

Carteret County Crossroads

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June 1, 2009

Maureen Meehan Will
District Planner
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

Ms. Will,

Please accept the following comments concerning the Carteret County 2005 CAMA Land Use Plan update. I am writing as President of Carteret County Crossroads, a local environmental group of 300 members founded in 1980. We urge that this plan **NOT** be certified for the reasons outlined below.

1. Elimination of Effective Policies.

Please find attached, as Appendix 1, information from the Carteret County Planning Department detailing the elimination of policies that were present in the 1999 County Land Use Plan (LUP). I also bring to your attention to statements on page 68 of the 2005 plan that state that a number of the eliminated policies had been “particularly effective” in “serving to protect both water quality and the County’s commercial and recreational fishing resources.” It is fundamentally flawed to eliminate effective policies that are designed to ensure of the health of North Carolina’s public trust waters.

2. Flawed Public Participation Process

The original efforts to revise the 1999 Land use Plan were conducted by a paid consultant and the Carteret County Planning Board. This was a very open process with ample opportunity for discussion and questions and the perception that there was a viable mechanism for public input into the plan. In 2005, the Carteret County Commissioners took over the planning process and made major changes to the plan. This is detailed in the Appendix 1 referred to above. Once the County Commissioners took over plan development, public input was minimized. One could speak prior to a Commission meeting, but during debate and action on specific issues, there was no opportunity for public input. The culmination of the minimization of public participation was at the Land Use Plan Public Adoption hearing, April, 2009. There was no overall presentation of the LUP and there was no opportunity to ask Commissioners for clarification or justification of a particular action. Hence, the Plan was approved by a vote of 5-2 immediately after the Public hearing, which all but makes a mockery of the final public input process. For final public input to be other than a pointless formality, the public should be presented with the final draft Plan, allowed a time period to provide comment, and for these comments to be formally addressed before the Board before a final vote to adopt the Plan.

3. Outdated Material

Land Use Plans under NC CAMA rules have a targeted revision or reissue schedule of five years. The current plan for Carteret County was adopted in 1999 but was targeted for 1996. So this 2005 LUP plan, approved by the County Commissioners in April 2009, is following precedent. The data presented and trends derived are 5-7 years in arrears, changes in those years warrant a fresh look at Carteret County's economic and population conditions, growth directions and options for sustainable development.

A Public Adoption Hearing was scheduled for April 2008. This was cancelled on one day's notice and when asked about the cancellation it was stated that the plan was being updated with a new Wind Ordinance as well as incorporating the revised Stormwater rules. There was a full year of Planning Department update; readily available current demographic data could have easily been incorporated into the plan.

4. Actions Counter to Stated Policies

From letter to Carteret County Planning Department from Maureen Will, Division of Coastal Management, dated November 15, 2007:

“The following seven (7) items must be updated, to receive DCM's support that the County has made an adequate effort, to address both the State's comments and the requirements of the 2002 Land Use Plan Guidelines:

5. Policy Statements: There seems to be a number of policy statements that are implementation statements. While these statements seem to be guiding actions, they are really not policy and cannot be enforced. Please review these statements and provide a general outline statement prior to the implementation strategies.

Example: Policies 5.2 & 5.3 – there is an overall policy theme, but there is not one statement that can be implemented/enforced. It is important to remember that the policy statements are used for state and federal consistency determinations.”

The overall policy theme in sections 5.2 and 5.3 are consistent with the revised Coastal Stormwater Rules (adopted 2008). However, Carteret County spent significant time, energy, and money to fight any revision of the Coastal Stormwater Rules. Thus it appears that Carteret County is not acting in accordance with the spirit of its own policies. As stated in the letter referenced above, there need to be strategies and action plans to implement the stated policies. The County has not made significant efforts address the concerns detailed in the letter of November 15, 2007.

5. Unintended Consequences

The attached Appendix 1 documents the elimination of effective policies by the County Commissioners in 2005. An additional policy was eliminated by the County Commissioners in the winter of 2009. The last policy to be eliminated from the plan dealt with the number of boat slips allowed per lot in Primary Nursery areas. The Chairman of the Carteret County Board of Commissioners stated in an April 19, 2009, News Times newspaper article that the policy was removed so that it would mesh with the Morehead City Land Use Plan. The vast majority of Carteret County Primary Nursery system acreage is in the Down East area, totally thousands of acres. As a result of County Commissioners' action, environmental protection for the valuable Down East area is dictated by policies formulated for waters adjacent to Morehead City. The CAMA Land Use Plan process is designed to give local governments control of local issues; the County Commissioners could have implemented a policy for the Newport River area and left important protection for the rest of the County including the Core Sound area of Down East.

6. In Summary

The Carteret County Land Use Plan needs revised policies and implementation strategies that will effectively ensure the health of North Carolina's public trust waters. Half of Carteret County is covered by water, so land use policies matter. The estuarine waters of Carteret County support established and vitally important commercial and recreational fisheries. Our vibrant tourism industry is directly tied to the natural environment. As stated by Commissioner Robinson at the Public Adoption hearing; the development community has not suffered in the period, 1999-2009, as a result of the 1999 Land Use Plan and there have been no formal complaints against the Plan. Thus; there are no justifiable reasons for removing effective policies from the 1999 Plan. There is no reason to lessen protection for North Carolina's public trust estuarine waters that are adjacent to land in Carteret County.

Thank you,

Mark Hooper
President, Carteret County Crossroads

Appendix 1

CAMA LAND USE PLAN POLICIES IN DRAFT PLAN MARCH 2005 VS. POLICIES RECOMMENDED BY BOARD OF COMMISSIONERS

The 1996 Carteret County CAMA Land Use Plan contained nine (9) policies that exceeded state minimum standards. The March 2005 draft was recommended by the Planning Commission to the Board of Commissioners with eight (8) policies that exceeded state minimum standards. After action by the Board of Commissioners, the plan was submitted to the state for review with only four (4) policies that exceeded state standards.

The one policy that the Planning Commission did not include in the Draft-March 2005 was the policy that addressed no new drainage ditches shall be constructed which discharge directly into primary nursery areas, unless essential for mosquito and vector control.

The policies contained in the draft CAMA Land Use Plan dated March 2005 are listed below. These are the policies discussed by the Board of Commissioners May 2, 2005 and at a special workshop on May 10, 2005. The policies that remained in the draft plan after action by the Board of Commissioners are shown as the highlighted policies. Of the four policies that remained, the policy addressing docks/piers along primary nursery areas was reworked to allow two slips per lot. Two of those policies remained unchanged and the policy about the installation of package treatment plants in wetlands was reworded. Those policies are also cited below as "Draft-June 2005 Appendix D".

DRAFT- MARCH 2005

(Draft policies as submitted from the Planning Commission to the Board of Commissioners, highlighted policies remained after BOC meetings May 2005.)

Appendix D.

Policies That Exceed State and Federal Minimum Standards for Development in AECs and

Fragile Areas

- In primary nursery areas, Carteret County will limit the size and frequency of docks and piers to reduce the cumulative impact of numerous structures. One dock or pier with four or less slips used for residential purposes or purposes directly related to commercial fishing shall be allowed per parcel of land that borders a primary nursery area. If the parcel has more than one-quarter mile (1,320 feet), but less than one-half mile (2,640 feet) of shoreline, measured along the normal high water line shown on the property survey, an additional dock with four or less slips used for residential purposes or purposes related to commercial fishing may be constructed. At the property owner's option, one dock or pier with eight or less slips may be

constructed in lieu of two separate structures for parcels having one-fourth mile to one-half mile of shoreline. In the event the parcel contains more than one-half mile of shoreline, an additional dock or pier with four or more slips may be constructed in the additional shoreline area. In no event may a dock or pier contain more than eight slips. This policy shall not apply to property subdivided prior to November 19, 1999.

*This policy has been reworked in the June 2005 Draft to allow 2 slips per lot.

* This policy was removed in 2009.

- Carteret County will not allow marina construction or expansion in coastal wetlands and primary nursery areas, and opposes upland marina construction with access channels connected to primary nursery areas. Coastal wetlands that have volunteered within upland marinas are exempt from this policy. Carteret County will allow access structures not exceeding six feet in width to be constructed over coastal wetlands for the purpose of providing access to marinas which otherwise meet state standards.

- Carteret County will not allow dredging associated with the construction of new marinas through any area defined by rules of the NC Marine Fisheries Commission as a natural shellfish bed (15A NCAC 30 .0201). According to these rules, a natural shellfish bed contains 10 bushels of shellfish or more per acre. Natural shellfish beds may be in waters that are open or closed to shellfish harvesting, may contain varied types of shellfish (oysters, clams, etc), and the shellfish may or may not be harvestable, based on size or water classification.

- When new navigational channels and canals must be constructed through coastal wetlands, Carteret County requires replacement of lost wetland areas at a 1:1 ratio.

*This policy remains as stated in the June 2005 Draft.

- Industrial uses that are not water dependent or related to fishing or aquaculture activities will not be allowed in estuarine shoreline and ORW estuarine shoreline areas. This policy shall not apply to the estuarine shorelines of mosquito ditches.

- For all waterfront development, parking lots shall be set back from the shoreline 75' or 20% of the depth of the lot, whichever is less, and shall comply with state requirements regarding buffers, Outstanding Resource Waters, and other applicable regulations.

- Carteret County will not allow floating structures in any public trust waters. A floating structure is defined as any structure, not a boat, supported by means of floatation, designed to be used without a permanent foundation, which is used or intended for human habitation or commerce. A structure will be considered a floating structure when it is inhabited or used for commercial purposes for more than thirty days in any one location. A boat may be deemed a floating structure when its means of propulsion has been removed or rendered inoperative and it contains at least 200 square feet of living space area.

*This policy remains as stated in the June 2005 Draft.

- Carteret County opposes the discharge of any waste in areas classified as coastal wetlands or exceptional and substantial functional significance non-coastal wetlands.

*This policy remains and has been reworded.

The policies that remain in the draft plan are as follows and are found in Appendix D of the draft plan dated June 2005. The policy concerning the installation of package treatment plants in wetlands was inadvertently not listed but the policy is contained in the policy section as Policy 5.8 and is shown in italics as being more restrictive than the state minimum use standards.

DRAFT- JUNE 2005

(Policies after action by the Board of Commissioners on May 10, 2005)

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Appendix D. Policies That Exceed State and Federal Minimum Standards for Development in AECs and Fragile Areas

- For land bordering primary nursery areas, Carteret County will limit the size of docks and piers to no more than two slips per lot, as “lot” is defined in the Carteret County Subdivision Ordinance. The ordinance defines a lot as a portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development or both. The work “lot” includes “plot,” “parcel,” or “tract.” This policy shall not be construed to prohibit commercial or residential marinas.
*** This policy was removed in 2009**
- When new navigational channels and canals must be constructed through coastal wetlands, Carteret County requires replacement of lost wetland areas at a 1:1 ratio.
- Carteret County will not allow floating structures in any public trust waters. A floating structure is defined as any structure, not a boat, supported by means of floatation, designed to be used without a permanent foundation, which is used or intended for human habitation or commerce. A structure will be considered a floating structure when it is inhabited or used for commercial purposes for more than thirty days in any one location. A boat may be deemed a floating structure when its means of propulsion has been removed or rendered inoperative and it contains at least 200 square feet of living space area.
- Carteret County opposes the installation of package treatment plants and septic tanks or discharge of any wastewater in areas classified as coastal wetlands or freshwater wetlands.

The following policies are the existing policies from the 1996 Plan

The following policies exceed state and federal standards for 404 wetlands and AECs:

-- Carteret County opposes the installation of package treatment plants and septic tanks or discharge of waste in any areas classified as coastal wetlands or freshwater wetlands (404). This policy applies only to areas shown as freshwater wetlands and coastal wetlands on Maps 17A and B, Land Classification Maps.

-- No marina associated dredging will be allowed through active shellfishing areas. When dredging through coastal wetlands is essential for access to upland marinas, as provided for in 15A NCAC 7H, the county requires replacement of lost wetland areas with mitigation at a 1:1 ratio.

-- When new navigational channels and canals must be constructed through coastal wetlands, Carteret County requires replacement of lost wetlands areas with mitigation at a 1:1 ratio.

-- Unless essential for mosquito and vector control, new drainage ditches shall not be constructed which discharge into primary nursery areas. Existing drainage ditches may be maintained but not increased in depth or width.

-- Carteret County opposes the location of floating structures in all marinas, primary nursery areas, outstanding resource waters, public trust areas, and estuarine waters. Floating structures as defined as any structure or vessel used, designed, and occupied as a permanent dwelling unit, business, office, or source of any occupation or any private or social club, which floating structure or vessel is primarily immobile and out of navigation or which functions substantially as a land structure while moored or docked on waters within county jurisdiction. Floating structures shall not be used commercially or inhabited in one place for more than 15 days.

-- Carteret County opposes marina construction or expansion in coastal wetlands and primary nursery areas, and opposes upland marina construction with access channels connected to primary nursery areas. Coastal wetlands that have volunteered within upland marinas shall be exempted from this policy. Carteret County will allow access structures not exceeding six feet in width to be constructed above coastal wetlands for the purpose of providing access to marinas which otherwise meet state standards.

-- Carteret County opposes the construction of docks or piers with more than four boat slips in primary nursery areas. One dock or pier with four or less slips used for residential purposes or purposes directly related to commercial fishing shall be allowed per parcel of land which borders a primary nursery area. Waterfront parcels of land with more than one-quarter mile of shoreline bordering a primary nursery area shall be allowed one dock or pier with four or less slips for residential purposes or purposes directly related to commercial fishing within every one-quarter mile (1,320 feet) of shoreline along the primary nursery area.

-- For all waterfront development, parking lots shall be set back from the shoreline 75' or 20% of the depth of the lot, whichever is less. This setback issue shall be further studied by any such committee established for the purpose of developing a county-wide Comprehensive Plan.

-- Industrial development should occur in areas classified as developed, urban transition, and limited transition. Industries generating only domestic sewage are acceptable in areas classified as community and rural with services. Carteret County does not oppose industries locating within rural classified areas. Industrial uses that are not water dependent or related to fishing or aquaculture activities will not be allowed in estuarine shoreline and ORW estuarine shoreline areas. This policy shall not apply to the estuarine shorelines of mosquito ditches.