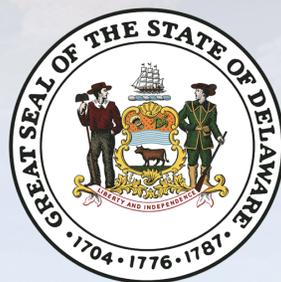


Report to the Governor and the 146th General Assembly

Cabinet Committee on State Planning Issues

October 15, 2010



Acknowledgements

Governor

Jack A. Markell

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Executive Summary

The changes that have taken place in state planning under Governor Jack Markell's administration have served to identify and capitalize on opportunities for economic growth while preserving Delaware's quality of life. The Office of State Planning Coordination (OSPC) now reports directly to the Governor's office and works in close coordination with the Cabinet Committee on State Planning Issues to implement and enhance multi-agency initiatives. In the past year some of these initiatives include:

- Creation of an Economic Development Ombudsperson to foster collaboration between and among agencies to ensure efficient site selection and permitting for economic development projects;
- Strengthening and streamlining of the Preliminary Land Use Service (PLUS) to provide clear, concise comments detailing regulatory requirements and site specific recommendations;
- Implementing the Complete Streets Policy through DeIDOT to ensure that all modes of transportation are integrated into new transportation infrastructure projects;
- Revised Timeframes for Permitting Responses in DNREC and DeIDOT provide predictable, accurate, and timely information to applicants, which aids in private-sector planning for investment;
- Updating the Delaware Strategies for State Policies and Spending to reflect all currently certified local government comprehensive plans and updating state agency data to more accurately direct state investments in infrastructure and services.

In order to support the state government and its agencies in making these critical infrastructure and public service investment decisions, OSPC reviews and tracks important trends in demographic changes and development trends. This report highlights a number of trends, such as:

- Delaware's population has grown to over 885,122 residents as of 2009, a 13 percent increase since 2000. These estimates are from the American Community Survey, and we are awaiting results from the 2010 U.S. Census to provide more detail regarding Delaware's changing population.
- Land-development activities consumed approximately 39,000 acres (about 3 percent of Delaware's land area) between 2002 and 2007. This period coincided with a very

significant development “boom” period. The largest amount of land development, almost 18,000 acres, occurred in Sussex County.

- Land-development activities are largely occurring within approved growth areas according to local government comprehensive plans and the *State Strategies*. Whether we are reviewing land-use change by land cover, the location of building permits, or development approvals, it appears that Delaware’s plans and land use regulations are effectively directing growth to locations where local governments and the state are planning infrastructure and services. New Castle and Kent County trends show a high degree of development concentration, whereas Sussex County demonstrates a more dispersed pattern of development activity.
- As might have been expected, economic conditions have led to a significant decrease in land development in Delaware during the past two calendar years. In 2005 during the height of the recent building boom, there were approximately 9,800 residential building permits issued in the state. There were fewer than 3,200 residential building permits issued in 2009.

The state continues to invest significant taxpayer resources to meet the needs and challenges of continued population growth and land-development activities. Since our state government is responsible for infrastructure and services that are usually delivered at a county or municipal level in other states, it is important to maintain a high degree of coordination and collaboration between the state and local governments. Here are some highlights of recent state expenditures and trends that support growth and development activities:

- The state expended \$1.21 billion in operating costs for public education in FY10 alone, which is roughly one third of Delaware’s \$3 billion operating budget.
- Since FY 2006, there have been 12 new public schools opened to meet the needs of increasing public-school enrollment and replacing aging school infrastructure. During this same period, the state expended \$343.7 million on new construction and land acquisition for these and other public-education capital projects.
- In the past five fiscal years, the state has expended \$1.06 billion on capital transportation projects to address the maintenance and expansion of our transportation system.
- During this same period, vehicle miles traveled have decreased, while transit ridership has increased. These are positive trends that reduce congestion and maintenance costs while improving air quality. Unfortunately, these trends have also led to decreased Transportation Trust Fund revenues, which are needed to meet future capital project needs.

- The state has provided approximately \$17.6 million to local governments for water and sewer infrastructure since FY06 through the Water Pollution Control Fund.
- To address Delawareans' public safety needs, the state has provided \$56.1 million to county governments to support paramedic services in the past five fiscal years. During this same period, the state has expended \$541.3 million to operate the State Police, which provides support to all local police agencies and serves as the primary police service for unincorporated portions of Kent and Sussex Counties.
- In the past five fiscal years, the Delaware Agricultural Lands Preservation Foundation has preserved 152 farms comprising 15,800 acres. These preservation activities are critical to maintaining the viability of the state's agricultural industry. The state has invested \$45 million during this period to preserve these farms.
- The Delaware State Housing Authority continues to provide a diverse array of housing assistance to a wide range of Delawareans through its Housing Development Fund and other sources. During the past five fiscal years, the agency has assisted over 8,500 homeowners, rehabilitated 1,800 units of homeownership housing, and preserved or rehabilitated over 3,100 rental units.

The State of Delaware will continue to coordinate among its agencies and with the municipalities and counties in order to meet the infrastructure and service needs of current and future Delawareans. In order to accomplish this coordination, the Cabinet Committee and the Governor are moving forward on the following land use agenda in FY11:

- **Adopt and Implement the 2010 Delaware Strategies for State Policies and Spending.** This will include continued work on master plans for smaller areas within counties and local jurisdictions to ensure efficient infrastructure investments and provide pre-permitted areas for economic development. OSPC will also be working on a scorecard system to evaluate development projects and on fiscal analysis tools to assist in budgeting for infrastructure and services.
- **Study and Consider Establishment of a Geographic Information System (GIS) Office.** A GIS office is necessary to organize and make more efficient the use and sharing of GIS data and information important to state, county, and local governments.
- **Legislative Initiatives** These initiatives would be limited to clearing up inconsistencies in Delaware's planning and zoning enabling statutes to ensure a more efficient and effective planning process. Such improvements would streamline government reviews and increase predictability for all parties engaged in growth and development activities, thus spurring economic growth while protecting our quality of life.

Purpose of Report



As required by 29 Del. C. c. 91, the Cabinet Committee on State Planning Issues is to provide a report to the Governor and General Assembly on its recent activities as well as propose legislative and/or administrative changes to improve the general pattern of land use within Delaware. This report highlights the outcomes of the Committee's support, through their representative agencies, of implementing the Strategies for State Policies and Spending, including a brief analysis on development and demographic trends that support the recommendations for future action contained herein.

The Cabinet Committee on State Planning Issues was established in 1994 as an advisory body to promote the orderly growth and development of the state, including recommending desirable patterns of land use and the location of necessary major public facilities. In essence, the mission of the Cabinet

Committee is to advise the Governor and General Assembly on coordinating the state's provision of infrastructure and services with the land- use decision-making process that is controlled by local governments.

This report complements the recently adopted 2010 Strategies for State Policies and Spending. It includes a summary of the progress made on land use and coordination in the past year, information on and analysis of new and noteworthy data, and provides updates on land use trends and fiscal expenditures related to land use. Finally, the report culminates with a series of recommendations intended to implement the Governor's land-use agenda during the coming year.

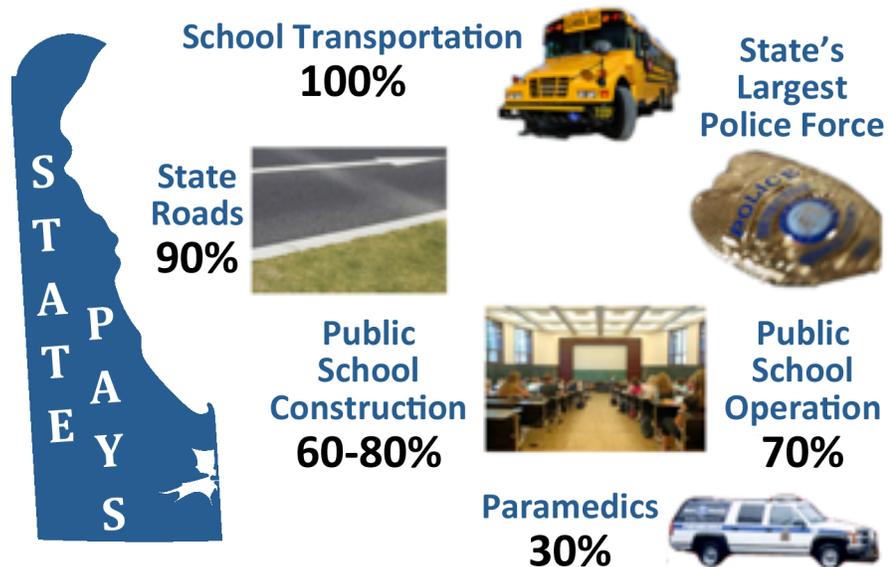
The Policy Framework for State Planning

Delaware is changing rapidly, both in population numbers and where people live. Should the State of Delaware be concerned about land-use planning? After all, land-use decisions are a local matter, aren't they? Actually "no," they're not really just a local matter. Though land-use decisions are made

by local jurisdictions (municipal and county), the impact of local government land-use decisions, land-development patterns, and each Delawarean's decision of where to live affects us all statewide. The effect can be felt both fiscally, as taxpayers, and in the livability of our state.

Unlike most other states, Delaware provides many of the services and a great deal of infrastructure throughout the state. For example:

- **Roads** – The state maintains more than 90 percent of Delaware roads, as compared to a national average of 20 percent. This includes more than 13,000 lane miles, 1,500 bridges, 1,100 traffic signals, and 250,000 signs.
- **Paratransit** – In 2009 more than 900,000 trips were made by the Delaware Transportation Corporation (DTC) at a per-person cost to the state of approximately \$33, compared to \$4 for the cost of a fixed-route DART ride.
- **Schools** – The state provides between 70 and 80 percent of school operating funding.
- **School Construction** – The state provides between 60 and 100 percent of educational-facility capital-construction funding, depending upon the local school districts' relative property wealth.
- **School Transportation** – The state provides 100 percent of school transportation costs (cost are up more than 50 percent since 2002).
- **Paramedic Services** - The state provides 30 percent of paramedic funding.
- **Police** - The State Police is Delaware's largest police force.



- **Service Centers** - The state funds 15 State Service Centers that deliver more than 160 programs and services on approximately 600,000 visits annually.

As can be seen from the above, state government has a large stake in where land is developed, and as such, the cost of providing these services is greatly affected by our pattern of land-use. In general, the more spread out we are, the more costly it is for taxpayers. Thus, for the state to allocate resources efficiently, we need to determine a clear path to our goal. Comprehensive Plans are the best available tool for setting our path and determining where to make investments.

The *Delaware Strategies for State Policies and Spending* provides a policy framework for planning in Delaware. Developed by the Cabinet Committee on Planning Issues to fulfill its directives under Title 29, Chapter 91 of the Delaware Code, the strategies provide a framework for the infrastructure and service investments by state agencies. The strategies also provide overall regional planning guidance for counties and local jurisdictions and are based largely on local desires and planning efforts, which were enabled and required by Titles 9 and 22 of the Delaware Code and certified by the state as directed by Title 29, Chapter 91 of the Delaware Code.

Progress on the Governor's Land-Use Agenda in 2009 and 2010

Office of State Planning Coordination reports to the Governor's Office

The Office of State Planning Coordination (OSPC) was re-instituted in 1995 in order to coordinate the land-use activities of all state agencies and to serve as staff to the Cabinet Committee on State Planning Issues. At that time, OSPC was affiliated with the Governor's State Budget Office for administrative purposes, but reported directly to the Governor's Office through the Governor's Chief of Staff.

In 2004 OSPC was consolidated with the State Budget Office into the newly formed Office of Management and Budget (OMB). From 2004-2009 OSPC functioned as a sub-unit of OMB's Budget Development, Planning and Administration section and reported to the Director of OMB.

Governor Markell has chosen to utilize the expertise of OSPC in a more direct and visible way to coordinate activities of the State agencies as they relate to land use planning, growth management, infrastructure, and service delivery. In 2009 OSPC was directed to report to the Governor's Office in order to assist the Governor in achieving his goals of making government more efficient and effective; promoting economic growth; improving educational opportunities for Delaware's children; and improving the quality of life for Delaware's citizens.

Office of State Planning Coordination charged with formulation and coordination of the Governor's land-use policy agenda

The Governor's Office has charged OSPC with the formulation and coordination of the Governor's land-use agenda. The first major policy initiative completed under this initiative is the 2010 Update of the Strategies for State Policies and Spending. This document is the overall policy guide directing the infrastructure and service investments of state agencies as they relate to land use, growth and development. The recommendations found later in this report will begin to implement the larger goals and objectives outlined in the 2010 strategies.

Preliminary Land Use Service (PLUS) strengthened and streamlined

The Preliminary Land Use Service (PLUS) was instituted in 2004 as a service to the development community and local governments. The process was intended to enable a comprehensive review of development proposals at the concept stage by all state agencies. Agencies were to provide information that would assist both the applicants and the local governments in complying with state permit and other requirements and also to recommend improvements to the projects based on each agency's area of expertise.

The PLUS process evolved and changed in response to workload as well as stakeholder and agency input. Nevertheless, by 2008 applicants and local governments had identified several concerns regarding the process. These concerns included increasingly detailed application data requested, and very long comment letters that did not distinguish state permit requirements from recommendations.

In order to address these concerns, OSPC revised the PLUS process in early 2009. The office recommitted itself to marketing the program to early stage "concept" plans. Concept plans have the greatest likelihood of being amended to address state recommendations, because the applicant typically has not invested in complete engineering of the site. The PLUS Application was streamlined to include fewer questions and less detailed data requirements to reflect this new focus. A new set of guidelines for state comments was developed and forwarded to the agencies. OSPC revised the PLUS letter to be more concise and user-friendly and clearly distinguish between regulatory comments and recommendations.

New Castle County had not previously participated in the PLUS process to a large extent by mutual agreement through their PLUS MOU. This year, due to the clear benefits of our new streamlined process, the County has now amended its Unified Development Code to formally incorporate PLUS into its subdivision and rezoning review process.

Economic Development Ombudsperson created

The Governor's Office created the position of Economic Development Ombudsperson to assist with economic-development projects that have the potential to offer significant benefits to the state's economy. One of the roles of the Ombudsman is to foster collaboration and cooperation among and between state agencies when considering site location and state permit requirements. In this role, the Office of State Planning Coordination serves as staff to the Ombudsperson to assist in the fulfillment of the Governor's objectives.

Complete Streets Policy created and implemented

The Governor signed an executive order directing the Delaware Department of Transportation (DelDOT) to implement a “Complete Streets” policy. This policy directs DelDOT to consider all modes of travel (auto, transit, bicycle, and pedestrian) when designing and constructing new transportation infrastructure. The goals of this program are to provide viable alternatives to automobile transportation, reduce traffic congestion, and improve the quality of life in towns, cities, and neighborhoods throughout the state. DelDOT is currently implementing this policy and is seeking ways to promote it to local governments and other entities throughout the state.

DelDOT and DNREC revised timeframes for permit responses

In response to the Governor’s initiative to create a more efficient and transparent state government, DelDOT and DNREC have committed to responding to certain permit applications within specified timeframes, in some cases as little as 60 days. This adds predictability to the process for applicants, and fosters interagency coordination on permit processing. This initiative is being successfully implemented by both agencies and will be refined and expanded in the coming months.

Delaware Strategies for State Policies and Spending updated

At the request of The Cabinet Committee on State Planning Issues, the staff from the Delaware Office of State Planning Coordination, with the assistance of the CCSPI member agencies, recently completed the scheduled update of the

Delaware Strategies for State Policies and Spending document and maps. The previous version of this important policy document was completed in 2004. This document was in need of an update due to the fact that nearly all local governments and many state agencies had updated

Strategies Purpose

- To coordinate land-use decision-making with the provision of infrastructure and services
- Why coordinate:
 - Land-use decisions are a local responsibility.
 - The provision of infrastructure and services is a State responsibility.
 - If the above aren’t coordinated, then waste and inefficiency can occur.



their plans and data sets during the six-year period. The update used the same methods to revise the Investment Levels maps, and the text was thoroughly revised and streamlined into a much more focused, concise policy document. The Cabinet Committee approved the final draft at its meeting on September 28, 2010, and forwarded the document to the Governor for his approval (see Appendices 1 and 2).

New Data and Noteworthy Trends

In the past several years, new data sources and updates of existing data sources have become available. These data demonstrate some noteworthy trends regarding land use, population growth, and development in Delaware. This section summarizes the data that are available.

Small-Area Population Projections

The Office of State Planning Coordination contracted with the University of Delaware's Center for Applied Demography and Survey Research (CADSR) to prepare the first small area population projections for the entire State of Delaware. These statewide projections are based on the Delaware Population Consortium projections and provide detail for relatively small geographic areas known as modified grids. These projections enable a highly detailed level of planning. The original set of projections was completed in 2006 and is in need of updating.

School District Enrollment Projections

The small-area population projections have made it possible to develop statewide projections for school district enrollment. CADSR and the Department of Education (DOE) utilized the small-area projections and additional DOE data to identify future trends in district enrollment. This is the first time consistent projections have been made for Delaware's 19 school districts, and they will be a great benefit when planning for new school facilities. Since these projections were based on the 2006 small area projections, they, too, are in need of updating.

American Community Survey Data

In December 2008, the U.S. Census Bureau began publishing detailed demographic and housing statistics from the American Community Survey (ACS). This survey is intended to replace the decennial census long-form by continually sampling the population and creating aggregated estimates based on rolling samples.

Single-year estimates (limited to only a few variables) for states, counties, and places (cities, towns, and school districts) of more than 20,000 persons are already available. These data will be based on three years of samples and will be published with clear-margin-of-error data. These data include a large number of demographic and housing variables, many of which will be comparable (with caution) to 2000 Census data.

Demographic Changes

The U.S. Census Bureau's latest population estimates indicate that Delaware had 885,122 residents in 2009, an increase of over 101,500 (13 percent) since the 2000 Census. Among the counties, Kent County grew by the largest percentage, adding more than 31,000 people, almost a quarter of its 2000 population total. Sussex was not far behind, gaining more than 36,000 or just over 23 percent. The estimates show New Castle County growing by only 6.9 percent, or a bit more than 34,000 new residents.

According to the Census Bureau, net in-migration was the largest growth factor for both Kent and Sussex Counties between 2000 and 2009. Kent County gained just over 23,000 and Sussex County more than 33,000 new residents by migration. In Kent County, domestic in-migration far outstripped international in-migration. In Sussex County, the opposite was true. In New Castle County, which saw a net loss of residents to domestic migration, natural increase (births minus deaths) was the largest growth factor.

Cumulative Estimates of Resident Population Change for Counties of Delaware and County Rankings: April 1, 2000, to July 1, 2009				
	Population Estimates		Change, 2000 to 2009	
	2000	2009	Number	Percent
Delaware	783,557	885,122	101,565	13.0%
Kent County	126,704	157,741	31,037	24.5%
New Castle County	500,272	534,634	34,362	6.9%
Sussex County	156,581	192,747	36,166	23.1%

*Source: U.S. Census Bureau, Population Division
Release Date: March 2010*

According to the Delaware Population Consortium, Delaware's population is projected to grow by more than 225,000 between 2010 and 2040, an increase of 25 percent, reaching a projected population of more than 1.1 million. Sussex County is expected to see the largest percent

Delaware Population Projections: 2010 to 2040				
	Population Projections		Change, 2010 to 2040	
	2010	2040	Number	Percent
Delaware	895,173	1,120,523	225,350	25%
Kent County	160,058	204,952	44,894	28%
New Castle County	538,170	606,881	68,711	13%
Sussex County	196,945	308,690	111,745	57%

*Source: Delaware Population Consortium
Release Date: October 2010*

increase in population (57 percent) and grow by almost 112,000 to 308,290 persons. Kent County's population is projected to reach 204,952 by 2040, gaining nearly 45,000, an increase of 28 percent. New Castle County is expected to grow by 13 percent over the same period, adding almost 69,000 to reach a 2040 population of 606,881.

Orthophotography and Land-Use/Land-Cover Data

The state, in partnership with the United States Geological Survey (USGS), the three counties, and the City of Dover, has collected high-resolution orthophotography for the entire state. This imagery can be used to illustrate various land-use types or demonstrate resources to be protected. As a part of the 2007 orthophotography project, the statewide land-use/land-cover data set has been updated. These data can be used to highlight areas by land-use type and to show the extent of development in small areas. It can also be used to graphically show land-use change.

Land-Use Change 2002–2007

An estimated 3 percent of Delaware lands changed from “undeveloped” to “developed” land uses between 2002 and 2007, according to an analysis of land use/land cover data derived from high-resolution orthophotography collected in the spring of those years. Except in Sussex County, most of that development was within the growth areas identified in the 2004 *Strategies for State Policies and Spending*.

“Undeveloped” uses in this analysis include wooded areas, wetlands, farm fields and orchards, farmsteads, and other low-impact human uses. “Developed” land uses include residential, commercial, industrial, active recreational (such as golf courses), transportation infrastructure, and lands in the process of being cleared for development.

Statewide, approximately 39,000 acres were developed over the five-year span, more than

11,000 in Kent Co., more than 10,000 in New Castle Co., and nearly 18,000 in Sussex Co. Almost two-thirds of the lands developed in Delaware were within the growth areas (Levels 1, 2 and 3)



development in south Smyrna (northern Kent Co.)



development west of Lewes (eastern Sussex Co.)

defined in the *State Strategies*. In Kent County almost 62 percent of development was within the growth areas. In New Castle County 87 percent of development was in the growth areas. In Sussex County, only 45 percent of land developed was within the growth areas.

Table 1: Land Development by County by Strategy Levels

	Kent		New Castle		Sussex	
	Levels 1, 2 & 3	Level 4	Levels 1, 2 & 3	Level 4	Levels 1, 2 & 3	Level 4
Area (acres)	85,946	297,248	177,816	99,765	124,573	501,877
Developed, 2002-2007	6,862	4,269	9,128	1,298	8,013	9,787
Percent Developed	7.98	1.44	5.13	1.30	6.43	1.95

Among the areas that saw the largest percent change in land uses were south of I-95 in northern New Castle County and around the Middletown and Smyrna areas in the southern part of the county. The area just south of Smyrna, where the towns' land-use plan had focused new growth, saw significant land-use changes as did the area south of Dover, identified as a growth area in the Kent County Comprehensive Plan. In Sussex County, areas that saw large amounts of development were south of Milford, along the U.S. Route 113 corridor between Georgetown and Millsboro, west of Lewes and Rehoboth and just outside Fenwick Island in the southeast.

Development-Trends Data

OSPC has been collecting building-permit and development-approval data from all sixty local jurisdictions since the start of 2008. Similar data compilations have been available for many years, but differ in format from county to county. Other compilations (such as assessment files) may or may not include the physical location of permits and approvals and rarely are reported consistently between jurisdictions.

OSPC has collected data on building permits, development approvals, and rezoning. This data collection includes tax-parcel information, which allows detailed analysis of development location using GIS. Data are combined to create a statewide data set that includes municipal and county data in a single format. This report includes data and analysis on development activity in calendar years 2008 and 2009.

It is important to note that these data are different from, and in some ways more precise than, Delaware's land-use/land-cover data. The land-use/land-cover data sets from 2002 and 2007 are based on aerial photography, and can be used to analyze gross land use changes over time. The Development-Trends Data represent actual local government permits and approvals in specific time frames.

The Development-Trends Data reflect two indicators of local government activity, development approvals and actual building permits.

Development approval information shows where developers have sought and obtained approvals from local governments to build projects. These data can be used to track the resolution of PLUS applications and show where developers are preparing to build in the future. These projects may or may not be built, depending on a variety of factors related to the economy, financial markets, real estate market demand, and the viability of the developer.

Building-permit data are a strong indication of where actual land development activity is occurring. Because permit information is actual, rather than speculative, it is a better indicator of actual market demand and development trends.

Please be aware of the context of this data. The U.S. economy was officially in a recession from December 2007 to June 2009. The housing industry was one of those sectors most affected by the recession; the bursting of the housing bubble was one of the main symptoms of the problem. The data reported here reflect a time period when the economy, in general, and the housing market, in particular, has been in turmoil.

Residential-Development Approvals

In 2008 and 2009, a total of 14,760 residential units were approved by local governments in Delaware. Sussex County jurisdictions approved the most units, 6,256 or 42 percent of the total. Not surprisingly, the development approvals peaked in the second half of 2008 when 5,495 units (37% of the total statewide) were approved. There was a steep decline in the number of approvals in 2009; only 4,436 units were approved that year.

The location of these approvals is an indication of the extent to which local governments are following their certified plans and, by extension, the *State Strategies*. During this period, local governments approved 11,408 units (77% of the total) in areas delineated as Investment Levels 1, 2 and 3 in the *State Strategies*. In both New Castle and Kent Counties, more than 90 percent of all residential units approved by local governments were in Levels 1 through 3. In Sussex County, only 54 percent were located in levels 1 through 3. Local governments in Sussex County approved 2,871 residential units (46% of the total approved units in Sussex County) in Level 4 areas during this period.

Residential Building Permits

Building-permit data more closely approximate actual building activity. During this period, building permits for 7,121 residential units were issued by local governments in Delaware. The

majority of these permits were issued in Sussex County, where local governments issued permits for 3,435 residential units (48 percent of all units permitted in the State).

As with development approvals, there was a decline in permit activity during the first half of 2009; this is understandable given the status of the national economy. One potential bright spot emerged from these data. Building permit activity increased in the second half of 2009 when permits were issued for 1,918 residential units statewide. This is slightly more than the same period in 2008 but still well below the number of permits issued in the first half of 2008, when permits for 2,091 units were issued. The total number of residential units issued building permits decreased 20 percent in calendar year 2009 when compared to 2008. During the height of the “housing boom” in 2005, other data sources report that approximately 9,800 building permits were issued in Delaware¹, compared with fewer than 3,200 in 2009.

The location of new residential units is perhaps the best measure of how planning coordination, land-use regulations, real estate market trends, and consumer preferences are converging. Statewide, 79 percent of residential units permitted by local governments were located in Investment Levels 1, 2 or 3 as defined by the *State Strategies*. New Castle County jurisdictions issued permits for 97 percent of their residential units in Levels 1 through 3, followed by Kent with 82 percent and Sussex with 68 percent.

It is also interesting to consider the location of residential building permits in municipal and county jurisdictions. Statewide, 68 percent of the residential building permits were issued in county jurisdictions in 2008 and 2009. The building trends in the three counties are quite different, however. In New Castle County residential permits were issued relatively evenly between the county and municipalities (52 percent vs. 48 percent, respectively). In Kent County, more permits were issued in municipalities (56 percent) than in the county (44 percent). In Sussex, the vast majority (89 percent) of residential permits were issued in the county.

Non-Residential Development Approvals

Non-residential development approvals include commercial, office, industrial, and institutional uses. In 2008 and 2009, local governments approved 8,196,681 square feet of non-residential development. More than half of this development was approved in New Castle County (52 percent). The remainder was split between Kent and Sussex Counties (25 percent and 23 percent, respectively).

¹ Delaware State Housing Authority, Housing Production Report, Delaware: 1998 – 2010ytd, last revised 08/26/10. This report is drawn from US Census data sources for stick-built residential units, and also from Delaware DMV records to account for new mobile home placements.

There was a decrease in non-residential development approvals between 2008 and 2009. Approximately 50 percent of the square footage approved over these two years was approved during the first half of 2008. By the second half of 2009, only 740,000 square feet were approved statewide, only 9 percent of the total for the entire period.

Most of the non-residential development approved by local governments in Delaware (93 percent) was located in Investment Levels 1, 2 or 3. In fact, in both New Castle and Kent Counties, less than 1 percent of non-residential square footage was approved for Level 4 areas.

Non-Residential Building Permits

In 2008 and 2009, local governments issued permits for 6,524,518 square feet of non-residential development. As with non-residential development approvals, just over half (51%) of the activity was focused in New Castle County. Sussex County jurisdictions permitted 30 percent of the total, while Kent jurisdictions permitted the remaining 20 percent of non-residential development activity.

Non-residential development permits decreased significantly (by 69 percent) in 2009 compared to 2008. Permitting activity was at its lowest level in the first half of 2009, when only 566,387 square feet were permitted (only 9 percent of the total for both years). There was a slight increase during the second half of 2009, with 982,053 square feet permitted by local governments.

Non-residential development has been permitted almost exclusively in Investment Levels 1 through 3. Statewide, 97 percent of all non-residential square footage was permitted in Levels 1 through 3. Kent County jurisdictions did not permit any non-residential development in Level 4. New Castle County permitted 1 percent in Level 4 and Sussex 8 percent.

Summary and Conclusions

Development approvals and building permits for both residential and non-residential uses showed noteworthy declines in calendar year 2009 when compared to 2008. This is expected, given the state of the economy and the significant impact of the current economic crisis on housing and real estate development. Approvals for new projects, particularly non-residential projects, have declined the most. There is a large inventory of approved but unbuilt or incomplete development projects throughout the state, which may partially explain the reluctance of the development community to speculate on new projects. Economic conditions, in general, and the availability of financing, in particular, are other reasons commonly cited by developers for the downturn in new development activity. Considering that real estate development activity is considered by many economists to be a sign of economic recovery, the

slight uptick in both residential and non-residential permits during the second half of 2009 can be seen as a positive sign for Delaware's economy.

Residential building activities are most predominant in Sussex County, while non-residential development activity is focused in New Castle County.

The location of new development and actual construction depends on many factors, including state infrastructure investments, county and municipal land-use plans, local government land development regulations, real estate market demands, lending practices, the viability of individual land developers, and consumer preferences. The Development-Trends Data indicate that development patterns in general are consistent with the *Strategies for State Policies and Spending* and certified local-government comprehensive plans.

The vast majority of residential units (79 percent) and non-residential square footage (97 percent) permitted in 2008 and 2009 were permitted in areas considered "growth areas," Levels 1, 2 and 3 of the *State Strategies*. It is worth noting that non-residential development is mostly occurring close to infrastructure in Levels 1 and 2 and is rarely permitted in Level 4, even in Sussex County. Residential development is less constrained to growth areas in Kent and, to a larger extent, in Sussex County. Both counties still have large inventories of approved subdivisions and lots in Level 4, and during this period Sussex County approved 46 percent of new residential development in these rural areas.

Comprehensive-Planning Progress

In 2008 both the Kent and Sussex County Comprehensive Land-Use Plans were reviewed through PLUS and the Governor’s Advisory Council on Planning Coordination (aka the Livable Delaware Advisory Council, or LDAC). The plans went through many revisions before they were ultimately forwarded to the Governor for certification. There were also 23 municipalities that had comprehensive plans or five-year plan updates adopted and certified by the Governor since January of 2008.

The following table shows the current status of all municipal comprehensive plans. Municipalities that are currently known to be updating or amending their comprehensive plans are noted to be “in progress.” There are three municipalities in New Castle County that do not have plans because they have ceded control of planning and zoning to the county. In addition, there are three very small municipalities in Kent County that do not have plans due to the lack of capacity and resources to develop them.

Table 2. Municipal and County Comprehensive Plan Activity 2008–2010 YTD

Municipality	County	Latest Planning Activity	Date Certified
Bowers Beach	Kent	Comprehensive Plan	05/15/2009
Camden	Kent	Plan Update	05/05/2008
Cheswold	Kent	Plan Update in progress	10/06/2003
Clayton	Kent	Plan Update	12/08/2008
Dover	Kent	Plan Update	02/09/2009
Farmington	Kent	Comprehensive Plan	11/17/2004
Felton	Kent	Plan Update	11/10/2008
Frederica	Kent	Comprehensive Plan	03/17/2004
Harrington	Kent	Comprehensive Plan	05/19/2008
Hartly	Kent	No Activity	
Houston	Kent	Comprehensive Plan	07/12/2007
Kenton	Kent	No Activity	
Leipsic	Kent	Comprehensive Plan	11/06/2006
Little Creek	Kent	Comprehensive Plan	08/07/2006
Magnolia	Kent	Comprehensive Plan	03/16/2009
Viola	Kent	Comprehensive Plan	03/17/2004
Woodside	Kent	No Activity	
Wyoming	Kent	Plan Update in Progress	01/05/2004
Milford	Kent / Sussex	Plan Update	01/26/2009
Smyrna	Kent / New Castle	Plan Update in Progress	05/16/2003
Arden	New Castle	Under County Control	n/a

Municipality	County	Latest Planning Activity	Date Certified
Ardencroft	New Castle	Under County Control	n/a
Ardentown	New Castle	Under County Control	n/a
Bellefonte	New Castle	Comprehensive Plan	08/13/2007
Delaware City	New Castle	Comprehensive Plan	11/24/2008
Elsmere	New Castle	Plan Update	08/12/2010
Middletown	New Castle	Plan Update	11/07/2005
Newark	New Castle	Plan Update	10/27/2008
New Castle	New Castle	Plan Update	07/21/2009
Newport	New Castle	Plan Update	05/01/2008
Odessa	New Castle	Comprehensive Plan	10/02/2006
Townsend	New Castle	Plan Update	07/07/2010
Wilmington	New Castle	Plan Update	09/28/2010
Bethany Beach	Sussex	Comprehensive Plan	06/17/2005
Bethel	Sussex	Comprehensive Plan	07/08/2008
Blades	Sussex	Comprehensive Plan	04/17/2008
Bridgeville	Sussex	Plan Update	09/11/2006
Dagsboro	Sussex	Plan Update	04/27/2009
Delmar	Sussex	Plan Update in Progress	07/25/2005
Dewey Beach	Sussex	Comprehensive Plan	07/29/2007
Ellendale	Sussex	Plan Update	10/06/2009
Fenwick Island	Sussex	Comprehensive Plan	10/16/2007
Frankford	Sussex	Plan Update	09/08/2008
Georgetown	Sussex	Plan Update	01/13/2010
Greenwood	Sussex	Plan Update	01/08/2008
Henlopen Acres	Sussex	Comprehensive Plan	07/09/2004
Laurel	Sussex	Plan Update in Progress	03/29/2004
Lewes	Sussex	Comprehensive Plan	10/19/2005
Millsboro	Sussex	Plan Update	06/01/2009
Millville	Sussex	Plan Update	02/10/2009
Milton	Sussex	Plan Update in Progress	12/01/2003
Ocean View	Sussex	Plan Update	07/13/2010
Rehoboth	Sussex	Plan Update	07/23/2010
Seaford	Sussex	Plan Update in Progress	01/12/2010
Selbyville	Sussex	Plan Update	08/06/2007
Slaughter Beach	Sussex	Comprehensive Plan	01/14/2008
South Bethany	Sussex	Comprehensive Plan	07/14/2006

State Financial Investments Supporting Recent Trends

In support of a growing population and changing demographics, the state government provides a variety of infrastructure and services. In accordance with the *Delaware Strategies for State Policies and Spending* and the Governor's land use agenda, Delaware has strategically invested state taxpayer dollars in important infrastructure and services. These funds help pay for public education, transportation, water and wastewater, public safety, agricultural and forest preservation, and housing. The following are some highlights showing fiscal trends and indicators from the past five fiscal years:

Public Education

In fiscal year 2010, capital expenditures for public education equaled \$137,672,800, which included the continued funding for on-going capital projects previously authorized. In FY 2010, due to the state of the economy, the DOE and OMB did not authorize the initiation of any new educational facility capital projects.

Table 3. Public Education Trends and Indicators FY 06–10

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Total Enrollment*	120,938	122,263	124,041	125,430	126,271
Charter School Enrollment	6,566	7,576	8,512	8,626	9,173
State Portion, Public Education Operating Budget (in thousands)	\$966,448.4	\$1,050,658.9	\$1,112,961.7	\$1,150,575.4	\$1,121,078.7
Education Bond Bill	\$124,678,800	\$140,811,300	\$141,311,800	\$132,788,300	\$137,672,800
New Construction and Land Acquisition**	\$21,326,400	\$53,877,600	\$63,305,500	\$120,504,900	\$84,678,000
New Schools Opened	1	5	0	2	4

Source: Delaware Office of Management and Budget; Delaware Department of Education

* Total enrollment includes charter school enrollment

** New Construction and Land Acquisition is a subset of the Education Bond Bill. The remaining portion of the Education Bond Bill funded other capital projects at school facilities.

Enrollment in public schools continues to rise, increasing from 124,041 during the 2007-2008 school year to 126,271 in the 2009-2010 school year. These figures include students in charter schools, which receive operating funds but not capital funds from the state.

In order to address increasing enrollment and the need for modern, updated facilities there were four new schools opened during FY 2010. In order to maximize the benefits to the communities and leverage state and local school-district investments, these facilities were located in Levels 1, 2 or 3 of the *Strategies for State Policies and Spending*.

Transportation

The state is responsible for maintaining approximately 90 percent of all roads in the state, compared with other states, which maintain about 20 percent of the roads. The state also is responsible for transit services. Responding to the demands of Delawareans for a safe, efficient transportation system is a challenge, especially in light of recent growth and development trends. Fiscal Year 2009 was the first year of the new revenue package for transportation, which was passed by the General Assembly in 2008. This revenue package supported DeIDOT's capital expenditures of over \$223 million of state funds in FY 09 and over \$170 million of state funds in FY 10 to address Delaware's transportation needs. Total capital spending in both years was over \$400 million including federal funds.

Table 4 demonstrates some encouraging trends that may ultimately play a role in reducing infrastructure costs, traffic congestion, and improving air quality. The number of registered motor vehicles has declined, while the number of licensed drivers has increased. This may indicate that some of the older, less efficient vehicles are being retired from the fleet. In addition, the number of vehicle miles traveled has decreased since 2006, resulting in less wear and tear on our roads, less air pollution and less traffic congestion. This decrease in VMT corresponds to an increase in transit ridership, indicating that some Delawareans are shifting modes from private vehicles to transit.

There are also some transportation challenges apparent in Table 4. Transportation Trust Fund revenues have decreased, ironically due to reduced VMT and increased fuel efficiency of the automobile fleet, which are such positive trends for other reasons. At the same time, capital expenditures have increased to address needed improvements to the transportation infrastructure. Paratransit requires a significant subsidy to operate, and its ridership has increased due to the aging population.

Table 4. Transportation Trends and Indicators FY06–10

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Licensed Drivers*	620,433	627,087	634,293	639,532	645,000
Registered Motor Vehicles*	841,620	854,604	857,697	823,590	825,000
Vehicle Miles Traveled*	9.407 billion	9.453 billion	8.9 billion	9.0 billion	9.1 billion
DART R2 Rail Ridership	974,890	1,028,631	1,073,296	1,137,709	1,237,000
DART Fixed Route Ridership	8.47 million	8.31 million	8.63 million	9.15 million	9.16 million
Paratransit Ridership	791,755	811,907	855,164	900,128	901,000
Transportation Trust Fund Revenues (in thousands)	\$477,840	\$494,597	\$450,548	\$450,490	\$436,211
State Capital Expenditures (in thousands)	\$266,519	\$183,663	\$220,654	\$223,524	\$170,337
Federal Capital Expenditures (in thousands)	\$109,947	\$104,459	\$155,733	\$201,516	\$239,114
Total Capital Expenditures (in thousands)	\$376,466	\$288,122	\$376,387	\$424,040	\$409,451

Source: Delaware Office of Management and Budget; Delaware Department of Transportation

*Data for calendar year

Water and Wastewater

While the operation of drinking water and wastewater systems has traditionally been the domain of Delaware's local governments, the state does provide significant funding to allow for the improvement and expansion of these systems. Table 5 lists recent state and federal expenditures on water and wastewater items through the Water Pollution Control Funds, which are programs that are administered by DNREC to provide support for community water and wastewater service projects. The state has also provided assistance for wastewater projects through a 21st Century Fund Wastewater Management Account.

Table 5. Water and Wastewater Funding to Local Governments FY 06–10

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Projects Funded	4	2	1	1	13
Water Pollution Control Funds (State)	4,358,333	1,350,000	2,248,333	2,250,000	7,279,347
Water Pollution Control Funds (Federal)	10,666,667	0	3,141,667	11,250,000	39,676,268
Water Pollution Control Funds (Total)	15,025,000	1,350,000	5,390,000	13,500,000	46,955,615
21st Century Wastewater Fund*	3,500,000	0	0	0	0

Source: DNREC Financial Assistance Branch

*State Funds

Public Safety

Paramedic Program

The state currently provides 30 percent of the funding that the counties use to provide their jurisdictions with paramedic service. In Fiscal Year 2010 the state provided \$11,058,500 in funding to the counties to support the paramedic program.

Table 6. State Paramedic Program Funding FY06–10

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
State portion	40%	40%	40%	40%	30%
New Castle County	\$4,435,790	\$4,724,359	\$5,090,914	\$5,293,550	\$5,299,828
Kent County	\$1,245,037	\$1,434,287	\$1,611,567	\$2,110,950	\$1,392,805
Sussex County	\$4,005,682	\$4,752,530	\$5,185,170	\$5,166,800	\$4,365,867
FY Total	\$9,676,509	\$10,911,176	\$11,887,651	\$12,571,300	\$11,058,500

Source: Delaware Office of Management and Budget

State Police

Over the past five years the funding necessary to support the State Police has steadily increased from \$101,777,700 in FY 06 to \$109,912,935 in FY 2010. In addition, the number of personnel employed to meet Delaware's public safety needs has increased from 840 in FY 05 to 1,111 in FY 10 (total employees include both troopers and related support staff).

Table 7. State Police Personnel and Budget FY 06–10

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Total Employees*	886	901	914	924	1,111
Budget	\$100,777,700	\$107,332,200	\$112,732,300	\$110,534,600	\$109,912,935

Source: Delaware Office of Management and Budget

*Includes both troopers and civilian staff

Farmland Preservation

Delaware has one of the most well regarded and most productive Farmland Preservation programs in the nation. Farmers and other landowners sell easements to their land to the state, which essentially extinguishes their right to develop the land but continues to allow a wide range of agricultural uses. In the past five fiscal years, the program has preserved 152 farms, totaling nearly 15,800 acres. This has been accomplished using a combination of federal, state and local funds.

The cost per acre of farmland easement has decreased significantly, from a peak of \$5,822 per acre in FY 07 to \$2,565 per acre in FY 10. The easement value is based on the assessed market price of the land for “highest and best use,” which is usually housing development. This decrease can be attributed to the state of the economy in general, and more specifically to the reduced demand for new housing and land-development projects. The result of this situation is that more acres of land can be preserved for each tax dollar in the current market.

Table 8. Farmland Preservation by Easement FY 06–10

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Farms Preserved	29	19	25	20	59
Acres Preserved	2,844	2,689	2,955	2,816	4,487
State Funds	\$8,241,297	\$10,491,129	\$8,707,319	\$12,612,007	\$5,036,700
Federal Funds	\$2,866,367	\$4,011,790	\$2,396,189	\$0	\$5,793,984
Local Funds	\$1,673,041	\$1,152,634	\$3,101,385	\$0	\$679,029
Legal and Survey*	\$241,396	\$185,409	\$136,650	\$132,637	\$217,203
Total Funds	\$13,022,101	\$15,840,963	\$14,341,543	\$12,744,645	\$11,726,916
Cost per Acre**	\$4,490	\$5,822	\$4,807	\$4,479	\$2,565

Source: Delaware Department of Agriculture

*State Funds

**Cost per Acre paid to land owner excludes legal and survey costs

Forestland Preservation

The Forest Preservation Program is a new program that has just gone through its first round of purchasing easements. In FY 2010 there were nine forest tracts preserved totaling 872 acres. The funding for these easements included state funding combined with funding from The Nature Conservancy, a private conservation organization.

Table 9. Forest Preservation by Easement FY 06–10

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Forest Tracts Preserved	N/A	N/A	N/A	N/A	9
Acres Preserved	N/A	N/A	N/A	N/A	872
State Funds	N/A	N/A	N/A	N/A	\$1,038,400
Federal Funds	N/A	N/A	N/A	N/A	N/A
Local Funds	N/A	N/A	N/A	N/A	N/A
Private Conservation Funds	N/A	N/A	N/A	N/A	\$412,403
Legal & Survey*	N/A	N/A	N/A	N/A	\$49,428
Total Funds	N/A	N/A	N/A	N/A	\$1,500,231

Source: Delaware Department of Agriculture

*State Funds

Housing

In 2010 the foreclosure crisis continued, with over 4,000 foreclosures filings by August. Delaware State Housing Authority (DSHA) programs assisted 52 homeowners through their foreclosure assistance program in FY 10. The agency also worked to assist Delawareans with their housing needs by helping over 1,000 households purchase or retain their homes. In addition, over 400 privately owned homes were rehabilitated, and over 600 rental units were created or preserved. All of this was made possible through the diverse array of programs offered by DSHA, funded through both state and federal sources. The Housing Development Fund is the primary financing resource used by DSHA.

DSHA's core services fall in two broad categories, each of which includes a variety of specialized programs:

- **Homeownership:** Assist low- and moderate- income (up to 115 percent of median family income) Delawareans in becoming homeowners and maintaining their homes.
- **Rental Housing:** Provide affordable rental housing assistance benefiting low-income (up to 80 percent of median family income) Delawareans to create new or rehabilitate/preserve existing affordable housing units.

Housing Development Fund

The Housing Development Fund is DSHA's primary financing resource for supporting the development of affordable housing statewide. Funding sources for the HDF include State General Assembly appropriations, document-recording surcharge, loan repayments and interest income. This program is designed to provide financing for developers and homeowners through sponsoring agencies. Types of developments that will be considered include, but are not limited to, the acquisition and/or rehabilitation of existing housing, the adaptive reuse of nonresidential buildings, and new construction. Both rental and for-sale housing are considered.

Table 10. DSHA Trends and Indicators FY 06–10

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Homeownership Assistance	1165	2776	1855	1678	1119
Homeownership Rehabilitation	265	393	370	360	415
Rental Units Produced	88	6	44	36	7
Rental Units Preserved (Rehab)	329	274	323	358	204
Rental Units Preserved (Contract renewals)	258	83	286	653	393
Foreclosure Filings	2288	3853	4488	6150	4151*
Foreclosure Assistance	N/A	7	89	54	52

Source: Delaware State Housing Authority

*through August

Recommendations: Land-Use Agenda Work Plan for 2010–2011

In order to implement Governor Markell's goals for Delaware, this land use agenda work plan is proposed to:

- **Make government more efficient and effective** by coordinating local land use actions with State infrastructure and service delivery, largely through implementing the *Strategies for State Policies and Spending* (see Appendices 1 and 2).
- **Promote economic growth** by enabling a predictable and transparent land use review and permitting process and leveraging State and local investments in infrastructure.
- **Improve educational opportunities for Delaware's children** by working with school districts and local governments to locate new schools in cost effective neighborhood settings in accordance with the *State Strategies* and local government comprehensive plans.
- **Improve the quality of life for Delaware citizens** by creating complete communities rich in amenities and services, encouraging a range of choices for residence and businesses, and protecting natural resources and our agricultural economy.

In response to the indicators, trends, and information highlighted in this annual report, the following work-plan items are recommended to obtain these goals:

Adopt and Implement the 2010 Delaware Strategies for State Policies and Spending

The 2010 *Strategies for State Policy and Spending* Update will continue to serve as a guidance document directing financial resources, provide land-use accountability and ensure a high quality of life for Delawareans. The adoption of this document will address the coordination of policy and fiscal concerns between all levels of government and work to eliminate government waste. This document is currently used by all state agencies when reviewing capital projects, PLUS projects, local comprehensive plans, and state-funded loans and grants.

The continuing purpose of the *Strategies for State Policies and Spending* is to coordinate land-use decision-making to allow for needed infrastructure and services in a manner that makes the best use of our natural and fiscal resources. The importance of such coordination lies in the fact that land-use decisions are made at the local level, while the bulk of the monies for infrastructure (e.g., roads and schools) and services (e.g., emergency services and social

services) that support land-use decisions are funded by the state. Thus the development of this document with local governments and citizens helps to create a unified view toward growth and preservation priorities that all governments can use to allocate resources.



In order to implement the *State Strategies*, the following activities are proposed for the 2011 calendar year: the use of master plans for key areas throughout the state; the creation of a pattern book to promote predictability and provide sample land-use patterns to enhance the economic vitality of new and existing development activities, and the evaluation of plans and developments with an eye toward fiscal responsibility.

- **Master Planning**

Master planning is a model approach to cooperative planning for smaller areas within large planning areas, which allows for a reduction in cost and prioritization of infrastructure investments and pre-permitting of development projects within the master-planned area for economic development.

“Master planning” is proactive planning tool that occurs beyond the boundaries of any one local government. A master plan is defined as a land-use plan focused on one or more sites within an area that identifies access and general improvements, and is intended to guide growth and development over a number of years or in phases. In short, master plans are intended to address issues that transcend the local level (e.g. growth and development, transportation, property rights, affordable housing, air and water quality, and agricultural district planning).

- **Pattern Book**

To implement and develop new master-planning efforts, the proposed pattern book would visually demonstrate to local governments and developers the variety of options for better-designed communities and assist in the development of local regulations to support their creation.

In response to continual concerns raised by local jurisdictions and citizens with regards to density and the appearance of new development, the proposed pattern book would provide outreach to local developers, citizens, and community leaders to build smarter, stronger, and safer communities. The pattern book would contain designs and techniques for building housing, neighborhoods and towns at a greatly accelerated pace while remaining true to the values and traditions of the people of Delaware. These traditions provide guidance and direction for building in harmony with the state's natural resources in the design and construction of environmentally responsible housing that incorporate many of the architectural features found throughout the state.

- **Communities Scorecard**

The purpose of a scorecard is to assist state agencies and developers make better project-level decisions that preserve our quality of life. This tool can help evaluate whether a particular project is advancing the long-term viability of a community or creating more impacts with little overall benefit to existing and new citizens. It could also be used to help a developer decide where to best locate particular uses, or to determine what uses are most appropriate over the long term for a particular parcel of land.

The scorecard is in the draft stages and is being reviewed by state agencies through a subcommittee of the Cabinet Committee on State Planning Issues. The Cabinet Committee on State Planning Issues will ultimately refine the scorecard and define the best use of this tool.

- **Comprehensive Plan Fiscal Note Model**

The Comprehensive Plan Fiscal Note Model is being developed to comply with Title 29, Chapter 91, Section 9103 (b) of the Delaware Code, which makes it a responsibility of the state to assess fiscal impacts of a given comprehensive land use plan. As stated in Delaware Code:

“The state review shall include an assessment of the potential fiscal impacts of the proposed county or municipal comprehensive plan as they relate to State-funded infrastructure and services, including but not limited to transportation, water and sewer systems, public schools, affordable housing, and public safety. The State’s review shall be based on such statewide land development goals, policies and criteria as may have been adopted by the Governor or Cabinet Committee on State Planning Issues, or as set forth in state law or regulation, or in provisions of the State's most recent capital budgets.”

The Comprehensive Plan Fiscal Note is in the draft stages and is being reviewed by state agencies through a subcommittee of the Cabinet Committee on State Planning Issues. The Cabinet Committee on State Planning Issues will ultimately refine the Fiscal Note Model and define the best use of this tool.

Study and Consider Establishment of a Geographic Information System (GIS) Office

The state should establish a GIS Coordination Office to organize and make more efficient the use and sharing of GIS data and information important to state, county, and local governments. This action is called for in the *Geospatial Strategic Plan for Delaware*² developed by a GIS coordination stakeholder group and based on national standards for state GIS coordination.

State and local government agencies depend on accurate and up-to-date geospatial data to guide economic development, land-use planning, and resource-management efforts. Government efficiency and effectiveness at all levels can be greatly improved by full coordination of these data sets, by all levels of government sharing data and supporting data development. State and local agencies now work together collegially on GIS data and projects. However, coordination and organization can be greatly improved by becoming more formally organized.

Formalize the Delaware Population Consortium

The state should formalize the Delaware Population Consortium (DPC) in state code and direct state agencies and county and local governments to use DPC projections in planning projects.

Having one set of mutually agreed-on demographic projections, developed by a consortium that includes a broad cross-section of stakeholders, is vital to efficient and effective land use planning, economic development, school planning, and other state functions. The Delaware Population Consortium has a long tradition of annual population projections for the state, counties and major cities in Delaware. This proposal would make the consortium more formal and help plan for long-term maintenance of demographic data resources for the state.

Legislative Initiatives

The following legislative initiatives are recommended to clarify and update the Delaware Code in support of the Governor's goals and to implement the land use agenda outlined in this report:

² http://stateplanning.delaware.gov/dgdc/strategic_plan/delaware_gis_strategic_plan_final.pdf

- **Clear up inconsistencies in Delaware Code.**

Legislation is proposed to clear up inconsistencies in the Delaware Code that relate to the Cabinet Committee on State Planning Issues, the Office of State Planning Coordination, and to streamline the comprehensive plan review and certification procedures.

The planning-enabling and plan-review sections of the Delaware Code are an accumulation of many pieces of legislation enacted by the General Assembly over the course of more than 40 years. When new legislation is drafted, every attempt is made to make it compatible with existing statutes. However, as the statutes are used on a daily basis by the Office of State Planning Coordination, other state agencies, and local governments, inconsistencies become apparent and create difficulties in processes and procedures. The proposed legislation corrects a number of these inconsistencies and also streamlines the process for the review and certification of local-government comprehensive plans. In order to further enhance the efficiency and effectiveness of state government, the Governor's Advisory Council on Planning Coordination is removed from the Code, and its powers and duties are transferred to the Cabinet Committee on State Planning Issues and the Office of State Planning Coordination.

- **Clarify that TDR transactions are not subject to realty transfer tax.**

Many local governments are enacting programs to encourage and enable Transfer of Development Rights (TDR) programs. These programs allow rural landowners to preserve their lands for agricultural use by legally transferring their right to build to developers who will utilize these rights in growth zones as designated by local governments and recognized by the *Strategies for State Policies and Spending*. These programs are very desirable to farmers who wish to stay in agriculture and for developers who wish to build more dense developments in areas that contain adequate infrastructure. For these transfers to work efficiently in the marketplace, there must be sufficient incentives to both buyer and seller. One of these incentives is that TDR transactions are not subject to realty transfer tax. Currently, the Delaware Code is not clear on this issue.

- **Amend state planning enabling statutes to clarify the use of overlay zones.**

Overlay zoning is a modern land-use regulatory technique that allows environmental, historic, design, density, or other criteria to be applied to one or more parcels. These criteria may be over and above what is required by the underlying zoning category. In many cases, overlay zoning is used (1) to protect sensitive natural features that do not follow parcel boundaries, or (2) to allow design flexibility to enable developers to create more attractive and integrated site designs that respond to market needs and community standards. A recent court decision (*Farmers for Fairness v. Kent County*) struck down an

overlay zone adopted by a local government and, in doing so, called into question the practice of overlay zoning in Delaware. The legal issue involved a section of the state's planning and zoning enabling statutes that can be traced to some "boilerplate" language that dates back to 1926. Examples of overlay zoning that can directly affect state programs and priorities include agriculture preservation, historic preservation, source water protection and corridor capacity preservation.

Appendices

Appendix 1

Delaware Strategies for State Policies and Spending Investment Level Summary

Appendix 2

Map 1. Delaware Strategies for State Policies and Spending 2010

Appendix 3

Analysis Methods for Development-Trends Data

Appendix 4

Development-Trends Data, January 2008–December 2009

Map 2. Non-Residential Development Applications 2008–2009

Map 3. Non-Residential Building Permits 2008–2009

Map 4. Residential Development Approvals 2008–2009

Map 5. Residential Building Permits 2008–2009

Appendix 1 - Delaware Strategies for State Policies and Spending Investment Level Summary

Purpose

The *Strategies for State Policies and Spending* coordinates land-use decision making with the delivery of infrastructure and services to make best use of our natural and fiscal resources. Coordination is important because land-use decisions are made at the local level, while the bulk of infrastructure (e.g., roads and schools) and services (e.g., emergency services and social services) are funded by the state.

While the *State Strategies* were being developed, local governments and citizens provided input to develop a unified view toward growth and preservation priorities while allocating government resources. The state is committed to the principles of the *State Strategies* and directs state agencies to fund only those projects that are in compliance with these strategies.

Strategies Map

The *Strategies for State Policies and Spending* map was created using a spatial data analysis that balances state, county, and local policies that favor growth for different areas of the state with policies that discourage growth. The analysis creates a statewide spatial data set that reflects the combined policies of all levels of government to highlight which areas are most appropriate for growth. This analysis combines data sets that depict lands in three main categories:

- Lands that are out of play; that is, not available for development or redevelopment, such as wetlands, parkland, conservation easements,
- Lands for which state and local policies do not favor growth and
- Lands for which state and local policies do favor growth.

The Investment Levels

The categories for **favoring** and **not favoring** growth are depicted on the map as **Investment Level's 1, 2, 3 and 4**. The levels are not meant as ascending levels of importance, but as a way to distinguish the different types of funding priorities within each area. The map designates levels 1-3 as areas of the state that are most prepared for growth and where the state can make the most cost-effective infrastructure investments for schools, roads, and public safety. In level 4 areas where development is not preferred the state will make investments that will help preserve rural character and the agricultural economy, such as investments to promote open space and agricultural preservation.

Level 1

Investment Level 1 Areas are often municipalities, towns, or urban/urbanizing places in counties. Density is generally higher than in the surrounding areas. There are a variety of transportation opportunities available. Buildings may have mixed uses, such as a business on the first floor and apartments above.

Strategy for Level 1: In areas where the population is concentrated, commerce is bustling, and a wide range of housing types already exist, state policies will provide for their continued health and vitality through reinvestment and redevelopment and through the efficient use and maintenance of existing public and private investments.

Investment Examples: Infill and redevelopment, brownfields, traffic management, new or expanded public facilities

Level 2

This investment level has many diverse characteristics. These areas can be composed of less developed areas within municipalities, rapidly growing areas in the counties that have or will have public water and wastewater services and utilities, areas that are generally adjacent to or near Investment Level 1 Areas, smaller towns and rural villages that should grow consistent with their historic character, and suburban areas with public water, wastewater, and utility services. These areas have been shown to be the most active portion of Delaware's developed landscape. They serve as transition areas between Level 1 and the state's more open, less populated areas. They contain a limited variety of housing types, predominantly detached single-family dwellings. Their commercial and office uses, such as grocery, video rental, and drug stores, typically cater to local residents. Level 2 areas often offer a limited range of entertainment, parks and recreation, cultural, and institutional facilities.

Strategy for Level 2: Base investments on available infrastructure to accommodate orderly growth, promote a broader mix of housing and commercial sites, encourage development consistent with area character, and encourage compact, mixed-use development.

Investment Examples: Intersection and transit improvements, water/sewer expansion, park acquisition

Level 3

Although some factors support growth in these areas, there are other factors that argue for land preservation or longer-term phased development. These areas could be lands that are, in the long term, growth plans of municipalities or counties but where development is not necessary to accommodate growth during the current, five-year planning period. This is the level where growth is least appropriate among the three growth-oriented investment levels.

This level could also contain lands adjacent to, or intermingled with, fast growing areas in levels 1 or 2. These adjacent lands may be environmentally sensitive, associated with agricultural-preservation issues, or be affected by the availability or capacity of infrastructure.

Strategy for Level 3: The strategy for Level 3 is to invest in these areas once Levels 1 and 2 are substantially built-out, or when infrastructure or facilities are a logical extension of existing systems deemed appropriate to the area.

Investment Examples: Corridor preservation, health and safety, Transfer of Development Rights (TDR)

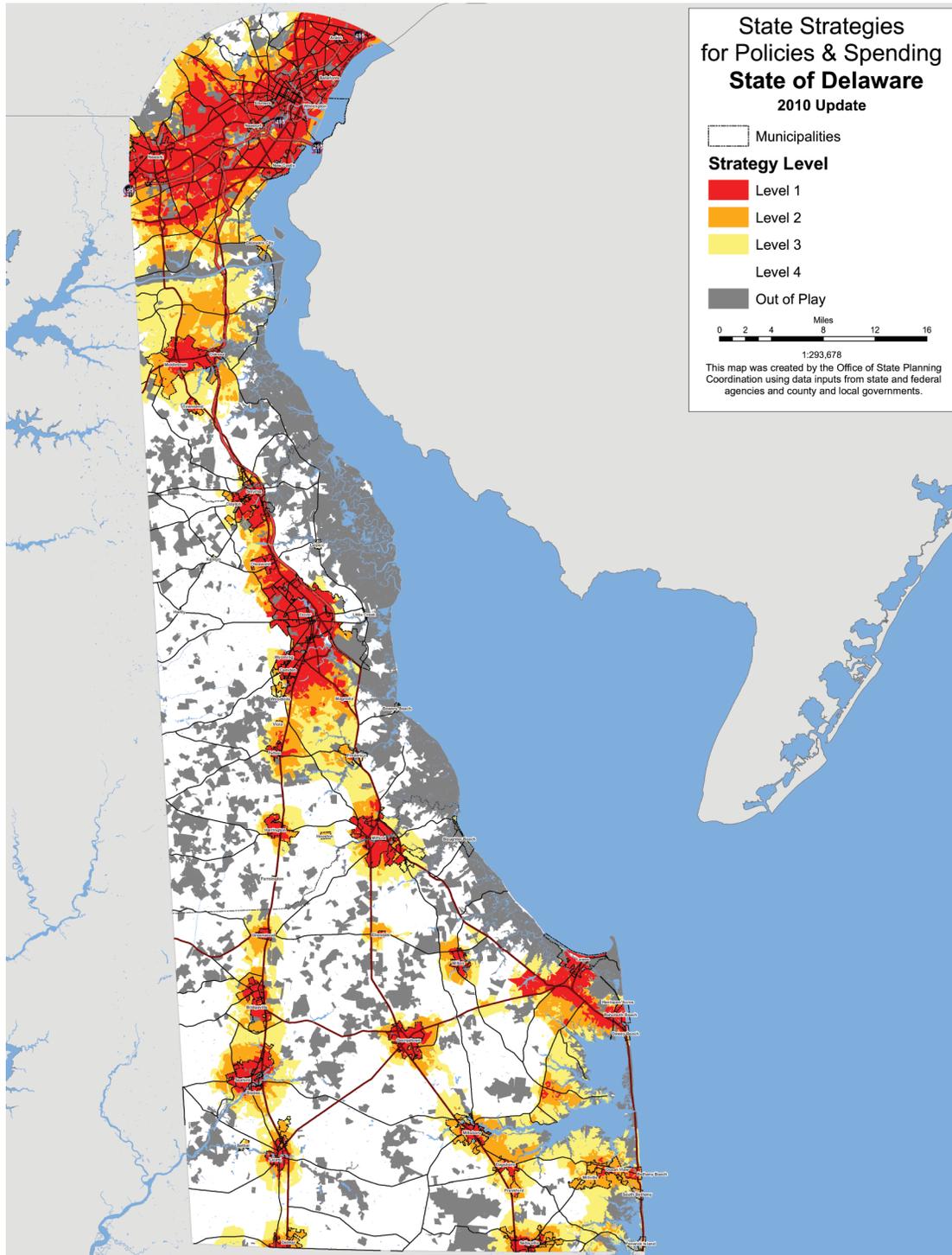
Level 4

Delaware's Investment Level 4 areas are predominantly agricultural, along with undeveloped natural areas such as parks and fish/wildlife preserves. Sometimes private recreational facilities, such as campgrounds and golf courses, are also situated in Investment Level 4 areas.

Strategy for Level 4: State investment and policies should retain the rural landscape and preserve open space and farmlands to attempt to establish defined edges around more concentrated development, maintaining a clear boundary between rural and more urban landscapes. The state will preserve existing transportation facilities and services, only supporting new projects that provide necessary maintenance and safety improvements. Water and wastewater investments will be limited to maintaining existing systems or responding to imminent public health, safety, or environmental risks, with little or no provision for additional capacity to accommodate further development.

Investment Examples: Agriculture and open-space preservation, health and safety, TDR

Appendix 2 - Map 1. Delaware Strategies for State Policies and Spending 2010



Appendix 3 - Analysis Methods for Development-Trends Data

Every six months, the Office of State Planning Coordination (OSPC) collects data on approved development applications and building permits from counties and municipalities in Delaware. These data are collected for the purpose of tracking the location and extent of development pressures. These datasets report the number of residential units or amount of nonresidential square footage authorized by either issued building permits or approved development applications. A GIS analysis of these data allow for the summation of residential units and nonresidential square footage approved by their location (e.g., jurisdiction, county, or census county division). Additionally, this analysis enables the tracking of the number of residential units and amount of square footage approved within each of the investment levels outlined in the 2004 *Delaware State Strategies for Policies and Spending*.

The results of this GIS analysis form the basis for an ongoing trend analysis of development activity in Delaware. It can constitute a significant component of the annual Cabinet Committee on State Planning Issues' report to the Governor and General Assembly that is required by Delaware Code.

Overview of Analysis Methods and Limitations

The Office of State Planning Coordination conducted a spatial analysis in order to examine the location and extent of recently approved development across Delaware. *ArcMap*, a geographic information systems (GIS) software package produced by Environmental Systems Research Institute, Inc. (ESRI), was used to conduct the analysis. The analysis utilized the best available spatial datasets in order to compare the location of recently approved development relative to the location of the State Investment Levels delineated in the *Strategies for State Policies and Spending*.

The Office of State Planning Coordination requested that Delaware's municipalities and counties submit data on the location and characteristics of development applications approved and building permits issued during calendar years 2008 and 2009. These submissions formed the basis for the spatial analysis. For each building permit or development application, the submissions included parcel identification data, the number of residential units and/or amount of non-residential square footage associated with the permit/application, and, in some cases, street address or other information (e.g., subdivision name) descriptive of the particular permit/application.

Using the parcel identification information as a unique identifier, the submissions were "joined" with recent county parcel files to create a spatial dataset representing the location and characteristics of Delaware's approved development applications and issued building permits. These data were overlaid on a spatial dataset representing the Investment Levels from the

Strategies for State Policies and Spending. The number of residential units and amount of non-residential square footage approved in each of the four Investment Levels were then counted.

The results of this analysis indicate general trends regarding the location and magnitude of recently approved development in Delaware's incorporated and unincorporated areas, and should not be seen as providing precise numbers that can be quoted with certainty. The considerations below should be kept in mind as these datasets are reported and further scrutinized:

- The following pieces of data were removed from the dataset for analysis purposes:
 - Building permits or development applications marked as "Expired"
 - Building permits or development applications that were identified as "non-residential," but had no square footage information
 - In instances where county and municipal jurisdictions reported building permits or development applications for the same parcel, the duplicate county information was removed
- In some cases, parcel information changed between the time that a development/permit was approved/issued and the time that this analysis was conducted. This made it difficult to locate certain parcels in the latest versions of the county parcel files. Older versions of the county parcel files and online mapping sites for individual counties were referenced in order to properly locate these parcels. In the case of parcels where multiple residential units were reported and subdivision subsequently took place, these units were equally allocated among the newly created parcels.
- Street addresses were used to locate some parcels for which a matching parcel identifier could not be found.
- The information used to construct this dataset was passed from local jurisdictions to OSPC and IPA. Human error could have contributed to possible data inaccuracies.

Data Procedures

Data analysis was performed on the recently approved developments and issued building permits datasets in order to present information on topics such as the number of units or square footage approved by Investment Level and the number of permits issued by jurisdiction or geographic area. The following general data procedures were used:

Calculation of Residential Units/Non-Residential Square Footage per Investment Level: Using the data on spatial location of recently approved developments and issued building permits provided by OSPC, residential units and non-residential square footage were assigned to *State Strategies* Investment Levels and counted.

Summary of Residential Units/Non-Residential Square Footage per Jurisdiction/Area: Using the data on spatial location of recently approved developments and issued building permits, developments and permits were assigned to jurisdictions and Census County Divisions (CCDs)³ and summarized.

³ The U.S. Census Bureau defines CCDs as “county subdivisions that were delineated by the U.S. Census Bureau, in cooperation with state and local government officials for data presentation purposes...The boundaries of CCDs usually are delineated to follow visible features and coincide with census tracts where applicable. The name of each CCD is based on a place, county, or well-known local name that identifies its location.”

Appendix 4 - Development-Trends Data, January 2008– December 2009

Table A-1. Non-Residential Square Footage Approved by Development Application

	2008	2009	Total
New Castle County	2,824,514	1,447,092	4,271,606
Kent County	1,706,264	326,537	2,032,801
Sussex County	1,275,214	617,060	1,892,274
Total	5,805,992	2,390,689	8,196,681

Source: Delaware Office of State Planning Coordination

Table A-2. Non-Residential Square Footage Approved by Building Permit

	2008	2009	Total
New Castle County	2,193,753	1,114,275	3,308,028
Kent County	1,011,517	265,099	1,276,616
Sussex County	1,770,808	169,066	1,939,874
Total	4,976,078	1,548,440	6,524,518

Source: Delaware Office of State Planning Coordination

Table A-3. Residential Units Approved by Development Application

	2008	2009	Total
New Castle County	3,070	357	3,427
Kent County	3,536	1,541	5,077
Sussex County	3,718	2,538	6,256
Total	10,324	4,436	14,760

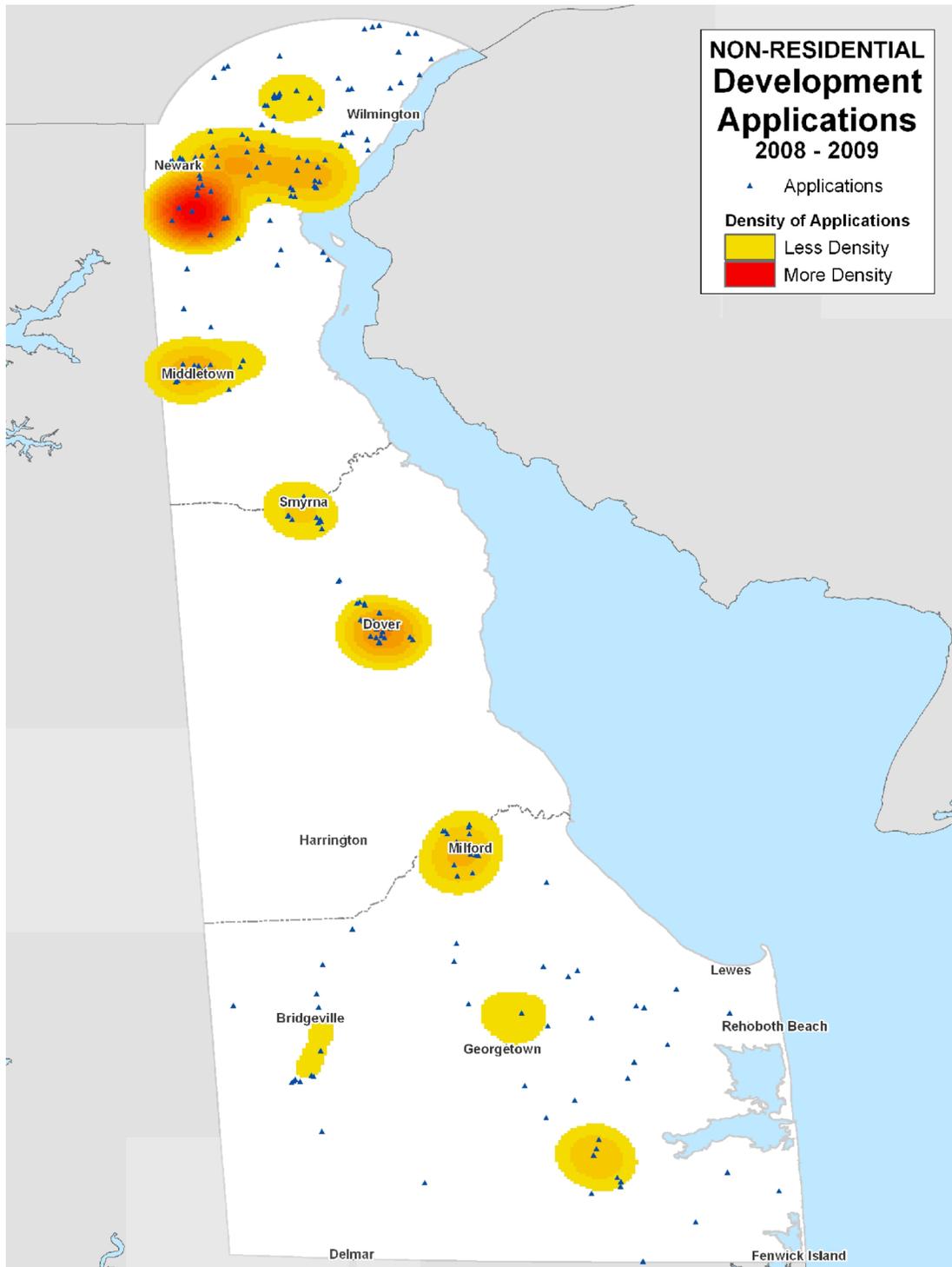
Source: Delaware Office of State Planning Coordination

Table A-4. Residential Units Approved by Building Permit

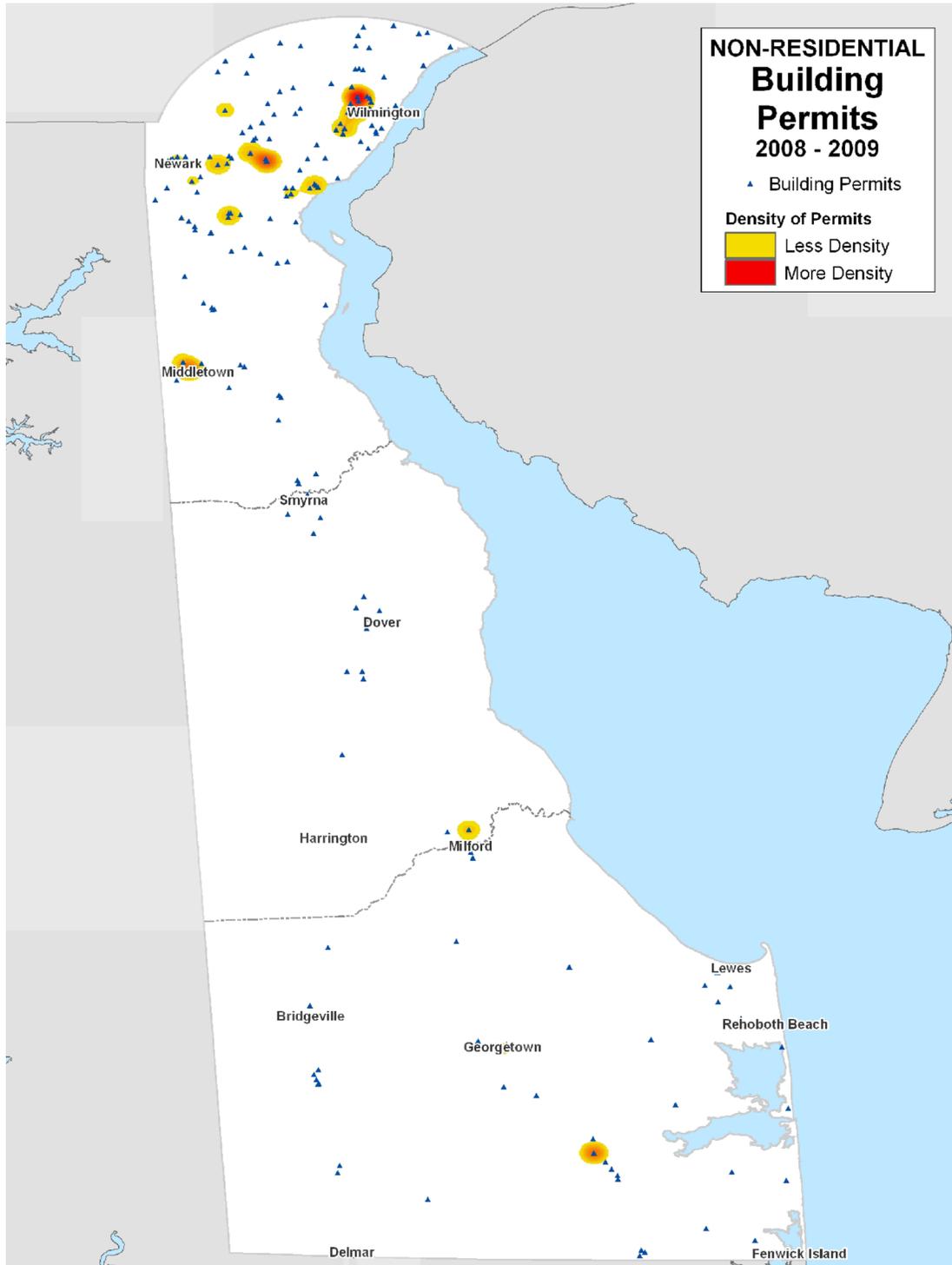
	2008	2009	Total
New Castle County	977	770	1,747
Kent County	1,246	693	1,939
Sussex County	1,731	1,704	3,435
Total	3,954	3,167	7,121

Source: Delaware Office of State Planning Coordination

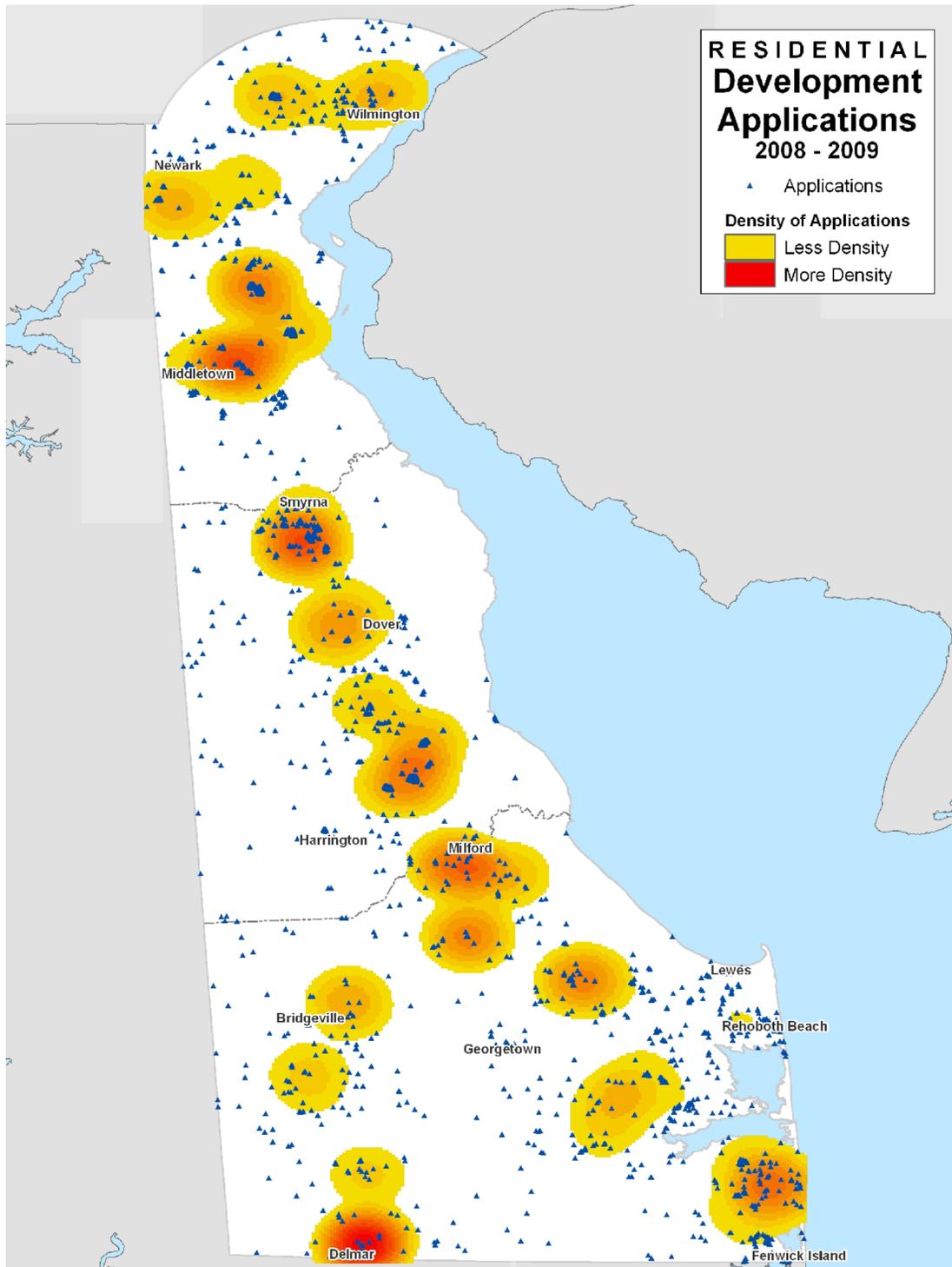
Appendix 4 – Map 2. Non-Residential Development Applications 2008–2009



Appendix 4 – Map 3. Non-Residential Building Permits 2008–2009



Appendix 4 – Map 4. Residential Development Approvals 2008–2009



Appendix 4 – Map 5. Residential Building Permits 2008–2009

