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County must fix buffer ordinance to protect wetlands and waters

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On Tuesday, Sussex County Council has an important opportunity to address problems of water pollution, deforestation and flooding through a buffer ordinance intended to better protect waterways from the impacts of new development.

Natural buffers between waterways and developments are very effective at controlling pollution and protecting essential habitat for fish and wildlife. This ordinance expands existing buffers to include freshwater wetlands and small streams within new major subdivisions. It also doubles the width of buffers on tidal wetlands and waters from 50 to 100 feet. It does not increase the width of buffers on larger streams, which remains at 50 feet. Although the widths overall fall short of the minimum recommended by scientists and remain less than what nearby jurisdictions require, this is a step in the right direction.

However, the ordinance also takes a number of steps backward. The first is in regards to protecting trees. Forests provide the best protection against pollution and are essential for wildlife habitat. But the ordinance allows forests to be cut down up to the time that an application for development is submitted. Trees do not need to be planted back in the buffer when the site is developed and the buffer can be maintained as grass.

The second step backward is a series of allowances to reduce the widths of the buffers. For example, if an existing forest in a buffer is maintained, then the width of a buffer can be cut in half. This eliminates gains in the width provided for buffers of tidal wetlands and waters, and reduces minimum buffer widths on larger streams from 50 feet required now to 25 feet. In the same fashion, the buffers may be reduced or eliminated around the new development's property boundary, which buffers existing residents, not waterways, from new construction. Finally, buffers can be reduced or eliminated in exchange for protecting or restoring similar areas far from the development itself.

The good news is that these issues can simply be resolved so that the ordinance fulfills its purposes. First, if a buffer is not forested at the time the development application is submitted, it must be replanted to a forest before construction is complete. This provides an economic incentive for developers to keep the trees, and it is what other nearby jurisdictions have required for a long time.

Second, buffer widths must be maintained at their newly increased widths, plain and simple, and options to reduce buffer width dropped. Finally, clear language on how the ordinance will be enforced by the county needs to be added to ensure buffers will be maintained; this is unfortunately not always the case currently.

The benefits that the county's wetlands and waterways provide are critical to its economy and the well-being of its residents. Providing adequate protection now will help to clean up our waters, protect our wildlife and reduce the impacts of flooding on new and existing residents.

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