



**CURRITUCK COUNTY
NORTH CAROLINA**

February 10, 2015
Minutes - Meeting of the Planning Board

6:30 P.M. WORK SESSION

A work session was held prior to the meeting to discuss items on the agenda.

CALL TO ORDER

Chairman Cooper called the meeting to order.

Donna Voliva, Senior Planner, Eric Weatherly, County Engineer, and Susan Tanner, Clerk to the Planning Board were also present.

A) Pledge of Allegiance and Moment of Silence

Everyone stood for the Pledge of Allegiance and a moment of silence.

B) Announce Quorum Being Met

Chairman Cooper announced a quorum has been met.

C) Approval of Agenda

A. Motion

The agenda approved as presented.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Carol Bell, Board Member
SECONDER:	Bobby Bell, Board Member
AYES:	Cason, Craddock, Cooper, Cartwright, Bell, Whiteman, Overstreet, Bell
ABSENT:	Wright

D) Ask for Disqualifications

Chairman Cooper asked if any board member had a conflict of interest with respect to any matters coming before the board tonight.

There were no conflict of interest.

Attendee Name	Title	Status	Arrived
Mike Cason	Board Member	Present	
Steven Craddock	Board Member	Present	
John Cooper	Board Member	Present	
Clay Cartwright	Board Member	Present	

Carol Bell	Board Member	Present	
John Wright	Board Member	Absent	
Fred Whiteman	Board Member	Present	
Jane Overstreet	Board Member	Present	
Bobby Bell	Board Member	Present	

APPROVAL OF MINUTES

Minutes January 13, 2015

The minutes approved as amended.

Motion

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Craddock, Board Member
SECONDER:	Jane Overstreet, Board Member
AYES:	Cason, Craddock, Cooper, Cartwright, Bell, Whiteman, Overstreet, Bell
ABSENT:	Wright

OLD BUSINESS

None

NEW BUSINESS

A. PB 14-23 Justin Old:

Justin Old and Eric Weatherly, County Engineer appeared before the board.
Ms. Voliva presented the staff report to the board.

Item 1

(Eliminate the performance bond requirement for infrastructure connectivity that cannot be extended to the external property boundaries due to natural conditions.)

Mr. Old is concern with the payment-in-lieu of construction and what the county can do with the funds.

Ms. Voliva said in certain instances the drainage ditches can be rather large and could include a drainage easement. Language may need to be added to stop these improvements at the drainage easement, in the event the easement is greater than five feet. The payment-in-lieu of construction shall be in the amount equal to 115% of the estimated full cost of completing the installation of the required improvements, including the cost of materials, labor, and project management. Right now the payment-in-lieu of construction can be held by the county, but the General Statues do not allow a county to disburse or use funds to construct the improvements. The county commissioners will be asking the General Assembly during this session for special legislation that would allow counties to utilize funds received for uninstalled infrastructure to connect streets and other infrastructure.

Mr. Old asked if the other developer comes to the property line, would the county be responsible for bidding out that section of the road?

Ms. Voliva said depending on what legislation is adopted by the General Assembly, that money could be turned over to the developer or it could be bid out. The 115% is a standard amount, 100% is construction cost and 15% for a performance guarantee. Property owners pay because they are making an offsite improvement. Ms. Voliva said there is some case law out there that a community had required someone to make an offsite improvement, which had to do with a road. The street had to be improved, maybe it didn't meet correct design standards, but a paved road that led to the subdivision had to be improved. It was determined by the courts that you can't make a developer do an offsite improvement for something they are developing unless it is life safety. The current language in the ordinance requires installation of the infrastructure improvements within two years with a one year extension. This request would apply to developments that are within that two or three year period. Ms. Voliva said the county would like to see the bond be a cash bond for improvements, but in the event the board chooses to do some other method and allow a letter-of-credit it would need to be for a longer duration than three years.

The Planning Board discussed when the General Assembly will meet this session; that the request for the General Assembly may or may not pass, county receiving funds that they cannot spend, performance bonds vs. payment-in-lieu, increasing the extension of the performance guarantee; incentives for the developer to do it on his own; getting approval by adjoining property owners; and cash bonds vs. letter-of-credit.

Mr. Cooper closed the public hearing.

Mr. Craddock moved to table that a payment-in-lieu be charged until such time as the General Assembly passes the special legislation that would allow counties to utilize funds received for uninstalled infrastructure to be used to connect streets and other infrastructure. Mr. Craddock moved to approve Item 1 to change the performance bond time duration from two years to five years with an extension up to five years with the Planning Director's approval; run the streets and sidewalks up to the edge of the drainage easement; and the performance bonds be changed to cash as a form of payment instead of a letter-of-credit. Mr. Whiteman seconded the motion and motion carried.

Item 2

(Reduce the planted caliper size requirement for the farmland buffer and modify the planting ratio.)

Planning Board recommended approval December 9, 2014.

RESULT:	RECOMMENDED APPROVAL [7 TO 1]
MOVER:	Steven Craddock, Board Member
SECONDER:	Fred Whiteman, Board Member
AYES:	Cason, Craddock, Cooper, Bell, Whiteman, Overstreet, Bell
NAYS:	Cartwright
ABSENT:	Wright

Motion

Item 3

(Modify the homeowner's association transfer criteria by increasing the lot sales percentage in a subdivision from 51% to 75% and clarify the fund balance maintenance responsibilities of the association.)

Mr. Whiteman said a reserve fund handles major or long-term projects, and an operating fund handles the day-to-day operations.

Mr. Cooper asked with the engineer certification are the two big issues drainage and roadways.

Ms. Voliva said these are the two primary issues.

Mr. Old said his biggest concern is the engineer letter that is required at the time the Homeowners Association (HOA) would take over the roads of the subdivision.

Ms. Voliva said the Unified Development Ordinance (UDO) requires that before roads are turned over to a HOA that the roads meet NCDOT standards. One of the concerns that Mr. Old has is if you have an engineer completing a certification that he may miss something that NCDOT may require. If this is the case, Mr. Old feels it is repetitive because you are paying for the engineer certification and you may still have issues with the standards of NCDOT.

Mr. Cooper said the engineer comes out and certifies drainage work as design, and he will indicate places on the as built where maybe a ditch may need to be dug out. This goes to NCDOT and then it is up to NCDOT if they agree with these corrections. Then NCDOT comes out to inspect once these corrections are done.

Mr. Craddock said NCDOT comes out usually when you are trying to turn a road over to them.

Mr. Cooper said if a road is not being turned over then NCDOT would not be in the picture, it is just the engineer saying the drainage system work as originally designed.

Mr. Old said if you have a subdivision which has ten lots and you pay the engineer to do the as built as you build, every lot has a culvert and ditch certification. Mr. Old feels this is repetitive for a smaller subdivision, but agrees with the certification if there is a five or seven year build out of the subdivision.

Mr. Cartwright asked if NCDOT was coming out to inspect the roads and ditches, could the engineer certification be waived?

Ms. Voliva said the state could identify deficiencies and confirm corrections. The as built that are prepared have a lot of information that the engineer would use in making his certification. Ms. Voliva said staff had a conversation with NCDOT about six months ago regarding their certification. Staff wanted NCDOT to come out and do a certification at final plat for subdivisions to make sure it met their requirements, but they won't do this. The process to have DOT take over the roads is usually a year or maybe longer.

The board discussed DOT process and length of time it takes for them to take over the roads in a subdivision; when the HOA takes over the roads they have operating funds and the infrastructure is sound; and engineer certification and DOT standards.

Mr. Weatherly said if DOT says the road is okay and to their standards, but the engineer says something needs to be fixed; the developer should go with DOT since they will be the ones maintaining the roads. The question is the timing of the two, DOT vs. engineer certification.

Ms. Voliva said if DOT has made their determination based on the as built right-of-way complies with their standards, and it hasn't been five years ago, then may be staff could accept in lieu of a engineer certification.

Mr. Cooper said it could be either option, engineer certification or DOT.

Mr. Craddock asked what a reasonable time frame for allowing one or the other should be.

Mr. Weatherly said 12 months.

Mr. Cooper closed the public hearing.

Mr. Cooper moved to approve PB 14-23, Item 3 that increases the lot sales percentage from 51% to 75%, engineering certificate, road right-of-way and drainage in road right-of-way option for a engineer report that says it meets Unified Development requirements as originally designed and approved or, a NCDOT letter saying the infrastructure meets their standards as far as outside the right-of-way drainage would require a engineer certificate dated anytime within the previously twelve months saying the drainage as designed and installed is working properly and meets the Unified Development requirements. Mr. Whiteman seconded the motion and motion carried unanimously.

Mr. Whiteman moved to recommend to change the reserve fund balance to operating fund balance. Mr. Craddock seconded the motion and motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Cooper, Board Member
SECONDER:	Fred Whiteman, Board Member
AYES:	Cason, Craddock, Cooper, Cartwright, Bell, Whiteman, Overstreet, Bell
ABSENT:	Wright

Motion

Item 4

(Allow subdivision directional real estate signs at intersections.)

Mr. Old said there is a need for directional signage for subdivision that are rural sites.

Mr. Cooper said if you have 10 subdivisions down the road you could potential have 10 signs at one intersection.

Mr. Old said he did look at limiting the number of signs, but there were some issues.

The board discussed that temporary directional real estate subdivision signs would be allowed on the Mainland only limited to a maximum of one sign per subdivision; signs placed at an intersection accessing the subdivision with the landowner's permission; may not be illuminated; and may not be on the property for more than 12 months.

Mr. Cartwright said he feels that you should be allowed to put up signage for real estate or a business with restrictions, especially if it is on private property.

Mr. Old suggested when the subdivision is 75% built out to remove the signs.

Mr. Craddock said where the signs will be going on private property the owner may want a lot of signs because he will be paid by the developer to put their signs out. Mr. Craddock is concerned with the number of signs, obstruction of view, unattended signs on the corridor, and enforcement of signs.

Mr. Cooper closed the public hearing.

Mr. Craddock moved to deny PB 14-23, Item 4 due to its inconsistency with sign policies and standards and it does create aesthetic problems with the highway corridor. Ms. Overstreet seconded the motion. Motion passed.

Per the Planning Rules of Procedure - If a motion to deny a request receives a tied vote, then the request is denied as it did not receive approval by a majority vote.

RESULT:	APPROVED [4 TO 4]
MOVER:	Steven Craddock, Board Member
SECONDER:	Jane Overstreet, Board Member
AYES:	Cason, Craddock, Bell, Overstreet
NAYS:	Cooper, Cartwright, Whiteman, Bell
ABSENT:	Wright

B. PB 14-33 Barry Nelms:

Barry Nelms appeared before the board.
Ms. Voliva presented the staff report.

Mr. Claywright asked staff what criteria has the applicant not met.

Ms. Voliva said it is an electronic message board sign. You can have electronic signs if they are on premises.

Mr. Craddock said on the plan that was submitted by the applicant it has the dimensions of the sign to be 40 sq. ft. instead of 32 sq. ft. as listed on the sign standards.

Ms. Voliva said that is correct.

Mr. Craddock asked if the applicant has resubmitted.

Ms. Voliva said no.

Mr. Nelms provided a history of his signage for Barry's on Walnut Island. Mr. Nelms said he has five billboard signs in the county and he spends between \$16,000 to \$20,000 for these signs, but cannot do this anymore. Mr. Nelms said they have dropped breakfast and lunch except Saturday and Sunday. Crabbies has an off premise sign for his business. Mr. Nelms was told by staff the sign could be 64 sq. ft. and 10 feet high, being a contractor he thought that meant the height was from the bottom to the top. When he came to apply for a permit he was told the sign has to be on the ground. The height definition by staff is from the ground to the top of the sign, which means his sign will be 4 feet off the ground. If you want a directional sign it needs to be high so it will be visible. Mr. Nelms needs to tell the public and Currituck residents how to get to his restaurant and motel. The message board is very similar to the one the county has at the Welcome Center. The piece of property that the sign will go on Mr. Nelms owns which is commercial and he has been paying commercial taxes on it. Mr. Nelms said the sign shows pride in the community and he is trying to survive in this battle of the ongoing market. Mr. Nelms said this sign is a nice off-premise directional sign and the sign needs to be visible. Mr. Nelms thanked the board for their consideration of this request.

Ms. Bell said the sign Mr. Nelms is proposing is a attractive sign. Ms. Bell asked if the message will be on both sides.

Mr. Nelms said it would face people going south, but he has the option to make it on both sides.

Ms. Bell said her church in Moyock has an electronic sign and it has brought a lot of people into their church. Ms. Bell said the county is doing everything to build homes, particular in Moyock, but they aren't doing a lot to promote businesses. If you don't have businesses in the county then all these people will go somewhere else.

Mr. Nelms said the property he owns is located on Lot 10, Neals Creek Park and it used to be called the Aydlett Farm which is located on 158 Highway.

Mr. Cooper asked staff if the sign is legal except for the height and it being an electronic automation.

Ms. Voliva said yes.

Mr. Craddock asked Mr. Nelms if he has any current off premise signs other than billboards.

Mr. Nelms said he does lease a sign across from the Cotton Gin, but they have given them notice on January 1st they would not be renewing. The owner of the sign said he will continue to leave his sign out until he can find someone else to lease it.

Mr. Craddock asked the dimension of the billboard that he is about to give up.

Mr. Nelms said 40x12.

Mr. Craddock said this is a big billboard. Do you believe you will get more business going southbound?

Mr. Nelms said southbound. People will come and stay at the lodge on Thursday and check into their cottage on Friday without sitting in traffic for three hours to get across the bridge.

Mr. Craddock said some of the billboards that were leased previously heading southbound, did you see a significant improvement in your business? You are asking the board to change so you will have 64 sq. ft. of advertising, and before you were leasing billboards that were 10 times this size.

Mr. Nelms said you have to have quality, innovation, and something young people want. This signage will help his business and his motel. The setback from the right-of-way is approximately 20 feet. This request would affect four businesses, Barry's on Walnut Island, Pearl's Restaurant, Cabbies and Coinjock Marina & Restaurant.

Mr. Cooper closed the public hearing.

Mr. Craddock said Mr. Nelms has had larger signs in the past and now this request is for a smaller sign. Mr. Craddock is not sure if the smaller sign would have a impact on Mr. Nelms business.

Ms. Bell said the electronic message signs do catch your eye.

Mr. Whiteman said since the sign was approved at 10 feet the question is does the board want to consider the 15 feet?

Mr. Craddock asked staff to provide the Unified Development Ordinance definition of a billboard and off premise sign.

Ms. Voliva provided the definitions.

Mr. Cartwright said if you have a business you want people to know where it is. The sign is very appealing and modern.

Mr. Whiteman moved to approve PB 14-33 as presented and to increase the sign height from 10' to 15' and allow an electronic message board in accordance with Section 5.12.6 of the Unified Development Ordinance. Mr. Cartwright seconded the motion and motion carried unanimously.

RESULT:	RECOMMENDED APPROVAL [UNANIMOUS]
MOVER:	Fred Whiteman, Board Member
SECONDER:	Clay Cartwright, Board Member
AYES:	Cason, Craddock, Cooper, Cartwright, Bell, Whiteman, Overstreet, Bell
ABSENT:	Wright

C) Break

Mr. Cooper moved to take a short recess at 9:45 pm. Mr. Cartwright seconded the motion and motion carried unanimously.

Ms. Overstreet left at 9:47 p.m.

1. Motion

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Cooper, Board Member
SECONDER:	Clay Cartwright, Board Member
AYES:	Cason, Craddock, Cooper, Cartwright, Bell, Whiteman, Overstreet, Bell
ABSENT:	Wright

D. PB 14-18 Housekeeping Amendment 2014 Mining:

Ken Elliott appeared before the board.

Ms. Voliva and Mr. Weatherly presented the staff report and PowerPoint Presentation to the board.

Planning Staff presented the 2014 comprehensive housekeeping amendment to the Planning Board at their September 9, 2014 meeting. The amendment included changes to several sections of the UDO, including mining. However, the changes to the mining regulations were tabled at that meeting for further discussion. Since that time, the planning staff has worked with the engineering department to address some additional comments and concerns and further clarify when a hydrogeological report is required and what the report should contain. Although the planning board has reviewed and recommended approval of the mining text amendment we are submitting the proposed changes for the board to review.

Ms. Voliva said staff is not asking for the board to act on this request tonight, but to digest this information and provide any feedback that you may have. This request will be brought back to the next planning board meeting in March.

Mr. Weatherly talked about the impacts to groundwater.

- Source of saltwater intrusion, if you are digging next to the sound and you are dewatering this pit and drawing water in from sound; salt could be in the discharge water.
- Monitoring wells
- Hydrogeological Study
- \$3000 performance bond per well
- Decrease off-site discharge (if ponds are lowered or salt in discharge)

Mr. Cooper asked if the hydrogeological study could predict the draw down of the water table.

Mr. Weatherly said yes.

The board talked about changes to the text amendment.

1. Page 2, 3 (a) Does this road include a road that is within a site?
2. Page 3, 9 (b) Remove the word substantial?
3. Page 3, 10 Location of signs, i.e. property line or edge of permitted mining area.
4. Page 5, VI Quantity to change to quality.
5. Page 7, 15 Where does a measuring device have to be installed if detention ponds shall be located within 100 feet of any property line? Staff will rewrite noise requirements.

Mr. Elliott explained the procedure if the state does receive a compliant about a mine or well. Any mine that dewateres over 10,000 gallons of water per day requires a report to go to the Water Resources office in addition to Water Quality. Mr. Elliott talked about underwater protection guidelines and monitoring wells.

Mr. Craddock talked about use permits and a collation between the county and state.

Mr. Elliott said if the county assigned an expiration date to match the expiration date that the state has assigned. Mr. Elliott is in favor of the proposed text amendment.

Ms. Voliva said many times when the applicant is applying for a county permit they do not have the state permit. You may or may not have the permit by the time it reaches the Board of Commissioners.

Mr. Cartwright asked what the concerns are with the ponds.

Mr. Weatherly said the water level. A good website to go to is NC Drought Monitoring.

Mr. Cooper said the sound (noise) monitoring between day and night is a concern because it is so vague.

Mr. Weatherly said staff will strengthen this in the text amendment before it comes back to board next month. The order of the options will change.

Mr. Cartwright asked that it is clarified who will monitor the well in the text amendment. Mr. Cartwright disagrees with limiting the hours of operation during the tourist season, because traffic is not heavy throughout the whole summer months and certain times during the day.

ANNOUNCEMENTS

None

ADJOURNMENT

E. Motion

With there being no further business, the meeting adjourned at 10:50 pm.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Clay Cartwright, Board Member
SECONDER:	Fred Whiteman, Board Member
AYES:	Cason, Craddock, Cooper, Cartwright, Bell, Whiteman, Bell
ABSENT:	Wright, Overstreet



CURRITUCK COUNTY PLANNING BOARD
January 13, 2015

WORK SESSION

A work session was held prior to the meeting to discuss items on the agenda.

REGULAR MEETING

The Currituck County Planning Board met in the Historic Currituck County Courthouse. The following members were present: Clay Cartwright, Jane Overstreet, Steven Craddock, John Cooper, Mike Cason, and Bobby Bell. Absent: Fred Whiteman, John Wright, and Carol Bell.

Donna Voliva, Senior Planner and Susan Tanner, Clerk to the Planning Board were also present.

Planning Board Vice-Chairman Cooper called the meeting to order.

Everyone stood for the Pledge of Allegiance and a moment of silence.

APPROVAL OF AGENDA

Mr. Cooper moved to amend the agenda by adding Planning Board Rules of Procedure as Item 4. Mr. Craddock seconded the motion and motion carried unanimously.

- 6:30 p.m. Work Session

- 7:00 p.m. Call to Order
 - A. Pledge of Allegiance and Moment of Silence
 - B. Announce Quorum Being Met
 - C. Approval of Agenda
 - D. Ask for Disqualifications

- Item 1 Approval of December 9, 2014 Minutes

- Item 2 Election of Officers
 - Chairman
 - Vice-Chairman

OLD BUSINESS:

NEW BUSINESS:

- Item 3 **PB 87-56 Monteray Shores, Phase 3 (Corolla Bay, Section II)** – Request for preliminary plat/use permit approval for 36 residential lots located within Corolla Bay on the west side of NC 12 as a southern extension of Cruz Bay Court in Corolla, Tax Map 115, Parcel 3XB, Poplar Branch Township.

Item 4 **Planning Board Rules of Procedure**

Item 5 **ANNOUNCEMENTS**

Item 6 **ADJOURNMENT**

Vice-Chairman Cooper stated the board met a quorum and there were no disqualifications.

APPROVAL OF MINUTES

Mr. Bell moved to approve the Planning Board minutes for December 9, 2014 as presented. Mr. Craddock seconded the motion and motion carried unanimously.

ELECTION OF OFFICERS

Mr. Bell motioned to elect John Cooper as Chairman. Mr. Cartwright seconded the motion and motion carried unanimously.

Mr. Craddock motioned to elect Carol Bell as Vice-Chairman. Mr. Bell seconded the motion and motion carried unanimously.

OLD BUSINESS:

None

NEW BUSINESS:

PB 87-56 Monterey Shores, Phase 3 (Corolla Bay, Section II) – Request for preliminary plat/use permit approval for 36 residential lots located within Corolla Bay on the west side of NC 12 as a southern extension of Cruz Bay Court in Corolla, Tax Map 115, Parcel 3XB, Poplar Branch Township.

Mitch Halloran and Carlos Gomez, Coastal Engineering appeared before the board and sworn in. Ms. Voliva presented the following case analysis to the board.

[Link for case analysis for PB 87-56 Monterey Shores, Phase 3 \(Corolla Bay, Section II\)](#)

DISCUSSION

Mr. Craddock asked staff to provide some insight to some of the wetlands being filled.

Ms. Voliva said the wetlands and areas to be filled shown on the plan were surveyed and identified by the Army Corps. A permit has been obtained from the Corps and the wetlands mitigation credits have been paid by the current property owner.

Mr. Craddock asked staff if they have found any other issues with drainage that would not be mitigated with this being filled with the stormwater permit being updated.

Ms. Voliva said no.

Mr. Cooper asked staff since the Army Corps got the plat have there been any revisions to it.

Ms. Voliva said no related to wetlands.

Mr. Cooper asked staff since this is an alternative bridge landing site for the Mid-Currituck Bridge, the state has no rights to the property at this time.

Ms. Voliva said at this time the state does not.

Ms. Overstreet asked if lots 60, 61, and 62 have wetlands on the back and will it remain wetlands or be filled.

Ms. Voliva stated it will remain wetlands.

Mr. Halloran said he would be glad to answer any questions the board may have.

Mr. Gomez said the Army Corps looked at the plat very closely and the permit is in place.

Ms. Overstreet asked if the piers have been permitted by the Army Corps of Engineering.

Ms. Voliva said the individual piers would be permitted individually with their lot construction; and the community pier does have a major CAMA permit. The individual piers would have to be permitted through CAMA as well.

Mr. Cooper closed the public hearing.

ACTION

Mr. Craddock moved to approve PB 87-56 with the Technical Review Committee and staff recommendations included in the case analysis. Mr. Cartwright seconded the motion and motion carried unanimously.

Planning Board Rules of Procedure

Mr. Cason moved to approve the Planning Board Rules of Procedure as amended. Mr. Bell seconded the motion and motion carried unanimously.

ANNOUNCEMENTS

None

ADJOURNMENT

With there being no further business to discuss, Ms. Overstreet moved for adjournment. Mr. Craddock seconded the motion and the motion carried unanimously. The meeting adjourned at 7:25 p.m.

Respectfully Submitted,

Susan M. Tanner /s/

Susan M. Tanner
Clerk to the Board



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 1053)

Agenda Item Title

PB 14-23 Justin Old:

Brief Description of Agenda Item:

Request to amend the Unified Development Ordinance Chapter 5: Development Standards and Chapter 6: Subdivision and Infrastructure Standards to modify performance bond requirements for transportation and utility connectivity to the property boundary, Chapter 5: Development Standards to modify the farmland buffer requirements, Chapter 6: Subdivision and Infrastructure Standards to modify the homeowner's association transfer and reserve fund requirements, and Chapter 5: Development Standards to allow subdivision directional real estate signs.

Planning Board Recommendation:

The enclosed text amendment submitted by Justin Old is intended to:

1. Eliminate the performance bond requirement for infrastructure connectivity that cannot be extended to the external property boundaries due to natural conditions.
2. Planning Board recommended approval December 9, 2014.
3. Modify the homeowner's association transfer criteria by increasing the lot sales percentage in a subdivision from 51% to 75% and clarify the fund balance maintenance responsibilities of the association.
4. Allow subdivision directional real estate signs at intersections.

Board Action Requested

Action

Person Submitting Agenda Item

Susan Tanner, Administrative Assistant

Presenter of Agenda Item

Donna Voliva



Currituck County

Planning and Community Development Department
 Planning and Zoning Division
 153 Courthouse Road, Suite 110
 Currituck, North Carolina 27929
 252-232-3055 FAX 252-232-3026

To: Planning Board
 From: Planning Staff
 Date: February 3, 2015
 Subject: PB 14-23 Justin Old Text Amendment, **Revised**

At the Planning Board meeting on December 9, 2014, Items 2 and 4 of this text amendment submitted by Justin Old were reviewed. At that time, the Planning Board approved Item 2 and requested that Mr. Old work with Planning staff to address some concerns regarding Item 4 of his request. In addition, Items 1 and 3 were not heard by the Planning Board in order to provide staff with additional time to address some legal concerns. Planning staff has met with Mr. Old and is now submitting the revised amendment to the Planning Board. Items 1, 3, and 4 are being submitted for recommendation.

The enclosed text amendment submitted by Justin Old is intended to modify the UDO to allow the following:

Item 1

The proposed text amendment is intended to require future external street connections terminating at a drainage swale or ditch to be exempt from performance guarantees and abutting new development would connect and construct to the stubbed streets, sidewalks, and utilities. The request would allow the infrastructure to terminate five feet from a drainage ditch or swale located along a property line.

The current UDO requires the subdivider to post a performance guarantee when street stubs do not terminate at the property line (i.e. edge of a drainage swale or ditch). Generally, most tracts of land contain an existing boundary ditch that defines a property line. In these situations external street connection improvements can't terminate at the center of the ditch without the abutting property owner's permission and cooperation, and when that can not be achieved, it requires the subdivider to post a performance guarantee for the uninstalled infrastructure. The UDO requires the improvements, subject to a performance bond, to be installed within two years of approval of the final plat or three years if an extension of the performance guarantee term is granted by the Planning Director. The current requirement does present a problem if the abutting tract is not developed during the term of the guarantee.

Staff Concerns:

Initially, planning staff recommended a payment-in-lieu of construction of infrastructure. The North Carolina General Statutes mandate how the funds can be used, and special

legislation is required for the funds to be used by any entity other than a municipality. Payments-in-lieu of construction can be held by the county but, the General Statutes do not allow a county to disburse funds or construct the improvements. The county commissioners will be asking the General Assembly during this session for special legislation that would allow counties to utilize funds received for uninstalled infrastructure to be used to connect streets and other infrastructure.

Recommendation:

Staff recommends approval of the proposed text amendment provided the subdivider establishes a payment-in-lieu of construction to be held by the county to ensure future connections (streets, sidewalks, and utilities) to abutting properties are installed due to its consistency with the Land Use Plan and the request is reasonable and in the public interest because it will ensure efficient and orderly development in the county by accepting payment for infrastructure improvements in the event the subdivider can not obtain authorization from the adjacent land owner. It also provides a cohesive vehicular and pedestrian circulation.

If the Board maintains the performance bond requirement, additional text must be provided in Section 6.3 of the UDO and require a long term performance guarantee for extensions to the property line. If the Board requests a payment-in-lieu of improvements, additional text must be provided to create the allowance.

6.2.5. Payments-In-Lieu of Construction

A. General

In the event subdivision infrastructure construction (transportation and utilities) does not extend to the property boundary due to a drainage swale, ditch, topography, or other natural condition, a payment-in-lieu shall be provided instead of infrastructure improvements in accordance with the provisions of this section.

B. Amount of Payment

The payment-in-lieu shall be in an amount equal to 115% percent of the estimated full cost of completing the installation of the required improvements, including the costs of materials, labor, and project management. The estimated costs for competing the infrastructure shall be itemized by improvement type and certified by the owner's or developer's licensed professional engineer.

C. Use of Funds

Payments-in-lieu received in accordance with this subsection shall be used for the transportation construction consistent with the requirements of the North Carolina General Statutes Section 153A-331.

Item 2

The Planning Board recommended approval on December 9, 2014.

The proposed text amendment is intended to modify the farmland compatibility standards by reducing the minimum planting size standards in the buffer, clarifying where planted vegetation can be located in the buffer, and allowing evergreen species.

The current UDO requires 15 ACI of canopy trees for every 100 linear feet of buffer length. In addition, the Administrative Manual requires canopy trees to have a minimum planting size of 2 caliper inches. The proposed amendment would allow for more uniform plantings with smaller tree species, including seedlings that can be obtained from NC Forest Service. The use of evergreen species could provide for a year-around buffer depending on the species.

Staff Concerns:

- **Height and Tree Types**
Typically, pine trees grow to a height above 40 feet and do not offer adequate screening and are vulnerable during high winds. Large trees that grow to a height greater than 50 feet could present a problem for farming operations.
- **Number or Spacing of Trees**
The appropriate number of planted trees/seedlings may require further discussion. There are two types of planting specifications for seedlings; reforestation and wildlife enhancement. Listed below are the recommended grid spacing for seedlings when used for reforestation and wildlife enhancement:

TYPE	SPACING BY FEET	TREES PER ACRE	TREES PER 100 LF TWO ROW GRID
Reforestation	8' x 8'	680	25
Reforestation	10' x 10'	435	21
Wildlife Enhancement	12' x 12'	302	17
Wildlife Enhancement	15' x 15'	194	14

Recommendation:

Staff recommends approval of the proposed text amendment and does agree that some evergreen tree species may be appropriate in the farmland buffer due to the consistency with the Land Use Plan and that the request is reasonable and in the public interest because it provides an economical option for landscape buffers on lands adjacent to active farmland and results in a logical and orderly development pattern.

Item 3

The proposed text amendment is intended to increase the lot sales percentage from 51% to 75% in a subdivision that requires the subdivider to transfer maintenance responsibility to the homeowner's or property owner's association and clarify the reserve fund responsibilities. In addition, the applicant is concerned with the report that must be commissioned by an engineer prior to transfer to the association. Clarifications on the contents of the report as well as the ability to provide information not certified by an engineer are among those concerns.

Staff Concerns:

The purpose of the engineer's report is to identify any deficiencies that must be corrected by the developer prior to transfer to the association. The applicant is concerned that an engineer may miss an item that ultimately could result in a road that may not be accepted by NCDOT. Staff could clarify the contents of the report, but we do support retaining the language in the UDO that requires the engineer's report.

Recommendation:

Staff recommends approval of the proposed text amendment that increases the lot sales percentage from 51% to 75% and clarification of the reserve fund responsibilities due to the consistency with the Land Use Plan and that the request is reasonable and in the public interest because it addresses a demonstrated community need by clarifying and defining the fund balance for homeowner's associations and at a percentage that can adequately accept and maintain the private infrastructure. However, staff requests the requirement for the engineer's report remain in the UDO.

Item 4

The proposed text amendment is intended to allow directional subdivision real estate signs at intersections of the road accessing the subdivision entrance.

Staff Concerns:

The increase in the number of signs near major intersections allows for off-site advertising and commercializes the landscape of the county which is considered inconsistent with the purpose and intent of the UDO and goals and objectives Land Use Plan policies. In an effort to address staff concerns, Mr. Old did agree to establish a timeframe for the signs, reduce the size, and limit the number of signs per subdivision.

Recommendation:

Staff recommends denial of the proposed text amendment due to its inconsistency with the Land Use Plan, its inconsistency with the purpose and intent of Section 5.12 of the UDO, and it is not reasonable and in the public interest because it does not result in a logical and efficient development pattern by allowing an unlimited number of signs at major intersections. The inconsistent LUP policies are:

LUP POLICY CA4: SIGN POLICIES AND STANDARDS should be established and periodically updated to enhance community appearance and create a quality business image. Such standards may be tailored to achieve different development characters for different parts of the county.

LUP POLICY CA5: Currituck recognizes that attractive, less commercialized landscape particularly along heavily traveled land and water routes, is essential to the tourist-based economy of the area. The placement of additional BILLBOARDS AND OFF_SITE ADVERTISING SIGNS shall not be permitted in Currituck County.

**PB 14-23 JUSTIN OLD
UDO AMENDMENT REQUEST**

Amendment to the Unified Development Ordinance Chapter 5: Development Standards and Chapter 6: Subdivision and Infrastructure Standards, to clarify and revise miscellaneous sections of the new Unified Development Ordinance (UDO).

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 Section 5.6.5 External Street Connectivity and Section 5.6.10 Sidewalks and Pedestrian Circulation are amended by adding the following underlined language, renumbering accordingly, and removing strikethrough language:

5.6.5 External Street Connectivity

- B.** In cases where the property boundary is within a drainage swale or ditch, the roadway connection or street stub shall terminate at the edge of the swale or ditch, and the developer shall post a performance guarantee with the county ~~(See Section 6.3, Performance Guarantees)~~ to ensure funds are available to complete the street connection. In addition to right-of-way dedication, an easement shall be established that will grant current and future owners of the abutting properties the right to construct road connections as either public or private roads. The easement shall include sidewalk and utility infrastructure improvements.
- C.** In cases where a roadway connection or street stub exists on an abutting property, new development shall connect to the street stub to form a through street.

5.6.10 Sidewalks and Pedestrian Circulation

A. Configuration

- (1)** Sidewalks shall be at least four feet wide, and may be required to match the width of a connecting sidewalk that exceeds four feet in width;
- (2)** Sidewalks shall be constructed of asphalt, concrete, or other hard-surface materials, consistent with an approved site plan, or with the established sidewalk patterns in the general area of the development;
- (3)** Pedestrian street crossings shall be raised above the adjacent street level, be a different material, or be striped as a traffic-calming measure;
- (4)** Sidewalks and pedestrian pathways shall connect with existing or planned sidewalks at property boundaries. In cases where the property boundary is within a drainage swale or ditch the sidewalk connection shall terminate at the edge of the swale or ditch. An easement shall be established that will grant current and future owners of the abutting properties the right to construct sidewalk connections. The new development shall connect to the sidewalk stub to form pedestrian circulation; and

- (5) New nonresidential, mixed-use, and multi-family development shall provide at least one on-site improved connection between the development and the adjacent public sidewalks system (planned or existing).

Item 2: That Section 5.11.5. Farmland Compatibility Standards is amended by adding the following underlined language, deleting the strikethrough language, and renumbering accordingly:

5.11.5 Farmland Compatibility Standards

A. Vegetated Buffer

Development subject to these standards shall provide a fifty-foot-wide vegetated buffer between building lots in development and an existing agricultural use. The buffer shall (see Figure 5.11.5., Farmland Compatibility Features):

- (1) Remain undisturbed for a minimum distance of 25 feet from the edge of the agricultural use or boundary of the agricultural activity. Planted vegetation shall not be located in the 25' undisturbed portion of the buffer;
- (2) ~~Include at least 15 aggregate caliper inches of canopy trees for every 100 linear feet of buffer length;~~
- (32) Include at least 14 trees, equally distributed, for every 100 linear feet of buffer length to create an opaque buffer. Planted trees shall consist of mixed hardwoods and may contain up to 50% evergreen species, excluding pine trees. Existing vegetation can be used to meet the minimum buffer requirements of this section;
- (43) Incorporate existing or planted vegetation, configured in a staggered fashion, so as to create two or more rows of trees within the buffer;
- (54) Planted vegetation required by this section shall not be subject to the minimum size standards for new planting specified in the Administrative Manual;
- (65) Incorporate a fence, berm, drainage ditch, or any combination of these features to physically separate the agricultural use from the new development. Nothing in this section shall limit the use of wire fencing for this purpose.

Item 3: That Section 6.1.4. Homeowners or Property Owners Association Requirements is amended by adding the following underlined language, deleting the strikethrough language, and renumbering accordingly:

Attachment: PB 14-23 REV Justin Old (1053 : PB 14-23 Justin Old)

6.1.4 Homeowners or Property Owners Association Requirements

F. Transfer of Maintenance Responsibility

- (1) The subdivider shall be responsible for maintenance of all common areas, common features, and private infrastructure until maintenance responsibility is transferred to the association in accordance with the standards in this subsection.
- (2) The subdivider shall cede maintenance responsibility for common areas, common features, regulatory permits (e.g. stormwater permits), and private infrastructure to the association upon sale of ~~51~~ 75 percent of the lots in a subdivision.
- (3) Maintenance responsibility is not transferred from the subdivider to the association until all of the following occur:
 - (a) At least ~~51~~ 75 percent of the total number of lots in the subdivision are sold; and,
 - (b) ~~The subdivider provides an affidavit or resolution signed by the association president that accepts maintenance responsibility for the subdivision; and,~~
 - (~~cb~~) The subdivider commissions a report prepared by a licensed engineer indicating that all common areas, common features, and infrastructure elements comply with the minimum standards in this Ordinance and the County Code of Ordinances. The report shall also include verification of the reserve fund balance in accordance with the standards in this section;
 - (~~dc~~) County staff reviews and approves the report prepared by a licensed engineer; and
 - (~~ed~~) A reserve fund dedicated to the continued maintenance and upkeep of common areas, common features, and private infrastructure is established with a banking institution acceptable to the county in the name of the association that ~~contains a minimum balance equal to 10 percent of the construction costs of all common areas, common features, and private infrastructure.~~ contains a minimum balance that includes the following:
 - (i) Ten percent of the road construction costs for streets not maintained by NCDOT at the time of transfer (gravel base and asphalt only);
 - (ii) Ten percent of the construction costs of common features and private infrastructure;
 - (iii) Liability insurance and taxes for two years; and,
 - (iv) Facilities, stormwater, and landscaping maintenance costs for two years;

In the event the association has not collected sufficient assessment funds from the lot owners in the subdivision to meet the minimum balance requirements of the reserve fund, the subdivider shall be responsible for the difference needed to meet the minimum balance requirements.

Item 4: That Table 5.12.4. Signs Exempted from Sign Permits is amended by adding the following underlined language:

Real Estate, Subdivision	Must be located within the boundaries of the subdivision and be spaced at least 500 feet from another prospective development sign. No more than one sign shall be placed within a subdivision on the Outer Banks.	Mainland: 75 Outer Banks: 32	Mainland: 10 Outer Banks: 6
<u>Temporary Directional Real Estate, Subdivision</u>	<u>Allowed only on the Mainland; prohibited on the Outer Banks. Limited to a maximum of one sign per subdivision. These signs may be placed at an intersection accessing the subdivision, with the landowner's permission, may not be illuminated, and may not be on any property for more than 12 months.</u>	<u>16</u>	<u>8</u>

Item 5: 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 6: This ordinance amendment shall be in effect from and after the _____ day of _____, 2015.

Board of Commissioners' Chairman
Attest:

Clerk to the Board

DATE ADOPTED: _____
MOTION TO ADOPT BY COMMISSIONER: _____
SECONDED BY COMMISSIONER: _____
VOTE: _____AYES _____NAYS _____

PLANNING BOARD DATE: _____
PLANNING BOARD RECOMMENDATION: _____
VOTE: _____AYES _____NAYS _____

ADVERTISEMENT DATE OF PUBLIC HEARING: _____
BOARD OF COMMISSIONERS PUBLIC HEARING: _____
BOARD OF COMMISSIONERS ACTION: _____
POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
AMENDMENT NUMBER: _____

Attachment: PB 14-23 REV Justin Old (1053 : PB 14-23 Justin Old)



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 1051)

Agenda Item Title

PB 14-33 Barry Nelms:

Brief Description of Agenda Item:

Request to amend the Unified Development Ordinance (UDO), Chapter 5: Development Standards to allow an increased height and electronic message boards for off-premise directional signs.

Planning Board Recommendation:

Text amendment submitted by Barry Nelms is intended to modify the off-premise directional signs that would allow an increase in height to 15' and provide an electronic message board component to the sign.

Board Action Requested

Action

Person Submitting Agenda Item

Susan Tanner, Administrative Assistant

Presenter of Agenda Item

Donna Voliva



Currituck County

Planning and Community Development Department
 Planning and Zoning Division
 153 Courthouse Road, Suite 110
 Currituck, North Carolina 27929
 252-232-3055 FAX 252-232-3026

To: Planning Board
 From: Planning Staff
 Date: February 3, 2015
 Subject: PB 14-33 Barry Nelms Text Amendment

The enclosed text amendment submitted by Barry Nelms is intended to modify the off-premise directional signs that would allow an increase in height to 15 feet and provide an electronic message board component to the sign.

Over the years, the UDO was amended to address off-premise advertising. Below is a list of UDO amendments that relate to off-premise directional signs:

- The 1992 UDO allowed off-premise directional signs for businesses in Corolla Village, businesses within 1,200 feet of Caratoke Highway, and businesses located along the Atlantic Intracoastal Waterway (Coinjock Canal). The sign could display the name of the business and the direction in which it was located.
- On April 4, 2011 the Board of Commissioners approved an amendment that removed off-premise directional signs from the UDO. The amendment was part of a comprehensive sign ordinance amendment that was prepared by a sign committee.
- On January 22, 2013, the Board of Commissioners approved an amendment to the UDO that allowed off premise directional signs for existing businesses (established prior to January 1, 2013) located in a business or mixed use zoning district on the Currituck Sound or Atlantic Intracoastal Waterway. The UDO now allows off-premise directional signs not to exceed 64 square feet in area and 10 feet in height.
 - The businesses that meet the criteria above are:
 - Barry's on Walnut Island
 - Pearl's Restaurant
 - Midway Marina & Motel
 - Crabbies Restaurant
 - Coinjock Marina & Restaurant
 - Pointe Golf Club

The proposed amendment is to increase the sign height from 10' to 15' and allow an electronic message board in accordance with Section 5.12.6.C of the UDO.

Recommendation:

Staff recommends denial of the proposed text amendment due to its inconsistency with the Land Use Plan, its inconsistency with the purpose and intent of Section 5.12 of the UDO, and it is not reasonable and in the public interest because it does not result in a logical efficient

PB 14-33 Barry Nelms
 Text Amendment
 Page 1 of 4

Attachment: 14-33 Barry Nelms Staff Report PB (1051 : PB 14-33 Barry Nelms)

development pattern by allowing an electronically message board and increased height that commercializes the landscape along heavily traveled roadways and provides an off-site advertising sign instead of directing traffic. The inconsistent LUP policies are:

LUP POLICY CA4: SIGN POLICIES AND STANDARDS should be established and periodically updated to enhance community appearance and create a quality business image. Such standards may be tailored to achieve different development characters for different parts of the county.

LUP POLICY CA5: Currituck recognizes that attractive, less commercialized landscape particularly along heavily traveled land and water routes, is essential to the tourist-based economy of the area. The placement of additional BILLBOARDS AND OFF-SITE ADVERTISING SIGNS shall not be permitted in Currituck County.

**PB 14-33
BARRY NELMS**

Amendment to the Unified Development Ordinance Chapter 5: Development Standards to allow an increased height and electronic message boards for off-premise directional signs.

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 Section 5.12.6 Specific Sign Standards is amended by deleting the following strikethrough language and adding the following underlined language:

5.12.6 Specific Sign Standards

D. Off-Premise Directional Signs

(1) Applicability

The standards in this section shall apply to properties located in a Business and Mixed-Use Zoning District adjoining the Currituck Sound or Atlantic Intracoastal Waterway that contain a use listed in Section 4.1.2 Use Table, Commercial Use Classification.

(2) Prohibited

Except as provided in Section 5.12.3 Signs Exempt from Signage Regulations, and 5.12.4 Signs Exempted from Sign Permit Requirements, off-premise directional signs are prohibited for the following:

- (a)** Commercial uses and properties located on the Outer Banks.
- (b)** Commercial uses adjoining a major arterial street.

(3) General

- (a)** Off-premise directional signs must be located on land under the same ownership as the business to be identified on the sign.
- (b)** Off-premise directional signs must be located in a Business and Mixed-Use Zoning District adjoining a major arterial street.
- (c)** A maximum of one off-premise directional sign is permitted per business. A lot shall have a maximum of one off-premise directional sign.
- (d)** Off-premise directional signs shall not exceed 32 square feet in area and ~~10~~15 feet in height.
- (e)** Off-premise directional signs shall not be located within the sight triangle.

(4) Message Board Signs

Message board signs located on off-premise directional signs shall comply with the following standards:

- (a) No more than 50 percent of a signs maximum area can be occupied by a message board, reader board, or electronically-controlled message sign.
- (b) Except for time and temperature signs, the message shall remain stationary for at least five seconds.

Item 2: 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 3: This ordinance amendment shall be in effect from and after the day of , 2015.

Board of Commissioners' Chairman
Attest:

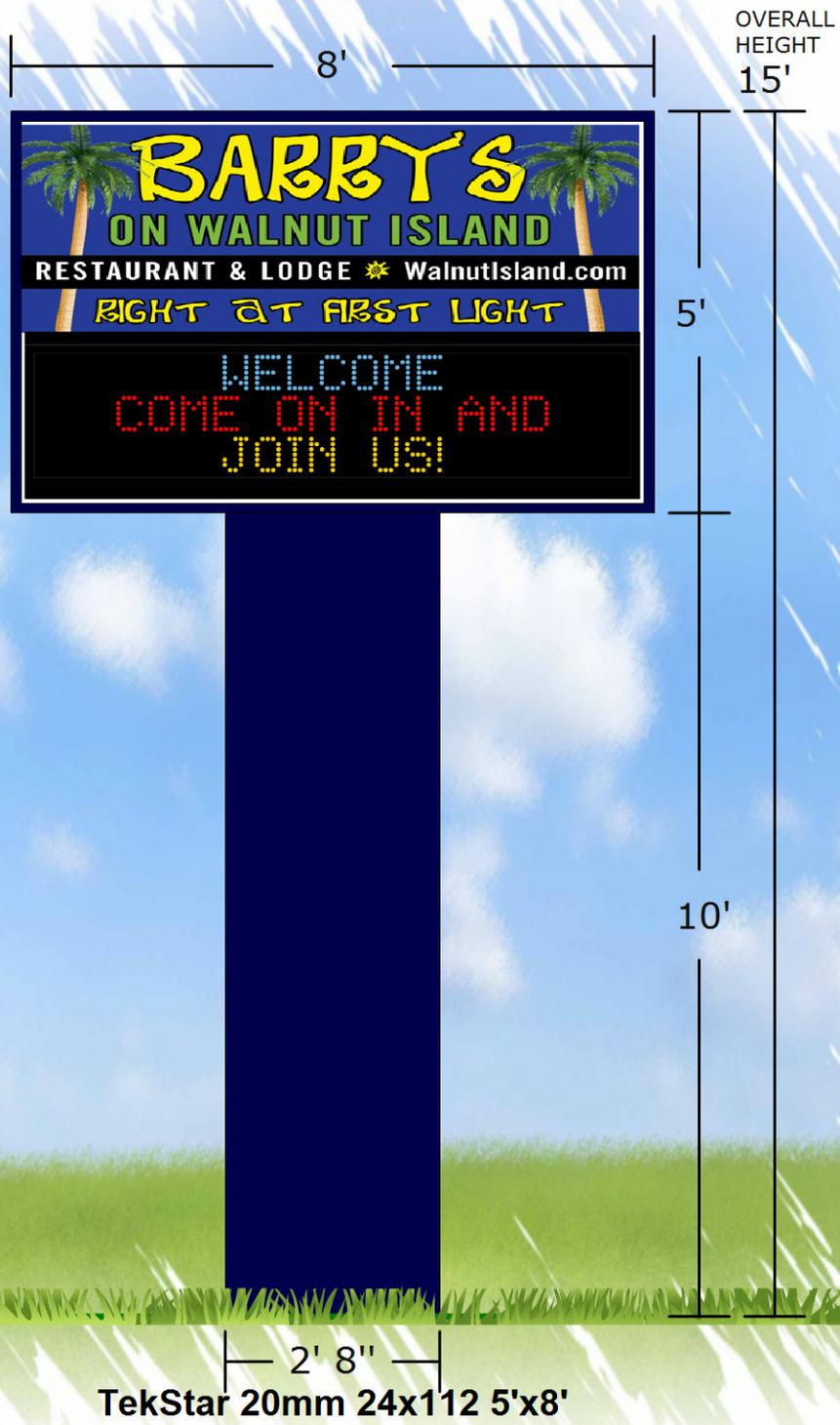
Clerk to the Board

DATE ADOPTED: _____
MOTION TO ADOPT BY COMMISSIONER: _____
SECONDED BY COMMISSIONER: _____
VOTE: _____AYES _____NAYS _____

PLANNING BOARD DATE: _____
PLANNING BOARD RECOMMENDATION: _____
VOTE: _____AYES _____NAYS _____

ADVERTISEMENT DATE OF PUBLIC HEARING: _____
BOARD OF COMMISSIONERS PUBLIC HEARING: _____
BOARD OF COMMISSIONERS ACTION: _____
POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
AMENDMENT NUMBER: _____

Attachment: 14-33 Barry Nelms Staff Report PB (1051 : PB 14-33 Barry Nelms)



Attachment: Barrys Rendering1 (1051 : PB 14-33 Barry Nelms)

Cabinet: 5' x 8'
Mount: Pedestal Custom (10' x 2' 8")

Cabinet Color: Royal Blue
Face Color: White

Logo: barryswalnutisland1

TekStar 20mm 24x112 5'x8'



ORIGINAL DESIGN DO NOT DUPLICATE

DUE TO THE PHYSICAL LIMITATIONS OF THE PAPER AND INK-BASED PRINTING PROCESS THIS CUSTOM ARTWORK IS NOT INTENDED TO PROVIDE AN EXACT MATCH BETWEEN INK, VINYL, PAINT, OR LED COLOR ARTIST'S RENDITION OF BRICKWORK, MASONRY AND LANDSCAPING IS NOT INCLUDED IN THE PROPOSAL. ALL MEASUREMENTS SHOWN ARE APPROXIMATIONS; DIMENSIONS OF FINAL PRODUCT MAY VARY.

APPROVED AS SHOWN.

X _____ DATE _____ 1. _____

APPROVED WITH LISTED CHANGES. _____ 2. _____

X _____ DATE _____ 3. _____



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 1052)

Agenda Item Title

PB 14-18 Housekeeping Amendment 2014 Mining:

Brief Description of Agenda Item:

Request to amend the Currituck County Unified Development Ordinance, Chapter 4, to clarify the mining standards of the ordinance. 123

Planning Board Recommendation:

The proposed amendment was clarifies when a hydrogeological report is required and the contents of the report. The text amendment also establishes performance guarantees and monitoring wells.

Board Action Requested

Action

Person Submitting Agenda Item

Susan Tanner, Administrative Assistant

Presenter of Agenda Item

Ben Woody



Currituck County

Planning and Community Development Department
 Planning and Zoning Division
 153 Courthouse Road, Suite 110
 Currituck, North Carolina 27929
 252-232-3055 FAX 252-232-3026

To: Planning Board
 From: Planning Staff
 Date: March 3, 2015
 Subject: PB 14-18 UDO Housekeeping Amendment 2014 - Mining

Planning Staff presented the 2014 comprehensive housekeeping amendment to the Planning Board at their September 9, 2014 meeting. The amendment included changes to several sections of the UDO, including mining. However, the changes to the mining regulations were tabled at that meeting for further discussion. Since that time, the planning staff has worked with the engineering department to address some additional comments and concerns and further clarify when a hydrogeological report is required and what the report should contain. Although the planning board has reviewed and recommended approval of the mining text amendment staff is submitting the proposed changes for the board to review.

In addition, staff contacted surrounding counties to discuss how mines are permitted as well as enforcement. Listed below is the information obtained:

- Dare County (East Lake Tax District Only)
 - Hours: Monday – Friday 7:00 am to 4:30 pm; no operations Saturday or Sunday
 - Mining activities shall not exceed 70db(A) at any time at or beyond the property line.
 - Mining activities shall occur in compliance with any conditions and requirements as established by the NC mining permit issued for any borrow pit or excavation site.
- Camden County
 - Mining Overlay District
 - Special Use Permit
 - Exempts less than one acre of land disturbance and materials used on the property where the mining occurs.
 - Direct access to a paved highway dedicated to the public for maintenance.
 - Periodic inspections
- Pasquotank County
 - Special Use Permit – 10 year expiration

- Exempts one acre or less of land disturbance (must meet setback, sloping, minimum average depth, bond).
- Discharge of water from the mine or quarry site shall be permitted subject to obtaining a state permit. The county may take random samples and have the results tested for settleable solids, turbidity, and pH at the operator's expense. Such testing shall not exceed six tests per year. Discharging without proper state permits will result in initiating procedures to revoke the special use permit.

Attached is the proposed language.

HOUSE KEEPING UDO AMENDMENT REQUEST

Amendment to the Unified Development Ordinance Chapter 4: Use Standards to clarify the mining standards the Unified Development Ordinance (UDO).

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 Section 4.2.5 Industrial Uses is amended by adding the underlined language, deleting the strikethrough language and renumbering accordingly.

A. Extractive Industry

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

(1) General

- (a)** Any mine activity affecting more than one acre (including excavation, area where overburden is placed, area used processing or treatment and settling ponds, access roads, etc.) shall be subject to these regulations and require a use permit.
- (b)** All State permits and applications for State permits associated with the mining activity, including permit modifications, shall be filed with the Planning and Community Development Department by the applicant.

(2) Size

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

(3) Setbacks

- (a)** No activities associated with the mine, including but not limited to excavation activities, vehicular access (except for driveways providing access to the site) and detention ponds shall be located within 100 feet of any property line and 300 feet from any residence, school, religious institution, hospital, commercial or industrial building, ~~public road~~ vehicular right-of-way or easement, or cemetery.
- (b)** Setbacks may be reduced by 50 percent when there is a complete visual screen at least six feet in height and an intermittent visual screen to a height of at least 20 feet between the mining activity and the adjoining use. Further, the Board of Commissioners may reduce non-modified setbacks by 50 percent when the mining activity adjoins a vacant parcel or farmland.

(4) Height

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

(5) Access

- (a)** For operations that generate more than five trips per peak hour, at least 200 feet of continuous pavement shall be required onsite starting at the point the access road intersects with a public street or highway unless such public street is not paved. Acceleration and deceleration lanes shall be required by the county when it determines, subject to input from the North Carolina Department of Transportation, that such lanes will enhance public safety. All access roads should intersect with public streets at right angles, but in no case be less than 60 degrees. All streets and roads utilized to access the mining site shall be maintained free of dust and sediment and shall be properly graded and drained.
- (b)** Where two or more accesses to the mining operation exist, traffic shall be routed to the access having the least negative impact on adjoining properties.

(6) Vehicles

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

(7) Hours of Operation

In no case shall the hours of operation be beyond ~~dawn to dusk~~ sunrise to sunset, nor shall mining activity occur on Sundays. *Staff commentary: In order to address traffic safety, all (mining) use permits that have been approved under this ordinance with properties located on a major arterial have contained conditions that did not allow mining operations on Saturday from Memorial Day to Labor Day. The Board may consider adding this language to the text amendment.*

(8) Refuse

No bulk waste, hazardous waste, commercial waste, garbage, construction or demolition waste shall be placed on site.

(9) ~~Dewatering~~ Mine Discharge Water

- (a)** Discharging of water from the mine site shall be permitted subject to obtaining a state permit. The county may ~~take random samples and have the results~~ require periodic testing of the mine discharge water ~~tested for~~ settleable solids, total suspended solids, chlorides, turbidity, and pH at the operators' expense. Such testing shall not exceed six tests per year. Discharging without proper state permits will result in initiating procedures to revoke the ~~special~~ use permit.
- (b)** Mine discharge water, including but not limited to discharge stormwater, mine dewatering, and process wastewater, shall not cause unreasonable or substantial damage to downstream properties. Drainage patterns shall not be altered so as to cause flooding off-site while the permit is valid and after

reclamation. The county may require decreased discharge rates until the downstream impacts are resolved.

(10) Signage

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

(11) Reclamation

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

(12) Overburden

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

(13) Surrounding Wells Groundwater Level Impacts

~~No mining activities shall adversely affect surrounding in use wells. A hydrological report as provided below shall be required and the board may consider that report in adjusting setbacks or imposing other conditions on the applicant. Such conditions shall be designed to avoid adverse impacts on in use well owners, may including but not limited to requiring monitoring wells, additional hydrological studies, or surety to protect in use well owners from loss. Any person owning or operating a mining site in a manner that adversely affects an in use well through contamination or diminution of groundwater shall provide the well owner with a replacement water supply of equal quantity and quality. A rebuttal is permitted that contamination or diminution of water has been caused by the mining activity.~~

No mining activities shall adversely affect surrounding in use wells, ponds or increase chlorides in downstream water bodies. If a mine that requires off-site dewatering is located within a 1500 foot radius of an in use well, pond, or a source of salt water intrusion, hydrogeological reports or performance guarantees with monitoring wells shall be required and the board may consider adjusting setbacks or imposing other conditions on the applicant. Any person owning or operating a mining site in a manner that adversely affects an in use well through contamination or diminution of groundwater shall provide the well owner with a replacement water supply of equal quantity and quality. Any person owning or operating a mining site in a manner which creates lowering of pond levels below moderate drought levels or increases in chloride levels downstream of dewatering operations shall decrease pumping rates until normal levels are reached. A rebuttal is permitted that contamination or diminution of water has been caused by the mining activity. Proposals for mining activities shall be accompanied by a hydrological report or performance guarantees with monitoring wells as provided in this section.

(a) Hydrological Report

A hydrogeological report may be required for mining activities with dewatering operations when an existing in use well, is within a 1500 foot radius from excavation area. The requirement to provide a hydrogeological report shall be determined by the county engineer and shall be based on proximity, number and depth of existing in use wells. The report shall be prepared by a registered engineer, geologist, or other professional approved by the county engineer. The report shall include the following:

- (i)** Location and description of all in use wells located within a 1500 foot radius of the excavation area.
- (ii)** Description of existing and proposed drainage patterns located within a 1500 foot radius of the excavation area.
- (iii)** Proposed mine construction and operation plan.
- (iv)** Description of dewatering activities.
- (v)** Field analysis to include aquifer tests using test well pumping to monitor water levels for a 24 hour period and appropriately located piezometers in a pattern to reflect the water table aquifer and drainage influences. Water level measurements shall be made in each piezometer to build and calibrate a model to analyze the hydrologic relationship between proposed mine operations and the surrounding environment.
- (vi)** Hydrogeologic model simulation demonstrating the effects of mine dewatering on the groundwater drawdown in a 1500 foot radius of the excavation area.
- (vii)** Description of the impacts on the quality and quantity of in use wells, lowering of ponds, and any potential salt water contamination sources and recommended mitigation action of any adverse impacts.

(b) Performance Guarantees and Monitoring Wells

The mine operator may offer a performance guarantee and monitoring wells, in lieu of hydrogeological reports, to replace any in use wells in a 1500 foot radius of the excavation area that have diminished in quantity or quality from the mines dewatering operation.

(i) Performance Guarantees

- (A) The mine operator shall guarantee replacement of water supply to that of equal quantity and quality of owners in use well.
- (B) A performance guarantee, in the form of a cash deposit, shall be established in the amount of \$3000 per in use well to assure the operator has funds available should the need arise to replace any of the in uses wells.

(ii) Monitoring Wells

Monitoring wells may be required for mining activities with dewatering operations when an existing in use well, pond, or a source of salt water intrusion is within a 1500 foot radius from the excavation area. A plan shall be provided outlining groundwater monitoring strategies which demonstrate the effects of pumping. Monitoring well requirements shall include the following:

- (A) Monitoring wells to assess hydrogeological conditions shall be constructed to comply with the provisions of NCDENR rule 15A NCAC 02C – Well Construction Standards.
- (B) Install to a depth equal to the maximum depth of the mine dewatering operation.
- (C) Monitoring wells shall be located between the excavation area and the in use wells or pond and locate as close as possible to the mine property line. In no instance shall the monitoring well be located closer than one-third the distance from the in-use well to the mine. In some instances, it may be necessary to install the well on adjacent properties, in which case a well construction permit will be required through NCDENR.
- (D) Monitoring wells shall be installed prior to dewatering operations and maintained throughout the duration of the mine permit period.
- (E) Water levels shall be collected monthly and submitted quarterly to the Planning and Community Development Department.
- (F) In the event an in use well or pond within a 1500 foot radius of the excavation has an issue with quality or water levels, the monitoring well(s) water level data will be

used to assess changes in the water table levels over the period of time the mine was dewatering. Decreased water table levels below in use well depths or pond depths shall constitute the requirement to replace an in use well so as not to be affected by the mine dewatering operations or to modify dewatering rates which do not lower water levels in adjacent ponds below their moderate drought levels.

(153) Plan Requirements

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

- (a)** Name of mine;
- (b)** Name and address of property owner and mine operator.
- (c)** Existing and proposed mine boundaries, including acreages;
- (d)** Location of existing and proposed vehicular access and haul road(s)
- (e)** Location and dimension of existing and proposed buffer(s) and berms;
- (f)** Location, acreage, and height of stockpile and overburden disposal areas;
- (g)** Location of 100-year floodplain and wetland boundaries;
- (h)** Phasing of mining operations including reclamation;
- (i)** Estimated noise levels at exterior property lines;
- (j)** Location of existing and proposed drainage features within a 1500 foot radius of the excavation area;
- (k)** Location of existing in use wells and ponds in a 1500 foot radius of the excavation area if the mine will use dewatering operations;
- (l)** Hydrogeological report, monitoring well plan, or performance guarantee as determined by the county engineer addressing potential impacts to in use wells, ponds, or salt water intrusion sources in a 1500 foot radius of the excavation site.

(14) Expansion

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

- (a) Procedure**
 - (i)** With the approval of the Planning Director, additional area within the site can be mined provided previously

mined areas are reclaimed with non-contaminated soils to the original ground elevation in accordance with state standards. All reclaimed land shall be identified on a map recorded in the register of deeds.

- (ii) With the approval of the Planning Director, an expansion of an existing mine operation not to exceed 40 percent of the total site area can be mined.
- (iii) In accordance with Section 2.3.14, the Board of Commissioners can approve an expansion of an existing mine operation not to exceed 50 percent of the total site area.

(b) Additional Standards

- (i) The existing mine has an active use permit and State permit.
- (ii) The existing mine has been in operation for a period of no less than five years.
- (iii) The existing mine has maintained compliance with all applicable state and local permit regulations for the past five years of operation.
- (iv) The cumulative total of the mine’s excavation area, including the requested expansion, shall not exceed 50 percent of the total site area. All on-site CAMA and US Army Corps of Engineers designated wetlands and surface waters shall not be included in the total site area calculation.
- (v) All state mining permit modifications shall be obtained prior to any expansion activities being performed.

(15) Expiration

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

(16) Extension of Expiration Time Period

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

Item 2: 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 3: This ordinance amendment shall be in effect from and after the _____ day of _____, 2015.

Board of Commissioners' Chairman
Attest:

Clerk to the Board

DATE ADOPTED: _____
MOTION TO ADOPT BY COMMISSIONER: _____
SECONDED BY COMMISSIONER: _____
VOTE: _____AYES_____NAYS_____

PLANNING BOARD DATE: _____
PLANNING BOARD RECOMMENDATION: _____
VOTE: _____AYES _____NAYS _____

ADVERTISEMENT DATE OF PUBLIC HEARING: _____
BOARD OF COMMISSIONERS PUBLIC HEARING: _____
BOARD OF COMMISSIONERS ACTION: _____
POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
AMENDMENT NUMBER: _____

Attachment: PB 14-18 Housekeeping 2015 Mining (PB 3.10.15) (1052 : PB 14-18 Housekeeping Amendment 2014)