



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

August 24, 2016

Rusty Penawell
Town of Kenton
P.O. Box 102
Kenton, DE 19955

RE: PLUS review 2016-07-02; Town of Kenton Comprehensive Plan

Dear Rusty:

Thank you for meeting with State agency planners on July 27th, 2016 to discuss Kenton's comprehensive plan. State agencies have reviewed the documents submitted and offer the following comments. Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

Certification Comments: These comments must be addressed in order for our office to consider the plan update consistent with the requirements of Title 22, § 702 of the Del. Code.

- Title 22, Section 702 Del C., requires towns with populations less than 2,000 to state their position on population and housing growth. The Town of Kenton's draft Comprehensive Plan provides data on its population and housing. However, it does not contain a position on housing growth. The plan must be revised to include a position on housing growth.
- Title 22, Section 702 Del C., requires towns with populations less than 2,000 to state the town's position on the development of adjacent areas. There is some discussion of adjacent areas, particularly in the section on "Areas of Concern." However, the Town's position on the development of adjacent areas is not clear. The plan must be revised to clearly describe the Town's position on the development of adjacent areas.
- Title 22, Section 702 Del C., requires towns with populations less than 2,000 to demonstrate coordination with the State, the County, and other municipalities. There is a Chapter in the plan titled "Implementation and Intergovernmental Coordination." This chapter discusses implementation but not intergovernmental coordination. The plan must be revised to demonstrate intergovernmental coordination.

- The plan includes a discussion about the ongoing update of the Strategies for State Policies and Spending. That process has been completed, and the updated Strategies were implemented by Governor Markell's Executive Order # 59 on April 14, 2016. Please amend the plan accordingly.

Recommendations: Our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

Office of State Planning Coordination – Contact: David Edgell 739-3090

Our office would like to commend the Town of Kenton for developing their first comprehensive plan. The plan was a community driven effort to envision the future of the Town. It is an excellent plan for a small town, and provides detailed information and actionable implementation steps in a format that is easily accessible. Our office looks forward to helping Kenton implement the plan in the coming years.

We do have one recommendation to help improve the plan. The plan discusses Future Land Use in the form of a brief chapter and a table (Table 22). The simplicity of this table is admirable for a small town as it is easy to understand. However, because it is so simple it may also be easily misinterpreted. A bit more detail in the table may be helpful to the town in order to guide development, inform the future zoning ordinance, and avoid disputes. For instance, the “Residential” category is defined as “areas intended for development as dwellings or similar uses. . .” What type of dwellings are envisioned? Single family and mobile homes on small lots similar to existing homes in town? Or, is the town envisioning high rise condominiums and garden apartments to diversify the housing stock? As written, it could be interpreted as either or both of the above. It may be helpful to mention which general type or pattern of land use the town is anticipating in each land use category.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- On pages 3 and 4, the section on Local Public Participation describes attendance at the public meetings in general terms. If records were kept, we suggest mentioning the specific numbers of residents or property owners who attended these meetings.
- On pages 8 through 10, the history of the Town is outlined and the Kenton Historic District is mapped and discussed. There are other buildings in town outside the District, notably the Town Hall, which appear eligible for designation as historic. We suggest that consideration be given to nominating additional properties, either separately or as additions to the District.
- We are aware of at least three errors in Table 20, on page 21. We recommend a review of the table by someone from the Smyrna School District. The errors we know are as follows:

- John Bassett Moore Intermediate School was occupied in 1925 and was most recently renovated within the last five years.
- Smyrna High School is located in Smyrna.
- The current Smyrna High School was completed in 1970 and was renovated within the last ten years.
- On page 21, in the Health Care section, consider mentioning Christiana Care’s walk-in clinic in Smyrna.
- On page 22, the discussion of State Service Centers should mention the one in Smyrna.
- On page 28, Figure 6 shows Annual Average Daily Traffic (AADT) Volumes from 2002 and 2014, derived from DelDOT’s Vehicle Volume Summary (formerly Traffic Summary, available at http://www.deldot.gov/information/pubs_forms/manuals/traffic_counts/index.shtml). It is important to understand that while the Summary volumes are updated annually, they are updated much less often. In between counts, the volumes are factored based on data from counts at roads with a similar function but that factoring may or may not be consistent with actual traffic growth on the roads where the factors are applied. The 2014 Commerce Street volumes are based on counts from 2011 west of Main Street and 2012 east of Main Street. The 2014 Main Street volumes are based on counts from 2014 west of Commerce Street and 2012 east of Main Street. The 2002 volumes all date to 2000 or earlier.

We recommend that the Town update Figure 6 to use the 2015 and 2008 volumes shown in the table below as they are more recent and subject to less factoring.

Road	Segment	Year	Volume	Yr of Last Count
Commerce St. (SR 42)	West of Main St.	2008	4,125	2008
		2015	3,483	2015
		2008	5,374	2008
Main St. (SR 300)	West of Commerce St.	2015	6,274	2015
		2008	6,157	2008
		2015	5,751	2014
	East of Commerce St.	2008	3,841	2008
		2015	4,383	2012

- On page 29, consider moving the discussion of the Amtrak bus stop in Dover from the Rail Travel section to the Bus Transportation section. Also, consider mentioning the Greyhound intercity bus stop in Dover.
- On page 31, in the Pedestrian Network section there is mention of utility poles in the sidewalk along South Main Street, yet the only suggested means of improving the sidewalks is adoption of a sidewalk ordinance. DelDOT supports the adoption of a sidewalk ordinance but a DelDOT capital project may be needed to address removal of the poles. Accordingly we recommend that the Town consider adding to the Plan the idea of a Transportation Alternatives project to address sidewalk along Main Street. The Transportation Alternatives Program addresses small projects like this one, primarily for bicycle and pedestrian improvements. More information is available from Mr. Jeff Niezgod, who is our Assistant Director of Planning for Local Systems Improvement. Mr. Niezgod may be reached at (302) 760-2178.
- As a general comment, we suggest that the tone of the Pedestrian and Bicycles section, on pages 30 through 32 be edited to be more authoritative. Specifically, on page 31, a sidewalk is described as ending at “what appears to be an abandoned railroad right-of-way.” The sidewalk does end there. The railroad right-of-way is addressed on page 32 and in that discussion it is said that “The ownership by Maryland is reportedly a very complicating issue for this project,” meaning the Clayton-Easton Rail Trail. A slightly longer discussion of the issue could let the reader see for themselves how Maryland’s ownership of the right-of-way complicates the project.
- The text of the Plan, on page 31, explains in detail how in “the statewide sidewalk layer” a paved drainage ditch along the west side of North Main Street was apparently mistaken for a sidewalk where no sidewalk exists, but the Transportation Network Map replicates that mistake. We recommend that the map be corrected.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle
739-9071**

DNREC offers several comments and suggestions to improve conservation and protection of the Town’s resources. While the cumulative impact of various program suggestions and concerns may sound negative, the intent is to improve the plan elements related to environmental protection, open space, recreation and water quality and supply. DNREC requests an opportunity to meet with the Town in a collaborative manner to discuss these recommendations and possible future ordinances.

Recommendations for Comprehensive Plan Revisions

Water Supply (Pages 22-23).

- There is an area of excellent ground water recharge potential within the Town’s municipal boundaries. However, no wellhead protection areas were identified.

The text states, in part, that DNREC records show one public well within the town limits. There are additional public wells within the town limits; however, only public wells that are part of a public water system regulated by the Division of Public Health's (DPH) Office of Drinking Water (ODW) have delineated wellhead protection areas. Current data¹ does not show any active public water systems within the Town's municipal boundaries. The wellhead protection appears on the Environmental Features Map and should be removed.

The Town of Kenton acknowledges the excellent groundwater recharge potential area within its municipal boundaries. However, the text uses the term 'excellent water recharge area'. This should be corrected to 'excellent groundwater recharge potential area'. DNREC applauds the Town's acknowledgment that it would be prudent to protect this area.

As a municipality with a population of less than 2,000 persons, the Town is not required to develop source water protection ordinances per 7 Del. C. 6082(c). The Town may adopt, after consultation with DNREC, an ordinance that is protective of the resource. If adopted, the ordinance shall refer to the most current official source water map and relevant data, as provided in the current Comprehensive Plan and as amended from time to time or include a map update procedure.

¹ http://opendata.firstmap.delaware.gov/datasets/02ba35ddabd047c3af7fdd60af50f7f3_0

Wetlands (Page 27).

- Please correct the statement that there are no wetlands within the Town of Kenton. Based on the State Wide Wetland Mapping Project mapping (SWMP), there are wetlands mapped in the Town. Additionally, some wetland associated hydric soils are mapped in the Town as well – hydric soils are important because they are one of three key parameters (the other parameters are hydrophytic vegetation and hydrology) used to define and delineate wetlands. Thus, the presence of hydric soils substantiates the potential existence/presence of wetlands. There is also a possibility that some unmapped wetlands may be present as well. Ultimately, proof of wetland presence can only be definitively assessed and confirmed through a field-based wetlands delineation.

Soils (Page 27).

- The Comprehensive Plan is primarily intended as a tool to ensure proper and appropriate community planning for future growth and development, not agricultural production. Therefore, it is not necessary to describe soils in terms of their suitability for farming. Please revise.

Critical Natural and State Resource Areas (Page 27).

- Please delete this section in its entirety as there are no critical natural and/or State Resource Areas in the Town.

Parks and Open Space (Page 28).

- In August of 2011, the Delaware Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information and trends on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2013-2018 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities and needs within county and municipal comprehensive plans. For the purpose of refining data and research findings, Delaware was divided into five planning regions. The Town of Kenton is located within SCORP Planning Region 3.
- When looking at the findings from the 2011 telephone survey, it is apparent that Delawareans place a high importance on outdoor recreation. Statewide, 93% of Delaware residents indicated that outdoor recreation had some importance in their lives, while 67% said it was very important to them personally. These findings are very close to the results of the same question asked in the 2008 public opinion telephone survey, indicating a continued demand for outdoor recreation opportunities throughout the State.
- Placing high importance on outdoor recreation resonates throughout the five SCORP regions. In Region 3 (Kent County), 63% said it was very important to them personally.

Outdoor Recreation Needs/Priorities

Based on the public opinion survey, the most needed outdoor recreation facilities in Farmington include:

High facility needs:

- Walking and Jogging Paths
- Public Swimming Pools
- Bicycle Paths
- Fishing Areas
- Playgrounds
- Community Gardens
- Picnic Areas
- Off-Leash Dog Areas

Moderate facility needs:

- Hiking Trails
- Camping Areas
- Ball Fields
- Basketball Courts
- Football Fields

- Public Golf Courses
- Soccer fields
- Boat Access
- Canoe/Kayak Launches
- Tennis Courts

Air Quality.

- With the acknowledgment of Kenton having an “increasing problem [of] large, heavy truck[s] using municipal streets” (page 29) and with “side streets not [being] constructed to handle the weight of [such] trucks and town officials report[ing] that these roads are now failing,” it is recommended that Kenton work in conjunction with DelDOT to remedy this problem. The Town of Kenton and DelDOT should work together to find an appropriate alternative truck route to preserve the delicate buildings and wonderful historical nature of the town.
- In addition, up to 90 percent of air emissions can be attributed to the transportation sector, with some trucks emitting as much pollution into the air as up to 150 cars. According to U.S. Census numbers, 19.5 percent of Kenton’s population is comprised of senior citizens above the age of 55 and approximately 29.3 percent aged 0-19 (page 14). Both of these demographics (the elderly and the young,) as well as those with pre-existing respiratory or cardiac conditions, such as emphysema or asthma, fall under the “high-risk” or “sensitive” category in terms of negative health effects of air pollution. Therefore, the problem of truck traffic through Kenton is not only a matter of traffic flow and structural damage but also one with a detriment to human health.
- The Town of Kenton is encouraged to implement transportation alternatives and land use measures that will substantially enhance air quality and reduce air emissions. Among these transportation alternatives are efforts to provide increased connectivity to the nearest bicycle, pedestrian and sidewalk networks as well as “links” to any nearby mass transport systems including parks, public and cultural facilities and residential neighborhoods. DNREC commends the Town’s efforts to “consider adopting a sidewalk ordinance to provide a continuous sidewalk network for pedestrians and bicyclists” and well as the advancements of the Clayton-Easton Rails to Trails project (page 33). A walkability study would be beneficial if one has not been conducted already. DNREC also highly encourages the inclusion of public transit as a transportation opportunity in the Kenton area as “at this time, Kenton is not served by DART/First State” with the nearest bus route being Dover-Cheswold-Smyrna’s Route 120 (page 34).
- Lastly, DNREC supports efforts to beautify the Town of Kenton through the planting of urban trees and shrubbery that would aid in both cleaning the air of pollutants and replenishing oxygen into the air. Also, urban trees provide shade for parking areas, help to reduce heat island impacts, and, by extension, help to minimize the potential for localized ground-level ozone formation. Such measures can also have the additional benefit of channeling or infiltrating storm water.

There are additional measures that can be implemented to reduce the impact of growth and development on air quality in Kenton. The Division of Air Quality point of contact is Lauren DeVore, and she can be reached at lauren.devore@state.de.us or at (302)739-9437.

Recommendations for Ordinances and Plan Implementation

Stormwater Management and Surface-Water Protection:

- The Department recommends that the Town of Kenton incorporate a requirement for a stormwater review into the Town's preliminary approval requirements for new development requests. The *Delaware Sediment and Stormwater Regulations* have been revised and became effective January 1, 2014. A three-step plan review process is now prescribed in the regulations:
 1. Submit a Stormwater Assessment Study for the project limits of disturbance and hold a project application meeting with the reviewing delegated agency,
 2. Submit stormwater calculations, and
 3. Submit construction drawings

Following the project application meeting, a Stormwater Assessment Report will be completed by the reviewing agency and the developer and forwarded to the Town. This Stormwater Assessment Report will rate the anticipated engineering effort necessary to overcome certain stormwater assessment items such as soils, drainage outlets, and impervious cover. The Sediment and Stormwater Program recommends that the Town consider the ratings from the Stormwater Assessment Report in making a decision to issue preliminary approval for any development request. Further, the Sediment and Stormwater Program recommends that the Town incorporate the Stormwater Assessment Report as a required element when a plan is submitted to the Town's preliminary plan approval process.

- The revised *Delaware Sediment and Stormwater Regulations*, effective January 1, 2014, have a goal of reducing stormwater runoff for the rainfall events up to the equivalent one-year storm, 2.7 inches of rainfall in 24 hours. Runoff reduction encourages runoff to infiltrate back into the soil as in the natural pre-development system and results in pollutant removal and stream protection. Best management practices (BMPs) that encourage infiltration or reuse of runoff, such as porous pavements, rain gardens, rain barrels and cisterns, green roofs, open vegetated swales, and infiltration systems should be allowed for new development sites within the Town. Furthermore, limiting land disturbance on new development projects and limiting impervious surfaces by allowing narrower street widths, reducing parking requirements, and allowing pervious sidewalk materials will be necessary to help achieve the runoff reduction goals in the revised regulations.

Wetlands:

- Kenton may consider developing a buffer ordinance to protect wetlands within their town. A 100-foot vegetative buffer is often recommended to protect the function and

integrity of wetlands. Upland buffers also serve as habitat for many terrestrial species that are dependent on aquatic and wetlands habitats for a portion of their annual life cycle. Lot lines, roadways, and infrastructure should not be placed within this buffer zone. Buffers are an integral component of aquatic and wetland habitats, reducing the amount of sediments, pollutants, and other non-point source material that may affect the function and integrity of habitat and the condition and survivability of aquatic organisms.

Wetlands Delineations:

- *Recommendation:* Require all applicants to submit to the Town a copy of the development site plan showing the extent of State-regulated wetlands (as depicted by the State Wetland Regulatory Maps), and a United States Army Corps of Engineers (USACE) approved wetlands delineation as conditional approval for any new commercial and/or residential development. Additionally, the site plan should depict all streams and ditches which are jurisdictional pursuant to the Subaqueous Act (7 Del. C., Chapter 72) as determined by DNREC.

Freshwater Wetlands Protections:

- *Recommendation:* Implement regulations to protect freshwater wetlands where regulatory gaps exist (i.e., isolated wetlands and headwater wetlands).

100-Foot Upland Buffer:

- Based on a review of existing buffer research by Castelle et al. (Castelle, A. J., A. W. Johnson and C. Conolly. 1994. *Wetland and Stream Buffer Requirements – A Review*. J. Environ. Qual. 23: 878-882.), an adequately-sized buffer that effectively protects water quality in wetlands and streams, in most circumstances, is about 100 feet in width. In recognition of this research and the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from all water bodies (including ditches) and wetlands.

Recommendation: Require a 100-foot upland buffer width from all delineated wetlands (approved by the USACE and DNREC) or water bodies (including ditches).

Impervious Surface Mitigation Plan:

- *Recommendation:* Require the calculation for surface imperviousness (for both commercial and residential development) take into account all constructed forms of surface imperviousness - including all paved surfaces (roads, parking lots, and sidewalks), rooftops, and open-water storm water management structures.
- *Recommendation:* To encourage compact development and redevelopment in the Town's central business area, require an impervious surface mitigation plan for all residential and commercial developments exceeding 20 percent imperviousness outside that area, or at least in excellent recharge areas outside that area. The impervious surface mitigation plan should demonstrate that the impervious cover in excess of 20 percent will not

impact ground water recharge, surface water hydrology, and/or water quality of the site and/or adjacent properties. If impacts to groundwater recharge, surface water hydrology will occur, the plan should then demonstrate how these impacts will be mitigated. If the impacts cannot be mitigated, the site plan should then be modified to reduce the impacts from impervious cover.

Poorly Drained (Hydric) Soils:

- *Recommendation:* Prohibit development in poorly or very poorly-drained (hydric) soil mapping units. Building in such areas predictably leads to flooding and drainage concerns from homeowners, as well as significant expense for them and, often, taxpayers. Proof or evidence of hydric soil mapping units should be provided through the submission of the most recent NRCS soil survey mapping of the parcel, or through the submission of a field soil survey of the parcel by a licensed soil scientist.

Green Technology Stormwater Management:

- *Recommendation:* Require the applicant to use “green-technology” storm water management in lieu of “open-water” storm water management ponds whenever practicable.

Stormwater Utility:

- *Recommendation:* Explore the feasibility of a stormwater utility to fund upgrades to existing stormwater infrastructure. Upgrades to the stormwater system may reduce pollutant loads and help reach the established total maximum daily load for nitrogen, phosphorus, and bacteria. Reach out to Kent County, the Conservation District, and the Delaware Clean Water Advisory Council as partners in funding stormwater retrofits.

Drainage Easements:

- *Recommendation:* The Town should pursue drainage easements along waterways and storm drains where currently there are none.

State Historic Preservation Office – Contact: Terrence Burns 302-736-7404

- The Kenton Historic District (K-4982) is a part of the Kenton Hundred Multiple Resource Area (K-2896), which is listed in the National Register of Historic Places. In addition, the Cooper House, the Kenton Post Office, the Green Mansion House, the Wright-Carey House, and the Clark-Pratt House are listed individually in the National Register as part of the same multiple resource submission. We recommend that the Town initiate a plan-to institute a historic zoning ordinance, demolition review, or other tool to support the preservation and rehabilitation of these properties. If the Town pursues this goal, it can establish protections to preserve its historic properties and overall character. The Town could also make known to its citizens the availability of federal and state tax credit programs to assist owners in maintaining and rehabilitating historic properties This office can assist the Town by providing technical assistance on these topics.

State Housing Authority – Contact: Karen Horton 739-4263

- DSHA has developed a website, **Affordable Housing Resource Center**, for communities to learn about resources and tools to help create housing for households earning 100% of median income or below. Our website can be found at: www.destatehousing.com "Affordable Housing Resource Center" under Other Programs.

Department of Agriculture – Contact: Scott Blaier 698-4532

- The Department of Agriculture congratulates the town on a well-written comprehensive plan. The Department encourages the town to continue working with the Delaware Forest Service to meet its tree canopy goals, as outlined on pages 27 and 28 of the plan.
- The Department is pleased to see farmland preservation discussed on page 38 of the plan. We encourage the town to consider the large area of preserved farmland in any future annexation plans to expand the town's incorporated area. Preserved farms have statutory protections from developing adjacent and adjoining parcels.
- We encourage you to periodically download the latest GIS layer showing current Farmland Preservation Districts and Easements as they change frequently. You can contact Jimmy Kroon at the Department of Agriculture 698-4530 for the latest layers.

Approval Procedures:

- Once all edits, changes and corrections have been made to the Plan, please submit the completed document (text and maps) to our office for review. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review process. In addition, please include documentation that the plan has been sent to other jurisdictions for review and comment, and include any comments received and your response to them.
- Our office will require a maximum of 20 working days to complete this review.
 - If our review determines that the revisions have adequately addressed all certification items (if applicable), we will forward you a letter to this effect.
 - If there are outstanding items we will document them in a letter, and ask the town to resubmit the plan once the items are addressed. Once all items are addressed, we will send you the letter as described above.
- Once you receive our letter stating that all certification items (if applicable) have been addressed, the Planning Commission and Council should adopt the plan pending State certification. We strongly recommend that your Council adopt the plan by ordinance. The ordinance should be written so that the plan will go into effect upon receipt of the certification letter from the Governor.
- Send our office a copy of the adopted plan along with the ordinance (or other documentation) that formally adopts your plan. We will forward these materials to the Governor for his consideration.

- At his discretion, the Governor will issue a certification letter to your Town.
- Once you receive your certification letter, please forward two (2) bound paper copies and one electronic copy of your plan to our office for our records.

Thank you for the opportunity to review this Comprehensive Plan. If you have any questions, please contact me at 302-739-3090.

Sincerely,



Constance C. Holland, AICP

Director, Office of State Planning Coordination

CC: Martin Wollaston, University of Delaware