



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

April 20, 2018

Sarah Keifer, AICP
Kent County
Department of Planning Services
555 Bay Road
Dover, DE 19901

RE: PLUS review 2018-03-02; Kent County Comprehensive Plan

Dear Sarah:

Thank you for meeting with State agency planners on March 28, 2018 to discuss the Kent County 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.

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

Congratulations on completing the draft of the Kent County Comp Plan. It is clear the county staff put a lot of time and effort into the plan. The County's outreach efforts included using ArcGIS story maps, online surveys and social media, which are innovative ways to collect and share information. We commend the County for retaining the growth zone, which is foundation of growth management in Kent County. The *Strategies for State Policies and Spending* for the Kent County area is based in part on this concept. We support the land use strategy that includes Map 7B Future Land Use, Map 7C Land Use Strategies and Map 2A Economic Development Areas.

The certification comments in this letter are based on a review by OSPC and agency staff which was guided by the county comprehensive plan requirements as embodied in the "Quality of Life Act" (9 Del. C § 4956). Comprehensive plans are complex documents that are developed to meet the unique needs and vision of each local jurisdiction. When responding to these comments, it is acceptable to point out applicable plan sections that the reviewer may have missed, or plan text or maps from multiple chapters that can address the Del. C. requirements.

There have already been some very productive discussions between OSPC and County Planning staff, as well as between the County and the State Agencies through the PLUS meeting. We look forward to continuing to work closely with Kent County through the comprehensive plan revision, adoption and certification process to address any questions or comments that may arise.

General Comments:

- From the Department of Transportation: Presently, there are two current and approved State Scenic and Historic Byways traversing Kent County: the Harriet Tubman Underground Railroad Byway and the Delaware Bayshore Byway. While they are mentioned in a list of historic resources in Chapter 6, Historic Preservation (page 6-4), DelDOT points out that byways are not so much historic resources as a means to link resources.

Therefore DelDOT recommends that the County address the two byways and potential planning measures relating thereto, in several other parts of the Plan, in addition to page 6-4. In Chapter 2, Economic Development, they are relevant to the Tourism section, which begins on page 2-10. In Chapter 4, Community Facilities, they could be mentioned in the Parks and Recreation section, which begins on page 4-4. In Chapter 5, Conservation, the Delaware Bayshore Byway could be mentioned in the Coastal Zone section, which begins on page 5-5. Chapter 8, Transportation, may be the best place for a detailed treatment of the two byways and the program under which they were created. If, as some jurisdictions, have done, the County wishes to set site design characteristics for the byway corridors, Chapter 9, Community Design, would be the place to address that. Finally, DelDOT recommends that the County include recommendations specific to the two byways in Chapter 11, the Implementation Strategy.

For information and assistance in more fully incorporating the byways into the Plan, DelDOT recommends that the County contact Mr. Michael Hahn, Byways Coordinator, in DelDOT's Local Systems Improvement Section. Mr. Hahn may be reached at (302) 760-2131 or at MichaelC.Hahn@state.de.us. A smart map of all of Delaware's byways, including these two, is available at <http://deldot.maps.arcgis.com/apps/webappviewer/index.html?id=03d5049bc49041658cfecad5fd6ba8b9>.

- From the State Historic Preservation Office: The State Historic Preservation Office appreciated Kent County for including a section and information about Historic Preservation in their Comprehensive Plan. Kent County is the only county in the state without a Preservation Planner. The county has had numerous losses of historic buildings and the public has expressed concerns about the losses. Having staff specifically dedicated to review projects and permits to provide guidance on historic preservation issues would be beneficial to the county's constituents, as would establishing a preservation advisory board or commission. Our office strongly recommends the county include in their comprehensive plan a commitment to consider taking such steps.

- From the Delaware State housing Authority: Kent County critically examined the breadth of issues facing their community and developed a meaningful cross-sector response that when implemented will significantly expand the housing options throughout the County – regardless of a person’s income or stage of life. Their policies and recommendations are substantial and while we support them all, we highlight the following:
 - The Comprehensive Plan recognizes the County’s responsibility to affirmatively further fair housing and is evident in the policies incorporated throughout the plan, particularly in the housing, land use, and economic development chapters. Collectively, they support a move away from traditional suburban development and toward mixed-use compact development, which takes advantage of existing infrastructure, services and amenities. This type of development enables a variety of housing types in close proximity to jobs, education, open space and resources that help households succeed.
 - The Economic Development chapter proposes continued support of Downtown Development Districts, which directs investment toward distressed urban where existing infrastructure, amenities and a range of housing types exist. Continued support of these areas will help revitalize businesses but also elevate the quality of life of families currently living in these areas.
 - The Transportation, Housing and Conservation chapters support density incentives in targeted locations within the Growth Zone, especially with the areas identified for Transportation Improvement District. Specifically, areas and sites for multi-modal emphasis and transit will be identified where a special effort will be made through rezoning, incentives, or other means to provide affordable housing.
 - The Housing chapter proposes establishing an affordable housing trust fund potentially funded through a percentage of the “in lieu” fees paid by developers as part of an inclusionary zoning ordinance or through a building permit surcharge. This is a critical recommendation as federal resources for housing continue to diminish and housing need continues to rise.
 - The Housing chapter recommends reviewing all County impact fees to determine the effect of reducing or waiving them for developers or non-profits who build affordable housing.
 - The Community Facilities chapter seeks to connect access to schools, parks and other community centers as part of subdivision and land development design. This includes providing path and trail linkages between parks and residential communities as well as expand options and facilities to support handicap accessibility and inclusion for all persons.
 - The Land Use chapter defines a strategy where mixed-use, higher density, commercial, industrial, and employment center development could be supported provided it keeps the character of the area and adequate infrastructure is in place or planned.
 - The Community Design chapter promotes site design characteristics based on the intensity, type and location of development that will enhance the livability of the built environment for its residents.
- From the Department of Natural Resources and Environmental Control: as a statutory requirement, DNREC Water Supply Section, Ground-Water Protection Branch has reviewed Kent County’s Comprehensive Plan and the portions of the online Kent County Code. The

text of the Plan cites Title 7, Delaware Code, Chapter 60, Subchapter VI and acknowledges that it requires county governments and municipalities with populations of 2,000 or more to protect the areas delineated as source water protection areas including surface water supply watersheds, wellhead protection areas, and excellent groundwater recharge potential areas.

In addition, the Plan discusses the County's adoption of a wellhead protection ordinance that limits impervious cover within 150 feet of a public well adding it is in keeping with DNREC's well permitting standard. The ordinance also requires treatment of stormwater by best management practices between 150 to 300 feet from a public well. The text also acknowledges that there are public water supply wells in unconfined aquifers that could require protection greater than the 150-foot buffer but dismisses any need to develop protective ordinances as the areas are already developed.

- The Plan notes that excellent Recharge Areas are located outside the Growth Zone Overlay and away from development pressure. It further notes that Kent County limits impervious cover to 23% outside the Growth Zone and within the Growth Zone to 35%, regardless of the presence or absence of a source water area. Adding that the County finds these standards to be protective of the resource.
- Section 187-79.1 of Kent County's Code, affords protection of a 150 – foot buffer around each public well from development and stormwater. The area from 150 feet to 300 feet requires treatment of stormwater by best management practices. In addition, it acknowledges the source water maps delineated by DNREC and cites 7 Del.C. § 6082(b) and makes them available in the Office of the Kent County Planning.
- Title 7 Del.C. § 6082(b) states: 'The counties and municipalities with populations of 2,000 persons or more, with the assistance of the Department, shall adopt as part of the update and implementation of the 2007 Comprehensive Land Use Plans, the overlay maps delineating, as critical areas, source water assessment, wellhead protection and excellent ground-water recharge potential areas. Furthermore, the counties and municipalities shall adopt, by December 31, 2007, regulations governing the use of land within those critical areas designed to protect those critical areas from activities and substances that may harm water quality and subtract from overall water quantity'.
- Title 7 Del.C. § 6082(f) states: 'Counties and municipalities with populations of 2,000 persons or more shall update their overlay maps in accordance with changes made by the Department with respect to source water assessment, wellhead protection and excellent ground-water recharge potential areas'.
- The County has not adopted the DNREC overlay maps delineating, as critical areas, wellhead protection areas. While the 150 and 300 foot buffers may afford protection for low withdrawal and confined wells, it does not provide protection for unconfined wells withdrawing large volumes of water and therefore having a larger contributory source water area.
- In summary, the existing County Code specifies county-wide impervious coverage limits, and best management practices for stormwater, both of which are beneficial to the water

resources, but it does not differentiate between source water protection areas and non-source water areas for those practices. The existing 150 foot set back from a public well for impervious coverage is consistent with the 150-foot fixed radius source water protection areas for low-yield public wells and confined aquifer wells, and may provide recharge quantity protection for those smaller wells, but does not address water quality concerns.

- Currently, the Department's Source Water Program is working with the County's staff to evaluate potential source water protection measures and/or processes during conditional use approval reviews for industrial and commercial projects that may warrant additional considerations.

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 and Title 29, § 9103 of the Del. Code.

Certification Issues by chapter

Chapter 2 – Economic Development

- Page 2-6 – We are very pleased that the County is supporting the Downtown Development District Program. Please expand this explanation to make it clear that the DDD program is a State level designation and rebate program, and that Kent County is leveraging this program to provide support to projects that meet the State criteria. As written it appears that this is only a County program.
- Page 2-12– Hanover Foods area is designated for economic development. This is outside of the growth zone, and not consistent with the Clayton Comprehensive Plan. The Clayton plan calls for residential development. See the 2008 Clayton Comp Plan, page 64. Please document that the County has worked with the Town of Clayton to develop a common vision for the future of this area. Either the Kent Comp Plan should be amended, or Clayton should agree to amend their plan as a part of their ongoing comprehensive plan update.
- Page 2-13 – The economic development area west and south of the State Fair is outside of the growth zone. The Harrington Comp Plan identifies a portion of this area for annexation as “mixed commercial.” See Harrington 2013 Comp Plan, Map 15. However, Kent County's proposed “potential industrial area” is much larger than anticipated by Harrington's plan. Please document that the County has worked with the City of Harrington to develop a common vision for the future of this area. Either the Kent Comp Plan should be amended, or Harrington should agree to amend their plan as appropriate if annexation is considered.
- Please provide (or identify what is intended to be) the “general area redevelopment component consisting of **plans, criteria and programs for** community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities and other locations.”

Chapter 4 – Community Facilities

- “A capital improvements plan covering at least a 5-year period shall be developed in accordance with the adoption of, and be consistent with, the comprehensive plan. . .” This chapter describes some capital improvements for the sewer system, but does not contain any fiscal information or appear to include the entire capital improvements plan. Please provide the County’s five year capital improvements plan, including fiscal information. Please add text to clarify how the CIP is consistent with the comprehensive plan.
- The plan should indicate “the extent provisions of the Capital Improvements Plan anticipate State financial assistance. . .” Please indicate what, if any, financial assistance the County anticipates through the CIP or annual budget.
- The water and sewer element must contain a statement of “problems and needs” and describe proposed solutions to those “problems and needs.”
 - As a part of this, it would be helpful if the plan discussed future growth and housing projections as it relates to the anticipated need for additional wastewater treatment capacity. At what point will capital upgrades to the Frederica plant be needed? Are there any discussions of an additional treatment plant, or a change in treatment method i.e. spray irrigation in lieu of direct discharge?
- A list of capital projects for the wastewater system is found on 4-20 and 21.
 - Clarify which of these projects are planned and budgeted vs. proposed.
 - Clarify which projects are for system maintenance and repair vs. expansion to accommodate future growth.
- The water and sewer element must be revised to include a discussion of “fiscal considerations.”
- Describe how the water and sewer elements are consistent with “approved area-wide wastewater treatment plans.”

Chapter 6 – Historic Preservation

- This chapter is informational in nature. There is no “Policy Emphasis” as in other chapters. The recommendations are very general. It is hard to ascertain if there are “plans and programs for structures and lands having historical, archaeological, architectural or similar significance.” Please clarify and expand as necessary.

Chapter 7 – Land Use

- Please identify where and how the land use plan addresses “public buildings and grounds, and public facilities,” including anticipated requirements for future public facilities.
- Please clarify what “measurable objectives” are proposed for the land use plan.
- Please clarify how the plan has reviewed data and addressed “the amount of land required to accommodate anticipated growth, the projected population of the area, the character of the undeveloped land and the availability of public services.”

- Population projections are discussed in Chapter 1, but it is not clear how or if this was translated into an analysis of lands needed to accommodate expected population growth.
- Similarly, public utilities and services are discussed in Chapter 4 but it is not clear how or if this was translated into an analysis of public utilities and services needed to accommodate expected population growth.

Chapter 10 – Intergovernmental Coordination

The intergovernmental coordination element contains good policy language, but is too general in nature to meet the requirements of Del. C. This section does not appear to “include a specific policy statement or coordinated mapping element indicating the relationship of the proposed development of the area to the comprehensive plans of the municipalities within the county, adjacent counties and applicable state regulations and policy as the case may be.” Some detailed changes to address this should include:

- Mapping of municipal annexation areas and documentation / discussion of compatibility between County and municipal comp plan. Any discrepancies should be identified and addressed in consultation with the relevant municipality. Two such examples already mentioned in Chapter 2 are the economic development areas west of Clayton and south of Harrington.
- Include a section about the Strategies for State Policies and Spending, including the map. The plan text should describe how the comp plan is consistent with this statewide spending policy. Any areas where it is not consistent should be detailed, and the reason for the proposed land use change should be articulated. The large economic development area south of Harrington is an example.
- Review and analyze the other two county plans, and include a section about the compatibility of the comp plan with those other planning documents. This section could and should discuss municipal planning efforts in Smyrna/Clayton and its relationship to New Castle County’s comp plan, as well as Milford’s plan and its relationship to Sussex County’s comp plan.
- Please provide some more detail on the procedures and process for ensuring continued coordination with municipalities and their planning efforts. It would be good to touch upon how the County intends to work with municipalities which have identified “areas of concern” in the county jurisdiction.

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

Recommendations by chapter

Chapter 2 – Economic Development

- The activities of the Kent Economic Partnership and the Greater Kent Committee are mentioned in the plan text. It would be helpful for readers if these groups and their mission and activities were described in more detail and placed in to the context of their ongoing role supporting economic development in Kent County.
- Pages 2-12; 2-13; Map 2A – Map 2A shows “Employment Centers” between Smyrna and Cheswold, in the vicinity of the Kent Aero Park, and in the vicinity of Little Heaven. These employment centers are not listed on the tables on pages 2-12 & 13. It is recommended that these employment centers be added to the table along with an explanation of what is expected in these centers.
- Page 2-8 – section on “Existing Resources” references an OSPC GIS research project from Feb. 2017. Please add the following disclaimer in the text so readers will know that these figures represent a point in time:
 - **“Disclaimer:** This is a pilot project that was completed by the OSPC. The data presented represent a snapshot in time, with the vacant lands being completed in February 2017 and the for-sale / lease building square footage completed in April of 2017. Due to the lack of a definitive real estate data source, this project relied upon an analysis of many different data sources as well as field verification. As such, this data should be used with caution, understanding that this analysis represents an overall indication of the quantity and location of these lands and buildings but it is not a completely accurate or definitive source. Some lands and buildings were probably not captured in our analysis due to limitations in the data sources, the age of the aerials, the time available to field verify, and human error.”
- The Department of Agriculture would like to compliment the county on a well-written Comprehensive Plan update. Specifically, on page 2-14 (7) – The department appreciates and supports the county’s commitment to agriculture and agri-business.

Chapter 3 – Housing

- DSHA does caution a careful approach to the housing recommendation to identify neighborhoods that would benefit from concentrated Property Maintenance Code enforcement. In 2015, the Supreme Court upheld the application of citing disparate impact in housing discrimination cases in Texas Dept. of Housing & Community Affairs v. The Inclusive Communities Project, Inc. In light of this decision, Kent County may want to make sure the data used for determining code enforcement shows there is no discrimination in policing code compliance.

In summary, the County has outlined excellent steps to provide a mix of housing options in connected multi-modal communities that enable all persons and households to thrive. Most of all this enables opportunities for affordable housing to be seamlessly integrated throughout the county. DSHA is very enthusiastic about the 2018 Comprehensive Plan and its implementation.

Chapter 4 – Community Facilities

Water Quality: TMDLs.

- Page 4-13, Water Resources: Buffers and impervious surface cover limitations are identified as tools to protect water resources. Later in the Draft Plan, it is acknowledged that water is degraded when impervious surfaces in a watershed exceeds 10%. However, the county allows impervious cover of 23% outside the Growth Zone and 35% within the growth zone. We recommend decreasing the allowable limits to impervious surfaces.

Parks and Recreation.

- DNREC recommends the incorporation of results from the Statewide Comprehensive Outdoor Recreation Plan (SCORP) in the Community Facilities section, to supplement activities undertaken by the County's Parks & Recreation Department. The survey's findings support many of the vision and goals of Comprehensive Plan focused on connectivity, multi-modal transportation. The County may wish to use this information in other sections of the plan to provide further documentation of community needs and desires. The County makes up the entire planning Region 3 of the SCORP.
<http://www.dnrec.delaware.gov/parks/Information/Pages/2013Scorp.aspx>.

Chapter 5 – Conservation

From the Department of Agriculture: Pages 5-1 and 5.3 -The Department appreciates the discussion of preserving farmland. The county may also want to mention (and take credit for) that they have provided financial assistance to the program for several years in a row now (approx. \$100k annually) that has helped preserve a number of farms in Kent County. If the county would like a list the farms it has helped permanently preserve, and /or a map showing same, the department would be glad to help.

From the Department of Natural Resources and Environmental Control:

Wetlands.

- Section 5-4 Wetlands: The text of the Draft Plan recognizes that state and federal laws provide protection for wetlands, but the text does not indicate the lack of regulatory protections for isolated freshwater wetlands. Isolated freshwater wetlands (i.e. forested wetlands/swamps and Coastal Plain Seasonal Ponds) are plentiful in Kent County and perform many of the same environmental functions as other wetlands, including filtering pollutants, recharging streams and aquifers, storing flood waters, and providing habitat for an array of plant and animal species.
 - DNREC suggests that the Plan make reference to the fact that tidal and non-tidal wetlands are regulated under section 404 of the Federal Clean Water Act by the United States Army Corps of Engineers (USACE). Tidal wetlands regulation and protection, however, are administered under Title 7 (Chapter 72) of the Delaware Code by the Division of Water Subaqueous Land section. That is, the State of Delaware has assumed administration of the 404 program for tidal wetlands, while the USACE regulates the protection of non-tidal wetlands in the State.

- Kent County indicates they require a minimum buffer of 25 feet surrounding wetlands.
 - It is unclear which wetlands types are afforded this minimum buffer protection by the county. We recommend that all wetland types, including those that are not protected by state and federal law (e.g. isolated freshwater wetlands), are afforded a buffer protection.
 - In general a 25 ft. buffer is insufficient to protect the water and habitat quality of wetlands. We recommend the county increase this buffer requirement to 100 feet surrounding all wetland types, where they exist.
 - It is unclear if the county allows any kind of activity or infrastructure inside these upland buffers surrounding wetlands. We recommend that these buffers are left intact (or expanded if native vegetation is not already present). Lot lines, roadways, and infrastructure should not be placed within this buffer zone.

Section 5.5 Coastal Zone

- Pages 5-5 and 5-6 should be updated to reflect the provisions of the Coastal Zone Conversion Permit Act. This act, signed by Governor Carney in August 2017, allows new industrial development and bulk product transfer on 14 sites in the Coastal Zone. Thirteen of the sites are in New Castle County; the remaining site is the fuel facility east of Little Creek on Port Mahon Road. While limited, this bill could have some economic development and environmental affects in eastern Kent County.

Climate Change

- Kent County has taken an important step forward in recognizing the significant impacts that climate change will have on its economy, resources and citizens by including a climate change section in its Comprehensive Development Plan.

The first introductory paragraph could be improved, we offer the following:

“The earth is warming and this is causing changes worldwide and in Kent County. One of the largest impacts of a warming planet to Kent County is sea level rise. Sea level rise is caused by a combination of factors including thermal expansion of ocean waters and the melting of land based glaciers. Potential impacts of climate change include:”

- The Delaware Geological Survey has reviewed recent scientific literature and assessments of sea-level change in Delaware and identified appropriate scenarios to use for planning purposes throughout the state which support findings of the International Panel on Climate Change (IPCC) Fifth Assessment Report (AR5) in 2013 and the NOAA National Climate Assessment, which indicate that the rate of sea level rise is likely to increase. The new 2017 inundation maps along Delaware's coast correspond to these identified projections. <http://www.dgs.udel.edu/slr>

- Page 5-3, Surface Waters: We suggest that the Plan mention the fact that the Pollution Control Strategies (PCS) developed for the watersheds within Kent County are entirely voluntary in nature (this includes all watersheds in the County where a PCS has been developed) and do not provide for regulatory authority for enforcement. PCSs have been developed for three watersheds (e.g., Mispillion, Murderkill, and St Jones) in the Delaware Bay and drainage basin; while the other three watersheds (e.g., Smyrna River, Leipsic River and Little Creek) in the same drainage basin have not been targeted for PCS development.
- Page 5-13, Recommendations: We recommend that Kent County be more proactive in implementing specific “actionable” strategies to attain the TMDL nutrient and bacteria reductions necessary for restoring water quality and “beneficial uses” (e.g., fishing, swimming, & drinking water) to waters of the Delaware River Drainage.

Additionally, we recommend identifying of the Watershed Implementation Plan (WIP), by reference, in the Kent County Plan. The WIP has been developed for all watersheds in the Chesapeake drainage basin; the TMDL for the watersheds in this drainage basin (i.e., 60 percent reduction requirement for nitrogen, phosphorus, and sediment from baseline conditions) is considerably more stringent than the TMDL required in the Delaware River and Bay watersheds. The WIP (mandated and directed by EPA) requires the State of Delaware to identify specific-pollution-reduction practices and programs to reduce nitrogen, phosphorus, and sediment from a variety of sources in Delaware’s portion of the Chesapeake Bay drainage.

http://www.wr.dnrec.delaware.gov/Information/Pages/Chesapeake_WIP.aspx.

- There are regulatory gaps at the state and federal level for protecting isolated freshwater wetlands; however county and municipal governments can provide protections; given the large number of freshwater wetlands in Kent County, the county is encouraged to consider ordinances that would protect freshwater wetlands from inappropriate development activities and to ensure that buffer provisions apply to these special sites. Please consider increased protections in the form of:
 - Improve protection of freshwater wetlands where regulatory gaps exist (i.e., isolated wetlands and headwater wetlands).
 - Develop an impervious surface mitigation plan which incentivizes the use of pervious paving materials where feasible.
 - Prohibit development on hydric soil.
 - Promote “green-technology” stormwater management in lieu of “open-water” stormwater management ponds whenever practicable.
 - Utilize the Department’s TMDL nutrient loading budget protocol and promote the use of approved best management practices to meet the required TMDLs within an affected watershed.

- It is strongly recommended that the County adopt an Open-Space ordinance that specifically prohibits the inclusion of structural best management practices such as community wastewater treatment areas and open-water storm water treatment structures, and/or regulated wetlands from consideration as open space.
- Municipal Separate Storm Sewer Systems (MS4): In order to account for possible future permits or regulatory obligations under the MS4 Permit program, DNREC recommends that the County consider additional stormwater programs. There currently are multiple Phase II MS4 communities in Kent County which may impact the County's planning. These municipalities may also look to the County for future partnerships or projects.
<http://www.dnrec.delaware.gov/wr/information/swdinfo/pages/ms4.aspx>

Air Quality.

- Page 5-7, DNREC was pleased to see that the "Conservation" portion of Kent County's Comprehensive Plan addressed air quality impacts in the county and list improved air quality and air pollution mitigation as a transportation goal for the County (page 5-7). We are supportive of incorporating alternative fuel vehicles into the County's fleet, "for various field operations."
- page 5-13, DNREC recommends the Plan highlight the air quality benefits associated with these recommendations, which reduce potential sources of air pollution:
 - Encouraging compact, mixed-use development where applicable,
 - Allowing opportunities for the increased use of public transit,
 - Expansion of the current bicycle and pedestrian network,
 - Increasing economic development and by extension, the number of people using alternative transportation modes,
 - Ordinances that would involve the planting of trees for development projects and efforts to continue the preservation of trees in the County which help to clear the air of pollutants.
- As an added component to address air quality concerns in the area, Kent County is encouraged to add electric vehicle supply equipment (EVSE) and charging where feasible in common areas to accommodate cleaner vehicular transportation through the area. For more information about the various electric charging options and state programs that can provide financial and technical assistance, please see our website.
www.de.gov/cleantransportation.

Fish and Wildlife.

- Woodland and Wildlife Habitat: Kent County acknowledges the importance of woodlands for environmental health factors and for ecological value, as well as the pitfalls of fragmentation. Kent County indicates that they limit woodland clearing in subdivisions outside the Growth Zone Overlay District to 30%. The County also acknowledges that regulations should be refined to minimize fragmentation and to retain

riparian buffers, which we support. The county can offer further protections by incorporating the following recommendations into, to be implemented both within and outside of the Growth Zone Overlay District:

Comments and Suggestions

- Chapter 5 Conservation (Page 5-13):
 - Recommendation #1: Identifying and creating Mature Forest Protection Areas—Mature forests have high ecological value and their protection should be prioritized. In cases where forested areas are to be disturbed by construction activity, a survey should be completed to identify and delineate mature forests within the project boundaries. The county should then consider creating incentives to protect mature forest to 100% (e.g., by allowing increased net density and smaller lot sizes).
 - We recommend that Kent County adopt the methodology to identify mature forests that has been developed by DNREC's Species Conservation and Research Program. This systematic methodology is defensible and verifiable and its use will ensure that mature forest survey data are collected and assessed in a consistent manner.
 - Recommendation #1: Avoiding fragmentation of forest corridors and protecting forest Interior – the forest interior or “core” is of high ecological value and many species of wildlife are dependent on forest interior habitat for their survival. Additionally, forested corridors provide critical wildlife migration pathways. Incursions into forest interior habitat and fragmentation of forested corridors should be avoided where feasible and incentives for protection of these resources should be offered.
 - Recommendation #2: Kent County is encouraged to conduct a county-wide infrastructure vulnerability assessment and plan to help ensure wise infrastructure investments. Funding for such studies may be available from DNREC.
 - Recommendation #3 – As discussed above, the buffer and non-disturbance areas from waterbodies and wetlands should include all wetlands, not just those under the regulatory jurisdiction of the US Army Corps of Engineers or State of Delaware.
 - Recommendation #3: Requiring Natural Resource Surveys – In cases where wetlands or forests are to be disturbed, a natural resource survey should be required to describe and delineate their boundaries. Information gained from the survey should be used to inform the project design by county planners (e.g. ensure that Kent County is able to retain the environmental health benefits and ecological services provided by these natural resources for the benefit of the public and for future generations).

DNREC stands ready to provide technical assistance for many of these efforts.

- Page 5-12, Policy Emphasis #2: Please remove references to “State Resource Areas (SRA)” in the Plan. Legislation passed recently eliminated these maps and they are no longer maintained by DNREC. Consider referring to the Delaware Wildlife Action Plan. <http://www.dnrec.delaware.gov/fw/dwap/Pages/default.aspx>

Chapter 7 – Land Use

- It is recommended that the Land Use Chapter contain a summary of what is intended in each land use category on Map 7B.
- Our understanding is that Map 7B Future Land Use Map will guide land use and support the existing zoning. Map 7C Land Use Strategies will guide future rezonings, and any rezoning application consistent with the strategies in 7C will be considered to be in compliance with the comprehensive plan. Please clarify that we understand the County’s land use approach as described above. Provided that this is accurate we recommend:
 - Please articulate and clarify this land use approach more clearly in the beginning of the chapter; and
 - Move the “criteria for rezoning” on page 7-10 to a more general section to guide all rezoning evaluations based on Map 7C. The list of criteria for considering rezoning on page Page 7-10 is placed in section for “Designation of Non-Residential Land Uses.” These criteria appear more general as if they should apply to any rezoning requested based on Map 7C.
- It is recommended that the County prepare master plans for selected areas within Map 7C. This would involve extensive public and property owner engagement, infrastructure planning, urban design, environmental planning etc. Master plans could be a plan implementation step following plan adoption. Areas that might be good places to start include:
 - TID Areas
 - Employment Centers
 - Town and Village Areas.

From the Department of Agriculture:

Page 7-10 Transfer of Development Rights (TDR) – The department supports the County’s plan for a viable TDR program. It is the Department’s understanding that the County has already preserved some farmland in the past through a TDR type exchange. If this is correct, the Department suggests it be mentioned in the text, and the farmland preserved be shown on Map 5H.

Page 7-12 – The department supports the county’s initiative to create and Agricultural Zoning District.

Chapter 8 – Transportation

- Pages 8-9-10, Transportation Improvement Districts – It is recommended that master plans be prepared for the TID areas prior to developing the TID. Master plans will allow for more detailed land use classifications and thus more accurate trip generation calculations. This will be particularly important if those land uses are intended to reflect future rezonings in accordance with the land use strategies depicted on Map 7C.
- DelDOT has several comments regarding the Functional Classification section that begins on page 8-3:
 - SR 1 is listed as an example of both an Expressway and an Other Principal Arterial. Similarly, US 13 is listed as an example of both a Principal Arterial and a Minor Arterial. For clarity, consider specifying parts of these roads that fit those classifications.
 - Other than Freeways and Expressways, the descriptions of each functional classification refers to shoulders “on one side of the road.” DelDOT’s design standards include shoulders on both sides. The descriptions also refer to various lane and shoulder widths which may exist but are substandard. DelDOT’s minimum standard, for local roads, is 11-foot lanes and 6-foot shoulders and the widths increase from there. As necessary, please see Figures 3.2.5-b and 3.2.5-c in the Development Coordination Manual (https://www.deldot.gov/Business/subdivisions/pdfs/changes/Development_Coordination_Manual-Chapter_3.pdf?041116) for more information on DelDOT’s standards for the various classifications.
 - DelDOT has three interrelated comments of the last two paragraphs of this section:
 - The paragraphs are indented as though they pertain exclusively to Local roads but in reading them, it appears that the paragraphs apply to all roads within the Growth Zone Overlay and they should not be indented.
 - The limitation of these paragraphs to the roads in the Growth Zone Overlay is important. DelDOT is willing to work with the County on prioritizing local roads in the Growth Zone Overlay over local roads outside it but, absent a separate source of funding, such as a Transportation Improvement District provides, DelDOT will concentrate most of its capital improvement efforts on collector and arterial roads.
 - While DelDOT is committed to improving all of the roads it maintains to meet standards one day, for the foreseeable future most of DelDOT’s work on the local road system is, and will continue to be, maintenance and problem-oriented safety improvements.

- On Map 8A, Functional Classification Map, consider using a different line symbol, perhaps one that is wider and somewhat transparent, to show the growth zone boundaries. As presently drawn, the boundaries resemble roads and in some places the boundaries follow roads.
- Regarding the discussion of Level of Service on pages 8-7 and 8-8, there are references to “D’ roadways,” “E’ roadways,” and “F’ roadways. DelDOT suggests clarifying that these letters convey how a road operates, or is projected to operate, during a specific peak hour traffic condition. Level of service is not a characteristic inherent to the roads or a label that is assigned beyond a specific context. It might be better to say, for example, “D’ describes conditions when traffic on a roadway is approaching unstable flow.”
- Further to the last sentence of the paragraph regarding Level of Service D at the top of page 8-8, it should be pointed out that for urban and suburban conditions, the breakpoint between LOS D and E tends to be where drivers consider changing their travel behavior, meaning their route, the time of their trip or their mode of travel. Thus, in developed areas, it becomes not only impactive but sometimes impossible to achieve LOS C during peak periods.

Chapter 9 – Community Design

- How is this chapter going to be used? Will it be consulted when new developments are proposed? This seems like the most obvious and impactful use. It is recommended that the text be amended to clarify how this chapter is to be used.
- There is no “Policy Emphasis” as in other chapters. It is recommended that a policy emphasis be added for this chapter.
- Please add a caption below the “Felton East” rendering to clarify that this was a conceptual planning exercise to design a healthy community.

Chapter 11 – Implementation Strategy

- It is recommended that the County develop a work plan based on the implementation items. What are the first three projects or objectives the County wishes to complete in the short term to implement the plan? After that, what are the next three? When you evaluate the implementation items in terms of a work plan of projects that can be programmed and completed some of the priority and order may shift.
- It is recommended that the county define short term, intermediate, long term and ongoing. What are the general timeframes for these categories? This will help the County measure progress towards objectives.
- From the Department of Agriculture: The Department will continue to support and partner with the county on agribusiness opportunities.

Links to State Resources:

Strategies for State Policies and Spending: <http://stateplanning.delaware.gov/strategies/>

FY18 State Operating Budget: <https://legis.delaware.gov/BillDetail?LegislationId=26205>

FY18 Bond and Capital Improvement Act:

<https://legis.delaware.gov/BillDetail?LegislationId=26195>

List of active State capital projects (non-transportation) in Kent County. See FY18 Bond and Capital Improvement Act for budget narrative.

- Delaware State Police Troop 3
- Duck Creek Library construction
- Harrington Public Library construction
- Caesar Rodney school renovation projects:
 - Caesar Rodney High School
 - Fred Fifer III Middle School (MS)
 - F. Neil Postlethwait MS
 - Allen Frear Elementary School (ES)
 - WB Simpson ES
 - Star Hill ES
 - Nellie Hughes Stokes ES
 - W. Reily Brown ES
- Caesar Rodney- construction of new 600 student ES

FY18 Grant-in-Aid Bill: <https://legis.delaware.gov/BillDetail?LegislationId=26140>

FY19 Governor's Recommended Operating Budget:

<https://legis.delaware.gov/BillDetail?legislationId=26298>

FY19 Governor's Recommended Bond and Capital Improvements Budget:

<https://legis.delaware.gov/BillDetail?legislationId=26299>

Delaware Code: <http://delcode.delaware.gov/>

Delaware Administrative Code: <http://regulations.delaware.gov/AdminCode/>

Delaware Department of Transportation Capital Transportation Program (CTP) for FY 18-23:

<https://deldot.gov/Publications/reports/CTP/pdfs/archived/ctp18-23/CTPFY18-FY23Complete.pdf>

Delaware Department of Natural Resources and Environmental Control:

<https://dnrec.alpha.delaware.gov/>

For all of the above referenced State Agencies, please see a list of contact below:

- Department of Transportation – Contact: Bill Brockenbrough (302) 760-2109
- State Historic Preservation Office – Contact: Terrence Burns (302) 736-7404
- Department of Agriculture – Contact: Scott Blaier (302) 698-4532
- The Department of Natural Resources and Environmental Control – Contact: Michael Tholstrup (302) 739-9071
- State Housing Authority – Contact: Karen Horton (302) 739-4263

Approval Procedures:

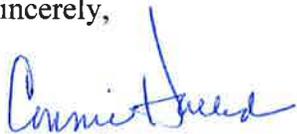
- Once all edits, changes and corrections have been made to the Plan, please submit the completed document (text and maps) to our office for review. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review process. In addition, please include documentation that the plan has been sent to other jurisdictions for review and comment, and include any comments received and your response to them. Substantial changes to this draft could warrant another PLUS review.
- 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.
- The Office of State Planning Coordination shall submit a final comprehensive plan report and recommendation to the Cabinet Committee on State Planning Issues for its consideration;
- Within 45 days of the receipt of the report the Cabinet Committee shall issue its findings and recommendations and shall submit the plan or amendment to the Governor or designee for certification.
 - Within this timeframe, the Committee, at its discretion, may conduct a public hearing on the proposed plan or amendment, except that no hearing shall be held if the proposed plan or amendment is found to be consistent with state goals, policies and strategies and not in conflict with plans of other jurisdictions;
- Within 20 days of receipt of the findings and recommendations from the Committee, the Governor shall accept the plan for certification or return it to the local jurisdiction for revision. The local jurisdiction shall have the right to accept or reject any or all of the recommendations as the final decision on the adoption of the plan is up to the local jurisdiction *(It should be noted the State shall not be obligated to provide state financial assistance or infrastructure improvements to support land use or development actions by the local jurisdiction where the*

adopted comprehensive plan or portions thereof are determined to be substantially inconsistent with State development policies);

- Provided no additional changes are made, the jurisdiction shall adopt the plan as final, pending certification
- The jurisdiction shall send a copy of the adopted plan to the Office of State Planning Coordination.
- The Governor shall issue a certification letter to the County. The certification date shall be the date of official adoption by the County.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Constance C. Holland".

Constance C. Holland, AICP
Director, Office of State Planning Coordination