



DATE: April 2, 2008
TO: The Kent County Regional Planning Commission
ATTN: Mr. William Holmes, Chair
IN RE: Statement of The Delaware Chapter Sierra Club regarding the Updated 2007
Kent County Comprehensive Plan

I am David R. Keifer, Sr. I own and reside at 2742 Hazletville Road, Dover, in West Dover Hundred. I come before you tonight in my capacity as Land Use Chair of both the Sierra Club's Delaware Chapter and Southern Delaware Group.

The Sierra Club, long an outspoken advocate for sustainable growth, maintains national policies regarding the direct, cumulative, and future foreseeable adverse impacts associated with ill-conceived and poorly planned land use. The Sierra Club's Delaware Chapter¹ has been an ardent campaigner against ill-conceived and poorly planned growth, commonly called sprawl. The Chapter's anti-sprawl handbook, *Sprawl Costs Us All*, published in 2000² provides well-documented data citing local examples.

Sprawling, disjointed pockets of randomly scattered growth are a burden to everyone. Many of the myopic arguments regarding constitutionality, property devaluation, property rights, and takings, are tired and worn obstructionist tactics which, for the most part are no more than an attempted misapplication of law which brings to mind the following statement:

“Too often, the argument over property rights takes place in a vacuum, as if governments could afford to extend roads and sewers, willy-nilly, to meet growth wherever it happens. Taxpayers can't afford it.” *Onward Oregon*

The Chapter, in accordance with the organization's stated policies and principals and acting on behalf of and in the interest of the citizens of Kent County in general, and its membership in particular, respectfully offers the following observations and opinions regarding the 2007 Kent County Comprehensive Plan³.

It is necessary to call attention to the basic concept of the draft Plan. Much of the debate on the Plan has focused on implementing tools and legal matters while the evolution of the growth pattern in the County, which is key to the Plan, has become secondary, if not, lost.

¹ Hereinafter, The Chapter.

² http://www.google.com/search?sourceid=navclient&aq=t&ie=UTF-8&rlz=1T4DKUS_enUS232US232&q=Sierra+Club+Delaware+Chapter+Sprawl+Rept

³ Hereinafter, The Draft Plan

Kent County developed as a series of towns along waterways. That pattern changed slightly with the development of the major road system (US 13 in particular), but the change was finally set by the construction of the main sewer line from Smyrna through Dover to Frederica and the Delaware River in the early 1970's. In an earlier version of the Plan, the Growth Zone concept was added as a reflection of the land use impact of the combined highway and sewer line influences. The current draft Plan is an evolutionary refinement of that concept to maintain the quality of life while reducing the cost of growth to the taxpayers to the maximum extent possible. This is an appropriate use of the powers to regulate land use retained by the States in the Constitution and delegated by the General Assembly to the Counties. The draft Plan arguments those powers through a system of incentives and disincentives designed to place the true cost of development on those who would benefit from the development and not on the taxpayers in general.

The concept of the Draft Plan is a refined development area that promotes self-sustaining communities rather than the usual residential subdivisions. In comparison to proposals in other jurisdictions such a protocol is logical and results in preventing the wasteful scattering of population including, without limitation, reducing the waste of excessive amounts of roads, securing safety from fire and other dangers by centralizing the areas where the greatest demand or need for first responders is located, maintaining a balance by preventing the excessive concentration of population while also preventing the excessive and wasteful scattering of population, promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and provide adequate provisions for public requirements [e.g. transportation, water flow, water supply, drainage, sanitation, educational opportunities, recreation ...] all of which will ultimately promote the health, safety, convenience, order, prosperity and welfare of present and future inhabitants of the State in general and Kent County in particular. Not only does the Draft Plan tend to facilitate securing economy in governmental expenditures [e.g. minimized infrastructure costs] but the vision portrayed fosters the well-being of Delaware's agricultural Industry by preventing the fragmentation of agricultural land mass through the intrusive and disruptive presence of urbanized development. This is consistent with the overall thrust of The Chapter's Sprawl Report [2000], and Sierra National Land Use policy.

The charm of Delaware's small town atmosphere has long been recognized as a positive attraction to both new residents and the tourist trade. The Draft Plan promotes a continuation of this phenomenon by growing new communities while preserving that which exists rather than simply thrusting new growth at existing communities thereby sacrificing community/municipal individuality and appeal.

While a Comprehensive Plan is a policy rather than a regulatory document it is imperative that regulatory revision be swift. During such revisions growth must be limited lest subversion by application under old regulatory guidelines circumvents the structure and order being promoted.

The Draft Plan places an emphasis on a Transfer of Development Rights (TDR) program for new development.

National Website Link

<http://www.sierraclub.org/sprawl/resources/challenge/growth.asp>

A TDR program can be a pro-active approach to many issues including:

- Providing a measure which allows agricultural landowners a source of revenue while preserving their ownership of the land for agricultural purposes.
- addressing affordable housing by being integrated into the Community Design Element

However, rather than simply “encouraging” regulatory revisions including such intrinsic protocols, the Draft Plan should require such as an integral part of the implementation process.

Contrary to that which some allege, a comprehensive rezoning to achieve this result is neither unconstitutional or a takings. These and other zoning adjustments were recently a topic of discussion at a joint seminar co hosted by the State of Delaware, Delaware League of Local Governments, and the University of Delaware’s Institute of Public Administration.

An overview of the seminar’s content is available for review at:

http://stateplanning.Delaware.gov/liveDelaware/news.shtml#walton_takings

[SC’s Southern Delaware Group attended and participated in this invitational review.]

Community Facilities in general and specifically water quality and quantity and wastewater treatment and disposal methodology is, understandably, among the Chapter’s major concerns. The Draft Plan’s focus on wastewater treatment is to be commended. In neighboring jurisdictions the utilization of and dependence upon “community” wastewater treatment systems has resulted in large-scale development outside of the identified growth districts and premature development inside of development districts but beyond the boundaries of the sewer district. This is, at best, risky should a system fail because, beyond the environmental impacts, the public will look to the County to rectify the failure. Kent County is to be commended for recognizing in the Draft Plan that wastewater treatment and disposal is a growth management tool and for having the political will to utilize same wisely. This parallels the tenets on the SC’s Safe and Healthy Communities Initiative (one the 4 National Priority programs)

The County is also to be commended for the implementation of its concurrency, adequate public facilities and exaction [impact fee] ordinances all of which serve to control, not prevent, growth while preventing a diminished quality of life.

[Pg 15-16 DELAWARE Chapter Sprawl Report]

The policy emphasis focusing upon groundwater recharge, wellhead protection and impervious surfaces recognizes elements which have become accepted as crucial land use considerations. The Draft Plan’s comprehensive approach toward an integrated regulatory system addressing these aspects is well advised. Again, this aspect parallels the tenets on the Sierra Club’s Safe and Healthy Communities Initiative {one of the 4 National Priority programs).

In summary, The Chapter finds the Draft Plan to be consistent with Sierra’s anti-sprawl policies and believes that the Draft Plan is well balanced. The structure and order portrayed should, if followed and implemented, deter sprawl and preserve the quality of life for Kent Co’s residents. The Chapter also believes that the Draft Plan displays a great consistency with the tenets of Livable Delaware which include the following:

- Guide Growth to Areas That Are Most Prepared to Accept it in Terms of Infrastructure and Thoughtful Planning

- Preserve Farmland and Open Space
- Promote Infill and Redevelopment
- Facilitate Attractive, Affordable Housing
- Protect Our Quality of Life While Slowing Sprawl

Respectfully submitted,

David R. Keifer, Sr., Land Use Chair, Delaware Chapter Sierra Club and Land Use Chair,
Southern Delaware Group Sierra Club.