

Land-use plans key to future growth

LAND-USE PLANS

Under the Coastal Area Management Act, 20 coastal counties are required to have land-use plans. They aren't required for other municipalities within those counties, but many in Brunswick, New Hanover and Pender have adopted plans anyway.

By Sherry Jones
Staff Writer

If you want to know what your community is supposed to look like in 10 years, take a look at your town's land-use plan.

The plans are intended to serve as a blueprint for growth and development. They impact what kinds of services are available in your neighborhood and whether you'll find a development such as

a Wal-Mart, high-rise building or shopping mall in your back yard one day.

The regulations for each community are different, but they all share one thing — the provisions often create conflict between homeowners and developers.

In Wrightsville Beach, for example, developer Ward Manning has grand plans for several pieces of property near Johnnie Mercers Fishing Pier.

He wants to tear down an aging motel and several other buildings and replace them with a 75-foot-tall art deco style development that would include condos, retail shops and restaurants.

But his vision conflicts with the town's land-use plan, which limits building height to 40 feet. That means he's unlikely to gain approval for his project, especially

SEE LAND | 4A

11/27/05

LAND

CONTINUED FROM 1A

since many residents and elected officials are opposed to raising the height limit.

The Wrightsville Beach proposal is just the latest in a string of developments that have many residents across Southeastern North Carolina up in arms. At the heart of the issue: how the projects relate to land-use plans.

Under the Coastal Area Management Act, 20 coastal counties are required to have land-use plans. They aren't required for other municipalities within those counties, but many in Brunswick, New Hanover and Pender have adopted plans anyway. In theory, zoning ordinances are created in accordance with the land-use plans.

The plans are supposed to be followed, said Michele Walker, a spokeswoman for the N.C. Division of Coastal Management. If they're not, the state won't issue permits for the project, she said.

But the problem is that "minor" permits are issued locally, which means a greater chance exists for a project to get through even if it's inconsistent with a municipality's land-use plan. "Major" permits, however, must go through the state office. Minor permits are required for projects that have little environmental impact. More extensive projects

often require major permits.

That's where Carolina Beach ran into trouble earlier this year.

The issue surfaced when the Town Council approved a high-rise development in the central business district even though the project included building heights up to 140 feet. The town's land-use plan had set the height limit at 35 feet, which meant the state wouldn't issue a "major" permit.

Further review showed that the local office had improperly approved minor CAMA permits. They shouldn't have been because the projects exceeded the height limit, Walker said. In a controversial move, the town amended its land-use plan to allow for the taller buildings.

Bill Clark, Carolina Beach mayor-elect, hopes to reverse some of the changes.

The land-use plan, he said, is "the people's input into what they want their beach to be." Residents in Carolina Beach generally don't want high-rise development, and the land-use plan is a chance to restrict it, he said.

Changing the plan, however, won't be easy. It took nine months for the initial revisions to get through the N.C. Coastal Resources Commission, and it's hard to say how long changing it back will take. Once the new plan is in place, Clark said, it's important for elected leaders to abide by it when making decisions.

Starting in January, deviating

from the plans will be more difficult.

State law will require elected boards to specify whether zoning changes are consistent with locally adopted plans. If not, boards must justify why they're veering away from plans.

That law suits the style of New Hanover County Commissioner Ted Davis who always asks the question before the county board rezones property.

"I look at it as a guide to how the people who put that plan together thought growth should go," he said. "It's important to pay credence to that land-use plan."

In October, for instance, when the board was considering rezoning about 47 acres north of Porters Neck for a hospital, medical offices and retail space, Davis asked: "Is this consistent with the land-use plan?"

Planning Director Dexter Hayes replied: "Not exactly." He explained that the county's land-use plan calls for commercial development closer to Porters Neck. With that, the board rejected the rezoning request.

Hayes said county planners refer to the land-use plan daily because it lists the criteria for various types of development, including apartments and condominiums. The plan states that if these developments are located in certain areas of the county, water and sewer must be available and roads must be able to handle the added traffic.

Local participation varies from community to community. Few people have shown up for New Hanover County's public input sessions, but meetings in Wrightsville Beach drew between 200 and 300 residents.

Hayes said he's disappointed more New Hanover County residents don't take advantage of the planning process. He also said he

thinks the county would get a better response if it had the resources to conduct sessions specific to individual neighborhoods.

Mark Imperial, an assistant professor of public administration at the University of North Carolina-Wilmington, said the level of community involvement at Wrightsville Beach means the plan is more representative of residents' vision for the town.

That's why he's irritated by a recent decision by the Wrightsville Beach Board of Aldermen that contradicts policies in its draft plan revision. That revision is under review by the state. The board decided to have staff draft a new ordinance allowing decks to be built in a 7.5-foot beachfront setback zone along part of the island.

"It violates policies in the hazard section, policies protecting areas of critical environmental concern and policies pertaining to protecting health, safety and welfare," Imperial said. "Building closer to the ocean isn't safer."

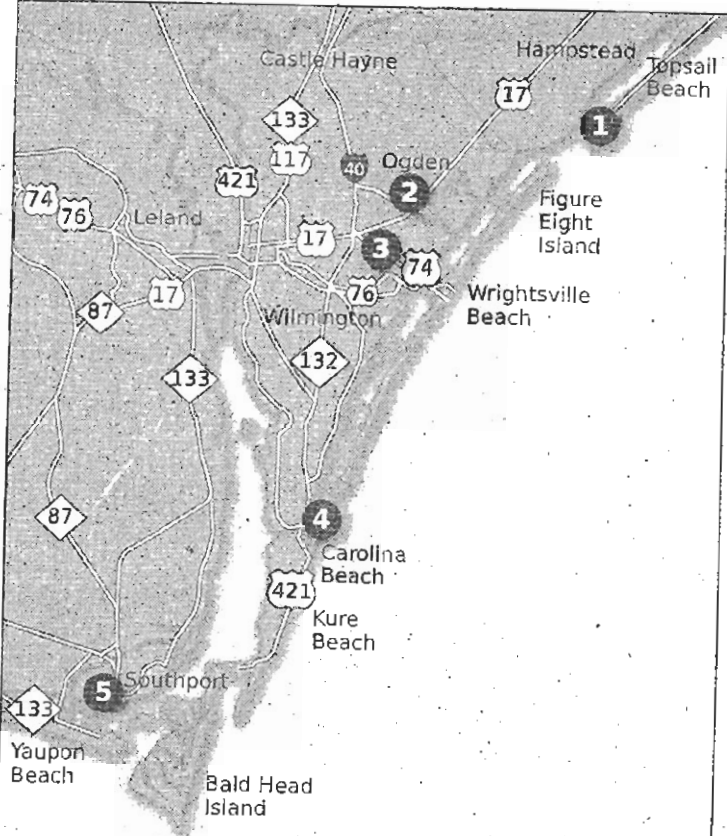
But Wrightsville Beach officials, including Mayor Avery Roberts, have said the change is the only fair way to deal with a situation where some homeowners have already built decks into the setback area. They also argued that the existing 7.5-foot setback didn't really offer that much hurricane protection.

Nonetheless, Imperial said land-use plans are supposed to take out the element of boards making isolated decisions.

"But there are no negative consequences if they don't follow it," Imperial said, adding that if elected leaders aren't going to follow the plans, they should stop wasting money on them. "It's about thinking about the greater good."

Sherry Jones: 343-2378
sherryjones@stemewsonline.com

LAND USE CLASHES



- 1 ISSUE:** Topsail Island south end
CONFLICT: Developed versus conservation land
PRO: The owners of more than 190 acres at the southern tip of Topsail Island want to make sure the town's land-use plan doesn't restrict future development of 20 acres zoned conservation.
CON: Residents and tourists want to preserve one of the last undeveloped areas of the island. Biologists and conservationists say the area is home to rare shorebirds, such as the Piping Plover. Town leaders are looking for help from
- 2 ISSUE:** Ogden Wal-Mart
CONFLICT: Heavy commercial development versus residential neighborhoods
PRO: Wal-Mart plans to build a supercenter on 31 acres in the 7200 block of Market Street across from Middle Sound Loop Road. It would include a gas station, stormwater pond and entranceway.
CON: Nearby residents and New Hanover County elected officials fear the store would create a traffic nightmare on Market Street, add to stormwater runoff threatening nearby

- 3 ISSUE:** Autumn Hall
CONFLICT: Mixed-use development versus residential neighborhoods
PRO: The owners want to build a large development with single-family homes, apartments, retail businesses, medical and business offices, and a hotel. The 200-acre site at 1202 Eastwood Road in Wilmington was formerly the Duck Haven golf course.
CON: Residents of the Eastwood Road area mainly are worried about how another large mixed-use development will affect their quality of life. Besides traffic, opponents have raised questions about stormwater drainage and
- 4 ISSUE:** Building heights and land-use plan amendments
CONFLICT: Tall buildings versus small-town character
PRO: The Arcadia Group plans to redevelop the existing Paradise Hotel, Surfside Motor Lodge and several other adjoining properties. The 11-building mixed-use project would include 278 residential units, 56,811 square feet of commercial/retail space, two parking decks and extension of the Boardwalk. Buildings would range in height from 35 feet to 140 feet. The town's land-use plan was amended after the project was approved to allow for the taller buildings.
CON: Residents have opposed the project and the land-use plan amendments mostly because they object to the heights. They cringe at the thought of towering buildings and traffic jams trumping the small-town atmosphere they cherish.
- 5 ISSUE:** Southport Marina
CONFLICT: Public land versus private development
PRO: The marina at 606 W. West St. in Southport was put on the market earlier this year, which sparked interest from private developers hoping to erect condominiums along the waterfront.
CON: Southport residents and officials would like the city to buy the marina to protect it from residential development and to ensure that it remains open for public use.

STAFF ART | KAREN BELL AND IVAN DITSCHNEI

PH 54

LAND USE FAQ

Q. WHAT IS A LAND-USE PLAN?

A. It is a collection of policies and maps that serves as a community's blueprint for growth. These plans are a fundamental element of coastal management in North Carolina.

Q. WHO MUST HAVE ONE?

A. The Coastal Area Management Act requires each of the 20 coastal counties, including New Hanover, Brunswick and Pender, to have a local land-use plan in accordance with guidelines established by the Coastal Resources Commission. But about 70 N.C. cities and towns have adopted their own plans even though CAMA does not require them to do so. The CRC's guidelines provide a common format for each plan and a set of issues that must be considered during the planning process. But the policies included in the plan are those of the local government, not of the CRC. By law, the role of the CRC is limited to determining whether plans have been properly prepared.

Q. WHAT DOES A PLAN INCLUDE?

A. Each land-use plan includes local policies that address growth issues such as the protection of productive resources, including farmland, forest resources and fisheries; desired types of economic development; protection of natural resources; and the reduction of storm hazards.

Q. WHY IS A PLAN IMPORTANT?

A. Once a land-use plan is certified by the CRC, the Division of Coastal Management uses the plan in making CAMA permit decisions and determinations of whether projects are consistent with federal regulations. Proposed projects and activities must be consistent with the policies of a local land-use plan, or DCM cannot permit a project to go forward. At the local level, land-use plans provide guidance for individual projects and a broad range of policy issues, such as the development of regulatory ordinances and pub-

lic investment programs.

Q. WHAT PROJECTS REQUIRE CAMA PERMITS?

A. Permits are required for development in "areas of environmental concern." You must get a permit if the project is in one of 20 counties covered by CAMA, is considered "development" under CAMA, is in or affects an area of concern and doesn't qualify for an exemption. "Development" includes the dredging or filling coastal wetlands or waters and construction of marinas, piers, docks, bulkheads, oceanfront structures and roads.

Q. WHAT TYPES OF PERMITS ARE ISSUED?

A. There are three types of development permits: major permits, general permits and minor permits. The Division of Coastal Management makes permit decisions after considering agency and public comments, and after determining whether a proposed project meets Coastal Resources Commission rules and the local government's land-use plan.

Major permits are necessary for activities that require other state or federal permits, for projects that cover more than 20 acres or for construction covering more than 60,000 square feet. General permits are used for routine projects that usually pose little or no threat to the environment. Minor permits are required for projects such as single-family houses.

Q. HOW CAN I FIND OUT MORE?

A. Visit the Division of Coastal Management's Web site at <http://dcm2.enr.state.nc.us>. Under the CAMA land-use planning section, you can also find out which plans are currently under review. These include New Hanover/Wilmington, Kure Beach, Carolina Beach, Wrightsville Beach, Pender County, Surf City and Topsail Beach.

Source: N.C. Division of Coastal Management

COMMON SENSE

SI
CANTWELL



In Wrightsville Beach, setback rules are made to be broken

WRIGHTSVILLE BEACH |

Bad government begets bad government. Wrightsville Beach won a court case but settled anyway, abandoning the principal it fought for. Now its leaders have decided to basically scrap the contested law, which protected houses from storms.

This town is becoming famous for mapping errors, surveying mistakes, erroneous roof-height calculations and other boo-boos that help people who want bigger houses closer to the ocean. Rarely does anyone pay a penalty for these mistakes.

If you break the law in Wrightsville Beach, they'll change the law for you.

On Thursday, the Board of Aldermen voted unanimously to have staff draft a new ordinance allowing decks to be built in a 7.5-foot beachfront setback zone.

Did you get that? Wrightsville Beach is eliminating a safety zone after a hurricane season that left one major U.S. city in ruins and Florida crisscrossed by so many storm tracks that it looks like a tick-tack-toe tournament.

Hurricane Ophelia, a Category 1 storm, almost breached dunes in a section of the beach.

Some background: In 1939, the General Assembly drew a line in the sand, so to speak, from the south end of the beach to just north of today's Johnnie Mercers Fishing Pier, and prohibited building east of that line. In 1981, the General Assembly made that building line the property line, which meant the town setbacks of at least 7.5 feet applied to oceanfront property.

Several structures, mostly decks in front of houses, were already in that zone and were allowed to remain.

Throughout the years, a handful of structures have been built into the zone, mostly decks.

In 2000, the town refused to grant a certificate of occupancy to James Robinson Prewitt and his wife, Mary Julia Prewitt, because their house wasn't set back far enough from the ocean.

A new survey revealed that the house was closer to the beachfront property line than had been shown on the building plan the town approved.

The town said no certificate. The Prewitts sued. The N.C. Court of Appeals sided with the town.

But then Wrightsville Beach settled with the couple, letting the house stay. The setback zone was now in the Twilight Zone.

Mayor Avery Roberts said the town settled out of fear of other lawsuits.

That settlement prompted a neighbor to ask if he could build his deck in the setback zone. That request was granted Thursday.

After the Prewitt settlement, the town created a committee to look into the 1939 property line issue. The panel recommended that property owners who weren't in compliance sign an "encroachment agreement."

They'd be allowed to stay, but they couldn't rebuild if a storm caused damage to their property exceeding 50 percent of its value.

The Board of Aldermen rejected that sensible advice and voted to allow decks in the setback zone.

Until now, law-abiding citizens built their decks up to the setback line, with houses behind the decks. Now people will build houses right up to the setback line and decks across it.

At least two members of the panel that looked into the setback issues were disappointed.

Spencer Rogers, a coastal engineering expert and member of a panel that advises the Coastal Resources Commission, said he'd wanted to use Wrightsville Beach's setback as an example for other towns.

Mark Imperial, who teaches public administration at the University of North Carolina Wilmington, said the decision could make it harder for Wrightsville Beach to win beach renourishment dollars.

"If the town is not going to take affirmative steps to do what it can to minimize storm damage, why should the federal or state governments give them money?" he asked.

With the feds increasingly stingy with sand money and state budgets tight, the aldermen's decision seems reckless and incomprehensible.

Contact Si Cantwell at 343-2364 or si.cantwell@starnewsonline.com

Star News 11/23/05