



## CURRITUCK COUNTY NORTH CAROLINA

July 14, 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 Board Meeting Room with six board members present. Staff members present were: Laurie LoCicero, Planning Director, and Donna Voliva, Assistant Planning Director. The board members were briefed concerning the text amendment on the agenda. Informal discussion followed until 6:00 PM.

### CALL TO ORDER - 6:00 PM

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	Present	
Juanita S Krause	Board Member	Present	
J. Timothy Thomas	Board Member	Absent	
Laurie LoCicero	Planning and Community Department Director	Present	
Donna Voliva	Planning and Community Development Assistant Planning Director	Present	

Chairman Ballance called the meeting to order at 6:01 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. Chairman Ballance said he will not vote on the text amendment tonight. There were no other conflicts noted.

**C. Announce Quorum Being Met**

Chairman Ballance announced a quorum being met with six board members present and five voting board members for the case tonight.

**D. Approval of Agenda**

Chairman Ballance asked if there were any changes needed to the agenda tonight. With no changes noted, Mr. Bass motioned to approve as presented. Mr. Doll 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>	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

**APPROVAL OF MINUTES FOR JUNE 9, 2020 & JUNE 11, 2020**

Chairman Ballance asked if there were any changes needed to the minutes for June 9th and June 11th. Chairman Ballance referenced one change needed to the June 11, 2020 minutes in the motion on page 7, "Mr. Owens added changed Item 2 from 20,000 40,000 square feet or smaller to 25,000 square feet or smaller."

Mr. Doll motioned to approve the minutes for June 9, 2020 as presented and to approve the minutes for June 11, 2020 with the requested change. Ms. Krause seconded the motion and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	David Doll, Board Member
<b>SECONDER:</b>	Juanita S Krause, 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. PB Meeting Minutes - June 9, 2020****F. PB Meeting Minutes - June 11, 2020****OLD BUSINESS**

There was no old business discussed.

**NEW BUSINESS****A. PB 20-11 Steven W. Craddock**

Chairman Ballance stepped down and Garry Owens, Vice-Chairman, presided over the

hearing for PB 20-11 Steven W. Craddock, Text Amendment request. Vice-Chairman Owens introduced the case, gave a detailed summary of the request, and introduced Ms. Voliva as the staff presenter.

Donna Voliva, Assistant Planning Director, presented the staff report and a PowerPoint presentation. She said that typically mining operations are greater than one acre and accessory mining excavation is less than one acre. Ms. Voliva said the original request from Mr. Craddock had language that would render most existing mining operations nonconforming so he worked with staff to change his request. The revised request/staff report was emailed to the board members yesterday. The changes resolves most of the issues and now leaves three active existing mines nonconforming. Ms. Voliva said the requested text amendment is actually two parts. The first being the modified request for the Extractive Industry which will revise the current ordinance language in an effort to require mining operations to have an improved direct access to major arterial streets, prepare an access impact report for operations that utilize an easement or private right of way, remove the extension of expiration time period language, and to require all expansion to go through the same process as a new permit. She said that currently existing mines are allowed to expand up to 40 percent with only receiving administrative approval. With the text amendment they would no longer be able to do this and must go through the board approval process. Ms. Voliva said this text amendment would impact expansions and modifications to some existing mining operations as well as new applications. Some of the active mining operations will become nonconforming. She referenced a spreadsheet provided to the board members with the list of active and inactive mining operations that would be impacted. She went over the mines that would be affected.

Ms. Volvia asked the board if they had any questions. Mr. Bass asked about the mines that are in nonconforming zones.

Ms. Voliva said the second part of the text amendment is for Excavation that would require excavation accessory uses (ponds less than one acre) to use the excavated material removed from the pond on the subject property. Ms Voliva explained how the fill would be used on property; example fill around septic systems.

Ms. Voliva asked if the board had any questions concerning the second part of the text amendment. Mr. Bass asked some questions concerning the accessory excavation and having stumps or wood that would need to be removed from the fill. Ms. Voliva said you could add language to be allowed to remove that from the property.

Ms. Voliva went over the review standards in determining whether to adopt or deny the proposed text amendment and said staff recommends approval of the request as submitted and gave a suggested Statement of Consistency and Reasonableness.

Vice Chairman Owens asked if there were anymore questions from the board to staff. With no more questions, Vice Chairman Owens called the applicant to present his case.

The applicant, Steven Craddock, of 102 Hickory Hill Drive in Grandy came before the board. Mr. Craddock said he is an appraiser in the county, electrical board certified, and he has served on the Planning Board and on the Steering Committee for the Land Use Plan. Mr. Craddock said he knows from his time on the Planning Board how some things get passed that has details that were overlooked and need to be addressed to make the change. The changes that I am proposing to you are to protect the public's rights. Mr. Craddock said he

agrees that landowners should be able to excavate on their property to use the fill as needed on their property, but when landowners start using it as a business and excavating and selling the fill, then they are just doing it to make money. Mr. Craddock continued to review the changes and gave reasons for how they would benefit the public. He also said this text amendment puts the Extractive Industry's expansions and modifications back into the hands of the Board of Commissioner's as it should be since it is quasi-judicial. Mr. Craddock gave the history of how the excavation language came about and how it was originally intended for farmers to maintain their roads. He gave some examples of how it is now being abused to make money. One example is when a landowner has a contractor dig a pond on their property and the contractor sells the fill which came from digging the pond (this acts as a mining operation).

Clay Cartwright of North Gregory Road in Shawboro came before the board to speak. He said he operates a mine and also does site work. Mr. Cartwright said his main concern was the text amendment changes concerning ponds that are one acre or less. When asked by Mr. Doll if he was in favor or opposed to the text amendment, he said he could see good and bad in the text amendment.

Ken Elliott of Elliott Road in Aydlett came before the board to speak in opposition of the text amendment. Mr. Elliott is owner of Elliott Consulting and manages several mines. He said changing the allowed location of the mines to only major arterial roads would be a mistake. Many of the mines are located on secondary roads and would become nonconforming. Mr. Elliott said secondary roads are better locations for the mines and keeps the industrial use off of the main roads. He also said one of the larger mines is used by NCDOT and they would not be happy if they can no longer have use of their required products. Mr. Elliott doesn't believe the roads are being damaged by the mine equipment and if they were NCDOT would deal with the company that had damaged the road; bonding would be increased. Mr. Elliott also spoke of the bond being \$1,800 per every thousand feet. Mr. Elliott did not have an issue with the 200 feet requirement going into the parcel, but did object to this section not being able to use millings. He said the State of NC defines impervious surfaces to include millings the same as concrete so millings should be allowed for the 200 feet section of the road. Mr. Elliott also spoke of the changes to the one acre ponds not being allowed to sell their sand. He said one acre ponds barely break even and are not just for aesthetics but are used for horses and irrigation. He said he has priced a one acre pond at the cost of \$15,000. If the property owner can lower his cost of digging the pond by giving the sand to the contractor, they should be allowed to do so.

Shay Ballance came before the board. He said he fully supports the text amendment. Mr. Ballance said if you are digging and selling without a permit than it is not right. He likes the 200 feet of concrete requirement and said it is to protect the roads. He has personally witnessed a mile of pavement destroyed near his residence due to the heavy equipment used in the mining operation.

Steven Craddock came before the board to give his 5 minute rebuttal. He said all existing mines can continue to operate and this will not have an affect on them negatively. Mr. Craddock said NCDOT's budget is currently low and they do not have the money to fix all the damage caused by the mining operations.

Ms. Krause said she has a problem with the regulation of one acre ponds. She said she owns ten acres and if she wanted to dig a pond, she should be able to remove the fill from the property.

The board continued their discussion on changes they would like added to the text amendment. Ms. Krause said she feels that the regulation of keeping property owners from removing the fill from their ponds is an overreach of regulation by the County. Although she did feel that the roads are being damaged by the mining operations. Ms. Voliva tried to give the board some options to help the board come to a decision.

Mr. Ballance come before the board again. He gave examples of what permitted mines have had to do in order to operate. But when you allow the abuse by home owners to do an accessory use of mining without having to meet all of the site requirements, etc., it is not fair to the major operations that have jumped through the hoops of regulation. He said the millings would not work since they are loose and are the same as rocks that would track onto the roadways and do damage.

Mr. Owens closed the public hearing and asked for a motion.

Mr. Bass motioned to approve **PB 20-11** because the request is consistent with the following policies of the 2006 Land Use Plan:

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

The request is reasonable and in the public interest because:

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

Mr. Bass said this motion is for all of the text amendment, as written.

Ms. Hilgendorf seconded the motion.

Mr. Doll said he wanted to amend the motion and Ms. Krause said she would also like to amend the motion. Discussion was held on the amendments that would be added.

Mr. Bass amended his motion to include the following to 4.3.3 Specific Standards for Certain Accessory Uses:

- A. Excavation
  - Woody debris can be removed
  - Minor excavation for the primary purpose
  - Any access road shall remain free of dust and sediment

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

<b>RESULT:</b>	<b>RECOMMENDED APPROVAL [UNANIMOUS]</b>	<b>Next: 8/17/2020 6:00 PM</b>
<b>MOVER:</b>	K. Bryan Bass, Board Member	
<b>SECONDER:</b>	Juanita S Krause, 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, J. Timothy Thomas, Board Member	

## ANNOUNCEMENTS

Chairman Ballance returned to chair the meeting. He asked if anyone had any announcements and there were none.

## ADJOURNMENT

Chairman Ballance asked if there was a motion to adjourn. Vice-Chairman Owens motioned to adjourn. Mr. Bass seconded the motion and the meeting adjourned unanimously at 8:31 PM.