Kent growth follows profits, not planning
Developers can easily skirt laws and build almost anywhere

By JEFF MONTGOMERY
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When Donna Feliceangeli started her commercial flower farm near Clayton in 1998, it was in the middle of a farming area state and county officials had pledged to preserve.

Shortly after Feliceangeli's first plants took root, though, developments started sprouting.

Since 2000, the county government has approved more housing lots than were authorized in the previous 30 years. More than 1,000 new homes and lots landed between Feliceangeli's home and Clayton -- well outside the approved "growth zone."

Kent County Levy Court recently approved a plan to subdivide a neighboring farm for 308 homes on half-acre lots adjoining the tiny spread on which she nurtures peonies, a popular but hard-to-cultivate flower.

"When they tell you 'agricultural conservation,' you would think they were trying to conserve agriculture. It sounds nice, but it doesn't mean that at all," Feliceangeli said. "They're putting all these houses across the street from me, and now I'll have to worry about people riding bikes through my field or helping themselves to my flowers."

Kent County, Delaware's new housing frontier, has grown faster than New Castle and Sussex counties in recent years. Experts say much of that is overflow from southern New Castle County, where rapid growth has driven up housing costs.

The county's approved growth area takes in 124 square miles -- nearly a quarter of the land. But even that has proven too small to satisfy developers.

More than one out of seven homes under consideration by the county today lie outside the growth zone, records show.

"Development is literally gobbling up the countryside," warned Nicholas A. DiPasquale, a state conservation leader and former Department of Natural Resources and Environmental Control secretary.

Delaware's environmental laws permitting on-site septic systems, combined with Kent County's development laws, make it legal to build houses almost anywhere. It's another example of how developers in Delaware skirt land use plans when they decide to build.

By comparison, neighboring Kent County, Md., limits development in farm areas not served by sewer to as little as one house per 30 acres.

"We would always use Delaware as a code word for bad development and sprawl when we were working on our comprehensive plan," said architect and former Chestertown, Md., resident Marsha Fritz. "I used to go to Dover quite a bit, and you can see the difference as soon as you cross the line."

Septics cheaper
Developers who decide to build on farmland can simply connect houses to septic systems. In fact, despite the $1 million-and-up cost of private septic systems, it's often cheaper and easier for a developer to build outside Kent County's growth areas, developers and planners said. That's because land costs less outside the growth area. And the developer doesn't have to pay county sewer connection fees of $2,420 per house.

Land can cost two or three times as much within the growth area, said Stephen Lefebvre, executive vice president of the Homebuilders Association of Delaware. Land within growth corridors commands a higher price because of access to community services, including public water and sewer, and because developers can build more homes per acre. The price of land now accounts for 35 percent to 40 percent of investment costs for housing developments, he said.

Michael McGrath, farmland preservation manager for the state Department of Agriculture, said simple economics is driving development outside the growth area in Kent County.

"The reason they do that is because they make more money. If they can pencil it out and make more money, that's like 'Duh,' " he said.

Developers bypass plans

Developers see septic systems as a way around Kent County's land use plans.

County law allows one house on an acre of farmland in developments to be served by individual septic systems. But large septic systems serving dozens or hundreds of homes also are growing in popularity among Kent developers, although Sussex County leads the state in that category.

Developers increasingly are turning to such so-called community septic systems. Community systems cost less in developments larger than 150 to 200 houses, developers say, and they provide a way to build more houses on property that might yield fewer lots using individual septic systems.

Nevertheless, the number of individual septic systems approved in Kent County jumped by 38 percent in 2002, to 792 lots, at a time when single-house installations were declining in Sussex County and New Castle County. Kent County has continued to add an average of 750 a year since.

State environmental officials deny that they actively promote septic systems for rural areas, and say the county's land use laws should require larger lots for building outside designated growth areas.

"They control land use. We can't just say 'No.' We're an environmental and technical agency. We have to have a technical or environmental justification for saying no," said Kevin C. Donnelly, water resources director for Delaware's Department of Natural Resources and Environmental Control.

New Castle County limits development to one house per five acres in the southernmost portion of the county. Sussex County, the most permissive, allows two houses per acre on septic systems.

Boyd White, who lives near Magnolia in Kent County, said the Levy Court should solve the problem locally.

"I would hope that Levy Court would. Land use is the county's responsibility," White said.

Land rush

Since 2000, Kent County has approved about 120 subdivisions outside municipal boundaries totalling 17,000 housing units, a five-year total that is 82 percent higher than the preceding 30 years. Some parts of the county, most notably Smyrna, have seen a 50 percent population increase over the same period.

Edward Ratledge, who directs the University of Delaware's Center for Applied Demography and Survey Research, attributed much of the change to high land costs in New Castle County.

Ratledge said higher housing costs might be tipping residents from New Castle County into Kent
County. Researchers last year spotted about 1,000 tax returns that had been filed by Kent County residents who lived in New Castle County just one year earlier.

"I don't think I've ever seen that big a slug come from one county into another," Ratledge said.

Some of that growth, state and county officials admit, has gone in the wrong direction.

One 1,200-home cluster outside the growth zone lies west of Garrisons Lake, a few miles from a golf course that taxpayers purchased for $5 million as an open-space investment despite its location in a long-established development tract along U.S. 13.

"It seems to be without plan despite all our planning. It still seems to have a strong air of opportunism," said Lorraine Fleming, a Delaware Nature Society board member.

Two views on sprawl

Leipsic resident Daniel Fox sees only betrayal of plans when he considers The Landings, which some see as a textbook example of runaway growth.

Kent County's Regional Planning Commission tried to stop the project in October.

The Landings, just beyond Leipsic's town limits, will include 132 houses served by a central septic system on the banks of the Leipsic River.

The proposal -- three miles outside the growth zone -- surfaced just as Leipsic completed a costly sewer connection to reduce pollution reaching the Leipsic River. County officials extended a limited-capacity pipe to the town last year as part of a $6.5 million project to eliminate bottlenecks and pollution problems in the county's northeast corner.

Leipsic-area resident Horace Pugh pointed out during a recent hearing on The Landings that taxpayers have spent millions eliminating septic systems in the area.

"To come in and put that in there after we've just tried to clean up the area really doesn't make sense to us."

Stage set for appeal

Regional planners rejected the project, but the developers promptly appealed to Levy Court, arguing that the project meets all county and state requirements. The commissioners recently voted 4-3 to approve the planning group's denial, potentially setting the stage for a Superior Court appeal.

Attorney Glenn Mandalas of Dover, who represents developer Tony Ashburn & Sons, pointed out that designs for The Landings call for only one-third of the houses allowable under county land use and state septic system rules. Although Levy Court has now banned such developments east of U.S. 13, The Landings would be grandfathered in.

Developers already have started building homes along Fast Landing Road just outside the town, although the subdivision itself still needs county approval. Separate approvals were given for homes fronting the road. Developers considered them part of the overall project.

"We don't need it. It does not fit in with our lifestyle in this area and we don't want that kind of development out here," Fox said.

Leipsic businessman John Carey, whose wife is a member of the Town Council, disagreed and described as misguided the county's decision to tighten land use restrictions even more with the new coastal zone restrictions.

"They approved this new coastal zone out here on the east side of the county and all the development is on the west side," Carey said. "They've devalued land that wasn't going to be developed anyway and then they turn around and pay millions of dollars to keep somebody from developing Garrisons Lake golf course right in the middle of the growth area."