



**Planning Board
Agenda Packet**

February 12, 2019

Work Session

6:30 PM

Call to Order

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

Approval of Minutes for December 11, 2018**Old Business****New Business**

- A) **PB 19-02 Hunter Stuart Text Amendment (Crab Shedding)** Request to amend Chapter 4 of the Unified Development Ordinance to allow crab shedding within a fully enclosed building in the General Business zoning district.
- B) **PB 19-04 Currituck County - Revised Solar Text Amendment:** Clarification was needed regarding size limits on solar energy facilities, certifications for required landscaping, inverter building door placement, and updating the decommissioning plan when property changes ownership beyond two degrees of kinship.
- C) **PB 19-01 Currituck County:** Request a text amendment to the Unified Development Ordinance, Chapter 4, Use Standards, to allow freestanding telecommunication towers in the Single Family Residential Outer Banks Remove (SFR) zoning district with a use permit.

Announcements**Adjournment**



CURRITUCK COUNTY NORTH CAROLINA

December 11, 2018

Minutes – Regular Meeting of the Planning Board

WORK SESSION

The Currituck County Planning Board held a work session at 6:00 PM in the Historic Courthouse Conference Room. Staff members briefed the board members on the items on the agenda for the Planning Board Meeting. Chairman Whiteman reviewed findings and recommendations with staff for the Solar Text Amendment. The work session adjourned at 6:58 PM.

CALL TO ORDER

The Planning Board met in a regular session at 7:00 PM in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina.

Attendee Name	Title	Status	Arrived
Anamarie Hilgendorf	Board Member	Present	
Fred Whiteman	Chairman	Present	
C. Shay Ballance	Vice Chairman	Present	
Carol Bell	Board Member	Absent	
Steven Craddock	Board Member	Present	
Joanne M. DiBello	Board Member	Absent	
Jane Overstreet	Board Member	Present	
J. Timothy Thomas	Board Member	Absent	
Laurie LoCicero	Planning and Community Department Director	Present	
Tammy Glave	Planning and Community Development Senior Planner	Present	
Jennie Turner	Planning and Community Development Planner II	Present	
Jason Litteral	Planning and Community Development Planner I	Present	
Cheri Elliott	Clerk to the Board	Present	

Chairman Whiteman called the meeting to order at 7:02 PM after waiting for additional citizens to sign up to speak.

A. Pledge of Allegiance & Moment of Silence

Chairman Whiteman asked everyone to stand for the Pledge of Allegiance and a moment of silence.

B. Ask for Disqualifications

Chairman Whiteman asked if any board member had a conflict of interest with the matters coming before the board. There were no conflicts noted.

Communication: PB Minutes December 11, 2018 (Approval of Minutes for December 11, 2018)

C. Announce Quorum Being Met

Chairman Whiteman announced a quorum being met with five board members present.

D. Approval of Agenda

Chairman Whiteman asked if there were any changes needed to the agenda for tonight's meeting. Mr. Craddock motioned for Announcements be moved before Old Business and approve with this amendment. Chairman Whiteman seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Anamarie Hilgendorf, Board Member, Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jane Overstreet, Board Member
ABSENT:	Carol Bell, Board Member, Joanne M. DiBello, Board Member, J. Timothy Thomas, Board Member

APPROVAL OF MINUTES FOR OCTOBER 9, 2018

Chairman Whiteman asked if any changes were needed for the meeting minutes of October 9, 2018. Mr. Craddock motioned to approve the meeting minutes as presented. Mr. Ballance seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Anamarie Hilgendorf, Board Member, Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jane Overstreet, Board Member
ABSENT:	Carol Bell, Board Member, Joanne M. DiBello, Board Member, J. Timothy Thomas, Board Member

E. PB Minutes October 9, 2018**ANNOUNCEMENTS**

Mr. Craddock presented a Chairman plaque and a Resolution of Appreciation plaque on behalf of the Planning Board to Fred Whiteman for his service and dedication as a member of the Currituck County Planning Board from January 2015 through December 2018. Mr. Whiteman also served as the Vice-Chairman for 2017 and as the Chairman in 2018. Mr. Whiteman will continue to serve as a board member until his replacement is appointed by the Board of Commissioners.

Chairman Whiteman presented a Resolution of Appreciation plaque on behalf of the Planning Board to Steven Craddock for his service and dedication as a member on the Currituck County Planning Board from January 2013 through December 2018. Mr. Craddock will continue to serve until his replacement is appointed by the Board of Commissioners.

Chairman Whiteman presented a Resolution of Appreciation plaque on behalf of the Planning Board to Jane Overstreet for her service and dedication as a member on the Currituck County Planning Board from December 2013 through December 2018.

OLD BUSINESS

A. PB 17-14 Currituck County - Solar Text Amendment:

Senior Planner, Tammy Glave presented the staff report noting this item was heard at the October Planning Board Meeting and was tabled so the Department of Defense (DoD) regulation for the Clearinghouse could be reviewed by the Planning Board and to have various questions brought by the Planning Board answered. Mr. Glave said the Department of Defense is part of the Technical Review Committee (TRC) and would weigh in if there were any problems. Mr. Glave briefly reviewed some of the changes being recommended by the Planning Board from the original text amendment that was presented at the last Planning Board meeting.

Chairman Whiteman allowed time for the public to speak.

James Ferebee from Shawboro said he was in favor of solar and asked that Currituck County please get rid of this ban.

Joe Etheridge of Shawboro also spoke in favor of allowing solar farms.

Paul O'Neal of Coinjock spoke in favor of solar and said he has been on both sides. As a former Board of Commissioner he has voted in the past against some of the solar fields, but he has now come to the conclusion there is no runoff pollution from solar panels and that the younger generation is looking at us to do renewable energy.

Mr. Craddock said we should be encouraging this to diversify our energy needs.

Chairman Whiteman reviewed each change the Planning Board recommended to the original text amendment presented at the October meeting:

K.1.a. - Should be removed - no limit should be on abutting properties

K.2.a. - Maximum size is not a good idea - Strike this

K.3.a. - Change from 300' to 150' and 150' to 75'

K.3.b. - CAMA requires only 30' so it should be union with their rules - Ms. Glave recommended striking since that number of feet is already required by CAMA

K.3.c. - Abutting properties should not have a setback - Strike this

K.4.a. - Chairman Whiteman asked Harry Johnson with Cypress Creek Renewables in Raleigh to speak about the height requirements. Mr. Johnson recommended raising the height from a maximum of 15' to 20' to for more efficient tracking of the sun. 15' only covers to the equator - Planning Board recommends an increase to 20' from the 15'

K.5.a. - Hours of operation should be in line with the noise ordinance - change to 7 AM to 10 PM; Contractors should be allowed to work on Saturdays - change days of operation to Monday through Saturday

Discussion was held over Screening and Buffers and Ms. Glave gave clarification: 3 years are given to get to the required 20'

K.6.b. - Certification from a landscape architect or certified arborist is redundant and not cost effective - Strike this

K.6.d. - Plantings cannot reach the required height in 3 years in our soil - Change to 5 years

K.7.a. - Approval from the access controlling agencies for street access must be provided prior to the issuance of a Certificate of Compliance by the Building Inspector.

- K.7.b. - Pollinator habitat - changed to 20% from 30%
- K.7.b.i. - Include more organizations so not limited to just one
- K.7.b.ii. - Change to 20%
- K.8.a.ii. - Why is herbicide prohibited when farmers use it - Strike this
- K.8.b.i. - Wells shall be minimum of 20'
- K.8.b.ii. - 2 wells, one in center and one in lowest point, if within 50 ft of each you can do 1 well
- K.8.b.iii. - Strike this
- K.8.b.iv. - Prior to construction and next 2 years; if found, then on year to year basis - No contaminants and testing is 2, 3, and 5 years
- K.8.b.vi. - Only the contaminants required by the Health Department - Strike this
- K.10.f.iv. - Change Performance Guarantee amount shall be reviewed every five years

Mr. Craddock said the solar text amendment was not written well; it stifled and prohibited property owners from using their land as they see fit. Mr. Craddock thanked Chairman Whiteman for taking the time to review the text amendments and make the needed changes.

Mr. Ballance motioned to approve PB 17-14 Currituck County - Solar Facilities text amendment with all the changes recommended at tonight's meeting.

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

- It protects active agricultural lands having a high productive potential and conserves those lands for continued agricultural use. (LUP POLICY AG1) - Solar
- It provides a new and expanding industry that trains and utilizes a more highly skilled labor force and diversifies the local economy. (LUP ED1) - Solar

The request is reasonable and in the public interest because:

- It prevents incompatible solar array projects from being established that could adversely impact the quality of life for county residents.

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

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 1/22/2019 6:00 PM
AYES:	Anamarie Hilgendorf, Board Member, Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jane Overstreet, Board Member	
ABSENT:	Carol Bell, Board Member, Joanne M. DiBello, Board Member, J. Timothy Thomas, Board Member	

NEW BUSINESS

A. PB 18-26 David Shields:

Planner II, Jason Litteral presented the staff report. The property is located in Grandy and is a convenience store and arcade. The owner, David Shields, would like to install a laundry mat and needs to rezone a small portion of the property to General Business for the septic system. Mr. Litteral said there was a community meeting for the requested change and no one came. Also, the septic system will work as a buffer for the subdivision located nearby since this will make this piece of land unbuildable.

Ms. Overstreet asked if the property is located in a full service area and Mr. Litteral said it is.

Mr. Shield came before the board and clarified the plans for the septic system.

Mr. Craddock motioned to approve PB 18-26 David Shields zoning map amendment request since it is consistent with the goals, objectives, and policies of the Land Use Plan, is compatible with existing and proposed uses surrounding the land subject to the application, and is an appropriate zoning district and use for the land. Also, It is reasonable and in the public interest because it would result in a logical and orderly development pattern and addresses a demonstrated community need.

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

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 1/7/2019 6:00 PM
AYES:	Anamarie Hilgendorf, Board Member, Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jane Overstreet, Board Member	
ABSENT:	Carol Bell, Board Member, Joanne M. DiBello, Board Member, J. Timothy Thomas, Board Member	

B. PB 18-25 Jerry L. Old & Don S. Williams, Sr. (Ferebee Acres) Zoning Map Amendment:

Planner II, Jennie Turner presented the staff report. Jerry Old and Don Williams Sr are requesting a zoning map amendment to relocate the split zoning of approximately 7.7 acres from General Business (GB) to Agriculture (AG). There are two existing billboards on the lot and they are required to remain in the General Business district. Ms. Turner said staff recommends approval.

Warren Eadas with Quible & Associates came before the board. He said they are working toward a conservation subdivision and require this zoning change. The community meeting was held and only two people showed up with no one in opposition.

Mr. Ballance motioned to approve PB 18-25 Jerry L. Old & Don S. Williams, Sr. (Ferebee Acres) Zoning Map Amendment since it is consistent with the Land Use Plan classifications and policies stated above and it is reasonable and in the public interest because:

- It is compatible with existing and proposed uses surrounding the land subject to the application, and is the appropriate zoning district and uses for the land;
 - The request, a downzoning of a portion of GB zoned property to AG, is compatible with existing and proposed uses, as a straight rezoning of the entire property to AG would create bifurcated GB zoned parcels adjacent to Caratoke Highway. Additionally, a straight rezoning of the entire property to AG would require removal of the existing billboards as billboards may only continue if located in the GB zoning district. Existing uses adjacent to the property include vacant property and single-family dwellings. An adjacent single-family dwelling is located in the GB zoning district.
- It will result in a logical and orderly development pattern;

- Permissible uses in AG are less intensive than those permissible in the GB zoning district and the LUP policies support AG uses over GB uses on this property.

Mr. Craddock seconded the motion and the motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 1/7/2019 6:00 PM
AYES:	Anamarie Hilgendorf, Board Member, Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jane Overstreet, Board Member	
ABSENT:	Carol Bell, Board Member, Joanne M. DiBello, Board Member, J. Timothy Thomas, Board Member	

C. PB 08-48 Cape Currituck (Horgan/Mason):

Senior Planner, Tammy Glave presented the staff report. Ms. Glave said staff is recommending approval. The number of dwelling units will be reduced from 237 to 160 which will reduce the density. The applicants are putting in extra buffers that are not required. All the conditions of approval remain the same except two are changing - Ms. Glave referenced the conditions in the staff report for the changes being underlined (below).

Landscaping/Screening

1. All inland, non-tidal and coastal wetlands **not proposed to be filled** shall remain undisturbed in accordance with the Currituck Marina Conceptual Plan. Delineated CAMA, 404, and 401 wetlands shall be placed in a conservation easement or preservation trust preventing individual ownership or development.
2. There shall be no development, land disturbing **(other than excavation of access channel, restoration or enhancement of natural ecosystems and management of invasive species)**, or logging activities in areas designated by the 2006 Land Use Plan as Conservation in accordance with the Currituck Marina Conceptual Plan. This shall not preclude elevated walkways, utilities, or other necessary public improvements.

Ms. Glave said one of staff's concerns was the parking area being a long distance from the boat ramp. Staff would like a walking path from this area with signs for pedestrian safety.

Mr. Craddock asked if there was adequate space for turning in this parking area and Ms. Glave said yes, the applicant has run software to show this is adequate.

Cathleen Saunders with Quible & Associates came before the board to represent the applicant. She said they are reducing the units to 160 and making the design more environmentally friendly with a 30 foot buffer and 42 acre environmental area. Wet pavers will be used to address wet areas. At the community meeting the key concerns was the use of West Side Lane as an entrance and she said they have to use this because of the wetlands. NCDOT was onsite and they are in agreement that using this road as the entrance is compliant with their standards. The boat ramp was not something that we wanted, but was a requirement made by the Board of Commissioners. The wastewater area was flipped with the parking area so it would be farther away from the adjoining properties. As far as the distance of the parking area from the boat ramp, shuttles have been considered.

Chairman Whiteman asked for if there were any persons wishing to speak in opposition.

Tom Voorhees of Duncans Way, Powells Point, said he is the Kilmarlic board representative and they are concerned about the amount of traffic for West Side Lane. He said there are no lights or sidewalks and this causes safety concerns for people walking in the neighborhood.

Warren Eadus with Quible & Associates gave their rebuttal. He said they have spoken with NCDOT about having speed bumps put on the road and this is not favorable due to emergency services having to have a quick access if needed.

Ray Bruce, a Kilmarlic resident, spoke in opposition. He said he is concerned with flooding and evacuation of his property if needed.

Mr. Eadus said they have addressed the flooding concerns and there will be a softened shoreline and elevated homes.

Mr. Craddock asked if West Side Lane was a state maintained road and Ms. Glave said yes. Mr. Craddock said since it is a state maintained road, shouldn't the residents be taking up their concerns with NCDOT and Ms. Glave affirmed his statement.

More Discussion was held concerning the distance of the boat ramp and parking area. Ms. Hilgendorf was in favor of a ADA compliant walkway between the two areas. Mr. Craddock asked if the applicant will agree to walkways and signage. Mr. Eadus said they are willing to do a walkway.

Mr. Craddock motioned to approve PB 08-48 Cape Currituck for the conditional rezoning with the agreed upon conditions since total number of dwellings has reduced with no more than 30 residential dwelling units shall receive a certificate of occupancy prior to the public marina being fully permitted and approved by any local, state, and federal regulatory or permitting agency, no more than 60 residential dwelling units shall receive a certificate of occupancy prior to the marina being fully operational and open to the public and no more than 100 residential dwelling units shall receive a certificate of occupancy prior to the commercial components of the request being approved and fully constructed. Also to include the pedestrian walkway between the parking and the boat ramp with additional signage to prevent pedestrian danger.

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

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 1/7/2019 6:00 PM
AYES:	Anamarie Hilgendorf, Board Member, Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jane Overstreet, Board Member	
ABSENT:	Carol Bell, Board Member, Joanne M. DiBello, Board Member, J. Timothy Thomas, Board Member	

D. PB 18-23 Fost Tract:

Senior Planner, Tammy Glave presented the staff report. Ms. Glave said this is a planned development that will have a clubhouse with a multi-use area with the backside designated for utilities. Public sewer is not provided for this. The property did come out of the flood zone, but there is historic flooding in this area. There are 2.25 units per acre which goes over the density requirement of the small area plan. The Technical Review Committee (TRC) recommended denial due to its inconsistency in the Land Use Plan, Moyock Small Area Plan and the Unified Development Ordinance (UDO).

Mr. Craddock asked which Land Use Plan were they referencing and the Planning Director, Laurie LoCicero, stated the 2006 LUP.

Mark Bissell with Bissell Professional Group came before the board to represent the applicant. He presented a PowerPoint presentation which showed pictures of the current property and ditches. He said they will clean out the ditches and would alleviate the flooding in Rowling Creek which would help the surrounding neighborhoods that have had flooding in the past.

Attorney, Jamie Schwedler, also representing the applicant came before the board. She discussed densities and said they were consistent with the requirements of the Land Use Plan and they were just above the density for the Moyock Small Area Plan. She also said the designs for this development will improve the sewer and stormwater plan.

Mr. Craddock stated that we are now at 10:00 PM and according to the Rules of Procedure we are required to vote to continue with the meeting. Chairman Whiteman asked for a motion to continue for an additional 30 minutes. Mr. Craddock made the motion and Mr. Ballance seconded the motion with all board members in agreement to continue.

Chairman Whiteman asked for any persons wishing to speak.

David Shepherd who lives on Saint Andrews in Moyock came before the board. Mr. Shephert wants the Planned Development to clean out Rowland Creek and stop the flooding in the Eagle Creek neighborhood.

Mr. Bissel asked the board for additional time to give his concluding comments and reiterated how the applicant would clean the ditches and make an additional widening of the ditch on the applicant's side of the property if the adjoining property owners did not give them permission to do so on their side.

Mr. Craddock looked to staff to confirm that the LUP and the SAP do not agree on this property and Ms. Glave and Ms. LoCicero said that was correct.

Chairman Whiteman said we have had flooding in the Ranchland and Eagle Creek neighborhoods for decades and setting aside the density issue, the applicant appears to be wanting to clean out the ditches and improve the drainage issues which seems to be a positive for the area.

Discussion was held over getting an easement from Ranchland property owners to dig a bigger ditch.

Mr. Craddock spoke on the densities for the neighborhoods in the area and said Ranchland has the least amount of density, then Eagle Creek, and then the Fost Tract has the most.

Mr. Ballance said he believes this is good for them to dig out the ditches and maintain them.

Mr. Craddock said this development seems to be compatible with the other areas/neighborhoods and will do good.

Mr. Craddock motioned to approve PB 18-23 Fost Tract since it is consistent with the goals, objectives, and policies of the Land Use Plan and it will improve drainage for other property owners.

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

Mr. Craddock made a motion to extend the meeting for an additional 30 minutes. Mr. Ballance seconded the motion and the motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 2/4/2019 6:00 PM
AYES:	Anamarie Hilgendorf, Board Member, Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jane Overstreet, Board Member	
ABSENT:	Carol Bell, Board Member, Joanne M. DiBello, Board Member, J. Timothy Thomas, Board Member	

E. PB 18-27 University Park LLC:

Senior Planner, Tammy Glave presented the staff report. The property owner is requesting the Land Use Plan (LUP) Map amendment from Limited Service to Full Service to allow an increase in density from 1.5 units per acre to 3 units per acre. University Park, Phase 2, has approval for 39 residential townhome units. The owner is approaching buildout of Phase 2 and every unit is either rented or under contract to be rented once the units receive a Certification of Compliance from the Building Inspector. The proposed amendment to the LUP map will allow for needed affordable housing in Currituck County in a safe community. There is currently a waiting list for these apartments. This also provides housing for local workers and people who want to reside close to the beach but prefer to live in Currituck County. Phase 3 of University Park was intended for future development with the desire to develop as 39 additional residential townhome units once the update to the 2006 Land Use Plan/Map, Imagine Currituck, was adopted that does allow for densities up to 3 units per acre in this location. Since the 2006 Land Use Plan Update, Imagine Currituck, is in the final review stage, the owner desires to move forward with the map amendment to the existing LUP. Staff recommends approval as presented.

Mr. Craddock asked if CAMA would reject this plan. Mr. Glave said she did speak with Charlene Owens, the district representative for CAMA and she said if the Board of Commissioners approved this they typically follow their recommendations.

Bryan Sewell with House Engineering came before the board to represent the applicant. He said they did have a community meeting and their biggest concern was traffic on West

Mobile Road. We tried to assure them that everything we will do is going to be done right and according to the rules and regulations from the governing entities.

Chairman Whiteman asked if anyone else would like to speak.

Emmett McMillan from West Mobile Road, Powells Point, came before the board. He said he is the largest property owner near this development. He spoke about ongoing concerns he has had with the applicant and his project. He spoke about the applicant being in violation of a current restriction and asked if this application can go further because of it. Chairman Whiteman said this is not the issue that is in front of this board tonight. Mr. McMillan continued to speak about problems he continues to have with the applicant and asked where is the protection for the property owners beside this project. He said he is having to defend his property rights and he shouldn't have to from the beginning and asked how these issues can be fixed. He spoke about a basketball court that was put in that was not supposed to be since it was not in the original storm water project. He said the applicant is in violation and he cannot afford to fight anymore. He said he doesn't have the money, but the applicant does and his family has suffered because of these difficulties.

Mr. Craddock said he is sorry you have had these difficulties, but it sounds like you need to get an attorney or you may have a code enforcement issue, but this is not the issue at hand tonight. Mr. Craddock said they both need to talk to each other and work their issues out.

Mr. Craddock asked Ms. Glave what is being done to rectify the issues that these two property owners are having, just for informational purposes. Ms. Glave said the Storm Water has to be inspected and completed at the state stormwater agency at the end of the project by that agency. They have one additional building to build. The basketball court, they did submit an amended plan that was approved by the Technical Review Committee. There is an undisturbed buffer that had some disturbance. There were some trees that fell down or may not have fallen down and the applicant added trees to replace the missing trees.

Ms. Higendorf asked if there were some things that are not being enforced that have to do with this application. Chairman Whiteman and Ms. LoCicero said these were two separate issues. Ms. Glave said if there are some potential violations they need to be turned into the Code Enforcement Officer.

Mr. Ballance motioned to approve PB 18-27 University Park adjustment of the 2006 Land Use Plan since it is consistent with the use of the property.

Chairman Whiteman seconded the motion and the motion carried with 4 board members in favor and Jane Overstreet as a nay.

RESULT:	RECOMMENDED APPROVAL [4 TO 1]	Next: 2/4/2019 6:00 PM
AYES:	Anamarie Hilgendorf, Board Member, Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member	
NAYS:	Jane Overstreet, Board Member	
ABSENT:	Carol Bell, Board Member, Joanne M. DiBello, Board Member, J. Timothy Thomas, Board Member	

F. Proposed Amendment to the Planning Board's Rules of Procedure:

Planning Director, Laurie LoCicero went over the changes to the Rules of Procedure for the Planning Board.

Discussion was held over not changing the time from 7:00 PM to 6:00 PM. Board members decided to keep the regular meeting time at 7:00 PM.

Board members also said the Rules of Procedure needing to have an effective date of January 1, 2019.

Mr. Craddock motioned to approve the Rules of Procedure with the changes, but keeping the time 7:00 PM and adding the effective date. Mr. Ballance seconded the motion and the motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]
AYES:	Anamarie Hilgendorf, Board Member, Fred Whiteman, Chairman, C. Shay Ballance, Vice Chairman, Steven Craddock, Board Member, Jane Overstreet, Board Member
ABSENT:	Carol Bell, Board Member, Joanne M. DiBello, Board Member, J. Timothy Thomas, Board Member

ADJOURNMENT

Ms. Overstreet made a motion to adjourn. Mr. Ballance seconded the motion and the meeting adjourned at 11:15 PM.



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 2376)

Agenda Item Title

PB 19-02 Hunter Stuart Text Amendment (Crab Shedding)

Brief Description of Agenda Item:

Request to amend Chapter 4 of the Unified Development Ordinance to allow crab shedding within a fully enclosed building in the General Business zoning district.

Board Action Requested

Action

Person Submitting Agenda Item

Jason Litteral,

Presenter of Agenda Item

Jason Litteral

**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
 Planning Board

From: Planning Staff

Date: February 12, 2019

Subject: PB 19-02 Hunter Stuart (Crabshedding)

The purpose of this text amendment is to allowing crab shedding on a General Business (GB) lot within a fully enclosed business.

Staff is taking this opportunity to cleanup this section of the UDO as corrections are necessary since this section sets standards for crab shedding in a residential zoning district; however, crab shedding is not a permitted use in a residential zoning district. This is an incorrect carryover from a previous ordinance. Staff changes are highlighted in yellow and the applicant's request is highlighted in blue on the attached staff report.

Background

- Currently crab shedding is allowed in the Agricultural (AG) and Mixed Residential (MXR) zoning district with use specific standards appropriate to those zoning districts. The use does not have to be within a building in these zoning districts.
- The applicant is proposing to allow crab shedding in the GB zoning district. All equipment (i.e. tanks, coolers, freezers) must be within a fully enclosed building. In addition to retail sales, wholesale sales are allowed.

Attachment: Staff Report (Text Amendment) (PB 19-02 Hunter Stuart)

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. The request is consistent with the goals, objectives, and policies of the Land Use Plan (See Policies CD1, ED1, ED3, and CA1) and other adopted plans.
- (2) Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
 - a. The request is consistent with the allowed uses in the UDO within the GB zoning district.
 - b. The request is consistent with the County Code of Ordinances.
- (3) Is required by changed conditions;
 - a. With an increased pressure from consumers for locally grown and harvested food, this request will further the availability of locally harvested products from the Currituck Sound.
 - b. NC Department of Agriculture, Got to be NC Program, stresses the positive economic impact of choosing locally grown products as a result of increased consumer demands.
- (4) Addresses a demonstrated community need;
 - a. With an increased pressure from consumers for locally grown and harvested food, this request will further the availability of locally harvested products from the Currituck Sound
- (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. The request is consistent with the GB District purpose in that the district is intended to accommodate small to medium-sized commercial, office, personal services, and institutional uses that provide goods and services to county residents and visitors in ways that protect the county's scenic corridors.
 - b. There is a multitude of assurances of efficient development with this request. Crab shedding in Currituck's waters is regulated by federal and state agencies including the FDA, the NC Department of Health and Human Services, the NC Department of Agriculture and Consumer Services, the NC Department of Environmental Quality, and the NC Marine Fisheries Division, insuring that only safe wholesome seafood reaches our customers.
- (6) Would result in a logical and orderly development pattern; and
 - a. Since all crab shedding equipment would be within a fully enclosed business, this request would make the use consistent with other retail operations in a GB zoning district.

- (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. Crab shedding is an environmentally sensitive operation as it depends upon clean waters to harvest from and shed crabs in; therefore, the industry remains vigilant in protecting the environment.
 - b. Crab shedding in Currituck's waters is regulated by federal and state agencies including the FDA, the NC Department of Health and Human Services, the NC Department of Agriculture and Consumer Services, the NC Department of Environmental Quality, and the NC Marine Fisheries Division, insuring environmental protection.

Staff Recommendation

Staff recommends approval as presented.



STAFF REPORT PB 19-02 HUNTER STUART PLANNING BOARD FEBRUARY 12, 2019

Hunter Stuart requests an amendment to the Unified Development Ordinance, Chapter 4 Use Standards, to allow crab shedding in the General Business (GB) zoning district within a fully enclosed building.

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:

NOTE: This is a combination of staff's request to correct an error in this section of the UDO and the applicant's request. Staff's corrections are necessary since this section sets standards for crab shedding in a residential zoning district; however, crab shedding is not a permitted use in a residential zoning district. This is an incorrect carryover from a previous ordinance. Staff changes are highlighted in yellow and the applicant's request is highlighted in blue.

Item 1: That Chapter 4 is amended by adding the following bold and underlined language in Section 4.1.2 Table of Permissible Uses:

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 [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]															
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	PD-R	PD-M	PD-O
	Crab Shedding		Z					Z	Z				Z	Z	MP	MP	

Item 1: That Chapter 4 is amended by deleting the following strikethrough language and adding the following bold and underlined language in Section 4.2.5.B:

B. Industrial Services

(I) Crab Shedding

Crab shedding uses located within **all allowed a residential** (Staff) zoning districts shall comply with the following standards:

PB 19-02 Hunter Stuart
Text Amendment
Page 4 of 7

(a) General Standards

- (i)** All phases of the operation must be conducted not less than 10 feet from the property line and not less than 50 feet from any adjacent dwelling; (Staff – Moved to AG and MXR Section)
- (ii)** No odor, fumes, excessive noise, or traffic shall be allowed;
- (iii)** On-premise freezing, packing, and preparation for shipping is allowed;
- (iv)** No more than one truck, van, car, or other vehicle, or part of a vehicle, which is visible from adjacent public streets may be kept on the site; and (Staff – Moved to AG and MXR Section)
- (v)** No vehicle or trailer which is larger than 8 feet by 32 feet shall be maintained on-site. (Staff- Moved to AG and MXR Section)
- (vi)** Open storage must be fenced with opaque fencing a minimum of six feet in height; and, (Staff – to also apply to GB and not just AG and MXR)
- (vii)** On-premise sale of soft crabs and peeler crabs is allowed. (Staff – to also apply to GB and not just AG and MXR)

(b) Additional Standards in the AG and MXR Districts

- (i)** A sign not exceeding six square feet is allowed;
- (ii)** All phases of the operation must be conducted not less than 10 feet from the property line and not less than 50 feet from any adjacent dwelling; (Staff – to apply to AG and MXR only)
- (iii)** No more than one truck, van, car, or other vehicle, or part of a vehicle, which is visible from adjacent public streets may be kept on the site; and, (Staff – to apply to AG and MXR only)
- (iv)** No vehicle or trailer which is larger than 8 feet by 32 feet shall be maintained on-site. (Staff – to apply to AG and MXR only)

(c) Additional Standards in the GB District (Applicant)

- (i)** All equipment of the operation (i.e. tanks, coolers, freezers) must be within a fully enclosed building. (Applicant)
- (ii)** On-premise wholesale of soft crabs and peeler crabs is allowed.

Item 2: Statement of Consistency and Reasonableness:

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

- Neighborhood serving commercial districts and small-scale businesses are encouraged. (Policy CD1)
- The county encourages new and expanding industries and businesses that: 1) diversify the local economy, 2) train and utilized a more highly skilled labor force, and 3) are compatible with the environmental quality and natural amenity-based economy of Currituck County. (Policy ED1)
- The county recognizes the considerable value of small business start-ups, expansions, and spin-offs. (Policy ED3)
- The majority of GB zoned property in the county is either on or visible from Caratoke Highway. The county recognizes the important economic, tourism, and community image benefits of an attractive highway corridor. (Policy CA1) The UDO requires that non-residential uses on or visible from Caratoke adhere to strict design and community compatibility standards.

The request is reasonable and in the public interest because:

- It allows for the appropriate expansion of an industry (Crab shedding) in a commercial zoning district (GB) that has been a part of Currituck's historic fishing and crabbing culture since inception.
- It encourages small-scale business start-ups in appropriate locations to serve neighborhoods and the general public.
- Crab shedding is an environmentally sensitive operation as it depends upon clean waters to harvest from and shed crabs in; therefore, the industry remains vigilant in protecting the environment.

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: _____
 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: Hunter Stuart
Address: 102 Old Oaks Dr
Currituck NC 27929
Telephone: 252-207-3540
E-Mail Address: daioli6225@yahoo.com

Request

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

Amend Chapter(s) 4 Section(s) 4.1.2 and 4.2.5.B.1 as follows:

To allow crabshedding within a fully enclosed building in the General Business (GB) zoning district subject to the following conditions:

1. All components of the operation (i.e. tanks, coolers, freezers) must be within a fully enclosed building.

2. On-premise wholesale of soft crabs or peeler crabs is allowed.

*Request may be attached on separate paper if needed.

Petitioner

12/20/18
Date



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 2375)

Agenda Item Title

PB 19-04 Currituck County - Revised Solar Text Amendment:

Brief Description of Agenda Item:

Clarification was needed regarding size limits on solar energy facilities, certifications for required landscaping, inverter building door placement, and updating the decommissioning plan when property changes ownership beyond two degrees of kinship.

Board Action Requested

Action

Person Submitting Agenda Item

Tammy Glave,

Presenter of Agenda Item

Terry Anderson


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: Planning Board
 Board of Commissioners

From: Planning Staff

Date: January 29, 2019

Subject: PB 19-04 Currituck County – Revised Solar Text Amendment Language

The Board of Commissioners adopted the attached solar standards on January 22, 2019. After the adoption of the language, it was determined that additional clarification was needed regarding size limits on solar energy facilities, certifications for required landscaping, inverter building door placement, and updating the decommissioning plan when property changes ownership beyond two degrees of kinship.

Thank you.

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. This request is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans.
 - b. The Land Use Plan encourages new and expanding industries and business that diversify the local economy, train and utilize a more highly skilled labor force, and are compatible with the environmental quality and natural amenity-based economy of Currituck County.
- (2) Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
 - a. The request is consistent with this Ordinance and the County Code of Ordinances.
 - b. A solar energy facility is an allowable use in the UDO Table of Permitted Uses and is subject to specific development standards.

- (3) Is required by changed conditions;
 - a. North Carolina's Renewable Energy and Energy Efficiency Portfolio Standards, established by Senate Bill 3 in August 2007, requires all investor-owned utilities to supply 12.5% of 2020 retail electricity sales from eligible renewable energy resources by 2021. Municipal utilities and electric cooperatives must meet a target of 10% renewables.
- (4) Addresses a demonstrated community need;
 - a. According to Dominion Energy that services our area, solar energy is key to its clean energy growth. Since 2013, Dominion Energy has helped bring 1,200-megawatts of large-scale solar into operation into nine states, including North Carolina. (www.dominionenergy.com)
- (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 is consistent and prevents incompatible solar array projects from being established that could adversely impact the quality of life for county residents.
- (6) Would result in a logical and orderly development pattern; and
 - a. It prevents incompatible solar array projects from being established that could adversely impact the quality of life for county residents.
- (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. A solar energy facility should have insignificant impacts on the natural environment.
 - b. Potential drinking water contamination concerns are address through monitoring wells located throughout the site.

Staff Recommendation

Staff recommends approval as presented.

**PB 19-04
CURRITUCK COUNTY
Solar Energy Facilities – Revised
Based upon 2/4/19 BOC Work Session**

Amendment to the Unified Development Ordinance Chapter 4: Use Standards, to clarify development standards for Solar Energy Facilities.

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 adding the following language as Section 4.2.3.K:

K. Solar Energy Facility (SEF)

A SEF shall comply with the following standards:

1. Location
 - a. No SEF project shall be located in a Full-Service area designated by the Land Use Plan.
 - b. No SEF project shall be located in a Significant Natural Heritage Areas as identified by the NC Natural Heritage Program.
2. **Maximum Size**
 - a. **The maximum SEF project size for parcel(s) under single ownership is 1,000 acres.**
 - b. **The maximum SEF project size for adjoining parcels under different ownership is 1,500 acres.**
 - c. **If two or more parcels are a part of the same SEF project, the parcels must be abutting.**
3. Setbacks
 - a. All panels, equipment, and associated security fencing shall be setback 300' from a major arterial street right-of-way and 150' from all other NCDOT street rights-of-way and property lines.
 - b. All panels, equipment, and associated security fencing shall be setback 100' from any CAMA designated navigable water bodies, Army Corps of Engineers or CAMA wetlands, and Significant Natural Heritage areas.
 - c. Plantings are allowed in setback areas.
4. Height and Configuration
 - a. The maximum height of the SEF, including all mounts, panels, and other equipment, shall not exceed 20' above grade when oriented at maximum height.
 - b. The panels and equipment shall be configured to avoid glare beyond the exterior property lines.
5. Sound
 - a. The hours of operation during construction phase of the SEF shall be from 7:00am to 7:00pm, Monday through Saturday;
 - b. If the construction area for the SEF is located within 1500' of a public school or licensed pre-school, no pile driving shall be allowed during regular school session times.
6. Buffers and screening

- a. Prior to issuance of a Certificate of Compliance by the Building Inspector, a Type D opaque buffer or an earthen berm as tall as the tallest panel at maximum height shall be installed.
- b. Certification from a landscape contractor, landscape architect, or an International Society of Arboriculture certified arborist that 100% opacity will be reached at maximum panel height within 5 years shall be submitted.**
- c. Opacity of the buffer shall be assessed from the exterior property lines and rights-of-way.
- d. A performance guarantee in the amount of 115% of the cost of the landscaping used for screening shall be submitted prior to the issuance of a building permit and remain valid until 100% opacity is reached. Should 100% opacity not be reached within 5 years of building permit issuance, the county will draw upon the performance guarantee as outlined in Section 6.3.F Default and Forfeiture of Performance Guarantee and install required supplemental landscaping.
- e. If supplemental landscaping is installed pursuant to this section, additional time for growth will be allowed and the balance of the performance guarantee shall be maintained valid until 100% opacity is reached.
- f. For SEF projects that have a common interior property line, the Type D buffer is not required on the common, interior property line.

7. Development Plan

- a. The SEF project shall be developed in accordance with an approved major site plan that includes the following information:
 - i. The location of the SEF, including the arrangement of any existing or proposed buildings, structures or panels.
 - ii. The location of the access door(s) for buildings that house inverter equipment must face away from the Naval Support Activity Northwest Annex.**
 - iii. The distance from any proposed SEF building, structure, panels, and fence to the surrounding property lines.
 - iv. Existing or proposed signs, fencing, lighting, construction and permanent parking areas, driveways, landscaping, vegetative screening, or required buffers.
 - v. Horizontal and vertical elevation to-scale drawings with dimensions.
 - vi. Certification that all panels have passed UL 1703 regarding PV module safety.
 - vii. Approval from access controlling agencies for street access (i.e. NCDOT, Rail Road).
- b. The SEF project shall designate 30% of the total land area in one or a combination of the following plans:
 - i. Approved plan from the North Carolina Wildlife Resources Commission, Habitat Conservation Division, designating 30% of the total land area of the SEF as an acceptable native pollinator habitat; or,

- ii. An annual cultivation plan detailing crops and harvest schedule should at least 30% of the total land area of the SEF remain active farmland.
- 8. Environmental Concerns
 - a. Appropriate ground cover/grass is required for soil stabilization and shall be maintained in a manner that does not create a fire hazard.
 - i. Grass and weeds not associated with the pollinator habitat shall not exceed two feet in height at any time.
 - b. Ground water monitoring wells
 - i. Shall be a minimum of 20' deep.
 - ii. Monitoring wells shall be installed prior to construction of any of the SEF components.
 - iii. Monitoring wells shall be located near the center of the site and along either the north and south or east and west exterior property lines at approximately the lowest ground elevation point on the respective property line.
 - iv. Testing data prepared by a laboratory certified by the North Carolina Department of Health and Human Services to analyze water subject to the regulations under the North Carolina Drinking Water Act shall be submitted prior to construction of the SEF. If evidence of contaminants (from list provided in Section K.7.b.v) is shown, another test shall be performed every year until no contaminants are detected. If no contaminants are detected, a follow up test will be conducted in two years. If no contaminants are found with the first two tests, a test will be conducted every five years and then at decommissioning. All test results must be submitted to the Planning and Community Development Department until the SEF is decommissioned.
 - v. Testing data shall show compliance with the NC Department of Health and Human Services Private Well Inorganic Chemical Contaminants standards for the following contaminants:
 - 1. Arsenic
 - 2. Barium
 - 3. Cadmium
 - 4. Chromium
 - 5. Copper
 - 6. Iron
 - 7. Lead
 - 8. Magnesium
 - 9. Manganese
 - 10. Mercury
 - 11. Nitrate/Nitrite
 - 12. Selenium
 - 13. Silver
 - 14. Zinc
 - vi. The Board of Commissioners may require testing for other contaminants.
 - vii. Should the initial ground water testing indicate that the site is not in compliance with N.C. Department of Health and Human Services Private Well Inorganic Chemical standards,

subsequent annual reports shall indicate no increase in noncompliance with those standards.

9. Solar Energy Facility Impact Analysis
 - a. As part of an application for a SEF project, a Solar Energy Facility Impact Analysis shall be submitted and contain the following information:
 - i. General project description
 - ii. Construction Activity Plan:
 1. Amount of land disturbance
 2. Land surface clearing and grading plan
 3. Energy, water, and material needs
 4. Fencing and lighting plans
 5. Waste stream management plan
 6. Construction work force and timeframe
 7. Protection plans for soil, disturbed areas, and surface water
 - iii. Operational Plan
 1. Maintenance activities and schedule
 2. Vegetation management plan
 3. Protection plans for soil, disturbed areas, and surface water
 - iv. Impacts and Resources affected
 1. Geology
 2. Environmentally sensitive areas
 - a. CAMA jurisdictional areas
 - b. USACE designated wetlands
 - c. Natural Heritage Areas
 3. Soils
 4. Air Quality
 5. Noise
 6. Water Resources
 7. Ecology
 8. Land Use
 9. Water management
 10. Socioeconomics
 11. Health and safety

10. Ditch Maintenance

- a. **The SEF is responsible for maintaining all drainage ditches adjoining or traversing the site to keep the ditches free and clear of drainage impediments.**
 - b. **Development subject to these standards shall provide a 25' maintenance access drainage easement along at least one side of waterway conveyance systems that drains more than five acres. The easement shall include the conveyance measured from the top of embankment.**
11. Discontinued Use and Decommissioning
 - a. Decommissioning shall include removal of solar collectors, cabling, electrical components, and any other SEF associated facilities, grading, and re-seeding disturbed earth from the project.
 - b. A decommissioning plan certified by a North Carolina licensed engineer or a licensed contractor is required and shall include the following:

- i. A description of any lease or other agreement with all landowners regarding decommissioning.
 - ii. The identification of the party responsible for decommissioning, if not the property owner.
 - iii. The type of panels and material specifications used at the SEF.
 - iv. All costs for the removal of solar panels, buildings, cabling, electrical components, road, fencing, and any other associated facilities below grade.
 - v. All costs associated with the grading and re-seeding of disturbed earth from the project.
- c. The decommissioning plan shall be updated with the Planning and Community Development Department every three years or upon change of **property or SEF** ownership, **beyond two degrees of kinship**, of the ~~property or the SEF~~.
- d. The SEF owner shall have 12 months to complete decommissioning of the facility if no electricity is generated for a continuous 12 month period.
- e. Disturbed earth shall be graded and re-seeded unless a written request is submitted by the property owner specifying areas not to be restored.
- f. A Decommissioning Performance Guarantee (See Section 6.3) is required that meets the following standards:
 - i. Shall be submitted prior to issuance of a building permit,
 - ii. Shall equal 115 percent of the estimated decommissioning costs.
 - iii. Shall not be reduced by salvage value.
 - iv. The performance guarantee amount shall be reviewed every three years as part of the decommissioning plan update and adjusted based upon current costs. In the event the decommissioning costs decrease, the performance guarantee shall not be changed to reflect the lower cost.
 - v. The performance guarantee shall remain in effect until decommissioning and site restoration is complete.

Item 2: Statement of Consistency and Reasonableness:

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

- 1. It protects active agricultural lands having a high productive potential and conserves those lands for continued agricultural use. (LUP POLICY AG1) - Solar
- 2. It provides a new and expanding industry that trains and utilizes a more highly skilled labor force and diversifies the local economy. (LUP ED1) – Solar

The request is reasonable and in the public interest because:

- 3. It prevents incompatible solar array projects from being established that could adversely impact the quality of life for county residents.

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 ___, 2019.

 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: 2/12/19
 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: _____

Address: _____

Telephone: _____

E-Mail Address: _____

Request

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

Amend Chapter(s) _____ Section(s) _____ as follows:

*Request may be attached on separate paper if needed.

 Petitioner

 Date



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 2374)

Agenda Item Title

PB 19-01 Currituck County:

Brief Description of Agenda Item:

Request a text amendment to the Unified Development Ordinance, Chapter 4, Use Standards, to allow freestanding telecommunication towers in the Single Family Residential Outer Banks Remove (SFR) zoning district with a use permit.

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 4, 2019
Subject: PB 19-01 Currituck County

The county is submitting a text amendment to the Unified Development Ordinance, Chapter 4, Use Standards to allow freestanding telecommunication towers in limited areas of the Single Family Residential Outer Banks Remote (SFR) zoning district with a use permit. The SFR zoning district is located north of Corolla in the 4-wheel drive area of the county.

The proposed language requires:

- A use permit;
- 1,000' from the Atlantic Ocean mean high water mark;
- 190' maximum tower height; and,
- 4-mile setback from existing towers in the SFR zoning district.

Attachment: 19-01 Currituck County _SFR Towers (PB 19-01 Currituck 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. Use Standards is amended by adding the following underlined language and removing the following strike-through language:

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 [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]															AL RE	
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	PD-R	PD-M		PD-O
Telecommunications tower, freestanding			C			C			C				C	C				3.H.2

4.2.3. Institutional Uses

H. Utilities

(I) Telecommunication Towers

(a) Purpose

This section is intended to establish general standards for the siting of telecommunications towers and antennas that will:

- (i) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
- (ii) Encourage the location of towers in nonresidential areas;
- (iii) Minimize the total number of new towers throughout the county;
- (iv) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- (v) Encourage the location of towers and antennas in areas where the adverse impact on the community is minimal;
- (vi) Encourage towers and antennas to be carefully sited, designed, and screened to minimize their adverse visual impact;

- (vii) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- (viii) Consider the public health and safety concerns of communication towers and antennas; and
- (ix) Encourage the use of engineering and careful siting of tower structures to avoid potential damage to adjacent properties from tower failure.

(b) Applicability

All new telecommunications facilities, whether a principal or accessory use, shall comply with these standards unless specifically exempted in Section 4.2.3.H.1.c, Exemptions.

(c) Exemptions

The following shall be exempt from the standards of this section, {but shall be required to comply with other relevant standards in this Ordinance, such as accessory use or design standards}:

- (i) Satellite dish antennas.
- (ii) Receive-only television or radio antennas for noncommercial use.
- (iii) Antennas legally operated by FCC-licensed amateur radio operators.
- (iv) Emergency communication towers owned by the county or other public agency that are used wholly or in part for public safety or emergency communication purposes.
- (v) Emergency communication towers owned by a volunteer fire department that are used wholly or in part for public safety or emergency communication purposes.

(d) Freestanding Towers

Freestanding telecommunications towers, whether as a principal or accessory use, shall comply with the following standards:

(i) Safety

- (A) Before obtaining a building permit, the applicant shall submit to the County Engineer engineering drawings for the tower, sealed by a registered engineer, that include a statement that the tower will meet all applicable local, State, and Federal building codes and structural standards.
- (B) Every two years after construction of a tower, the owner shall submit to the Planning Director a statement on the tower's structural soundness that is signed and sealed by an engineer. Every sixth year, the statement shall

be signed and sealed by an independent, registered, and licensed engineer.

(ii) Height

- (A) Excluding the SFR district, the height of a telecommunications tower, including any building or structure atop which the tower is located, shall not exceed 450 feet.
- (B) In the SFR district, the height of a telecommunications tower including any building or structure atop which the tower is located shall not exceed 190' feet.

(iii) Aesthetics

- (A) Towers shall either maintain a galvanized steel finish or be painted.
- (B) Towers shall be camouflaged with the surrounding area, through paint, incorporation into architectural design/structure, or other means, to the maximum extent practicable.
- (C) The exterior appearance of ground-based accessory structures located within a residential zoning district shall be designed to look like a residential structure typical of the district (e.g., with a pitched roof and frame or brick siding).

(iv) Lighting

If lighting is required by the Federal Aviation Administration (FAA), it shall comply with FAA standards. Unless required by the FAA, strobe lights shall not be used for nighttime lighting and lighting shall be oriented so as not to project directly onto any surrounding residentially-zoned property. Documentation from the FAA that the lighting is the minimum lighting it requires shall be submitted to the Planning Director before issuance of any building permit for the tower.

(v) Setbacks

- (A) Towers and antennas shall be required to maintain a one foot setback from front, side, and rear property lines for every one foot of tower height. Guy wires, when applicable, shall conform to district setback provisions.
- (B) There shall be no setback requirements between the tower and other structures located on the subject property.
- (C) Buildings associated with a telecommunications facility shall meet the minimum setback

requirements for the zoning district where located.

- (D) In the SFR district, the tower and antennas shall maintain a 1000' setback from the mean high water mark of the Atlantic Ocean.

(vi) Separation from Other Towers

- (A) Excluding the SFR district, new telecommunication towers shall not be located within one-half-mile of an existing telecommunications tower (unless the towers are placed on the same lot). This standard shall not apply to a telecommunications tower placed out of view in a building or other structure.

- (B) In the SFR district, new telecommunication towers shall not be located within four miles of an existing telecommunications tower in the SFR district (not on the same lot) and one-half mile of an existing telecommunications tower in all other districts. This standard shall not apply to a telecommunications tower placed out of view in a building or other structure.

(vii) Collocation

- (A) No freestanding telecommunications tower shall be allowed unless it is demonstrated that no suitable existing tower, building, or other structure within the coverage area is available for the collocation of antennas.
- (B) New freestanding telecommunications towers shall be designed to accommodate the present and future needs of the owner and at least two comparable users. Unused space on an existing telecommunications tower shall be made available to other users at a fair market rental value unless mechanical, structural, or regulatory factors prevent collocation. In determining fair market rental value, the rent paid by a current collocator under a swapping agreement need not be considered.

(viii) Buffer and Screening

A Type D buffer (see Section 5.2.6, Perimeter Landscape Buffers) shall be provided around the perimeter of a freestanding telecommunications tower facility (including equipment structures and guy anchor supports).

(ix) Security Fencing

Towers, guy anchor supports, and ground-based equipment buildings shall be enclosed by security fencing not less than ten feet in height.

(x) Interference

No telecommunications tower, antenna, or supporting equipment shall disturb or diminish radio or television or similar reception on adjoining residentially-zoned land.

(xi) Compliance with State or Federal Laws and Regulations

Towers and antennas shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the State or Federal government that regulates telecommunications towers and antennas.

(xii) Replacement of Existing Towers

Existing freestanding towers may be replaced with a new tower that increases the number of collocation opportunities, subject to the following standards:

- (A) The height of the replacement tower shall not exceed 110 percent of the height of the replaced tower.
- (B) The replacement tower shall be located within 100 feet of the replaced tower, unless the Planning Director determines that a farther distance furthers the purpose and intent of this Ordinance.
- (C) The replacement tower shall comply with all the standards of this section (including setbacks).

(xiii) Nonconforming Telecommunications Towers

Nonconforming telecommunications towers shall be allowed to remain and be maintained in accordance with the standards in Chapter 8: Nonconformities. Additional equipment may be added to the tower provided that such additions do not increase the degree of nonconformity.

(xiv) Discontinued Use

If a telecommunications tower is not used for a period of six consecutive months, the Planning Director may send the tower owner notice indicating that the tower must be removed within 90 days from the date of notice.

(e) Collocation of Antennas on Existing Towers

Antennas may be collocated on existing towers if they comply with the following standards:

- (i) It is demonstrated the tower can accept the additional structural loading created by the collocation.
- (ii) Any modification of an existing tower to accommodate the collocation of additional antenna shall comply with the height limit established for freestanding telecommunications towers in Section 4.2.3.H.1.d.ii, Height.
- (iii) Antennas and associated equipment shall comply with the safety, lighting, interference, and regulatory compliance standards for telecommunications towers included within this subsection.

(f) Placement of Antennas on an Existing Buildings

An antenna may be attached to any business or multi-family residential building in accordance with the following standards:

- (i) **Height**
The antenna shall not extend above a height 20 percent higher than the highest point of the building or structure.
- (ii) **Other Standards**
Antennas and associated equipment shall comply with the safety, lighting, interference, and regulatory compliance standards for telecommunications towers included within this sub-section.
- (iii) **Screening**
 - (A) Antennas visible from the street shall be omnidirectional, be screened, or be camouflaged, to the maximum extent practicable, to minimize their appearance.
 - (B) All other equipment shall be located within the building or screened in some other fashion to prevent off-site views.

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 _____, 2019.

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: _____

Attachment: 19-01 Currituck County _SFR Towers (PB 19-01 Currituck County)