

2009 DARE COUNTY LAND USE PLAN UPDATE



Adopted by the Dare County Board of Commissioners on December 6, 2010

Certified by the NC Coastal Resources Commission on (to be inserted)

2009 Dare County Land Use Plan

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INTRODUCTION

Overview of Dare County Land Use Plan

Introduction

Located along the eastern coast of North Carolina, Dare County stretches for 85 miles along the Atlantic Ocean. Known as the Outer Banks of North Carolina, Dare County is recognized as a top vacation destination because of our abundant natural and historic resources. The islands that comprise Dare County are surrounded by the Atlantic Ocean and numerous estuarine water bodies. Miles of unspoiled beaches and estuarine shorelines, world-class fishing and surfing, and exceptional water quality draw thousands of visitors to our area every year.

Dare County is also known as “The Land of Beginnings” in reference to our historic role in the founding of the New World. Another historic event occurred here in 1903 when Orville and Wilbur Wright flew the first man-powered plane from Kill Devil Hill. The County celebrated the 100-year anniversary of this historic first flight in 2003.

Land Use Plan Components

The State of North Carolina requires all local governments located within the twenty-county coastal region to prepare and periodically update land use plans for use in the review and issuance of CAMA major permit applications and federal consistency reviews. The type of land use plan that must be developed by a local government is based primarily on the growth rate and population of a county/municipality. Using these factors, Dare County is required to prepare a “core” plan. The land use plan must contain a vision statement and general objectives for the community, policies and implementation strategies to support the vision statement and objectives, demographic information and population projections, and associated maps of existing land use patterns and desired future land use patterns.

This introduction section outlines the vision statement and general objectives and goals that have been identified by the County. Section One contains demographic information and analysis of the existing conditions of the area including the required maps used in analysis of the current conditions. Section Two consists of the policies and implementation strategies. This section is the essence of the land use plan. The future use map is found in Section Two. Section Three addresses how the land use plan will be used by Dare County in managing growth and development. The final component of the 2009 Land Use Plan is several appendices of supporting documentation and reports that were used in the drafting of the Land Use Plan. The various maps developed as part of the land use plan update are included in the appropriate sections of the land use plan.

The 2009 update of the Dare County Land Use Plan is based on the CAMA guidelines adopted by the State of North Carolina in 2002. The previous Dare update, certified in 2003, was developed under the original CAMA land use plan guidelines adopted in 1974. Work on the 2003 update began before the adoption of the 2002 LUP guidelines by the North Carolina Coastal Resources Commission and the County was allowed to use the old guidelines for development of the 2003 update. There are some changes in the format of the 2009 update as a result of new guidelines as detailed below:

1. Expanded mapping components of the 2009 LUP to include the natural systems analysis map, environmental constraints map, the land suitability map, and the future land use map (formerly entitled the land classification map).
2. Six management topics set forth in the CAMA guidelines. These management topics are linked to the vision statement and general objectives of the LUP. The policies and implementation strategies are grouped according to these management topics and are designed to address the criteria established by the CAMA guidelines for each topic. These management topics are as follows: Public Access; Land Use Compatibility; Infrastructure Carrying Capacity; Natural Hazard Areas, Water Quality, and Local Areas of Concern.

Use of Dare County Land Use Plan

The Dare County Land Use Plan, although required by State CAMA regulations, is not an ordinance but is a policy document that is intended to be used by the Dare County Board of Commissioners, Dare County Planning Board and Dare County Planning Department to guide growth and development in unincorporated Dare County. The policy statements contained in this document are intended to be used for guidance and do not represent *regulations* as may be found in the Dare County Zoning Ordinance or Dare County Subdivision Ordinance. The maps that accompany the LUP are intended to be used for guidance purposes and not designed to establish any type of locally delineated areas for land use patterns such as would be established on a zoning map adopted by the Dare County Board of Commissioners. The Land Use Plan and the associated maps are tools to assist local decision makers and it is important to recognize this distinction between the LUP and County Codes.

The Land Use Plan is used by the staff of the Division of Coastal Management in the review of CAMA major permit applications for development activities in CAMA Areas of Environmental Concerns (AECs) and used in federal consistency reviews. Every CAMA major permit application is reviewed for consistency with the policies and maps of the local land use plan. A consistency determination must be rendered by the CAMA staff before a CAMA major permit can be issued. If activities proposed in a CAMA major permit application are found to be inconsistent with a local LUP, then the CAMA major permit cannot be issued or a federal consistency determination made.

The Dare County Land Use Plan applies to the unincorporated portions of Dare County (Hatteras Island, Mainland, Colington, Martins Point, and Roanoke Island outside the boundaries for the Town of Manteo). The six municipalities in Dare County (Duck, Southern Shores, Kitty Hawk, Kill Devil Hills, Nags Head, and Manteo) have all chosen to prepare and adopt their own land use plans for their respective jurisdictions. These municipal plans should be consulted for policies and other information specific to these six towns.

Public Participation

Due to the importance of public participation in the land use plan process, the first step taken for the 2009 update was the adoption of a Public Participation Plan (PPP). This PPP was adopted by the Dare County Board of Commissioners in August 2007 and detailed the various activities that would be undertaken to encourage and incorporate public input in the update process. A copy of the PPP in its entirety is found as Appendix 1 at the end of this document. Some highlights of the PPP:

1. Endorsement of the Dare County Planning Board as the steering committee for the update process.
2. Mailing of a Citizen Involvement Poll to all resident and non-resident property owners in unincorporated Dare County. The Poll was also available for on-line completion on the Dare County Website.
3. Public workshops for input on the visions statement and issue identification and workshops on the draft policy statements and implementation strategies.

Community Concerns and Aspirations

The dominant growth-related conditions that influence land use in unincorporated Dare County are the compatibility of soils and the seasonal high water tables with on-site septic tank and drainfield systems.

With the exception of those locations where economic factors make the use of a privately-owned wastewater treatment plant feasible, all other development in unincorporated Dare County is facilitated by way of septic tanks.

It is anticipated that soil suitability will continue to be the dominant influence on land use for the next decade. Dare County's elongated configuration and the positioning of federally-owned properties make it unlikely a publicly-owned central wastewater treatment plant and pipe collection system will occur in

the foreseeable future.

The use of on-site septic tanks as the principal means of wastewater treatment serves as a natural barrier to high-density development due to the amount of green space that must be set aside for drainfields and reserve drainfields. Limitations on high-density development reduce the likelihood that surface waters will be impacted by increased run-off associated with the infrastructure necessary for high density development. Septic tank and drainfield systems, however, if not properly maintained, can contribute to diminished groundwater quality, and when impacted by flood waters, can malfunction.

The second dominant growth-related condition influencing land use in Dare County is the increase in regulatory standards adopted and enforced by the County. Until 1987, most of unincorporated Dare County was an unregulated real estate market. Over the last 20 years the County's Board of Commissioners has acted to put zoning regulations and standards for the development of land in place in all locations except the western-most portion of the mainland commonly known as East Lake. These regulatory standards also have a salutary impact on environmental concerns since impacts like lot coverage by impervious surfaces, development density, and unwanted/incompatible uses that had been unregulated for decades are now subject to local land use and zoning standards.

It is anticipated that political pressure for some level of local regulatory standards for the East Lake and remnant mainland portion of Dare County will lead to the entirety of unincorporated Dare County being subject to some level of local land use regulation. Should grant funds become available, or should local economic conditions allow, it is anticipated that localized publicly owned and maintained wastewater districts will be established to remediate the environmental consequences of septic tanks that may have been improperly located or are otherwise incompatible with their setting. One example of this approach is in the village of Stumpy Point, where such a district has been created and wastewater treatment plant is nearing completion for the sole purpose of eliminating the environmental consequences of septic tanks placed in that village decades ago that in some cases discharge directly into surface waters.

Community Vision and Plan Objectives

All land use plans must contain a "community vision" which establishes a general vision for the future which is supported by general objectives for the community. The vision statement and general objectives are used for the development of more specific policy statements which are the foundation of the land use plan. The County has identified a community vision statement and associated general objectives for the six management topics identified by CAMA, as listed below. This community vision and general objectives were identified as one of the first steps in the 2009 update of the Dare County

Land Use Plan. This community vision statement and management goal objectives were referenced by the Planning Board and staff during the drafting of the policies for the 2009 update.

2009 Community Vision Statement

Manage the growth and development in a manner that preserves the historical, cultural, and natural resources that make Dare County a desirable place to live, work, and visit. Unincorporated Dare County should retain the characteristics typical of the entire County before the incorporated municipalities experienced urban- style growth. It is the goal of Dare County to shape the growth of the unincorporated villages in such a manner that they retain their historical character.

Objectives for Six CAMA Management Topic

Public Access

1. Maintain and enhance access to the beaches, sounds and other public trust areas of Dare County.
2. Explore options to protect working waterfront areas from redevelopment that may result in loss of access to public trust areas and loss of opportunities for our local fishing industry.

Land Use Compatibility

1. Use existing patterns of village communities as “nodes” of activity and living space in a manner that relates to the vast publicly owned lands and historical landmarks.
2. The preferred pattern of development is a mix of residential homes that are compatible with existing development and addresses the need for workforce housing.
3. Use land use planning and zoning techniques to abate the tendency of rapid growth communities to lose their “sense of place” or be homogenized by growth.
4. Direct development to reflect the historical architecture of North Carolina’s coastal heritage.
5. In making and evaluating land use policy and decisions, recognize the vast amounts of publicly owned land in Dare County and the resulting difficulties to address the varying, and sometimes competing, needs of the permanent residents and the seasonal visitors on the remaining privately-owned lands.
6. Commercial land use should be neighborhood or village oriented and not regional or urban.

Infrastructure Carrying Capacity

1. Develop a strategy for an alternative means of transportation that connects the various population nodes for pedestrians and bicycles.
2. Balance the infrastructure needs of the permanent population with the demands of the seasonal population.
3. Lobby state and federal agencies to provide the necessary and adequate transportation improvements and permits for Dare County and northeastern North Carolina.

Natural Hazard Areas

1. Direct and design development to fit the natural conditions and landscape rather than modify the natural conditions and landscape to accommodate development.
2. Mitigate the impacts of development in natural hazard areas by participation in the federal flood insurance program and administration of the NC Division of Coastal Management local permit program for development in CAMA identified Areas of Environment Concerns (AECs).

Water Quality

1. Direct and design development to ensure sustainability of our important natural resources, especially ocean and estuarine water quality. Water quality is vital to the viability of our commercial fisheries, tourism, and recreational fishing and boating.
2. Support the preservation and protection of water quality of the County's surface water bodies, including the continuation of local monitoring programs and local initiatives to address stormwater runoff.

Local Areas of Concern

1. Protect and promote the unique nature of Dare County relative to the other coastal counties of North Carolina and how our distinctive characteristics should be recognized and fostered in the development of regulations that affect Dare County.
2. Participate in state and federal regulatory programs and initiatives to ensure that policies and goals of Dare County are appropriately addressed.
3. Advocate the capability of Dare County to effectively manage our natural resources and direct our economic development at the local government level.

Overview of Policies

The 2009 LUP update includes 82 policies grouped into the six management topics established by the CAMA land use planning guidelines. For a quick reference of the policies and implementation strategies, a separate handout will be prepared once the update has been certified. The narrative discussions included in Section Two should be consulted for a more thorough understanding of the policy statements and the analysis that was undertaken in the drafting of each policy statement. A brief summary of these noteworthy policy changes are detailed below:

Wastewater -- The 2003 policy on wastewater systems stated a preference for individual septic tank/drainfield systems and lack of support for package treatment plants. The 2009 policy does not include the preference for septic tanks systems and represents a shift from the previous policy in that centralized wastewater systems are recognized as viable alternatives to on-site wastewater systems. A

new policy has also been added to address the use of drip irrigation wastewater systems that are the regulatory jurisdiction of the NC Division of Water Quality. The new policy states that such systems should not be considered for use in Dare County, especially in VE flood zones.

Working Waterfronts – This is a new issue for the 2009 LUP and a policy supporting efforts to preserve and protect working waterfronts and waterfront access has been included.

Residential Development – The policies on residential development continue the preferred status of single family residential homes however the policy statements recognize that efforts to address workforce housing needs may conflict with this preference and that other alternatives such as multifamily housing may be the best approach for the provision of workforce housing. This is a change from the 2003 LUP in which the policy stated that the private sector should address the workforce housing issue. The 2009 LUP acknowledges the County’s efforts and role in the workforce housing issue.

Energy Facilities – The 2009 update includes three policies under the energy facilities topic. The policy previously used in the 2003 LUP has been re-stated as the County’s position on the location of energy facilities in our jurisdictional land and waters. A second new policy has been included to address the possibility of a revised national energy policy and end of the federal moratorium on off-shore drilling that is currently in place. A third new policy has been added to address the development of alternative energy sources such as solar and wind Power.

Commercial/Industrial Development – The 2009 policies promote the development of commercial and industrial land uses such as medical facilities and education and research facilities which are deemed to be “green” industries or industries that do not represent a threat to our natural resources.

Future of Dare County

Dare County officials have spent a great deal of time and effort in the preparation of this latest version of the Dare County Land Use Plan. Considerable debate and discussion have gone into the development of these policies and maps that will be used to guide land use decisions over the course of the next several years. The protection of our natural resources and our local economy are irrefutably linked. The information in this document recognizes this linkage and its role in how we manage our growth, how we address our infrastructure needs, and how we direct the future land use patterns of Dare County.

Protection of our natural resources and how we balance this protection while ensuring the viability of our local economy is important for both the short-term and the long-term future of Dare County residents and their children. The County must remain diligent in our efforts to protect and preserve the natural resources that make Dare County the desirable place to live, work, and visit that it is today.

However, the County must also remain diligent in monitoring federal and state regulatory initiatives and management plans that may have detrimental effects to the local economy and historic uses of our property and resources.

With over 80% of the land area in Dare County in public ownership, all infrastructure improvements, service facilities, housing, and other private development to meet the needs of the year-round and seasonal population must be located on the remaining 20% of the County's land area. The challenge of this unbalanced public-private ownership of land is unique to Dare County and no other area in the coastal region of North Carolina is faced with these same challenges in addressing the needs of its citizens and visitors. It is the County's position that all privately-owned land in unincorporated Dare County is "suitable" for development with the appropriate level of development determined by site specific characteristics. Some sites may be subject to varying layers of federal, state or local regulations and the scope of available uses limited by these regulations. However the site still offers some potential for development albeit at a more passive land use than other sites that are not challenged with severe development limitations. While other local governments may be afforded the opportunity to set aside certain areas that they have deemed to be "unsuitable" due to regulatory initiatives or natural hazards, we are not afforded this opportunity in Dare County because of the land constraints resulting from the large amount of publicly-owned areas. This position should not be interpreted as a lack of sensitivity to natural hazards or disrespect for our natural resources. We are unique and this unique nature requires that we work with what is available. The maps and policies of this plan have been written to reflect this position.

It is anticipated that Dare County will continue to experience growth in both our permanent populations and in our seasonal visitors. Maintaining a desirable quality of life for our permanent population is important as well as providing a quality vacation experience for our visitors. The future development of residential and commercial land uses in unincorporated Dare County is addressed by specific policies and implementation strategies designed to achieve these goals as we continue to grow. Displacement of our traditional working waterfronts has emerged as an issue of importance at the County and State level. Support for funding and other incentives to preclude the displacement or redevelopment of working waterfronts is vital to the preservation of the County's coastal heritage, to ensuring continued access to public trust areas, and to the protection of our commercial fishing industry.

Transportation improvements will continue to be of crucial importance to Dare County due to our reliance on bridges and ferries for everyday transit and emergency situations. The replacement and maintenance of our transportation infrastructure, especially Bonner Bridge, will remain a high priority for the Dare County Board of Commissioners and our citizens.

The long-term management plan of the National Park Service for the beaches of the Cape Hatteras National Seashore and how it impacts access, both vehicular and pedestrian, to the beaches of the Cape

Hatteras National Seashore is of significance to the future of Hatteras Island and Dare County. Closures of the beaches for protection of animal and plant species will greatly affect the local economy. Dare County must remain diligent to ensure that the concerns of the local residents and visitors are satisfactorily addressed in any management plans developed by the National Park Service.

Other issues that will affect the future of Dare County include insurance reform for coastal counties and lack of affordable housing for year-round residents and seasonal workers. These topics represent local issues of concern as identified by the community and Dare County officials as important and worthy of policy development.