



Planning Board Special Agenda

Town of Swansboro

Tuesday, July 11, 2023

I. Call to Order

II. Approval of Minutes

III. Business

a. Text Amendment to 152.179 Table of Permitted/Special Uses

Presenter: Rebecca Brehmer, Projects/Planning Coordinator

The Town received a request from Swansboro High School to allow the replacement of the existing band tower in the front yard of the High School. Since 2000, accessory structures have not been permitted in front yards. However, in 2020 Ordinance 2020-06 was passed to allow accessory structures in the front yard on lots two (2) acres or greater. The purpose of this amendment is to include Government/Educational (G/E) properties to be permitted as a use in this category.

Recommended Action: Motion to recommend text amendment with Comprehensive Plan Consistency Statement to the Board of Commissioners.

b. Amendment to the CAMA Land Use Plan ***Presenter: Rebecca Brehmer, Projects/Planning Coordinator & Andrea Correll, AICP, Planner***

Based on input from the Planning Board meeting on June 6, 2023, the purpose of this land use amendment is to clarify the recommendations from Appendix A concerning environmentally sensitive areas.

Our goal in doing this is to include not only all wetlands, but all environmentally sensitive areas in the CAMA Land Use Plan. These discussions are the result of the recent Supreme Court Case 21-454 Sackett v. EPA, which limits the regulatory power of the EPA. This limits protection to wetlands only connected to other water sources.

The text amendments to further protect environmentally sensitive areas by incorporating business cluster development to the Town UDO will follow at a later date.

Recommended Action: Recommend amending the proposed excerpts from CAMA Land Use Plan Appendix A, changing specific wetland references to the environmentally sensitive areas. This amendment is consistent with the Comprehensive Plan Consistency Statement.

IV. Chairman/Board Thoughts/Staff Comments

V. Public Comments

VI. Adjournment



Planning Board Meeting Agenda Item Submittal

Item To Be Considered: **Text Amendment to 152.179 Table of Permitted/Special Uses**

Board Meeting Date: **July 11, 2023**

Prepared By: **Rebecca Brehmer, Projects/Planning Coordinator**

Overview: The Town received a request from Swansboro High School to allow the replacement of the existing band tower in the front yard of the High School. Since 2000, accessory structures have not been permitted in front yards. However, in 2020 Ordinance 2020-06 was passed to allow accessory structures in the front yard on lots two (2) acres or greater. The purpose of this amendment is to include Government/Educational (G/E) properties to be permitted as a use in this category.

Background Attachment(s):

1. Application to Amend Unified Development Ordinance,
2. Staff Draft Amendment 152.179 Table of Permitted/Special Uses
3. Comprehensive Plan Consistency Statement

Recommended Action: Motion to recommend text amendment with Comprehensive Plan Consistency Statement to the Board of Commissioners.

Action: _____

Town of Swansboro
601 W. Corbett Avenue Swansboro, NC 28584
Phone (910) 326-4428 - Fax (910) 326-3101

APPLICATION FOR ZONING & ORDINANCE AMENDMENTS

Check the Appropriate Blank

- Add a Use to a Zoning District
- Remove a Use from a Zoning District
- Create a New Zoning District
- Future Land Use Map Amendment

Application No. _____

- Amend Code of Ordinances
- Amend Unified Development Ordinance
- Zoning District Designation Change

A complete application must be received with the fee by the third Friday prior to the month of review.

Property Owner Name Onslow County Swansboro Phone # 910-326-4300

Address of Zoning Request 161 Queens Creek Rd.

Mailing Address 161 Queens Creek Rd.

Zoning Amendments

Attach a copy of the legal description of the property (including address if assigned) that is requested for a zoning change (i.e. metes and bounds). The application will not be scheduled for review until these items are received.

Provide a list names and mailing address of adjacent property owner on the reverse side of this application. The application will not be scheduled for review until these items are received.

Present Zoning _____ Desired Zoning _____

Probable Use of Property _____

Reason for Zoning Change Request _____

Ordinance Amendments

Code Section to be amended 152.179

Print clearly the code section wordage to be amended Accessory structures located in front yard of G/E.

Print clearly the code section wordage as suggested _____

Accessory structures located in the front yard of government or school facilities.

Reason for requested amendment To replace existing band tower with a new one in the front yard of Swansboro High School on the practice field.

Signature [Signature] Date 6-22-23

Future Land Use Map Amendment

Present Future Land Use Category _____ Desired Future Land Use Category _____

Use of Property _____

Reason for Future Land Use Map Change Request _____

Town Hall Use Only

Fee Paid 400.00 Date Received 6/22/2023 Date scheduled for Planning & Zoning Board review 7/11/23

Recommendation from Planning & Zoning Board _____

Public Hearing Run Dates _____ Date of Public Hearing _____

Effective Date of Change _____ Ordinance Number _____

Proposed amendment highlighted in yellow

TITLE XV: LAND USAGE

CHAPTER 152: UNIFIED DEVELOPMENT ORDINANCE

§ 152.179 TABLE OF PERMITTED/SPECIAL USES.

| PERMITTED/ SPECIAL USES | CON | RA | R6 | R6SF | R8SF | R10SF | R15SF | R20SF | R40SF | PUD ^b | MHP | MHS | MHS- 15SF | MHS-O ^c | O/I | G/E | B1 ^d | B2 ^e | B3 ^f | B2HDO ^f | MI ^h | |
|--|-----|----|----|------|------|-------|-------|-------|-------|------------------|-----|-----|--------------|--------------------|-----|-----|-----------------|-----------------|-----------------|--------------------|-----------------|---|
| Accessory uses/structures incidental to any permitted use (see Note 7, § 152.180) | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Accessory structures located in the front yard on lots two acres or greater, flag lots, or on a double frontage lots | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | | | | | | | | |
| Accessory structures located in the front yard of government or school facilities. | | | | | | | | | | | | | | | | P | | | | | | |

Proposed amendment highlighted in yellow

TITLE XV: LAND USAGE

CHAPTER 152: UNIFIED DEVELOPMENT ORDINANCE

§ 152.179 TABLE OF PERMITTED/SPECIAL USES.

| PERMITTED/ SPECIAL USES | CON | RA | R6 | R6SF | R8SF | R10SF | R15SF | R20SF | R40SF | PUD ^b | MHP | MHS | MHS- 15SF | MHS-O ^c | O/I | G/E | B1 ^d | B2 ^e | B3 ^f | B2HDO ^g | MI ^h |
|--|-----|----|----|------|------|-------|-------|-------|-------|------------------|-----|-----|--------------|--------------------|-----|-----|-----------------|-----------------|-----------------|--------------------|-----------------|
| Accessory uses/structures incidental to any permitted use (see Note 7, § 152.180) | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Accessory structures located in the front yard on lots two acres or greater, flag lots, or on a double frontage lots | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | MS | | P | | | | | |

**TOWN OF SWANSBORO PLANNING AND ZONING BOARD
STATEMENT OF CONSISTENCY**

On July 11, 2023, the Planning Board heard the requested text amendment to allow accessory structures on lots greater than two (2) acres in Government/Educational zoned properties and recommended unanimous approval of the text amendment to the Town Unified Development Ordinance as followed: § 152.179 Table of Permitted/Special Uses.

The Town’s Planning Board finds that the proposed text amendment is consistent with the current Comprehensive Plan and other applicable plans and policies and considers the action taken to be reasonable and in the public interest because it provides the structure, for Town staff to proactively address issues related to impacts caused by development in order to protect the health, safety, and welfare of the Town’s residents.

Planning Board Chair

Town Planner



Planning Board Meeting Agenda Item Submittal

Item To Be Considered: **Amendment to the CAMA Land Use Plan**

Board Meeting Date: **July 11, 2023**

Prepared By: **Rebecca Brehmer, Projects/Planning Coordinator & Andrea Correll, AICP, Planner**

Overview: Based on input from the Planning Board meeting on June 6, 2023, the purpose of this land use amendment is to clarify the recommendations from Appendix A concerning environmentally sensitive areas.

Our goal in doing this is to include not only all wetlands, but all environmentally sensitive areas in the CAMA Land Use Plan. These discussions are the result of the recent Supreme Court Case 21-454 Sackett v. EPA, which limits the regulatory power of the EPA. This limits protection to wetlands only connected to other water sources.

The text amendments to further protect environmentally sensitive areas by incorporating business cluster development to the Town UDO will follow at a later date.

Background Attachment(s):

1. Excerpts from Appendix A including pg. A-29-30
2. Comprehensive Plan Consistency Statement

Recommended Action: Recommend amending the proposed excerpts from CAMA Land Use Plan Appendix A, changing specific wetland references to the environmentally sensitive areas. This amendment is consistent with the Comprehensive Plan Consistency Statement.

Action: _____

EXISTING PROTECTIONS OF ISOLATED WETLANDS ENVIRONMENTALLY SENSITIVE AREAS REPORT

Existing Protections of Isolated Wetlands Environmentally Sensitive Areas

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. Going forward, the Town plans to amend the Unified Development Ordinance to enable clustering in office and business zoning districts, as well as residential district. Most policies in regard 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 **which** could have indirect benefits to isolated wetlands. Policy 93 mentions a commitment to Low 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 environmentally sensitive areas** in the LUP and Unified Development Ordinance to include not only 404-regulated wetlands, but also isolated, freshwater wetlands, floodplains, floodways, all types of wetlands, and areas of threatened or endangered species.
- **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. **include isolated wetlands in the definition of environmentally sensitive areas and protect wetlands when development is proposed with zoning incentives such as cluster development.**
 - Could commission maps of Swansboro wetlands, or use existing maps (FWS, NCRS, NOAA). **Add delineation of environmentally sensitive areas is required prior to development approval to the Unified Development Ordinance.**
 - 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 environmentally sensitive area protection ordinance** specific to the needs of Swansboro:
 - Include: definition of a wetland **environmentally sensitive areas**, fact finding, intent/goals, definition of regulated activities, standards for issuance of permits **development approval to be placed in the Unified Development Ordinance** (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 **incorporate with environmentally sensitive area in the Unified Development Ordinance**, 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

**TOWN OF SWANSBORO PLANNING AND ZONING BOARD
STATEMENT OF CONSISTENCY**

On July 11, 2023, the Planning Board heard the requested CAMA Land Use Plan Appendix A amendment and recommended unanimous approval of the CAMA Land Use Plan amendments concerning environmentally sensitive areas.

The Town’s Planning Board finds that the proposed CAMA Land Use Plan Appendix A amendment is consistent with the statement from the Land Use Plan pg. 8 that “Residents recognize that quality of the environment, especially wetlands, coastal marshes, and water quality in the White Oak River is the primary force behind the growth and economic success of the area. Preservation of wetlands and environmentally sensitive areas is important.”

Planning Board Chair

Town Planner