



**Planning Board
Agenda Packet**

March 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) Election of Chairman & Vice Chairman
- E) Approval of Agenda

Approval of Minutes for February 12, 2019**Old Business****New Business**

- A) **PB 19-06 Currituck County Text Amendment:** Currituck County requests an amendment to the Unified Development Ordinance, Chapter 2 Administration, to increase public notice mailing requirements from 200' from subject property to 500' from the subject property and modify expiration dates of planned developments and subdivisions with use permits to three years from approval date with no opportunity to request extension of the approval.

Announcements**Adjournment**



**CURRITUCK COUNTY
NORTH CAROLINA**

February 12, 2019

Minutes – Regular Meeting of the Planning Board

WORK SESSION

The Currituck County Planning Board held a work session at 6:30 PM in the Historic Courthouse Conference Room. Staff members briefed the board members on the items on the agenda. 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
Fred Whiteman	Chairman	Absent	
C. Shay Ballance	Vice Chairman	Present	
Carol Bell	Board Member	Present	
Steven Craddock	Board Member	Present	
Joanne M. DiBello	Board Member	Absent	
Anamarie Hilgendorf	Board Member	Present	
J. Timothy Thomas	Board Member	Present	
Donna Voliva	Planning and Community Development Assistant Plann	Present	
Tammy Glave	Planning and Community Development Senior Planner	Present	
Jason Litteral	Planning and Community Development Planner II	Present	
Cheri Elliott	Clerk to the Board	Present	

Vice Chairman Ballance called the meeting to order at 7:00 PM.

A. Pledge of Allegiance & Moment of Silence

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

B. Ask for Disqualifications

Vice Chairman Ballance asked if any board member had a conflict of interest with the matters coming before the board. Vice Chairman Ballance disclosed he knows the first applicant, Hunter Stuart, but it would not affect his decision in the matter.

C. Announce Quorum Being Met

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

Communication: Planning Board Minutes - February 12, 2019 (Approval of Minutes for February 12, 2019)

D. Approval of Agenda

Vice Chairman Ballance asked if there were any changes needed to the agenda for tonight's meeting. With no noted changes, Mr. Craddock motioned to approve the agenda as presented. Mr. Thomas seconded the motion and the motion carried unanimously.

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

APPROVAL OF MINUTES FOR DECEMBER 11, 2018

Vice Chairman Ballance asked if any changes were needed for the meeting minutes of December 11, 2018. With no changes noted, Mr. Thomas motioned to approve the minutes as presented. Mr. Craddock seconded the motion and the motion carried unanimously.

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

E. PB Minutes December 11, 2018

OLD BUSINESS

There was no old business discussed.

NEW BUSINESS

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

Vice Chairman Ballance asked if there was anyone present as a representative of this case. The applicant came forward and stated his name as Hunter Stuart and address as 102 Old Oaks, Bells Island. Chairman Ballance asked Mr. Hunter to have a seat while staff gives their report. Planner II, Jason Litteral briefed the board on the requested text amendment to allow crab shedding in the General Business (GB) zoning district with the requirement for the business to be located within a fully enclosed building. Mr. Litteral stated staff is also taking this opportunity to cleanup this section of the Unified Development Ordinance (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.

Vice Chairman Ballance asked if the board had any questions for staff. There were no questions.

Hunter Stuart came before the board. Mr. Craddock asked what happens after the crab has molted and Mr. Stuart explained the process. The board members had questions

concerning odor and disposing of the shells. Mr. Stuart said they get rid of the shells daily by placing them in the water and the shells do not have any odor.

No one else wished to speak. Vice Chairman Ballance closed the public hearing and asked for a motion.

Ms. Hilgendorf motioned to approve and Ms. Bell seconded her motion. Mr. Craddock requested to amend the motion to include the consistency and reasonableness statement. Mr. Craddock said 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.

Ms. Hilgendorf accepted the amended motion. There was no further discussion and the motion passed unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 3/4/2019 6:00 PM
AYES:	C. Shay Ballance, Vice Chairman, Carol Bell, Board Member, Steven Craddock, Board Member, Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	
ABSENT:	Fred Whiteman, Chairman, Joanne M. DiBello, Board Member	

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

Senior Planner, Tammy Glave presented the staff report for the revised solar text amendment and explained the additional changes.

The board asked staff several questions concerning ditch maintenance, kinship and the decommission plan. Vice Chairman Ballance asked about the easement and if it will be deeded to the County. Ms. Glave said it will not. It will be dedicated and noted on the plat.

Mr. Craddock asked if the County has heard from any solar operators yet with the last solar text amendment. Ms. Glave said one is trying to get ahead of this change going into effect.

Ms. Hilgendorf disclosed she owns a warehouse and a solar company has approached her to use the building for storage. She asked if she should excuse herself from this case. Ms. Glave said since this is a countywide change it should not affect Ms. Hilgendorf.

Mr. Craddock held discussion over limiting the land and how this does not work in relation to the text amendment review standards of North Carolina's Renewable Energy and Energy Efficiency Portfolio Standards, established by Senate Bill 3 in August 2007 which 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% renewable and this cannot be achieved by the County limiting the size of the solar fields.

Ms. Glave asked Mr. Craddock to explain how it is incompatible. Mr. Craddock said page 24 & 25 in the staff report for text amendment review standards is asking us to be environmentally friendly, but on the other hand limiting the acreage is not beneficial for citizens, business owners, or property rights.

Mr. Craddock said he agrees to all except the maximum size requirement. It is not logical to limit the size.

Mr. Craddock said the last text amendment passed 6-1 by the Board of Commissioners without the limit on size.

Vice Chairman Ballance agreed he does not think the size should be limited.

Mr. Craddock asked Ms. Bell her opinion on property rights. She said she believes in property rights but citizens have to abide by the ordinance and laws of our county and should not be infringing on other citizens rights.

Ms. Bell motioned to approve PB 19-04 Currituck County Revised Solar Text Amendment as presented because:

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.

Vice Chairman Ballance asked Ms. Bell if her motion is as it is written and she said yes, I said as presented. Vice Chairman Ballance asked if there was a second.

Mr. Thomas said he thinks we should change the maximum since we said they should be able to do whatever with their property, if we could just change that in there. Vice Chairman Ballance asked if he would like to do an amendment. Mr. Craddock said you cannot do an amendment until you have a second and if you don't have a second then the motion dies.

Ms. Hilgendorf seconded lifting the size because we voted on that last time.

Ms. Glave said, as a point of order, you should let the motion die without a second and then make the motion that I think I'm hearing.

Mr. Thomas said he was going to second her motion and then we are just going to change the wording on the maximum. Ms. Glave and Mr. Craddock said you cannot change her wording unless she agrees to your change. Vice Chairman Ballance asked Ms. Bell if she agrees to the change and Ms. Bell said yes I agree.

Chairman Ballance said we have a motion, a second, and an agreement with removing the cap on the acreage. Mr. Thomas said correct. Vice Chairman Ballance said for the single owner and the two owners, no cap on anything? Ms. Glave asked about removing the abutting property restriction, too.

Ms. Bell said she just wants to make sure there is no limit to the acreage.

Vice Chairman Ballance asked for a vote and the amended motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 3/4/2019 6:00 PM
AYES:	C. Shay Ballance, Vice Chairman, Carol Bell, Board Member, Steven Craddock, Board Member, Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	
ABSENT:	Fred Whiteman, Chairman, Joanne M. DiBello, Board Member	

C. PB 19-01 Currituck County:

The Planning & Community Development Assistant Planning Director, Donna Voliva presented the staff report for the requested text amendment to allow freestanding telecommunication towers in limited areas of the Single Family Residential Outer Banks Remote (SFR) zoning district with a use permit. Ms. Voliva gave maps to the board members showing the existing towers and their setbacks from existing towers and a map showing the zoning.

Vice Chairman Ballance asked if the board had any questions for staff. There were no questions. Vice Chairman Ballance opened the public hearing and asked if anyone would like to speak. No one wished to speak and the public hearing was closed.

Board member discussion was held with staff on setbacks and the land that the fire department currently owns. Mr. Craddock asked Ms. Voliva about the limitation on height being set at 190' instead of the county's usual 450' limit. Ms. Voliva said it was for aesthetic purposes due to the beach location. Also, 250' height would require a light and this will not.

Discussion was held over the reasoning for this text amendment and Ms. Voliva said the intent is for safety by allowing communication.

Mr. Craddock motioned to approve PB 19-01 Currituck County Telecommunication Towers text amendment because the text amendment request is consistent with the goals, objectives, and policies of the 2006 Land Use Plan (LUP) because:

- The county shall monitor the placement of communication and other towers and shall take action as necessary to regulate their design and location. (POLICY CA7)
- It is consistent with POLICY OB1

And the request is reasonable and in the public interest because:

- The Carova sub-area maintains hundreds of previously platted lots that are not developed. As these lots continue to develop with houses, the proposed text amendment addresses a community need by allowing telecommunication towers in a limited, remote, and under served area of the county.

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

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 3/4/2019 6:00 PM
AYES:	C. Shay Ballance, Vice Chairman, Carol Bell, Board Member, Steven Craddock, Board Member, Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	
ABSENT:	Fred Whiteman, Chairman, Joanne M. DiBello, Board Member	

ANNOUNCEMENTS

Mr. Craddock presented Ms. Bell with a Resolution of Appreciation for her years of service to the Planning Board. Ms. Bell was previously presented with this plaque at the end of 2017, but since she served an additional year, the Resolution of Appreciation was updated with the corrected dates.

Mr. Craddock stated his appreciation for the Planning Staff and the amount of work that is required to help the boards make decisions for the county.

Ms. Bell expressed her concerns about citizens in our community not making a better effort to serve on the boards and said the terms may need to be extended.

ADJOURNMENT

Mr. Craddock motioned to adjourn the meeting. Ms. Bell seconded the motion and the motion carried unanimously with the meeting adjourning at 8:10 PM.



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 2413)

Agenda Item Title

PB 19-06 Currituck County Text Amendment:

Brief Description of Agenda Item:

Currituck County requests an amendment to the Unified Development Ordinance, Chapter 2 Administration, to increase public notice mailing requirements from 200' from subject property to 500' from the subject property and modify expiration dates of planned developments and subdivisions with use permits to three years from approval date with no opportunity to request extension of the approval.

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: Planning Board
 Board of Commissioners

From: Planning Staff

Date: February 28, 2019

Subject: PB 19-06 Currituck County Text Amendment – Public Notice and Preliminary Plat/Use Permit Extensions

Background

At its January 2019 Board of Commissioners' retreat, the board direct staff to prepare a text amendment to:

- Increase public notice mailing requirements from 200' from the subject property to 500' from the subject property.
- Modify expiration dates of planned developments and subdivisions with use permits to three years from the approval date with no opportunity to request extension of the approval.

The purpose of the text amendment is to increase public awareness of public hearings and decrease the opportunity for a developer to request an extension of a plat/use permit without good cause.

Text Amendment Review Standards with Staff Comments

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. NCGS only requires abutting property owners to be notified by mail. For decades, the county has exceeded that requirement by sending letters to those property owners at first within 150' and now within 200' of the subject property. The expansion to 500' is well beyond the NCGS requirements.
 - c. This request requires developers to continue the subdivision process in a timely manner instead of having subdivision approvals valid, even though not being

PB 19-06 Currituck County
 Text Amendment
 Page 1 of 6

Attachment: 19-06 Public Notice PP-UP Extensions TA (PB 19-06 Currituck County Text Amendment)

developed. This holds public resources (i.e. schools, county water, county sewer, etc.) that could be made available to other subdivisions.

- (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. NCGS only requires abutting property owners to be notified by mail. For decades, the county has exceeded that requirement by sending letters to those property owners at first within 150' and now within 200' of the subject property. The expansion to 500' is well beyond the NCGS requirements.
 - c. This request requires developers to move subdivision approvals along in a timely manner instead of allowing continuances that keep subdivision approvals valid, even though not being developed, thus holding public resources (i.e. schools, county water, county sewer, etc.) that could be made available to other subdivisions.
- (3) Is required by changed conditions;
 - a. The Board of Commissioners want to increase the number of property owners notified of a proposed development's public hearing.
 - b. Since public resources are limited, approved subdivisions need to either develop in a timely manner or expire so held resources can be made available to other developments.
- (4) Addresses a demonstrated community need;
 - a. The community has expressed a need to the Board of Commissioners for expanded public outreach for public hearings regarding subdivisions.
 - b. New development in a community should not be held up for subdivisions that have approval but have not developed in a timely manner.
- (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 with the purpose and intent of the zoning districts, improves compatibility among uses, and ensures efficient development within the county by expanding public notice requirements and requiring approved subdivisions to develop in a timely manner.
- (6) Would result in a logical and orderly development pattern; and
 - a. It will result in a logical and orderly development pattern because it expands public notice requirements and requires approved subdivisions to develop in a timely manner
- (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. It has no impact on the natural environment.

Staff Recommendation

Staff recommends approval of this request subject to the staff suggested Statement of Consistency and Reasonableness listed in the staff report.



**STAFF REPORT
PB 19-06 CURRITUCK COUNTY
PUBLIC NOTICE & PRELIMINARY
PLAT/USE PERMIT EXTENSIONS
PLANNING BOARD
MARCH 12, 2019**

Currituck County requests an amendment to the Unified Development Ordinance, Chapter 2 Administration, to Increase public notice mailing requirements from 200' from subject property to 500' from the subject property and modify expiration dates of planned developments and subdivisions with use permits to three years from approval date with no opportunity to request extension of the approval.

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 2 Administration is amended by deleting the following bold and strikethrough language and adding the bold and underlined language in Section 2.3.6.B.3:

2.3.6 Public Hearing Scheduling and Public Notification

B. Public Notification

(3) Mailed Notice Requirements

- a. Except for community meetings, when the provisions of this Ordinance require mailed notice, the Planning Director shall be responsible for preparing and mailing the written notice. Notice shall be mailed to:
 - I. The owners of the land subject to the application;
 - II. The applicant, if different from the land owner;
 - III. The owners (shown as primary and secondary on the county tax listing) of land within ~~200~~ 500 feet of the property lines of land subject to the application (including owners of land located outside the county) whose address is known by reference to the latest ad valorem tax records; and,
 - IV. Commanders of military bases located within five miles of the subject application when the development proposal affects the type of uses allowed.

Item 2: That Chapter 2 Administration is amended by deleting the following bold and strikethrough language and adding the bold and underlined language in Section 2.4.5.G:

2.4.5 Planned Development

G. Expiration

- (1)** If no application for approval of a preliminary plat or site plan for any part of the approved PD master plan is submitted within ~~two~~ three years after approval of the planned development, the Planning Director shall initiate a map amendment application to rezone the land back to its prior zoning classification or any other base zoning classification determined to be appropriate. Such time period shall not be extended with transfer of ownership.
- ~~**(2)** Upon written request submitted at least 30 days before expiration of the two-year period provided in Section 2.4.5.G.1 above, and upon a showing of good cause, the Planning Director may grant one extension not to exceed six months for the applicant to submit required development applications.~~

Item 3: That Chapter 2 Administration is amended by deleting the following bold and strikethrough language and adding the bold and underlined language in Section 2.4.8.E.4.d:

2.4.8 Subdivision

E. Major Subdivision

(4) Preliminary Plat Standards, Effect, Amendment, and Expiration

(d) Expiration of Development Approval

- (i)** Approval of a type I or type II preliminary plat shall automatically expire if a complete application for approval of a final plat is not submitted within ~~two~~ three years after the date of approval of the type I or type II preliminary plat.
- ~~**(ii)** A subdivider may submit no more than one request for a two-year extension for consideration by the Board of Commissioners prior to the initial expiration. The Board of Commissioners may grant a request for extension for good cause.~~

Item 4: Staff suggested Statement of Consistency and Reasonableness:

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

- The land use plan requires development to occur at densities appropriate for the location. If a subdivision remains undeveloped over a several year period beyond approval, regulations may have changed and the development should be reviewed under the new regulations to verify property densities, etc. (Policy HN1)
- The land use plan requires advanced planning for the location of new schools. When a subdivision is approved, school capacity is reserved for the calculated number of students that subdivision will generate. If a subdivision remains undeveloped over a several year period beyond approval, it is encumbering school capacity that another subdivision may need. (Policy SF1)

The request is reasonable and in the public interest because:

- It encourages subdivisions to be developed in a timely manner.
- It increases public notification for Board of Commissioner public hearings for preliminary plats/use permits.

Item 5: 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 6: 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: 3/12/19
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: COUNTY OF CURRITUCK
 Address: 153 COURTHOUSE RD, SUITE 204
CURRITUCK NC 27929
 Telephone: 252-232-2075
 E-Mail Address: Dan.Scanlon@currituckcountync.gov

Request

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

Amend Chapter(s) 2 Section(s) 2.3.6.B.3, 2.4.5.G, and 2.4.8.E.4 d as follows:

To increase adjoining property owner notices from 200' from subject property line to 500'
from subject property line.

To modify expiration dates of planned developments and subdivisions w/ use permits
to three years from approval date with no opportunity to request extension of the approval.

*Request may be attached on separate paper if needed.

Petitioner

2-28-19
 Date