



Planning Board Agenda Packet

February 14, 2017

Orientation for New Planning Board Members

6:00 PM

Work Session

6:30 PM

Call to Order

- A) Pledge of Allegiance & Moment of Silence
- B) Announce Quorum Being Met
- C) Approval of Agenda
- D) Ask for Disqualifications

Approval of Minutes for January 10, 2017**Old Business****New Business**

- A) **PB 16-28 Currituck County BOC:** Request to amend the Unified Development Ordinance Chapter 4: Use Standards, to remove solar array as an allowable use.
- B) **PB 16-25 Steve Fentress:** Text amendment to modify solar array standards.
- C) **PB 16-24 Blue Water Development Corp.** Requests an amendment to the Unified Development Ordinance to allow the expansion of existing campgrounds.

Announcements**Adjournment**



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 1779)

Agenda Item Title

PB 16-28 Currituck County BOC:

Brief Description of Agenda Item:

Request to amend the Unified Development Ordinance Chapter 4: Use Standards, to remove solar array as an allowable use.

Board Action Requested

Action

Person Submitting Agenda Item

Tammy Glave,

Presenter of Agenda Item

Tammy Glave



Currituck County

Planning and Community Development Department
 Planning and Zoning Division
 153 Courthouse Road Suite 110
 Currituck NC 27929
 252-232-3055 Fax 252-232302

To: Board of Commissioners
 From: Planning Staff
 Date: January 23, 2017
 Subject: PB 16-28 Currituck County Text Amendment

The enclosed text amendment was initiated by the Board of Commissioners to prohibit solar arrays as an allowable use in the county.

Background

- June 2, 2014 – BOC approved a use permit for PB 14-07 Ecoplexus, Inc. for a solar array in Shawboro. The only UDO regulation at the time was that panels not produce excessive glare. District setbacks applied to the panels. The applicant did increase the setback to 50' for the panels from Shawboro Road with vegetative screening between the property line and the panels.
- May 4, 2015 – BOC approved a text amendment to add solar array standards to the UDO including requirements for ground cover, screening, height limits, decommissioning plans, and decommissioning requirement if the system does not generate electricity for a continuous 12 month period.
- May 4, 2015 – BOC approved use permit PB 15-14 Wildwood Solar for a solar array near Moyock. The owner agreed to a 300' setback for panels from an existing dwelling and that they would install a berm.
- October 5, 2015 – BOC approved a text amendment to add additional solar array standards to the UDO including requirements for the 300' setback for all components of the solar array to the property line, ground water testing, and a performance guarantee to ensure decommissioning.
- January 4, 2016 – BOC approved a text amendment to allow a reduction in the 300' setback with increased screening, changed the permit required from a use permit to a conditional rezoning, and removed the solar array use from all zoning districts except the AG district.

Amendment Request

This request is to remove solar arrays as an allowable use in the county. Existing permitted solar arrays will become legal nonconformities.

Text Amendment Review Standards

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. *It promotes farmland preservation.*
 - b. *It prohibits all non-residential energy producing facilities*
- (2) Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
 - a. *It eliminates a conflict between the Land Use Plan and the UDO.*
- (3) Is required by changed conditions;
 - a. *It clarifies that clean energy facilities are also prohibited in the county.*
- (4) Addresses a demonstrated community need;
 - a. *There has consistently been a requirement in adopted plans to conserve farmland.*
- (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. *It prohibits all non-residential energy producing facilities in the county, thus removing potential incompatibility issues.*
- (6) Would result in a logical and orderly development pattern; and
 - a. *Because of citizen complaints regarding a recently constructed solar array, there may be evidence of a non-residential solar array being incompatible with residential development.*
- (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. *The NC Department of Environmental Quality stated in a February 2016 presentation that solar array facilities caused the loss of farmland, agricultural jobs, and wildlife habitat. (Attachment 1)*

Staff Recommendation

Staff recommends approval as presented.



**STAFF REPORT
PB 16-28 CURRITUCK COUNTY
PLANNING BOARD
FEBRUARY 14, 2017**

The Currituck County Board of Commissioners requests an amendment to the Unified Development Ordinance, Chapter 4 Use Standards, to remove a solar array as an allowable use in the county.

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 Chapter 4 is amended by deleting the following bold and underlined strikethrough language in Section 4.1.2:

USE CATEGORY	USE TYPE	ZONING DISTRICT (CURRENT DISTRICT IN PARENTHESIS) [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]														ADDITIONAL REQ. (4.2.____)	
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	U	HI	PD-R	PD-M	PD-O
INSTITUTIONAL USE CLASSIFICATION																	
Utilities	Solar array																3.H. +

Item 2: That Chapter 4 is amended by deleting the following bold and underlined strikethrough language in Section 4.2.3.H.1:

4.2.3. Institutional Uses

H. Utilities

(1) Solar Array

- (a) Solar arrays shall be configured to avoid glare and heat transference to adjacent lands.
- (b) Appropriate ground cover/grass is required and shall be maintained as not to create a fire hazard.
- (c) The solar panels, equipment, and associated security fencing shall be located at least 300 feet from any perimeter property line abutting a residential

dwelling, residential zoning district, religious institution, public school, state licensed day care center, public playground, public swimming pool, or public park. The solar panels, equipment, and associated security fence shall be screened from those uses or zoning districts by a Type D buffer. The buffer may be reduced to a Type C when abutting a right of way, use, or zoning district not listed above and the setback may be reduced to 100 feet in these instances.

- (d) The total height of the solar energy system, including any mounts, shall not exceed 15 feet above the ground when orientated at maximum tilt.
- (e) The solar energy system owner shall have 12 months to complete decommissioning of the facility if no electricity is generated for a continuous 12 month period.
- (f) Operations, maintenance, and decommissioning plans are required.
- (g) Ground water monitoring wells shall be installed prior to construction of the solar energy system and testing data shall be submitted annually to the Planning and Community Development Department until decommissioning occurs. Monitoring wells shall be located near the center of the site and along each exterior property line at approximately the lowest ground elevation point of each property line. Testing data shall be provided to the county indicating compliance with EPA National Primary Drinking Water Standards prior to construction and annually until decommissioning occurs.
- (h) Should the initial ground water testing indicate that the site is not in compliance with the EPA National Primary Drinking Water Standards subsequent annual reports shall indicate no

increase in noncompliance with these standards.

(h) Prior to the issuance of a building permit, the developer shall post a performance guarantee in the form of cash deposit with the county to ensure decommissioning funds are available in the amount equal to 115 percent of the estimated decommissioning costs minus salvageable value. Estimates for decommissioning the site and salvageable value shall be prepared and certified by a registered engineer or North Carolina licensed general contractor and submitted prior to building permit approval and verified by a registered engineer or North Carolina licensed general contractor and resubmitted every two years thereafter until decommissioning occurs.

Please note that the sections following this item will be renumbered accordingly.

Item 3: Statement of Consistency and Reasonableness:

The requested zoning text amendment is consistent with the 2006 Land Use Plan because:

- farmland with a potentially high productive value should be conserved. (LUP POLICY AG1).
- the county does not support the development of energy producing facilities within its jurisdiction. (*Please note that this policy was discussed at the first solar array request and it was interpreted not to apply to clean energy production.*) (LUP POLICY ID9)

The request is reasonable and in the public interest because:

- it conserves farmland.
- it prohibits all non-residential energy producing facilities.

Item 4: 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 5: This ordinance amendment shall be in effect from and after the _____ day of _____, 2017.

Board of Commissioners' Chairman
Attest:

Leeann Walton
Clerk to the Board

DATE ADOPTED: _____

MOTION TO ADOPT BY COMMISSIONER: _____

SECONDED BY COMMISSIONER: _____

VOTE: _____ AYES _____ NAYS

PLANNING BOARD DATE: February 14, 2017

PLANNING BOARD RECOMMENDATION: _____

VOTE: _____ AYES _____ NAYS

ADVERTISEMENT DATE OF PUBLIC HEARING: _____

BOARD OF COMMISSIONERS PUBLIC HEARING: _____

BOARD OF COMMISSIONERS ACTION: _____

POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____

AMENDMENT NUMBER: _____



February 10, 2016
Department of Environmental Quality



Growth of Solar Energy in NC

- Ranked 4th in the country in solar generation in 2015
- Growth rate was first in the nation in 2015
- 4th in the nation in installed capacity (1300 MW)
- Additional 1600 MW planned under the Safe Harbor Act
- Home to the largest solar facility east of the Mississippi

3.A.b



SunEnergy1

Edgecombe County

80 MW on 1,400 acres

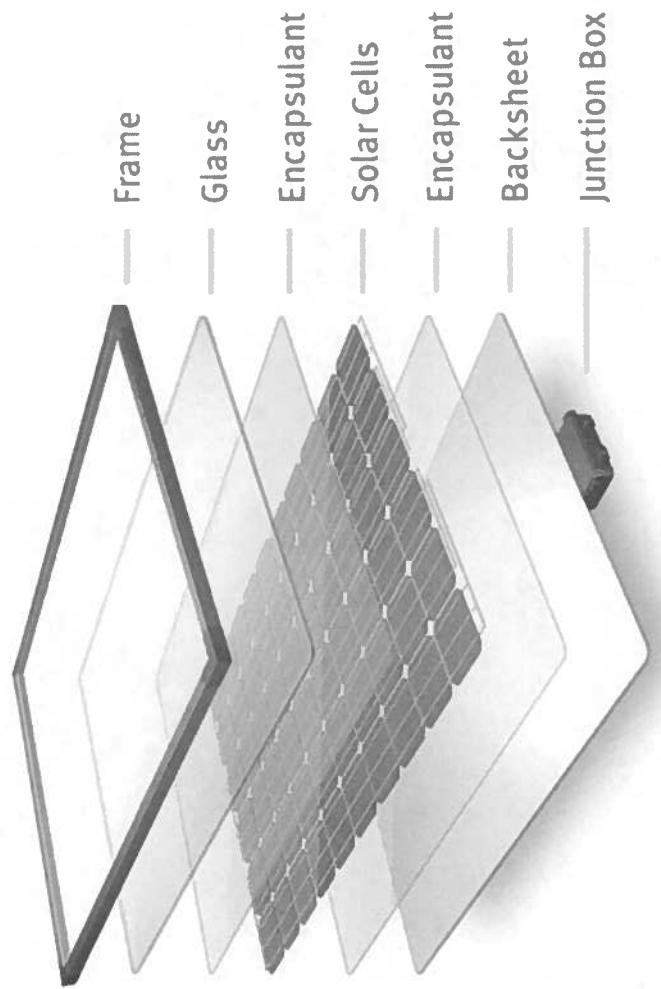


CHARLOTTE
BUSINESS JOURNAL



Department of Environmental Quality

Solar Panel Components



End-of-Life Decommissioning

3.A.b

- Expected life is ~25 years
- More 250 million lbs. of panels in NC today
- Panels contain toxic components
 - Limited recycling capacity
 - Negative recycling value
 - Revegetation
 - Soil stabilization



Environmental and Health Impacts

3.A.b

- Land use transformation – loss of agricultural land and jobs
- Loss of wildlife habitat – large areas enclosed by fencing, food availability is affected
- Human health concerns – toxic substances including mercury from manufacturing
- Pollutants and emissions – solar is not carbon-free

California and Europe



3.A.b

California requires an environmental analysis, soil management and restoration plans, and a bond.

Must cover all restoration costs, including:

- Cost of physical activities and materials necessary to implement the plan
- City or county's cost for third-party contracting for each of the activities
- A contingency amount not to exceed 10% of the restoration costs

Every EU country regulates collection, transport and treatment (recycling) of photovoltaic panels.



Department of Environmental Quality

BLM requires a bond to cover environmental liability and decommissioning:

- Proper disposal of the facilities
- Environmental liabilities such as removal or use of hazardous materials, herbicide, petroleum-based fluids
- Final reclamation, revegetation, recontouring



Solar Backup

3.A.b

- Intermittent
- Baseload is required to backup solar (shadow grid)
 - Nuclear, coal, gas
 - Cycling of coal and gas
 - Decreased energy efficiency
 - Increases emissions
 - Excessive wear and tear on components

Considerations

3.A.b

- Encourage transparency
- Provide protection to landowners
- Ensure end of life coverage
- Encourage recycling
- Prevent hazardous components from reaching landfill



Text Amendment Application

OFFICIAL USE ONLY.

Case Number:

Case No.:

Date Filed:
Gate Keeper:

Amount Paid:

Contact Information

APPLICANT:

Name: County of Currituck

Address: 153 Courthouse Road Suite 204
Currituck NC 27929

Telephone: 252-232-2075

E-Mail Address:

Request

I, the undersigned, do hereby make application to change the Currituck County UDO as herein requested.

Amend Chapter(s) 4 Section(s) 4.1.2 and 4.2.3.H.1 as follows:

Remove solar array use and standards.

*Request may be attached on separate paper if needed.

Petitioner

1-5-17
Date



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 1791)

Agenda Item Title

PB 16-25 Steve Fentress:

Brief Description of Agenda Item:

Text amendment to modify solar array standards.

Planning Board Recommendation:

<Planning Board Recommendation, IF NOT A PLANNING BOARD ITEM ERASE COMPLETELY>

Board Action Requested

Action

Person Submitting Agenda Item

Tammy Glave,

Presenter of Agenda Item

Tammy Glave


Currituck County

Planning and Community Development Department
 Planning and Zoning Division
 153 Courthouse Road Suite 110
 Currituck NC 27929
 252-232-3055 Fax 252-232302

To: Board of Commissioners
 From: Planning Staff
 Date: February 6, 2017
 Subject: PB 16-25 Steve Fentress Text Amendment

NOTE: If text amendment PB 16-28 Currituck County BOC – Solar Arrays is approved then this text amendment would have the effect of overturning the prohibition.

Amendment Request

Mr. Fentress is requesting a text amendment regarding solar arrays “to be put in place until such time as the county designates, approves, and sets aside areas that, by location, are conducive to contain solar power plants. The conditions listed must mandatorily attach to any use or CZ permit issued for solar arrays. Note – properly located in the above designated areas, item 8 could be waived along with less stringent conditions of 4.2.3.d and c. All other conditions shall still apply.”

Text Amendment Review Standards

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. *It does not promote farmland preservation.*
 - b. *It does not prohibit commercial energy producing facilities.*
- (2) Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
 - a. *It perpetuates a conflict between the Land Use Plan and the UDO.*
- (3) Is required by changed conditions;
 - a. *It provides an allowance for a use that is prohibited in the Land Use Plan.*
- (4) Addresses a demonstrated community need;
 - a. *There has consistently been a requirement in adopted plans to conserve farmland.*

- (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. *It allows commercial energy producing facilities in the county, thus creating incompatibility issues.*
- (6) Would result in a logical and orderly development pattern; and
 - a. *Because of citizen complaints regarding a recently constructed solar array, there may be evidence of a solar array being incompatible with residential development.*
- (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. *The NC Department of Environmental Quality stated in a February 2016 report that solar array facilities caused the loss of farm land, agricultural jobs, and wildlife habitat.*

Staff Recommendation

There are numerous issues as outlined in the following document that prevent staff from supporting this request. As written, staff recommends denial of the request. Should the board wish to reinstate solar regulations, perhaps the NC Clean Energy Technology Center Model Solar Ordinance would be of value.



**STAFF REPORT
PB 16-25 STEVE FENTRESS
PLANNING BOARD
FEBRUARY 14, 2017**

Steve Fentress requests an amendment to the Unified Development Ordinance, Chapter 4 Use Standards, to modify solar array standards.

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 Chapter 4 is amended by deleting the following bold and underlined ~~strikethrough~~ language and adding the bold underlined language in Section 4.2.3.H.1:

4.2.3. Institutional Uses

H. Utilities

(1) Solar Array

(a) The solar panels, equipment, and associated security fencing shall be located at least 300 feet from any perimeter property line abutting a residential dwelling, residential zoning district, religious institution, public school, state licensed day care center, public playground, public swimming pool, or public park. The solar panels, equipment, and associated security fence shall be screened from those uses or zoning districts by a Type D buffer. The buffer may be reduced to a Type C when abutting a right-of-way, use, or zoning district not listed above and the setback may be reduced to 100 feet in these instances. Interior beginning line of buffer must be located no further than 25 feet from security fence, and no deciduous vegetation shall be allowed as part of buffer. Type D buffer will be mandatory at ALL solar facilities and enclose entire perimeter regardless any existing vegetation located on adjoining land. Type D buffer shall consist of type plants and density necessary to opaque screen minimum of 75% of vertical view (7.5 feet of 10 foot height) and 75% of lateral view of solar panel equipment at time of planting. All vegetation will be maintained per professional landscape standards and any dead or nonfunctional vegetation must be promptly replaced with same size and type at time of initial planting

Planning Comment: Changing the type of plant material, opacity, and location of a Type D buffer no longer meets the

definition of a Type D buffer. Either a new buffer type needs to be created in Chapter 5 Development Standards that captures this requirement and applies county wide or set aside landscaping standards specific to solar arrays and exempt the use from typical bufferyard requirements. It is staff's opinion that changing the requirements for a bufferyard is unnecessary and could adversely affect new development throughout the county and create nonconformities with existing development. Landscaping on adjoining land currently cannot be considered when determining buffers and landscaping maintenance is covered in the Landscaping section of the UDO and through code enforcement.

(b) The total height of the solar energy system, including any mounts, shall not exceed ~~15 feet~~~~10 feet~~ above the ground when orientated at maximum tilt.

Planning Comment: It is staff's opinion that the existing 15 foot height requirement is acceptable due to buffering and setback requirements.

(g) Ground water monitoring wells shall be installed prior to construction of the solar energy system and testing data shall be submitted annually to the Planning and Community Development Department until decommissioning occurs. Monitoring wells shall be located near the center of the site and along each exterior property line at approximately the lowest ground elevation point of each property line. Testing data shall be provided to the county indicating compliance with EPA National Primary Drinking Water Standards prior to construction and annually every six months until decommissioning occurs. Initial ground water samples and subsequent samples shall be taken every six months and shall be taken only by County officials or the EPA.

(i) Should the initial ground water testing indicate that the site is not in compliance with the EPA National Primary Drinking Water Standards subsequent annual reports shall indicate no increase in noncompliance with those standards. Should subsequent ground water testing indicate any noncompliance with EPA standards, all adjacent property owners shall be immediately notified.

Planning Comment: According to EPA.Gov, the EPA does not directly test private well water but rather directs the user to "Only use laboratories that are certified to do drinking water tests." There is a list of authorized laboratories by state. Environmental Regional Health Services may be a resource if the board chooses to amend this portion of the text.

- (i) Require a Building Permit for the entire facility before any work is started on site, and only a N.C. licensed General Contractor can apply for the permit along with any applicable subcontractors, i.e., electrical, mechanical, etc. Building Inspector Comment: A building permit is not required if a building is not being constructed.
- (j) Require General Contractor to identify any hazardous permanent materials used on site, and MSDS sheets for all such materials be kept on site at all times during construction. Building Inspector Comment: This is an OSHA requirement over which the county has no jurisdiction.
- (k) No permanently mounted exterior or interior lights will be allowed on the facility. Portable emergency lighting stations can be stored on site and used only at night for emergency repairs. Planning Comment: Security lighting is required for off-site monitoring and to secure the facility. If a lighting violation occurs, it will be addressed through code enforcement.
- (l) If solar array is approved by BOC as a “fixed tilt system”, conversion to a “single-axis tracking system” shall not be allowed during any time in the future unless approved by the BOC under a new permit application. Applicant must identify which system will be used at the time application is submitted to Planning. “Either- or” will not be allowed under application. Building Inspector Comment: The BOC will have to consider fees for new permits. Construction revisions happen frequently on jobs and we do not pull the permit, only revise approval. A building inspector only revokes a permit if there is a substantial departure from the application or plans.
- (m) Only crystalline silicon (c-Si) panels made in USA shall be used on project. Panels manufactured in China will not be acceptable under any circumstances. These panels must be certified to be free of cadmium telluride and cadmium sulfide by D.O.E, OSHA and ASTM and these certifications must be provided to the County before approval by BOC. E.P.A. MSDS data of said panels must be provided to Building Inspection Office before issuance of Building Permit. ASTM must certify Glass and silicon cell used in the panel to withstand DP40 standards before issuance of Building Permit. Building Inspector Comment: If the product the engineer designs is listed and label by an approved agency such as UL I have to accept it, I'm not allowed to impose a higher standard than the code requires.
- (n) To prevent electrolysis corrosion where aluminum panel frame joins to carbon steel bracing, adequate dielectric insulation must be designed; approved and stamped by

PE. Only Stainless Steel connectors i.e., bolts shall be used at this connection. All bracing, panels, and panel connections and all materials shall be inspected by Building Inspections Office during and at end of construction for compliance with Item 5 and ITEM 6 before final approval. Dielectric insulation must be inspected yearly for damage and replaced if found. Building Inspector Comment: A building inspector cannot force a construction standard, especially since it is designed by a North Carolina Design Professional/Engineer. County Attorney Comment: The General Assembly dictates the type of inspections allowed on development and requiring additional inspections is prohibited.

(o) Location of Sub Station must be established prior to BOC approval for the project as such location could affect value of surrounding properties and may be in disharmony with surrounding area. Planning Comment: Currently, the substation must be shown on the site plan as part of the conditional rezoning process.

(p) In lieu of OSHA mandated back-up alarms on heavy equipment, i.e., dump trucks, loaders, excavators, etc. spotters must be used instead in work areas where residences or businesses are within 650 feet, per OSHA requirements that PPE must be provided and worn by anyone exposed to 85 decibels and over. * Building Inspector Comment: This is an OSHA requirement over which the county has no jurisdiction.

(q) Work hours and days of construction activities in or near residential areas, or thru and upon designated roadways should be limited as necessary to avoid adverse impact and maintain peace and quiet to sensitive areas during reasonable hours. Planning Comment: This is very subjective. If a noise violation occurs, it will be addressed through code enforcement.

(r) Project must conform to UDO 5.6.6.A and have a minimum of TWO Developed Entry Points. Compliance IS required so as "not to exceed the County's ability to provide adequate public facilities....," i.e., fire response. Planning Comment: Section 5.6.6.A only applies to subdivisions. Subdivisions with 51-100 lots require two entry points. Once completed, a solar array has far fewer trips per day than a subdivision of that size. It is staff's opinion that the county can provide adequate public service to a solar array with one entry point.

(s) Require landowner and tenant (solar plant developer/equipment owner) to maintain \$1,000,000 liability policy and \$2,000,000 umbrella rider and both

parties shall be named on policy. County Attorney

Comment: Issues here are how is the requirement reasonably related to the use of land and potential claim of arbitrariness unless valid basis for insurance amount.

(t) Prior to final inspection and release by County, two sets of 'as built drawings' stamped by PE shall be prepared and submitted to the County by solar developer upon completion of facility. Building Inspector Comment: The Planning and Community Development Department is transitioning to a paperless review process. If the board wishes to add this requirement, only an electronic version is necessary.

(u) *Standard OSHA required backup alarms is 117 to 120 decibels and according to the 'Inverse Square Law' of sound waves pressure reduced by distance, OSHA and the CDC mandates that anyone, within 320 feet must wear PPE to prevent hearing loss damage from prolonged exposure. IF OSHA increases the alarm strength to 145 maximum decibels because of multiple activities requiring simultaneous use of alarms or multiple construction activities generating loud noises, then by the same LAW stated above, the distance can be increased to over a mile, if conditions are conducive. Decibels over 45 are deemed by OSHA and CDC to be at a nuisance level. Building Inspector Comment: This is an OSHA requirement over which the county has no jurisdiction.

Item 2: 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 AG1: ACTIVE AGRICULTURAL LANDS having a high productive potential, and especially those removed from infrastructure and services, should be conserved for continued agricultural use.

LUP POLICY ID9: 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 service and support facilities. (Please note that this policy was discussed at the first solar array request and it was interpreted not to apply to clean energy production.)

This request appears to be inconsistent with the Land Use Plan as the plan indicates that farm land is to be conserved and energy producing facilities are to be prohibited regardless of the development regulations.

Item 3: 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 4: This ordinance amendment shall be in effect from and after the _____ day of _____, 2017.

Board of Commissioners' Chairman

Attest:

Leeann Walton
Clerk to the Board

DATE ADOPTED: _____

MOTION TO ADOPT BY COMMISSIONER: _____

SECONDED BY COMMISSIONER: _____

VOTE: _____ AYES _____ NAYS

PLANNING BOARD DATE: February 14, 2017

PLANNING BOARD RECOMMENDATION: _____

VOTE: _____ AYES _____ NAYS

ADVERTISEMENT DATE OF PUBLIC HEARING: _____

BOARD OF COMMISSIONERS PUBLIC HEARING: _____

BOARD OF COMMISSIONERS ACTION: _____

POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____

AMENDMENT NUMBER: _____

UNTIL SUCH TIME AS THE COUNTY DESIGNATES, APPROVES, AND SETS ASIDE AREAS THAT, BY LOCATION, ARE CONDUCIVE TO CONTAIN SOLAR POWER PLANTS, THE CONDITIONS LISTED BELOW MUST MANDATORILY ATTACH TO ANY USE OR CZ PERMIT ISSUED FOR SOLAR ARRAYS. NOTE- PROPERLY LOCATED IN ABOVE DESIGNATED AREAS, ITEM 8 COULD BE WAIVED ALONG WITH LESS STRINGENT CONDITION OF 4.2.3. (d), and (c). ALL OTHER CONDITIONS HEREIN SET FORTH SHALL STILL APPLY.

Other Conditions: Attachment to Solar Arrays

Item 2: That Section 4.2.3.H.1: Solar Array is amended by adding the following bold and underlined language

4.2.3.H

(1) Solar Array

(c) add to the text- Interior beginning line of buffer must be located no further than 25 feet from security fence, and no deciduous vegetation shall be allowed as part of buffer. Type D buffer will be mandatory at ALL solar facilities and enclose entire perimeter regardless any existing vegetation located on adjoining land. Type D buffer shall consist of type plants and density necessary to opaquely screen minimum of 75% of vertical view (7.5 feet of 10 foot height) and 75% of lateral view of solar panel equipment at time of planting. All vegetation will be maintained per professional landscape standards and any dead or nonfunctional vegetation must be promptly replaced with same size and type at time of initial planting

(d) The total height of the solar energy system, including any mounts, shall not exceed 10 feet above the ground when orientated at maximum tilt.

Amend as follows:

item (g) Initial ground water samples and subsequent samples shall be taken every six months and shall be taken only by County officials or the EPA.

Item(g) Should subsequent ground water testing indicate any noncompliance with EPA standards, all adjacent property owners shall be immediately notified.

4.2.3.H.

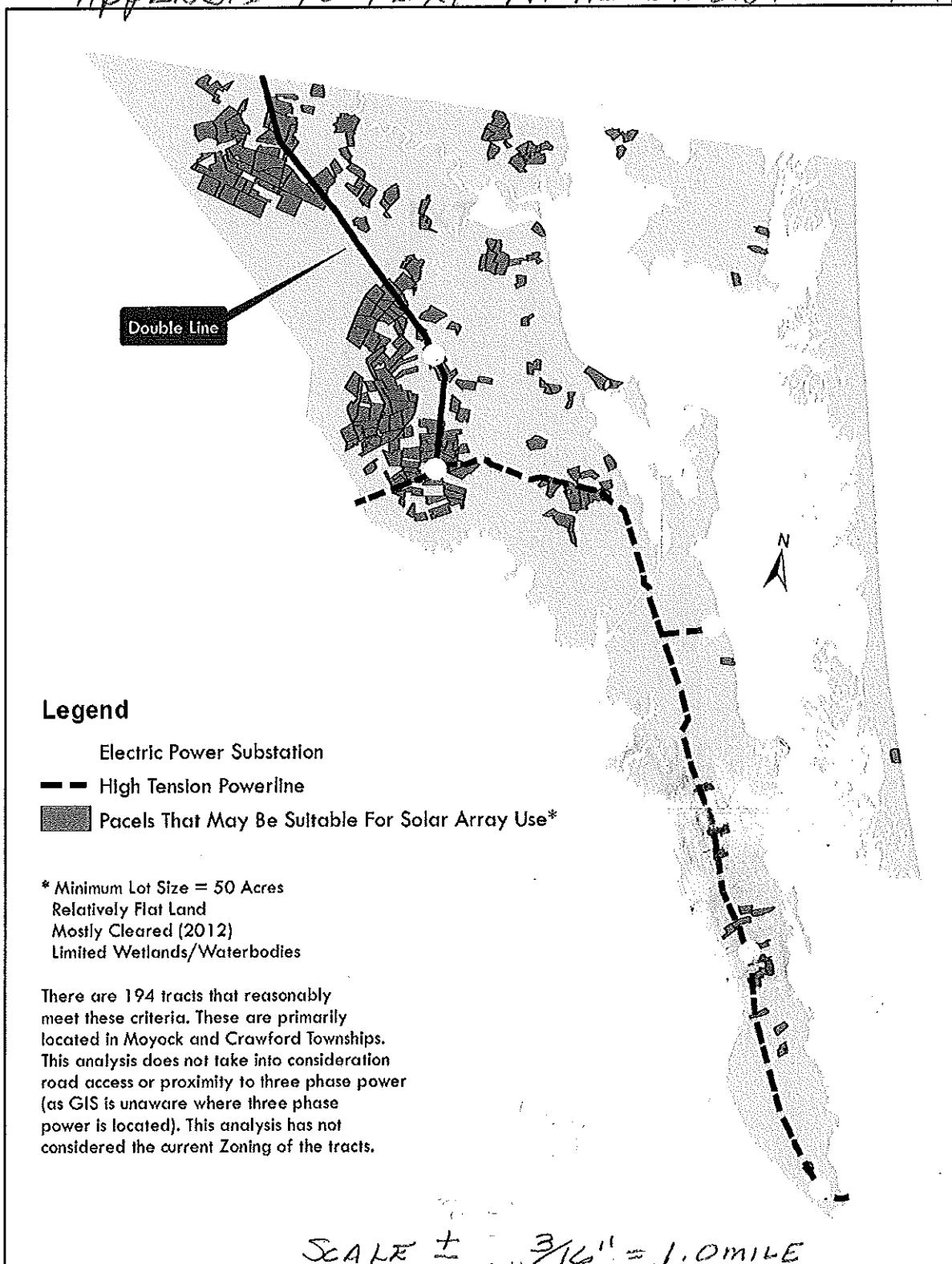
Add to text

1. Require a Building Permit for the entire facility before any work is started on site, and only a N.C. licensed General Contractor can apply for the permit along with any applicable subcontractors, i.e., electrical, mechanical, etc.
2. Require General Contractor to identify any hazardous permanent materials used on site, and MSDS sheets for all such materials be kept on site at all times during construction.
3. No permanently mounted exterior or interior lights will be allowed on the facility. Portable emergency lighting stations can be stored on site and used only at night for emergency repairs.
4. If solar array is approved by BOC as a “fixed tilt system”, conversion to a “single-axis tracking system” shall not be allowed during any time in the future unless approved by the BOC under a new permit application. Applicant must identify which system will be used at the time application is submitted to Planning. “Either- or” will not be allowed under application.

5. Only crystalline silicon (c-Si) panels made in USA shall be used on project. Panels manufactured in China will not be acceptable under any circumstances. These panels must be certified to be free of cadmium telluride and cadmium sulfide by D.O.E, OSHA and ASTM **and** these certifications must be provided to the County **before approval by BOC**. E.P.A. MSDS data of said panels must be provided to Building Inspection Office before issuance of Building Permit. ASTM must certify Glass and silicon cell used in the panel to withstand DP40 standards before issuance of Building Permit
6. To prevent electrolysis corrosion where aluminum panel frame joins to carbon steel bracing, adequate dielectric insulation must be designed; approved and stamped by PE. Only Stainless Steel connectors i.e., bolts shall be used at this connection. **All bracing, panels, and panel connections and all materials shall be inspected by Building Inspections Office during and at end of construction for compliance with ITEM 5 and ITEM 6 and applicable ASTM building codes before final approval. Dielectric insulation must be inspected yearly for damage and replaced if found.**
7. Location of Sub Station must be established prior to BOC approval for the project as such location could affect value of surrounding properties and may be in disharmony with surrounding area.
8. Work hours and days of construction activities in or near residential areas, or thru and upon designated roadways should be limited as necessary to avoid adverse impact and maintain peace and quiet to sensitive areas during reasonable hours, AND measures must be taken to protect the safety and welfare of citizens as noted below.*
9. Project must conform to UDO 5.6.6.A and have a minimum of TWO Developed Entry Points. Compliance IS required so as "not to exceed the County's ability to provide adequate public facilities..." i.e., fire response.
10. Require landowner and tenant (solar plant developer/equipment owner) to maintain \$1,000,000 liability policy and \$2,000,000 umbrella rider and both parties shall be named on policy
11. Prior to final inspection and release by County, two sets of 'as built drawings' stamped by PE shall be prepared and submitted to the County by solar developer upon completion of facility.

*In lieu of OSHA mandated back-up alarms on heavy equipment, i.e., dump trucks, loaders, excavators, etc., **spotters** must be used instead in work areas where residences or businesses are within 320 feet, per OSHA requirements that PPE must be provided and worn by anyone exposed to 85 decibels and over. Standard OSHA required backup alarms is **117 to 120** decibels on trucks and equipment, **and on pile driving equipment**, depending on the required hammer, decibels could be substantially higher. And according to the 'Inverse Square Law' of sound waves pressure reduced by distance, OSHA and the CDC mandates that **anyone**, subject to over 85 decibels could incur hearing loss after only eight hours of exposure. If OSHA increases the alarm strength to **145** maximum decibels because of multiple activities requiring simultaneous use of alarms or multiple construction activities generating loud noises, **or decibels from pile driving hammer reaches that number**, then by the same LAW stated above, the distance can be increased to almost a mile, if conditions are conducive. Decibels over **45** are deemed by OSHA and CDC to be at a nuisance level.

APPENDIX TO TEXT AMENDMENT





Text Amendment

Application

OFFICIAL USE ONLY:

Case Number:

Date Filed:

Gate Keeper:

Amount Paid:

Contact Information

APPLICANT:

Name: STEVE FENTRESS
Address: 247 GRANDY RD
GRANDY NC 27939
Telephone: 453-6061 cell 207-6061
E-Mail Address: 5Pfanddogs@NETSCAPE.COM

Request

I, the undersigned, do hereby make application to change the Currituck County UDO as herein requested.

Amend Chapter(s) 4 Section(s) 4, 2, 3, 4 as follows:

*Request may be attached on separate paper if needed.

S. P. Tant
Petitioner

12/7/14
Date

Text Amendment Submittal Checklist

Staff will use the following checklist to determine the completeness of your application. Only complete applications will be accepted.

Text Amendment**Submittal Checklist**

Date Received: _____

Project Name: _____

Applicant/Property Owner: _____

Text Amendment Submittal Checklist	
1	Complete Text Amendment application
2	Application fee (\$150)
3	3 hard copies of ALL documents
4	1 PDF digital copy of all documents (ex. Compact Disk – e-mail not acceptable)

For Staff Only**Pre-application Conference**

Pre-application Conference was held on _____ and the following people were present:

Comments



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 1754)

Agenda Item Title

PB 16-24 Blue Water Development Corp.

Brief Description of Agenda Item:

Requests an amendment to the Unified Development Ordinance to allow the expansion of existing campgrounds.

Board Action Requested

Action

Person Submitting Agenda Item

Donna Voliva,

Presenter of Agenda Item

Donna Voliva



Currituck County

Planning and Community Development Department
Planning and Zoning Division
 153 Courthouse Road, Suite 110
 Currituck, North Carolina 27929
 252-232-3055 FAX 252-232-3026

To: Planning Board
 From: Planning Staff
 Date: February 6, 2017
 Subject: PB 16-24 Blue Water Development Corp

The attached text amendment to the Unified Development Ordinance submitted by Blue Water Development Corp. initially was a request to allow private campgrounds in the Single Family Residential-Mainland (SFM) zoning district. After meeting with staff, the applicant modified the request to only allow the expansion of existing campgrounds subject to specific standards.

The four existing campgrounds are nonconforming uses and are allowed to continue but, expansions or intensification of the nonconforming use is not permitted by the UDO. As proposed, existing campgrounds will continue to operate as a nonconforming use and new private campgrounds would not be permitted. The proposed language would allow an overall increase in the number of campsites up to five campsites per gross acre but in no case shall the density exceed ten campsites per net acre (excluding wetlands).

If approved, the text amendment will apply to the expansion of all campgrounds in the county. The applicant is in the due diligence period to purchase Hampton Lodge Campground did hold a community meeting on February 6, 2017 at the Currituck Cooperative Extension building with residents of Waterlily.

BACKGROUND

The 1982 Currituck County Zoning Ordinance did allow campgrounds but did not permit the expansion of the district which allowed the use.

The 1989 Unified Development Ordinance did not allow for the expansion of the zoning district that allowed campgrounds (RR). This restriction did not permit campgrounds created on property not zoned RR.

In 1992, a text amendment was approved that allowed the expansion of the RR zoning district when a property contained two zoning districts one of which was RR with a maximum overall density of 4.5 units per acre. The density was later increased to 5.5 units per acre.

In early 2011, a request was submitted to the county to allow new RR zoning districts to be created and was later withdrawn.

In 2013, the UDO specified campgrounds were nonconforming uses and could no longer be expanded.

Historically, campgrounds have been the source of many enforcement complaints such as recreational vehicles used as permanent dwellings and permanent additions being made to the temporary vehicles rendering many of them non-transportable.

The following campgrounds were considered existing in the county on January 1, 2013:

- Barnes Campground (Knotts Island)
- Bell's Island Campground (Currituck)
- Hampton Lodge (Church's Island)
- Sandy Point Resort (Knotts Island)

LAND USE PLAN CONSISTENCY

The UDO requires 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 does not provide a policy statement or direction relevant to this amendment or the expansion of nonconforming uses in general. The following goal indirectly relates to this request:

Goal 3.4: Continue to expand the role tourism plays in Currituck County.

The existing campgrounds are primarily located in the Limited Service Areas of the county the policy emphasis states, "businesses located in these areas should be designed to serve the tourist industry such as small gift shops or agri-tourism related uses provided the character and intensity of the use is in keeping with the character of the surrounding area."

Staff review of the 2006 Land Use Plan did not identify a direct conflict with the proposed text amendment.

RECOMMENDATION

Based on past experience with the operations of the existing campgrounds, planning staff is concerned with allowing the proposed density expansion of campgrounds administratively. Although the applicant has discussed added amenities to the site, the increase in campsites does not correlate to an increase in amenities or assurance of infrastructure improvements. The proposed administrative process and language will not address specific concerns related to the redevelopment and expansion of a particular campground. Potentially, some of the

nonconforming campgrounds could more than double their current capacity. The purpose and intent of nonconformities are to regulate and limit the continued existence of these uses. Generally, nonconforming uses are encouraged to receive routine maintenance as a means of preserving safety and appearance, but not expansion.

As proposed staff recommends denial of the proposed text amendment based on the following:

- The proposed language is not consistent and in conflict with the purpose and intent of the UDO by allowing an expansion and increase in intensity of the nonconforming campground; and,
- The proposed text is not reasonable and in the public interest by not providing adequate language to reduce the adverse impacts of expanded campgrounds in communities where the nonconforming uses exist.

PB 16-24
BLUE WATER DEVELOPMENT CORP

Amendment to the Unified Development Ordinance, Chapter 4: Use Standards, Chapter 8: Nonconformities, and Chapter 10: Definitions and Measurement. to provide standards for expanding existing campgrounds.

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 Chapter 4. Use Standards, Section 4.1.2. Use Table and 4.2.4.Commercial Uses are amended by adding the following underlined language, removing the strikethrough language, and renumbering accordingly:

TABLE 4.1.1: SUMMARY USE TABLE

Z = Zoning Compliance Permit; U = Use Permit; MP = Allowed with Master Plan;
 CZ= Allowed in a Conditional Zoning District blank cell = Prohibited

USE CATEGORY	USE TYPE	ZONING DISTRICT (CURRENT DISTRICT IN PARENTHESIS)															
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	PD-R	PD-M	PD-O
COMMERCIAL USE CLASSIFICATION																	
Visitor Accommodations	Bed and breakfast inn			Z	Z		Z	Z	Z	Z	Z	Z			M P	M P	M P
	<u>Campground expansion, existing private</u>																
	Hotel or motel								Z		Z	Z			M P	M P	M P
	Hunting lodge		U					Z	Z	Z					M P	M P	M P

4.2.4. Commercial Uses

J. Visitor Accommodations

(2) Campground, Existing Private

New private campgrounds are not allowed as a principle use in Currituck County. The expansion of existing private campgrounds shall be subject to the following standards:

(a) There shall be no single ownership of any campsite.

- (b) Campers and park model campers may not be modified in any manner that would render the unit non-transportable.
- (c) Campers and park model campers may not be placed on a permanent foundation.
- (d) Campgrounds shall not include permanent residences, excluding one dwelling unit to be occupied by the park caretaker, manager, or other employees.
- (e) Additions to campers are prohibited.
- (f) The maximum density of a private campground shall be five campsites per gross acre of the total tract or tracts, but shall not exceed ten campsites per net acre (total tract or tracts not including wetlands). The total number of campsites shall not exceed 450 for the total tract or tracts of the campground.
- (h) Ownership of park model campers by an individual tenant is prohibited and such may only be occupied on a temporary basis and not as a place of permanent residence or domicile.
- (i) Manufactured and mobile homes shall be prohibited.
- (j) The temporary location of a tent or camper on a campsite in a campground shall not require the issuance of a building permit.
- (k) No tent or camper shall be occupied for longer than 90 consecutive days.
- (l) A minimum of 25 percent of the total development shall be provided as open space set-asides.
- (m) All roads shall be private and will not be accepted by the North Carolina Department of Transportation for maintenance and shall be improved with at least three inches of gravel.
- (n) Campgrounds shall not be open from November 15 through March 1 of the following year.
- (o) Campground amenities shall be provided for expanded campgrounds.

Item 2: That Chapter 8. Use Standards, Section 8.2.6 Nonconforming Campgrounds is amended by adding the following underlined language and removing the strikethrough language:

8.2.6. Nonconforming Campgrounds

Private campgrounds are not allowed as a principle use in Currituck County. All existing campgrounds and campground subdivisions are nonconforming uses subject to the following standards:

A. General Standards

- (1) Camping is an allowed use of land only in existing campgrounds and campground subdivisions.
- (2) Campers may not be modified in any manner that would render the unit non-transportable.
- (3) No tent or camper may be located on a campsite or campground subdivision for more than 90 days.
- (4) Additions to campers are not permitted.
- (5) Modifications to existing campgrounds are permitted provided the changes do not increase the nonconformity with respect to number of campsites that existed on January 1, 2013. Expansions of existing campgrounds that existed on January 1, 2013 shall be permitted in accordance with the standards in Section 4.2.4.

B. Existing Campgrounds

- (1) Existing campgrounds may not be expanded to cover additional land area. ~~or exceed the total number of campsites that existed on January 1, 2013. Expansions of existing campgrounds that existed on January 1, 2013 shall be permitted in accordance with the standards in Section 4.2.4.~~
- (2) Campers may not be placed on a permanent foundation.
- (3) Campsites may have a wooden platform not to exceed 100 square feet. Platforms must be 12 inches or less in height from existing grade. Handicap ramps are not subject to the

maximum height requirement and square footage provided the ramp does not exceed five feet in width.

(4) Campgrounds shall not include permanent residences, excluding one dwelling unit to be occupied by the park caretaker or manager.

Item 3: That Chapter 10, Section 10.5 Definitions is amended by adding the following underlined language:

CAMPER, PARK MODEL

A vehicular unit capable of obtaining a state motor vehicle license and which meets all of the following standards:

- a. built on a single chassis, permanently mounted on wheels and, 400 square feet or less interior floor area when set up for occupancy;
- b. shall not exceed 17 feet in height, and shall not contain living space below the first floor elevation;
- c. is designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for installed fixtures and appliances;
- d. certified by its manufacturers to comply with ANSI A 119.5 standards for recreational park trailers;

CAMP SITE

A space within a campground used exclusively for camping purposes. Campsites shall be occupied on a temporary or seasonal basis only.

Item 4: 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 5: This ordinance amendment shall be in effect from and after the _____ day of _____, 2017.

Board of Commissioners' Chairman
Attest:

Leeann Walton
Clerk to the Board

DATE ADOPTED: _____
MOTION TO ADOPT BY COMMISSIONER: _____
SECONDED BY COMMISSIONER: _____
VOTE: _____ AYES _____ NAYS _____
.....
PLANNING BOARD DATE: _____
PLANNING BOARD RECOMMENDATION: _____
VOTE: _____ AYES _____ NAYS
ADVERTISEMENT DATE OF PUBLIC HEARING: _____
BOARD OF COMMISSIONERS PUBLIC HEARING: _____
BOARD OF COMMISSIONERS ACTION: _____
POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
AMENDMENT NUMBER: _____



Text Amendment Application

OFFICIAL USE ONLY:

Case Number: _____
Date Filed: _____
Gate Keeper: _____
Amount Paid: _____

Contact Information

APPLICANT:

Name: Blue Water Development Corp.
Address: 10211 Ruffian Lane
Berline, MD 21811
Telephone: 443-614-9122
E-Mail Address: evanorden1@comcast.net cseawell@manteolaw.com

Request

I, the undersigned, do hereby make application to change the Currituck County UDO as herein requested.

Amend Chapter(s) 3, 4 Section(s) 3.4.2, 4.1.2 & 4.2.2 as follows:

This text amendment is to permit two classifications of private campgrounds
as a permitted use in the Single-Family Residential-Mainland (SFM) District.
A distinction is made between upgrades and improvements to an existing
private campground and a new private campground. The suggested modifications
are set forth in Exhibit "A" attached.

*Request may be attached on separate paper if needed.

By: Blue Water Development Corp.
John D. DeLoach, Attorney
Petitioner

Date

11/22/14

EXHIBIT "A"

4.2.2 - Residential Uses**Private Campgrounds****1. Upgrades and improvements to existing Private Campgrounds**

Upgrades and improvements to existing private campgrounds are residential uses and shall comply with the following standards:

A. There shall be no single ownership of any campsite.

B. Campers may not be modified in any manner that would render the unit non-transportable.

C. Campers may not be placed on a permanent foundation.

D. Campgrounds shall not include permanent residences, excluding dwelling units to be occupied by campground caretaker, manager or other employees.

E. Addition to campers are not permitted.

F. No accessory buildings are permitted on individual campsites in the campground.

G. Travel trailers, truck campers, camper trailers, motor homes, other licensed recreational vehicles, cabins and recreational park trailers shall conform to the following provisions:

1. Up to 25% of the campsites in the campground may be occupied by recreational travel trailers or cabins. Such units must be owned by the campground owner.

2., Ownership of recreational park trailers or cabins by an individual tenant is prohibited and such may only be occupied on a temporary basis and not as a place of permanent residence or domicile.

3. No recreational vehicle, recreational travel trailer or cabin shall exceed one-story nor shall it exceed 17 feet in height. No such structure shall contain any living space below or any attic space or loft above the first-floor elevation.

4. Additions to recreational vehicles, recreational park trailers and cabins are prohibited in campgrounds.

H. The maximum density shall be 10 campsites per gross acre of the total property.

I. Manufactured and mobile homes shall be prohibited in private campgrounds.

J. Structures or buildings which serve as an amenity or are incidental or accessory to the operation of the campground in general may not exceed 2 stories or 45-feet in height.

K. The temporary location of a tent or recreational vehicle on a campsite in a campground shall not require the issuance of a building permit.

L. The location of a recreational park trailer or cabin on a campsite in a campground or the elevation of a recreational vehicle on a permanent foundation shall require the issuance of a building permit.

M. Every expanded or enlarged campground shall not have less than 25% of its total property devoted to open space and/or recreation as a common area.

N. All roads in the campground shall be private and will not be accepted by the North Carolina Department of Transportation for maintenance.

O. The campground will not be open from November 15 through March 1 of the following year.

2. New Private Campgrounds

New private campgrounds are residential uses and shall comply with the following standards:

A. New private campgrounds shall comply with conditional zoning approval requirements as set forth in Section 3.6 of the UDO.



805 Hwy. 64 N. • PO Box 339 • Manteo, NC 27954
ph. (252) 473-3484 • fax. (252) 473-2046 • manteolaw.com

Christopher L. Seawell
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Paddison "Pat" P. Hudspeth
phudspeth@manteolaw.com
Laura M. Twichell
ltwichell@manteolaw.com
G. Irvin Aldridge
retired

November 22, 2016

VIA e-mail

Mr. Ben E. Woody
Currituck County Planning Director

Re: Text Amendment

Dear Ben:

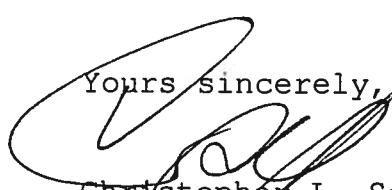
Enclosed please find a text amendment to the Currituck County Unified Development Ordinance. Included with this application is three hard copies of all documents, together with a PDF digital copy of all documents.

The applicant has signed a contract to purchase the Hampton Lodge Campground located in Waterlily, North Carolina. If the property is purchased, title will be taken in the name of Hampton Lodge Campground of Currituck, LLC. As you know, this property is currently operated as a non-conforming campground under the current UDO.

The current owner is Hampton Lodge Campground, L.L.C. Enclosed is a copy of the deed to the current owner, which is recorded in Book 178, Page 641, Currituck County Registry. You will notice the grantee in that deed is not the current owner. However, the current owner is a successor, though mergers and other changes, which did not require a new deed to be filed.

This property is composed of approximately four tracts. Enclosed is a diagram based upon the Currituck County Tax Department's information indicating the approximate boundaries of the various tracts of land that are referenced in the deed.

We look forward to receiving comments from your office with regard to this application.

Yours sincerely,

 Christopher L. Seawell

CLS/cah
Enclosures
Cc: Mr. Eric Van Orden

0079 000 0001 0000

Currituck County GIS Online Mapping

