



CURRITUCK COUNTY NORTH CAROLINA

January 3, 2017
Minutes – Regular Meeting of the Board of Commissioners

WORK SESSION

1. 5:00 PM Letendre Text Amendment Discussion

The Board of Commissioners attended a work session at 5 PM in the Board Meeting Room of the Historic Courthouse to receive information and background on a proposed text amendment. The Letendre's are requesting the text amendment because elements of their project under construction on the 4-wheel drive beach were determined to not fit the definition of single-family in the county's Unified Development Ordinance (UDO).

Mr. Woody reviewed a timeline starting with the initial letter of determination in April, 2013, which said the project consisted of three separate structures and did not meet the UDO definition of single family. Building connections were made and the structure was accepted in November 2013 as a single unit. Legal challenges filed by a neighboring property owner ultimately resulted in a June 2016 North Carolina Court of Appeals decision stating the structure does not meet the definition of single-family.

Mr. McRee reviewed the court of appeals decision and opinion, explaining the court determined the project consisted of multiple buildings with no principal structure and no accessory structures, and therefore does not meet the county's definition. Mr. McRee said the remedy would be a modification of the text in the UDO.

Mr. Woody and Mr. McRee answered Board questions regarding accessory structures and presented information regarding the existing Coastal Area Management Act (CAMA) permit for the property. Setbacks and gazebo construction were discussed.

6:00 PM CALL TO ORDER

The Currituck County Board of Commissioners met at 6 PM in the Board Meeting Room of the Historic Currituck Courthouse, 153 Courthouse Road, Currituck, North Carolina, for its regular meeting.

Attendee Name	Title	Status	Arrived
Bobby Hanig	Chairman	Present	
Mike D. Hall	Vice Chairman	Present	
Paul M. Beaumont	Commissioner	Present	
Mary "Kitty" Etheridge	Commissioner	Present	
Marion Gilbert	Commissioner	Present	
Mike H. Payment	Commissioner	Present	
Bob White	Commissioner	Present	

Chairman Hanig called the meeting to order.

A) Invocation & Pledge of Allegiance-Reverend Walter Gallop, Air Force Chaplain, Retired

Reverend Walter Gallop gave the Invocation and led the Pledge of Allegiance.

B) Approval of Agenda

The agenda was amended as follows:

Commissioner Hall moved for the removal of Nomination of Commissioners to Advisories under New Business, Board Appointments, to be rescheduled for the January 17, 2017 meeting of the Board, and added board appointments to the Recreation Advisory, Planning Board and Historic Preservation Commission.

Commissioner Payment seconded and the agenda was approved.

Work Session

5:00 PM Letendre Text Amendment Discussion

6:00 PM Call to Order

A) Invocation & Pledge of Allegiance-Reverend Walter Gallop, Air Force Chaplain, Retired

B) Approval of Agenda

Public Hearings

A) Public Hearing and Action: PB 16-15 Elizabeth Letendre: Request to amend the Unified Development Ordinance Chapter 10: Definitions and Measurement, to remove the structural portion of the Dwelling, Single-Family Detached definition.

B) Public Hearing and Action: PB 14-16 Lake View at Currituck: Request to amend the use permit to modify the sidewalk/trail setback for Lake View at Currituck. The property is owned by Lake View Land Development, LLC and located in Moyock on Survey Road, Tax Map 15, Parcels 83A, 83B, 83C, 83D and 83E, Moyock Township.

C) Public Hearing & Action: PB 16-22 Barnhill Contracting Co.: Request for conditional rezoning of 25 acres located in Powells Point approximately .25 miles south of South Bayview Road on the east side of Caratoke Highway, Tax Map 111, Parcel 3, Poplar Branch Township.

New Business

- A) An Ordinance of the Currituck County Board of Commissioners Imposing a Moratorium on the Acceptance, Processing or Consideration of Applications for Solar Arrays Pursuant to N.C. Gen. Stat. Section 153A-340(h)**
- B) An Ordinance of the Currituck County Board of Commissioners Amending Section 2-65 of the Currituck County, North Carolina Code of Ordinances Providing for the Location of Public Comments on the Agenda and Time Allotted for Public Comments.**
- C) Board Appointments**
 - ~~1. Nominations of Commissioners to Advisories~~ ***Amended agenda removed this item***
 - 2. Planning Board-Amended Agenda Item
 - 3. Recreation Advisory-***Amended Agenda Added Item***
 - 4. Historic Preservation Commission-***Amended Agenda Added Item***
- D) Consent Agenda**
 - 1. Approval Of Minutes for December 5, 2016
 - 2. Budget Amendments
 - 3. Surplus Resolution-Animal Quarantine Building
 - 4. Surplus Resolution - 2008 Nissan Titan (EMS)
 - 5. EIC-Community Services Block Grant Funding Submission
- E) Commissioner's Report**
- F) County Manager's Report**

Public Comment

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 5 minutes.

Closed Session

Closed Session pursuant to G. S. 143-318.11(a)(3) to consult with the county attorney in order to preserve the attorney-client privilege related to the following matters: R.F. London and Mermaids, Inc. v. Currituck County and Currituck County Board of Adjustment; Swan Beach Corolla, LLC v. Currituck County; Ocean Hill Commercial, LLC and others v. James Bickford,

Midlantic Builders, Ocean Hill 1 Property Owners Association and Currituck County; Ocean Hill Commercial, LLC and others v. Currituck County; Moyock Commercial Properties, LLC and Charles S. Friedman v. Currituck County; Coastland Corporation and James E. Johnson, Jr. v. Currituck County and Ocean Sands Water and Sewer District; Ecoplexus, Inc., Fresh Air Energy II, LLC and Currituck Sunshine Farm, LLC v. Currituck County and Teresa Wheeler v. Currituck County.

Adjourn

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mike D. Hall, Vice Chairman
SECONDER:	Mike H. Payment, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

PUBLIC HEARINGS**A. Public Hearing and Action: PB 16-15 Elizabeth Letendre:**

Ben Woody, Planning and Community Development Director, reviewed the text amendment application and staff report with the Board.

To: Board of Commissioners
From: Planning Staff
Date: December 28, 2016
Subject: PB 16-15 Elizabeth Letendre Text Amendment

The enclosed text amendment submitted by Ms. Elizabeth Letendre is intended to amend the definition of Single-Family Detached Dwelling to remove the structural portion of the definition (Attachment A).

Background

Ms. Letendre has substantially constructed a residential project on an oceanfront lot in the Ocean Beach subdivision in the off-road area of Currituck County. Prior to applying for a building permit, in 2013 the Planning Director determined the proposed project was a single-family detached dwelling; the Board of Adjustment affirmed the Planning Director's decision; the Superior Court agreed with the decision and affirmed the Order of the Currituck County Board of Adjustment.

Following the decision of the Superior Court entered on December 8, 2014, and while an appeal was pending before the North Carolina Court of Appeals, Ms. Letendre proceeded with construction of the residential project. The county issued a building permit on February 25, 2015 for the project; however, county staff verbally advised Ms. Letendre's representatives that an appeal was pending which could adversely affect the project as permitted. Additional correspondence regarding the construction of the project while an appeal was pending occurred between Mr. George Currin, representing the plaintiffs, and Mr. Greg Wills, representing Ms. Letendre (Attachments B and C).

On August 21, 2015 the North Carolina Building Code Council overturned an interpretation of the North Carolina Department of Insurance and ordered that the Letendre project meets the definition of a one family dwelling as required by the North Carolina Residential Code (Attachment D).

In its decision entered on June 21, 2016, the North Carolina Court of Appeals reversed the Superior Court, holding that the Letendre project is not a single-family dwelling as defined by the UDO (Attachment E).

Ms. Letendre petitioned the North Carolina Supreme Court for discretionary review. The petition for review was denied resulting in the finality of the Court of Appeals decision.

The project currently has temporary power approval, is under a stop work order issued by the Planning Director, and has not received a certificate of occupancy.

A detailed timeline of the Letendre project is enclosed (Attachment M).

Amendment Request

According to the applicant, the amendment is necessary in light of the decision rendered by the North Carolina Court of Appeals in the case of *Long v. Currituck County*. In its decision the Court found that the Letendre project does not fit within the plain language of the single-family dwelling definition. Further, the Court found that any determination that this project fits within the current definition of single-family dwelling requires disregarding the structural elements of the definition, including the singular "a" at the beginning of the definition to describe "building" and allowing multiple attached "buildings" to be treated as a single-family dwelling in clear contravention of the Unified Development Ordinance (UDO).

The applicant concludes that if the definition, as outlined in the Opinion of the Court, is applied throughout the county it will be overly restrictive, particularly for pile constructed dwellings or additions to existing dwellings. The applicant also expresses concern that the Opinion of the Court requires planning staff to evaluate construction methods instead of focusing on the intended function or use of a dwelling.

Benchmarking

The staff reviewed definitions from other North Carolina coastal communities, both counties and municipalities, to determine how consistent the Currituck County UDO is with defined terms from other jurisdictions. During this review process, staff found terms within the UDO that were unclear or undefined. The benchmarking matrix includes the following defined terms: Accessory Structure, Addition, Building, Single-Family Dwelling, and Structure (Attachment F).

Most of the surveyed definitions of Single-Family Dwelling include the reference to "[a]" building, which is one of the structural elements included in Currituck County's current definition. Two of the jurisdictions, Brunswick County and Holden Beach, appear to define Single-Family Dwelling based only upon the function of the project by referencing "[a]" dwelling unit.

Most of the jurisdictions specifically define Building except Currituck County and Emerald Isle, although several jurisdictions cross reference Structure in the definition.

While many of the jurisdictions do not define Addition, among those that do, Currituck County is the only locale that references connection by a common load bearing wall; even the North Carolina Residential Building Code does not include this structural element in its definition.

The definitions of Accessory Structure and Structure are generally consistent among the surveyed communities.

Land Use Plan Consistency

The UDO requires that the Board of Commissioners adopt a statement of consistency and reasonableness that describes whether the decision on the amendment is consistent with county adopted plans that are applicable and why the decision is reasonable and in the public interest. The 2006 Land Use Plan is the controlling plan and the following policy statements are relevant to this request:

LUP POLICY OB3: Currituck County recognizes that, on the Outer Banks in particular, "single-family" homes are being built that accommodate 15, 20, 25 or more people. Thus, these LARGE RESIDENTIAL STRUCTURES are circumventing existing zoning laws that could not anticipate the advent of these building forms. Development regulations and project approvals shall therefore be based upon the actual nature of the structure rather than the label (e.g. single-family) that may be attached to it.

LUP POLICY OB9: LARGE HOMES ON OCEANFRONT LOTS IN THE OFF-ROAD AREA should be located as far west as possible. Structures should not be built forward of protective dunes, thereby impeding dune recovery. County minimum setbacks may exceed CAMA minimum setback in the ocean erodible areas.

The applicant also included a consistency statement referencing the 2006 Land Use Plan Housing and Neighborhood Development Policies (Attachment A). Staff does not consider these policies relevant to the proposed amendment.

When considering the Land Use Plan in the context of the Letendre project, or other oceanfront development in the off-road area, the amendment **appears to have a consistency conflict with LUP POLICY OB9**. By

applying only a functional element of the single-family dwelling definition, oceanfront development is able to utilize the least restrictive CAMA Ocean Hazard setback and not locate large residential structures as far west as may otherwise be required.

The amendment has no obvious consistency conflicts when applying only a functional element of the single-family dwelling definition in a broader county-wide context.

Text Amendment Review Standards

Staff note: The suggested finding for each review standard is organized by the applicant's proposed amendment (Option A) and the staff's revised amendment (Option B).

The advisability of amending the text of the UDO is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the proposed text amendment:

- (1) Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;
 - a. *Option A: for oceanfront parcels in the off-road area (Single Family Remote Zoning District), removal of the structural component from the definition of Single Family Detached Dwelling will allow new development of any size to use the least restrictive CAMA Ocean Hazard setback and not locate a large house as far west as required.*
 - b. *Option B: for oceanfront parcels in the off-road area (Single Family Remote Zoning District), including the definitional reference to “[a]” building may allow new development of any size to use the least restrictive CAMA Ocean Hazard setback and not locate a large house as far west as required, depending on how the Division of Coastal Management permits the development.*
- (2) Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
 - a. *Option A: eliminates the structural component of the single family dwelling definition and is not in conflict with the other definitions or standards in the UDO.*
 - b. *Option B: revises current terms and addresses undefined terms and is not in conflict with the other definitions or standards in the UDO.*
- (3) Is required by changed conditions;
 - a. *Option A: due to the North Carolina Court of Appeals decision in the case of Long v. Currituck County, the applicant is not able to use the improvements on their property.*
 - b. *Option B: due to the North Carolina Court of Appeals decision in the case of Long v. Currituck County, the county may no longer be able to permit single-family dwellings, and additions, as it has historically.*
- (4) Addresses a demonstrated community need;
 - a. *Option A: the applicant's interpretation of the NC Court of Appeals decision will be overly restrictive on building methods and too onerous on planning staff to evaluate construction methods.*
 - b. *Option B: this revised language is consistent with how staff has interpreted and applied the UDO in the past and how staff issues development permits.*
- (5) Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the county;
 - a. *Option A: is consistent with the intent of residential zoning districts because it only allows one single-family dwelling on a lot*
 - b. *Option B: is consistent with the intent of residential zoning districts because it only allows one single-family dwelling on a lot*
- (6) Would result in a logical and orderly development pattern; and
 - a. *Option A: only allows one single-family dwelling per lot in residential zoning districts, whatever construction methods are used.*
 - b. *Option B: only allows one single-family dwelling per lot in residential zoning districts, whatever construction methods are used.*
- (7) Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
 - a. *Option A: does not adversely impact the natural environment.*
 - b. *Option B: does not adversely impact the natural environment.*

Staff Recommendation

As prepared and presented by the applicant (Option A), the amendment modifies the definition of single-family dwelling to rely upon the function or use of a project. By removing the structural components of the definition, the construction method of a project is no longer a matter of review. The North Carolina Court of Appeals

decision in *Long v. Currituck County* even states the respondents (Currituck County and Elizabeth Letendre) would be correct if the UDO defined single-family dwelling based only upon the function of the project. The applicant's request uses this statement as a basis for their proposed text amendment.

The Letendre project is the obvious focal point for this amendment; however, the Board must consider this request in the broader context of the entire county. There are instances when the planning and inspections staff has permitted multiple structural elements under a common roof as a single-family dwelling (Attachment G). While it is correct that most of the single-family dwellings permitted in this manner could also be permitted as separate structures (principal and accessory), there is still precedent for approving these "buildings" as single-family dwellings.

Notwithstanding the required statement of consistency and reasonableness, a central question for the Board is how much flexibility in construction and design methodology should be allowed when applying the defined term of Single-Family Detached Dwelling. The applicant has submitted an amendment (Option A) that provides maximum flexibility - the review of a single family dwelling would be predicated only upon the use of the property, with no limits on how structural elements are attached or configured. Possible unintended outcomes of not including a structural element in the definition include occupying multiple structures that are more similar to group housing than a traditional single-family dwelling or avoiding a more restrictive CAMA Ocean Hazard setback.

As an alternative, Staff has developed a revised amendment (Option B) that better aligns the UDO definitions with the benchmarking matrix as well as how the planning and inspection staff has historically permitted single-family dwellings. This approach broadly provides flexibility in construction and design methodology, but also establishes parameters for how this flexibility can occur, thereby minimizing unintended outcomes. While this option may not directly cure the issue for the Letendre project, it is staff's opinion it is the most reasonable approach from a county-wide perspective.

In subsequent meetings to discuss this text amendment, the applicant indicated they are able to comply with Option B. **While the original staff interpretation viewed the Letendre project as a single principal structure for permitting purposes, the Court of Appeals held this interpretation was incorrect.** Similar to the current UDO standard, Option B requires a single-family dwelling to be a single building. This single building (or principle structure) standard must be met under Option B for the Letendre project to comply with the Unified Development Ordinance. It is unclear how the Division of Coastal Management (DCM) would view such a change to the Letendre project with respect to the existing CAMA Major Permit - it is logical to assume that at least part of the justification for the Court of Appeals decision remains if Ms. Letendre describes the project as three buildings to the DCM.,

The Board must also consider the consistency and reasonableness statement that is required for their approval or denial of a text amendment. Staff's review of the Land Use Plan found no explicit policy direction for developing UDO definitions related to the function, use, construction, or design methodology of single-family dwellings. There are policies that include clear direction on limiting the size and impact of large residential structures; however, as of the date of this staff report, the county has been unwilling to implement these policies. It is important to remember that this amendment request is not about the size or use of a single-family dwelling, but rather how UDO definitions are applied to these projects.

As referenced above in the staff report, when considering Option A in the context of oceanfront development in the off-road area, the amendment appears to have a consistency conflict with LUP POLICY OB9. By applying only a functional element of a single-family dwelling definition, oceanfront development is able to utilize the least restrictive CAMA Ocean Hazard setback and not locate large residential structures as far west as may otherwise be required. Option B has no obvious consistency conflicts when applying the proposed single-family dwelling definition in a broader county-wide context.

Considering the request from a county-wide context, Staff recommends adoption of a revised text amendment (Option B) because it complies with all applicable review standards of the UDO and is consistent with the 2006 Land Use Plan.

Planning Board Recommendation

Mr. Craddock motioned to deny the proposed text amendment both A and B of the applicant's and the staff's options since this text amendment conflicts with current land use and will cause a negative affect with surrounding houses and also since it would cause a problem countywide.

Ms. Overstreet seconded the motion and the motion carried unanimously.

UDO AMENDMENT REQUEST

PB 16-15 Elizabeth Letendre

OPTION A

Amendment to the Unified Development Ordinance Chapter 10: Definitions and Measurement, to remove the structural portion of the Dwelling, Single-Family Detached definition.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: That Section 10.5 Definitions is amended by adding the following underlined language and deleting the strikethrough language:

DWELLING, SINGLE-FAMILY DETACHED

A single dwelling unit on its own lot ~~residential building containing not more than one dwelling unit~~ to be occupied by one family, ~~not physically attached to any other principal structure. For regulatory purposes, this term does not include but excluding~~ manufactured homes, recreational vehicles or other forms of temporary or portable housing. Manufactured buildings constructed for use as single-family dwelling units (manufactured home dwellings) are treated similar to single-family detached dwellings.

Item 2: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Item 3: This ordinance amendment shall be in effect from and after the day of , 2016.

UDO AMENDMENT REQUEST

PB 16-15 Staff Alternate Version

OPTION B

Amendment to the Unified Development Ordinance Chapter 10: Definitions and Measurement, to remove the structural portion of the Dwelling, Single Family Detached definition.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: That Section 10.5 Definitions is amended by adding the following underlined language and deleting the strikethrough language:

ADDITION

An extension or increase in floor area or height of a building or structure ~~Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition that is connected by a fire wall or is separated by an independent perimeter load-bearing wall is new construction.~~

BUILDING

See "Structure" Any structure having a roof supported by columns or walls and intended for supporting or sheltering any use or occupancy.

DWELLING, SINGLE-FAMILY DETACHED

A residential building containing not more than one dwelling unit to be occupied by one family, ~~not physically attached to any other principal structure. For regulatory purposes, this term does not include but excluding~~ manufactured homes, recreational vehicles or other forms of temporary or portable housing. Manufactured buildings constructed for use as single-family dwelling units (manufactured home dwellings) are treated similar to single-family detached dwellings.

Staff commentary: the following definition of single-family dwelling was used by the county from April 2, 1992 until December 31, 2012. This is included as an alternative and to provide context for how single-family dwellings were previously permitted. A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units. Attachment F includes all relevant definitions from the previous UDO.

STRUCTURE

Anything constructed, installed, or portable, the use of which requires a location on the ground or attachment to something having location on the ground or water, on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

Item 2: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Item 3: This ordinance amendment shall be in effect from and after the day of , 2016.

After review, Mr. Woody noted staff recommended approval of Option B, and the Planning Board recommended denial of both options A and B. Mr. Woody answered questions pertaining to definitions within the Unified Development Ordinance (UDO), the construction and layout of the structure, setbacks, CAMA concerns, and a mainland comparison.

Chairman Hanig opened the Public Hearing.

John Cronin introduced the builder, Bernie Mancuso, Mancuso Development. Mr. Mancuso said the court of appeals ruling changed the county UDO's definition of a single family dwelling by adding a structural component to it. Mr. Cronin, the property owner, talked to the Board about CAMA permitting, the home construction process and reviewed the legal challenge. They were aware of the appeal and made the decision to move forward based on their trust in those who were providing them information. Mr. Cronin said they have followed the rules and they must move forward. A video of the interior layout of the home was shown depicting the connections made between the buildings. Mr. Cronin said there are no doors closing off the bedroom wings from the main area. Mr. Mancuso said a one dwelling unit has been created, and he read statements from the Board of Adjustment hearing and the Department of Insurance Building Code Council ruling, both of which concluded the project meets requirements for a single-family dwelling. Mr. Mancuso reviewed portions of the CAMA permit which refers to the structure as a "home" and said there were no CAMA permit violations, and the conflict lies only with the court of appeals. Mr. Mancuso answered questions regarding CAMA setback requirements and square footage. He said the court of appeals was in error and did not have all of the information when they made their ruling.

Mr. McRee explained the Court of Appeals made a determination only as to whether the structure met the county's definition, not whether it met the state building code.

Mr. Mancuso reviewed possible impacts to the county and showed pictures of a similar, permitted designs and highlighted the attached buildings which appeared to exceed the 25% rule for accessory structures. Mr. Mancuso said either Option A or B would work for them.

Marie Long, Ocean Pearl and neighbor of the Letendre property, said she is not

opposed to the large home but there are three structures with only one dwelling unit. She provided information to some earlier questions posed by the Board regarding accessory structures, the construction of the gazebo, and CAMA setbacks. Ms. Long countered some of Mr. Mancuso's earlier comments and said the video only showed the top floor and the downstairs is not connected. She also reviewed the processes from Board of Adjustment to Court of Appeals. She discussed safety feature requirements determined by the Department of Insurance and said she did not appeal the CAMA permit because they did not disagree with their determination that the project was three buildings. She said the pictures presented earlier by the applicant could all be considered accessory use.

Ms. Long read a prepared statement saying the UDO allows one building and the project contains three. She said the building was constructed in such a way as to avoid the 455 foot CAMA setback requirements. She objects to the approval of the text amendment as it would change what a single-family dwelling would look like and could result in unforeseen consequences. She said the Court of Appeals decision will not affect future building and referred to several comments in the staff report to support her position. She read the names of individuals and citizen groups who wrote to Commissioners in opposition to the text amendment and asked the Board to deny the request.

Mr. Mancuso returned and explained wetlands determined the location of the structures and confirmed that CAMA suggested the three buildings due to required setbacks.

Greg Wills, Attorney for the applicant, said the set of plans submitted to CAMA is the set of plans Mr. Woody reviewed, and there were no misrepresentations. He said a structural component now exists.

Bill Collins, Ocean Hill, spoke on behalf of the Corolla Civic Association (CCA). He said the CCA voted unanimously to oppose the amendment.

Jane Overstreet expressed concerns about infrastructure and voted to deny as a member of the county Planning Board.

David Knoch, Currituck Club, Corolla, spoke in opposition to the text amendment.

Ed Cornet, Corolla, said the proposed changes would reduce the county's authority to regulate future development and was opposed to the text amendment.

Jake Overton, Outer Banks Homebuilders Association President, spoke in favor of the text amendment, and said they are asking that the county keep the UDO as it has been interpreted for years. He responded to several questions posed by the Board and discussed future construction in Currituck County.

Jay Overton of Kill Devil Hills spoke in favor of adopting the text amendment in order to continue with the intent of UDO.

Willo Kelly, Outer Banks Association of Realtors and Homebuilders Government Liason, expressed concern with existing structures becoming non-conforming. She asked for

clarification if the court of appeals decision renders some structures non-conforming.

Mr. McRee reiterated the Court of Appeals decision referred only to this project and its three independent buildings. He noted any time the Board adopts or revises text it can create non-conforming structures and savings clauses will allow for continued uses.

George Wood, CAMA expert from Kill Devil Hills, said the CAMA permit is valid and will remain so. He responded to Board questions and confirmed Mr. Mancuso would not have been permitted by CAMA to build the home had it not been three structures. He said CAMA may issue a variance but would have to be very specific. He addressed the home and contrasted various setback requirements.

Gary Dunston of Nags Head said he was not opposed to the amendment.

Jim Daffron of Moyock said changes happen all the time and this would not be out of the norm.

Bernie Mancuso stated they looked to Mr. Woody and Mr. McRee and relied on their opinion and interpretation.

Ms. Long said their lawyer addressed Ms. Kelly's concerns in a letter, and does not dispute a valid CAMA permit.

Chairman Hanig closed the Public Hearing.

Commissioner Hall stated he stopped building several times while building his home and said delays are part of doing business.

Commissioner White asked Mr. Woody if the UDO is compromised. Mr. Woody said there are some structures that could not be replicated as they sit today, but many probably could. He contrasted the Pine Island home, saying the two projects are not comparable other than they are both big houses, as Pine Island was one structure and did not have the complexity with its CAMA permit.

Commissioner Beaumont moved to deny PB 16-15, Elizabeth Letendre, because the request is not consistent with the Land Use Plan (LUP) because it allows oceanfront development to utilize the least restrictive CAMA ocean hazard setback contrary to county policy providing structures shall be located as far west as possible (LUP Policy OB-9); it does not accommodate low-density traditional single-family detached homes consistent with the purpose of the SFR zoning district; the request is not reasonable and not in the public interest because it is not required by changing conditions since single-family dwellings can reasonably meet the current standards; it allows unintended outcomes by allowing multiple structures on a property which is more similar to group housing; and quoting from the court opinion of Long v. Currituck County, page 14: "Were we to adopt respondent Currituck County's interpretation, a project including ten 5,000 square foot buildings, all attached by conditioned hallways, which will be used as a residential dwelling for one family with a kitchen facility in only one of the buildings would qualify as a Single Family Dwelling."; and, it would have a destructive effect on the natural environment and oceanfront property values. Commissioner Beaumont

clarified his motion includes denial of both Option A and Option B.

Commissioner White seconded the motion and the motion passed unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Paul M. Beaumont, Commissioner
SECONDER:	Bob White, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

) Recess

A brief recess was called. Chairman Hanig reconvened the meeting at 9:18 PM.

B. Public Hearing and Action: PB 14-16 Lake View at Currituck:

Mr. Woody reviewed the application with the Board.

Application Summary

Property Owner:

Lake View Land Development, LLC
616 Village Drive, Suite G
Virginia Beach, VA 23454

Applicant:

Lake View Land Development, LLC
616 Village Drive, Suite G
Virginia Beach, VA 23454

Case Number:

PB 07-10 **Application Type:** Amended Use Permit

Parcel Identification Number:

0015000083C0000 0015000083A0000
0015000083B0000 0015000083D0000
0015000083E0000

Existing Use:

Undeveloped

Land Use Plan Classification:

Rural

Moyock Small Area Plan:

Full Service

Parcel Size (Acres):

74.23 acres

Number of Units:

159

Project Density: 2.37 units per acre

Required Open Space:

25.98 acres

Provided Open Space: 26.45 acres

SURROUNDING PARCELS

North	Agricultural	AG
South	Residential	AG
East	Residential	AG
West	Agricultural	AG

STAFF ANALYSIS

The request submitted by Lake View Land Development, LLC is to amend the use permit to allow the perimeter community walking trail to be located closer than 10 feet from exterior property lines in some locations. A construction error resulted in approximately 620 linear feet of perimeter walkway to now be located between 7.33' and 10' from the exterior property line of the development.

RECOMMENDATIONS

Technical Review Committee

1. The Technical Review Committee recommends approval of the use permit amendment subject to the modified conditions noted below.
2. The following conditions of approval necessary to ensure compliance with the review standards of the UDO and to prevent or minimize adverse effects of the development application on surrounding lands for all phases of the Lake View of Currituck (strikethrough text is requested removal and renumber as appropriate):
 1. Fountain Lake Way and Green Lake Road connection stub and associated sidewalks shall terminate no more than five feet from the edge of the existing ditch or drainage easement and the developer shall post a performance guarantee with the county to ensure funds are available to complete the connections.
 2. Wheelchair ramps shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with NCDOT standards. Please provide a curb cut detail with the submittal pre-construction plans.
 3. On street parking, if installed, shall be provided in accordance with the variance issued by the Board of Commissioners.
 4. ~~The pedestrian loop trail system must be located a minimum of 10 feet from all exterior property lines and shall be located such to provide safe movement.~~
 5. A Dominion Power encroachment agreement is required to allow roads, pedestrian trails, required landscape buffers, and wastewater treatment infiltration pond within their 150 foot utility easement. The agreement must be provided at the pre-construction submittal.
 6. Pedestrian easements shall be provided on the final plat where the sidewalk extends beyond the street right-of-way and on private lots. (Development Review Manual)
 7. Given the relatively small size of the proposed lots, deed restrictions or restrictive covenants shall restrict parking of boats and recreational vehicles on individual lots or a boat/rv parking area shall be provided.
 8. The development impact statement references the pedestrian related active recreation element. In the interest of providing a complete and safe active recreation system, the applicant shall provide sidewalks along Survey Road frontage, and between the proposed residential and nonresidential uses.
 9. The required improvements shall be installed and accepted prior to submission of final plat approval for each phase.
 10. The applicant shall submit a home and building design template that will be incorporated with the approval. Residential structures shall be designed with:
 - a. Variation in exterior architectural materials (siding, roofing);
 - b. Vertical and horizontal relief in buildings (roof lines, eaves, bump outs);
 - c. Variation in house styles/types;
 - d. Inclusion of front porches, projecting bays, vestibules; and,
 - e. The units shall have proportional attributes including overall height to width ratios of existing building facades, doors, windows, projecting canopies, and other architectural features within the vernacular of the area.
 11. All open space areas surrounding the lake shall be stabilized with grass, vegetation, and proposed landscaping prior to recordation of the first phase.
 12. All visual relief open space within each phase shall be stabilized and vegetated with grass and proposed landscaping buffer.
 13. Low impact development techniques should be integrated in the project to manage treatment of stormwater. (WQ3, WQ6, WQ7)
 14. Internal pedestrian circulation shall be required for all commercial areas through the use of clearly defined walkways. (CD8, CD9)

15. In commercial areas, parking located between a commercial building and street rights-of-way shall be screened with a Type B Bufferyard. (CA3, CD7, CD8)
16. Dumpsters or similar solid waste receptacles, HVAC equipment, commercial mechanical units, or similar appurtenances shall be screened from view using a combination of solid landscaping or opaque fencing. (LUP CA3)
17. Landscape islands shall be incorporated into the commercial parking areas. (LUP CD7, CD8, CA3)
18. In commercial areas pedestrian plazas or similar shaded outdoor seating areas shall be provided. (LUP CD7, CD8, CD9)
19. Neighborhood serving commercial development shall integrate pedestrian scale and design (proportional relationship of buildings and spaces to pedestrians). Retail, office, and entertainment uses shall be appropriately designed, small-scale businesses. (LUP CD1, CD5, CD6, CD7, CD8, CD9).
20. The maximum amount of pond aeration devices allowed by NC DWQ shall be installed.
21. The driveways shall be two vehicle deep parking (including garage).
22. Cluster mailboxes shall be used.
23. The building pad elevations shall be raised a minimum of 18 inches above existing grade, except in Phase 3A where building pad elevations will meet current UDO and stormwater manual requirements in effect on April 4, 2016.
24. A solid vegetative buffer and fencing between shall be provided to the adjacent agricultural properties.
25. Phase 3A shall be subject to the development agreement and use permit, as amended.
26. A solid vegetative buffer and fencing between shall be provided to the adjacent agricultural properties except in Phase 3A where the farmland buffer shall meet the UDO requirements in effect on April 4, 2016.
27. The development shall be subject to the Homeowners or Property Owners Association requirements of Section 6.1.4 of the UDO as amended; and in effect on April 4, 2016. In addition, all streets shall meet NCDOT standards at the time of transfer to the association.

INFRASTRUCTURE

Water	Public
Sewer	Public sewer
Transportation standards.	Streets: The streets will be designed and constructed to NCDOT
within this requested phase.	Pedestrian: A sidewalk is proposed along one side of the street
Schools	Connectivity Score: 2.0 Elementary Students Generated: 3 (39 - total for 159 lots) Middle School Students Generated: 1 (12 - total for 159 lots) High School Students Generated: 1 (22 - total for 159 lots)
Design Standards	See Amended Use Permit
Lighting lights	County approval will be required prior to installation of any street
Landscaping	50' Farmland buffer and street trees are required in Phase 3A.
Parking	None
Recreation and Park Area Dedication	Payment in lieu of recreation and park area dedication is recommended for the proposed 13 lots which is \$4,019.29
Riparian Buffers	None

USE PERMIT REVIEW STANDARDS

A use permit shall be approved on a finding that the applicant demonstrates the proposed use will meet the below requirements. It is staff's opinion that the evidence in the record,

prepared in absence of testimony presented at a public hearing, supports the preliminary findings

The use will not endanger the public health or safety.

Preliminary Applicant Findings:

1. The walkway is ADA compliant and adjacent slopes meet the requirements of the UDO.
2. The use will not endanger public health or safety.

The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

Preliminary Applicant Findings:

1. Adjacent properties are farmlands, common areas, and golf course rough area and have an existing vegetative buffer.
2. The amendment will not injure the value of adjacent property and will be in harmony with existing land uses.

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

Preliminary Applicant Findings:

1. The Land Use Plan classifies this area as rural but adjacent to full service within the Moyock subarea.
2. The Moyock Small Area Plan classifies the area as full service. The proposed development density is 2.37 units per acre, which is within the range of densities envisioned in the Moyock Small Area Plan.
3. The following Land Use Plan and Moyock Small Area Plan policies are relevant to and support this request:

2006 LUP POLICY PR4: The county shall seek to identify, plan for and develop a system of OPEN SPACE GREENWAYS, HIKING and BIKING TRAILS as opportunities may allow. The use of (1) natural corridors such as streams and floodplains, and (2) man-made corridors such as utility and transportation rights-of-way and easements, shall be emphasized.

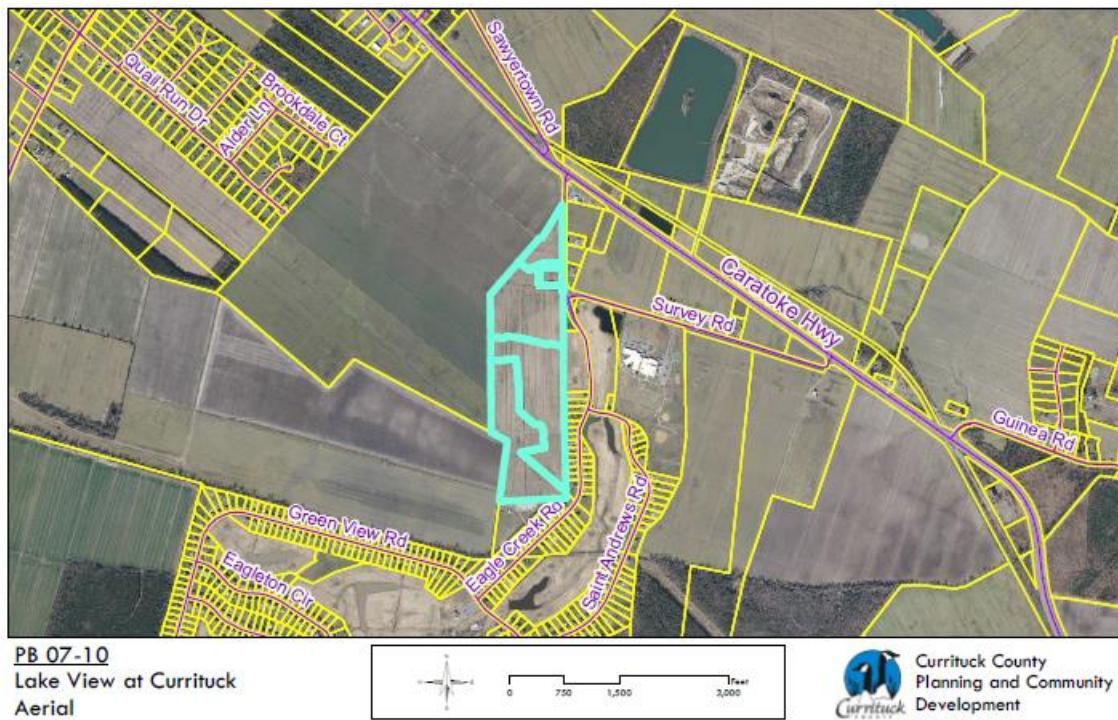
MSAP POLICY R1 Expand and develop recreational opportunities for all ages and users including access to the water and natural environment, walking trails, multi-purpose fields, multi-purpose community building, and other non-traditional types of recreational opportunities that are consistent with the Currituck County Parks and Recreation Master Plan.

The 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.

Preliminary Applicant Findings:

1. The change will have no impact on the county's ability to provide adequate public facilities.



Mr. Woody answered questions posed by the Board, clarifying some of the elements of the encroachment, sidewalk and ditching.

Engineer Mark Bissell said he is not certain how the error occurred, as the area was staked. He said the encroachment varies in distance and meanders some. He said there is over a mile constructed with about fifty feet encroaching into the setback. Mr. Bissell asked that the Use Permit condition be changed, and believes there would be no negative impact with modification. Mr. Woody said no feedback has been received from adjoining property owners.

Chairman Hanig believes precedents are set when the Board allows for exceptions.

No one wished to speak at the Public Hearing.

Commissioner Payment and Commissioner Hall agreed with Chairman Hanig's position. Commissioners confirmed that the sidewalk would conform with today's UDO. Mr. McRee said permit revisions are at the Board's discretion.

Commissioner Hall moved to continue the item to the next meeting to allow time for the Board to receive comments from the two neighboring property owners regarding the encroachment. Commissioner Etheridge seconded and the motion passed unanimously.

RESULT:	CONTINUED [UNANIMOUS]	Next: 1/17/2017 6:00 PM
MOVER:	Mike D. Hall, Vice Chairman	
SECONDER:	Mary "Kitty" Etheridge, Commissioner	
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner	

C. Public Hearing & Action: PB 16-22 Barnhill Contracting Co.:

Mr. Woody reviewed the rezoning application with the Board.

APPLICATION SUMMARY

Property Owner:
Alan Foster Forbes
51047 Lunar Dr.
Kitty Hawk NC 27949 Applicant:
Barnhill Contracting Company
PO Box 7948
Rocky Mount NC 27804

Case Number: PB 16-22	Application Type: Conditional Rezoning
Parcel Identification Number:	01111-000-0003-0000
Existing Use:	Vacant
Land Use Plan Classification: Full Service	Parcel Size (Acres): 25 acres
Zoning History: A-40 (1975); A (1989) yard	Plan Request: Asphalt Plant and Bulk Materials Storage
Current Zoning: AG	Proposed Zoning: C-HI

SURROUNDING PARCELS

North	Single Family Dwelling, Active Farmland	GB
South	Single Family Dwellings	AG
East	Active Farmland	AG
West	Single Family Dwellings, Retail	GB

STAFF ANALYSIS

Barnhill Contracting is relocating its Currituck operations since the OBX Waterpark Adventure project is being constructed at its current location. This conditional zoning request is in direct conflict with the Land Use Plan (see below) and presents compatibility issues with adjoining residences and with its proximity to Caratoke Highway. The applicant has proposed increased buffers for the development to attempt to minimize adverse impacts. Staff's opinion is the better approach, that is consistent with county policy, is to site this type of use in an existing or planned industrial park (See attachments A and B).

The applicant states "The current zoning request with the proposed buffers will do less to diminish the desirability of existing and planned non-industrial developments that full development under the current GB zoning would allow. Further, GB development directly on US 158 will have a greater negative impact for residents located directly on the highway, verses project proposed by Barnhill contracting." Since the adoption of the current UDO on January 1, 2013, unsightly industrial development is no longer permitted in the GB zoning district, which comprises a significant number of parcels along Caratoke Highway. This policy change implements the Highway Corridor appearance policies in the Land Use Plan. While the applicant's statements regarding GB development on the corridor may have been true under the previous UDO, it is not accurate under the current UDO.

The current UDO provides for non-residential design standards (including architectural standards), community compatibility standards, off-street parking and loading standards, and landscaping standards (including streetscapes) that insure compatibility of GB uses with existing uses and protects and enhances property values and aesthetic qualities. These design standards are intended to implement the county's goals and expectations for higher quality commercial, office, and mixed-use development that is more compatible with residential development in the county. Stating that GB development on Caratoke Highway will have a greater negative impact for residents than a heavy industrial use such as an asphalt plant is unfounded. Hot mix asphalt plants will generate odor, noise, visual impacts, etc. that are not present in GB uses.

The applicant indicated at the Planning Board meeting that the proposed location is near several septic and sludge fields that operate as an industrial use. The Unified Development Ordinance permits septic and sludge fields as an accessory use to agricultural activity on a property, not as an industrial use. Septic and sludge fields are allowed in the AG and HI zoning districts and perform similarly to a traditional agricultural activity.

The NC Division of Waste Management allows septic and sludge fields, but requires continuous agricultural activities on the sites as part of the required state permit. For example:

Septage

Acreage is broken down into fields with a 30 day waiting period between last application and harvest. The 30 day waiting period between the last application of septic and the harvest of a crop is met by alternating septic application between fields. All crops are used as animal feed. A general summary of Division of Waste Management permits for county issued conditional use permits:

Crop	Annual Planting Season	Harvest Season
Coastal Bermuda	Spring	Cut and baled every 6-8 weeks
Grass/Ryegrass		
Millet/Corn	Spring	Fall
Wheat/Oats	Fall	Spring

Sludge

A crop management plan is filed for each operation. Allowable crops include: Alfalfa, Coastal Bermuda Grass, Blue Grass, Corn, Cotton, Fescue, Forest, Milo, Small Grain (Wheat/Barley/Oats), Sorghum, Soybeans, Timothy/Orchard/Rye Grass. Animal feed crops must wait 30 days after last application for harvest. Depending on the food crop, there is a 14-38 month harvest delay.

In staff's opinion the intensity of use and equipment used for a septic and sludge operation (trucks, sprayers, combines, etc.) is more similar to a traditional agricultural operation than a heavy industrial use.

RECOMMENDATIONS

TECHNICAL REVIEW COMMITTEE

The Technical Review Committee recommends **denial** of the conditional rezoning because:

- It is inconsistent with the goals, objectives, and policies of the Land Use Plan, specifically policies ID2, ID3, ID6, CA1, and ML4. (UDO Section 2.4.3.C.1)
- It does not address a demonstrated community need since the existing Barnhill Contracting Company facility does not have an asphalt plant. There has not been an asphalt plant at that location since approximately 2012. (UDO Section 2.4.3.C.4)
- It is not compatible with the existing uses surrounding the land subject to this application as this project is surrounded by single-family dwellings on three sides. It is not the appropriate zoning district and use for the land because it adjoins Caratoke Highway. (UDO Section 2.4.3.C.5)
- The project would adversely impact nearby lands as a hot mix asphalt plant will generate odor, noise, visual impacts, etc. (UDO Section 2.4.3.C.6)
- It would not result in a logical and orderly development pattern since it will not be an extension of an existing industrial zoning district. (UDO Section 2.4.3.C.7)

PLANNING BOARD

The Planning Board recommends **denial** of the conditional rezoning due to the same reasons listed by the TRC above.

CONSISTENCY STATEMENT

The conditional zoning request is **not consistent** with the 2006 Land Use Plan because it conflicts with the following policies:

- **POLICY ID2:** Industrial uses should not be located in areas that would diminish the desirability of existing and planned NON-INDUSTRIAL DEVELOPMENTS, nor shall incompatible non-industrial uses be allowed to encroach upon existing or planned industrial sites.
- **POLICY ID3:** Industrial development shall be located on land that is physically suitable and has unique locational advantages for industry. Advanced planning for the identification of such land shall be encouraged. Designation of "CERTIFIED" INDUSTRIAL SITES shall be especially pursued.
- **POLICY ID6:** New industrial development shall be encouraged to locate in existing and/or planned

INDUSTRIAL PARKS.

- **POLICY CA1:** The important economic, tourism, and community image benefits of attractive, functional MAJOR HIGHWAY CORRIDORS through Currituck County shall be recognized. Such highway corridors, beginning with US 158 and NC 168, shall receive priority attention for improved appearance and development standards, including driveway access, landscaping, buffering, signage, lighting and tree preservation.
- **POLICY ML4:** Currituck County recognizes that the appearance and traffic moving function of the NC 168/ US 158 CORRIDOR is of exceptional importance to both the near term quality of life and long-term economic prospects for residents and property owners in the Mainland Area. The Transportation and Community Appearance policy sections of this plan shall be implemented to give priority to this issue.

The request is **not reasonable** and **not in the public interest** because:

- It establishes a new industrial site adjoining Caratoke Highway instead of locating in an existing or planned industrial park.
- Hot mix asphalt plants will generate odor, noise, visual impact, etc. that could negatively impact the surrounding properties and dwellings.

CONDITIONS OF APPROVAL

Only conditions mutually agreed to by the owner(s) may be approved as part of a conditional zoning district. Conditions shall be limited to those that address conformance of development and use of the site with county regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use. No condition shall be less restrictive than the standards of the parallel general use zoning district.

Suggested conditions of approval:

If the board approves this request, staff recommends the following conditions:

1. A Type D buffer is required along the side and rear property lines. Show what existing vegetation will remain undisturbed (permanently) in the buffers along the sides and rear property lines and how those buffers will be supplemented to create the required buffer.
2. Show what existing landscaping will be left undisturbed (permanently) within the 300' front buffer.
3. Install a fence or wall surrounding the entire compound for safety and security reasons. A fence/wall detail is required. (UDO Section 5.3/Administrative Manual)
4. Demonstrate the location of storm drainage patterns and facilities intended to serve the development. (Administrative Manual)
5. If the property is rezoned, a major site plan submittal and review is necessary for the project.

Applicant's Proposed Zoning Condition:

- 300 feet wooded buffer along Highway 158 Corridor and attractive subdivision type entrance to conceal use of property.

THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE

Planning Board: www.co.currituck.nc.us/planning-board-minutes-current.cfm
[<http://www.co.currituck.nc.us/planning-board-minutes-current.cfm>](http://www.co.currituck.nc.us/planning-board-minutes-current.cfm)

Planning Board Discussion (10/11/2016)

Tammy Graves gave a brief review of the staff report and the decision of the Technical Review Committee (TRC). Barnhill Contracting Company previously occupied land labeled as full service in Land Use Plan. The existing site was taken over by the future OBX Waterpark. The TRC reviewed PB 16-22 Barnhill Contracting Company's request for conditional rezoning at its meeting on September 21, 2016 and recommended denial.

Realtor Gary Woodson appeared before the board. Mr. Woodson said of Barnhill's fifteen plants across the state, seven are within fifteen hundred feet of residential properties and no complaints have been received. Mr. Woodson reference a letter in the Planning Board packet saying the trend of the area is industrial.

Appraiser Kim Tate appeared before the board. Mr. Tate referred to sewage spray fields and waste debris sites located in the general area of the property. He said Currituck is growing and they see industrial growth within the county. The impact on existing property would be to the older smaller homes already located next to the four lane road and these homes would possibly become businesses in the future. The property would have executive style gating with a buffer and would not be visible from the road.

Kim Hamby of East Carolina Engineering appeared before the board. Ms. Hamby said the site is suitable due

to its good sandy soil with a slope. One third of the property would be dedicated to a buffer. The existing trees are already forty-five feet in height and very dense. If they choose another site it would take years for trees to grow and produce a good buffer. The sides would be obscured and the silo would only be seen from one-quarter mile away. The silo would be the only permanent piece on site. Currituck does not refer to Sand Business, septic spray business, etc., as Industrial on the Land Use Plan, but these businesses are considered industrial in a large amount of other areas.

Shannon Douglas with Barnhill Contracting Company appeared before the board. Mr. Douglas said the emissions would be mostly steam and it has a whisper jet burner to decrease the noise. We have been in this area for twenty-five years and would like to stay in the area.

Vice Chairman Bell asked if the board had any questions for the applicant. Mr. Whiteman asked for the definition of adjacent since the applicant had referenced the proposed site being adjacent to other industrial sites, but the adjacent sites appeared to all be residential or agricultural. Mr. Woody read the definition of adjacent.

Mr. Craddock said this site does not seem suitable if you have twenty-five acres requiring a buffer which causes so much loss of land. Mr. Craddock inquired to the number of sites that were examined for potential use and Mr. Douglas said they examined every available site within fourteen miles with ten acres or more which is approximately fifty sites.

Vice Chairman Bell opened the public hearing.

Robert Griffin of Poplar Branch said this proposed site is located north and east of farmed land. He opposes the site and said it would open a new access point to NC158 and would negatively affect his property value as agricultural land.

Diane Newbern asked the board to deny the rezoning due to it not being compatible with our current Land Use Plan.

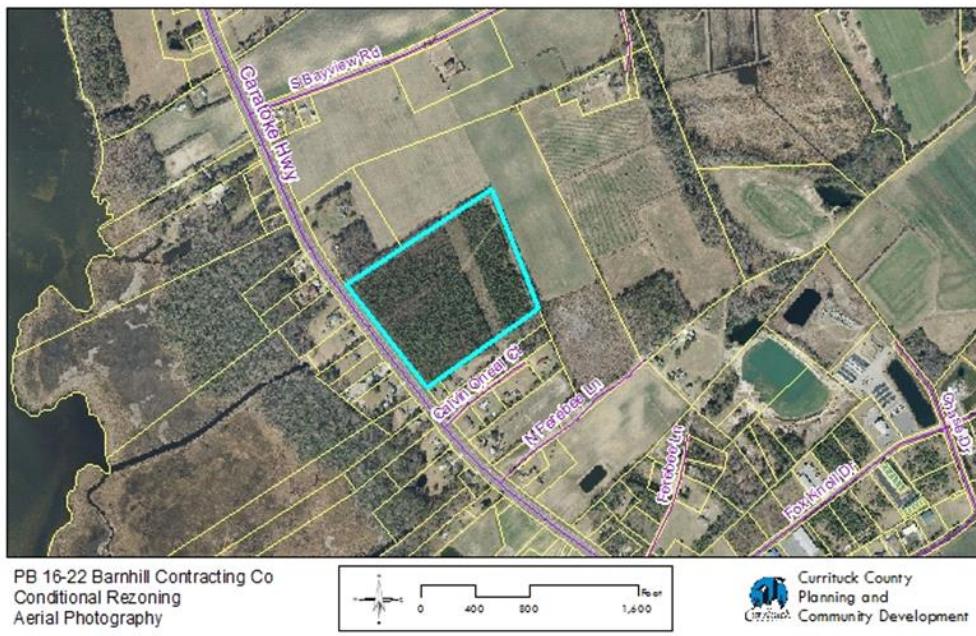
The applicant gave rebuttal. Mr. Douglas said this rezoning would be beneficial to the land owners because we are willing to put a nice buffer to obscure the site. Once this land is purchased by someone else it may become a convenient store and would lose its entire buffer.

Vice Chairman Bell closed the public hearing.

Board Discussion:

The board discussed the current plan which says industry has to occur in a planned industrial area and if changed all agriculture land would have to be rezoned. Mr. Craddock asked the Planning Department if there were other areas that were better suited for the Barnhill Contracting site. Mr. Woody said the county does not have a lot of land zoned Industrial, some are Light Industrial. There are currently forty-nine acres available in the Currituck Industrial Park that could be rezoned from Light Industrial to Heavy Industrial.

Vice Chairman Bell asked to entertain a motion and Mr. Cartwright recused himself from voting. Bobby Bell recommended a denial with a second from Mr. Craddock and the motion carried.



When asked about spot zoning, Mr. McRee said it could be conceived as spot zoning based on the court's definition. He said if approved and considered spot zoning, the Board would be required to make findings to show a reasonable basis for the rezoning.

Gary Woodson, Shore Drive, represented the applicant and spoke in support of approval. He reviewed the land search and described the existing site as a staging site and intermittent use as an asphalt plant. He described the manufacturing equipment and reviewed considerations such as buffers, easements, noise and the uses of nearby sites. He said the area chosen is trending toward industrial uses and contrasted the look of a proposed conservation area on the highway versus general business zoning on the corridor. He said there was no contamination of the prior site when assumed by the water park.

Commissioner Payment said spot zoning is a concern of his. Mr. Woodson said there are several different zones nearby and again stressed the infrequent need to manufacture asphalt. He believes industrial is better closer to the highway.

Chairman Hanig opened the Public Hearing.

Ken Elliott, Aydlett, owns at 1768 Caratoke Highway 500 feet from the property. He is opposed to the rezoning as it is not the best use for the land.

Fannie Newbern of Powells point, and adjacent property owner, said the rezoning will not increase the value of the property and asked the Board to deny the request.

Robert Griffin of Poplar Branch Road and adjoining land owner is opposed to the rezoning. His mother's home is nearby and he said she is also opposed. He expressed concern with spot zoning and compatibility with the land use plan.

Stephanie Smith of Kill Devil Hills and an adjacent property owner spoke in opposition. She has done appraisals as a real estate Broker and said heavy industrial is not compatible.

Ken Griggs of Powells Point represented the Griggs family and an owner of a portion of the property that sold to the water park, which left Barnhill looking for another property. He spoke in support of the rezoning, saying as good stewards over 27 years he believes Barnhill will be just as good at the other site and would hate to see them leave the county.

Mr. Woodson said value was addressed and they assessed other land within heavy-industrial zoned parks but could not make it work. He believes they chose the best possible site.

Chairman Hanig closed the public hearing.

Commissioner Payment said he had concerns with the location and possible spot zoning and moved to deny PB 16-22 because it is not consistent with the Land Use Plan: Industrial uses should not be located in areas that would diminish the desirability of existing and planned non-industrial developments; industrial development shall be located on land that is physically suitable and has unique advantages for the industry; new industry development shall be encouraged to locate in existing and/or planned industrial parks; the important economic study that we did with the development of Lower Currituck and the major highway corridors with our intent to address the landscaping and the looks of the corridor. It is not reasonable and not in the public interest because it's established a new industrial site adjoining Caratoke Highway instead of locating in a planned industrial park; it does have hot mix asphalt plant that will generate odors, noise and negative impact; and it's not compatible with our existing use of surrounding with the land subject to this application with the single-family dwellings.

The motion was seconded by Commissioner Gilbert and passed unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mike H. Payment, Commissioner
SECONDER:	Marion Gilbert, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

NEW BUSINESS

A. An Ordinance of the Currituck County Board of Commissioners Imposing a Moratorium on the Acceptance, Processing or Consideration of Applications for Solar Arrays Pursuant to N.C. Gen. Stat. Section 153A-340(h)

Mr. McRee reviewed the Ordinance with the Board which would impose a moratorium on Solar Arrays within the county. He reviewed the proposed findings before the Board.

Commissioner Etheridge disclosed to the Board that Sun Energy has been trying to purchase 9.5 acres of family land on East Ridge Road and they sent a floral arrangement upon the passing of her sister. She said her decision would not be influenced.

A public hearing is required:

Owen Etheridge, Moyock, questioned proper advertising. He said agriculture is struggling and landowners have to do something to generate revenue. He said solar farms provide a positive tax flow for the county without demanding services. He said he has property that Sun Energy is looking at. Mr. Etheridge said the Board does not have a valid, legal reason to implement a moratorium.

Steve Fentress of Grandy Road said he has researched solar farms for a year and a half, as they are dangerous, pay very little taxes, and the only reason they exist is because of subsidies. He favors the moratorium and encouraged the Board to pass it.

Chairman Hanig closed the public hearing.

Mr. Woody answered questions, saying currently solar arrays are only allowed in conditional zoning districts. Mr. McRee said going forward the Board should be cognizant of the land use policy which discourages development of solar farms. Commissioner Payment believes we need to discuss where we want the county to be with regard to solar farms. Commissioner Hall suggested errors may have been made, and we need to do better going forward.

Commissioner Beaumont said he is sensitive to property rights, but not at the expense of our neighbors and agreed with Commissioner Hall's comments.

Commissioner Beaumont moved to approve the moratorium on solar development in the county for sixty days. The motion was seconded by Commissioner Gilbert and passed unanimously.

AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS IMPOSING A MORATORIUM ON THE ACCEPTANCE, PROCESSING OR CONSIDERATION OF APPLICATIONS FOR SOLAR ARRAYS PURSUANT TO N.C. GEN. STAT. SECTION 153A-340(h)

The Board of Commissioners for the County of Currituck, North Carolina, at its regularly scheduled January 3, 2017 meeting, after due advertisement as by law required, conducted a public hearing and heard from the interested public and county officials for the purpose of gathering information and taking appropriate action within the confines of applicable law regarding imposition of a moratorium on the acceptance, processing or consideration of applications for solar arrays. From the same, the Board of Commissioners makes the following findings of fact, conclusions and legislative determination:

I. STATEMENT OF THE PROBLEM NECESSITATING A MORATORIUM; THE COURSES OF ACTION ALTERNATIVE TO A MORATORIUM CONSIDERED AND THEIR INADEQUACY ~ NCGS 153A-340(h)(1)

- A. Pursuant to Section 4.1.2 Use Table of the Currituck County Unified Development Ordinance solar arrays are permitted when conditionally zoned in the AG (Agricultural) zoning district which is contrary to Policy ID9 of the 2006 Currituck County Land Use Plan providing that Currituck County "shall not support the exploration or development of ENERGY PRODUCING FACILITIES within its jurisdiction including, but not limited to, oil and natural gas wells, and associated staging, transportation, refinement, processing or on-shore services or support facilities."
- B. There exists in the county two solar arrays, one approximately 2,000 acres in size and located adjacent to residential uses of land, that has resulted in numerous complaints to the county of incompatible activity on the solar array site with use of adjacent property for residential purposes. Additionally, there is pending in the Currituck County Superior Court the appeal from denial of a use

permit for solar array on property most recently used as a golf course and surrounded by property developed and used for residential purposes.

- C. In a February 10, 2016 report to the North Carolina General Assembly the North Carolina Department of Environmental Quality expressed concern for the loss of agricultural land and jobs in the state from conversion of agriculturally used property to use for solar arrays and the loss of wildlife habitat due to large areas encompassed by solar arrays that are fenced and affect food availability for wildlife. The North Carolina Utilities Commission Public Staff also reported to the North Carolina General Assembly on February 10, 2016 that as of January 31, 2016 Currituck County was ranked fifth among the top ten counties in the number of pending North Carolina Utilities Commission certificate applications.
- D. County residents have reported adverse effects of solar array construction, activity and operation including aesthetic impacts and potential impacts on residential and other property values. Absent the adoption of this ordinance incompatible solar array projects may be established that could adversely impact the quality of life for county residents.
- E. It is anticipated that the county may receive a number of applications to construct new solar arrays in the near future that may be incompatible with residential and other land uses and the county's 2006 Land Use Plan requiring a period of time to develop amendment to the Currituck County Unified Development Ordinance to properly reflect land development patterns as set forth in that plan.
- F. In addition, after further consideration it is not certain or apparent that the use of land for solar arrays to the extent developed in the county and that which is anticipated is in the best interest of the county.
- G. Modification regarding the use land for solar arrays will require amendment of the Unified Development Ordinance which process will be compromised and futile if additional solar array approval is sought prior to the time required to address the concerns set forth herein.

II. STATEMENT OF DEVELOPMENT APPROVAL SUBJECT TO THE MORATORIUM AND HOW SUCH MORATORIUM WILL ADDRESS THE EXISITING PROBLEMS ~ NCGS 153A-340(h)(2)

Imposition of a moratorium on the acceptance, processing or consideration of solar array applications will prevent the approval of solar arrays as an acceptable use of land in the county.

III. DATE FOR TERMINATION AND THE REASONABLE NECESSITY FOR ITS LENGTH TO ADDRESS THE PROBLEMS GIVING RISE TO THE IMPOSITION OF A MORATORIUM ~ NCGS 153A-340(h)(3)

Regulation to prohibit the use of land for solar arrays will require amendment of the Unified Development Ordinance. Therefore, time is required to review existing ordinances, draft proposed amendments and process any proposed amendment through relevant county boards or agencies. It is anticipated that a minimum of 60 days will be required to complete that process.

IV. STATEMENT OF ACTIONS AND SCHEDULE FOR THOSE ACTIONS PROPOSED TO BE TAKEN DURING THE EXISTENCE OF A MORATORIUM REASONABLY NECESSARY TO ADDRESS THE PROBLEMS AND CONDITIONS LEADING TO THE IMPOSITION OF THE MORATORIUM ~ NCGS 153A-340(h)(4)

During the existence of this moratorium the appropriate Currituck County staff shall:

- A. Review the Currituck County Unified Development Ordinance and 2006 Land Use Plan to determine amendment to the Unified Development Ordinance that is advisable to meet and preserve the stated goals established by the Currituck County 2006 Land Use Plan; and

B. Process any land use ordinance amendments through the Currituck County Planning Board so that a public hearing may be held on any amendments prior to the expiration of this ordinance.

V. IMPOSITION OF MORATORIUM

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS FOR THE COUNTY OF CURRITUCK that after careful, deliberate and studied contemplation of the above does hereby implement and impose, effective from the date and time of the adoption of this ordinance, to and including the end of March 4, 2017, a moratorium prohibiting the acceptance, processing or consideration by any county employee, or appointed or elected board any application for use of land within the county for a solar array.

ADOPTED the 3rd day of January, 2017 at _____ o' clock _____.m.

Bobby Hanig, Chairman
Board of Commissioners

ATTEST:

Leeann Walton, Clerk to the Board

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Paul M. Beaumont, Commissioner
SECONDER:	Marion Gilbert, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

B. An Ordinance of the Currituck County Board of Commissioners Amending Section 2-65 of the Currituck County, North Carolina Code of Ordinances Providing for the Location of Public Comments on the Agenda and Time Allotted for Public Comments.

Mr. McRee reviewed the proposed ordinance with the Board of Commissioners. The ordinance would move the public comment period toward the beginning of the agenda and reduce the time allotted for speakers to three minutes.

Commissioner Hall moved to approve. Commissioner Etheridge seconded and the motion passed unanimously.

SECTION 2-65 OF THE CURRITUCK COUNTY, NORTH CAROLINA CODE OF ORDINANCES PROVIDING FOR THE LOCATION OF PUBLIC COMMENTS ON THE AGENDA AND TIME ALLOTTED FOR PUBLIC COMMENTS

WHEREAS, pursuant to N.C. Gen. Stat. §153A-71 a board of commissioners may adopt its own rules of procedure in keeping with the size and nature of the board and in the spirit of generally accepted principles of parliamentary procedure.

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

PART I. Sec. 2-65 of the Code of Ordinances, Currituck County, North Carolina is amended to read as follows

Sec. 2-65. - Order of business.

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- (1) Call to order;
- (2) Invocation and pledge of allegiance;
- (3) Approval of agenda;
- (4) ~~Administrative reports~~ Public comment;
- (5) ~~Public hearings~~ Administrative reports;
- (6) ~~Old business~~ Public hearings;
- (7) ~~New business~~ Old business;
- (8) ~~Board appointments~~ New business;
- (9) ~~Consent agenda~~ Board appointments;
- (10) ~~Approval of minutes~~ Consent agenda;
- (11) ~~Commissioner's report~~ Approval of minutes;
- (12) ~~County manager's report~~ Commissioner reports;
- (13) ~~Public comment~~ County manager's report;
- (14) Adjournment.

Without objection, the chair may call items in any order most convenient for the dispatch of business.

PART II. Sec. 2-69 of the Code of Ordinances, Currituck County, North Carolina is amended to read as follows:

Sec. 2-69. - Informal public comments.

The clerk to the board shall include on the agenda of each regular meeting time for comments or questions from the public in attendance on any item on the agenda or not on the agenda, so long as the topic is not concerned with any matter that is the subject of a public hearing on the agenda. Each person wishing to address the board shall place their name and address and the topic of ~~his~~ their comments on the sign-up sheet. ~~Each speaker shall be allotted three minutes to address the board.~~ The chairman shall specify the time allotted to each speaker and shall chair the public comment portion of the agenda. When a speaker's time for informal public comment has expired, the county attorney shall advise.

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

PART IV. This ordinance is effective immediately upon adoption.

ADOPTED this 3rd day of January, 2017.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mike D. Hall, Vice Chairman
SECONDER:	Mary "Kitty" Etheridge, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

C) Board Appointments**1. Nominations of Commissioners to Advisories**

This item was removed from the agenda.

RESULT:	WITHDRAWN
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2. Planning Board-Amended Agenda Item

Commissioner Hall reappointed Fred Whiteman to serve on the Planning Board. Commissioner Gilbert seconded and the nominee was approved.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mike D. Hall, Vice Chairman
SECONDER:	Marion Gilbert, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

3. Recreation Advisory-Amended Agenda Item

Commissioner Etheridge moved to reappoint Ellen Owens to the Recreation Advisory Board. Commissioner Payment seconded and the nominee was approved.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary "Kitty" Etheridge, Commissioner
SECONDER:	Mike H. Payment, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

4. Historic Preservation Commission-Amended Agenda Item

Commissioner Hall moved to appoint five applicants to serve on the Historic Preservation Commission:

Josh Bass
Horace Bell
Virginia Serpico
Mary Simmons
Barbara Snowden

Nominations were seconded by Commissioner Payment and all were unanimously approved.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mike D. Hall, Vice Chairman
SECONDER:	Mike H. Payment, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

D) Consent Agenda

Commissioner Gilbert moved to approve the consent agenda. Commissioner Beaumont seconded and the motion passed unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Marion Gilbert, Commissioner
SECONDER:	Paul M. Beaumont, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

1) Approval Of Minutes for December 5, 2016

1. BOC Meeting Minutes for December 5, 2016

2. Budget Amendments

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
16609-514800	Fees Paid to Officials	\$ 4,200	
16609-545000	Contract Services		\$ 4,200
		<u>\$ 4,200</u>	<u>\$ 4,200</u>

Explanation: Ocean Sands and Crown Point Watershed (16609) - Transfer funds for advisory board fees.

Net Budget Effect: Ocean Sands and Crown Point Watershed Fund (16) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10510-526000	Advertising	\$ 618	
10330-424000	Officer Fees		\$ 618
		<u>\$ 618</u>	<u>\$ 618</u>

Explanation: Sheriff (10510) - Increase appropriations for legal advertisement for writ of execution advertisement. Funds collected from Renaissance Construction.

Net Budget Effect: Operating Fund (10) - Increased by \$618.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10510-532000	Supplies	\$ 6,000	
10510-590000	Capital Outlay	\$ 18,000	
10330-449900	Miscellaneous Grants		\$ 24,000
		\$ 24,000	\$ 24,000

Explanation: Sheriff (10510) - Increase appropriations to record 100% funded grant from the NC Department of Public Safety to purchase 3 radar trailers, bicycle helmets, locks and reflective gear and community watch brochures.

Net Budget Effect: Operating Fund (10) - Increased by \$24,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
12543-516103	Buildings & Grounds	\$ 2,800	
12543-553003	Dues & Subscriptions	\$ 2,100	
12543-545000	Contract Services		\$ 2,800
12543-536103	Personal Protective Equipment		\$ 2,100
		\$ 4,900	\$ 4,900

Explanation: Moyock Volunteer Fire Department (12543) - Transfer budgeted funds within the Moyock VFD fire contract per email from Chief Pervere dated 12/7/2016.

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
10450-590000	Capital Outlay	\$ 6,671	
10350-468000	Sale of Fixed Assets		\$ 6,671
		\$ 6,671	\$ 6,671

Explanation: Tax (10450) - Increase appropriations to record fees associated with foreclosure on property at 103 Bluefish Court, Grandy.

Net Budget Effect: Operating Fund (10) - Increased by \$6,671.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
61818-533800	Chemicals		\$ 4,500
61818-561000	Professional Services		\$ 5,000
61818-590000	Capital Outlay		\$ 16,850
61818-532000	Supplies	\$ 15,000	
61818-516000	Repairs and Maintenance	\$ 10,000	
61818-514500	Training and Education	\$ 350	
61818-514000	Travel	\$ 1,000	
		<u>\$ 26,350</u>	<u>\$ 26,350</u>

Explanation: Mainland Water System (61818) - Transfer for operations of the Mainland water system.

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

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10415-561000	Professional Services	\$ 80,000	
10380-488400	ABC Profits		\$ 80,000
		<u>\$ 80,000</u>	<u>\$ 80,000</u>

Explanation: Legal (10415) - Increased appropriations for increases in attorney fees for litigation.

Net Budget Effect: Operating Fund (10) - Increased by \$80,000.

Account Number	Account Description	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10511-561000	Professional Services		\$ 8,000
10511-516200	Vehicles Repairs	\$ 6,800	
10511-516000	Repairs & Maintenance	\$ 1,200	
		\$ 8,000	\$ 8,000

Explanation: Detention Center (10511) - Transfer budgeted funds for repairs for the remainder of this fiscal year.

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

Account Number	Account Description	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
64848-516000	Repairs & Maintenance	\$ 2,500	
64848-532000	Supplies	\$ 2,500	
64848-590000	Capital Outlay		\$ 5,000
		\$ 5,000	\$ 5,000

Explanation: Maple Commerce Park (64848) - Transfer for operations of the Maple Commerce Park sewer system.

Net Budget Effect: Maple Commerce Park Sewer fund (64) - No change.

3. Surplus Resolution-Animal Quarantine Building

SURPLUS RESOLUTION

WHEREAS, the Board of Commissioners of Currituck County, North Carolina during its regularly scheduled meeting held on _____, 2017, authorized the following, pursuant to GS 160A and 270(b), that the following property is declared surplus and is to be demolished:

Asset # 5344 - Animal Quarantine Building (damaged in Hurricane Matthew)

ADOPTED THIS THE 3rd day of January, 2017.

CURRITUCK COUNTY BOARD OF COMMISSIONERS

1. **Closed Session** pursuant to G. S. 143-318.11(a)(3) to consult with the county attorney in order to preserve the attorney-client privilege related to the following matters: R.F. London and Mermaids, Inc. v. Currituck County and Currituck County Board of Adjustment; Swan Beach Corolla, LLC v. Currituck County; Ocean Hill Commercial, LLC and others v. James Bickford, Midlantic Builders, Ocean Hill 1 Property Owners Association and Currituck County; Ocean Hill Commercial, LLC and others v. Currituck County; Moyock Commercial Properties, LLC and Charles S. Friedman v. Currituck County; Coastland Corporation and James E. Johnson, Jr. v. Currituck County and Ocean Sands Water and Sewer District; Ecoplexus, Inc., Fresh Air Energy II, LLC and Currituck Sunshine Farm, LLC v. Currituck County and Teresa Wheeler v. Currituck County.

Chairman Hanig moved to enter Closed Session pursuant to G.S. 143-318.11(a)(3) to consult with the county attorney in order to preserve the attorney-client privilege related to the following matters: R.F. London and Mermaids, Inc. v. Currituck County and Currituck County Board of Adjustment; Swan Beach, LLC v. Currituck County; Ocean Hill Commercial, LLC and others v. James Bickford, Midlantic Builders, Ocean Hill 1 Property Owners Association and Currituck County; Ocean Hill Commercial, LLC and others v. Currituck County; Moyock Commercial Properties, LLC and Charles S. Friedman v. Currituck County; Coastland Corporation and James E. Johnson, Jr. v. Currituck County and Ocean Sands Water and Sewer District; Ecoplexus, Inc., Fresh Air Energy II, LLC and Currituck Sunshine Farm, LLC v. Currituck County; and Teresa Wheeler v. Currituck County. Commissioner Etheridge seconded and the motion passed unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bobby Hanig, Chairman
SECONDER:	Mary "Kitty" Etheridge, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner

ADJOURN

Motion to Adjourn Meeting

The Board had no further business after returning from closed session. Commissioner Beaumont moved to adjourn and was seconded by Commissioner Gilbert. The motion passed unanimously and the regular meeting of the Board of Commissioners was concluded.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Paul M. Beaumont, Commissioner
SECONDER:	Marion Gilbert, Commissioner
AYES:	Bobby Hanig, Chairman, Mike D. Hall, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner, Bob White, Commissioner