



**CURRITUCK COUNTY  
NORTH CAROLINA**

February 11, 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 Historic Courthouse Conference Room with six board members present. Staff members present were: Jason Litteral, Planner II, and Cheri Elliott, Clerk to the Planning Board.

Jason Litteral opened the work session and reviewed the staff report with the board members. He noted an additional standard was added for compliance of the menu boards to include a 60 square ft maximum area and a maximum of 8 ft in height requirements. This addition would need to be included in the motion if the board decides to approve the text amendment. Board members asked about the limit to the number of driveway menu boards and Mr. Litteral said no limit was set.

The work session adjourned at 5:56 PM.

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

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

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

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

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

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

**B. Ask for Disqualifications**

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

**C. Announce Quorum Being Met**

Chairman Ballance announced a quorum was met with six 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. Mr. Owens seconded the motion and the motion carried unanimously.

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

**APPROVAL OF MINUTES FOR JANUARY 14, 2020**

Chairman Ballance asked if there were any changes needed for the meeting minutes for January 14, 2020. With no changes noted, Ms. Krause motioned to approve. Mr. Doll seconded the motion and the motion carried unanimously.

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

**E. Planning Board Minutes - January 14, 2020****OLD BUSINESS**

No old business was discussed.

**NEW BUSINESS****A. PB 20-01 McDonald's Corporation:**

Mr. Litteral presented the staff report and said the text amendment was required to allow 100 percent of a menu board sign's area to be electronically controlled; the current regulation only allows 50 percent to be electronically controlled. He said this change only affects the drive through menu boards. The changes have included all of the applicant's

requested changes along with staff recommended changes. Mr. Litteral stated the three compliance standards for menu board signs and said an additional 4th standard was added to limit the square ft area and the height for the signs: #4.

Attorney Kenneth Haywood of Raleigh, North Carolina, representing the McDonald's Corporation, came before the board. He said McDonald's is updating their menu boards across the country to add efficiency in getting customers through more quickly since they are easier to read and the employees are able to change the menu items more easily. Mr. Haywood said they had to request this text amendment since the current regulation only allows 50 percent to be electronic. He said Currituck County is the last to pass this change in North Carolina.

Board members had questions on the pre-browser boards and whether it was for advertising purposes for other businesses. Mr. Haywood said the pre-browser board's purpose is for specials or select parts of the menu and not for advertising. He said McDonald's Corporation supports what the staff has written with the addition of #4 for the size limit.

Chairman Ballance opened and closed the public hearing since no citizens were present to make comments.

Chairman Ballance asked for a motion. Ms. Krause motioned to approve PB 20-01 McDonald's Corporation requested text amendment to allow the installation of fully electronic menu board signs associated with drive through lanes because it is consistent with the goals, objectives, and policies of the 2006 Land Use Plan including:

- 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.

Also, the request is reasonable and in the public interest because:

- Restaurants with drive through lanes are an allowable use in the General Business district and the addition of digital menu boards is a reasonable request since this technology is typical for new and upgraded restaurants.

Ms. Krause noted the Menu Board Signs shall comply with the following standards:

- (1) Up to 100 percent of a menu board sign's area can be electronically controlled.
- (2) Menu board signs shall be associated with an approved drive through lane.
- (3) Menu board signs shall not be used for additional advertisement to off-site views and shall be for the sole purpose of conveying menu information to patrons in a drive through lane.
- (4) Menu Board Signs shall have a maximum area of 60 square feet and shall not exceed 8 feet in height.

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

<b>RESULT:</b>	<b>RECOMMENDED APPROVAL [UNANIMOUS]</b>	<b>Next: 3/2/2020 6:00 PM</b>
<b>MOVER:</b>	Juanita S Krause, Board Member	
<b>SECONDER:</b>	David Doll, Board Member	
<b>AYES:</b>	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Anamarie Hilgendorf, Board Member, Juanita S Krause, Board Member	
<b>ABSENT:</b>	J. Timothy Thomas, Board Member	

### **ANNOUNCEMENTS**

There were no announcements.

### **ADJOURNMENT**

Mr. Bass motioned to adjourn the meeting. Ms. Krause seconded the motion and the motion carried unanimously with the meeting adjourning at 6:17 PM.



## CURRITUCK COUNTY NORTH CAROLINA

January 14, 2020

Minutes – Regular Meeting of the Planning Board

### WORK SESSION - 5:30 PM

The Currituck County Planning Board held a work session at 5:30 PM in the Historic Courthouse Conference Room with six board members present. Staff members present were: Laurie LoCicero, Planning and Community Development Director; Donna Voliva, Assistant Planning Director; Jason Litteral, Planner II; Eric Weatherly, County Engineer, and Cheri Elliott, Clerk to the Planning Board. Also attending the work session was Paul Nielsen, a reporter with The Daily Advance (Elizabeth City).

Donna Voliva opened the work session and let the board members know Eric Weatherly has attended to answer their questions concerning the driveway width and setback text amendment on the agenda tonight.

Jason Litteral briefed board members on PB 19-27 QHOC of Windswept Pines - Driveway Width & Setbacks Text Amendment request which was previously heard at the November 12, 2019 Planning Board Meeting and discussed at the Planning Board Work Session on December 10, 2019. Mr. Litteral said staff has received a written response from NCDOT and directed board members to their agenda packet. Discussion was held on whether the NCDOT 40' width driveway allowance was a general rule or meant to be allowed on a case by case basis with justifiable reasons. Mr. Litteral said the latter is the intent. Discussion was held on the intent of the email from David Otts dated January 3, 2020 and also discussion on stormwater problems associated with 40' driveways. Mr. Weatherly said developers and property owners should meet the required 10' setback with the required 24' driveway in this setback. After the setback they can flare out to 40' if needed. He said having a 40' driveway within the front property 10' setback should not be a hardship or an issue. The board asked how long the 24' driveway in the front 10' setback has been a regulation and Ms. Voliva said it was enacted in 2005.

Ms. Krause asked the County Engineer's opinion on the requested text amendment and Mr. Weatherly said to stick with the 10' setback with the 24' driveway width (within the 10' front setback). Mr. Weatherly asked if the eight driveways in violation could be approved, but not the text amendment. Ms. LoCicero said we cannot do that because of the Unified Development Ordinance sets our regulations that we must follow. Ms. LoCicero said she asked NCDOT for a finding on the eight noncompliant driveways and they would not give one on record. Chairman Ballance asked if there were any way for property owners to find a remedy. Discussion was held on why the Board of Adjustment could not remedy this. Ms. Voliva said if it were just one with a good cause, but not when there are eight of them. Staff said the property owners recourse would be to sue the developer or contractor that committed the regulation injustice. Ms. LoCicero said the County will be enacting new regulation requiring developing properties with 40,000 square feet or less to submit an Asbuilt Drawing prior to receiving their Certificate of Occupancy. This should remedy future violations.

The work session adjourned at 6:05 PM.

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

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

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrived</b>
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	Present	
Laurie LoCicero	Planning and Community Department Director	Present	
Donna Voliva	Planning and Community Development Senior Planner	Present	
Jason Litteral	Planning and Community Development Planner I	Present	
Eric Weatherly	County Engineer	Present	
Cheri Elliott	Clerk to the Board	Present	

Chairman Ballance called the meeting to order at 6:08 PM.

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

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

#### **B. Ask for Disqualifications**

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

#### **C. Announce Quorum Being Met**

Chairman Ballance announced a quorum has been met with six board members present.

#### **D. Election of Chairman & Vice Chairman**

Ms. Voliva asked for nominations for Chairman. Mr. Doll nominated Chairman Ballance to continue for a second term. Ms. Krause motioned to approve the nomination and Mr. Owens seconded the motion. The motion passed unanimously.

Ms. Voliva asked for nominations for Vice Chairman. Mr. Doll nominated Vice Chairman Owens to continue for a second term. Chairman Ballance motioned to approve the nomination and Mr. Bass seconded the motion. The motion passed unanimously.

#### **E. Approval of Agenda**

Chairman Ballance asked if there were any changes needed to tonight's agenda. With no changes noted, Mr. Doll motioned to approve as presented. Vice Chairman Owens

seconded the motion and the motion carried unanimously.

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

#### **APPROVAL OF MINUTES FOR DECEMBER 10, 2019**

Chairman Ballance asked if there were any changes needed for the December 10, 2019 meeting minutes. Vice Chairman Owens motioned to approve as presented. Mr. Bass seconded the motion and the motion carried unanimously.

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

#### **F. PB Meeting Minutes - December 10, 2019**

#### **OLD BUSINESS**

##### **A. PB 19-27 QHOC of Windswept Pines - Driveway Width & Setbacks Text Amendment:**

Mr. Litteral presented the opening statement for the staff report.

Ms. LoCicero said she would be presenting the case along with Mr. Litteral. She said it came to the County's attention in spring of last year of driveways being built beyond the required 24' width. This width is consistent with NCDOT regulations. Inspectors noticed driveways over 24' and setbacks of less than the required 10'. Property owners did not want to fix this so a text amendment was submitted. Property owners can have a 40' driveway as long as the 24' is met from the property line to the road (in 10' front setback). Ms. LoCicero directed the board to the NCDOT email sent by Mr. Ott on January 3, 2020. Discussion was held on all the NCDOT emails in the agenda packet. Ms. LoCicero clarified that violations were issued, there was correspondence and property owners did not want to fix. They wanted a text amendment.

Ms. Krause asked if the property owners could remedy through the Board of Adjustment. Ms. LoCicero said, no, if there were only one maybe, but not eight different driveway violations. She said variances have to be specific and not for several. Ms. LoCicero said the County may be able to make an exception if NCDOT could make the findings that the driveways were a necessity. Without this finding from NCDOT the roads have a possibility of not being taken in as a state maintained.

Ms. Krause said, obviously, from the NCDOT email it looks like this text amendment is not an option because these roads would not be taken over as state roads and the HOA would have to maintain the roads. Ms. LoCicero said we need NCDOT to make a finding.

Ms. Krause said she wants to deny, but work with the eight homeowners to get a case by case approval by NCDOT and the County. Ms. LoCicero said the Board of Commissioners have the authority to give a stay to stop fines until a certain time.

Chairman Ballance asked the applicant to present their case. Mr. Bissell, representing QHOC of Windswept Pines, asked if the board would consider tabling the text amendment. Chairman Ballance said we are going to ask the Board of Commissioners to do the stay, also, we have already heard this and tabled it once before. Chairman Ballance asked Mr. Bissell how long before you are petitioning NCDOT to take over the roads. Mr Bissell said they were several months away from the petition.

Ms. Krause asked why the setback text amendment was included with the driveway text amendment. Mr. Bissell said there were several violations on setbacks that needed remedied.

Keith Blain, 109 Hidden View Loop in Moyock, came before the board. He said they built a two car detached garage and later added the driveway. The contractor told us the setback was only 5' so now we are not meeting the 10' setback for the driveway. We were told the Board of Adjustment may not approve and there is a \$500 fee to file. Staff clarified that the garage was permitted by the County without the driveway. No Zoning Permit was pulled by the Contractor or the property owner to add the driveway which is now encroaching on the setback.

Ms. LoCicero said there are a number of violations like this which are new constructions.

Al Brooke, 114 Hidden View Loop in Moyock, came before the board. Mr. Brooke said he is neighbors with Mr. Blain and he received a violation on his driveway encroachment on September 11, 2018. He had a contractor construct a detached garage which was permitted without the driveway on the site plan. He then later added the driveway which was verified by staff not to have a Zoning Permit pulled by the contractor or the property owner. He said his driveway is encroaching 16" on to the setback. Board members asked him why he did not cut the 16" off to become compliant. Mr. Brooke said he did not want to. He believes it would make it hard to round the curve in his vehicle. Board members asked how wide his driveway is and Mr. Brooke said 12'. Mr Thomas said that would give you over 10' to round the corner and that should be enough.

Michael Reinke, 121 Parrish Point Lane in Moyock, came before the board. Mr. Reinke said they were unaware the Developer did not get the proper permits and feels that he and his wife did nothing wrong. He asked how they were given a Certificate of Occupancy with this violation. Ms. LoCicero said the site plan submitted showed you had a 24' driveway and someone did not adhere to the submitted plan. He said they are being prevented from getting a swimming pool permit until their violation comes into compliance.

Eric Weatherly, County Engineer, came before the board. He said these regulations have been in effect for 15 years and we have never had such a problem before. We are a coastal community with flooding issues and could you imagine the flooding issues we would have with the sheet water from 40' driveways. He said he already takes a lot of calls from property owners complaining that their neighbors sheet water is flooding their property.



Discussion was again held on supporting a solution to work out something for the eight over width driveways. Mr. Thomas stated there were no site plans submitted with the 40' driveways. The site plans submitted for approval had 24' driveways.

Mr. Weatherly said sheet flow is the issue which runs off on your neighbor and that is why we have developed these ordinances.

Mr. Weatherly also explained the reason for the 10' setbacks. He said the setbacks are there for a relief area for water and if you shorten the setbacks you could have more flooding.

Mr. Owens asked if we could make property owners get an engineered plan.

Ms. LoCicero said the Board of Commissioners will give us direction.

Chairman Ballance closed the public hearing.

Ms. LoCicero said she contacted the County Attorney about the continuance of this case. The text amendment must be heard two months from the continuance. After discussion by the board a decision was made to continue with a motion.

Chairman Ballance motioned to recommend denial of the text amendment and advising to the Board of Commissioners to stay all fines and all enforcement action is stayed on the eight homeowners who have driveway width issues. For the resolution to be on a case by case basis as Mr. Ott stated in his email and for the Board of Commissioners to consider accepting a letter from an engineer for the other people, such as Mr. Blain and Mr. Brooke who have issues with driveways around the side of the houses to remedy the situation by providing an Engineer letter stating that the property owners will not flood anybody. Ms. Krause seconded the motion and the motion carried unanimously.

<b>RESULT:</b>	<b>RECOMMENDED DENIAL [UNANIMOUS]</b>	<b>Next: 2/3/2020 6:00 PM</b>
<b>AYES:</b>	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Juanita S Krause, Board Member, J. Timothy Thomas, Board Member	
<b>ABSENT:</b>	Anamarie Hilgendorf, Board Member	

#### **B. PB 19-25 Currituck County:**

Ms. Voliva presented the staff report for the text amendment and explained the purpose which began with the Moyock Small Area Plan, then the Moyock Mega Site Market Feasibility Study, the Moyock Mega Site Master Plan, and now incorporating the Currituck Station into the Unified Development Ordinance. She said this text amendment was previously heard at the December Planning Board Meeting and presented a PowerPoint presentation while explaining the amendment along with the pattern book. Ms. Voliva said the text amendment will establish and provide the following:

- Establishes the zoning district and associated sub-districts for Currituck Station (planned development)
- Transportation Corridor Overlay (TCOD)
  - Action required to establish the district over the identified roads

- Provides the development and community form standards
- Amends sections of the existing ordinance (use table, design standards, parking and loading, exterior lighting)

#### Planned Development Districts

- Density for PD-R and PD-M
- PD-CS District
- Sub-districts

#### TCOD

- Requires action
- Prohibited uses
- Access control
- Parking (alternative plan, bicycle, loading)
- Parking, landscape, and exterior lighting plan standards
- Exterior lighting (residential and pedestrian)
- Restricted access street (South Mills Road)
- Crosswalk and street crossing width standards
- Multi-family
- Nonresidential design
- Currituck Station community form standards

Ms. Voliva said the Pattern Book is a guidance document that reflects the architectural patterns of Currituck and provides direction for public space patterns. Historical buildings and houses were used as a guide. Details include:

- Building Patterns: Pitched roofs, deep porches, roof dormers, sheltered entries, chimneys, and elevated foundations
- Public Spaces: stormwater, parks, amenities, streets, and pedestrian paths

Ms. Voliva said the Pattern Book is meant to be a guide, but does not have to be strictly adhered to. She went over the Stakeholder Comments and said their suggestions were used to produce the Pattern Book along with the Staff suggestions.

Chairman Ballance asked if there were any questions from the board. With no questions heard, he opened the public hearing and asked if anyone was here to speak. With no public comments, Chairman Ballance asked for a motion.

Mr. Bass motioned to approve the PB-25 Currituck County's request to amend the Unified Development Ordinance, Chapter 1. General Provisions, Chapter 2. Administration, Chapter 3. Zoning Districts Chapter 4. Use Standards, Chapter 5. Development Standards, Chapter 6. Subdivision Infrastructure Standards, and Chapter 10. Definitions and Measurements for the purpose of implementing the Moyock Mega Site master plan (Currituck Station) and establishing the Planned Development - Currituck Station district and regulations with the inclusion of the staff following staff recommendations:

- Provide a transition from Center Station to Newtown on the south side that does not split property lines
  - Option 1 - Shift the sub-district line - Charter sub-district to include land (now Newtown) to Lazy Corner Road

- ~~Option 2 – Modify the use table for Newtown sub-district~~
- ~~Option 3 – Make no change at this time and update/amend at rezoning.~~
- Pattern book corrections and images for sub-districts
- Remove the suggested materials for each sub-district
- Provide traditional architecture or building form elevations for Center Station and Charter sub-districts

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

<b>RESULT:</b>	<b>RECOMMENDED APPROVAL [UNANIMOUS]</b>	<b>Next: 2/3/2020 6:00 PM</b>
<b>AYES:</b>	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Juanita S Krause, Board Member, J. Timothy Thomas, Board Member	
<b>ABSENT:</b>	Anamarie Hilgendorf, Board Member	

## NEW BUSINESS

### A. PB 19-28 Curtis Bay Medical Waste

Mr. Litteral presented the staff report and said the applicant had received violations and the County has stayed their fines until we could rectify their situation with this text amendment.

Chairman Ballance asked if the board had any questions. No questions were heard. Chairman Ballance asked for the applicant to speak.

Mr. Evans came before the board and said he started working with Curtis Bay in 2018. He said they had received violations in May 2018 and he was unaware of their business not being compliant with the Unified Development Ordinance until that point.

Board members asked some question concerning the containers and how they were cleaned.

Chairman Ballance asked if there were anyone present that wanted to speak. With no comments, he closed the public comment and asked for a motion.

Mr. Bass motioned to approve PB 19-28 Curtis Bay Medical Waste text amendment to the Unified Development Ordinance, Chapter 4. Use Standards and Chapter 10. Definitions and Measurement to allow warehousing and distribution of medical waste with a use permit in the Heavy Industrial zoning district with the following staff recommendations:

1. That Ordinance section 4.2 (Use Specific Standards) is amended to include Warehousing and Distribution of Medical Waste and the following standards:
  - a. Medical waste shall not be held on site for more than 5 days.
  - b. When medical waste warehousing and distribution occurs on the same parcel as a state permitted mining operation, the warehousing and distribution activities shall not take place within the area permitted for use as a mine.
  - c. There shall be no outdoor storage of medical waste. All waste shall be kept inside approved containers, trailers, or structures.

- d. All required federal, state, and local permits are maintained.
- e. A type C buffer Yard is required when necessary to screen the use from off-site views.
- f. Processing or disposal of medical waste shall not occur on site.

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

<b>RESULT:</b>	<b>RECOMMENDED APPROVAL [UNANIMOUS]</b>	<b>Next: 2/3/2020 6:00 PM</b>
<b>AYES:</b>	C. Shay Ballance, Chairman, Garry Owens, Vice Chairman, K. Bryan Bass, Board Member, David Doll, Board Member, Juanita S Krause, Board Member, J. Timothy Thomas, Board Member	
<b>ABSENT:</b>	Anamarie Hilgendorf, Board Member	

### ANNOUNCEMENTS

There were no announcements.

### ADJOURNMENT

The Planning Board Meeting adjourned at 8:50 PM.



## Currituck County Agenda Item Summary Sheet

**Agenda ID Number** – (ID # 2721)

**Agenda Item Title**

PB 20-01 McDonald's Corporation:

**Brief Description of Agenda Item:**

Request for a text amendment to the Unified Development Ordinance, Chapter 5. Development Standards, and Chapter 10. Definitions, to allow the installation of fully electronic menu board signs associated with drive through lanes.

**Board Action Requested**

Action

**Person Submitting Agenda Item**

Cheri Elliott, Assistant

**Presenter of Agenda Item**

Jason Litteral


**Currituck County**

Planning and Community Development Department  
 Planning and Zoning Division  
 153 Courthouse Road Suite 110  
 Currituck NC 27929  
 252-232-3055 Fax 252-232302

To: Planning Board  
 From: Planning Staff  
 Date: February 11, 2020  
 Subject: PB 20-01 McDonald's Corporation (Menu Board Signs)

**Background**

The purpose of this text amendment is to allow the installation of fully electronic menu board signs associated with drive through lanes. The current standard in the Unified Development Ordinance limits the area of an electronically controlled message board to 50% of a sign's total area. This amendment proposes to allow a new category of sign, menu board signs, to have up to 100% of their area be electronically controlled.

The **applicant's** proposed amendment to section 5.12.6 is as follows:

*E. Electronic Restaurant Menu Reader Boards*

*Signs otherwise permitted under Section 5.12 shall be allowed for one or more drive-through lanes which are accessory to a principle use whereby goods or services may be offered directly to customers in motor vehicles as long as they meet the following conditions:*

- 1. A restaurant menu reader board shall not exceed forty-two (42) square feet in area and six (6) feet in height per allowable sign ("Menu Reader Board")*
- 2. A pre-browse board consisting of no more than 20 square feet in surface area and six feet in height (Pre-Browse Board").*
- 3. Up to 100% of permitted sign area may be an electronic variable message display.*
- 4. The number of allowable Menu Reader Boards is based on the number of ordering points per drive through lane. A Menu Reader Board shall be permitted at each ordering point in the drive through lane. Each drive-through lane may also consist of a Pre-Browse Board.*
- 5. Two (2) Menu Reader Boards shall be no closer than 8 feet at any point.*
- 6. Such signs shall be set back not less than twenty (20) feet from any property line.*
- 7. The signage shall not be included in the calculation or count towards the total allowable sign area.*

Staff has suggested some changes to the proposed language. In the event a business needs a slightly different size or configuration of signs in a specific drive through lane, staff suggests amending the applicant's proposed language as indicated in the staff report below. This may avoid future amendments to this section.

### **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;

*The proposed text amendment is consistent with the following 2006 Land Use Plan 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.*

2. Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
  - a. *The text amendment request is consistent with the provisions of the UDO and the County Code of Ordinances.*
3. Is required by changed conditions;
 

*It is likely that most future menu boards will be electronically controlled.*
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;
  - a. *The text amendment request is consistent with the purpose and intent of the zoning districts. The General Business zoning district is the appropriate location for this type of business and menu boards are not in conflict with the purpose or intent of the district.*
6. Would result in a logical and orderly development pattern; and
7. Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

- a. *The amendment will not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.*

**Staff Recommendation**

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





**PB 20-01 MCDONALD'S CORP.  
(MENU BOARD SIGNS)  
TEXT AMENDMENT  
PLANNING BOARD  
FEBRUARY 11, 2020**

McDonald's Corporation requests an amendment to the Unified Development Ordinance, Chapter 5 Development Standards and Chapter 10 Definitions to allow the installation of electronic menu board signs associated with drive through lanes.

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

**Item 1:** That Chapter 5 is amended by deleting the following bold and underlined strikethrough language and adding the bold and underlined language in Section 12.6:

**C. Message and Menu Board Signs**

Message board signs shall comply with the following standards:

- (1) Electronically-controlled message board signs are prohibited in the Outer Banks.
- (2) No more than 50 percent of a sign's maximum area can be occupied by a message board, reader board, or electronically controlled message sign.
- (3) Except for time and temperature signs, the message shall remain stationary for at least five seconds.

**Menu Board Signs shall comply with the following standards:**

- (1) **Up to 100 percent of a menu board sign's area can be electronically controlled.**
- (2) **Menu board signs shall be associated with an approved drive through lane.**
- (3) **Menu board signs shall not be used for additional advertisement to off-site views and shall be for the sole purpose of conveying menu information to patrons in a drive through lane.**

**Item 2:** That Chapter 10 is amended by deleting the following bold and underlined strikethrough language and adding the bold and underlined language in Section 5:

**Menu Board Sign**

**A freestanding or wall sign that lists the foods or other products available at facilities with approved drive through lanes.**

**Message Board Sign**

**A message board, reader board, or electronically controlled message sign providing a means of altering outgoing information on a sign not associated with a drive through lane.**

**Item 3: Staff suggested Statement of Consistency and Reasonableness:****Land Use Plan Consistency**

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

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

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

The request is reasonable and in the public interest because:

- Restaurants with drive through lanes are an allowable use in the General Business district and the addition of digital menu boards is a reasonable request since this technology is typical for new and upgraded restaurants.

**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:

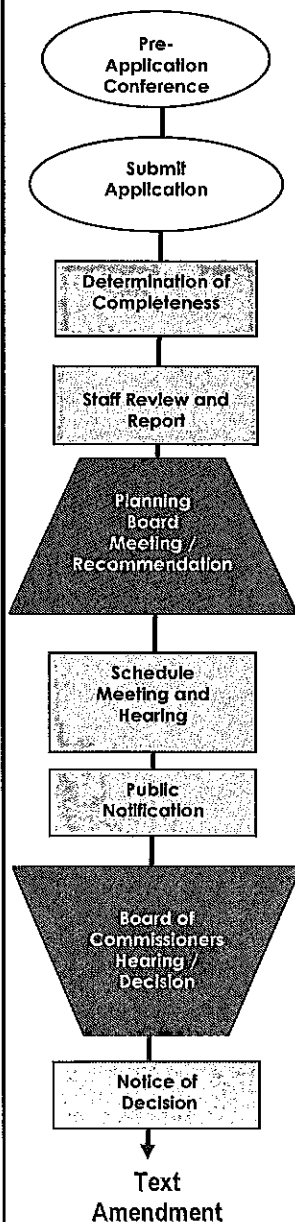
\_\_\_\_\_  
Leeann Walton  
Clerk to the Board

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 Review Process



### Contact Information

Currituck County  
Planning and Community Development  
153 Courthouse Road, Suite 110  
Currituck, NC 27929

Phone: 252.232.3055  
Fax: 252.232.3026

Website: [www.co.currituck.nc.us/planning-community-development](http://www.co.currituck.nc.us/planning-community-development)

### Step 1: Pre-application Conference

The purpose of a pre-application conference is to provide an opportunity for the applicant to determine the submittal requirements and the procedures and standards applicable to an anticipated text amendment application. A pre-application conference is also intended to provide an opportunity for county staff to become familiar with, and offer the applicant preliminary comments about, the scope, features, and impacts of the proposed text amendment, as it relates to the standards in the Unified Development Ordinance (UDO).

The applicant shall submit a written description of the nature and purpose of the text amendment to the Planning and Community Development Department during the pre-application conference.

### Step 2: Application Submittal and Acceptance

The applicant must submit a complete application pack on or before the application submittal date. Applications may be initiated by the Board of Commissioners, the Planning Boards, the Planning Director, the TRC, or any other interested party. A complete application packet consists of the following:

- Completed Currituck County Text Amendment Application.
- Application Fee (\$300)
- Number of Copies Submitted:
  - ☐ 2 Hard copies of ALL documents
  - ☐ 1 PDF digital copy (ex. Compact Disk – e-mail not acceptable) of all documents

On receiving an application, staff shall determine whether the application is complete or incomplete. A complete application contains all the information and materials listed above, and is in sufficient detail to evaluate and determine whether it complies with appropriate review standards. If an application is determined to be incomplete, the applicant may correct the deficiencies and resubmit the application for completeness determination. Incomplete applications will not be processed.

### Step 3: Staff Review and Action

After accepting the text amendment application, staff shall review it, prepare a written report, and provide a recommendation on the application. The recommendation may include a second option that will include text to address conflicts with the existing ordinance or adopted plans.

### Step 4: Advisory Body Review and Recommendation

After the staff prepares a staff report and provides a recommendation on the application, staff shall schedule the application for a public meeting with the Planning Board. At the public meeting, the Planning Board shall consider the application, relevant support materials, staff report, and any public comments. It shall then

recommend approval, approval of a modified version, or denial, and clearly state that factors considered in making the recommendation. The Planning Board shall provide a recommendation on an application it reviews within two months from the date of its initial meeting to consider the application.

#### Step 5: Public Hearing Scheduling and Public Notification

After the Planning Board provides a recommendation on the application, staff shall ensure that the public hearing on it is scheduled for a regularly scheduled Board of Commissioners meeting or a meeting specially called for by the Board of Commissioners. The required public hearing with the Board of Commissioners shall be scheduled so there is sufficient time for a staff report to be prepared and for the public notification requirements to be satisfied under state law.

The application shall meet the following public notification requirements:

- **Published Notice**

Staff shall publish a notice of the hearing once a week for two successive calendar weeks in a newspaper having general circulation in the county. The first time notice is published, it shall not be less than 10 days nor more than 25 days before the date fixed for the hearing.

#### Step 6: Public Hearing Procedures, and Decision-Making Body Review and Decision

The applicant must be in attendance at the public hearing. During the public hearing, the Planning Director will present the staff report and any review body findings and recommendation to the Board. The applicant will then have the opportunity to present any information they deem appropriate. The public may be permitted to speak in accordance with the Board of Commissioners rules of procedure, or at their discretion, as appropriate, in support of or in opposition to the application. The applicant and Planning Director may respond to any comments, documents, or materials presented.

The Board of Commissioners shall make one of the following decisions on the application:

- Adoption of the text amendment as proposed;
- Adoption of a revised text amendment;
- Denial of the text amendment; or
- Remand of the text amendment application back to the Planning Board for further consideration.

A text amendment 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 a conditional rezoning, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the application:

- Is consistent with the goals, objectives, and policies of the Land Use Plan, other applicable county-adopted plans, and the purposes of the UDO;
- Is in conflict with any provision of the UDO, or the County Code of Ordinances;
- Is required by changed conditions;
- Addresses a demonstrated community need;
- Is compatible with the purpose and intent of the zoning district in the UDO, or would improve compatibility among uses and ensure efficient development within the county;
- Would result in a logical and orderly development pattern; and
- Would result in significant 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;



## Text Amendment Application

**OFFICIAL USE ONLY:**

Case Number: \_\_\_\_\_  
 Date Filed: \_\_\_\_\_  
 Gate Keeper: \_\_\_\_\_  
 Amount Paid: \_\_\_\_\_

**Contact Information**
**APPLICANT:**

Name: McDonald's Corporation  
 Address: c/o Kenneth C. Haywood  
5410 Trinity Road, Suite 210, Raleigh, NC 27607  
 Telephone: 919-821-7700  
 E-Mail Address: khaywood@hsfh.com

**Request**

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

Amend Chapter(s) 5 Section(s) 12.6 C as follows:

See attached.

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

[Signature] Attorney  
 Petitioner for McDonald's  
 Corporation

12/17/19  
 Date

## Section 5.12

### Section 5.12.6

#### C. Message Board Signs

Except as provided in Section 5.12.6 E, (existing text to remain)

#### E. Electronic Restaurant Menu Reader Boards

Signs otherwise permitted under Section 5.12 shall be allowed for one or more drive-through lanes which are accessory to a principal use whereby goods or services may be offered directly to customers in motor vehicles as long as they meet the following conditions:

- (1) A restaurant menu reader board shall not exceed forty-two (42) square feet in area and six (6) feet in height per allowable sign ("Menu Reader Board").
- (2) A pre-browse board consisting of no more than 20 square feet in surface area and six feet in height ("Pre-Browse Board").
- (3) Up to 100% of permitted sign area maybe an electronic variable message display.
- (4) The number of allowable Menu Reader Boards is based on the number of ordering points per drive-through lane. A Menu Reader Board shall be permitted at each ordering point in the drive-through lane. Each drive-through lane may also consist of a Pre-Browse Board.
- (5) Two (2) Menu Reader Boards shall be no closer than eight (8) feet at any point.
- (6) Such signs shall be set back not less than twenty (20) feet from any property line.
- (7) The signage shall not be included in the calculation of or count towards the total allowable sign area.

**Text Amendment Submittal Checklist**

Staff will use the following checklist to determine the completeness of your application. Only complete applications will be accepted.

## Text Amendment Submittal Checklist

Date Received: \_\_\_\_\_

Project Name: \_\_\_\_\_

Applicant/Property Owner: \_\_\_\_\_

**Text Amendment Submittal Checklist**

1	Complete Text Amendment application	
2	Application fee (\$300)	
3	2 hard copies of ALL documents	
4	1 PDF digital copy of all documents (ex. Compact Disk – e-mail not acceptable)	

**For Staff Only****Pre-application Conference**

Pre-application Conference was held on November 27, 2019 and the following people were present:

\_\_\_\_\_  
\_\_\_\_\_

**Comments**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_