



Planning Board Agenda Packet

July 14, 2020

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 June 9, 2020 & June 11, 2020**Old Business****New Business**

- A) **PB 20-11 Steven W. Craddock** Request to amend the Unified Development Ordinance Chapter 4, Use Standards, to modify the extractive industry (mining) and accessory use standards for minor excavations (ponds). The proposed amendment removes extractive industry from the Heavy Industrial (HI) and Light Industrial (LI) zoning districts, Full Service and Limited Service land use designations, modifies the lot and access requirements, and the expansion and extension requirements. The proposed amendment requires excavation accessory uses (ponds less than one acre) to use the excavated materials on the subject property.

Announcements**Adjournment**



**CURRITUCK COUNTY
NORTH CAROLINA**

June 9, 2020
Minutes – Regular Meeting of the Planning Board

WORK SESSION

The Currituck County Planning Board held a work session at 5:30 PM in the auditorium of the North Carolina Cooperative Extension Center in Barco. Five board members were present. Staff members present were: Laurie LoCicero, Planning Director; Jennie Turner, Planner II; Jason Litteral, Planner II; and Cheri Elliott, Clerk to the Planning Board.

Informal discussions were held between the board members and staff concerning Planning Board items.

The work session adjourned at 6:00 PM.

CALL TO ORDER - 6:00 PM

The Planning Board met in a regular session in the auditorium of the North Carolina Extension Center located at 120 Community Way, Barco, North Carolina, on June 9th, 2020.

Attendee Name	Title	Status	Arrived
C. Shay Ballance	Chairman	Present	
Garry Owens	Vice Chairman	Present	
K. Bryan Bass	Board Member	Present	
David Doll	Board Member	Present	
Anamarie Hilgendorf	Board Member	Absent	
Juanita S Krause	Board Member	Present	
J. Timothy Thomas	Board Member	Absent	
Laurie LoCicero	Planning and Community Department Director	Present	
Jennie Turner	Planning and Community Development Planner II	Present	
Jason Litteral	Planner	Present	
Cheri Elliott	Clerk to the Board	Present	

Chairman Ballance called the meeting to order at 6:05 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 there were any board members who 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 there were any changes needed to the agenda. Mr. Bass motioned to approve. Mr. Owens seconded the motion and the motion carried unanimously.

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

APPROVAL OF MINUTES FOR MAY 28, 2020

Chairman Ballance asked if there were any changes needed to the May 28, 2020 meeting minutes. Mr. Doll motioned to approve as presented. Mr. Bass seconded the motion and the motion carried unanimously.

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

E. PB Meeting Minutes - May 28, 2020

OLD BUSINESS

No old business was discussed.

NEW BUSINESS

A. PB 20-02 Hurley Conditional Rezoning: Request to rezone 0.46 acres at 1202 Ocean Trail from SFO to C-GB for proposed retail and office use.

Jennie Turner, Planner II, presented the staff report and shared a PowerPoint presentation. Ms. Turner said the applicant is requesting a conditional rezoning from SFO (Single Family Residential-Outer Banks) to C-GB (Conditional-General Business). The subject property is located on Ocean Trail in Corolla, it is approximately 0.46 acres, undeveloped, and was platted as part of Ocean Hill Section 1 Subdivision. Ms. Turner reviewed the history of the parcel including a previous request in 2004 and a Declaration of Withdrawal to remove the parcel from Ocean Hill 1 Subdivision on April 17, 2012. The withdrawn lots had a Declaration of Restrictive Covenants recorded. The uses proposed for the Conditional GB zoning are consistent with the uses in that covenant. Ms. Turner reviewed the allowable uses of the property, presented a conceptual site plan, went over the Consistency and

Reasonableness Statement stating reasons how it concurs with the 2006 Land Use Plan, and said the staff is recommending approval of the requested conditional rezoning.

Chairman Ballance asked board members if they had questions for staff.

Mr. Bass asked why a residential item was listed on the agreed upon conditions of approval. Ms. Turner said the applicants did not want a limitation to just retail businesses.

There were no more questions for staff from board members.

Chairman Ballance asked the applicant or applicant's representative to come forward.

Warren Eadus with Quible Associations came before the board. He said they removed two items from the original restrictive covenants list: Funeral Home and Dry Cleaning. They felt these uses were not relevant. He said they tried not to limit the Hurley's request and worked closely with the County. Mr. Eadus also said the hours of operation would be consistent with the type of business at the location.

Chairman Ballance opened the floor for public comment. There were no public comments.

Chairman Ballance, hearing no further discussion, asked for a motion.

Mr. Doll motioned to **approve PB 20-02** because the request is consistent with the 2006 Land Use Plan Full Service Designation and the following policies:

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.

Policy OB2 - So as to minimize COMMERCIAL STRIP DEVELOPMENT and maximize the traffic moving capability of NC 12, Currituck County shall encourage commercial development to cluster at appropriate locations rather than dispersing along NC 12.

1. Allowable uses of the property shall be limited to the following Use Types:

- Animal grooming
- Animal Shelter
- Vet Clinic
- Fitness Center
- Indoor Recreation
- Convenience Store
- Adult Day Care Center
- Child Care Center
- Museum
- Library
- Retail Sales Establishments (Art Gallery, Art Center, Retail Sales of goods & services)
- Nursery, production
- Business and sales
- Professional services

- Restaurant (No-Drive Thru) with indoor or outdoor seating
- Specialty eating establishment
- Vocational or trade school
- Dwelling, single-family detached
- Family Care Home

2. Prior to land disturbance or construction the applicant shall submit for site plan approval.
3. Access shall be provided from Coral Lane.
4. Non-Residential Design Standards and Community Compatibility Standards of the UDO apply to future development.
5. Hours of operation shall be consistent with normal retail (surf shop) and professional office hours.
6. Architecture shall be similar to Corolla Village architecture.

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

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 6/22/2020 4:00 PM
MOVER:	David Doll, Board Member	
SECONDER:	Juanita S Krause, Board Member	
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Juanita S Krause, Board Member, Laurie LoCicero, Planning and Community Department Director, Jennie Turner, Planning and Community Development Planner II, Jason Litteral, Planner, Cheri Elliott, Clerk to the Board	
ABSENT:	Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	

B. PB 20-10 The Cotton Gin, Inc: The applicant is requesting a zoning map amendment to rezone 2.17 acres from Agriculture (AG) to General Business (GB) for property located at 6957 Caratoke Highway, Jarvisburg, Poplar Branch Township

Jason Litteral, Planner II, presented the staff report and a PowerPoint presentation. He said the applicant is requesting to rezone 2.17 acres of Agriculture (AG) property to General Business (GB). The subject parcel is currently 3.25 acres in size. The 2.17 acres is to be recombined with the original parcel resulting in a 5.42 acre GB zoned property. Mr. Litteral said in the past the property has been used as a retail establishment and a restaurant, but due to a fire last fall, the property owner wishes to rebuild the structures in a different configuration. To better accommodate current and potential future uses of the property, some structures will need to be relocated. The new structure will also need to adhere to a 100' setback from Caratoke Highway. For GB zoning district outside of a Full Service Area, the setback from roads designated as major arterials is 100'. The applicant would like to construct a building that will be used as an office and storage for the existing Kitty Hawk Kites hang gliding business. A portion of this building will also be used as accessory warehousing and distribution for the Cotton Gin retail stores. In the future, the building may be used for events held on the property. The ideal location for this new building is further from the highway in an area currently zoned AG and this is the reason for the requested zoning map amendment. Mr. Litteral stated the Consistency and Reasonableness Statement and said this request demonstrates a community need so staff is recommending approval.

Chairman Ballance asked if board members had any questions for staff. There were none.

Chairman Ballance asked the applicant or applicant's representative to come before the board.

Warren Eadus with Quible and Associates came before the board. He said The Cotton Gin lost a lot of retail and storage space due to the fire. This request would allow them to regain some of that. He said the 100 ft. set back is required since they ran out of space for what was needed so they have to rezone the portion of Agriculture to add to General Business space.

Chairman Ballance said he was happy they are rebuilding. Ms. Krause stated the same sentiments.

Chairman Ballance asked if there were any public comments. There were no public comments and the public hearing was closed.

Chairman Ballance asked for a motion.

Mr. Owens motioned to **approve PB 20-10** because the request is consistent with the policies of the land use plan, some of which are:

- CD4 - HIGHWAY ORIENTED COMMERCIAL USES should be clustered along segments of highways and contain land uses which are mutually compatible and reinforcing in use and design; they should be designed in such a way as to minimize signage, access points, and to prevent unsightly, dysfunctional STRIP DEVELOPMENT.
- ED4 - In addition to the recruitment and expansion of major new industries, the considerable value of SMALL BUSINESS START-UPS, EXPANSIONS AND SPIN-OFFS shall also be recognized.

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

- It would result in a logical and orderly development pattern and addresses a demonstrated community need.

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

Chairman Ballance called a 5 minute break at 6:38 PM.

Meeting back in session at 6:43 PM.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 6/22/2020 4:00 PM
MOVER:	David Doll, Board Member	
SECONDER:	Juanita S Krause, Board Member	
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Juanita S Krause, Board Member, Laurie LoCicero, Planning and Community Department Director, Jennie Turner, Planning and Community Development Planner II, Jason Litteral, Planner, Cheri Elliott, Clerk to the Board	
ABSENT:	Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	

C. PB 19-20 Flora Farm: Rezone 224.44 acres from Agricultural (AG) to Planned Development-Residential (PD-R) for property located in Moyock immediately south of Eagle Creek subdivision and Moyock Middle School. The request includes 285 single-family dwelling lots, up to 100,000 sf commercial, 125 upper story dwelling units, and a 22 acre school site

Laurie LoCicero, Planning Director for Planning and Community Development, presented the staff report. She conveyed Tammy Glave's apologies for not being able to be present due to Covid-19 and her current medical conditions. Ms. LoCicero also presented a PowerPoint presentation showing Base Zoning Districts, Land Use Plan Classifications, and the Moyock Small Area Plan Classifications. She also reviewed the Master Plan and Terms and Conditions Document for the Planned Development. Additional slides were reviewed for PD-R comparisons, zoning district comparisons, along with transportation slides showing impacts on traffic. The approval letter from David Otts with the Department of Transportation was included. Ms. LoCicero gave an overview of the private waste water treatment plant and the county water plans that will be looped in with the Fost development. Drainage for the planned development was reviewed. Ms. LoCicero said there are known drainage problems, but the County is now taken a more proactive approach to clean ditches, etc. Current and projected school numbers were given and the school district line that splits the Flora project between Shawboro Elementary and Moyock Elementary was shown on a PowerPoint slide. Staff's concerns with approving this planned development were given and a recommendation of denial was made.

Board members began to ask questions concerning the school system, the current over capacity numbers, and the possibility of a new elementary school. Chairman Ballance asked the Superintendent, Mark Stefanik, to come forward to answer their questions. Mr. Stefanik had written a letter on behalf of the Board of Education today to the Planning Board and the Board of Commissioners dated June 9, 2020 stating the Board of Education on May 29, 2020 had selected the Flora site as its primary location for the new elementary school. The letter also stated reasons why this site was chosen and why they are in support of the Flora planned development. Mr. Stefanik gave the current maximum capacity number for Moyock Elementary as 560 students with that number dropping to 529 students with new state laws going into effect next year. He said they have ordered two mobile classrooms. With two classrooms per unit. Mr. Stefanik gave the Shawboro Elementary maximum capacity numbers as currently 640 which will decrease to 610 next year. He said August 1st is the target date to receive the mobile classrooms.

Ms. LoCicero said the student numbers stated by Planning staff were given by the Superintendent. They were not numbers made up by staff. Ms. LoCicero provided a PowerPoint slide with the staff's concerns for schools and ended with the Technical Review

Committee's slide showing the recommendation of denial. She stated the Consistency and Reasonableness Statement.

Chairman Ballance asked if there were any questions from the board.

Mr. Doll said last week a commissioner stated it would be 2025 before a school could be built. Ms. Krause asked if a bond referendum will be necessary for the Board of Education to receive the funds for the new school? Ms. LoCicero said that is a possibility since this is a fluid situation due to the Covid-19 with the loss of funds.

Discussion was held over the 25' buffer and whether it is adequate between Flora Farm and Ranchland, also discussion was held on connectivity to Ranchland and Fost. Ms. LoCicero said Ranchland will not connect and there is only one way in and out, but Flora will connect with the Fost development.

Chairman Ballance asked the applicant or applicant's representative to present their case.

Mark Bissell with Bissell Professional Group presented for the applicant with a PowerPoint presentation. He went over the key elements on the Master Plan. He said the school site will be 22 acres and have looping County water, added on street parking and agreed to set back the houses to allow 2 cars deep between garage and sidewalk. He said there will be sidewalk cafes and a multitude of different housing which will have affordable housing for teachers working at the schools. He reviewed the phasing schedules and said the first sale of a home will be August 2022. He reviewed a projected elementary enrollment schedule and Flora's Draft Terms and Conditions. Mr. Bissell reviewed the traffic plan and said there will be four connections with the main connection on Survey Road. He reviewed the drainage plan and said there will be a new ditch that will help with drainage issues, very extensive ponds for slow release drainage modeling for a 100 year storm event. He said the surrounding development area is Full Service.

Mr. Bass asked why the 125 apartment units are not included in the projected school enrollment spreadsheet. Mr. Bissell confirmed they are not, but it was not necessary.

Ms. Krause asked if the new ditch will connect to Rowland Creek. Mr. Bissell said the back part will go into Rowland Creek. Ms. Krause said she was concerned if the culverts under NC 168 could not handle the extra drainage. She had severe flooding approximately several years ago when the culverts on NC 168 were full.

Ms. Krause asked if the planned development was in the watershed district. Mr. Bissell said it is not part of the Guinea Mill Watershed District. There is not a watershed district for Rowland Creek.

The applicant, Justin Old with Allied Properties, come forward to explain the stormwater district being created for Flora Farm. He said, as opposed to an HOA, there will be a separate stormwater district created by Chris Conner. We are contributing \$50,000 for the first 5 years to maintain the stormwater. Permission has been received from all the land owners to clear the ditches.

Chairman Ballance announced a five minute break at 8:02 PM.

Resumed meeting at 8:14 PM.

The applicant's attorney, Jamie Schwedler with Parker Poe, came forward to address the board. Ms. Schwedler reviewed items she felt were not updated on the staff report. Some of the items were the consistency with density and the consistent policies in the 2006 Land Use Plan for the Flora Farm planned development. Ms. Schwedler referenced a letter from David Otts with the Department of Transportation and read the letter to the board. She reviewed a PowerPoint slide for consistency with schools and referenced a letter to the Planning Board and the Board of Commissioners dated June 9, 2020 from the Superintendent of Currituck County Schools, Mark Stefanik, and read the letter to the board. Other items reviewed were consistency with adequate public facilities, the Land Use Plan, and concluded with a PowerPoint summary slide.

Mr. Doll said the Schedule B Phasing Schedule does not show the actual total of 410. Ms. Schwedler said the multi-family housing is included in the commercial. Mr. Old said apartments don't generate that many students.

Discussion was held over the pool being used by the high school swim team. Mr. Old said the pool has six 25 meter lanes and it is an outdoor pool. Mr. Doll questioned whether the high school would be able to use the outdoor pool for practice since high school swim does not start until October.

Mr. Stefanik came before the board. He said we need another school, but now the timeline cannot be set and it may trigger the school system to go into the bond process. He said if the schools can't get the capital monies from the State, we will have to do mobile units to provide for our students. We have capacity at Griggs Elementary, but not at the northern schools. Mr. Doll asked if it is anticipated the school system will continue to add mobile classrooms and Mr. Stefanik said yes, temporarily, we have to make decisions to service the students. Mr. Owens asked about the high schools capacity. Mr. Stefanik said the maximum capacity is 1,200 students and we have 1,000 currently, but students taking college classes will take some of the students out.

Ms. Schwedler made her closing statements to the board.

Chairman Ballance closed the public hearing.

Ms. Krause motioned to **approve PB 19-20 Flora Farm** because the request is consistent with the Land Use Plan because:

POLICY HN3: Currituck County shall especially encourage two forms of residential development, each with the objective of avoiding traditional suburban sprawl: #2. COMPACT, MIXED USE DEVELOPMENTS or DEVELOPMENTS NEAR A MIXTURE OF USES that promote a return to balanced, self-supporting community centers generally served by centralized water and sewer. The types of development are contemplated for the Full Service Areas identified on the Future Land Use Map.

POLICY CD1: NEIGHBORHOOD SERVING COMMERCIAL DISTRICTS should be encouraged to locate where a collector or secondary street intersects with a street of equal or greater size. Appropriately designed, small-scale businesses may also be near other neighborhood serving facilities such as schools and parks.

POLICY HN5: Currituck County recognizes that there are many types of housing, in addition to manufactured housing (i.e. mobile homes), that are often overlooked in meeting the AFFORDABLE HOUSING NEEDS of young families, workers of modest income, senior citizens and others. To encourage affordable housing other than just manufactured housing, Currituck County may reserve appropriate areas of the county for stick-built housing forms only, and other areas of the county for accessory units in association with a principal structure.

POLICY ES2: NON-COASTAL WETLANDS, including FRESHWATER SWAMPS, AND INLAND, NON-TIDAL WETLANDS, shall be conserved for the important role they play in absorbing floodwaters, filtering pollutants from stormwater runoff, recharging the ground water table, and providing critical habitat for many plant and animal species. Currituck County supports the efforts of the U.S. Army Corps of Engineers in protecting such wetlands through the Section 404₂ permit program of the Clean Water Act, as well as Section 401₃ water quality certifications by the State of North Carolina.

POLICY SF1: Currituck County shall support and actively engage in ADVANCED PLANNING FOR THE LOCATION OF NEW SCHOOLS. Such locations shall serve to reinforce contiguous growth patterns near existing developments rather than promoting sprawl in more rural locations. New schools shall be viewed as a cornerstone of the communities in which they are located and shall serve to proactively influence growth.

POLICY SF2: Currituck County encourages OFFERS OF LAND FOR THE SITING OF NEW SCHOOLS, particularly in conjunction with related community development. Acceptance of such properties shall be based on approved location and design criteria.

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

- The increase in the number of residential roof tops may bring additional commercial development to Moyock.

Ms. Krause added to her motion: Approving this because of the school site.

Mr. Ballance seconded the motion and the motion carried with a 3-2 vote, with Mr. Doll and Mr. Bass voting nay.

RESULT:	RECOMMENDED APPROVAL [7 TO 2]	Next: 6/22/2020 4:00 PM
MOVER:	Juanita S Krause, Board Member	
SECONDER:	C. Shay Ballance, Chairman	
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, Juanita S Krause, Board Member, Laurie LoCicero, Planning and Community Department Director, Jennie Turner, Planning and Community Development Planner II, Jason Litteral, Planner, Cheri Elliott, Clerk to the Board	
NAYS:	K. Bryan Bass, Board Member, David Doll, Board Member	
ABSENT:	Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	

ANNOUNCEMENTS

Laurie LoCicero said the next Planning Board Meeting will be held on June 11, 2020 at the Historic Courthouse.

ADJOURNMENT

Mr. Bass motioned to adjourn the meeting. Mr. Owens seconded the motion and the meeting adjourned at 9:26 PM.



**CURRITUCK COUNTY
NORTH CAROLINA**

June 11, 2020
Minutes – Special Meeting of the Planning Board

WORK SESSION

The Currituck County Planning Board held a work session at 5:00 PM in the Historic Courthouse Board Meeting Room with five board members present. Staff members present were: Laurie LoCicero, Planning Director; Jennie Turner, Planner II; and Cheri Elliott, Clerk to the Planning Board. Informal discussion was held until 5:15 PM while board members and staff had refreshments in celebration of the fourth Planning Board Meeting within 10 days in order to catch up from the Covid-19 related absence.

5:15 PM - Jennie Turner briefed the board on PB 20-05 Currituck County Nonconforming Campgrounds Text Amendment. She went over the requested Definition changes and the General Standard changes for the Unified Development Ordinance (UDO). Laurie LoCicero gave background on a Board of Adjustment case held in 2019 concerning Hampton Lodge Campground (KOA) where the new owner wanted additional amenities or intensification. Staff had given them a Letter of Determination denying their requests and that decision was upheld by the Board of Adjustment. Even though campgrounds in Currituck County have been deemed nonconforming, the attorney for the campground was using specific terminology found in the General Standards of the UDO to justify additional amenities in the nonconforming campground. The text amendment changes are needed to clarify the language so there is no longer any miscommunication in the UDO that campgrounds are a nonconforming use that are not meant for intensification and to close any loop holes in the language concerning nonconforming campgrounds in the UDO. Discussion was also held on the modular trailers brought onsite at the KOA and their description of them as cabins.

Ms. LoCicero briefed the board on PB 20-06 Currituck County Remove Planned Development-Residential (PD-R) Text Amendment. In trying to control growth, staff looked at the different applications and found that the PD-R was creating an exceptional amount of growth in the Moyock population. The Board of Commissioners instructed staff to remove the PD-R, but to keep the Planned Development-Mixed (PD-M) District. Ms. LoCicero said PD-R will become a legacy district instead of completely removing it. The PD-R could be brought back at a later date. Ms. Krause asked if Currituck Station would be affected by this change. Ms. LoCicero said Currituck Station would not be affected. She stated Currituck Station is on the agenda for the Board of Commissioners' meeting on June 15th, but we do not know how they will decide it. Discussion was held over not restricting the County as a whole when the growth that needs to be slowed is in Moyock. Board members discussed creating a PD-R Lower Currituck that would still remain in use.

Ms. Turner briefed the board on PB 20-03 Currituck County Miscellaneous Text Amendment which includes thirteen miscellaneous changes.

Ms. Turner briefed the board on PB 20-08 Currituck County Subdivision Access Standards Text Amendment.

CALL TO ORDER - 6:00 PM

The Planning Board met in a special 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	Present	
K. Bryan Bass	Board Member	Present	
David Doll	Board Member	Present	
Anamarie Hilgendorf	Board Member	Absent	
Juanita S Krause	Board Member	Present	
J. Timothy Thomas	Board Member	Absent	
Laurie LoCicero	Planning and Community Department Director	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 6:01 PM.

A. Pledge of Allegiance and 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 there were any changes needed to tonight's agenda. With no changes noted, Mr. Bass motioned to approve the agenda as presented. Mr. Doll seconded the motion and the motion carried unanimously.

OLD BUSINESS

No old business was discussed.

NEW BUSINESS

A. PB 20-05 Currituck County Nonconforming Campgrounds Text Amendment: Request to amend the Unified Development Ordinance, Chapter 8 Nonconformities and Chapter 10 Definitions and Measurement to revise the nonconforming campground ordinance and amend definitions.

Ms. Turner presented the staff report. She said this text amendment was created to address concerns from the Board of Commissioners and the County Attorney concerning the nonconforming campgrounds. Ms. Turner gave the background of various changes in the Unified Development Ordinance (UDO) concerning campgrounds back to 1982 and with the most recent change in 2013, specifying campgrounds as nonconforming uses that could not longer be expanded. She went over the requested changes. Ms. LoCicero said requested text amendment came directly from the advice of our County Attorney. She said the KOA, last year, used language in the UDO and tried to interpret this language that they could make any modifications they wanted as long as they did not add any additional campsites. Ms. LoCicero said they should not add amenities to prolong the life of campgrounds when they are nonconforming. Ms. Turner went over the text amendment review standards for making a decision to amend the UDO. She also reviewed the Consistency and Reasonableness Statement and said staff recommends approval.

Chairman Ballance asked if there were any question from the board. With no questions, he opened the public comment.

William Privott of 107 Baggy Davis Lane, Currituck, came before the board. Mr. Privott said he is the owner of Bells Island Campground and he said the campground has been in business for 57 years. He said he has had very notable people who have stayed or kept campers at his campground. He said they started changing \$1 per day to swim/fish in 1963 and the price is still the same. Mr. Privott said it is wrong to make campgrounds nonconforming and he doesn't have any problems at his campground with the residents there. He said he was appointed Magistrate in 1983 and served for 34 years. He handed a notice to Ms. LoCicero he had received in 1999 when he was cited for a violation. His wife Judy signed an affidavit for the county and the Code Enforcement Officer (at that time) sent him a letter allowing him to continue having residents living in his campground. The letter was passed to each board member for review. Mr. Privott then referenced a Code Enforcement letter dated November 23, 1999 from Ms. LoCicero. He pointed at Ms. LoCicero and read the letter aloud. Mr. Privott said this is being caused by the County's issue with Hampton Lodge Campground (KOA). Chairman Ballance told Mr. Privott he should not be mad at staff; they are only doing their jobs.

Mr. Bass asked Mr. Privott about the property tax he pays. He said he pays on each permanent camper he has onsite. Mr. Bass asked how many camper sites he has. Mr. Privott said he has 40 units all year and 24 that are a mix of no sewer and metered to him. He said 15 sites are permanent all year.

Ms. Krause said she had visited his website and liked that he shares the local businesses on his site.

Alex Spencer of 928 Water Lily Road came before the board. Mr. Spencer spoke on behalf of the Water Lily community and said they are in favor of the clarifications in the text amendment.

Discussion was held on whether occupancy tax is collected on campsites. Ms. LoCicero said they do not pay occupancy tax since campers are not considered permanent structures; they only pay property tax.

Ms. Turner commented that the Tax Department does not let the Planning Department know if "these things" can be there. They just collect the property tax.

A general discussion and whether there were any open violations for the four campgrounds in the County: Bells Island Campground, Barns Campground (2 campers), Sandy Point, and Hampton Lodge (KOA) Campground.

Chairman Ballance asked for a motion.

Mr. Bass said he would like to motion, but wants to compromise. He said he has an issue with permanent residences.

Discussion was held on whether the permanent residents at Bells Island Campground are allowed to vote without an official address. Mr. Privott said they get PO Boxes at the Post Office to vote.

Mr. Privott said he applied for a boat ramp then the County said he was nonconforming and he could not get his permit.

Ms. Krause asked why the length of stay in campgrounds is being changed from 90 days to 60 days. Ms. LoCicero said to keep people moving; so they come, visit, and leave.

Mr. Bass moved to **approve PB 20-05** with an exception made if a campground has an official County letter which grandfathered the campground to an earlier ordinance because the request is consistent with the following goal of the 2006 Land Use Plan:

Land Use and Development Goal # 10 To properly distribute development forms in accordance with the suitability of the land, infrastructure available and the compatibility of surrounding land uses.

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

It provides language that will reduce the potential impacts of existing campgrounds in neighborhoods where the campgrounds are located and the proposed language may improve compatibility among uses for efficient development within the county.

Mr. Doll seconded the motion and the motion carried, 4-1, with Ms. Krause voting nay.

RESULT:	RECOMMENDED APPROVAL [4 TO 1]	Next: 6/22/2020 4:00 PM
MOVER:	K. Bryan Bass, Board Member	
SECONDER:	David Doll, Board Member	
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member	
NAYS:	Juanita S Krause, Board Member	
ABSENT:	Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	

B. PB 20-06 Currituck County Remove Planned Development-Residential Text Amendment: Request to amend the Unified Development Ordinance, Chapter 3 Zoning Districts to remove PD-R zoning district for new rezoning requests and retain existing PD-R standards to preserve the administrative review process and development standards for amendments to existing PD-R zoning districts and master plans.

Ms. LoCicero presented the staff report and said discussion was held at the October 2019 Board of Commissioners' work session about the growth in the northern end/Moyock area. Donna Voliva, Assistant Planning Director, created a chart to show where all the growth was coming from and discovered it was mainly due to the Planned Development-Residential (PD-R) District. In an effort to control the growth, the Board of Commissioners' instructed staff to remove the PD-R, but to keep the Planned Development-Mixed (PD-M). The PD-R will become a legacy district and could be brought back at a later date. Ms. Turner said staff recommends approval of this change.

Discussion was held over it affecting the entire county and where the current PD-R's are located. Board asked staff if it was possible to only apply the restriction to north of the bridge.

No citizens were present to speak in favor or opposition. Chairman Ballance closed the public hearing and opened the floor for a motion.

Mr. Ballance motioned to **approve PB 20-06** with the additional recommendation to create a new district called PDR Mainland South because the request is consistent with the following goals and policies of the 2006 Land Use Plan:

Land Use and Development Goal #3 To conserve the County's remaining prime agricultural areas, while recognizing the economic realities of farm operations and private property rights.

POLICY AG6: For areas experiencing intense development pressure, new residential development may be allowed to locate in COMPACT, VILLAGE-LIKE CLUSTERS, PREFERABLY NEAR EXISTING, NON-AGRICULTURAL ACTIVITIES AND SERVICES, or in other locations that will not interfere with resource production activities. Overall density shall remain very low, with permanent open space, dedicated during the development review process, surrounding such clusters of homes.

POLICY HN4: Currituck County shall discourage all forms of housing from "LEAPFROGGING" INTO THE MIDST OF FARMLAND and rural areas, thereby eroding the agricultural resource base of the county.

POLICY WS4: Currituck County endorses utilities extension policies that avoid those parts of the county best suited for agriculture and to PROTECT FARMLAND FROM DEVELOPMENT PRESSURES brought about by such utilities. Exceptions to this policy may include extensions for major economic development initiatives, and extensions to address imminent public health problems or related environmental hazards.

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

- The proposed text amendment allows for the continuance of existing PD-R districts and amendments thereto but does not permit new rezoning applications for PD-R; and,
- There are zoning districts within the county that allow for similar development density and patterns.

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

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 6/22/2020 4:00 PM
MOVER:	C. Shay Ballance, Chairman	
SECONDER:	K. Bryan Bass, Board Member	
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Juanita S Krause, Board Member	
ABSENT:	Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	

C. PB 20-03 Currituck County Miscellaneous Text Amendment: Request to amend the Unified Development Ordinance to change Planning Board quorum; require surveyed site plans (<20,000 sf lots) and as-built surveys (<40,000 sf lots); clarify allowable use of metal siding in Business and Industrial Zoning Districts; remove redundant parking language for Bed and Breakfast Inns; correct Single Family-Residential Remote accessory parking language; allow accessory keeping of specific livestock (goats) subject to additional standards; amend bio solid/sludge language for consistency with recent court decisions; clarify home occupation language; revise accessory dwelling unit standards; update private residence terminology; remove reserve utility open space requirement; and update financial terminology.

Ms. Turner presented the staff report. This text amendment is intended to clarify and revise miscellaneous sections of the Unified Development Ordinance (UDO) and to amend certain sections at the direction of the Board of Commissioners. Ms. LoCicero gave specific background information on Item 2 of the thirteen miscellaneous changes. She said this is to fix people building on setbacks which has been a problem recently. Ms. Turner went over all the changes and referenced the Review Standards and the Statement of Consistency and Reasonableness. She said staff recommends approval.

No citizens were present for public comment.

Mr. Owens moved to **approve PB 20-03** because the request is consistent with the following goal and policies of the 2006 Land Use Plan:

- *Land Use and Development Goal #1* To protect and conserve the area's natural beauty and coastal resources as the County's greatest asset for economic development and a high quality of life.
- **POLICY HN8**: To protect the County's tax base and to ensure the long-term viability of the County's neighborhoods and housing stock, the County will continue to enforce appropriate CONSTRUCTION AND SITE DEVELOPMENT STANDARDS for residential developments.
- **POLICY CD4**: HIGHWAY ORIENTED COMMERCIAL USES should be clustered along segments of highways and contain land uses which are mutually compatible and reinforcing in use and design; they should be designed in such a way as to minimize signage, access points, and to prevent unsightly, dysfunctional STRIP DEVELOPMENT.
- **POLICY ID1**: To diversify the local economy and broaden the local tax base, the County shall encourage a public service and regulatory environment conducive to COMPATIBLE INDUSTRIAL DEVELOPMENT.
- **POLICY CA1**: The important economic, tourism, and community image benefits of attractive, functional MAJOR HIGHWAY CORRIDORS through Currituck County shall be recognized. Such highway corridors, beginning with US 158 and NC 168, shall receive priority attention for improved appearance and development standards, including driveway access, landscaping, buffering, signage, lighting and tree preservation.
- **POLICY WS6**: Currituck County endorses the proper use and maintenance of APPROVED SEPTIC SYSTEMS in suitable soils as an environmentally acceptable means of treating and dispersing waste from low-density development.

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

- It clarifies portions of the UDO for more consistent interpretation and enforcement.
- It amends the UDO for consistency with recent court decisions and current financial terminology.
- It allows accessory keeping of certain livestock in agricultural and residential zoning districts subject to specific standards intended to address compatibility issues.
- It removes utility open space requirements for new subdivisions that have been deemed unnecessary.

Mr. Owens added changed Item 2 from 20,000 square feet or smaller to 25,000 square feet or smaller.

Mr. Ballance seconded the motion and the motion carried unanimously with the requested change

Chairman Ballance recessed for a 5 minute break at 8:25 PM.

The meeting reconvened at 8:33 PM.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 6/22/2020 4:00 PM
MOVER:	Garry Owens, Vice Chairman	
SECONDER:	C. Shay Ballance, Chairman	
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Juanita S Krause, Board Member	
ABSENT:	Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	

D. PB 20-08 Currituck County Subdivision Access Standards Text Amendment: Request to amend the Unified Development Ordinance, Chapter 2 Administration to clarify that Family Subdivisions may front NCDOT-maintained streets and that private access streets shall connect to an NCDOT-maintained street.

Ms. Turner presented the staff report and said this text amendment is necessary to clarify Family Subdivision access and private access street requirements. Family Subdivisions may front an existing NCDOT maintained public street and a private access street is required to connect to an NCDOT maintained public street. Ms. Turner referenced the review standards and the Statement of Consistency and Reasonableness. She said staff recommends approval.

Chairman Ballance asked if the board had any questions for staff.

There were no questions and no citizens present for public comment.

Mr. Doll moved to **approve PB 20-08** because the request is consistent with the following policies of the 2006 Land Use Plan:

- **POLICY HN8:** To protect the County's tax base and to ensure the long-term viability of the County's neighborhoods and housing stock, the County will continue to enforce appropriate CONSTRUCTION AND SITE DEVELOPMENT STANDARDS for residential developments.
- **POLICY TR5:** So as to preserve the traffic moving function of the County's primary roads, minimize traffic accidents, and avoid land locking interior land parcels, Currituck County shall discourage residential and commercial strip development along the county's primary roads.

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

- It clarifies the access standards of the UDO for Minor and Family Subdivisions for more consistent interpretation and implementation.

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

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 6/22/2020 4:00 PM
MOVER:	David Doll, Board Member	
SECONDER:	K. Bryan Bass, Board Member	
AYES:	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Juanita S Krause, Board Member	
ABSENT:	Anamarie Hilgendorf, Board Member, J. Timothy Thomas, Board Member	

ANNOUNCEMENTS

Ms. LoCicero made announcements: The Currituck Station work session will be held on Monday at 4:00 PM in the auditorium of the North Carolina Extension Center, Barco; The Board of Commissioners will meet in a special session to consider three rezonings and all the text amendments that were heard by the Planning Board; There is a Planning Board meeting on July 14th with one item on the agenda; we expect to be directed to finish the Imagine Currituck soon.

Chairman Ballance and Ms. LoCicero thanked everyone for being flexible with all the recent meetings.

ADJOURNMENT

Mr. Bass motioned to adjourn. Mr. Doll seconded the motion and the meeting adjourned at 8:42 PM.



Currituck County Agenda Item Summary Sheet

Agenda ID Number – 2850

Agenda Item Title: PB 20-11 Steven W. Craddock

Submitted By: Donna Voliva – Planning & Community Development

Item Type: Legislative

Presenter of Item: Donna Voliva

Board Action: Action

Brief Description of Agenda Item:

Request to amend the Unified Development Ordinance Chapter 4, Use Standards, to modify the extractive industry (mining) and accessory use standards for minor excavations (ponds). The proposed amendment removes extractive industry from the Heavy Industrial (HI) and Light Industrial (LI) zoning districts, Full Service and Limited Service land use designations, modifies the lot and access requirements, and the expansion and extension requirements. The proposed amendment requires excavation accessory uses (ponds less than one acre) to use the excavated materials on the subject property.

Planning Board Recommendation:

Staff Recommendation: Denial

TRC Recommendation:



Currituck County

Planning and Community Development Department

Planning Division

153 Courthouse Road, Suite 110

Currituck, North Carolina, 27929

252-232-3055 FAX 252-232-3026

To: Planning Board

From: Planning Staff

Date: July 10, 2020

Subject: PB 20-11 Steven W. Craddock Text Amendment MODIFIED

Steven W. Craddock submitted a text amendment application to modify the extractive industry and accessory use standards for mining operations and minor excavations (ponds). Mr. Craddock indicated in the request that this amendment is intended to protect and insure the most valuable portions of Currituck County are preserved and developed to their maximum potential, create jobs, increase and enhance the tax base in accordance with the highest and best use of land, and to ensure Currituck County can continue to keep tax rates low.

To address staff concerns, the applicant requested a revision to the text amendment application that was submitted to the planning board.

The amended and proposed text amendment to the Unified Development Ordinance (UDO), Chapter 4, Section 4.2.5.A. Extractive Industry, will revise the current ordinance language in an effort to:

- Require mining operations to have an improved direct access to major arterial streets (direct, easement, or private right of way).
- Prepare an access impact report for operations that utilize an easement or private right of way.
- Remove the Extension of Expiration Time Period language.
- Require all expansions to go through the same process as a new permit.

The proposed text amendment will impact expansions and modifications to some existing, active mining operations as well as new applications. If the proposed language is adopted, the existing mining operations that were lawfully established would no longer conform to the adopted provisions in this amendment; rendering some active mining operations nonconforming. A list of existing mines is provided for reference.

In addition, the application request includes a text amendment to Chapter 4, Section 4.3.3.J. Excavation, that will require excavation accessory uses (ponds less than one acre) to use the excavated material removed from the pond on the subject property.

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;
2. Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
3. Is required by changed conditions;
4. Addresses a demonstrated 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;
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.

Staff Recommendation

The proposed text amendment modifies some aspects of the extraction and excavation standards of the UDO, and will impact modifications to existing mining operations.

The applicant revised the initial request to address the conflicts to the ordinance, and staff recommends approval of the request as submitted and suggests the following Statement of Consistency and Reasonableness:

The 2006 Land Use Plan includes the following policies related to mining activities and the secondary impacts of the mining operation. The requested zoning text amendment is consistent with the goals, objectives, and policies of the 2006 Land Use Plan including:

- **POLICY ID8: MINING ACTIVITES**, or secondary impacts of mining activities not subject to permit approval by the State of North Carolina, may be subject to review and management by Currituck County. Activities to be addressed may include, but not be limited to, the adequacy of roads serving the mine site, visual impacts during operation and after closing of the mine site, noise and dust considerations, etc.
- **POLICY TR11: ACCESS TO HIGHER INTENSITY DEVELOPMENT** shall generally not be permitted through an area of lower intensity development. For example, access to a multi-family development, a major park facility or other large traffic generator shall not be permitted through a local street serving a single-family residential neighborhood.

The request is reasonable and in the public interest because:

- The proposed amendment is not in conflict with provisions of the Unified Development Ordinance by requiring mine expansions to be subject to a quasi-judicial decision.

- The proposed amendment would identify potential transportation impacts to easements and private rights of way that are used by others and provide mitigation methods to reduce adverse impacts on nearby properties.



**STAFF REPORT
PB 20-11 STEVEN W. CRAADOCK
TEXT AMENDMENT
PLANNING BOARD
JULY 14, 2020**

Amendment to the Unified Development Ordinance Chapter 4. Use Standards.

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

Item 1: That Chapter 4: Use Standards is amended by adding the following underlined language, deleting the struck-through language and numbering accordingly:

4.2.5. Industrial Uses

A. Extractive Industry

Extractive industry uses shall receive and maintain a State of North Carolina mining permit and comply with the following standards:

(1) General

- (a)** Any mine activity affecting more than one acre (including excavation, area where overburden is placed, area used processing or treatment and settling ponds, access roads, etc.) shall be subject to these regulations and require a use permit.
- (b)** Any mine activity affecting one acre or less (including excavation area, overburden or filled area, access roads, etc.) where all or a portion of the excavated material is removed from the site shall be subject to these regulations and require a use permit.
- (c)** All State permits and applications for State permits associated with the mining activity, including permit modifications, shall be filed with the Planning and

Community Development Department by the applicant.

(2) Size

No more than 30 percent of the total site shall be excavated at any given time during the mining operation and after completion except as otherwise provided in this section.

(3) Setbacks

(a) No activities associated with the mine, including but not limited to excavation activities, vehicular access (except for driveways providing access to the site) and detention ponds shall be located within 100 feet of any property line and 300 feet of any residence, school, religious institution, hospital, commercial or industrial building, vehicular right-of-way or easement, or cemetery.

(b) Setbacks may be reduced by 50 percent when there is a complete visual screen at least six feet in height and an intermittent visual screen to a height of at least 20 feet between the mining activity and the adjoining use. Further, the Board of Commissioners may reduce non-modified setbacks by 50 percent when the mining activity adjoins a vacant parcel or farmland.

(4) Height

Mined materials shall not be stored in excess of 25 feet in height.

(5) Access

(a) ~~For operations that generate more than five trips per peak hour, at At least 200 feet of continuous pavement shall be required onsite starting at the point the access road intersects with a public street or highway unless such public street is not paved. Acceleration and deceleration lanes shall be required by the county when it determines, subject to input~~

from the North Carolina Department of Transportation, that such lanes will enhance public safety. All access roads should intersect with public streets at right angles, but in no case be less than 60 degrees. All streets and roads utilized to access the mining site shall be maintained free of dust and sediment and shall be properly graded and drained. For the purposes of this section, continuous pavement shall be solid concrete or pavement and shall not include millings, ground asphalt, or friction course products.

- (b)** Where two or more accesses to the mining operation exist, traffic shall be routed to the access having the least negative impact on adjoining properties.
- (c)** All access roads (haul roads) shall only access major arterial streets (direct, easement, or private right of way).

(6) Vehicles

All trucks hauling mined materials (i.e. sand, clay, topsoil) shall be covered with a tarpaulin.

(7) Hours of Operation

In no case shall the hours of operation be beyond sunrise to sunset. Mining activities shall not occur on Saturdays from Memorial Day through Labor Day or Sundays.

(8) Refuse

No bulk waste, hazardous waste, commercial waste, garbage, construction or demolition waste shall be placed on site. Notwithstanding the foregoing, warehousing and distribution of medical waste for processing or disposal off site may be authorized by a use permit in accordance with Section 4.2.5.D.4, Warehouse and Distribution of Medical Waste.

(9) Mine Discharge Water

- (a)** Discharging of water from the mine site shall be permitted subject to obtaining a state permit. The county may require periodic testing of the mine discharge water for settable solids, total suspended solids, chlorides, turbidity, and pH at the operators' expense. Such testing shall not exceed six tests per year. Discharging without proper state permits will result in initiating procedures to revoke the use permit.
- (b)** Mine discharge water, including but not limited to discharge stormwater, mine dewatering, and process wastewater, shall not adversely affect downstream properties. Drainage patterns shall not be altered so as to cause flooding off-site while the permit is valid and after reclamation. The county may require decreased discharge rates until the downstream impacts are resolved.

(10) Signage

'No trespassing' signs indicating that a mining operation is being conducted on the site shall be spaced a minimum of 250 feet apart.

(11) Reclamation

Reclamation shall be conducted simultaneously with mining operations. Annual reclamation reports shall be submitted to the Planning and Community Development Department within ten days of being filed with the State.

(12) Overburden

Overburden to be used for future reclamation shall be placed where it will not be disturbed by normal mining activities and shall be stabilized to reduce wind and water erosion. Use of overburden for earth berms is encouraged to reduce the impact of the mining operation on adjoining properties.

(13) Groundwater Level Impacts

No mining activities shall adversely affect surrounding in use wells, ponds or increase chlorides in downstream water bodies. If a mine that requires off-site dewatering is located within a 1,500 foot radius of an in use well, pond, or a source of salt water intrusion, hydrogeological reports or performance guarantees with monitoring wells shall be required and the Board of Commissioners may consider adjusting setbacks or imposing other conditions on the applicant. Any person owning or operating a mining site in a manner that adversely affects an in use well through contamination or diminution of groundwater shall provide the well owner with a replacement water supply of equal quantity and quality. Any person owning or operating a mining site in a manner which creates lowering of pond levels below moderate drought levels or increases chloride levels downstream of dewatering operations shall decrease pumping rates until normal levels are reached. A rebuttal is permitted that contamination or diminution of water has been caused by the mining activity. Proposals for mining activities shall be accompanied by a hydrogeological report or performance guarantees with monitoring wells as provided in this section.

(a) Hydrogeological Report

A hydrogeological report may be required for mining activities with dewatering operations when an existing in use well is located within a 1,500 foot radius of the excavation area. The requirement to provide a hydrogeological report shall be determined by the County Engineer and shall be based on proximity, number and depth of existing in use wells. The report shall be prepared by a registered engineer, geologist, or other professional approved by the County Engineer. The report shall include the following:

- (i) Location and description of all in use wells located within a 1,500 foot radius of the excavation area.
- (ii) Description of existing and proposed drainage patterns located within a 1,500 foot radius of the excavation area.
- (iii) Proposed mine construction and operation plan.
- (iv) Description of dewatering activities.
- (v) Field analysis to include aquifer tests using test well pumping to monitor water levels for a 24 hour period and appropriately located piezometers in a pattern to reflect the water table aquifer and drainage influences. Water level measurements shall be made in each piezometer to build and calibrate a model to analyze the hydrologic relationship between proposed mine operations and the surrounding environment.
- (vi) Hydrogeological model simulation demonstrating the effects of mine dewatering on the groundwater drawdown in a 1,500 foot radius of the excavation area.
- (vii) Description of the impacts on the quality and quantity of in use wells, lowering of ponds, and any potential salt water contamination sources and recommended mitigation action of any adverse impacts.

(a) Performance Guarantees and Monitoring Wells

The mine operator may offer a performance guarantee and monitoring wells, in lieu of hydrogeological reports, to replace any in use wells located within a 1,500 foot radius of the excavation area that have diminished in quantity or quality from the mines dewatering operation.

(i) Performance Guarantees

- (A)** The mine operator shall guarantee replacement of water supply to that of equal quantity and quality of owners in use well.
- (B)** A performance guarantee, in the form of a cash deposit, shall be established in the amount of \$3,000 per in use well to assure the operator has funds available should the need arise to replace any of the in use wells.

(ii) Monitoring Wells

Monitoring wells may be required for mining activities with dewatering operations when an existing in use well, pond, or a source of salt water intrusion is within a 1,500 foot radius of the excavation area. A plan shall be provided outlining groundwater monitoring strategies which demonstrates the effects of pumping. Monitoring well requirements shall include the following:

- (A)** Monitoring wells to assess hydrogeological conditions shall be constructed to comply with the provisions of NCDEQ rule 15A NCAC 02C – Well Construction Standards.
- (B)** Install to a depth equal to the maximum depth of the mine dewatering operation.
- (C)** Monitoring wells shall be located between the excavation area and the in use wells or pond and located as close as possible to the mine property line. In no instance shall the monitoring well

be located closer than one-third the distance from the in use well to the mine. In some instances, it may be necessary to install the well on adjacent properties, in which case a well construction permit will be required through NCDEQ.

- (D) Monitoring wells shall be installed prior to dewatering operations and maintained throughout the duration of the mine permit period.
- (E) Water levels shall be collected monthly and submitted quarterly to the Planning and Community Development Department.
- (F) In the event an in use well or pond within a 1,500 foot radius of the excavation area has an issue with quality or quantity of water levels, the monitoring well(s) water level data will be used to assess changes in the water table levels over the period of time the mine was dewatering. Decreased water table levels below in use well depths or pond depths shall constitute the requirement to replace an in use well so as not to be affected by the mine dewatering operations or to modify dewatering rates so as to not lower water levels in adjacent ponds below their moderate drought levels.

(14) Plan Requirements

In addition to the site plan requirements in the Administrative Manual, plans for mining operations shall include the following items:

- (a)** Name of mine;
- (b)** Name and address of property owner and mine operator;
- (c)** Existing and proposed mine boundaries, including acreages;
- (d)** Location of existing and proposed vehicular access and haul road(s);
- (e)** Location and dimension of existing and proposed buffer(s) and berms;
- (f)** Location, acreage, and height of stockpile and overburden disposal areas;
- (g)** Location of 100-year floodplain and wetland boundaries;
- (h)** Phasing of mining operations including reclamation;
- (i)** Estimated noise levels at exterior property lines;
- (j)** Location of existing and proposed drainage features within a 1,500 foot radius of the excavation area;
- (k)** Location of existing in use wells and ponds within a 1,500 foot radius of the excavation area if the mine will use dewatering operations; and
- (l)** Hydrogeological report, monitoring well plan, or performance guarantee as determined by the County Engineer addressing potential impacts to in use wells, ponds, or salt water intrusion sources within a 1,500 foot radius of the excavation area; and,
- (m)** Access impact report prepared by a professional with transportation and road construction experience addressing the potential impacts the use of trucks and heavy equipment may generate on the easement or private right of way and mitigation methods to address the potential impacts. Mitigation methods may include but not limited to road maintenance

agreement, performance guarantee, or other methods acceptable to the Board of Commissioners.

(15) Expansion

An expansion of an existing mining operation shall comply with the following procedures and additional standards.

(a) Procedure

- (i)** With the approval of the Planning Director Board of Commissioners, additional area within the site can be mined provided previously mined areas are reclaimed with non-contaminated soils to the original ground elevation in accordance with state standards. All reclaimed land shall be identified on a map recorded in the register of deeds.
- (ii)** ~~With the approval of the Planning Director, an expansion of an existing mine operation not to exceed 40 percent of the total site area can be mined.~~
- (iii)** In accordance with Section 2.3.14, the Board of Commissioners can approve an expansion of an existing mine operation not to exceed 50 percent of the total site area.

(b) Additional Standards

- (i)** The existing mine has an active use permit and State permit.
- (ii)** The existing mine has been in operation for a period of no less than five years.
- (iii)** The existing mine has maintained compliance with all applicable state and local permit regulations for the past five years of operation.

- (iv) The cumulative total of the mine's excavation area, including the requested expansion, shall not exceed 50 percent of the total site area. All on-site CAMA and US Army Corps of Engineers designated wetlands and surface waters shall not be included in the total site area calculation.
- (v) All state mining permit modifications shall be obtained prior to any expansion activities being performed.

(16) Expiration

The use permit shall be valid for the same permit period as the State of North Carolina mining permit not to exceed ten years from the date of issuance or for a shorter duration as deemed appropriate by the Board of Commissioners. In the event the property owner desires to continue the mining operation thereafter, he shall again petition the Board of Commissioners for a new permit.

(17) Extension of Expiration Time Period

~~The Planning Director may, upon receiving a written request for extension, grant an extension not to exceed ten years provided the existing mine has maintained compliance with all applicable state and local regulations.~~

Item 2: That Chapter 4: Use Standards is amended by adding the following underlined language, deleting the struck-through language and renumber accordingly:

4.3.3. Specific Standards for Certain Accessory Uses

A. Excavation

Minor excavations for the purpose of establishing a pond ~~or to acquire acquiring~~ fill for the enhancement of the subject property may be permitted as an accessory use, provided:

- (1) One acre or less is affected (including excavated area, fill, and haul roads). Excavation materials shall remain on the subject property.
- (2) Excavation is setback at least 100 feet from all lot lines;
- (3) Slopes are maintained at no greater than 3:1 above the water, 2:1 below the water, and an average depth of four feet is maintained; and
- (4) A performance guarantee of at least \$1,000 is posted with the Planning and Community Development Department to ensure adequate reclamation following excavation.

Item 3: Statement of Consistency and Reasonableness:

The requested text amendment generally appears to be consistent with the goals, policies, and objectives of the 2006 Land Use Plan. The 2006 Land Use Plan includes the following policies related to mining activities and the secondary impacts of the mining operation.

- POLICY ID8: MINING ACTIVITES, or secondary impacts of mining activities not subject to permit approval by the State of North Carolina, may be subject to review and management by Currituck County. Activities to be addressed may include, but not be limited to, the adequacy of roads serving the mine site, visual impacts during operation and after closing of the mine site, noise and dust considerations, etc.
- POLICY TR11: ACCESS TO HIGHER INTENSITY DEVELOPMENT shall generally not be permitted through an area of lower intensity development. For example, access to a multi-family development, a major park facility or other large traffic generator shall not be permitted through a local street serving a single-family residential neighborhood.

The request is reasonable and in the public interest because:

- The proposed amendment is not in conflict with provisions of the Unified Development Ordinance by requiring mine expansions to be subject to a quasi-judicial decision.
- The proposed amendment would identify the potential transportation impacts to easements and private rights of way that are used by others and provide mitigation methods to reduce adverse impacts on nearby properties.

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 _____, 2020.

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: _____

Mine	Operator	State Permit	Zoning	Road	Text Amendment Impact
Bright Mine	Bonney G. Bright	3-8-2006	AG	NC 615	Conforming
Bluebird#1 Mine	Moyock Farm Associates	9-29-1988	AG	Easement	Conforming
Thrasher Mine	Elbow Road Farms, Inc.	12-14-1999	AG	Secondary	Nonconforming
Spruill Mine	William H. Spruill	2-1-1999	HI/AG	Private R/W	Conforming
Guinea Pit	William H. Spruill	8-8-2016	AG/GB*	Private R/W	Currently Nonconforming*
Countryscapes LLC Mine	Countryscapes LLC	12-11-1998	AG	Private R/W	Conforming
Cheshire Meadows Mine	James and Amy Innes	8-1-2005	AG	US 158	Conforming
Tommy Newbern Mine	Thomas E. Newbern, Sr.	7-5-2002	GB/AG*	US 158	Currently Nonconforming*
Bayview Sand Mine	HOM Development LLC	3-19-2018	AG	Secondary	Nonconforming
Site No. 2 Mine	TNT Services, Inc.	12-21-1999	AG	Private R/W	Conforming
Green Acres Lane Development Mine	Jeffrey A. Newbern, Sr.	7-5-2002	AG	US 158	Conforming
Wilbur Griggs Mine	HOM Development LLC	11-4-2013	HI/GB*	Easement	Currently Nonconforming*
Griggs Pit	RPC Contracting	7-31-1987	AG	Secondary	Nonconforming
Malco Mine	TR Equipment Co., Inc.	9-27-1994	AG	Easement	Conforming
Brumsey Mine (inactive)	Barnhill Contracting	4-11-1995	LB/AG**	Secondary	Nonconforming (inactive)
McPherson Mine (inactive)	Barnhill Contracting	11-14-1986	AG	Easement	Conforming (inactive)

* Modification or expansion would require a rezoning – currently nonconforming due to zoning district

**Mine site contains a bifurcated district – the mining activity including haul road is located in the AG district



Text Amendment Application

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

Contact Information

APPLICANT:

Name: Steven W. Craddock
Address: PO Box 1185
Grandy, NC 27939-1185
Telephone: 252-453-3200 (work)
E-Mail Address: appraisals@appraisenc4u.com

Request

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

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

See the attached two-page document with the proposed text amendments/changes to the UDO.

These majority of these proposed changes are specific to Extractive Mining and Ponds.

*Request may be attached on separate paper if needed.

Steven W. Craddock (signed digitally)

Petitioner

05/18/2020

Date

Monday, May 18, 2020

Sand Pit Text Amendment

Sand Pit text Amendment

4.2.5. Industrial Uses, A. Extractive Industry Text Amendment

A. Extractive Industry

- Pages 4.40 - 4.41 of the UDO
- (1) General
- Add (C.) Cannot be located in Full Service, or limited Service on the 2006 Land Use Plan. This applies to new permits, and any modifications, or expansions of existing permits.
- Add (D.) Mine must be located 100% in its entirety, on one single parcel of land. Including any and all haul roads, all the way until they reach a state maintained road that is eligible by county requirements for a mine haul road access.
- (2) Size- No more than 30% of the total site uplands may be excavated at any given time.
- (5) Access
- (a) Remove [more than five trips per peak hour] from the first sentence. Define pavement as real solid pavement, or solid concrete. Not ground up asphalt, millings, or friction course products.
- Add (C) Must have its own, direct access point, to U.S. 158 Caratoke Hwy., 168 Caratoke Hwy., 158 Short cut road, or hwy 34 Shawboro Rd. without impeding through an already existing street, or neighborhood. Mine may not utilize an easement across another property for access.
- Propose to remove Extraction Industry from permitted uses in HI, and LI. leaving AG with a Use Permit. (Table 4.1.1: Summary Use Table, Page 4.8 of the UDO)
- (15) Expansion. - Expansion must go though the same process as a new permit.
- Remove #(17) Extension of Expiration Time Period. (No extensions)

Monday, May 18, 2020

- This is consistent with the 2006 land use plan recommendation in section 7 Review of existing policies, goal 3.3: (last updated in 2000, 20 years ago) Page 7-3 of the 2006 Land Use Plan.
- To protect and insure, the most valuable portions of Currituck County, are preserved and developed to their maximum potential. To create quality jobs. To increase, and enhance the tax base in accordance with the highest and best use of the land, and to insure Currituck County can continue to keep rates low, while reaping the maximum benefits for its citizens for years to come.
- Less than One Acre permits.
- Chapter 4 Use Standards, section 4.3: Accessory Use Standards, Subsection 4.3.3: Specific Standards for Certain Accessory Uses. J. Excavation Page 4.61 of the UDO.
- Propose to add [strictly for the enhancement of the subject property] to the first sentence after fill.
- Sentence should read - Minor excavations for the purpose of establishing a pond or acquiring fill, strictly for the enhancement of the subject property, may be permitted as an accessory use, provided:
- Propose to replace (1) One acre or less is affected (including haul roads);
- With (1) Pond should not exceed one acre. Fill material should be strictly used on, for, and not leave subject property. Fill material should not be placed in certified ACOE wetlands.