

Director of
Planning and Inspections
MEREDITH GUNS

Building Inspector
MARTY SHAW
CHARLES THUMAN

Code Enforcement Officer
JORDAN BLYTHE



Assistant Director of
Planning and Inspections
CAMERON RAY

Senior Planner
RYAN LANG

Zoning Administrator
DONNA ELLIOTT

**THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA**

PLANNING DEPARTMENT

July 21, 2020

Memorandum

To: Planning Board

From: Meredith Guns, Planning Director *MBS*

Subject: Land Use Plan Update – Final Review

On March 19, 2019, the Planning Board conducted a final review of the draft Land Use Plan to send to the State for consistency and State Review Board for review. On April 18, 2019, the plan was sent to Charlan Owens, District, Coastal Management, Elizabeth District Office. Since that time, the plan has been through three comment periods before it was sent to the State for final comments on October 31, 2019. The Town received State comments on February 11, 2020. All comments were addressed/satisfied and final State approval received March 31, 2020. Staff has attached all comments for your information.

Staff did not bring the plan forward until the Planning Board could meet in person. The Planning Board should review the final plan with State corrections for final approval. Once the Planning Board has reviewed and approved the plan, the Board of Commissioners will hold a public hearing on the plan and adopt a Resolution Of Approval. After Board of Commissioners approval, the plan will be presented to the Coastal Resources Commission for administrative approval and certification. This could happen early fall if the CAC meets.

A copy of the final Land Use Plan was made available to the Planning Board on Friday, July 10, 2020 to allow plenty of time for review. Staff recommends forward the 2020 Land Use Plan Update to the Board of Commissioners with a favorable recommendation.



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

BRAXTON C. DAVIS
Director

June 10, 2019

TRANSMITTED VIA ELECTRONIC MAIL

Meredith Guns
Planning Director
Town of Kill Devil Hills
P. O. Box 1719
Kill Devil Hills, NC 27948
meredith@kdhnc.com

RE: Town of Kill Devil Hills Land Use Plan – Completeness Review

meredith
Dear Ms. Guns:

This letter is in response to the initial draft of the Town of Kill Devil Hills CAMA Land Use Plan Update (draft plan) received by the NC Division of Coastal Management on April 8, 2019 and the Organizational Matrix received on May 13, 2019.

The completeness review below has been conducted per 15A NCAC 7B.0801. Certain information deficiencies were revealed which must be addressed before the draft plan can be considered complete for state review. The completeness review is organized on 15A NCAC 7B.0702 Land Use Plan Elements. Comments are in *italics*.

COMPLETENESS COMMENTS

For completeness, the following is to be included in the draft plan:

1. An update of the MATRIX to include the following:
 - a. For “Description of the dominant growth-related conditions that influence land use, development, water quality and other environmental concerns in the planning area” *provide updated page reference(s) for the dominant growth-related conditions (see also comment 3).*
 - b. For “Description of the land use and development topics most important to the future of the planning area” *remove the broad page ranges and focus on pages that describe the topics importance to the community.*
 - i. *Public Access use reference for Page 6-6.*
 - ii. *Land Use Compatibility use reference for Page 6-6.*



- iii. Infrastructure Carrying Capacity *use reference for Page 6-8.*
- iv. Natural Hazards” *use reference for Page 6-10.*
- v. Water Quality” *use reference for Page 6-11.*
- c. For “Description of natural features...Areas of Environmental Concern...” *remove reference to Pages 3-18 to 3-20 and provide page references for Coastal Shorelines (Public Trust) and the Fresh Pond (see also comment 5).*
- d. For “Description of natural features...Soil characteristics...” *update reference (see also comment 6).*
- e. For “Description of natural features...Non-coastal wetlands...” *use reference for Pages 3-14 to 3-16.*
- f. For “Description of natural features...Primary nursery areas...” *use reference for Page 3-21 and remove reference for 3-22.*
- g. For “Description of natural features...Additional natural features or conditions identified by the local government...” *reference Page 3-22 for Submerged Aquatic Vegetation (SAV) and remove the reference to Page 3-21.*
- h. For “Discussion of environmental conditions...to include an assessment of...status and changes in surface water quality including: Impaired streams from the most recent Division of Water Resources (DWR) Basin Planning Branch Reports.” *Use reference for 3-22 to 3-23 and remove reference to 3-10 to 3-12 (see also comment 9).*
- i. For “Discussion of environmental conditions...to include an assessment of...environmentally fragile areas...or areas where resource functions are impaired as a result of development” *update reference (see also comment 16).*
- j. For “Discussion of environmental conditions...to include an assessment of...natural resource areas that are being impacted or lost as a result of incompatible development” *revise reference (see also comment 17).*
- k. For “Map of existing and planned public and private water supply service areas” *update page reference (see also comment 20).*
- l. For “Map of existing and planned public and private wastewater service areas” *update page reference (see also comments 23 and 24).*
- m. For “Map of existing and planned multimodal transportation systems and port and airport facilities” *provide page reference(s) for additional map(s) (see also comment 27).*
- n. For “Infrastructure Carrying Capacity... Ensure improvements minimize impacts to AECs and other fragile areas” *not every policy addresses this objective. Update policy citations and page references specific to those that ensure improvements minimize impacts to AECs (see also comment 32).*
- o. For “Natural Hazard Areas... establish mitigation and adaptation concepts and criteria for development and redevelopment, including public facilities” *not every policy cited addresses this objective. Update policy citations and page references specific to those that establish mitigation and adaptation concepts and criteria for development and redevelopment, including public facilities.*
- p. For “Natural Hazard Areas...Minimize threats to life, property and natural resources resulting from erosion, high winds, storm surge, flooding or other natural hazard” *not every policy cited addresses this objective. Update policy citations and page references specific to those that minimize threats to life, property and natural resources resulting from erosion, high winds, storm surge, flooding, or other natural hazards (see also comment 37).*

- q. For "Description of actions that will be taken by the local government to implement policies..." *remove reference to Page 6-7.*
 - r. For "Identification of specific steps the local government plans to take to implement the policies..." *also provide reference to pages 6-6, 6-8 to 6-14.*
2. Matrix that shows the location of the required elements as set forth in this Rule. *Incorporate the completed organization matrix into the print and digital versions of the plan document.*
3. Description of the dominant growth-related conditions that influence land use, development, water quality and other environmental concerns in the planning area. *Provide background on dominant growth-related conditions that are influencing land use, development, water quality and other environmental concerns in the planning area. Referenced Pages 6-2 to 6-5 do not address the conditions that influence land use, development, water quality and other environmental concerns.*
4. Discussion of the following data and trends...thirty-year projections of permanent and seasonal population in five-year increments. *On Page 4-1, provide thirty-year projections of permanent and seasonal population in five-year increments.*
5. A description of natural features in the planning jurisdiction...Areas of Environmental Concern (AECs) as set forth in Subchapter 15A NCAC 07H". *On Pages 3-13 include Coastal Shorelines AEC (Public Trust Shoreline). Between Pages 3-13 to 3-17 include a description for the Fresh Pond as a Small Surface Water Supply Watersheds AEC. Alternatively, expand AEC narrative on the Fresh Pond on Page 3-31.*
6. A description of natural features in the planning jurisdiction...soil characteristics, including limitations for septic tanks, erodibility, and other factors related to development. *Provide description of soil characteristics. Soil characteristics information is available from the USDA Natural Resources Conservation Service at: <https://www.nrcs.usda.gov/wps/portal/nrcs/surveylist/soils/survey/state/?stateId=NC> Information can be included in the Appendix and referenced on Page 3-8.*
7. A description of the Division of Marine Fisheries (DMF) shellfish growing areas and water quality conditions. *On Pages 3-21 to 3-22, provide information concerning shellfish growing area I-2 in the Town of Kill Devil Hills. For water quality conditions, Reports of Sanitary Survey are available for the growing area on NC Digital Collections or you can contact the DMF Shellfish Sanitation Office at 252-726-6827.*
8. A description of water supply watersheds or wellhead protection areas. *On Page 3-10, describe the protection areas located in the Town. See them on a map at <https://deq.nc.gov/wellhead-protection> Under "View WHP Areas in NCSWAPinfo"*
9. A discussion of environmental conditions...Status and changes of surface water quality; including: Impaired streams from the most recent Division of Water Resources (DWR) Basin Planning Branch Reports. *On Page 3-23, provide discussion and assessment that includes information from the 2007 Pasquotank River Basinwide Water Quality Plan specific to Subbasin 03-01-56 areas within the Town of Kill Devil Hills. The plan can be accessed at:*

<https://deq.nc.gov/about/divisions/water-resources/planning/basin-planning/water-resource-plans/pasquotank> . Information specific to outfalls, the WWTP, and the RO WTP in Kill Devil Hills is provided in Chapter 7 on Subbasin 03-01-56.

10. A discussion of environmental conditions...to include an assessment of...status and changes in surface water quality, including: Clean Water Act 303(d)list. *On Page 3-12, update discussion and provide assessment. The Town has 303(d) listed areas within its jurisdiction. The most recent Integrated Report Files are available from the NC Division of Water Resources at: <https://deq.nc.gov/about/divisions/water-resources/planning/modeling-assessment/water-quality-data-assessment/integrated-report-files> An online map is also provided.*
11. A discussion of environmental conditions...to include an assessment of ...Current situation and trends on permanent and temporary closures of shellfishing waters as determined by the Report of Sanitary Survey by the Shellfish Sanitation and Recreational Water Quality Section of the DMF. *On Page 3-22, update discussion and provide assessment. For water quality conditions in shellfish growing areas I-2 in the Town of Kill Devil Hills, Reports of Sanitary Survey are available on NC Digital Collections or you can contact the DMF Shellfish Sanitation Office at 252-726-6827.*
12. A discussion of environmental conditions...to include an assessment of ...Current situation and trends on permanent and temporary closures of shellfishing waters as determined by the Report of Sanitary Survey by the Shellfish Sanitation and Recreational Water Quality Section of the DMF. *On Page 3-22, the 2nd paragraph states that much of the SA waters along the estuarine shoreline are open to commercial shellfishing. This statement appears to conflict with the 3rd paragraph and the map in Appendix D. Reconcile.*
13. A discussion of environmental conditions...to include an assessment of...Areas experiencing chronic wastewater treatment malfunctions. *On Page 3-33 provide discussion and assessment of chronic wastewater treatment malfunctions related to private wastewater treatment system providers (in addition to individual septic systems). If there are none, indicate this in the plan.*
14. A discussion of environmental conditions...to include an assessment of...Areas with water quality or public health problems related to non-point source pollution. *On Pages 4-7 to 4-9, provide discussion and assessment of areas in the Town that are experiencing water quality or public health problems related to non-point source pollution.*
15. A discussion of environmental conditions...to include an assessment of...Areas experiencing significant shoreline erosion as evidenced by the presence of threatened structures or public facilities. *On Page 3-17, 3rd paragraph, provide discussion and assessment of areas in the Town that are experiencing significant shoreline erosion as evidenced by the presence of threatened structures. If there are none, indicate this in the plan.*
16. A discussion of environmental conditions...to include an assessment of...Environmentally fragile areas defined in Part (c) (2) (A) (ix)... or areas where resource functions are impacted as a result of development. *Provide discussion and assessment of environmentally fragile areas in the Town*

where resource functions are impacted as a result of development. If there are none, indicate this in the plan.

17. A discussion of environmental conditions...to include an assessment of...natural resource areas that are being impacted or lost as a result of incompatible development. *Provide discussion and assessment of natural resource areas in the Town that are being impacted or lost as a result of incompatible development. If there are none, indicate this in the plan.*
18. A map of existing land use patterns. *On Page 3-39, the aqua blue dots on the map do not correspond to an existing land use category. Reconcile.*
19. Characteristics of each land use category. *On Page 3-37, define "Single-Family Residential".*
20. A map of existing and planned public and private water supply service areas. *Provide map.*
21. A description of the documented overflows, bypasses, or other problems with the public or private water supply systems that may degrade water quality or constitute a threat to public health as documented by the Division of Water Resources. *On Page 3-33, describe any documented overflows, bypasses or other problems with the public water supply system that may degraded water quality or constitute a threat to public health as documented with Town's jurisdiction. If there are none, indicate this in the plan.*
22. A description of future water supply needs based on population projections. *On Page 4-5, provide description of future water supply needs based on population projections. These would be the permanent and seasonal population projections to be provided on Page 4-1.*
23. A map of the existing and planned public and private wastewater service areas. *Provide a map of the planned public wastewater service area consistent with Policy 15 on Page 6-9.*
24. A map of the existing and planned public and private wastewater service areas. *Provide a map of the existing and planned private wastewater service areas for the "Ocean Acres Wastewater System" and "Kill Devil Hills Wastewater Treatment Plant, LLC" identified on Page 4-5. Include the Comfort Inn which also has a non-discharge permit.*
25. A description of existing ... private wastewater systems to include existing condition, existing capacity, and documented overflows, bypasses or other problems that may degrade water quality or constitute a threat to public health as documented by DWR.... *On Page 3-33, provide information required for each private system.*
26. A description of existing and planned public and private wastewater systems to include ... future wastewater system needs based on population projections. *On Page 4-5, provide description of future wastewater system needs based on population projections. These would be the permanent and seasonal population projections to be provided on Page 4-1.*
27. A map of the existing and planned multimodal transportation systems and port and airport facilities. *Provide map(s).*

28. A description of the impact of existing transportation facilities on land use patterns. *Provide a description of the impact of existing transportation facilities on land use patterns within the Town and update matrix page references.*
29. Identification of existing drainage problems and water quality issues related to point-source discharges of stormwater runoff. *On Pages 4-7 to 4-9, identify existing drainage problems and water quality issues specific to point-source discharges within the Town jurisdiction.*
30. Concerning the Land Use Compatibility management topic objective for local government plan policies that characterize future land use and development patterns – *On Page 6-7, Policy P.9, clarify the term “low density” (see also comment 33). Ranges in units per acre, height, square footage, etc. are acceptable.*
31. Concerning the Land Use Compatibility management topic goal...ensure that development and use of resources or preservation of land balance protection of natural resources and fragile areas with economic development...*On Pages 6-7 and 6-8, include policy or policies under either associated objective that address natural resources and fragile areas.*
32. Concerning the Infrastructure Carrying Capacity management topic objective for local government plan policies that ensure improvements minimize impacts to AECs and other fragile areas. *On Pages 6-8 to 6-9, include policies that ensure improvements minimize impacts to AECs and other fragile areas within the Town. The AECs: Ocean Hazards AEC (Ocean Erodible Area), Coastal Shorelines AEC (Public Trust Shoreline and Estuarine Shoreline), Coastal Wetlands AEC, Public Trust Areas AEC, Estuarine Waters AEC and the Fresh Pond AEC.*

These would be policies that ensure (infrastructure) improvements (transportation, water, sewer/septic, stormwater, etc.) minimize impacts to AECs. Rewording of existing policies is acceptable.
33. Descriptions of land uses and development associated with the future land use map designations. *On Page 5-2, provide descriptions for “Low Density Residential” and “Medium Density Residential” consistent with the Future Land Use Map.*
34. Descriptions of land uses and development associated with the future land use map designations. *On Page 5-2, indicate land uses and development that would be allowed in Conservation areas. Page 5-1 Introduction says single-family residential use with two-acre lot minimum is allowed. What about recreation use that may include water-dependent structures? Clarify under the “Conservation” description.*

ADDITIONAL COMMENTS

35. *Update matrix, table of contents, and figure citations as needed to reflect changes.*
36. *On Page TC-1, under Housing, the last item should read “Median Home Value”.*

37. Concerning the Natural Hazard Areas management topic objective for local government plan policies that minimize threats to life, property and natural resources resulting from erosion, high winds, storm surge, flooding, or other natural hazards...*consider incorporating the Kill Devil Hills Mitigation Strategies from the Hazard Mitigation Plan in Appendix B as implementation strategies to meet this objective. These could be added to implementation I.45, on Page 6-12.*
38. *On Appendix E. Recommended Street Improvements, Pages 1-3, the bottom of the pages has been cut from the print version (digital pages are longer). Provide prints that match the digital.*
39. Note: *All policy information is to be included in the plan. While the document can reference a zoning ordinance and other plans for implementation, information for use as policy must be in the plan.*

DCM staff will be glad to meet with you at your convenience to discuss these comments. If you have any questions or concerns related to these comments, please do not hesitate to contact me at 252-264-3901.

Sincerely,



Charlan Owens, AICP
District Planner, Coastal Management



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

BRAXTON C. DAVIS
Director

September 17, 2019

TRANSMITTED VIA ELECTRONIC MAIL

Meredith Guns
Planning Director
Town of Kill Devil Hills
P. O. Box 1719
Kill Devil Hills, NC 27948
meredith@kdhnc.com

RE: Town of Kill Devil Hills Land Use Plan – Completeness Review

Dear Ms. ^{Meredith}Guns:

This letter is in response to the second draft of the Town of Kill Devil Hills CAMA Land Use Plan Update (draft plan) received by the NC Division of Coastal Management on August 19, 2019.

The completeness review below has been conducted per 15A NCAC 7B.0801. Certain information deficiencies were revealed which must be addressed before the draft plan can be considered complete for state review. The completeness review is organized on 15A NCAC 7B.0702 Land Use Plan Elements. Comments are in *italics*.

COMPLETENESS COMMENTS

For completeness, the following is to be included in the draft plan:

1. An update of the MATRIX to include the following:
 - a. For “Description of the dominant growth-related conditions that influence land use, development, water quality and other environmental concerns in the planning area...” *remove references to Pages 6-2 to 6-5.*
 - b. For “Description of natural features...Areas of Environmental Concern...” *add references to Page 3-16 for remainder of Coastal Wetlands AEC and Page 3-18 for Ocean Hazards AEC (Ocean Erodible Area).*
 - c. For “Description of natural features...Environmental Management Commission (EMC) water quality classifications and related use support designations...” *add reference to Page 3-22 and remove references to Pages 3-24 and 3-25.*
 - d. For “Description of natural features...storm surge areas...” *remove reference to Page 3-7.*



- e. For "Description of natural features...primary nursery areas..." *add reference to Page 3-23.*
 - f. For "Description of natural features...Additional natural features or conditions identified by the local government..." *remove the references to Pages 3-18 and 3-22.*
 - g. For "Discussion of environmental conditions...to include an assessment of...status and changes in surface water quality including: Impaired streams from the most recent Division of Water Resources (DWR) Basin Planning Branch Reports." *Use references for Pages 3-11 and 3-23 and remove references to Pages 3-10, 3-12 and 3-25.*
 - h. For "Discussion of environmental conditions...to include an assessment of...Areas experiencing chronic wastewater treatment malfunctions" *add reference to 3-35.*
 - i. For "Description of existing public and private wastewater systems... existing capacity." *add reference to Page 4-5.*
 - j. For "Description of any highway segments deemed by the NC Department of Transportation (NCDOT) as having unacceptable service as documented in the most recent NCDOT Transportation and/or Thoroughfare Plan..." *remove references to Pages 3-35 and 4-7.*
 - k. For "Description of the impact of existing transportation facilities on land use patterns" *add reference to Page 3-39 and remove references to Pages 3-35 and 4-6.*
 - l. For "Description of actions that will be taken by the local government to implement policies..." *remove reference to Page 6-7 since there are no implementation actions on the page. Also remove references to 7-1 to 7-4.*
 - m. For "Identification of specific steps the local government plans to take to implement the policies..." *remove reference to Page 6-7 since there are no implementation actions on the page. Also remove references to 7-1 to 7-4.*
2. A description of natural features in the planning jurisdiction...Areas of Environmental Concern (AECs) as set forth in Subchapter 15A NCAC 07H". *On Page 3-22 or Page 3-31 indicate that the Fresh Pond is designated as a Small Surface Water Supply Watersheds AEC.*
 3. A description of water supply watersheds or wellhead protection areas. *On Page 3-11, describe the protection areas located in the Town. These are mapped in the Dare County Wellhead Protection Plan (2014) available at: <https://www.darenc.com/home/showdocument?id=4354>*
 4. A discussion of environmental conditions...Status and changes of surface water quality; including: Impaired streams from the most recent Division of Water Resources (DWR) Basin Planning Branch Reports. *On Page 3-25, reinsert information indicating that the RO WTP discharges into the Atlantic Ocean via outfalls. Discuss water quality concerns associated with the outfalls as indicated on Page 104 of the Pasquotank River Basinwide Plan (2007).*
 5. A discussion of environmental conditions...to include an assessment of...status and changes in surface water quality, including: Clean Water Act 303(d)list. *On Page 3-11, remove Pond Island from the list since it is not in Kill Devil Hills. On Page 3-11, update information to include the AU 30-21f segment of the Roanoke Sound, clarifying its location in the town limits. Also clarify that the Colington Creek segment is at the wildlife ramp on Bay Drive, not the whole creek.*

Provide an assessment of changes in surface water quality relative to the 303(d) list. The most recent Integrated Report Files are available from the NC Division of Water Resources at: <https://deq.nc.gov/about/divisions/water-resources/planning/modeling-assessment/water-quality-data-assessment/integrated-report-files> An online map is also provided.

6. A description of the documented overflows, bypasses, or other problems with the public or private water supply systems that may degrade water quality or constitute a threat to public health as documented by the Division of Water Resources. *On Page 3-34, describe any documented overflows, bypasses or other problems with the public water supply system that may degraded water quality or constitute a threat to public health as documented within the Town's jurisdiction. Discuss water quality concerns associated with the RO WTP discharge outfalls into the Atlantic Ocean indicated on Page 104 of the Pasquotank River Basinwide Plan (2007).*
7. A description of existing ... private wastewater systems to include existing condition, existing capacity, and documented overflows, bypasses or other problems that may degrade water quality or constitute a threat to public health as documented by DWR.... *Page 18 of The Report of Sanitary Survey for area I-2 (2011) indicates a private package wastewater treatment system for the 152-unit Oyster Point condominiums. On Pages 3-35 and 3-35, provide current information on the private system and show service area on the map on Page 3-26 as applicable. If information is not available, indicate it in the plan and cite the Page in the matrix.*

On Pages 3-34 and 4-5, remove the Comfort Inn system, which is no longer in use.

8. A description of existing ... private wastewater systems to include existing condition, existing capacity, and documented overflows, bypasses or other problems that may degrade water quality or constitute a threat to public health as documented by DWR.... *On Page 3-34, provide existing condition for the private KDH WWTP. If information is not available, indicate it in the plan.*

Include problems that may degraded water quality regarding maintenance issues at the KDH WWTP. These are alluded to on Page 105 of the Basinwide Plan. More recent issues are identified in digital permit files. NCDEQ provides digital permit files through DWR's Document Management System.

<https://edocs.deq.nc.gov/WaterResources/Browse.aspx?startid=294247&dbid=0>

The KDHWWTP is operated under Permit WQ0002829. Permitting records can be viewed by looking at folders DWR-Water Quality Permitting/Washington/NonDischarge/WQ0002829.

9. A map of the existing and planned multimodal transportation systems and port and airport facilities. *Indicate the planned multimodal improvements on the map on Page 3-26. These would include the planned multi-modal trails and bicycle boulevards discussed on Page 4-7.*
10. A description of the impact of existing transportation facilities on land use patterns. *On Page 3-39, bottom paragraph, provide a description of the impact of existing transportation facilities on land use patterns within the Town. Describe how land uses are organized along the transportation corridors (the two-lane beach road NC 12, the four-lane highway US 158, the primary cross streets, etc.).*

11. Identification of existing drainage problems and water quality issues related to point-source discharges of stormwater runoff. *On Page 4-9, address any water quality issues specific to the three (3) NCDOT ocean outfalls at Lake Club Drive, Martin Street and Baum Street and the Town's Oregon Avenue ocean outfall. If there are none, indicate this in the plan.*

ADDITIONAL COMMENTS

12. *Update matrix, table of contents, and figure citations as needed to reflect changes.*
13. *Note: All policy information is to be included in the plan. While the document can reference a zoning ordinance and other plans for implementation, information for use as policy must be in the plan.*

DCM staff will be glad to meet with you at your convenience to discuss these comments. If you have any questions or concerns related to these comments, please do not hesitate to contact me at 252-264-3901.

Sincerely,



Charlan Owens, AICP
District Planner, Coastal Management



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

BRAXTON C. DAVIS
Director

October 16, 2019

TRANSMITTED VIA ELECTRONIC MAIL

Meredith Guns
Planning Director
Town of Kill Devil Hills
P. O. Box 1719
Kill Devil Hills, NC 27948
meredith@kdhnc.com

RE: Town of Kill Devil Hills Land Use Plan – Completeness Review

Dear ^{Meredith} Ms. Guns:

This letter is in response to the third draft of the Town of Kill Devil Hills CAMA Land Use Plan Update (draft plan) received by the NC Division of Coastal Management on October 2, 2019.

Pagination changes and additional information on the water treatment plant and private wastewater treatment systems have generated the need for a few additional updates and clarifications.

The completeness review below has been conducted per 15A NCAC 7B.0801. Certain information deficiencies were revealed which must be addressed before the draft plan can be considered complete for state review. The completeness review is organized on 15A NCAC 7B.0702 Land Use Plan Elements. Comments are in *italics*.

COMPLETENESS COMMENTS

For completeness, the following is to be included in the draft plan:

1. An update of the MATRIX to include the following:
 - a. For “Description of natural features...Areas of Environmental Concern...” *remove reference to Page 3-31 and add reference to Page 3-32 for Fresh Pond Small Surface Water Supply Watersheds AEC.*
 - b. For “Description of existing public and private water supply systems to include: ...Documented overflows, bypasses or other problems that may degrade water quality or constitute a threat to public health as documented by the DWR...” *add reference to Page 3-25 in the matrix.*



2. MAP of existing planned public and private wastewater service areas. *On Page 3-26, show the service area for the 152-unit Oyster Point condominiums private package wastewater system.*
3. A discussion of environmental conditions...Status and changes of surface water quality; including: Areas experiencing chronic wastewater treatment malfunctions... *On Page 3-34 or 3-35 (as referenced in the matrix) indicate any areas experiencing chronic wastewater treatment malfunctions specific to the KDH WWTP. If there are none, indicate this in the plan.*
4. A description of existing ... private wastewater systems to include existing condition, existing capacity, and documented overflows, bypasses or other problems that may degrade water quality or constitute a threat to public health as documented by DWR....

On Page 3-34 (as referenced in the matrix), provide existing condition for the private KDH WWTP. If information is not available, indicate it in the plan.

Also, on Page 3-34, clarify whether or not the documented problems identified at the KDH WWTP degrade water quality or constitute a threat to public health as documented by DWR. If they do not, indicate this in the plan.

ADDITIONAL COMMENTS

5. *Update matrix, table of contents, and figure citations as needed to reflect changes.*

DCM staff will be glad to meet with you at your convenience to discuss these comments. If you have any questions or concerns related to these comments, please do not hesitate to contact me at 252-264-3901.

Sincerely,



Charlan Owens, AICP
District Planner, Coastal Management



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

BRAXTON C. DAVIS
Director

MEMORANDUM

TO: Meredith Guns, Planning Director
Town of Kill Devil Hills

FROM: Charlan Owens, AICP, NE District Planner
Division of Coastal Management

SUBJECT: Town of Kill Devil Hills CAMA Land Use Plan Update.

DATE: February 11, 2020

This is a review of the complete Town of Kill Devil Hills CAMA Land Use Plan Update DRAFT received on October 28, 2019.

The following review breaks down the NC Administrative Code's 15A NCAC 07B.0702 LAND USE PLAN ELEMENTS by subheading. Under each subheading, "Missing/Needed/Clarification" and "Comments/Suggestions" items are identified. Please note that missing items are required to be addressed while comments and suggestions are advisory only.

Review statements to be addressed from other agencies have been incorporated and noted where appropriate. See Attachment "A" for the complete comments from other agencies.

- (a) Organization of the Plan
- (b) Community Concerns and Aspirations
 - (1) Significant existing and emerging conditions:
 - (2) Key issues:
 - (3) A community vision:
- (c) Existing and Emerging Conditions
 - (1) Population, Housing and Economy
 - (A) Population
 - (B) Housing stock
 - (C) Local economy
 - (2) Natural Systems
 - (A) Natural features



Missing/Needed/Clarification

1. On Page 3-11, Table 11. Waterbody Classifications, add Waterbody-Buzzard Bay, Description-Entire Bay, Classification-SC. (See Stream Index 30-21-1 on the map link below.)

NC Surface Water Classifications Map

<https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=6e125ad7628f494694e259c80dd64265>

2. On Page 3-11. Table 11, revise the Description for Waterbody-Roanoke Sound to remove "including Buzzard Bay" since the classifications are not the same. (See Stream Index 30-21 on map link above.)
3. On Page 3-15, last sentence, the statement indicates that 556 acres are coastal wetlands. This is not correct since Table 12 lists and Map 7 shows both coastal and non-coastal wetland types. Update narrative.
4. On Page 3-18, update the definition of Ocean Hazard AEC consistent with the 2016 amendment to 7H.0304. It should read as follows:

"...The landward extent of this area is the distance landward from the first line of stable and natural vegetation as defined in 15A NCAC 07H .0305(a)(5) to the recession line established by multiplying the long-term annual erosion rate times 90; provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "2011 Long-Term Average Annual Shoreline Rate Update" and approved by the Coastal Resources Commission on May 5, 2011 (except as such rates may be varied in individual contested cases or in declaratory or interpretive rulings)."

(Ron Renaldi, NCDEQ/DCM) **See Attachment "A" for more details.**

- (B) Environmental conditions
 - (i) Water quality
 - (ii) Natural hazards
 - (iii) Natural resources
- (3) Existing Land Use and Development
 - (A) Existing land use patterns
 - (B) Historic, cultural and scenic areas
- (4) Community Facilities

- (A) Public and private water supply and wastewater systems
 - (B) Transportation systems
 - (C) Stormwater systems
- (d) Future Land Use
- (1) Policies

Missing/Needed/Clarification

5. On Page 6-4, update the list of AECs to include: "Coastal Wetlands AEC as defined in 15A NCAC 7H.0205; Ocean Hazard Area AEC (Ocean Erodible AEC) as defined in 15A NCAC 7H.0304, and; Small Water Supply Watershed AEC as defined in 15A NCAC 7H.0405." (Ron Renaldi, NCDEQ/DCM) **See Attachment "A" for more details.**
6. On Page 6-4, 4th paragraph concerning the second area of land use plan application, clarify that to the extent that the CAMA land use plan can be used as the basis to deny a CAMA permit it is a regulatory document. Consider referencing the Coastal Area Management Act concerning land use plans.

Comments/Suggestions

7. All policy information is to be included in the plan. While the document can mention other plans and ordinances, information for use as policy must be in the plan. (See comments 9, 10, 11, 12, 15, 18, and 22.)
8. Policy statements that will hinder the "national interest" objectives of the Coastal Zone Management Act or regulate federal agencies, lands or waters will most likely not be approved by NOAA's Office of Coastal Management as enforceable for federal consistency determinations. (See Policy 19 regarding energy facilities and Policy 36 regarding seismic testing and off-shore drilling.)

- (A) Consideration of community concerns and aspirations and existing and emerging conditions
 - (B) Consistency with goals of the CAMA, LUP management topics, and state and federal rule
 - (C) Identification of policies that exceed the use standards and permitting requirements in 7H
- (2) Land Use Plan Management Topics
- (A) Public Access
 - (B) Land Use Compatibility

Missing/Needed/Clarification

9. On Page 6-7, Policy 3, concerning the location of industry, remove reference to zoning and reference the future land use map and its designation description. Zoning can be referenced in an implementation statement as a tool to implement policy statements and/or the future land use map.
10. On Page 6-7, Policy 4, concerning redevelopment, remove the reference to other plans and regulations for consistency from the policy statement. These other plans and regulations can be referenced in an implementation statement as a tool to administer redevelopment consistent with Policy 4.
11. On Page 6-7, Policy 7, concerning building heights, remove reference to zoning from the policy statement.

According to the policy statement building height is to be "limited", "maintained" or possibly "lowered" in certain areas. No specific height limits are provided.

Either reference the future land use map and its designation descriptions with modifications to clarify allowed building heights (ranges are acceptable), or, if building height limits will not be in the plan, include an implementation statement on Page 6-8, referencing zoning as the implementation tool to administer building heights consistent with the guidance in Policy 7.

12. On Page 6-7, Policy 9, concerning residential development in the vicinity of the Wright Brothers National Historic Site, remove reference to zoning from the policy statement and reference the future land use map and its designation description. Zoning can be referenced in an implementation statement as a tool to implement policy statements and/or the future land use map.
13. On Page 6-7, Policy 9, concerning residential development in the vicinity of the Wright Brothers National Historic Site, clarify the area covered by the "vicinity".
14. On Page 6-7, Policy 9, concerning residential development in the vicinity of the Wright Brothers National Historic Site, reconcile the 3 units per acre indicated in the policy statement with the Future Land Use Map designation for "Low Density Residential" on Page 5-2 which allows up to 6 units per acre.
15. On Page 6-7, Policy 10, concerning the three-tier approach to land use and housing mix, remove reference to zoning from the policy statement and reference the future land use map and its designation descriptions. Zoning can be referenced in an implementation statement as a tool to implement policy statements and/or the future land use map.

Comments/Suggestions

16. The Town's oceanfront provides nesting habitat for a number of sea turtles listed as endangered or threatened by the US Fish and Wildlife Service as indicated in Appendix C. Development at or near the shoreline can result in light pollution that deters adult sea turtles from nesting and disorients hatchlings, keeping them from reaching the ocean. Consider including a policy to mitigate the conflict between lighting and oceanfront habitat protection and an implementation action to address light pollution along the oceanfront (ex: local ordinances, education and outreach).

The NC Wildlife Resources Commission would like to see the Town consider lighting ordinances, or at minimum recommendations, to minimize light pollution along the ocean shore. (Maria Dunn, NCWRC) **See Attachment "A" for more details.**

(C) Infrastructure Carrying Capacity

Missing/Needed/Clarification

17. On Page 6-9, Policy 16, concerning establishment of a publicly-owned community-wide wastewater treatment system, this policy is in direct conflict with the statement made on the top of Page 3-35. Reconcile.
18. On Page 6-9, Policy 16, concerning establishment of a publicly-owned community-wide wastewater treatment system, remove the reference to zoning and reference the future land use map and its designation description. Zoning can be referenced in an implementation statement as a tool to implement policy statements and/or the future land use map.

(D) Natural Hazard Areas

Missing/Needed/Clarification

19. On Page 6-12, implementation concerning bulkheads. The statement says do not issue bulkhead permits where substantial wetlands loss is imminent. Clarify "substantial". Unless the Town is regulating to a higher standard than DCM or the US Army Corps of Engineers this portion of the statement should be removed.

Comments/Suggestions

20. Consider incorporating policy and/or implementation regarding the use of living shorelines for estuarine shoreline stabilization. More information can be found at: <https://deq.nc.gov/about/divisions/coastal-management/coastal-management-estuarine-shorelines/stabilization>

(E) Water Quality
(3) Future Land Use Map

Missing/Needed/Clarification

21. On Pages 5-2 and 5-3, address the allowance of public water access facilities in areas designated as "Residential", "Commercial" and "Office & Institutional".

22. On Page 5-2, "Commercial" designation, clarify the residential units per acre allowed. Ranges are acceptable.

Also, remove the statement "as defined within the Town's Zoning Ordinance".

23. On Page 5-2, "Residential / Medium Density Residential", clarify the uses that will be allowed east of NC 12. As indicated in the designation description, only residential and hotel/motel development is allowed.

What about commercial piers and retail? Clarify the extent of commercial development that is allowed, including hotel/motel development.

Also, clarify the allowance of public beach accesses and parking facilities in this area.

24. On Page 5-2, for areas designated as "Residential / Low Density" and "Commercial" on the west side of NC 12, clarify the allowance of public beach access support and parking facilities.

25. On Page 5-3, "Conservation" designation, clarify the residential units per acre allowed. Ranges are acceptable.

26. On Page 5-3, "Government and Public Institutional" is used in the narrative and table and also in the Table of Contents but "Office & Institutional" is used on the Future Land Use Map on Page 5-4. Reconcile.

(e) Tools for Managing Development
(1) Guide for land use decision-making

Missing/Needed/Clarification

27. On Page 7-3, under Land Use Plan Amendments, the lead paragraph should reference Subchapter 7B, Section .0800, not 0901. Correct.

Comments/Suggestions

28. On Page 7-4, 2nd bullet regarding a copy of the amendment, a seven (7) day turnaround is not required under the CRC's rules. The submittal turnaround time is up to the community. See 15A NCAC 07B.0802 and .0803.

(2)Development program

(3)Action plan and implementation schedule

Other comments

Missing/Needed/Clarification

29. On Page 1-2, Introduction, top paragraph, the second sentence indicates that the CAMA Land Use Plan is not a regulatory document. This is not correct. To the extent that the CAMA Land Use Plan can be used as the basis to deny a CAMA Permit it is a regulatory document. Clarify this in the narrative.

30. On Page 1-2, Introduction, top paragraph, the third sentence concerning regulatory permits, clarify in the narrative that regulatory permits within Areas of Environmental Concern which must be consistent with the plan are also issued locally by the CAMA Local Permit Officer.

31. Update the Table of Contents and Organizational Matrix as needed.