

**Town of Swansboro
Planning Board
Regular Meeting Minutes
June 6, 2023**

Call to Order

The meeting was called to order at 5:30 pm. Board members in attendance were, Christina Ramsey, Edward Binanay, Ed McHale, Sherrie Hancock, and Clara Abalos. Scott Chadwick was absent.

Minutes

On a motion by Mr. Binanay, seconded by Mr. McHale, the minutes for the April 4, 2023, Regular Meeting were approved unanimously.

Business

Wetland Policy Discussion

Projects/Planning Coordinator Rebecca Brehmer introduced discussion on further implementation of a wetland policy and possible UDO amendments needed for the continued implementation of the adopted CAMA Land Use Plan Update. In addition, several sections of the CAMA LUP, specifically Appendix A titled, *Existing Protection of Isolated Wetlands Report* were referenced for discussion and attached hereto. Staff would like to change the title to, *Existing Protection of Environmentally Sensitive Areas Report*.

In connection with proposed amendments, Planner Andrea Correll spoke on the residential cluster development process and used Swansgate subdivision as an example. Developers of the subdivision gave part of the open space that contained 404 wetlands to the Town as part of the cluster development process.

Currently, there are many wetlands in the business zone of Highway 24. The Corps of Engineers can allow developers to buy wetlands in different locations (not necessarily in Swansboro) where there is a request to displace wetlands for development. Another method is to create open space using wetlands and/or marsh areas. The Baily Center was an example where the developer displaced wetlands to assist where the development was challenged. North Myrtle Beach, Alligator Landing was an example where business development used wetlands and marsh to create open space, leaving the natural hydrology alone.

The Town provides residential standards for cluster development. Business cluster requires a minor special use, but no specific standards are in place.

In response to inquiries from the Board, the following clarifying points were made by Planner Correll:

- There are two types of wetlands; 401 Wetlands are isolated, not interconnected, and regulated by NCDENR, 404 Wetlands are regulated by the Army Corps of Engineers
- Isolated 401 Wetlands can only be regulated by giving people choices and incentives
- Conservation easements can be offered to the Town by developers

Staff was to continue working to obtain sample language from other municipalities and the School of Government to address business cluster standards. Once that language is developed, a

UDO amendment would be brought forth for recommendation to implement policy standards that are consistent with the Land Use Plan.

At the next regular meeting, staff will bring forth amendments to clarify recommendations to the CAMA LUP concerning environmentally sensitive areas. The goal being to include all environmentally sensitive areas, not just wetlands.

Board Comments

On a motion by Christina Ramsey and second by Mr. Binanay the July 4, 2023 regular meeting was rescheduled for July 11, 2023. Unanimous.

Adjournment

There being no further business, the meeting was adjourned at 6:15 pm.



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PUBLIC ENGAGEMENT AND INVOLVEMENT

STEERING COMMITTEE

The Town appointed a steering committee composed of community members representing a variety of invested perspectives. This committee met monthly. Throughout the process, the steering committee reviewed, discussed, guided, and vetted the findings, public input, and proposed direction as presented by the consultant and staff. Through the information they gained from all of these exercises, the steering committee helped build a plan that represented the views and perspectives of the wider community, with an eye toward the detailed inner workings, opportunities, and constraints of each component of the plan. Members of the steering committee are listed in the Acknowledgments section of this plan.

Existing Protections of Isolated Wetlands

Key Points:

- Swansboro supports the policies and permitting processes under CAMA and Section 404 of the Clean Water Act.
- Due to changes in interpretation/legislation in the past few years, gaps have been created in the protection of coastal NC's small, isolated wetlands by federal and state programs.
- Swansboro does not have policies or ordinances specifically targeting and protecting isolated, non-coastal wetlands not protected under federal or state law.

Findings:

In the existing Land Use Plan (LUP), Swansboro complies with all state and federal laws regarding wetlands and environmentally sensitive areas, including section 404 of the Clean Water Act and all CAMA regulations. However, in 2008, a statement by the EPA asserted that wetlands not adjacent to traditional navigable waters are not under 404 jurisdiction. In 2015, changes were made to 15A NCAC 2H .1300 to regulate only 2 types of the 16 formerly identified isolated wetlands in NC, and to allow discharges that impact one acre or less of isolated wetlands in the coastal region without a permit (15A NCAC 02H .1305(3)). Combined, these changes create a gap in protection for small, non-adjacent/isolated wetlands and make it increasingly important that local municipalities adopt more stringent protections.

Currently, the town does not have many policies that go beyond protections under section 404 of the CWA. Most policies in regards to wetlands are statements of support for federal/state regulations. For example, policy 37 states that the town "supports coordinated efforts to preserve and protect the ecological and flood hazard benefits of freshwater wetlands, as protected under Section 404 of the Clean Water act." Swansboro also has a CAMA-required Environmental Composite Map that incorporates areas of environmental concern into their land suitability analysis. In addition to this, there are a few policies could have indirect benefits to isolated wetlands. Policy 93 mentions a commitment to Low Impact Development (LID), which the UDO is required in Flexible Lot Developments. In implementing action 21 and policy 65, the town supports the education of the public about "environmentally sensitive areas" and the dangers of location development in natural hazard areas, which could be used to support an education campaign about isolated wetlands.

Recommendations

- **Educate residents** about the benefits (ecological, economic, public health/safety) of protecting wetlands. Incorporate wetland education efforts into Implementing Action 21 of the LUP.
- **Define wetlands** in the LUP and Unified Development Ordinance to include not only 404-regulated wetlands, but also isolated, freshwater wetlands.
- **Update policies** 25 (define environmentally sensitive areas to include isolated wetlands), 37, and 89 in the Land Use Ordinance to include wetlands not protected under CWA(404), according to the previously mentioned definition.
 - Also include a discussion of town protections/definitions in the Wetlands Section of Existing/Emerging Conditions: Fragile Areas.
 - In policy 63, amend to include more specific requirements for development susceptible to wetlands loss (instead of “consideration” in project development).
- **Change zoning** to either include isolated wetlands as a new, separate zone (overlay map of isolated wetlands), or incorporate isolated wetlands into the existing conservation zone.
 - Could commission maps of Swansboro wetlands, or use existing maps (FWS, NCRS, NOAA)
 - Allow appeals process for landowners to challenge delineations they feel are inaccurate
 - If not included in conservation zone, which is included in policy 27 of the LUP (about using increased lot sizes, decreased impervious surfaces, and cluster development), could include in large lot residential zoning to encourage building on uplands and not disturbing wetlands on lot.
- **Create a wetlands protection ordinance** specific to the needs of Swansboro:
 - Include: definition of a wetland, fact finding, intent/goals, definition of regulated activities, standards for issuance of permits (general: e.g. no net loss of wetlands, and specific: e.g. mitigation ratios), and conditions which may be attached to permits
 - Model ordinance from the Association of State Wetland Managers
 - Wisconsin Model Ordinance
 - Study on Local Ordinance Effectiveness in NYS
- **Create a Wetland Review Board** to help review permit applications under ordinance
- **Institute subdivision regulations** requiring wetlands protection, encourage use of wetlands as open space/stormwater management
- **Institute incentives** to encourage wetlands protection, such as:
 - Reduce local real estate taxes for preserved wetlands
 - Density bonuses or development right schemes
 - Work with local land trusts to provide wetland owners who donate wetlands or conservation easements with tax benefits