



**Planning Board
Agenda Packet**

March 9, 2021

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
- E) Approval of Minutes for February 9, 2021

Old Business

- A) **PB 20-16 Currituck County Text Amendment Utility and Drainage Easements:** Request to amend the Unified Development Ordinance, Sections 6.2.3 and 7.3.4 to prohibit on-site wastewater systems in utility and drainage maintenance access easements on individual lots and to clarify that maintenance access drainage easements must be dedicated to the county.

New Business

- A) **PB 21-05 Currituck County Text Amendment PUD Open Space:** Request to amend the Unified Development Ordinance, Sections 1.8.6 and 10.5 to allow construction of a police, fire or EMS facility on county-owned land designated as open space in a Planned Unit Development and amend the definition of police, fire and EMS facility to include training facilities.

Announcements**Adjournment**



**CURRITUCK COUNTY
NORTH CAROLINA**

February 9, 2021

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 Board Meeting Room with five board members present. Staff members present were Laurie LoCicero, Planning and Community Development Director; Jennie Turner, Planner II; and Cheri Elliott, Clerk to the Planning Board. The board members were briefed concerning the agenda items.

CALL TO ORDER

The Planning Board met for a regular meeting 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	
Laurie LoCicero	Planning Director	Present	
Jennie Turner	Planner II	Present	
Cheri Elliott	Clerk to the Board	Present	
Ben Stikeleather	County Manager	Present	

Chairman Ballance called the meeting to order at 6:03 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 items 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.

Communication: PB Meeting Minutes - February 9, 2021 (Approval of Minutes for February 9, 2021)

D. Election of Chairman & Vice Chairman

Chairman Ballance asked for nominations for the election of the Chair. Ms. Krause nominated Mr. Ballance to continue as Chair. Mr. Doll seconded the motion and the motion carried unanimously.

Chairman Ballance asked for nominations for the election of the Vice Chairman. Mr. Doll motioned for Mr. Owens to continue as Vice Chairman. Mr. Bass seconded the motion and the motion carried unanimously.

E. Approval of Agenda

Chairman Ballance asked if there were any changes needed to tonight's agenda. Mr. Bass motioned to correct the Planning Board number for Item B to PB 18-23. Mr. Doll seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
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, Juanita S Krause, Board Member
ABSENT:	Anamarie Hilgendorf, Board Member

APPROVAL OF MINUTES FOR JANUARY 12, 2021

Chairman Ballance asked if there were any changes needed for the minutes for January 12, 2021. With no changes noted, Mr. Bass motioned to approve the minutes. Mr. Doll seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
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, Juanita S Krause, Board Member
ABSENT:	Anamarie Hilgendorf, Board Member

F. Planning Board Minutes - January 12, 2021**OLD BUSINESS**

No old business discussed.

NEW BUSINESS**A. PB 21-04 Flora Farm:**

Laurie LoCicero, Planning and Community Development Director, presented the staff report making the following narrative points:

- 277 single-family dwelling lots
- Limited neighborhood commercial development

- Approximately 83 of the 202 acres are proposed to be open space
- Residential amenities include: dog park, picnic area, pool, clubhouse, and sidewalks
- Non-residential amenities include: outdoor dining area and a patio with benches
- Installing 8' multi-use path along Caratoke Highway as required by Currituck Transportation Plan
- Three non-residential buildings required to meet non-residential design standards and community compatibility standards
- Since the three non-residential buildings combined exceed 5,000 sf, if there are 4 or more tenant spaces combined within the three buildings, shopping center design standards must be met

Ms. LoCicero reviewed the applicant's conditions of approval regarding drainage improvements and phasing. The review standards were discussed, along with the Land Use Plan, and the Moyock Small Area Plan. Ms. LoCicero pointed out some inconsistencies between the LUP and the SAP, such as the MAP splits the property with both Full Service and Limited Area; however the LUP designates the entire property as Full Service. School capacities were discussed. Ms. LoCicero said part of the property would be in the Shawboro Elementary School (SES) district and part would be in the Moyock Elementary School (MES) school district. Currently there is not space for students at MES, but the school is going to be expanded. After this expansion, MES will have space for 750 students. Ms. LoCicero said the County Manager was at the meeting tonight and he will discuss the expansion details later. Ms. LoCicero handed out an email from the County Manager concerning the expansion. Staff concerns were presented which highlighted the traffic concern and the soil concern. Ms. LoCicero went over the concerns from the Technical Review Committee (TRC) and said they are not recommending approval. The Consistency and Reasonableness Statement was reviewed along with the Conditions of Approval.

Chairman Ballance asked if the board had any questions for Ms. LoCicero.

Ms. Krause said her concerns were for drainage and if the culverts under the highway could handle the capacity. Ms. Krause wanted to know if NCDOT has given the County an answer concerning this and also wanted to know what protections were in place to keep the ditches stay clean. Ms. LoCicero directed her to page 76 of the agenda packet to show the stormwater conditions of improvement. Concerning NCDOT, they have not given the County an answer on the culverts under the highway.

Mr. Bass said the number of lots for this project exceeds what is allowed in the SAP. Ms. LoCicero agreed, but said the LUP designates this property as Full Service and more weight was given to this plan.

Mr. Owens asked whether the 2004 study for accurately determining the number of future students was still correct. Ms. LoCicero said it is still fairly close in its accuracy.

Mr. Doll asked about the June 2022 phasing schedule and whether people will be living there then. Ms. LoCicero said that date means the plat is ready to be recorded, then it will take 3 to 6 months to build the houses.

The County Manager, Ben Stikeleather, came before the board to discuss the expansion of MES and MMS. He said we have a June 1st Notice to Proceed Date assigned for the expansion. Pre-design work is being done in the next couple months. Students should be in the new classrooms August 2023 first and then the other needed facilities will be added later. For MES, the expansion will be off of the back side of the library and will generate 5 to 7 new classroom. Later we will construct a new elementary school for the Moyock area.

Mr. Bass asked if the over capacity problem was only at MES and Mr. Stikeleather said yes, at the moment.

Discussion was held over Use Permits and having adequate facilities at the moment and having adequate facilities within two years. Mr. Stikeleather said he is confident we will have classroom capacity by August 2023.

Discussion was held on the two modular classroom trailers at MES and the plans of adding two additional trailers to help with the over capacity until the expansions are complete. The board members had concerns with taking away the modular classrooms after the expansion and if the 5 to 7 classrooms would be enough. Mr. Stikeleather said his conversations with the Superintendent has made him confident that 5 to 7 classrooms are enough.

The applicant, Justin Old, 131 Springle Lane in Moyock, came before the board. He voiced his concerns that the staff report may have some inaccuracies and did not show the positives of the development.

Board members asked Mr. Old questions concerning the number of students the development would add and questions on drainage. Mr. Old said the future student numbers presented were ambitious and he feels the numbers are actually lower for Moyock since the numbers include old subdivisions that still have empty lots. For drainage, he said they have cleared and snagged 3,000 feet of ditches and as previously discussed, there will be a drainage association.

Mr. Bissell with Bissell Professional Group came before the board and presented his PowerPoint presentation. He reviewed this packet and presented a PowerPoint presentation. He said the development would have a lot of connectivity with bike paths and walkways. There would be outdoor dining areas connected with paths. He discussed the slides in his presentation and went over the soils. Mr. Bissell handed out a Statement of Compliance with UDO Standards packet and reviewed the items in the packet.

Ms. Krause asked if permission had been received from the property owners in Eagle Creek to connect to the sewage system for their subdivision. Mr. Bissell said Eagle Creek actually requested the improvements to the sewage system, but an agreement has not been sign; the agreement is forthcoming.

There were no additional questions for Mr. Bissell from the board.

There was no public comment.

The board asked Mr. Stikeleather some additional questions concerning the expansion of the schools and the building of the new school. Mr. Stikeleather said the addition will be in 2022 and the new school will be in 2024; the process can go faster if we use existing state approved plans. The addition has the added benefit to push the date of a new school further out and will give necessary improvements to the older schools.

The board asked questions on tracking new subdivisions and future students from these subdivisions. Ms. LoCicero said both are tracked by the Planning Department. We are talking about actual capacity but committed capacity is for planning purposes to know when to build a new school. Committed capacity is a planning tool for when to start looking for land and when to plan for a new school. Ms. LoCicero said committed capacity is tracked with the new subdivisions that have required Use Permits, but Family Subdivisions and Minor Subdivisions which do not require a Use Permit are not part of the tracked committed capacity numbers. These subdivisions that are not tracked actually balances out the numbers for empty lots in an older development.

There was no further discussion from the board.

Chairman Ballance asked for a motion.

Mr. Bass 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.

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.

The additional applicant's conditions of approval are included in the motion for approval:

Condition 1 regarding drainage improvements:

Drainage improvements will be provided as follows:

- a. Extend the Rowland Creek drainage improvements to the Eagle Creek Pumpstation, with agreement from Eagle Creek.
- b. Make improvement to the drainage ditch that runs along the common boundary between the Fost/Brumsey property and Eagle Creek/Ranchland based on results of the stormwater modeling of existing conditions.

- c. Perform stormwater modeling of the proposed Flora Farm development to manage the 100 year storm event and provide stormwater storage, including berms as necessary.

Condition 2 regarding phasing:

- a. Development will be recorded in 5 phases. Developer will not record the first phase before June 1, 2022.
 - b. The first phase will not contain more than 55 lots.
 - c. Subsequent phases will not be recorded sooner than 6 months following the prior phase, and in any event, no sooner than January 1, 2023.
 - d. Developer will retain the right to provide an annual update of phasing, including making adjustments to phase lines and the sequence of recording, as long as the timing of total lots recorded in the above conditions is followed.
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- a. That the application for preliminary plat/use permit for the subdivision not be submitted until the Notice to Proceed with the school expansion project is fully executed. (Estimated June 1, 2021 - See below note from County Manager)
 - b. That the conditions of approval proposed by the applicant be incorporated into the approval.
 - c. That the model home sample elevations be incorporated into the approval.
 - d. That certification be provided that the private WWTP proposed to service this development can accommodate the gpd of wastewater this development proposes to generate.

Also, the additional TRC conditions of approval are included as follows:

- a. That the application for preliminary plat/use permit for the subdivision not be submitted until the Notice to Proceed with the school expansion project is fully executed. (Estimated June 1, 2021 - See below note from County Manager)
- b. That the conditions of approval proposed by the applicant be incorporated into the approval.
- c. That the model home sample elevations be incorporated into the approval.
- d. That certification be provided that the private WWTP proposed to service this development can accommodate the gpd of wastewater this development proposes to generate.

Mr. Doll seconded the motion and the motion to approve carried unanimously 5-0.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 3/1/2021 6:00 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, Juanita S Krause, Board Member	
ABSENT:	Anamarie Hilgendorf, Board Member	

B. PB 18-23 Fost, Amended PD-R #3:

Ms. LoCicero presented the staff report and a PowerPoint presentation. This amendment was necessary due to a requirement in the Unified Development Ordinance when changing street access in the master plan it must go back through the review/approval process. This amendment to the master plan adds a connection street (Leif Street) between Flora and Fost developments. Ms. LoCicero reviewed the 2006

Land Use Plan and the Moyock Small Area Plan and the policies that are in relation to this planned development. Ms. LoCicero said the Technical Review Committee has recommended approval with the following conditions:

1. Would prefer to see some commercial development as part of the Fost tract along Caratoke Hwy and be included as part of Phase 2 & 3 as opposed to proposing all commercial development in Phase 7.
2. Any impacts to jurisdictional waters or wetlands of the United States require prior approval from the US Army Corps of Engineers.
3. Drainage and utility requirements in the June 24, 2019 approved order remain unchanged.

Mr. Bissell came before the board and presented the applicant's case. He said they would be unable to do the 1st condition recommended by the Technical Review Committee since the ponds and other development has already been done.

There were no public comments.

There were no board questions or discussion.

Mr. Doll motioned to approve **PB 18-23 Fost Planned Development, Amended**, because:

1. It is consistent with all the review standards provided under the Unified Development Ordinance (UDO) Section 2.4.3.C. (BOC 6/24/19)
2. The conditions placed on the development will improve drainage problems on the property within nearby Ranchland and Eagle Creek subdivisions if improvements are made to the drainage system on off-site properties. (BOC 6/24/19)
3. It is compatible with existing Moyock Township subdivisions. (BOC 6/24/19)

Conditions of Approval:

1. Any impacts to jurisdictional waters or wetlands of the United States require prior approval from the US Army Corps of Engineers. (US Army Corps of Engineers)
2. Drainage and utility requirements in the June 24, 2019 approved order remain unchanged. (Attached)

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

1. It is required by changed conditions acknowledged by the Land Use Plan and addresses a demonstrated community need providing a full service area that offers mixed use development with both residential and commercial components. (BOC 6/24/19)

Mr. Owens seconded the motion to approve and the motion carried unanimously 5-0.

Chairman Ballance called a 10 minute recess.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 3/1/2021 6:00 PM
MOVER:	David Doll, 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	

C. PB 21-02 Hutchinson Rezoning:

The board returned from the 10 minute recess at 8:15 PM.

Jennie Turner, Planner II, presented the staff report along with a PowerPoint presentation. Ms. Turner said this is a straight conventional rezoning and conditions cannot be attached. She reviewed the Aerial slide showing the surrounding zoning, referenced the 2006 Land Use Plan (LUP) policies, and the community meeting report. Slides were presented showing the current zoning and the proposed zoning, and the Use Comparisons for the current and proposed zoning. Ms. Turner reviewed spot zoning and why it was a concern with this case. She gave the review standards and said that staff is recommending the applicant submit a conditional zoning application with a plan that is more conceptual in nature, therefore staff recommends denial. Ms. Turner gave the consistency and reasonableness statement saying it is not consistent with the LUP and is not reasonable and not in the public interest because it does not provide for properly planned mixed use development adjacent to Caratoke Highway.

Jason Mizelle, Senior Project Manager with Timmons Group, came before the board to represent the applicant. He explained the changes in moving the lines for General Business(GB) zoning and the Mixed Residential (MXR). The applicant wanted the residential on the back of property, but wanted to keep business options with it being located in Grandy. He said Grandy does not have MXR, but the three other core communities do have this zoning.

Chairman Ballance said he was very familiar with the Grandy area and development would be welcome in this area.

Mr. Bass asked about conditional zoning and setting certain development. Mr. Mizelle said any development still has to come back through to a Preliminary Plat, etc

Mr. Bass asked about spot zoning being illegal. Ms. Turner said it can be illegal, but it would have to meet all five of the factors on page 111 of the agenda packet:

- There is an emphasis on a very limited number of property owners being involved, "usually triggered by efforts to secure special benefits for particular property owners, without regard for the rights of adjacent landowners."
- Size of tract.
- Compatibility with adopted plans.
- The balance of benefits and detriments.
- Relationship of uses.

Discussion was held on property to the south and whether that could be combined with the Hutchinson parcel. Mr. Mizelle said Mr. Grandy owns this and has a small seafood market on it; he is not interested in selling it. Mr. Mizelle said the applicant originally was considering cottage courts if he could have obtained the property to the south, but the applicant still wants to do some type of residential.

Chairman Ballance made a motion to **approve PB 21-02** because the request is consistent with Land Use Plan Full Service Designation.

And the request is reasonable and in the public interest because the General Business zoning opens up opportunity for small business and middle class residential is a need in Grandy.

Ms. Krause seconded the motion. The motion failed with Mr. Bass, Mr. Doll, and Mr. Owens voting nay.

Mr. Bass made a motion to **deny PB 21-02** because the request is inconsistent with the 2006 Land Use Plan policies including Housing and Neighborhood Policies HN1, HN3 and HN9 and Commercial Development Policies CD1-5, CD6 and CD8.

It is not reasonable and not in the public interest because it does not provide for properly planned mixed use development adjacent to Caratoke Highway.

Mr. Doll seconded the motion to deny and the motion carried 4-1, with Chairman Balance voting nay.

RESULT:	RECOMMENDED DENIAL [4 TO 1]	Next: 3/1/2021 6:00 PM
MOVER:	K. Bryan Bass, Board Member	
SECONDER:	David Doll, Board Member	
AYES:	Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Juanita S Krause, Board Member	
NAYS:	C. Shay Ballance, Chairman	
ABSENT:	Anamarie Hilgendorf, Board Member	

D. PB 20-16 Currituck County Text Amendment Utility and Drainage Easements:

Ms. Turner presented the staff report along with a PowerPoint presentation showing the water drainage, typical, and drainage easements. She said one of the original changes in the text amendment should possibly be left out; the added sentence is in 7.3.4.B.(10)(a). Ms. Turner went over the review standards, gave staff's recommendation of approval, and reviewed the consistency and reasonableness statement.

Ms. LoCicero explained why easements are needed for the County to complete drainage work in our various ditches.

Ms. Krause asked if the County was responsible for drainage and Ms. Turner said no. Mr. Stikeleather said it is a proactive approach as Moyock grows. It will keep property owners from putting their drain fields in an area that it may be damaged by heavy equipment used to maintain the ditches.

The board had no further questions for staff.

Mr. Bissell came before the board to talk in opposition of the text amendment and presented three slides.

Ms. Turner said, although she is not disagreeing with Mr. Bissell, it is not what is before the board tonight.

Ms. LoCicero suggested the text amendment be tabled so we can review it to see if an amendment is needed.

Ms. Turner asked if there were applications that would need this approved text amendment. Mr. Stikeleather said a month or two delay would not be an issue since this problem has been ongoing for years.

There were no public comments.

Mr. Bass moved to **table PB 20-16** in view of the fact we need to get some clarification.

Ms. Krause seconded the motion and the motion carried unanimously to table the text amendment 5-0.

RESULT:	TABLED [UNANIMOUS]	Next: 3/9/2021 6:00 PM
MOVER:	K. Bryan Bass, 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	
ABSENT:	Anamarie Hilgendorf, Board Member	

E. PB 21-01 Currituck County Multi-Family Townhouse Stormwater Text Amendment:

Ms. LoCicero presented the staff report for the multi-family townhouse stormwater text amendment along with a PowerPoint presentation. At the direction of the Board of Commissioners, staff was asked to revise 7.3.4.B.2 of the Unified Development. The proposed text amendment will amend the stormwater requirements for Type I Major Subdivision of a multi-family townhouse development. This amendment will allow a twenty lot or less subdivision of a multi-family townhouse development to meet the stormwater standards of a commercial development which are designed to handle a five year twenty-four hour rain event. The larger subdivision's stormwater infrastructure must be designed to handle a ten year twenty-four hour rain event. Ms. LoCicero went over the review standards and the statement of consistency and reasonableness.

Mr. Strikeleather came before the board to explain why this text amendment was necessary.

There were no public comments.

Mr. Bass moved to **approve PB 21-01** because the request **is** consistent with the goals, objectives, and policies of the Land Use Plan including:

- **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. Such standards may include, for example, that all homes have a permanent masonry foundation (except where flood levels require elevation) and a pitched roof and overhang, and that local roads must be built to meet NCDOT acceptance standards. (See Transportation Policies for details concerning requirements for paved roads.)
- **POLICY WQ4:** RUNOFF AND DRAINAGE from development, forestry and agricultural activities shall be of a quality and quantity as near to natural conditions as possible. Post-development runoff shall not exceed pre-development volumes.

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

- It is consistent with policies within the Land Use Plan;
- It provides flexibility for the design for multi-family development subdivisions.

Mr. Doll seconded the motion to approve and the motion carried unanimously 5-0.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]	Next: 3/1/2021 6:00 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, Juanita S Krause, Board Member	
ABSENT:	Anamarie Hilgendorf, Board Member	

ANNOUNCEMENTS

Ms. LoCicero said the Land Use Plan, Imagine Currituck, will be coming to the Planning Board in the next few months for review.

ADJOURNMENT

Mr. Bass motioned to adjourn the meeting. Ms. Krause seconded the motion and the motion carried unanimously. The meeting adjourned at 9:32 PM.



Currituck County Agenda Item Summary Sheet

Agenda ID Number – 3034

Agenda Item Title: PB 20-16 Currituck County Text Amendment Utility and Drainage Easements:

Submitted By: Jennie Turner – Planning & Community Development

Item Type: Legislative

Presenter of Item: Jennie Turner

Board Action: Action

Brief Description of Agenda Item:

Request to amend the Unified Development Ordinance, Sections 6.2.3 and 7.3.4 to prohibit on-site wastewater systems in utility and drainage maintenance access easements on individual lots and to clarify that maintenance access drainage easements must be dedicated to the county.

Planning Board Recommendation:

Staff Recommendation: Approval

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: March 3, 2021

Subject: PB 20-16 Currituck County – Text Amendment
 Utility and Drainage Easements

Request

The enclosed text amendment submitted by the Currituck County Planning and Community Development Department will revise the UDO to prohibit on-site wastewater systems in utility and maintenance access drainage easements on individual lots. It also clarifies that required maintenance access drainage easements for major drainage features shall be dedicated to the county.

Background

Staff has received permit applications with septic systems proposed in required utility and drainage easements. Staff recommends prohibiting placement of septic systems in required utility and drainage easements because the easements need to be protected for their intended use. Drainage easements are necessary to maintain required waterway conveyance systems that are often part of a project's stormwater system. Maintenance of these systems involves the use of heavy equipment which may damage or destroy required septic system components.

The ordinance does not explicitly prohibit septic systems in easements; therefore, staff has issued permits and placed the following note on building or site plans: "Septic lines are located within the maintenance access drainage easement. Any future drainage maintenance in this area could potentially cause damage to these septic lines."

The County Engineer recommended that a better practice for protecting critical on-site septic systems is to amend the ordinance to specifically prohibit their placement in easements. This text amendment request is necessary to resolve repeated issues of septic proposed in utility and drainage easements.

The second part of the text amendment clarifies that, on new projects, easements established along major drainage features will be conveyed to Currituck County. Major drainage features include the following conveyances: Hog Bridge Ditch, Guinea Mill, Upper Guinea Mill, Lateral "A", Lateral "B", Lateral "C", Haywood Ditch, Rowland Creek Canal, Eagle Creek Canal (also known as Western Canal) and Shingle Landing Creek Canal. The purpose of these easements is to preserve access for the county to maintain these drainage features associated with an existing or future stormwater drainage district and to provide a dedicated point of access from an improved roadway.

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

Staff recommends approval of the request as submitted and suggests the following Statement of Consistency and Reasonableness:

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

1. POLICY WQ6: Currituck County supports the retention or preservation of VEGETATED BUFFERS along the edge of drainage ways, streams and other components of the estuarine system as an effective, low cost means of protecting water quality.
2. POLICY WQ8: Currituck County shall support the development and maintenance of a countywide COMPREHENSIVE DRAINAGE AND FLOOD MANAGEMENT PLAN, including public and private actions in support of plan implementation. Currituck County shall support County, NCDOT and property owner cooperation in preventing and resolving stormwater problems.
3. 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.
4. 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.

The request is reasonable and in the public interest because:

1. It clarifies that required maintenance access drainage easements shall be dedicated to the county to ensure access to maintain drainage infrastructure.
2. It prohibits placement of on-site wastewater systems in utility and drainage easements to protect individual site improvements from potential damage.



**STAFF REPORT
PB20-16 CURRITUCK COUNTY
UTILITY & DRAINAGE EASEMENTS
TEXT AMENDMENT
PLANNING BOARD
MARCH 9, 2021**

Currituck County requests an amendment to the Unified Development Ordinance, Chapter 6 Subdivision and Infrastructure Standards to prohibit placement of on-site wastewater systems in utility easements and Chapter 7 Environmental Protection to clarify that drainage easements shall be dedicated to the county and to prohibit placement of on-site wastewater systems in maintenance access drainage easements.

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 6 is amended by adding the following underlined language:

6.2.3. Utility Standards

B. Utility Easements

- (1) Each subdivision shall provide utility easements in accordance with the following standards:
 - (a) Ten-foot-wide easements shall be provided along all rear and side lot lines.
 - (b) Fifteen-foot-wide easements shall be provided along all front lot lines.
 - (c) Alternative easement locations may be considered by the Planning Director as part of a planned development, conservation subdivision, or zero lot line development.
 - (d) On-site wastewater systems are prohibited in all utility easements on an individual lot.
- (2) Whenever a subdivision includes water, sewer, electrical power, telephone, or cable television utilities intended for operation by a public utility or entity other than the subdivider, the subdivider shall transfer all necessary ownership or easement rights to enable the public utility or other entity to operate and maintain the utilities.

Item 2: That Chapter 7 is amended by adding the following underlined language and deleting the strikethrough language:

7.3.4. Stormwater Management Standards

B. Drainage Requirements

(10) Development subject to these standards shall provide maintenance access drainage easements and point of entry to the county in accordance with ~~Section 6.2.3.B, Utility Easements~~ and the following standards:

- (a) Easements shall be provided along at least one side of waterway conveyance systems that drain more than five acres provided it is not part of a state permitted stormwater management system. The easement shall include the conveyance and an additional twenty-five feet measured from the top of embankment.
- (b) Easements shall be provided along both sides of the following waterway conveyance systems:
 - (i) Hog Bridge Ditch;
 - (ii) Guinea Mill;
 - (iii) Upper Guinea Mill;
 - (iv) Lateral "A";
 - (v) Lateral "B";
 - (vi) Lateral "C";
 - (vii) Haywood Ditch;
 - (viii) Rowland Creek Canal;
 - (ix) Eagle Creek Canal (also known as Western Canal); and
 - (x) Shingle Landing Creek Canal.

The easement shall include the conveyance and an additional fifty feet measured from the top of each embankment.
- (c) On-site wastewater systems are prohibited in all maintenance access drainage easements on an individual lot.

Item 3: Statement of Consistency and Reasonableness:

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

1. POLICY WQ6: Currituck County supports the retention or preservation of VEGETATED BUFFERS along the edge of drainage ways, streams and other components of the estuarine system as an effective, low cost means of protecting water quality.

2. POLICY WQ8: Currituck County shall support the development and maintenance of a countywide COMPREHENSIVE DRAINAGE AND FLOOD MANAGEMENT PLAN, including public and private actions in support of plan implementation. Currituck County shall support County, NCDOT and property owner cooperation in preventing and resolving stormwater problems.
3. 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.
4. 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.

The request is reasonable and in the public interest because:

1. It clarifies that required maintenance access drainage easements shall be dedicated to the county to ensure access to maintain drainage infrastructure.
2. It prohibits placement of on-site wastewater systems in utility and drainage easements to protect individual site improvements from potential damage.

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: _____



Text Amendment Application

OFFICIAL USE ONLY:

Case Number:

PB 20-16

Date Filed:

9/23/20

Gate Keeper:

C. C. C. C.

Amount Paid:

/

Contact Information
APPLICANT:

Name: County of Currituck

Address: 153 Courthouse Road Suite 204
Currituck, NC 27929

Telephone: 252-232-2075

E-Mail Address: ben.stikeleather@currituckcountync.gov

Request

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

Amend Chapter(s) 6 & 7

6.2.3 Utility Standards &

Section(s) 7.3.4 Stormwater Management Standards

as follows: Prohibit on-site wastewater systems in all utility, maintenance and drainage

easements on individual lots.

Specify that required drainage easements shall be dedicated to the county.

*Request may be attached on separate paper if needed.

A handwritten signature in blue ink, appearing to read "Ben Stikeleather".

Petitioner

9/23/20

Date

Amend UDO by deleting the following struck-through language and adding the following underlined language:

6.2.3 Utility Standards

B. Utility Easements

- (1) Each subdivision shall provide utility easements in accordance with the following standards:
 - (a) Ten-foot-wide easements shall be provided along all rear and side lot lines.
 - (b) Fifteen-foot-wide easements shall be provided along all front lot lines.
 - (c) Alternative easement locations may be considered by the Planning Director as part of a planned development, conservation subdivision, or zero lot line development.
 - (d) On-site wastewater systems are prohibited in all utility easements on an individual lot.
- (2) Whenever a subdivision includes water, sewer, electrical power, telephone, or cable television utilities intended for operation by a public utility or entity other than the subdivider, the subdivider shall transfer all necessary ownership or easement rights to enable the public utility or other entity to operate and maintain the utilities.

7.3.4 Stormwater Management Standards

B. Drainage Requirements

- (10) Development subject to these standards shall provide maintenance access drainage easements to the county in accordance with ~~Section 6.2.3.B, Utility Easements~~ and the following standards:
 - (a) Easements shall be provided along at least one side of waterway conveyance systems that drain more than five acres. The easement shall include the conveyance and an additional twenty-five feet measured from the top of embankment.
 - (b) Easements shall be provided along both sides of the following waterway conveyance systems:
 - (i) Hog Bridge Ditch;
 - (ii) Guinea Mill;
 - (iii) Upper Guinea Mill;
 - (iv) Lateral "A";

- (v) Lateral "B";
- (vi) Lateral "C";
- (vii) Haywood Ditch;
- (viii) Rowland Creek Canal;
- (ix) Eagle Creek Canal (also known as Western Canal); and
- (x) Shingle Landing Creek Canal.

The easement shall include the conveyance and an additional fifty feet measured from the top of each embankment.

- (c) On-site wastewater systems are prohibited in all maintenance access drainage easements on an individual lot.



Currituck County Agenda Item Summary Sheet

Agenda ID Number – 3066

Agenda Item Title: PB 21-05 Currituck County Text Amendment PUD Open Space:

Submitted By: Jennie Turner – Planning & Community Development

Item Type: Legislative

Presenter of Item: Jennie Turner

Board Action: Action

Brief Description of Agenda Item:

Request to amend the Unified Development Ordinance, Sections 1.8.6 and 10.5 to allow construction of a police, fire or EMS facility on county-owned land designated as open space in a Planned Unit Development and amend the definition of police, fire and EMS facility to include training facilities.

Planning Board Recommendation:

Staff Recommendation: Approval

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: March 3, 2021

Subject: PB 21-05 Currituck County – Text Amendment
 PUD Open Space

Request

The enclosed text amendment submitted by Currituck County revises the Unified Development Ordinance (UDO) to allow construction of a police, fire or EMS facility on county-owned land designated as open space in a Planned Unit Development (PUD). This amendment modifies the definition of police, fire or EMS facility to include training facilities.

Background

Corolla Fire and Rescue desires to improve firefighting and response services by constructing a fire training facility in Corolla. The proposed facility will be located on property adjacent to the existing Pine Island Fire Station at 470 Ocean Trail. The county owns the property adjacent to the fire department located within Pine Island PUD. The county-owned property is designated as open space on the Pine Island PUD Amended Sketch Plan. Currently, the UDO does not allow use of a police, fire and EMS facility on property designated as open space.

The proposed fire training facility will be composed of 6 recycled storage containers attached to a concrete slab. The storage containers will allow for simulation of building access with artificial smoke and darkness, no utilities are proposed.

The Board of Commissioners has directed staff to prepare this text amendment. Staff suggests narrowly tailoring this amendment to limit its use. Land available for public service improvements is limited in Corolla.

PUDs are the predominate type of development in the paved road portion of Corolla and all existing PUDs within the county are located in Corolla. A PUD is a type of development permitted under prior zoning ordinances. PUD developments were intended to foster development expected to promote a more efficient use of land, a higher level of amenities and more creative design. PUDs have detailed sketch plans that lay out residential areas, specific residential densities, commercial areas and open space areas.

This text amendment will give the county flexibility to site needed public safety facilities on county-owned land designated as open space in existing PUDs in Corolla and will therefore allow the county to provide an increased level of training for fire response service in the Corolla area.

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

Staff recommends approval of the request as submitted and suggests the following Statement of Consistency and Reasonableness:

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

1. POLICY PS1: As the area grows, the County may establish strategically located SUBSTATIONS FOR PUBLIC SAFETY SERVICES (i.e. law enforcement, fire fighting and rescue), provided that sufficient resources can be made available to properly staff and equip them.
2. POLICY PS2: Currituck County shall support and encourage the development and improvement of FIRE FIGHTING SERVICES that enhance the security and safety of life and property, while resulting in the added benefit of lower property insurance rates. The need for additional fire stations or improvements to existing fire stations shall be examined annually to keep pace with the growth of the area.
3. POLICY OB1: Currituck County supports the provision of INFRASTRUCTURE (e.g. potable water) AND SERVICES (e.g. law enforcement officers) adequate to meet basic quality of life and public health and safety requirements of residents on the Outer Banks, while at the same not stimulating inappropriate intensive development in environmentally fragile, hazardous barrier island areas.

The request is reasonable and in the public interest because:

1. It addresses a demonstrated community need by allowing for training facilities that will improve fire fighter training opportunities in Corolla.



**STAFF REPORT
PB21-05 CURRITUCK COUNTY
PUD OPEN SPACE
TEXT AMENDMENT
PLANNING BOARD
MARCH 9, 2021**

Currituck County requests an amendment to the Unified Development Ordinance, Chapter 1 Transitional Provisions to allow construction of a police, fire and EMS facility on county-owned land designated as open space in a PUD. This amendment also modifies the definition of police, fire or EMS facility to include training facilities.

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

Item 1: That Chapter 1 is amended by adding the following underlined language:

1.8.6 Approved Planned Unit Development District Overlay and Sketch Plan

- A. Lands subject to approval of a planned unit development district overlay classification and sketch plan approval before January 1, 2013 shall retain the Planned Unit Development Overlay district classification and sketch plan approval, and may be developed consistent with the sketch plan approval and any relevant conditions of approval, until the sketch plan approval or any portion of thereof expires. If the sketch plan approval (or any portion thereof) expires or is revoked (e.g., for failure to comply with a term or condition of approval) any subsequent development of the site (or portion thereof) shall be applied for in accordance with the procedures and standards of this Ordinance.
- B. An owner of a parcel proposed for redevelopment, vacant parcel, or phase of a planned unit development subject to an approved sketch plan may submit a development application or application to amend the approved sketch plan or special use permit consistent with the applicable conditions of approval and compliance with the following:

(1) Bulk and Dimensional Requirements

Development applications or modifications to an approved sketch plan shall comply with the standards in Table 1.8.6.A, Bulk and Dimensional Standards.

TABLE 1.8.6.A: BULK AND DIMENSIONAL STANDARDS	
SITE CHARACTERISTIC	STANDARD
Minimum Lot Area (square feet)	10,000 with central sewer [1]; 20,000 without central sewer
Minimum Lot Width (feet)	65
Maximum Lot Coverage (%)	Nonresidential: 65 Residential: 30 for lots larger than 19,000 sf 35 for lots 10,000 sf – 19,000 sf 45 for lots less than 10,000 sf
Minimum Front Setback (feet)	20
Minimum Side Setback (feet)	10
Minimum Rear Setback (feet)	25; 10 when abutting open space
Maximum Building Height (feet)	35
Maximum Density (du/ac)	3
Maximum Nonresidential FAR (%)	0.40
Minimum Open Space Set-Aside (%)	35 [2]
Maximum Land Area Occupied by Commercial Development (%)	10

NOTES:

[1] May be reduced in accordance with Section 3.2.2, Zero Lot Line Development or if lot size reduction is added to the minimum open space set-aside.

[2] No modification to an approved sketch plan shall result in a planned development with less than 35 percent of its land area occupied by open space.

(2) Allowable Uses

The range of principal uses allowed on a site subject to a modified sketch plan shall be limited to the following:

- (a) Land designated for residential development shall be limited to the allowable uses for the SFO district listed in Table 4.1.1.A, Summary Use Table.
- (b) Land designated for commercial or multi-family development shall be limited to the allowable uses for the PD-O district listed in Table 4.1.1.B, Summary Use Table.
- (c) Airports, major utilities, wind energy facilities, outdoor recreation/entertainment uses, and vehicle sales and services require approval of a use permit.

- (d) County-owned land designated as open space may be used as a police, fire or EMS facility.

(3) **Development Standards**

Development associated with a development application or modified sketch plan shall comply with the standards in Chapter 5: Development Standards, Chapter 6: Subdivision and Infrastructure, and Chapter 7: Environmental Protection provided compliance with the standards does not have the effect of decreasing the type, density, or intensity of land designation contained in the approved master plan establishing the planned unit development.

- C. Sketch plan amendment applications that comply with the land designations contained in the approved master plan establishing the planned unit development and development applications that comply with Subsection (B) above may be approved by the Planning Director.
- D. To the extent a landowner proposes development that is different than that allowed in the sketch plan or Subsection (B) above, the land requires approval of an amended sketch plan and use permit (see Section 2.4.6, Use Permit).

Item 2: That Chapter 10 is amended by adding the following underlined language:

POLICE, FIRE, OR EMS FACILITY

A facility for the provision of local rapid response emergency services such as firefighting and mobile medical emergency services, including areas for the storage and maintenance of emergency vehicles, and equipment and facilities for the housing and feeding of emergency personnel while on duty. Such facilities also include training facilities.

Item 3: The requested zoning text amendment is consistent with the goals, objectives, and policies of the 2006 Land Use Plan including:

The request is reasonable and in the public interest because:

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 _____, 2021.

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: County of CurrituckAddress: 153 Courthouse Road Suite 204
Currituck, NC 27929Telephone: 252-232-2075E-Mail Address: ben.stikeleather@currituckcountync.gov
Request

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

Amend Chapter(s) 1 Section(s) 1.8. Transitional Provisions as follows:

Allow county-owned land designated as open space in a PUD to be developed as a police, fire
and EMS facility

*Request may be attached on separate paper if needed.


Petitioner

1-2-2018
Date