

Why We Need to Plan

- ✓ Legislative requirement:
Title 22 for municipalities; Title 9 for counties
- ✓ Basis for local decisions
- ✓ Changing regional conditions
- ✓ Guidance for citizens and developers
- ✓ Eligibility for programs from other levels of government

Planning Commission Role

RESPONSIBILITIES

- State-Mandated, Title 22
 - **Prepares comprehensive plan, § 702(a)**
 - Recommends changes in official map to governing body, § 705
- Other
 - Reviews development-related matters such as, annexation, rezoning, site plans, subdivision applications, special exceptions, variances
 - Advises governing body
 - Approves certain applications

ORGANIZATION, Title 22, § 702(a)

- **Membership:** No fewer than 5; no more than 9
- **Terms:** 2-5 years
- **Appointment:** By mayor with council confirmation or elected by town commissioners
- **Officers:** Chairperson and secretary elected annually
- **Vacancies:** Same as original appointment for unexpired term
- **Removal:** For cause after public hearing and due process

Governing Body Role

- Appoints planning commissioners, Title 22, §701
- Adopts comprehensive plan, Title 22, § 702(d)
- Adopts comprehensive rezoning consistent with plan's land use designations, Title 22, § 702(c)
- Submits annual report on plan implementation to Office of State Planning Coordination by July 1, Title 22, § 702(g)
- Obtains legal advice from Town Solicitor



Planning Context

U.S. Constitution
www.constitutionus.com

Supreme law of the United States

State Constitution
www.delcode.delaware.gov/

Basic governmental structure and operation

State Code
www.delcode.delaware.gov

- State's general laws
- Authorizes municipal & county planning
- Specifies framework for planning

Municipal Charters
www.charters.delaware.gov

- Municipality's "constitution"
- Adopted by General Assembly
- Home rule vs. non-home rule

Ordinances

- Local law, relatively permanent, penalty for violation
- Examples—Zoning, subdivision, housing, building codes

Resolutions

- Generally do not have force of law
- Examples—Proclamations, rules of procedure

Planning in Delaware Code

Code Title & Chapter(s)	Sections	Topics
Municipal Planning Authority Title 22, Ch 7	701 702	Planning commission organization Comprehensive plan standards
County Planning Authority Title 9		Planning and zoning regulations for each county
State Role Title 29, Chs 91 & 92	9103 9203-9206	Plan review & certification PLUS Review
Municipal Zoning Title 22, Ch 3	301-311 321-332	General provisions Boards of adjustment
Annexation Title 22 Ch 1	101 105	Annexation requirements De-annexation
Statute of Repose Title 10, Ch 81	8126	Limitations on adopted plans and development plans
Meetings & Records (FOIA) Title 29, Ch 100	1003 1004	Public records Open meetings

www.delcode.delaware.gov/

State Planning Role

- Prepares document and map for State Strategies for Policies and Spending
- Reviews plan and organizes comments from state agencies via the Preliminary Land Use Service (PLUS)
- Reviews annexation Plan of Services
- Provides technical assistance
 - Director—David L. Edgell, AICP, david.edgell@delaware.gov
 - Circuit-Rider Planners
 - New Castle County—Tricia Arndt, AICP tricia.arndt@delaware.gov
 - Kent County—Joshua Thomas, AICP joshua.thomas@delaware.gov
 - Sussex County—Dorothy Morris, AICP, Dorothy.morris@delaware.gov

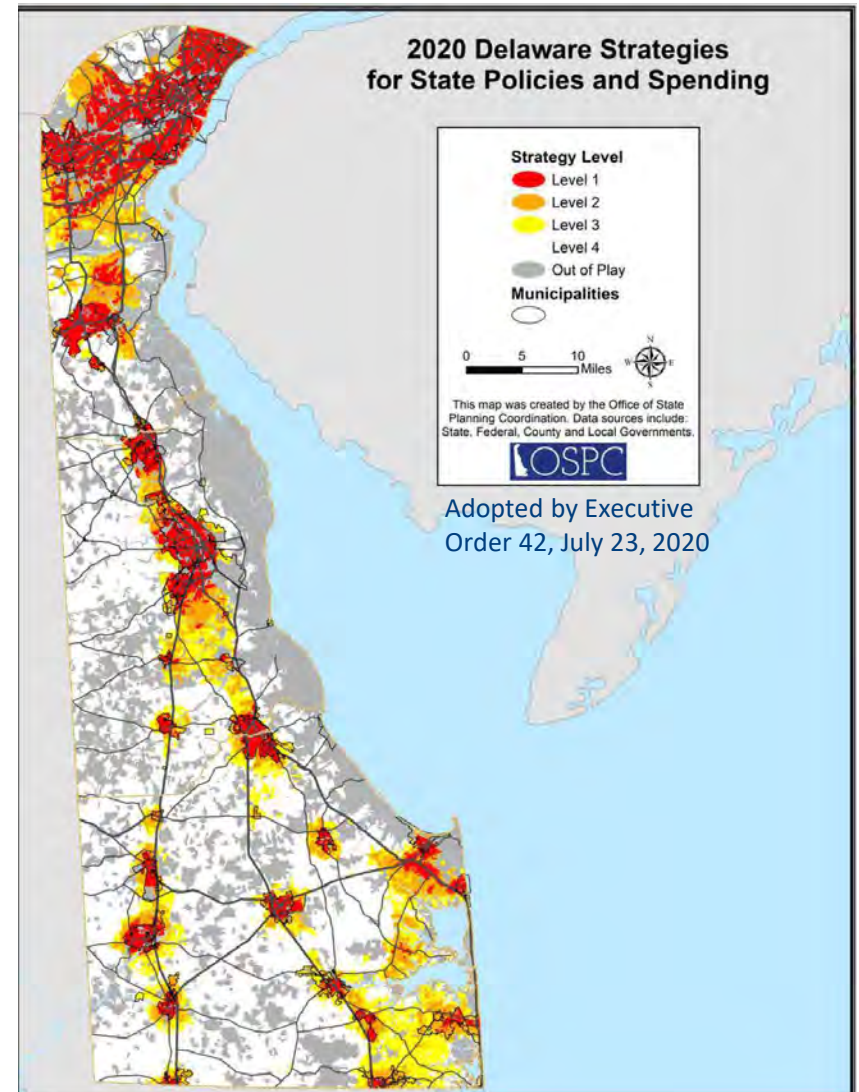


302-739-3090

www.stateplanning.delaware.gov

State Strategies

- Classify State into areas based on degree of urbanization
- Guide State spending
- Do not trump local land use prerogatives; localities make own land use decisions as per Delaware law
- Must be considered in comprehensive plans
- History
 - 1999 adopted
 - Updated in 2004, 2011 & 2015
- New Update adopted by Executive Order in July of 2020



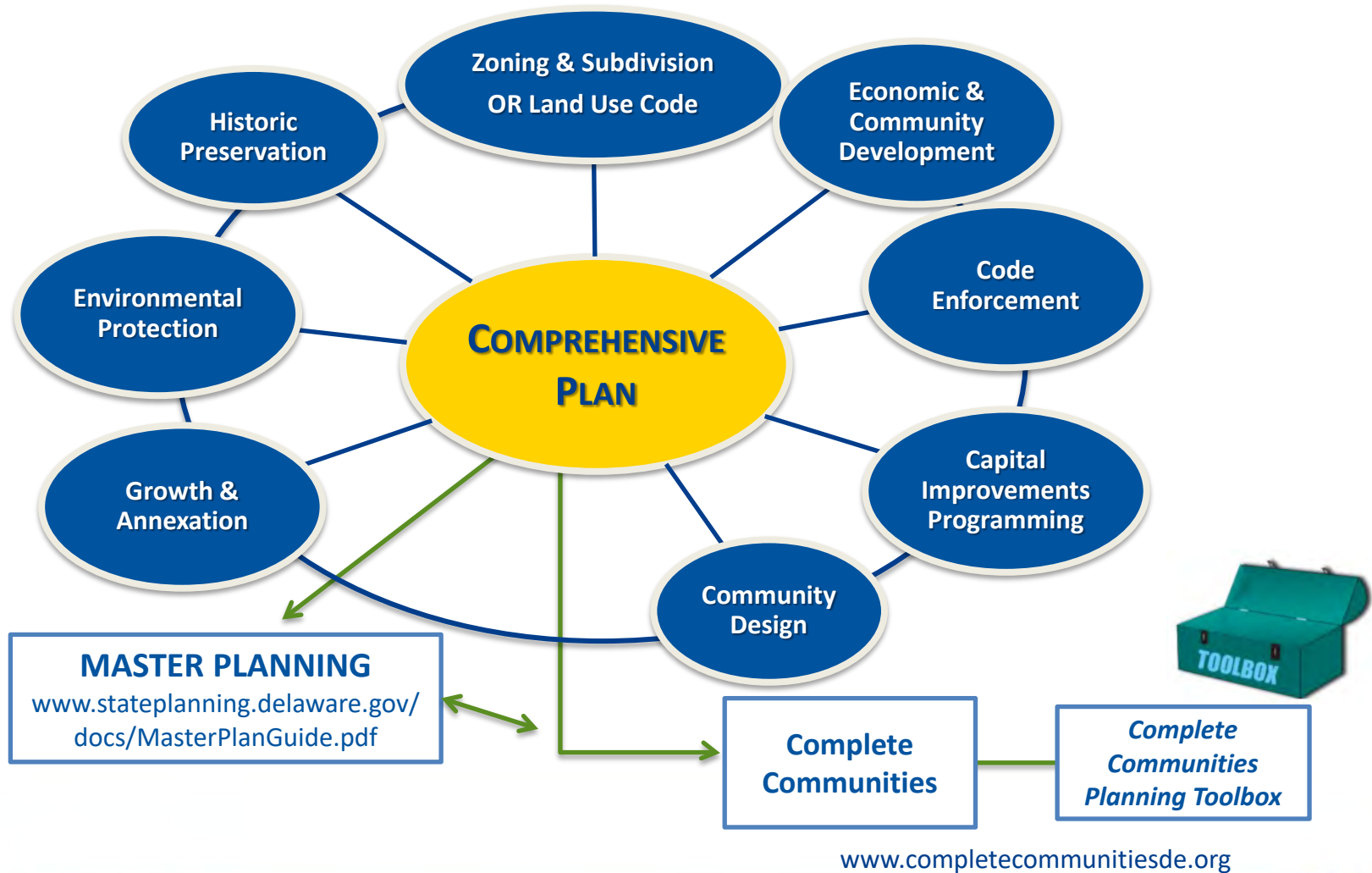
For additional information, log on to:
www.stateplanning.delaware.gov/strategies/

Preliminary Land Use Service Review

- What is the Preliminary Land Use Service (PLUS)
 - State Agency review committee that meets monthly
 - Created by Delaware Code
- PLUS review of comprehensive plans required by Del C.
 - Comprehensive Plans
 - Plan Amendments
- PLUS Process
 - Submit plan and application form by first working day of the month
 - PLUS meeting usually the fourth Wednesday of same month
 - Comment letter will be issued within 20 working days
- The comments
 - Certification Comments (must be addressed)
 - Recommendations

For additional information and PLUS forms, log on to <http://plus.stateplanning.delaware.gov/>

Municipal Planning Overview



Required Plan Elements For All Municipalities

- Position On:
 - Population Growth
 - Housing Growth
 - Expansion of Boundaries
 - Development of Adjacent Areas
 - Redevelopment Potential
 - Community Character
 - General Use of Land
 - Critical Community Development Issues
 - Key Infrastructure Issues
- Demonstrated Coordination with state, county, and other municipalities
- Municipal Boundary
 - Accurately depicted on maps
 - Recorded where mandated in municipal charter

Download the Municipal Comprehensive Plan Checklist at:
<https://stateplanning.Delaware.gov/lookup/documents/comprehensive-plan-checklist-guide.pdf>

Additional Plan Requirements For Municipalities Over 2,000

- Description of Physical, Demographic and Economic Conditions
- Policies, Statements, Goals and Planning Components for:
 - Public and Private Uses of Land
 - Transportation
 - Economic Development
 - Affordable Housing Community Facilities
 - Open Space and Recreation
 - Protection of Sensitive Areas
 - Community Design
 - Water & Wastewater Systems
 - Protection of Historical & Cultural Resources
 - Annexation
- Other Elements which in the opinion of the community best promotes health, safety prosperity and general public welfare.
- Source Water Protection
 - Separate map in plan document
 - Include in “Infrastructure” element
 - Adopted ordinance approved by DNREC

Download the Municipal Comprehensive Plan Checklist at:
<https://stateplanning.Delaware.gov/lookup/documents/comprehensive-plan-checklist-guide.pdf>

Position Statement Examples

Element	Position	Implementation Considerations
Housing Growth	Provide variety of housing types	<ul style="list-style-type: none">• Amend land use ordinance to allow housing mix, smaller lots, clustering
Boundary Expansion	Support infill over annexation	<ul style="list-style-type: none">• Amend land use ordinance to allow housing mix, smaller lots, clustering
Redevelopment Potential	Support business retention and expansion in original downtown	<ul style="list-style-type: none">• Amend land use regulations to permit office, retail, and residential in same building• Examine fee structure• Participate in Main Street program• Establish a Downtown Development District
Development of Adjacent Areas	Support development compatible with town land uses	<ul style="list-style-type: none">• Partner with county and state agencies to create a master plan

Transportation Element

- Transportation issues identified in study by DelDOT and town
- Alternative solutions developed



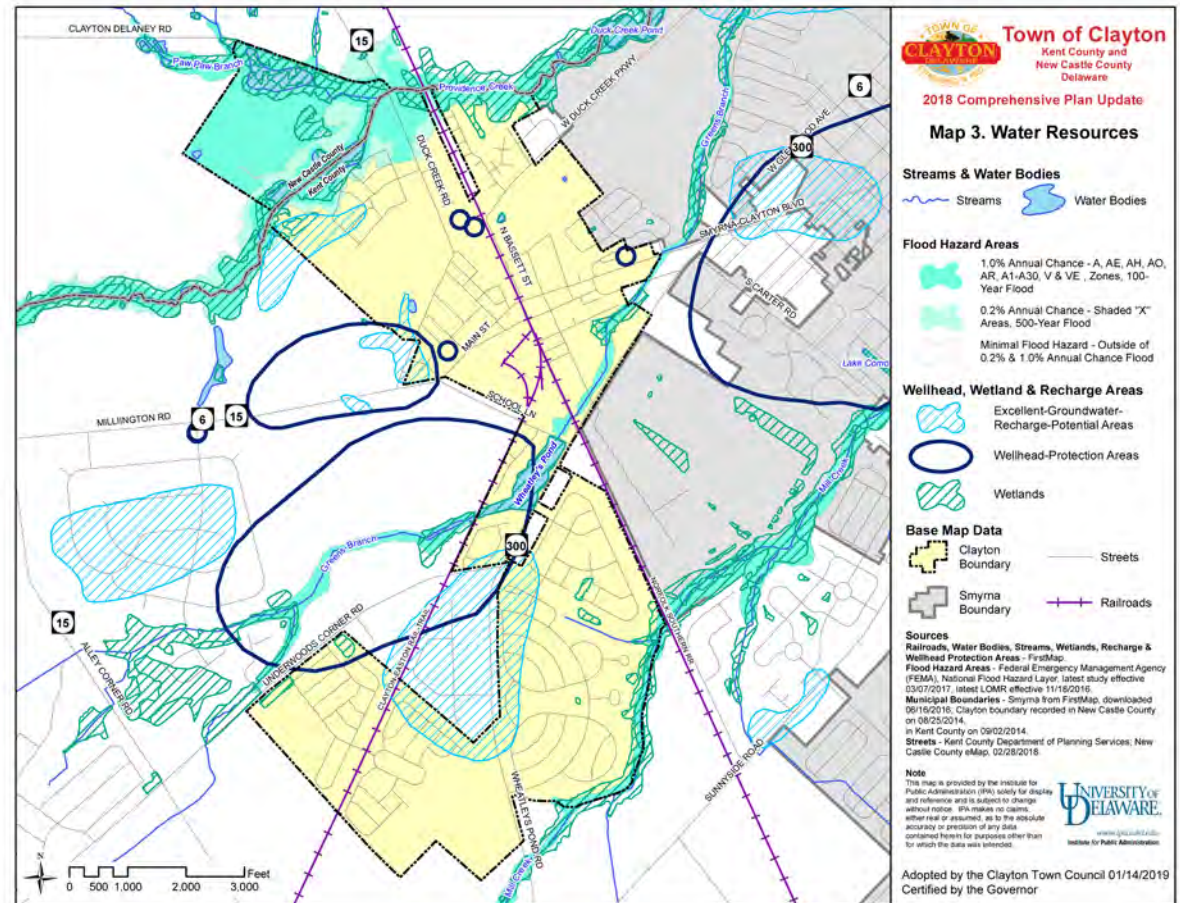
- Endorsement of preferred solution included in 2013 plan amendment
- Project incorporated into 2015-2018 TIP by Dover-Kent MPO
- Increase eligibility for funding



Source: www.camden.delaware.gov/files/2014/11/CamdenPlanAmendment_ADOPTED_2014-01-06.pdf, pages 5 & 6.

Environmental Element—General

- Identifies notable natural and environmentally sensitive features
- Text notes adoption of:
 - Source water protection ordinance
 - Flood hazard reduction ordinance
 - Zoning ordinance requirement for identification of wetlands on development plans

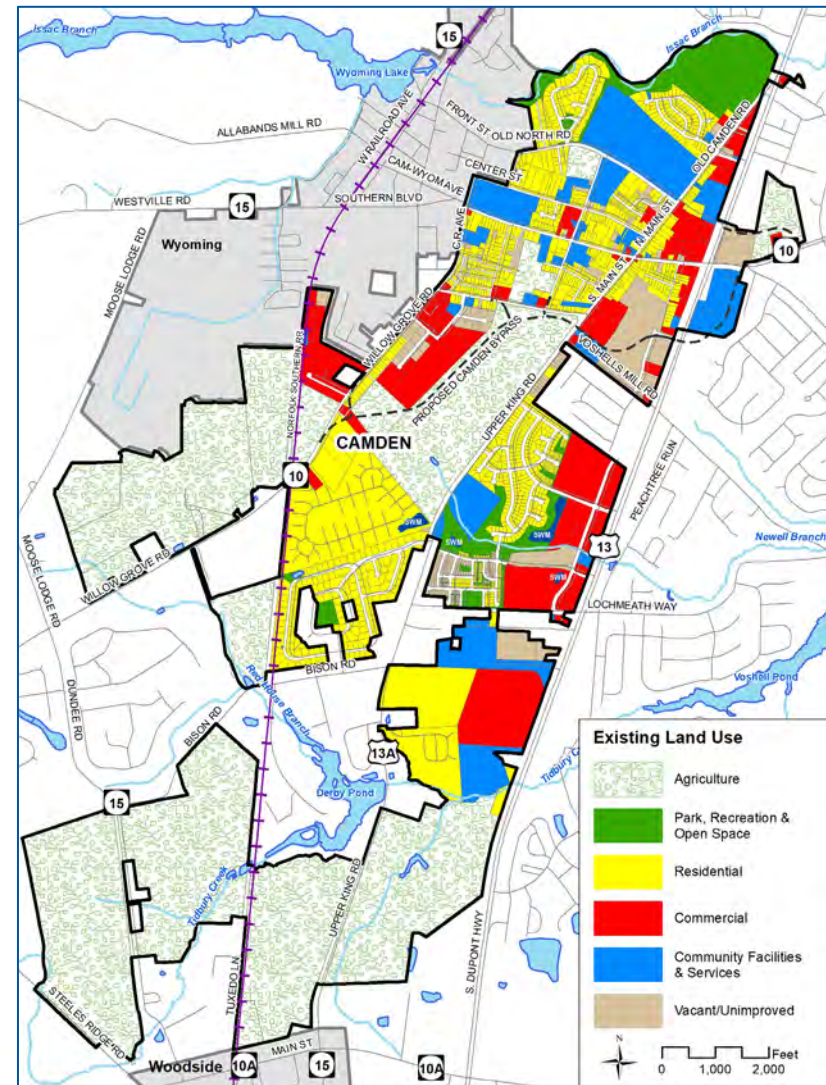


Existing Land Use

- Current land-use pattern
- Snapshot of the jurisdiction
- Focus on developing, redeveloping, and undeveloped land

Source:

https://redclay.wra.udel.edu/wpplan/wp-content/Plans/Camden/Camden-Comp-Plan_2019.pdf

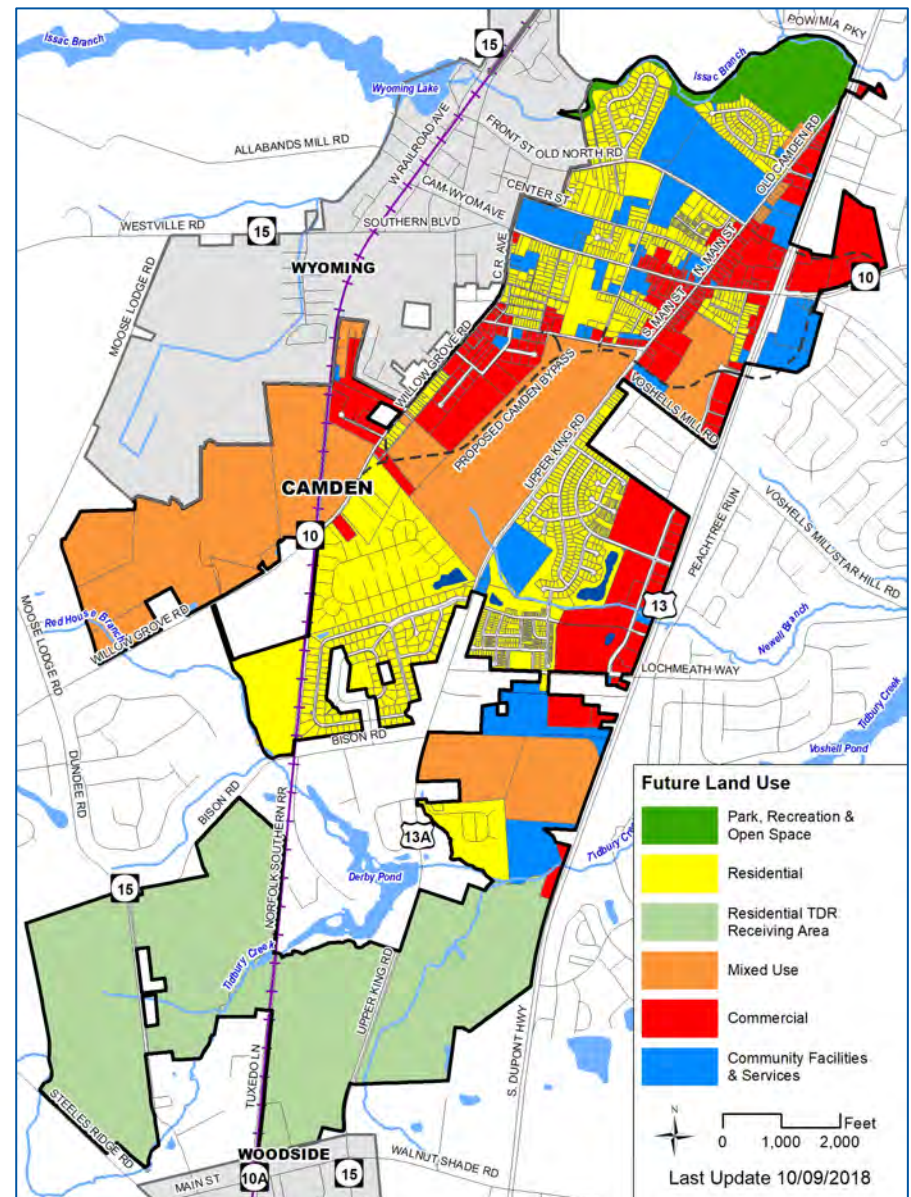


Future Land Use

- Desired development pattern
- Generalized land uses
- Density and character
- Basis for comprehensive rezoning and land-use (zoning and subdivision) ordinances
- Guide for development decisions

Source:

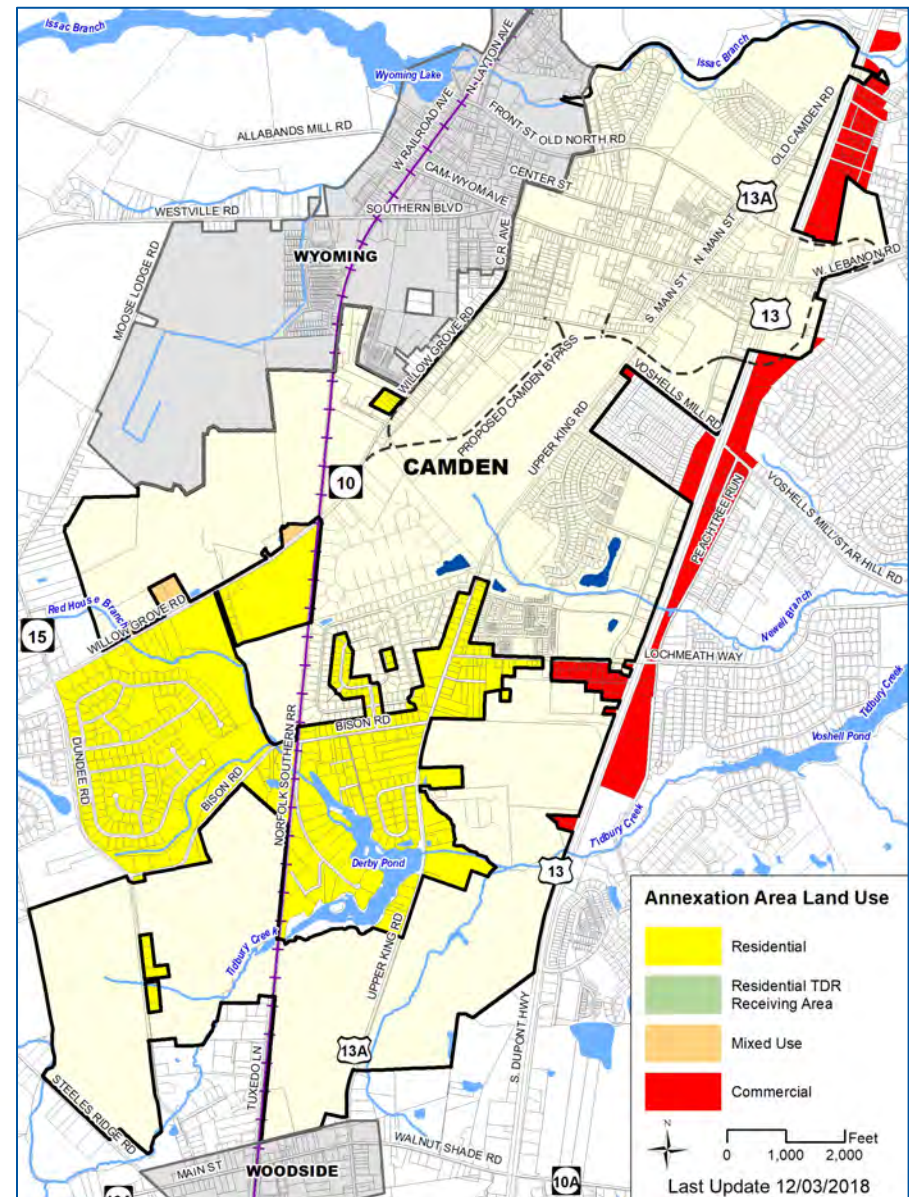
https://redclay.wra.udel.edu/wpplan/wp-content/Plans/Camden/Camden-Comp-Plan_2019.pdf



Annexation Area

- Must identify area proposed for annexation
- Must also identify desired land uses
- Can show on same map with future land use within jurisdiction

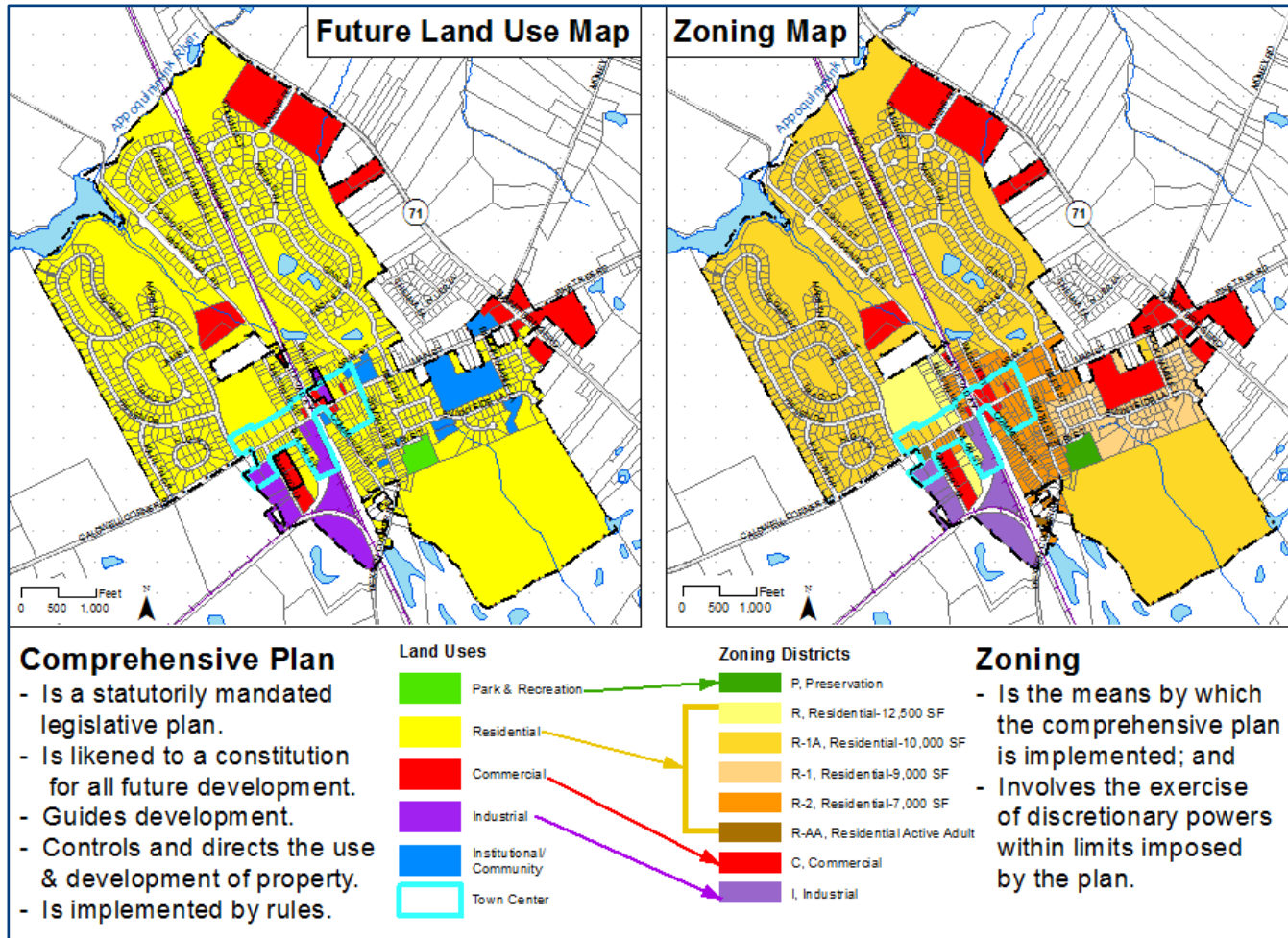
Source: https://redclay.wra.udel.edu/wpplan/wp-content/Plans/Camden/Camden-Comp-Plan_2019.pdf



Implementation

- Required Actions
 - Comprehensive Rezoning, Title 22, § 702(c)
 - Must amend zoning map within 18 months so that it is consistent with land use map, Title 22, § 702(c)
 - Consider establishing link between land use designations in plan and zoning districts
 - Example in “Land Use and Zoning Link” slide
 - Annual Report, Title 22, § 702(f), form transmitted with OSPC notice
- “No development shall be permitted if not consistent with the Comp Plan”
- Other Recommended Actions
 - Should be based on goals, objectives, and problems identified in plan document
 - Not considered mandatory
 - Concepts for consideration and review
 - Worded in general fashion

Land-Use & Zoning Link



Friends of H. Fletcher Brown Mansion v. City of Wilmington, 2013 WL 4436607 (Del. Super. Ct. July 26, 2013).

Amendment, 5-Year Review & Update Details

Items	Amendment	5-Year Review	Update
Basics	<ul style="list-style-type: none"> • May be done at any time • Recommend coordinating with annual report • May count as 5-year update in some cases 	Must decide whether Plan needs: <ul style="list-style-type: none"> • NO CHANGE: Plan still relevant & will guide town for next 5 years. • AMENDMENT: Plan basics still relevant but needs few changes. • UPDATE: Total update. 	<ul style="list-style-type: none"> • Required every 10 years, but could be done after 5 years • Full plan update
Content Examples	<ul style="list-style-type: none"> • Future land use • Annexation area • Something new, such as DDD 	Depends, see content examples for “Amendment” and “Update.”	<ul style="list-style-type: none"> • All OSPC & Code requirements: Goals, elements, maps
Public Process—PC Recommendation, Action by Governing Body	Yes	Yes	Yes, extensive public outreach expected
PLUS Review?	Yes	No for “No Change;” Yes for all other	Yes
Compliance with state code or charter requirements—source-water protection or boundary recordation?	Yes	Yes	Yes
Next review, amendment, or update	Depends on whether amendment counts as 5-year review	Complete update in 5 years	<ul style="list-style-type: none"> • Review in 5 years; • Update in 10 years • Amendments any time
Comprehensive rezoning after adoption?	Yes, if future land-use map changed	Yes, if future land-use map changed	Yes