shall be a minimum of four inches.
2. Tours shall comply with Chapter 3: Article II. Wild Horses, Chapter 10: Article II. Beaches and all other applicable provisions of the Currituck County Code of Ordinances.
3. There shall be one parking space required for every vehicle seating 1-5 persons, two parking spaces required for every vehicle seating 6-10 persons etc., and one parking space required for every two employees. If any additional activities or uses occur on-site, additional parking may be required per the Unified Development Ordinance. Currently there is adequate parking available at the proposed location.

Use	Parking Requirement	Quantity	Parking Total
Horse Tour Rentals	Tour vehicle seating 1-5 persons = 1 space per vehicle	10 Jeeps	10
Employees (largest shift)	1 space/2 employees	4 employees	2
		Total Required:	12

4. This special use permit is valid for one year from the date of approval and shall remain valid so long as the conditions under which it is granted are met.
5. The Board of Commissioners may establish a maximum number of vehicles as part of the special use permit approval process.

Currituck Soil and Water, Mike Doxey

Approved - No Comments

Currituck County Engineer, Eric Weatherly

Approved - As long as no new construction is involved.

Currituck County Utilities, Pat Irwin

Approved - No Comments

Currituck County Schools, Bruce MacDonald

Approved - No Comments

Currituck County GIS, Harry Lee

Approved - No Comments

Currituck County Building Inspections, Spence Castello

Approved - No Comments

Currituck County Parks and Recreation, Jason Weeks

Approved -No Comments

NCDOT, Roger Ward

Approved - No Comments

NC Division of Coastal Management, Charlan Owens

Approved - No Comments

NC DENR, Land Quality, Pat McClain

Approved -No erosion and sedimentation control plan approval is required.

Albemarle Regional Health Services, Joe Hobbs

Consult with NCDWQ for wastewater treatment and disposal approval (252.946.6481)

Currituck County Emergency Management, James Mims

Approved- As long as there is adequate parking.

Office of State Archaeology, Lawrence Abbott

Approved-No comments

Please note that comments were not received from the following:

Charter Communications, Sam Scilabba
Dominion Power, Troy Lindsey
US Army Corps of Engineers, Tom Steffens
Embarq, Hester Jones
NC DENR, Environmental Management, Roger Thorpe
NC DENR, Public Water, Siraj Chohan
Currituck County Economic Development, Peter Bishop
Currituck County Sheriff, Susan Johnson
Currituck County Local Volunteer Fire Department

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

Commissioner Aydlett moved to approve with findings of fact and staff recommendations. Commissioner Nelms seconded the motion. Motion carried.

Consideration and Action: PB 08-42 Blackwater Training Center: Renewal of Special Use Permit for a Security Training Operations and Services Facility on property located at the South end of Puddin Ridge Road, adjacent to the Camden County border, Tax Map 12, Parcel 1, and Tax Map 17, Parcel 1A, Moyock Township.

Sworn testimony was taken prior to making statements.

Ben Woody, Planning Director, reviewed the request.

Blackwater Training Center was granted a one year special use permit in March 2009 for the operation of a Security Training Operations and Services Facility. This special use permit is set to expire on March 2, 2009 and the applicant is requesting a renewal. The term of the original permit was for a one year period. The applicant is requesting that the renewal period be extended for a period greater than one year.

Conditions previously included on the permit are as follows:

1. The revised plan dated 1-21-2009 shall be the approved site plan for this permit.
2. All required county, state, or federal permits shall be secured before the use resumes and be kept in good standing for the duration of the use.
3. The storage of munitions or explosives shall be prohibited in Currituck County.
4. Each firing range shall be posted indicating the allowable caliber of weapon allowed and any other applicable rules.
5. A copy of the Military Handbook (ML-HDBK-1027/3B) shall be available at each firing range.
6. Noise violations or activities conducted past 10:00 p.m. will result in revocation of the permit.
7. Operations shall be prohibited on Sunday.

Kate McKenzie, Attorney, was present to answer any questions.

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

Consideration of Ordinance prohibiting sand bags and beach push on Currituck Outer Banks

Ike McRee, County Attorney, reviewed the ordinance.

Commissioner Rorer moved to continue to a work session for further information. Commissioner Etheridge seconded the motion. Motion carried.

Appointment to Library Board

Commissioner Rorer moved not to appoint a new member since this Board has 9 members and should be reduced by attrition. Commissioner Nelms seconded the motion. Motion carried.

Appointment to Whalehead Board of Trustees

Commissioner Nelms moved to appoint Andy Newbern.
 Commissioner Gregory seconded the motion. Motion carried.

Consent Agenda:

1. Sagar Family Residence waive fees for landfill
2. Job Description for Marketing Program Manager
3. Budget Amendments
4. Maple Commerce Park Project Ordinance
5. Approval of March 1, 2010 Minutes

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

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
18609-545000	Contract Services Fund Balance	\$ 3,600	
18390-499900	Appropriated		\$ 3,600
		\$ 3,600	\$ 3,600

Explanation: *Hog Bridge Ditch Drainage District (18609)* - To appropriate fund balance for ditch maintenance in the Hog Bridge Ditch service district.

Net Budget Effect: Hog Bridge Ditch (18) - Increased by \$3,600.

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
60808-533201	Lab Tests	\$ 5,000	
60808-561000	Professional Services		\$ 4,500
60808-526001	Advertising		\$ 500
		\$ 5,000	\$ 5,000

Explanation: *Ocean Sands Water and Sewer (60808)* - To transfer funds for required lab testing in the Ocean Sands Water and Sewer District.

Net Budget Effect: Ocean Sands Water and Sewer District (60) - No change.

Debit **Credit**

<u>Account Number</u>	<u>Account Description</u>	Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10330-431000	DSS Admin		11,057
10390-499900	Fund Appropriated Balance	11,057	
		\$ 11,057	\$ 11,057

Explanation: PUBLIC ASSISTANCE (752) - Adjust to reflect new allocation received from the Smart Start partnership.

Net Budget Effect: Operating Fund (10) - Decreased by \$11,057.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10460-526000	Advertising	\$ 1,000	
10460-532000	Supplies	\$ 6,000	
10460-514000	Travel		\$ 500
10460-514500	Training & Education		\$ 500
10460-516000	Maintenance & Repairs		\$ 6,000
		\$ 7,000	\$ 7,000

Explanation: PUBLIC WORKS (10460) - Transfer funds for energy efficient light bulbs for County buildings and for advertising employment opening.

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
10330-433000	Senior Center Grants	\$ 839	

10775-503000	Salaries - Part time	\$	839
		\$	839
		\$	839

Explanation: *Senior Center (10775)* - To reduce Senior Center Grants for reduction in the Senior Center Outreach grant for FY 2010.

Net Budget Effect: Operating Fund (10) - Decreased by \$839.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10950-585003	Food Bank	\$ 2,500	
10420-589000	OSD Reserve		\$ 2,500
		\$ 2,500	\$ 2,500
		\$ 2,500	\$ 2,500

Explanation: *Agency Appropriations (10950)* - To transfer funds from the Board OSD Reserve for additional contribution to the Pilmoor Food Pantry.

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

**COUNTY OF CURRITUCK
CAPITAL PROJECT ORDINANCE**

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

SECTION 1. The project authorized is professional services required for design of the Maple Commerce Park.

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

Professional Services/Design, surveys, etc.	\$ 333,170
Reimbursable Expenses	\$ 10,000
Contingency	\$ 25,000
	<u>\$ 368,170</u>

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

Transfer from Occupancy Tax, Tourism Related	\$ 368,170
	<u>\$ 368,170</u>

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

SECTION 5. SPECIAL APPROPRIATIONS AND RESTRICTIONS

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

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

SECTION 6. CONTRACTUAL OBLIGATIONS

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

- a. He may execute contracts for construction or repair projects which do not require formal competitive bid procedures.
- b. He may execute contracts for (1) purchases of apparatus, supplies, and materials, or equipment which are within the budgeted departmental appropriations; (2) leases of personal property for a duration of one year or less and within budgeted departmental appropriations; and (3) services which are within budgeted departmental appropriations.
- c. He may execute contracts, as the lessor or lessee of real property, which are of a duration of one year or less which are within the budgeted departmental appropriations.

SECTION 7. USE OF BUDGET ORDINANCE

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

Commissioner's Report

Commissioner Taylor stated that the Moyock VFD will have a pancake breakfast 1st and 3rd Saturday each month.

Commissioner Nelms reminded citizens to register to vote.

Commissioner Rorer, commented on the Art Show held over the weekend.

Chairman O'Neal requested staff to send a letter to DOT on the dangerous condition of Waterlily Road.

County Manager's Report

Mr. Scanlon, County Manager, reminded citizens of the UNC program scheduled.

Adjourn

There being no further business, the meeting adjourned.