



## Planning Board Agenda Packet

**November 12, 2019**

**Work Session**

5:30 PM

**Call to Order - 6:00 PM**

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

**Approval of Minutes for October 8, 2019****Old Business****New Business**

- A) **PB 19-26 Nutrien Ag Solutions Text Amendment:** Request to amend Chapter 4 and Chapter 10 of the Unified Development Ordinance to allow distribution of agronomic products in the Agriculture, Limited Business, General Business, Light Industrial, and Heavy Industrial zoning districts.
- B) **PB 19-27 QHOC of Windswept Pines - Driveway Width & Setbacks Text Amendment:** Request to amend Chapter 5 of the Unified Development Ordinance to allow driveway widths of up to 40 feet when located on a street with curb and gutter section, and where the allowable lot coverage is not exceeded. The amendment also proposes to revise Chapter 3 to reduce the driveway setback from side property lines to 5 feet as opposed to the current requirement of 10 feet.

**Announcements****Adjournment**



**CURRITUCK COUNTY  
NORTH CAROLINA**

October 8, 2019  
Minutes – Regular Meeting of the Planning Board

**WORK SESSION**

The Currituck County Planning Board held a work session at 5:30 PM in the Historic Courthouse Conference Room with five board members present.

Jennie Turner, Planner II, briefed board members on the rezoning application PB 19-22 Corolla Chapel. Ms. Turner said the rezoning to General Business (GB) to get the 60% lot coverage was needed in order to build an additional wing onto the church.

Tammy Glave, Senior Planner, briefed the board members on the text amendment application PB 19-21 Guy Lunsford to allow development on islands with boat access only. Ms. Glave said text amendments do not normally go to the Technical Review Committee (TRC), but since this amendment concerned public health and safety issues their review was necessary. The TRC recommended denial. Discussion was held comparing this to Oak Island and Ms. Glave disagreed with this comparison. Ms. Krause asked about the property owners paying taxes and not being able to build on it. Ms. Glave said the property owner has been told for many years to contact the Tax Department to let them know it is not buildable and their taxes would drop substantially. Discussion was held on suitable uses for the island and one suggestion was a hunting camp without overnight stay.

Ms. Glave reviewed PB 18-23 Fost Tract amendment to the Planed Development- Residential (PD-R). She presented the summary of changes, unit count, permits and conditions document from the staff's PowerPoint presentation. Discussion was held on changes to the townhomes and joining the streets.

**CALL TO ORDER - 6:00 PM**

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

Attendee Name	Title	Status	Arrived
C. Shay Ballance	Chairman	Present	
Garry Owens	Vice Chairman	Absent	
K. Bryan Bass	Board Member	Present	
David Doll	Board Member	Present	
Anamarie Hilgendorf	Board Member	Present	
Juanita S Krause	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	
Cheri Elliott	Clerk to the Board	Present	

Chairman Ballance called the meeting to order at 6:00 PM.

**A. Pledge of Allegiance & Moment of Silence**

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

**B. Ask for Disqualifications**

Chairman Ballance asked if any board member had a conflict of interest with any item on the agenda tonight. No conflicts were noted.

**C. Announce Quorum Being Met**

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

**D. Approval of Agenda**

Chairman Ballance asked if any changes were needed to tonight's agenda. With no changes noted, he asked for a motion. Mr. Bass motioned to approve the agenda, Mr. Doll seconded the motion and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>AYES:</b>	C. Shay Ballance, Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Anamarie Hilgendorf, Board Member, Juanita S Krause, Board Member
<b>ABSENT:</b>	Garry Owens, Vice Chairman, J. Timothy Thomas, Board Member

**APPROVAL OF MINUTES**

Chairman Ballance asked if there were any changes needed to the minutes for August 13, 2019. Mr. Doll noted there had been a mistake on the voting results for PB 19-13 Currituck County - Minor Subdivision Text Amendment showing him as aye instead of nay. The Clerk to the Board, Cheri Elliott, said she had made the correction to the minutes prior to tonight's meeting and the published minutes were correct. Chairman Ballance asked for a motion. Mr. Doll motioned to approve. Ms. Krause seconded the motion and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>AYES:</b>	C. Shay Ballance, Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Anamarie Hilgendorf, Board Member, Juanita S Krause, Board Member
<b>ABSENT:</b>	Garry Owens, Vice Chairman, J. Timothy Thomas, Board Member

**E. PB Minutes August 13, 2019**

**OLD BUSINESS**

There was no old business discussed.

**NEW BUSINESS**

### A. 19-22 Corolla Chapel Conditional Rezoning:

Jennie Turner presented the staff report. She reviewed slides of the aerial, zoning map, sit plan and said the church would like a fellowship hall added to the building. The current Single Family- Outer Banks (SFO) zoning can only have 30% lot coverage and the proposed zoning to General Business (GB) allows for 60% lot coverage. This coverage is necessary to build the desired addition. The community meeting held on August 19th was in support of the rezoning and the Technical Review Committee (TRC) recommends approval subject to two conditions: 1. Prior to construction of the proposed addition, the applicant shall submit for site plan approval. 2. Additional review by TRC is required if applicant desires to operate a day care center or after school program in the church.

The applicant/ pastor of Corolla Chapel, Jim Southern of 951 North Harbor View in Corolla, came before the board. He said the church gives dinners for international students as an outreach program and Waters Edge School uses the church. He said the increase in size is needed and could be used as a feeding station in times of crisis. Ms. Hilgendorf said she knows the building well since she attends the church.

Chairman Ballance asked for a motion. Ms. Krause motioned to approve with the agreed upon conditions of approval (1-5) found in the staff report. Mr. Bass seconded the motion and the motion carried unanimously.

<b>RESULT:</b>	<b>RECOMMENDED APPROVAL [UNANIMOUS]</b>	<b>Next: 11/4/2019 6:00 PM</b>
<b>AYES:</b>	C. Shay Ballance, Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Anamarie Hilgendorf, Board Member, Juanita S Krause, Board Member	
<b>ABSENT:</b>	Garry Owens, Vice Chairman, J. Timothy Thomas, Board Member	

### B. PB 19-21 Island Development Text Amendment:

Tammy Glave presented the staff report. She said the purpose of this text amendment is to allow development on islands with boat access only and if approved it would apply countywide to the 21 privately owned islands off of Currituck Mainland. Ms. Glave said Mr. Lunsford is interested in developing the five 10+ acre lots on Long Point, an island in the Coinjock Bay. In 2005 Wayne Meyers submitted a similar text amendment that the Board of Commissioners denied in 2008 for development of the same island. Mr. Lunsford's request was reviewed by the Technical Review Committee (TRC) due to health and safety concerns for citizens. Ms. Glave said the same concerns were held for both applications for the text amendment in 2008 and now. Ms. Glave reviewed the map , site plan, went over the Review Standards and the TRC recommendation of denial from the PowerPoint presentation.

Greg Wills of 6541 Caratoke Highway in Grandy came before the board as legal representation for Mr. and Mrs. Lunsford. He gave background and said the 2008 County Attorney stated there was not any legal liability for the County. He said property owners of the island have been paying taxes since 2007. The island has five lots with 10 acres or more for each and only three lots are buildable. In his opinion, the property owners should be able to build and the County should not be able to stop them for this use. He said in 2005 the Planning Board recommended approval unanimously, but it did not go to the Board of Commissioners. Also, the property owners do not have any dispute having to follow the building standards for the building permits.

Discussion was held over having a staging parking lot for building materials on the mainland. Mr. Wills said the property owners own property on the mainland and could have a parking area there to stage the building materials. Ms. Glave said parking lots are not allowed in a residential area. Mr. Wills said there is a hunt club on the mainland not far from the island and the applicant could lease the parking area to use as a staging area.

Ms. Krause asked about any environmental studies concerning building on the island and Mr. Wills said in 2007-2008 Cama Permits were issued and the Health Department verified that three, 3 bedroom homes could be built. Ms. Glave noted the permits had since expired. Mr. Wills said it would not be a problem getting those permits reissued; also his clients have been paying residential taxes for the island for over 10 years.

Ms. Hilgendorf clarified with Ms. Glave the previous permits that had expired.

Ms. Krause clarified with Ms. Glave that approval of this text amendment would open building on islands countywide.

Chairman Ballance asked for a motion. Mr. Bass motioned to deny because:

The requested zoning text amendment is not consistent with the 2006 Land Use Plan because:

- Policy PP2 of the LUP states that adequate public facilities, sufficient to support associated growth and development must be available. *Firefighting, emergency medical services, etc. will not be available to the island based on TRC comments.*
- Policy ES1 of the LUP states that new development shall be permitted to locate only in areas where suitable soils and adequate infrastructure is available. *For reference, the soils map indicates that Long Point is unsuitable for a septic system and contains Currituck Mucky Peat (CU) and Conaby Muck (CB). These soils types are typical for islands off of the Currituck mainland.*

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

- Adequate public services (firefighting, emergency medical services, law enforcement, or other county services, etc.) are not available to an island accessible only by boat.

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

<b>RESULT:</b>	<b>RECOMMENDED DENIAL [UNANIMOUS]</b>	<b>Next: 11/4/2019 6:00 PM</b>
<b>AYES:</b>	C. Shay Ballance, Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Anamarie Hilgendorf, Board Member, Juanita S Krause, Board Member	
<b>ABSENT:</b>	Garry Owens, Vice Chairman, J. Timothy Thomas, Board Member	

#### C. PB 18-23 Fost PD-R, Amended:

Tammy Glave presented the staff report. She said this planned development rezoning had been previously been approved, but now the applicant is requesting an amendment. She reviewed the previously approved plan, went over the Summary of Changes and

Net Unit Count Change and noted the Terms and Conditions document will be corrected. Ms. Glave said the Technical Review Committee is recommending approval.

Mr. Bass asked about connectivity to Ranchland. Ms. Glave said it will not be connected to Ranchland, but will connect to Eagle Creek and the Flora Tract. Mr. Doll asked about the drainage ditch. Ms. Glave said it would have off site drainage and referred the answer to come from Mr. Bissell. Mr. Doll also asked if the developer would be required to improve the drainage and Ms. Glave said they would if they receive approval.

Mr. Bissell came before the board and explained drainage, ditches and clean outs. He said a Ranchland property owner has agreed to have an easement on their property to allow us to clean out the ditch.

Ms. Krause asked how many retention ponds were in the plans and Mr. Bissell said ten. Ms. Krause asked how many easements have to be obtained and Mr. Bissell said around five, but three have already been obtained. Ms. Krause asked about the pipes running under the highway and Mr. Bissell said they will be reducing the amount of water going under the highway due to drainage and retention ponds.

Mr. Doll asked about the town-homes' parking changes and Mr. Bissell said the parking will now be in the front and in the rear of the buildings.

Mr. Bissell reviewed the changes for conditions and the Schedule A changes.

Discussion was held over the developer committing to \$5,000 per year for ten years for drainage maintenance and Mr. Bissell said this is in addition to the Home Owner Association (HOA) fund. Justin Old clarified that there will be a Stormwater Association set up for inside the subdivision and the \$50,000 will be for downstream maintenance. He also said there would be an association board of directors that would manage that money.

Ms. Krause said she does like the idea of the drainage and off site management.

Discussion was held over the reduction in units and Mr. Bissell said the units are being reduced from 513 to 479.

Chairman Ballance asked for a motion and Ms. Krause motioned to approve based on the Technical Review Committee's approval stating the net density is reduced by 37 dwelling units and the drainage and utility requirements in the June 24, 2019 approved order remain unchanged. Mr. Bass seconded the motion and the motion passed 4-1 with Mr. Doll voting nay.

<b>RESULT:</b>	<b>RECOMMENDED APPROVAL [4 TO 1]</b>	<b>Next: 11/4/2019 6:00 PM</b>
<b>AYES:</b>	C. Shay Ballance, Chairman, K. Bryan Bass, Board Member, Anamarie Hilgendorf, Board Member, Juanita S Krause, Board Member	
<b>NAYS:</b>	David Doll, Board Member	
<b>ABSENT:</b>	Garry Owens, Vice Chairman, J. Timothy Thomas, Board Member	

## ANNOUNCEMENTS

Laurie LoCicero made the following announcements:

A joint work session will be held with the Planning Board and the Board of Commissioners on October 21, 2019 at 4 PM concerning the Currituck Station Pattern Book in the boardroom of the Historic Currituck County Courthouse.

The Dune Ordinance Text Amendment has been withdrawn by the County due to a shoreline stability study. The Board of Commissioners will wait for the results of this study before moving forward with the text amendment.

The mobile wastewater treatment site is in place and we should be able to have some more developments soon.

## ADJOURNMENT

Mr. Bass motioned to adjourn the meeting and Mr. Doll seconded the motion. With all board members voting in favor the meeting adjourned at 7:24 PM.



## Currituck County Agenda Item Summary Sheet

**Agenda ID Number – (ID # 2637)**

### **Agenda Item Title**

PB 19-26 Nutrien Ag Solutions Text Amendment:

### **Brief Description of Agenda Item:**

Request to amend Chapter 4 and Chapter 10 of the Unified Development Ordinance to allow distribution of agronomic products in the Agriculture, Limited Business, General Business, Light Industrial, and Heavy Industrial zoning districts.

### **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  
 From: Planning Staff  
 Date: 11/12/2019  
 Subject: PB 19-26 Nutrien Ag Solutions

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The proposed text amendment, submitted by Fenton Eure of Nutrien Ag Solutions, revises Chapter 4 of the Unified Development Ordinance (UDO) to allow distribution of agronomic products under the Agricultural Support and Services (Not Directly Related) use category. Agronomic products include, but are not limited to, seeds, fertilizer, and soil and plant amendments. The draft language revises a change to the specific standards for Agricultural Support and Services, and the definitions related to the request.

**Background**

The applicant is currently operating an agronomic product distribution business from a facility located at 119 Central Ln. in Shawboro. They have a need to erect an additional building on site in order to have designated buildings for each type of product. The new building would be located on what is now staging and vehicular use area and, therefore, would not constitute an expansion of the use.

The UDO currently includes distribution hubs for agricultural products as a permissible use in the Agricultural, General Business, Limited Business, Heavy Industrial and Light Industrial zoning districts. Distribution Hub for Agricultural Products is defined as:

*A place where farmers can deliver agricultural products for pick-up by consumers or wholesalers, but not including a central place operated by a farm co-op where farmers can deliver products for pick-up by consumers.*

The proposed amendment would allow distribution of agronomic products under the same use category as agricultural products. It would also be allowed in the same zoning districts as a distribution hub for agricultural products. This is a necessary and important support service for the County's agricultural industry.

The current ordinance language requires that distribution hubs have direct access from a major arterial or collector street. The proposed amendment will add direct access to a railway as an additional option. The specific standards for the use will be updated to include opaque screening from off-site views for new uses, and for existing uses when the use area is expanded by more than 50 percent.

**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 proposed text amendment is consistent with the following 2006 Land Use Plan Policies:*
    - *POLICY ID5: WAREHOUSING, STORAGE AND DISTRIBUTION facilities shall have access to thoroughfares of adequate traffic carrying capacity, and shall be appropriately designed and/or visually buffered according to the visibility of their location.*
    - *POLICY ED1: NEW AND EXPANDING INDUSTRIES AND BUSINESSES should be especially encouraged that: 1) diversify the local economy, 2) train and utilize a more highly skilled labor force, and (3) are compatible with the environmental quality and natural amenity based economy of Currituck County.*
2. Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
  - a. *The text amendment request is consistent with the provisions of the UDO and the County Code of Ordinances.*
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
  - a. *Distribution of agronomic products is a necessary service for supporting the agricultural industry in Currituck County.*
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 text amendment request is consistent with the purpose and intent of the zoning districts. The Agriculture zoning district currently allows several Agriculture related uses that might otherwise be considered commercial or industrial uses. The addition of agronomic product distribution to the ordinance is vital to continued agricultural success in Currituck. Similar uses are allowed in the Limited and General Business, as well as the Light and Heavy Industrial, zoning districts.*
6. Would result in a logical and orderly development pattern; and
  - a. *The text amendment request will result in a logical and orderly development pattern and specific standards are provided to mitigate impacts on surrounding properties.*
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.

**Staff Recommendation**

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



**PB 19-26 NUTRIEN AG SOLUTIONS  
TEXT AMENDMENT  
PLANNING BOARD**  
11/12/2019

Nutrien Ag Solutions requests an amendment to the Unified Development Ordinance, Chapter 4 Use Standards, to allow distribution of agronomic products under the *Agricultural Support Services (Not Directly Related)* use category.

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

**Item 1:** That Chapter 4 is amended by deleting the following strikethrough language and adding the bold and underlined 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 (CURRENT DISTRICT IN PARENTHESIS) [NOTE: OVERLAY OR SUB-DISTRICT REQUIREMENTS MAY FURTHER LIMIT USES]															ADDITIONAL REQ. (4.2)
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	PD-R	PD-M	PD-O
<b>COMMERCIAL USE CLASSIFICATION</b>																	
Agriculture Support and Services (Not Directly Related)	Distribution hub for agricultural <u>and agronomic</u> products		Z						Z	Z			Z	Z		MP	I.C.

**C. Agricultural Support and Services (Not Directly Related)**

**(1) General**

a.) All agricultural support and services (not directly related) uses shall have direct access onto a railway, major arterial street, or collector street.

**Agronomic Uses**

a.) New uses, and existing use areas expanded by more than 50 percent, shall screen outdoor use areas according to Section 4.3.3.R.5 Outdoor Storage.

That Chapter 10 is amended by deleting the following strikethrough language and adding the bold and underlined language.

### **DISTRIBUTION HUB FOR AGRONOMIC PRODUCTS**

**A place where agronomic products are available for pick up or delivery. Agronomic products include but are not limited to seeds, fertilizer, and soil and plant amendments.**

**Item 2:** Staff suggested Statement of Consistency and Reasonableness:

#### **Land Use Plan Consistency**

The UDO requires that the Board of Commissioners adopt a statement of consistency and reasonableness that describes whether the decision on the amendment is consistent with county adopted plans that are applicable and why the decision is reasonable and in the public interest.

The requested text amendment is consistent with the goals, objectives and policies of the 2006 Land Use Plan including:

**POLICY ID5: WAREHOUSING, STORAGE AND DISTRIBUTION** facilities shall have access to thoroughfares of adequate traffic carrying capacity, and shall be appropriately designed and/or visually buffered according to the visibility of their location.

**POLICY ED1: NEW AND EXPANDING INDUSTRIES AND BUSINESSES** should be especially encouraged that: 1) diversify the local economy, 2) train and utilize a more highly skilled labor force, and (3) are compatible with the environmental quality and natural amenity based economy of Currituck County.

The request is reasonable and in the public interest because:

1. It is an existing and necessary support service for agriculture.

**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: Nutrien Ag Solutions  
 Address: 119 Central Lane /PO Box 113  
Shawboro, NC. 27973  
 Telephone: 252-232-2748 / 252-333-7943  
 E-Mail Address: fenton.euse@nutrien.com

## Request

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

Amend Chapter(s) 4, 10 Section(s) 4.1.2, 4.2.1, 10.5 as follows:

To allow distribution of agronomic products, including but not limited to, seeds, fertilizer, and soil and plant amendments under the Agricultural Support Services (Not Directly Related) use category. To amend the specific use standards and definitions sections as appropriate.

\*Request may be attached on separate paper if needed.

Fenton Euse ME for  
Petitioner  
Nutrien Ag Solutions

9/25/2019  
Date



## Currituck County Agenda Item Summary Sheet

**Agenda ID Number – (ID # 2638)**

### **Agenda Item Title**

PB 19-27 QHOC of Windswept Pines - Driveway Width & Setbacks Text Amendment:

### **Brief Description of Agenda Item:**

Request to amend Chapter 5 of the Unified Development Ordinance to allow driveway widths of up to 40 feet when located on a street with curb and gutter section, and where the allowable lot coverage is not exceeded. The amendment also proposes to revise Chapter 3 to reduce the driveway setback from side property lines to 5 feet as opposed to the current requirement of 10 feet.

### **Board Action Requested**

Action

### **Person Submitting Agenda Item**

Cheri Elliott, Assistant

### **Presenter of Agenda Item**

Jason Litteral



## 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: November 12, 2019  
 Subject: PB 19-27 QHOC of Windswept Pines

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The enclosed text amendment submitted by QHOC of Windswept Pines revises Chapter 5 of the Unified Development Ordinance (UDO) to allow driveway widths of up to 40 feet when located on a street with curb and gutter section, and where the allowable lot coverage is not exceeded. The amendment also proposes to revise Chapter 3 to reduce the driveway setback from side property lines to 5 feet as opposed to the current requirement of 10 feet.

### Background

Prior to the 1989 Unified Development Ordinance, driveway widths and setbacks on private roads in Currituck County were largely unregulated. Driveways on state maintained streets were regulated by NCDOT. This resulted in wide driveways which could be located near side lot lines. Over time this created stormwater issues, particularly on the Outer Banks where parking was in high demand and space was limited. On the mainland, it also became an issue where development was occurring on smaller lots in areas with poor natural drainage.

In 2005, the UDO was amended to regulate driveways to alleviate stormwater issues. Driveway setbacks were instituted in an attempt to minimize stormwater runoff between adjoining properties. Additionally, driveway width regulations were adopted that reflected NCDOT standards. Those standards are the basis for current ordinance regulations which require a maximum residential driveway width of 24 feet. NCDOT does allow deviation from the 24' standard but this is done on a case by case basis. New subdivision roads are required to be designed and constructed to meet current NCDOT standards with the assumption that they will be accepted into the NCDOT maintenance program.

Part of this text amendment addresses driveway widths in residential developments that use curb and gutter as stormwater conveyance. On the mainland, there is an increase in the use of curb and gutter over the last 6 years. This text amendment would impact existing subdivisions along with any future subdivisions proposing the use of curb and gutter.

### 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

PB 19-27 QHOC of Windswept Pines  
 Driveway Width & Setbacks  
 Text Amendment  
 Page 1 of 7

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 proposed text amendment is not consistent with the following 2006 Land Use Plan Policies:*

**POLICY TR12:** *New residential developments shall provide for the installation of PAVED PUBLIC ROADWAY AND DRAINAGE INFRASTRUCTURE at the time of development. This policy is intended to prevent the creation of substandard developments that must later correct for infrastructure problems that could have been avoided, had they been installed properly from the beginning. Family subdivisions and non-asphalt roads serving the northern beaches are the only exceptions to this policy.*

b. *The Land Use Plan Vision Statement:*

*We will strive to maintain and enhance the quality of life within our communities for present and future generations by providing:*

- *economic opportunities and affordable housing for all citizens*
- *quality schools and educational, health and safety services*
- *additional and enhanced recreational facilities*
- *sound transportation planning and water, waste, and stormwater services for a growing population*
- *an aesthetically pleasing environment*

c. *The proposed text amendment is not consistent with the following purpose statement from the Currituck County Stormwater Manual:*

*In order to manage the growth pressure while addressing the need to protect the sensitive natural systems on which it depends, Currituck County seeks to improve the stormwater management portions of their Unified Development Ordinance (UDO) to raise the level of water quality protection and reduce nuisance flooding problems.*

(2) Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;

a. *The text amendment request may conflict with the following UDO General Purpose and Intent Statements:*

- *Protect development and residents from flooding and other natural hazards;*
- *Maintain and protect high quality aesthetic standards for development*
- *Maintain and enhance the character of various districts within the county through an emphasis on design quality;*

b. *The text amendment request is not in conflict with the County Code of Ordinances.*

(3) Is required by changed conditions;

*Staff is not aware of any changed conditions that would require the text amendment.*

(4) Addresses a demonstrated community need;

*The text amendment does not appear to address a community need.*

(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 amendment is not consistent with some of the general purpose statements of the Residential Zoning section of the UDO.*

(1) *The residential base zoning districts established in this section are intended to provide a comfortable, healthy, safe, and pleasant environment in which to live and recreate. More specifically, they are intended to:*

- *Ensure adequate light, air, privacy, and recreational and open space areas for each dwelling, and protect residents from the negative effects of noise, excessive population density, traffic congestion, flooding, and other significant adverse environmental impacts;*
- *Provide for safe and efficient vehicular access and circulation and promote bicycle- and pedestrian-friendly neighborhoods;*

(6) Would result in a logical and orderly development pattern; and

(7) Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

a. *The request could result in significantly adverse impacts on the natural environment, specifically stormwater management.*

#### **Staff Recommendation:**

Staff recommends denial of this text amendment request due to the following concerns expressed by the County Engineer and the Planning Department, and the suggested Statement of Consistency and Reasonableness provided in the attached staff report.

#### ***Planning and Engineering comments:***

##### **Greater than 24' driveway width concerns:**

Increased driveway width applies only to residential developments with curb and gutter infrastructure

- With curb and gutter, the section of the driveway within the right-of-way (connection of the driveway to the street), will typically drain to the street.
- Depending on the slope, layout, impervious area and design of the lot, more lot area could drain into the street via the driveway.
- Larger driveways will mean more direct runoff to the curb and gutter section which drains to catch basins and outlet pipes.
- If UDO is changed to allow for wider driveways at the ROW, will the current infrastructure in **existing developments** (gutters, catch basins, outlets) handle the increased flow of SW from wider driveways?

- In existing developments, County staff will need to review revised SW calculations to verify the 40' driveway drainage can be handled by current infrastructure.
- In existing developments, any infrastructure (catch basins, gutters, outlets, etc) will need to be improved to meet additional flow if indicated by revised calculations.
- In existing development, County staff will need verification from NCDOT that increased flow and any altered infrastructure will still meet NCDOT standards and carrying capacity.
- Slope of driveways will need to be minimal to limit velocity of runoff.
- Sheet flow from driveways that slope toward the street will have greater potential to impact properties on the opposite side of the street
- The NCDOT standard for driveway width is 24'. Deviations from this standard are evaluated on a case by case basis.
  - At this time, staff is unsure of the criteria used for determining greater driveway width approval
  - If driveways on a street exceed the 24' standard, will that impact NCDOT acceptance of the street into the DOT system?
- The above factors will need to be taken into account during the design of SW plan and infrastructure for curb and gutter residential developments.
- Consideration of Aesthetics – at 40' wide, up to 5 vehicles can be parked at the right-of-way, how will this impact the appearance of lots, and the neighborhood in general?
- What are the potential safety concerns for pedestrian and vehicular traffic movements from the sidewalk and roadway respectively?

### **Setbacks**

One overarching goal of the driveway setback is to minimize runoff onto your neighbor's property.

- Current UDO standard is a 10' side setback for driveways and parking areas.
- This provides more pervious area, which prevents more direct runoff onto neighboring lots.
- Provides a larger area for infiltration without sheet flowing into swales and ditches
- Lot line swales are required in all subdivisions
- Lot line swales could be impacted with decreased setback of driveways and parking areas
- Driveways that require fill to even out slope could violate ordinance requirement of no fill within the 10' setback

### **Benchmarking other communities' standards**

Staff would like to check with other neighboring communities and professional standards to see how others' address the issue.



**P B 19-27 QHOC OF WINDSWEPT PINES**  
**DRIVEWAY WIDTH AND SETBACKS**  
**TEXT AMENDMENT**  
**PLANNING BOARD**  
**NOVEMBER 12, 2019**

QHOC of Windswept Pines has submitted a text amendment to allow driveway widths of up to 40 feet when located on a street with curb and gutter section, and where the allowable lot coverage is not exceeded. The amendment also proposes to revise Chapter 3 to reduce the driveway setback from side property lines to 5 feet as opposed to the current requirement of 10 feet.

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 5. Use Standards is amended by adding the following underlined language and removing the following strike-through language:

**C. Driveway Widths**

Driveway widths shall be in accordance with Table 5.6.7.C, Driveway Width:

USE TYPE	RESIDENTIAL USES		NONRESIDENTIAL USES	
	MINIMUM WIDTH (FT)	MAXIMUM WIDTH (FT) [1]	MINIMUM WIDTH (FT) [2]	MAXIMUM WIDTH (FT) [1] [3]
Single-Family Detached & Two-to-Four Family	10	24[5]	N/A	N/A
All Other Uses: One Way Driveway	10	24	10	36
All Other Uses: Two Way Driveway	20		20 [4]	

NOTES:

[1] Maximum driveway width shall be measured at the lot line abutting the street right-of-way

[2] Nonresidential driveways shall meet emergency vehicle access requirements as determined by the Fire Marshal. [3] Not applied to fire stations.

[4] Minimum width may be reduced to 10 feet if the driveway is shorter than 75 feet in length, it provides access to less than six spaces, and is configured to allow vehicles to turn around without backing onto the street. It may also be reduced to ten feet if the use generates less than five vehicle trips per day.

[5] Driveways located on streets having curb and gutter section, where the allowable lot coverage is not exceeded, shall have a maximum width of 40 feet.

That Chapter 3 Zoning Districts is amended to reflect a reduced side setback of 5 feet for driveways. Driveway setbacks are established by the dimensional standards table in each zoning district, **all** of which shall be **amended as shown** in the below example.

Chapter 3: Zoning Districts  
**SECTION 3.4: RESIDENTIAL BASE ZONING DISTRICTS**  
 Subsection 3.4.3: Single-Family Residential-Outer Banks (SFO) District

<b>F. DIMENSIONAL STANDARDS</b>			
Max. Density (du/ac)	N/A	Min. Major Arterial Street Setback (ft)	50
Max. Nonresidential FAR (%)	0.40	Min. Side Setback (ft)	10
Min. Lot Area (sf ft)	20,000	Min. Rear Setback (ft)	25
Max. Lot Area (acres)	N/A	Min. Agricultural Setback (ft) [5]	50
Min. Lot Width, Interior Lot (ft)	100 [1]	Min. Accessory Use Setback (ft)	10
Min. Lot Width, Corner Lot (ft)	110	Min. Driveway/Parking Setback (ft)	<del>10</del> <u>5</u>
Max. Lot Depth	[2]	Min. Fill Setback from all Lot Lines (ft) [6]	10
Max. Lot Coverage (%)	30 [3]	Min. Wetland/Riparian Buffer (ft) [5]	30
Min. Front Setback (ft) [4]	20	Max. Building Height (ft)	35
Min. Corner Side Setback (ft)	20	Min. Spacing Between Principal Buildings (ft)	10
[1] All lots shall maintain a minimum street frontage of 35 feet [2] Lot depth shall not exceed four times the lot width [3] 35% for platted lots of 19,000 sf in area or less [4] Front setbacks shall be measured from ultimate ROW line		[5] Applied to major subdivisions platted after January 1, 2013 and site plans on lots 10 acres in area and greater [6] Except as needed for driveways	

**Item 3:** Staff's suggested Statement of Consistency and Reasonableness:

The requested text amendment is not consistent with the 2006 Land Use Plan and the following specific policies of the plan:

*The Land Use Plan Vision Statement:*

*We will strive to maintain and enhance the quality of life within our communities for present and future generations by providing:*

- *economic opportunities and affordable housing for all citizens*
- *quality schools and educational, health and safety services*
- *additional and enhanced recreational facilities*
- *sound transportation planning and water, waste, and stormwater services for a growing population*
- *an aesthetically pleasing environment*

*POLICY TR12: New residential developments shall provide for the installation of PAVED PUBLIC ROADWAY AND DRAINAGE INFRASTRUCTURE at the time of development. This policy is intended to prevent the creation of substandard developments that must later correct for infrastructure problems that could have been avoided, had they been installed properly from the beginning. Family subdivisions and non-asphalt roads serving the northern beaches are the only exceptions to this policy.*

The text amendment request is not reasonable nor in the public interest because

1. It is unclear if existing curb and gutter systems are capable of preventing floodwaters, generated by increased impervious area and potential increased velocity, from negatively affecting neighboring properties and streets.
2. Reduction of the side setback for driveways may cause issues with flooding of neighboring properties by:
  - Reducing space available for stormwater infiltration
  - Limiting the space available for property line swales
  - Encouraging fill in the 10 foot side setback when grade changes are necessary

**Item 4:** The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

**Item 5:** This ordinance amendment shall be in effect from and after the \_\_\_\_\_ day of \_\_\_\_\_, 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: Driveway example 1 - 34' (PB 19-27 QHOC of Windswept Pines)



Attachment: Driveway example 2 - 38 (PB 19-27 QHOC of Windswept Pines)



Attachment: Setback example 1-5' (PB 19-27 QHOC of Windswept Pines)



Attachment: Setback example 2 - 5' (PB 19-27 GHOC of Windswept Pines)



## Text Amendment Application

OFFICIAL USE ONLY:  
 Case Number: \_\_\_\_\_  
 Date Filed: \_\_\_\_\_  
 Gate Keeper: \_\_\_\_\_  
 Amount Paid: \_\_\_\_\_

### Contact Information

#### APPLICANT:

Name: QHOC of Windswept Pines, LLC  
 Address: 417 Caratoke Highway, Unit D  
Moyock, NC 27958  
 Telephone: (252) 435-2718  
 E-Mail Address: jold@qhoc.com

### Request

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

Amend Chapter(s) \_\_\_\_\_ Section(s) \_\_\_\_\_ as follows:

1. Amend 5.6.7.C Driveway Widths to provide an exception to the maximum driveway width for driveways that:

a. Exceed the UDO width of 24' at the right-of-way line but do not exceed the NCDOT standard of 40' wide at the R/W

b. Are located on streets that have a curb and gutter section rather than an open swale, and which therefore will not conflict with any provision of a stormwater permit issued by the NCDEQ

c. Do not result in lot coverage above the approved coverage limit

2. Amend Dimensional Standards in Chapter 2 for all residential uses to decrease driveway setbacks to side property lines to 5 feet where driveways:

a. Do not adversely impact any drainage swale or other facility

b. Do not require fill within 10' of a property line unless part of an approved stormwater permit

\*Request may be attached on separate paper if needed.

Petitioner

A handwritten signature of the petitioner, which appears to be "John Old".

Date