

TOWN OF WYOMING

***2015 Amendment
to the
2011 Comprehensive Plan***



Adopted

September 12, 2016
Ordinance 28-16

Sponsor: Mayor Rife
First Reading: (waived)
Final Reading: 09/12/16

ORDINANCE #28-16

**AN ORDINANCE ADOPTING THE TOWN OF WYOMING 2015 AMENDMENT TO
THE 2011 COMPREHENSIVE PLAN**

WHEREAS, the Town of Wyoming has established a Planning and Zoning Committee as authorized by 22 *Del. C.* § 701;

WHEREAS, the Planning and Zoning Committee of the Town of Wyoming is authorized pursuant to 22 *Del. C.* § 702(a) to prepare a Comprehensive Plan for the Town of Wyoming;

WHEREAS, the Town of Wyoming adopted a Comprehensive Plan in 2004 and subsequently updated the Comprehensive Plan in 2011;

WHEREAS, the Planning and Zoning Committee met with staff from the University of Delaware's Institute for Public Administration on March 11, 2014 to identify areas of the Comprehensive Plan that needed updating;

WHEREAS, the Town of Wyoming determined that it was necessary to update the Comprehensive Plan to correct various mapping inconsistencies, update the proposed land uses for the Wyoming Mill areas, and make other miscellaneous updates to the Comprehensive Plan;

WHEREAS, at a meeting held July 8, 2014, the Planning and Zoning Committee voted to approve the amendments to the Comprehensive Plan, which amendments were forwarded along to the Town Council for review and recommendation;

WHEREAS, the Town Council approved the Town of Wyoming 2015 Amendment to the 2011 Comprehensive Plan ("2015 Comprehensive Plan Amendment") at a meeting held on October 5, 2015;

WHEREAS, the 2015 Comprehensive Plan Amendment was submitted to the Delaware Office of State Planning Coordination ("OSPC") for PLUS review, and the Town received comments back from the OSPC in a letter dated December 23, 2015;

WHEREAS, the Town of Wyoming has considered the PLUS comments and made revisions to the 2015 Comprehensive Plan Amendment;

WHEREAS, the Town of Wyoming held a duly noticed public hearing on September 12, 2016 at which time all interested parties were given the opportunity to provide comments on the 2015 Comprehensive Plan Amendment; and

WHEREAS, the Town Council of the Town of Wyoming has determined it to be in the best interest of the Town of Wyoming to adopt the 2015 Comprehensive Plan Amendment.

NOW THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Wyoming, a majority thereof concurring in Council duly met, that the Town of Wyoming 2015 Amendment to the 2011 Comprehensive Plan, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, is hereby adopted by the Town of Wyoming.

AND BE IT FURTHER ORDAINED THAT this Ordinance shall be effective upon the date of its adoption.

Synopsis

This ordinance adopts the Town of Wyoming 2015 Amendment to the 2011 Comprehensive Plan.

This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on September 12, 2016.

Attest: Laura Comer So Certifies: Frankie Dale Rife
Town Clerk Mayor

This shall certify that a copy of this Ordinance was posted at the Town Hall on 9/13/16, 2016.

9/13/16 So Certifies: Laura Comer
Date



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

December 23, 2015

Pam Haddick
Town of Wyoming
1 N. Railroad Ave.
Wyoming, DE 19934

RE: PLUS review 2015-11-02; Town of Wyoming Comprehensive Plan Amendment

Dear Pam:

Thank you for meeting with State agency planners on November 25, 2015 to discuss the proposed comprehensive Plan Amendment for the Town of Townsend. According to the information received the amendment will correct mapping errors, return areas previously designated for waterfront development to their original land use classification, update the town's growth area, and change the land use designation for a parcel along Westville Road.

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

This office has received the following comments from State agencies:

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

Our office is pleased to see that the Town of Wyoming is pursuing this comprehensive plan amendment. Please consider the following recommendation:

- Maps 7, 8 and 9 should be amended as indicated to supersede the previously adopted maps. It appears that the text boxes have been added to the current maps to indicate what is changing. While this is good for PLUS review, it will be necessary to actually change the maps before adoption to avoid any confusion about future land use categories.

Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

Stormwater Management.

- The State of Delaware has developed a National Pollutant Discharge Elimination System (NPDES) General Permit for storm water discharges from Small Municipal Separate Storm Sewer Systems (MS4s). This permit addresses the federal requirements under the Clean Water Act (CWA) to reduce polluted storm water runoff that is contributed by the MS4 and which ultimately discharges to local rivers and streams without treatment.

The permit is organized around the six minimum control measures– public education, public involvement, illicit discharge detection and elimination, construction, new development, and good housekeeping. For the purposes of this permit, the public education and involvement requirements have been combined into one permit provision. To provide additional protection to the impaired waterbodies of Delaware, the permit also includes measures to involve the permittee in the industrial storm water permitting process and to more directly address the impairment status of those waterbodies to which their MS4 discharges.

The permittee must develop and implement a comprehensive storm water management program designed to control the quality of the storm water discharged from its MS4. The Storm Water Pollution Prevention and Management Program (SWPP&MP) shall contain measurable goals and shall describe the controls necessary to effectively prohibit the discharge into the MS4 of any materials other than storm water. The SWPP&MP must also outline measures that will reduce the discharge of pollutants from the MS4 and include a schedule for implementation. If you have any questions on this subject please contact Jennifer Roushey at (302) 739-9946.

Working on it.

State Historic Preservation Office – Contact Terrence Burns 736-7404

The proposed changes to the land use map are acceptable. The Wyoming Mill Complex is listed in the National Register of Historic Places as a contributing element of the Wyoming Historic District. The return of it to its original zoning should help to preserve this complex by continuing its adaptive reuse as a commercial business.

Department of Agriculture – Contact Scott Blaier 698-4532

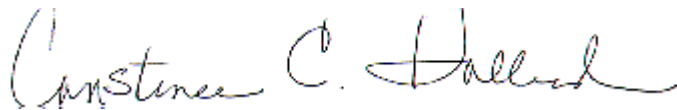
The Department of Agriculture would note that parcels 2-00-08500-01-2100 (denoted as “F” on Figure 1 and Map 8) and 2-00-08500-01-2200 (denoted as “G” on Figure 1 and Map 8) are both enrolled in the Agricultural Lands preservation program until April 4, 2018, as mentioned in the amendment text. At this time, the owners have not expressed any interest in removing the properties from the program.

Therefore, the Department is in agreement that these properties be categorized "State Agricultural Preservation District" for short to mid-term planning purposes.

Once a decision has been reached on this proposed comprehensive plan amendment, please forward the adopting ordinance or other documentation and a copy of the plan amendment to the Office of State Planning Coordination for our records. The plan amendment must include a revised version of any maps that were updated as well as any text that was approved in amending the comprehensive plan.

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

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is written in a cursive, flowing style.

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

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TOWN, COUNTY, AND STATE OFFICIALS

Town of Wyoming

Town Council

Frankie Dale Rife, Mayor
Terry Witt, Vice Mayor
Georgette Williams, Secretary
Kyle Dixon, Treasurer
Paul W. Cable, Council Member

Planning & Zoning Committee

Phyllis Brooks Collins, Chair
Kelly Alstott
Doug Denison
Jonny Johnson
Tiffany Rife

Town Attorney

D. Barrett Edwards, IV, Esq.

Town Staff

Pamela Haddick, Town Clerk
Nicole Amour, Finance Clerk
Lew Denham, Town Maintenance

Kent County

Levy Court Commission

P. Brooks Banta, District 1
Bradley S. Eaby, District 2
Alan F. Angel, District 3
Eric L. Buckson, District 4
George Jody Sweeney, District 5
Glen M. Howell, District 6
Terry L. Pepper, At-Large

County Administrator

Michael J. Petit de Mange, AICP

Planning Services Department

Sarah Keifer, AICP, Director

State of Delaware

Governor

Jack A. Markell

Senate

Colin R. J. Bonini, District 16
Brian J. Bushweller, District 17

House of Representatives

Sean M. Lynn, District 31
Lyndon D. Yearick, District 34

Office of State Planning Coordination

Constance C. Holland, AICP, Director

INSTITUTE FOR PUBLIC ADMINISTRATION

This Plan Amendment was prepared by the Town of Wyoming Zoning Committee with assistance from the Institute for Public Administration (IPA), a unit within the University of Delaware's School of Public Policy & Administration. IPA links the research and resources of the University of Delaware with the management and information needs of local, state, and regional governments in the Delaware Valley. IPA provides assistance to agencies and local governments through direct staff assistance and research projects as well as training programs and policy forums.

Institute Director

Jerome R. Lewis, Ph.D.

Wyoming Plan Amendment Team

Linda Raab, AICP, Project Manager

Nicole Minni, GISP, Mapping and GIS Support

INTRODUCTION

On May 2, 2011, the Town of Wyoming adopted a complete update to its comprehensive plan which was certified by the governor on November 18, 2011. Since then, the Town, to comply with Title 22, Section 702(c) of the *Delaware Code*, has been preparing to:

... amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive development plan.

While preparing the zoning map, a number of inconsistencies and mapping errors between the desired zoning districts and the future land uses (Map 7) in the 2011 plan were identified. At the same time, the Town received an inquiry about annexing a parcel located on the north side of Westville Road and placing it in a zoning district that would allow a mix of residential and commercial uses in a single building.

This Plan Amendment considers the issues just identified and changes the land use designations depicted on Maps 7, 8, and 9 for 11 parcels. It also recognizes farmland, once identified for annexation, that has entered the Delaware Agricultural Preservation Program.

RELATIONSHIP TO 2011 PLAN UPDATE

This Plan Amendment must be read together with the *2011 Update to the 2004 Town of Wyoming Comprehensive Plan*, adopted May 2, 2011 and certified by the governor on November 18, 2011. The maps and text in this document supersede the maps and text of the 2011 Plan Update. Where there appears to be conflicts between this Plan Amendment and the 2011 Update, this Plan Amendment shall govern.

PLAN AMENDMENT PROCESS

This section describes the Plan Amendment adoption process. It includes plan preparation by the Planning & Zoning Committee, state review under the Preliminary Land Use Service (PLUS), local public outreach, and Town Council adoption.

Planning & Zoning Committee Review

Title 22, Section 702(a) of the *Delaware Code* assigns responsibility for the preparation of comprehensive plans to planning commissions. Section 2-1C of the *Wyoming Land Use and Development Ordinance*, charges the planning and zoning committee with this responsibility.

On March 11, 2014, the Planning & Zoning Committee met with the staff from the Institute for Public Administration to kick-off preparation of this Plan Amendment. The meeting began with an overview of the process: 1) Amendment preparation, 2) Recommendation to council, 3) PLUS review, and 4) Plan amendment adoption and rezoning.. Committee members then discussed future land use within the town boundaries (Map 7 in the 2011 Plan) and in the growth area (Maps 8 and 9). Their discussion is summarized as follows:

- Mapping Errors—Identified the land use changes that would be required to correct inconsistencies and mapping errors.
- Wyoming Mill Area—Discussed several parcels in the Wyoming Mill area identified in the 2011 plan for Waterfront and concluded that since a proposal for waterfront development is unlikely

to materialize in the near future, the parcels designated Waterfront in the 2011 plan should be returned to their previous land uses.

- Farmland—Requested update on the parcels north of the Isaac Branch identified for annexation in the 2011 plan to ascertain which farms are continuing participation in, or have joined, the state's agricultural preservation program.
- Mixed-Use—Expressed interest in idea of mixed residential and commercial, but voiced concern about the impacts of such a mix near residential areas and the proportions of residential and commercial in a single development; also noted need for amendment to the Land Use and Development Code to allow mixed residential and commercial use.

At its meeting of July 8, 2014 the Committee made a recommendation on a draft plan document to the Town Council.

State Review

Title 29, Section 9203 of the *Delaware Code* requires that the state review and comment on county and municipal comprehensive plans, including amendments to plans. Known as the Preliminary Land Use Service (PLUS), the process involves review and comment from state departments and agencies. The Office of State Planning Coordination (OSPC) organizes the review and comment process.

On November 25, 2015, OSPC and the state agencies involved in the PLUS process reviewed this Plan Amendment. In a letter dated December 23, 2015, OSPC provided comments on this Plan Amendment.

Town Council Review and Adoption

Authorization for PLUS SubmissionPLUS

At the regular meeting of September 14, 2015, the Plan Amendment document was given to the members of the Town Council; they reviewed and approved it at the October 5, 2015 meeting prior to submission for PLUS review.

Town Council Hearing

On September 12, the Town Council held a public hearing on this Plan Amendment. All interested parties were given an opportunity to provide comments on the Amendment

Town Council Adoption

On September 12, 2016, the Town Council enacted an ordinance adopting this Plan Amendment by majority vote.

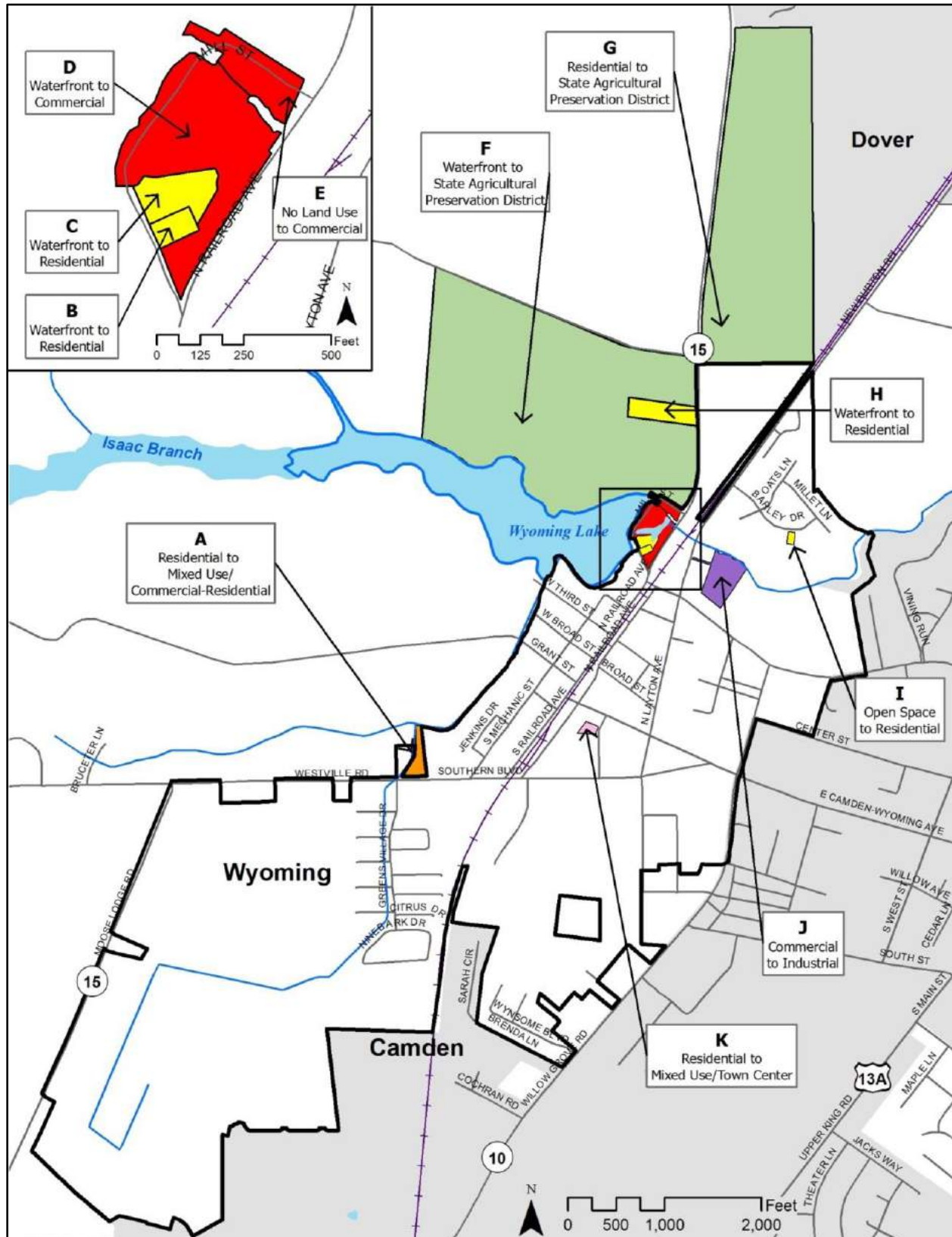
LAND USE CHANGES

Table 1 lists each parcel, whose land use is changed in this Plan Amendment, and documents the basis for each change. Figure 1 shows their locations.

Table 1. Summary of Future Land Use Changes

Map Ref	Parcel ID Property Location State Strategies Level	Future Land Use in 2011 Plan	Future Land Use in this Plan Amendment	Justification for Change
A	2-00-08500-01-2200 Westville Road Level 1	Residential	Mixed Use/ Commercial- Residential	<ul style="list-style-type: none"> Provide opportunities for developments with mixes of commercial and residential uses.
B	7-20-08518-01-0101 9 Mill St Level 1	Waterfront	Residential	<ul style="list-style-type: none"> Waterfront development determined not viable in near future. Return property to 2004 Residential land use and retain current R-1 (Single-Family Residential) zoning.
C	7-20-08518-01-0102 Mill area Level 1	Waterfront	Residential	<ul style="list-style-type: none"> Waterfront development determined not viable in near future. Return property to 2004 land use and retain current R-1 (Single-Family Residential) zoning.
D	7-20-08518-01-0100 11 Old Mill Level 1	Waterfront	Commercial	<ul style="list-style-type: none"> Waterfront development determined not viable in near future Return property to 2004 Commercial land use and retain current CG (Commercial) zoning.
E	7-20-08500-01-0100 Wyoming Mill area Level 1	None	Commercial	<ul style="list-style-type: none"> Correct mapping error. Land use should have been Commercial to retain the parcel's current CG (Commercial) zoning.
F	2-00-08500-01-2100 203 Wyoming Mill Rd Level 4, Agricultural Preservation	Waterfront	State Agricultural Preservation District	<ul style="list-style-type: none"> Waterfront development determined not viable in near future Reflect that parcel is in State Agricultural Preservation District.
G	2-00-08500-01-2100 Wyoming Mill Rd Level 4, Agricultural Preservation	Residential	State Agricultural Preservation District	<ul style="list-style-type: none"> Reflect that parcel is in State Agricultural Preservation District.
H	2-00-08500-01-2101 203 Wyoming Mill Rd Level 4	Waterfront	Residential	<ul style="list-style-type: none"> Waterfront development determined not viable in near future. Reflects property's current residential use.
I	2-20-08518-01-2300 518 Barley Drive Level 1	Open Space	Residential	<ul style="list-style-type: none"> Correct mapping error and allow subsequent zoning to be R-1 (Single-Family Residential). Reflect current Residential land use.
J	7-20-08518-01-0400 317 N Layton Ave. Level 1	Commercial	Industrial	<ul style="list-style-type: none"> Make land use consistent with desired I-1 (Light Industrial) Zone. Take advantage of opportunity for job-creation.
K	7-20-09406-03-3000 128 W. Camden-Wyoming Ave. Level 1	Residential	Mixed Use/ Town Center	<ul style="list-style-type: none"> Correct mapping error. Land use should have been Mixed Use/Town Center to retain the parcel's current TC (Town Center) zoning.

Figure 1. Future Land Use Change Map



INTERGOVERNMENTAL CONSIDERATIONS

This section points out two important considerations for the designation of municipal growth areas. The first is the *Strategies for State Policies and Spending*. The second is the state's agricultural preservation programs.

Strategies for State Policies and Spending

The *Strategies for State Policies and Spending* were adopted in 1999 and most recently updated in 2010. Consisting of text and maps, the *Strategies* document describes and graphically depicts areas intended for development. It classifies the entire state into four investment levels based on the predominant type of development. These levels form the basis for determining where state-supported growth should occur and establishes guidelines for state investment in those areas. The state is most prepared for growth to occur in Levels 1 and 2. In Level 3 areas, development is not anticipated in the immediate future, but it is not precluded, since these areas are adjacent to, and sometimes within, built-up areas in Levels 1 or 2. In Level 4 areas, development is generally not expected.

Municipal and county comprehensive plans must consider the *Strategies* in the development of future land use within their boundaries and, for municipalities, identification of annexation areas. Figure 2 shows the four investment strategy levels and parkland and open space in the Wyoming vicinity and identifies land use changes proposed by this Plan Amendment. As the figure indicates, Parcels A-E and I-K are in Level 1. Parcel H, on which is located a dwelling, is in Level 4.

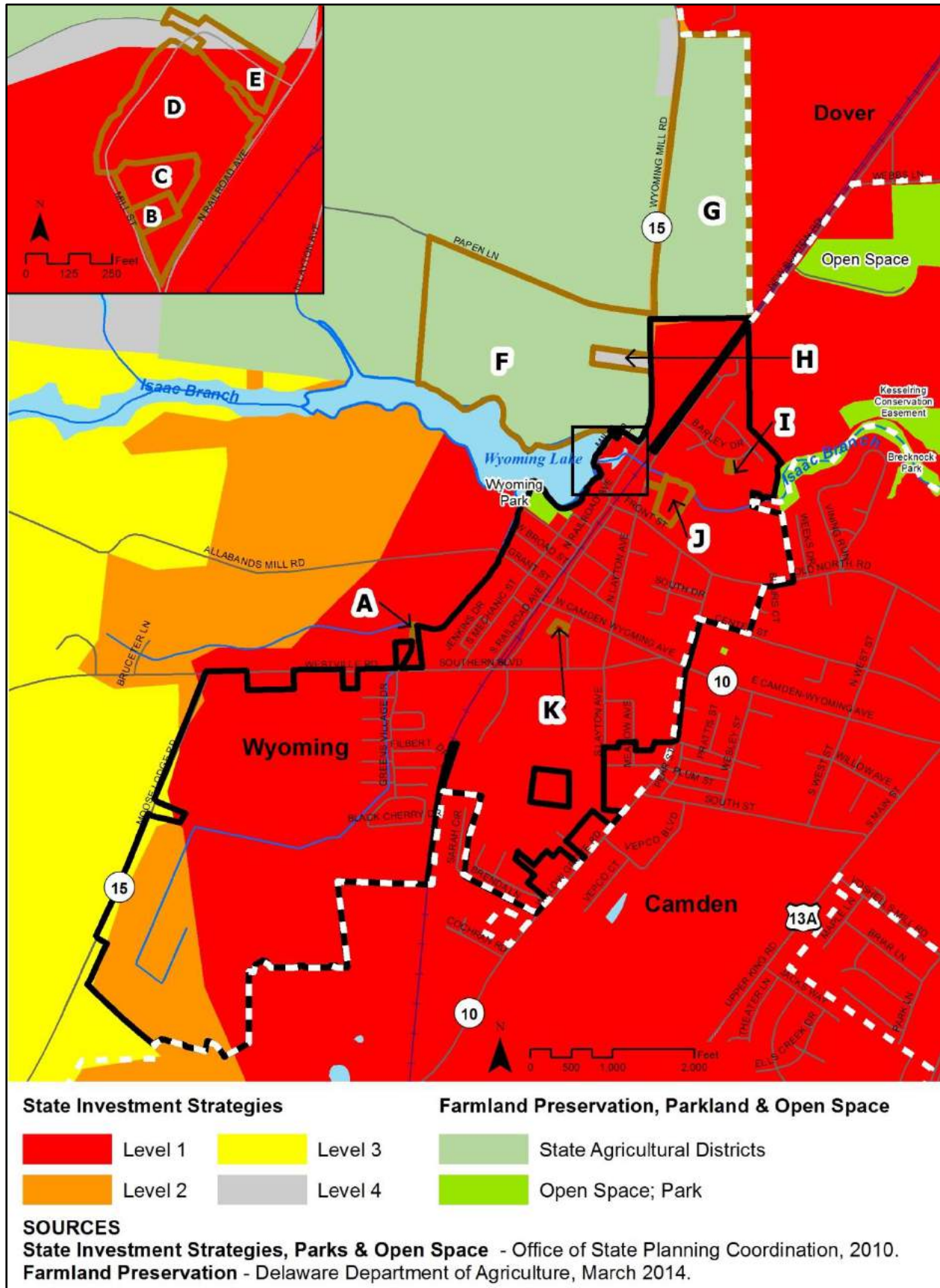
State Agricultural Preservation Areas

Figure 2 also shows parcels in Delaware's Farmland Preservation Program. This program authorizes the creation of preservation districts and easements.

- *Preservation District*—To create a preservation district, a property owner must sign a voluntary agreement pledging to use his/her property for agriculture or forest land for ten years. At the end of ten years, the property owner may withdraw from the program, continue the preservation easement for at least five years, or make application to create an agricultural easement. Owners, who elect to continue in the preservation program after the initial 10 years, are eligible to re-apply every five years.
- *Conservation Easement*—Delaware's farmland preservation program provides for purchase of the development rights of agricultural or forest land that have been in Agricultural Preservation Districts for a minimum of ten years.

As Figure 2 indicates, Parcels F and G, once identified for Waterfront and Residential in Wyoming's annexation area, are agricultural preservation districts. They will remain preservation districts until 2018 at which time they may apply to continue as preservation districts for another five years.

Figure 2. State Strategies, Farms, Parks & Open Space Map



ANNEXATION PROCESS

Title 22, Section 101 of the *Delaware Code* outlines the provisions governing municipal annexations.

1. Areas proposed for annexation must be identified in the comprehensive plan.
2. Any parcel proposed for annexation must be contiguous to the existing municipal boundary. “Contiguous” means that some part of a parcel proposed for annexation must be co-terminus with the boundaries of the annexing municipality. Roads or rights-of way cannot be used to create “corridor” annexations.
3. Before a municipality can approve an annexation, a plan outlining how public services will be provided must be approved by the state. This review is coordinated by OSPC.
4. At the time of annexation, the municipality must enact an ordinance placing the newly annexed area in a zoning district that is consistent with the comprehensive plan.
5. As part of the annexation process, a municipality must provide public notice to affected parties and hold public hearings in a manner that complies with state and local statutes. The public outreach must include at least a 30-day comment period.

Section 34 of Wyoming’s charter outlines the application procedure including the contents for an annexation petition, the requirement for a town council report identifying the advantages and disadvantages of a proposed annexation, and the format for adoption by the Town Council. It also identifies the circumstances as to when an election must be held to approve an annexation.

IMPLEMENTATION

Comprehensive Rezoning

Title 22, Section 702(c) of the *Delaware Code*, requires that every municipality:

... within 18 months of the adoption of a comprehensive development plan or revision thereof, amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive development plan.

Table 2 shows the link between land use and zoning. This link is important because it provides guidance as to the zoning districts that would be considered consistent with the future land use designations in the 2011 Comprehensive Plan as amended by this Plan Amendment and Wyoming’s zoning districts.

Table 2. Land Use and Zoning Link

Land Use Designation	Zoning District(s)
Open Space	OS
Residential	R-1, R-2
Mixed Use/Commercial Residential	New Zoning District or revision of an existing zoning district
Mixed Use/Town Center	TC
Commercial	C-G
Industrial	I-1
Community Uses	All Zoning Districts
Utilities	All Zoning Districts

Land Use Code Review

As Figure 1 shows, a Parcel A is identified for Mixed Use/Residential-Commercial. Although there is an interest in mixed residential and commercial developments for Wyoming, there is concern about the impacts of such developments especially in the vicinity of residential areas. It is also recognized that the Land Use and Development Code should be reviewed to determine whether existing standards are sufficient or new standards must be drafted to regulate commercial-residential development projects.

Prior to the annexation of Parcel A, the Town should consider reviewing the Land Use and Development Code to determine whether changes are needed to permit the mixed residential and commercial uses. Some of the items that might be considered for further study include, but are not limited to:

- Whether to permit a mix of commercial and residential in existing zone(s) or develop a new zoning district;
- Whether to allow commercial-residential developments as conditional uses especially when they abut residential properties;
- Requiring greater building setbacks from residential properties than from non-residential properties;
- Specifying how residential and non-residential uses should be distributed within a single-building; for example, consider requiring that non-residential uses be on lower floors and apartments be located on upper floors;
- Specifying landscaping requirements, such as plantings or fencing to buffer mixed-use areas from residential properties.

MAPS

This Plan Amendment hereby replaces Maps 7, 8, and 9 to reflect the changes identified in Table 1 and depicted on Figures 1 and 2.

2011 Plan Update Maps

Map 7. Future Land Use

Map 8. Future Growth and Annexation Areas

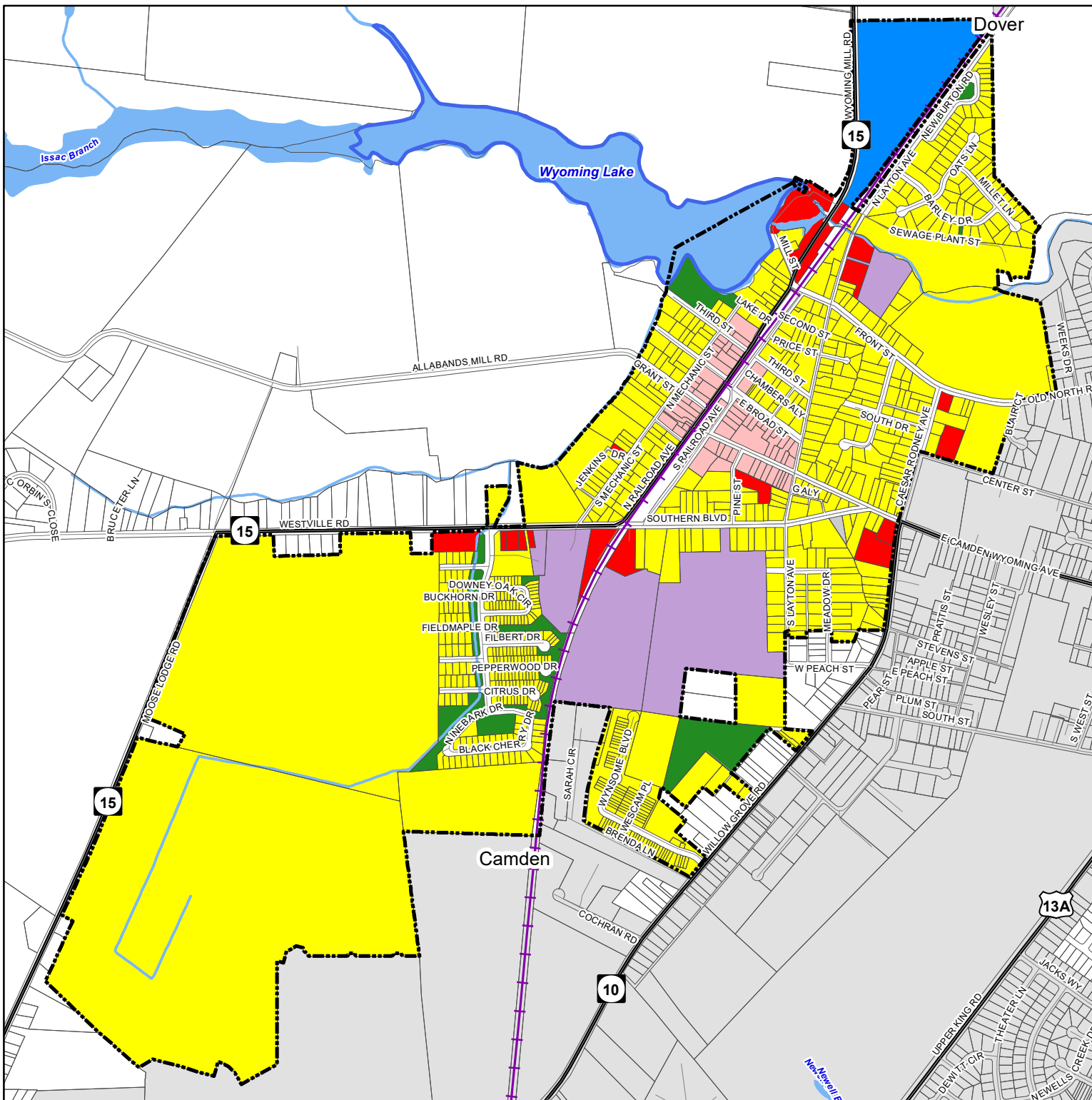
Map 9. Potential Land Use With Growth Areas

2015 Plan Amendment Map

Map 7. Future Land Use 2015

Map 8. Future Growth and Annexation Areas 2015

Map 9. Potential Land Use With Growth Areas 2015



TOWN OF WYOMING

Kent County, Delaware
2015 Comprehensive
Plan Amendment

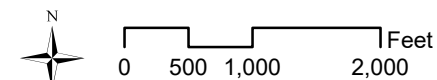
Map 7. Future Land Use 2015 Supersedes 2011 Plan Map 7

Land Use Designations

- Open Space
- Residential
- Mixed Use/Town Center
- Commercial
- Community Uses
- Industrial
- Utilities

Base Map Data

- Wyoming Boundary
- Railroads
- Roads
- Parcel Boundaries
- Water Bodies
- Streams



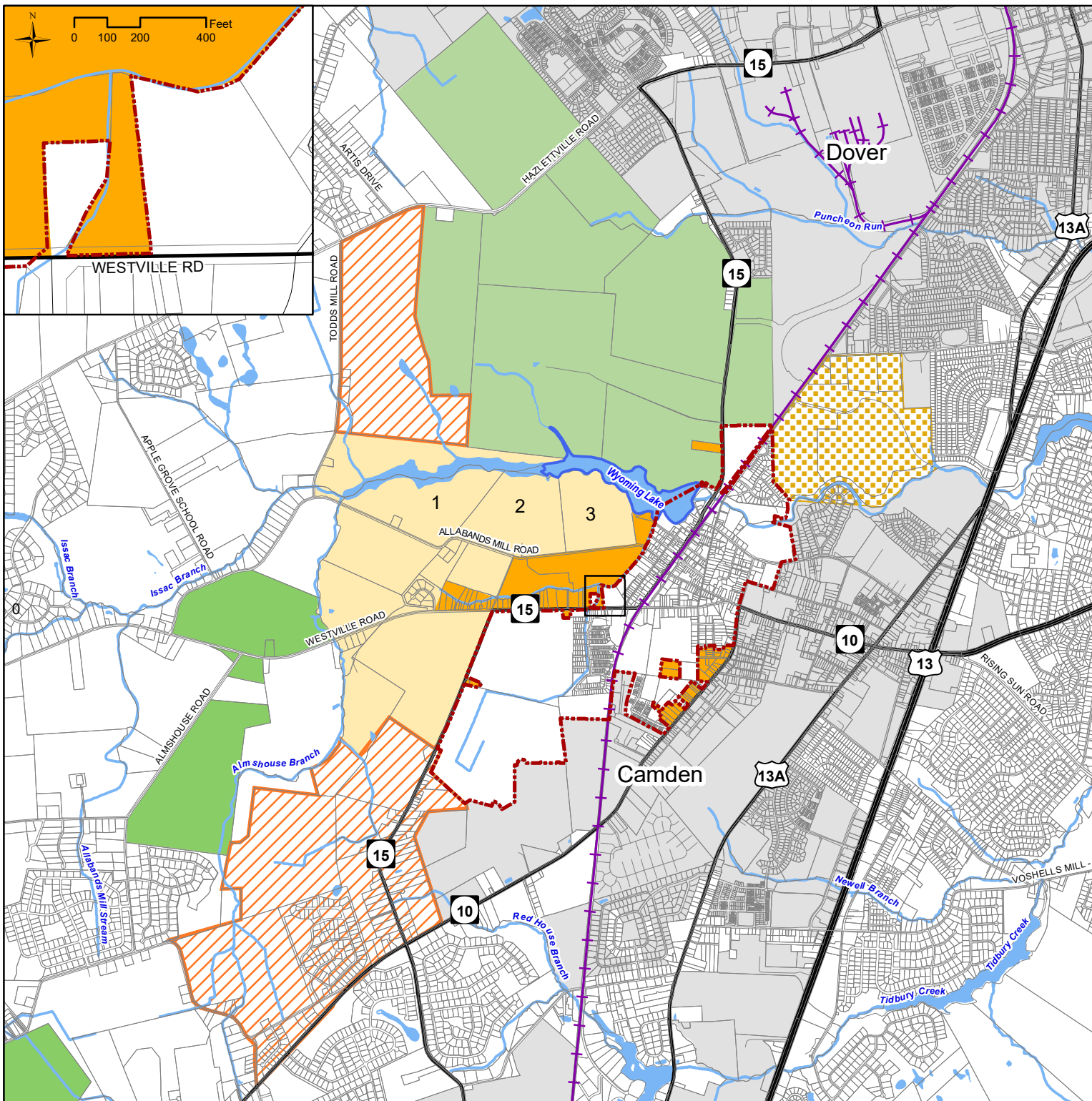
Sources

Parcel Boundaries - Kent County Department of Planning Services Mapping/911 Addressing Division, 08/25/2015.
Municipal Boundaries, Roads, Water Bodies, Streams & Railroads - FirstMap.

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Kent County, Delaware
2015 Comprehensive
Plan Amendment

**Map 8. Future Growth
& Annexation Areas 2015**
Supersedes 2011 Plan Map 8







Growth Areas

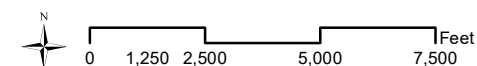
-  Short-Term
-  Short-Term Common Interest
-  Long-Term
-  Area of Concern

Agricultural Preservation Areas

-  District
-  Easement

Base Map Data

-  Wyoming Boundary
-  Parcel Boundaries
-  Roads
-  Railroads
-  Water Bodies
-  Streams



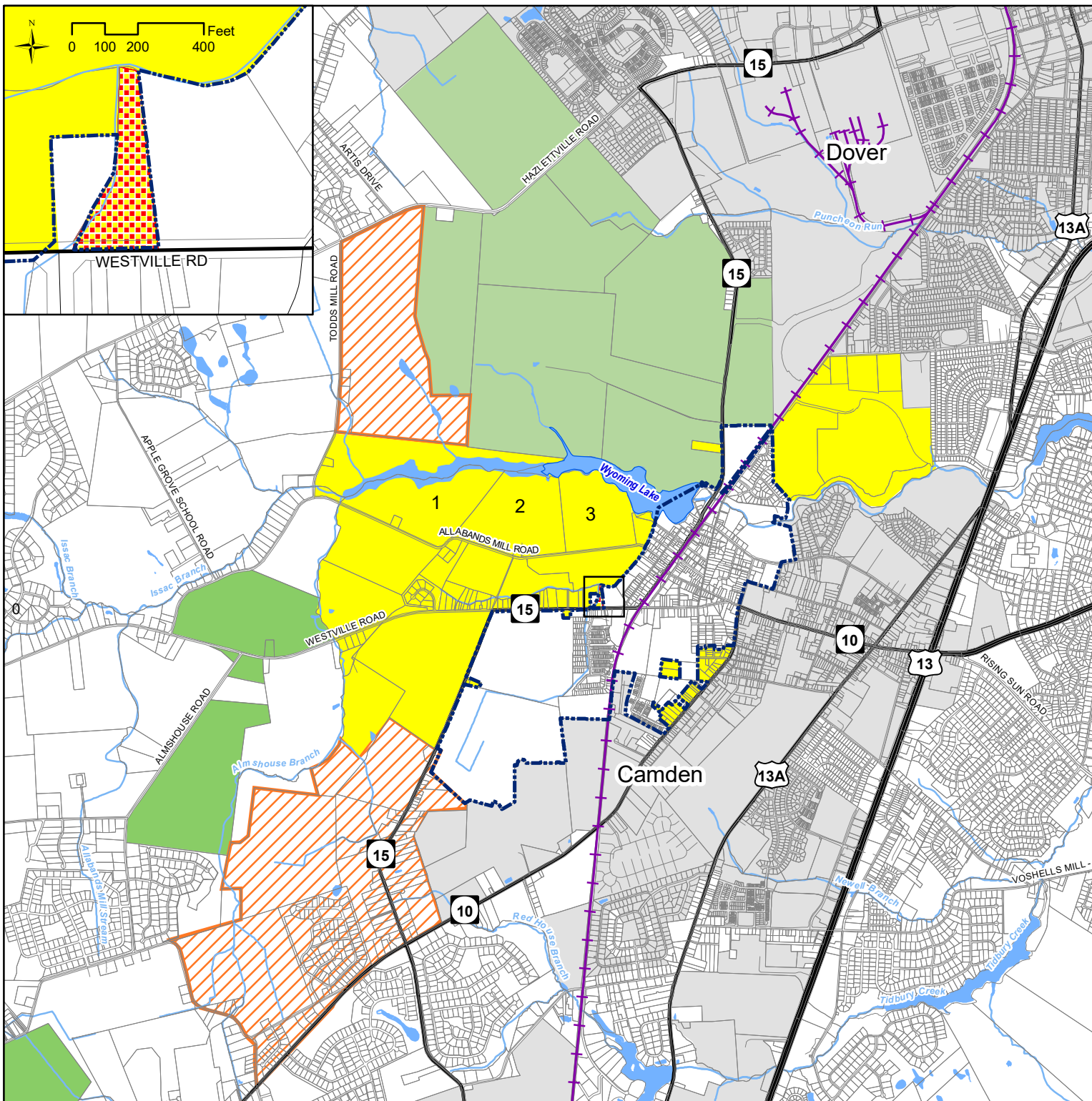
Sources

Agricultural Preservation Districts - Firstmap, downloaded 06/06/2016.
Parcel Boundaries - Kent County Department of Planning Services Mapping/911 Addressing Division, 08/25/2015.
Municipal Boundaries, Roads, Water Bodies, Streams & Railroads - FirstMap.

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**Map 9. Potential Land Use
Within Growth Areas 2015**
Supersedes 2011 Plan Map 9

Land Use

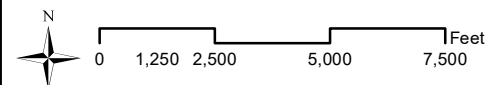
- Residential
- Mixed Commercial-Residential
- Area of Concern

Agricultural Preservation Areas

- District
- Easement

Base Map Data

- Wyoming Boundary
- Parcel Boundaries
- Roads
- Railroads
- Water Bodies
- Streams



Sources

Agricultural Preservation Districts - Firstmap, downloaded 06/06/2016.
Parcel Boundaries - Kent County Department of Planning Services Mapping/911 Addressing Division, 08/25/2015.
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