

# 02 Planning Context

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Growth and change along New Road is shaped by land use plans, land development policies and an active citizenry that advocates for land and neighborhood conservation.

As part of a state-designated scenic and historic byway, New Road, one of six designated routes that comprise the Historic Lewes Byway, was the subject of a Corridor Management Plan (CMP) that was accepted by DelDOT as a requirement for its designation. The CMP was subjected to a comprehensive public review process including support from both Sussex County and the City of Lewes.

Portions of New Road are located in Sussex County (generally west of Canary Creek) and portions within the City of Lewes. The City of Lewes recently enacted an annexation policy and at least one property along New Road, the Brittingham Farm, was annexed.

The County (2019) and City (2015) both have current and adopted Comprehensive Plans. The New Road corridor is a rapidly developing area with at least twelve active development projects in varying states of review. The Delaware Department of Transportation, partly in response to this rapid development, has initiated several transportation planning and capital improvement projects.

There are two state policies that specifically influence future land use and modifications to transportation projects: Executive Order 41, Preparing Delaware for Emerging Climate Impacts and Seizing Economic Opportunities from Reducing Emissions (2014 and subsequent guidance); and, Executive Order No. 6, State of Delaware Complete Streets Policy, (2009 and subsequent guidance).

Each of these planning and transportation initiatives and/or projects are discussed on the following pages.

### **HISTORIC LEWES BYWAY CORRIDOR MANAGEMENT PLAN<sup>1</sup>**

The Corridor Management Plan (CMP) for the Historic Lewes Byway (2015) recommended that a master plan be developed for each byway route describing the potential roadway improvements and landscape recommendations so as to retain the character-defining features of the Byway. The CMP also recommended that the master plans be developed by forming a strong alliance between DelDOT, the City of Lewes, Sussex County, and the Byway organization as a means of achieving compatibility in land use design along the Byway routes.

The CMP recommended transportation strategies, that when considered all together, can help to achieve compatibility between the land development and zoning codes of the City of Lewes and the County of Sussex and the transportation improvements that are often tied to development proposals.

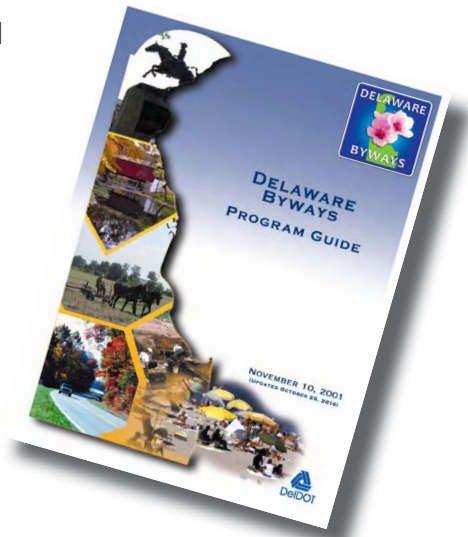


Figure 9 Delaware Byways Program Guide provides overall policy direction for designation and management of the state and nationally designated scenic and historic byways



Figure 10 Lewis Scenic and Historic Byway Corridor Management Plan report

<sup>1</sup> The name of the byway was changed to the "Historic Lewes Byway: Gateway to the Bayshore" after completion of the Corridor Management Plan

**2014 CMP Goals for New Road**

**OVERALL GOAL:**

*Conservation. Retain the overall rural character including its farms, forests, wetlands and tributary streams.*

- Preserve and maintain character-defining features
- Improve safety and mobility by utilizing context sensitive approaches
- Work with developers to guide change in a positive manner
- Establish Byway routes as corridors for human powered recreation

Once adopted, the New Road Corridor Master Plan (Master Plan) will provide the justification for incorporating its recommendations as set out in this master plan into the subdivision plan review process.

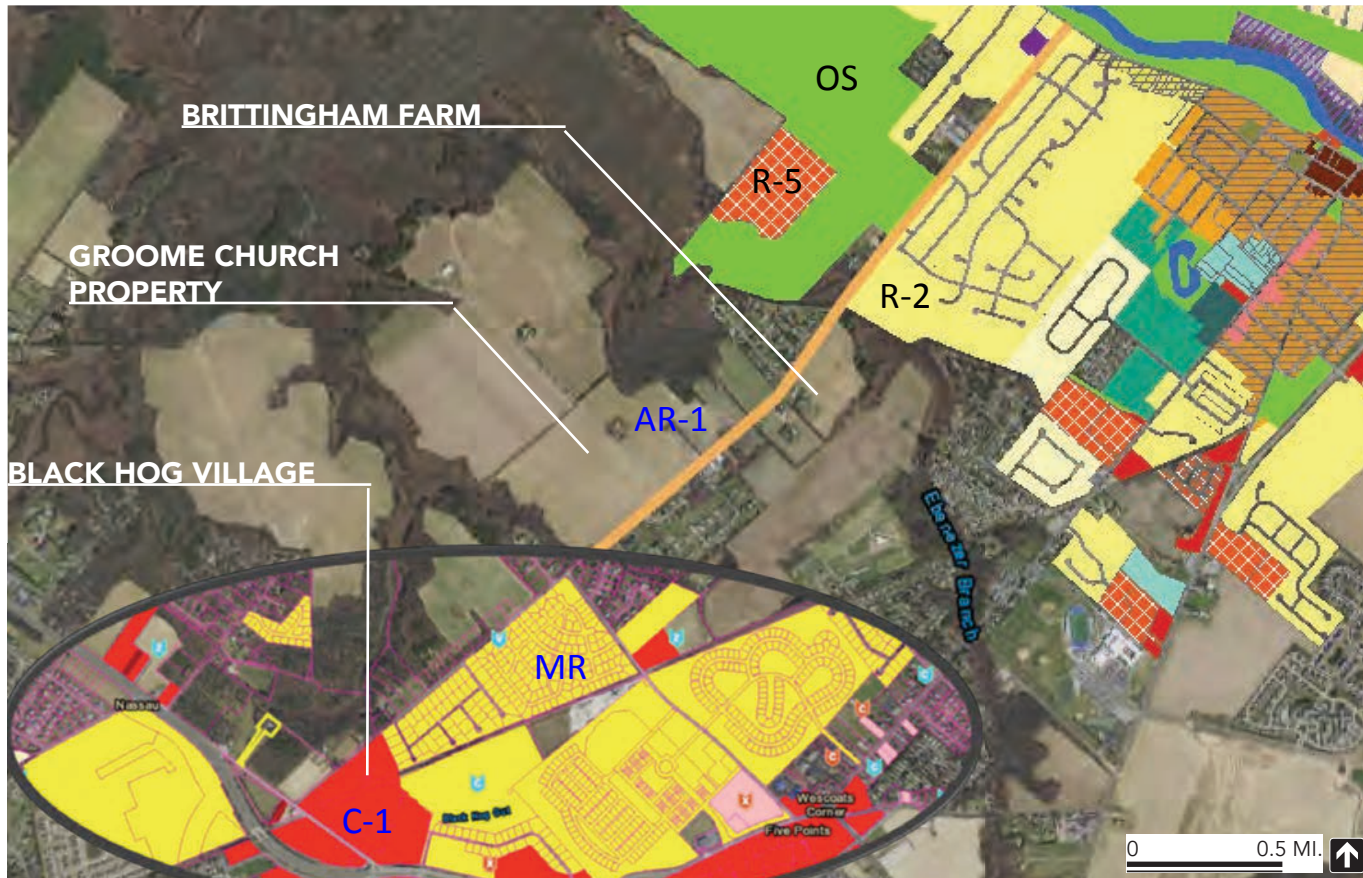
**Context Sensitive Design:**

The CMP also recommended that all transportation improvements along the Byway be designed to be sensitive to its context and in accordance with the policy documents adopted by DelDOT for Byways. The CMP recommended that master plans be utilized to establish design guidelines for roadside and median environments, as well as roadway design elements such as landscaping and paving materials, while recognizing that safe design is the first priority. (See page 43 of 2015 CMP for Context Sensitive Design approach and principles).

**PLANNED LAND USE AND ZONING**

Figure 11 Existing zoning found along New Road showing three properties where development has been proposed

In the Sussex County portion of the corridor, lands generally northwest of New Road are planned for "Low Density" uses. Lands generally southeast of New Road and fronting along Nassau are planned for "Coastal Area" uses. Low Density is one of two types of rural area designations in Sussex County, with the other being "Protected Land". The primary uses envisioned for Low Density areas are agricultural activities and homes. Coastal Areas generally encompass areas



within what was previously referred to as the “Environmentally Sensitive Developing Areas” of prior Comprehensive Plans. According to the 2018 Comprehensive Plan, the Coastal Area designation is intended to recognize two characteristics. First, this region is among the most desirable locations in Sussex County for new housing, as is reflected in new construction data and real estate prices. Second, this region contains ecologically important and sensitive characteristics that help to absorb floodwaters and provide extensive habitat for native flora and fauna.

Within the City of Lewes, the lands along New Road are planned for residential use, and on the northwest side of New Road, for Open Space. There is one parcel with existing industrial use that continues to be planned for that purpose.

Figure 11 on page 10 illustrates the current zoning for properties along New Road. In the Sussex County section, lands are zoned primarily as Agricultural Residential (AR-1) with existing developed areas zoned as either Commercial (C-1) or Medium Density Residential (MR). Within the City of Lewes, lands are zoned as Low Density Residential (R2).

The Comprehensive Plan in Sussex County was updated in December 2018. The plan references the Historic Lewes Byway throughout in sections related to greenways and trails, heritage tourism and transportation. The plan includes a specific strategy for working with byway groups to implement corridor management plans. One recently enacted ordinance that affects the New Road Corridor will prohibit developers from counting state wetlands when calculating total density in a subdivision. State wetlands will be removed from the overall developable parcel size when calculating allowable density.

### **Annexation**

In May of 2018, the City of Lewes added two new zoning categories exclusively for annexed land, one for Residential and one for Mixed Use. The Mixed Use option is primarily located along Savannah Road and Kings Highway, developed as a transition to commercial zones. The annexation zones include provisions that allow clustering of housing to preserve open space. In July 2018, developers of the property known as Brittingham Farm on New Road adjacent to Canary Creek, filed an annexation request under the city’s new annexation-residential zone. The developer is seeking to develop approximately 90 townhouse lots using cluster development provisions with a minimum of 50 percent open space and any required buffers. The annexation and rezoning request was approved by the City of Lewes Mayor and Council on November 13, 2018. A subdivision application is under review by the Lewes Planning Commission.

### **Conservation and Preservation Priorities**

The 2015 CMP identified a distinct set of conservation priorities for the Historic Lewes Byway. These included remaining farms, forests, riparian areas and other character-defining features that contributed positively to the byway experience. Remaining farms, forests, riparian areas and hedgerows continue to deserve additional conservation efforts as character-defining features that contributed to the byways designation as a Delaware Scenic Byway. These properties, if conserved, could contribute to reducing impacts of sea level rise on existing developed properties in the Canary Creek watershed.

|         |   |
|---------|---|
| 1       | Minos Conaway GSI (DeIDOT)                      |
| 2       | Groome Church Property (Private)                |
| 3       | Georgetown Lewes Rail To Trail (DeIDOT)         |
| 4       | Five Points Transportation                      |
| 5       | Orchard Road realignment (DeIDOT)               |
| 6       | Brittingham Property (Private)                  |
| 7       | Point Farm (Private Development)                |
| 8       | Great Marsh Preserve (DNREC)                    |
| 9<br>9a | Orchard Plaza / Tranquility at Breakwater (PVT) |
| 10      | Reserves at Nassau, PH 2 (PVT)                  |
| 11      | New Road: Nassau to Old Orchard (DeIDOT)        |
| 12      | New Road: Canary Creek Bridge (DeIDOT)          |
| 13      | Black Hog Village (commercial)                  |

As part of the outreach effort for the Master Plan, contributors also noted the importance of the diversity of open spaces—both big and small—that contributed to the desired character of New Road. Conservation efforts should continue to focus on voluntary and cooperative efforts among private landowners, the Historic Lewes Byway Committee and other public and private partnerships whose mission is focused on the conservation of the Great Marsh and its environs. Conservation priorities can also be discussed through the development process and can include increased setbacks, stormwater management facilities, trails and focal areas around which new development can be organized.

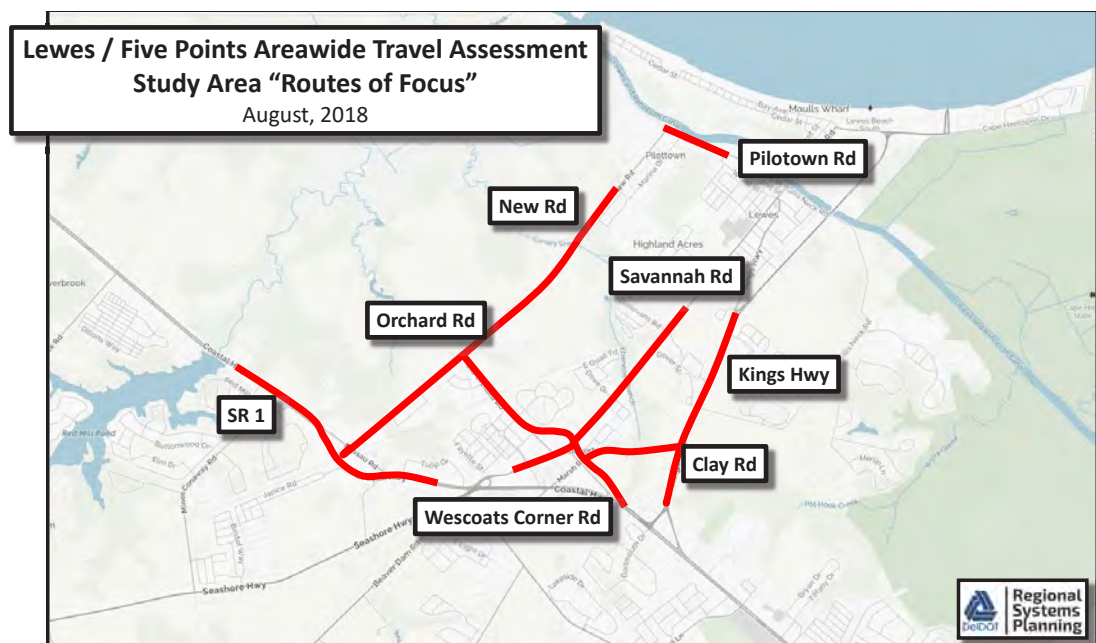
New Road’s significant cultural landscape associated with its agricultural history can be traced to the 1800s. Orchard crops are shown on the earliest recorded aerial photograph taken in 1937 (Figure 23 on page 25), which shows apple and peach orchards in cultivation. References to Nassau Orchards dates back to 1916<sup>2</sup>. In addition, archeological resources associated with the areas along Canary Creek were identified through the statewide development review process as one of the most significant cultural sites in Delaware with evidence of Native American burials, as well as other burial sites. There are two archeological sites on the Groome Church (Tower Hill) Property, as well as the Prettyman family cemetery.

### ACTIVE LAND USE AND TRANSPORTATION PROJECTS

In addition to the Groome Church (Tower Hill) and Brittingham Farm properties, there are many more development and transportation projects that are in the pipeline, having been

<sup>2</sup> “Belltown’s history dates back to middle 1800s”, Ron MacArthur, published in Capge Gazette, June 7, 2010

Figure 12 Study area for the travel assessment under development by DeIDOT



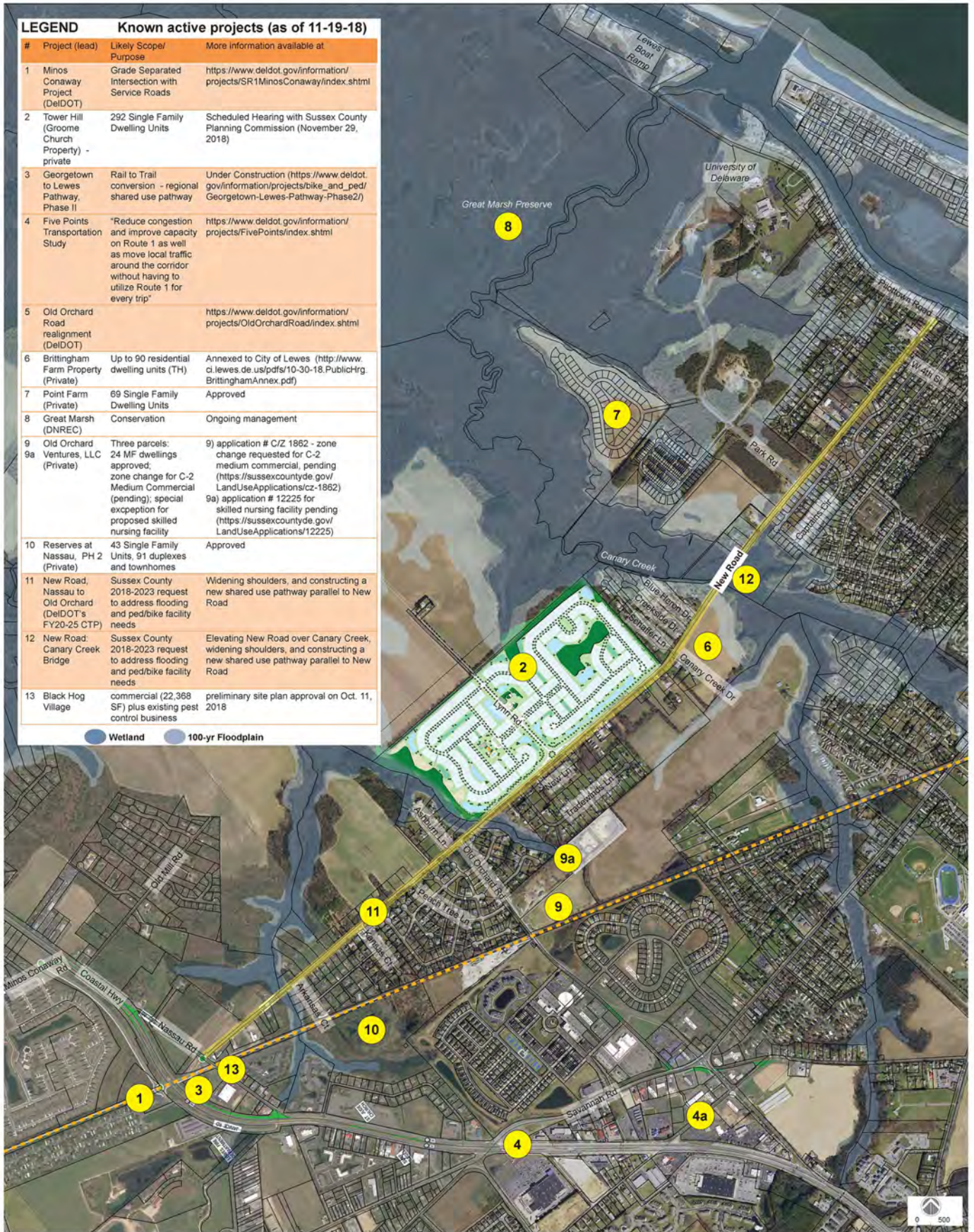


Figure 13 Active Development Projects along New Road as of November 2018

submitted for development review or as part of a state funded transportation study or other capital improvement. A third development project, Black Hog Village, is proposed for the lots directly behind the existing bakery and distillery at the intersection of Nassau and New Road.

DelDOT conducted the “Five Points Transportation Study” in 2018 to, according to its project web site, “Reduce congestion and improve capacity on Route 1 as well as move local traffic around the corridor without having to utilize Route 1 for every trip.” The results of Phase One of the study identified the following priorities:

- Implement policies and procedures to make the area more efficient, sustainable and beautiful (8 priorities out of 27 recommendations)
- Make the most of existing roadway infrastructure (8 priorities out of 20 recommendations)
- Make walking, bicycling, and transit more viable as alternatives to driving (5 priorities out of 15 recommendations)
- Invest in new infrastructure to support anticipated growth (3 priorities out of 9 recommendations)

The Phase One plan had several priority recommendations that would involve and potentially enhance the New Road Corridor, including modifications to the Canary Creek Bridge and recommendations to fill gaps in pedestrian facilities.

In a separate action, the Delaware Department of Transportation is proposing modifications to the roadway network at New Road and Nassau as part of the Minos Conaway Project - incorporating a grade separated intersection to increase safety and mobility as well as to help reduce congestion along Route 1. Roundabouts are proposed as the intersection design for travel exiting Coastal Highway at Nassau while opening up the underpass of the railroad right-of-way to incorporate both vehicular and pedestrian access towards New Road (and the Georgetown to Lewes Rail-Trail).

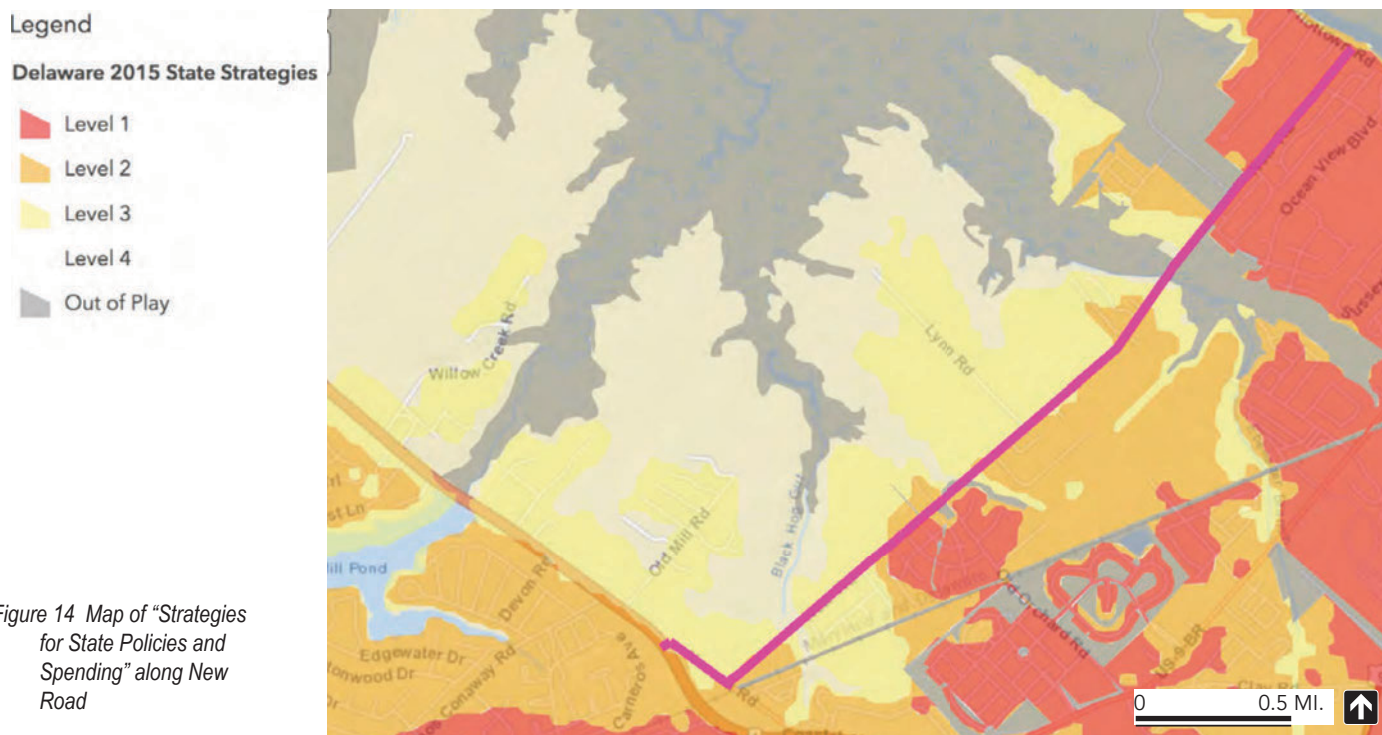


Figure 14 Map of “Strategies for State Policies and Spending” along New Road



Modifications and realignment of Old Orchard is also under consideration between Savannah Road and Old Orchard Road at Westcoats Corner. Due to speculation of increased traffic and avoiding congestion on Route One, the City of Lewes requested a traffic study to address the cumulative effect of the various modifications. DelDOT has not disseminated results of the study to the public as of the writing of this plan.

### Strategies for State Policies and Spending

The State of Delaware helps coordinate local land use decision making with State decisions made about funding infrastructure through the guiding document entitled “Delaware Strategies for State Policies and Spending”, last updated by the State in 2015. The State of Delaware works to ensure that State spending promotes quality, efficiency and orderly, compact growth while protecting resources.

The State’s Strategies for State Policies and Spending map (Figure 14) classifies land areas by “Investment Level” (1 through 4). The state also designates areas as “Out of Play” for lands that are legally protected from development. The four investment levels are described as follows:

- **Investment Level 1** seeks to maintain and enhance community character, to promote well-designed and efficient new growth, and to facilitate redevelopment.
- **Investment Level 2** seeks to promote well-designed development for a variety of housing types, user- friendly transportation systems, essential open spaces and recreational facilities, other public facilities, and services to promote a sense of community.
- **Investment Level 3** includes those areas identified in long-term growth plans of counties or municipalities where development is not necessary to accommodate expected population growth during the next five years or longer.
- **Investment Level 4** indicates the State’s intent to discourage additional urban and suburban development unrelated to agriculture and to the area’s needs, including limiting future infrastructure investment, while recognizing infrastructure investments may be appropriate where state and local governments agree that such actions are necessary to address unforeseen circumstances involving public health, safety, or welfare.
- **Out of Play** indicate lands that are not available for private development and include publicly-owned lands, private conservation lands, lands for which serious legal and/or environmental constraints on development are identified, and lands in some form of permanent open-space protection (such agricultural preservation easements and conservation easements).

The primary implication of the Strategies for State Policies and Spending is that the areas west of New Road are identified as Investment Levels 3 and 4 (bordering Canary Creek and Black Hog Gut). These lands continue to have significant conservation values as farmland and riparian forestland. Conservation of the Investment Level 4 and as much of the Investment Level 3 as possible would provide additional benefits for mitigating the potential effects of Sea Level Rise. The Sussex County Comprehensive Plan (2019) includes more detailed descriptions of the policy implications of these strategies for the County.

### Sea Level Rise

As per Executive Order 41, Preparing Delaware for Emerging Climate Impacts and Seizing Economic Opportunities from Reducing Emissions (2014 and subsequent

guidance); any state funded project shall address Sea Level Rise (SLR). For the New Road corridor, the planning issues associated with SLR include:

- Determining whether or not New Road will be treated as an Evacuation Route
- Establishing the elevation of new structures over Canary Creek and Black Hog Gut and their tributaries
- The role that associated riparian and wetland areas play in accommodating rising water levels and more frequent flooding
- The effect of rising sea levels on flooding and stormwater runoff

**Effect of SLR on Flood Risk<sup>3</sup>**

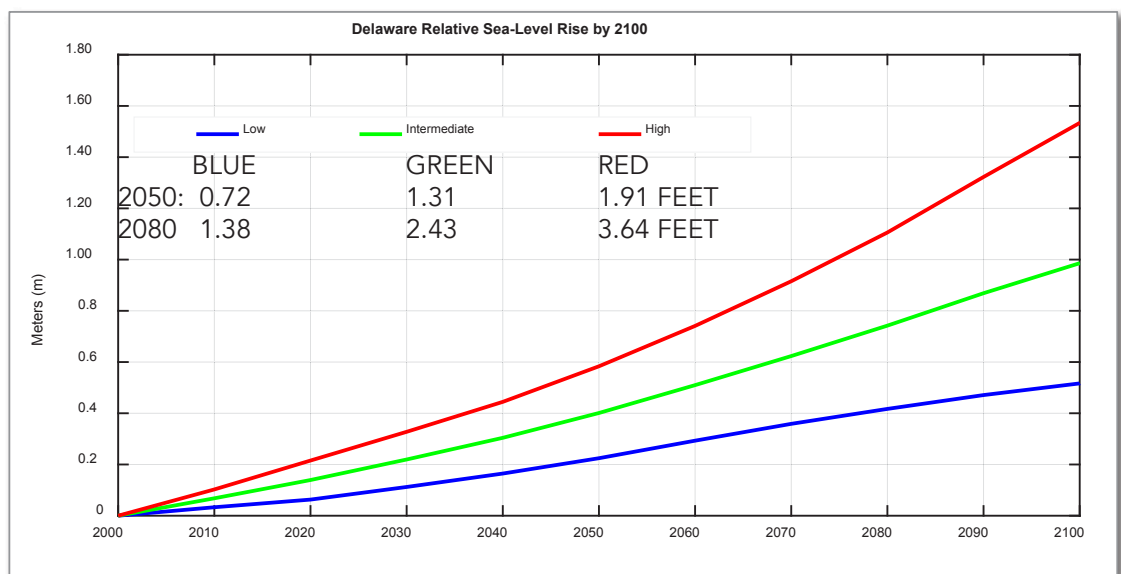
The floodplain is likely to expand due to SLR and the influence of land use and development. Today’s floodplain is not tomorrow’s floodplain. The State of Delaware advises its agencies not to build in the floodplain, and if it cannot be avoided, then higher design standards using nature-based approaches should be utilized. Nature-based approaches include bioswales, rain gardens, forests, wetlands, and open space. According to FEMA, higher standards could mean encouraging new construction to be one or more feet above the base flood elevation and/or creating incentives to turn floodprone areas into open space through property buy-outs (from willing sellers) and proactive planning. Both FEMA regulations for critical facilities and the City of Lewes’s Code refer to the 500-year floodplain and 500-year flood levels and both data are unavailable, or no longer accurate. Should more accurate flood elevation data become available, then they should be utilized to proactively address sea level rise as a factor in flood risk management, an ongoing issue along New Road east of Lynn Road.

**Sea Level Rise Projections**

The State of Delaware’s SLR projections, tailored to the region, are designed to give maximum flexibility in choosing how much risk is acceptable when planning for future projects. SLR projections, expressed in the graph shown in Figure 15, assign confidence levels to each point on the curves. For example, any point along the red “High” curve implies 95% confidence that SLR will not exceed that value, whereas

<sup>3</sup> Information on Flood Risk and Sea Level Rise Projections provided by Danielle Swallow, Coastal Hazards Expert, Delaware Sea Grant Program

Figure 15 The Low, Intermediate, and High planning scenarios correspond with 5%, 50%, and 95% probability levels, respectively, under a “business as usual” greenhouse gas emissions future. (For example, the High curve indicates a 95% probability that sea-level rise will not exceed any year’s value on that curve). SOURCE: 2017 State of Delaware Sea-Level Rise Planning Scenarios



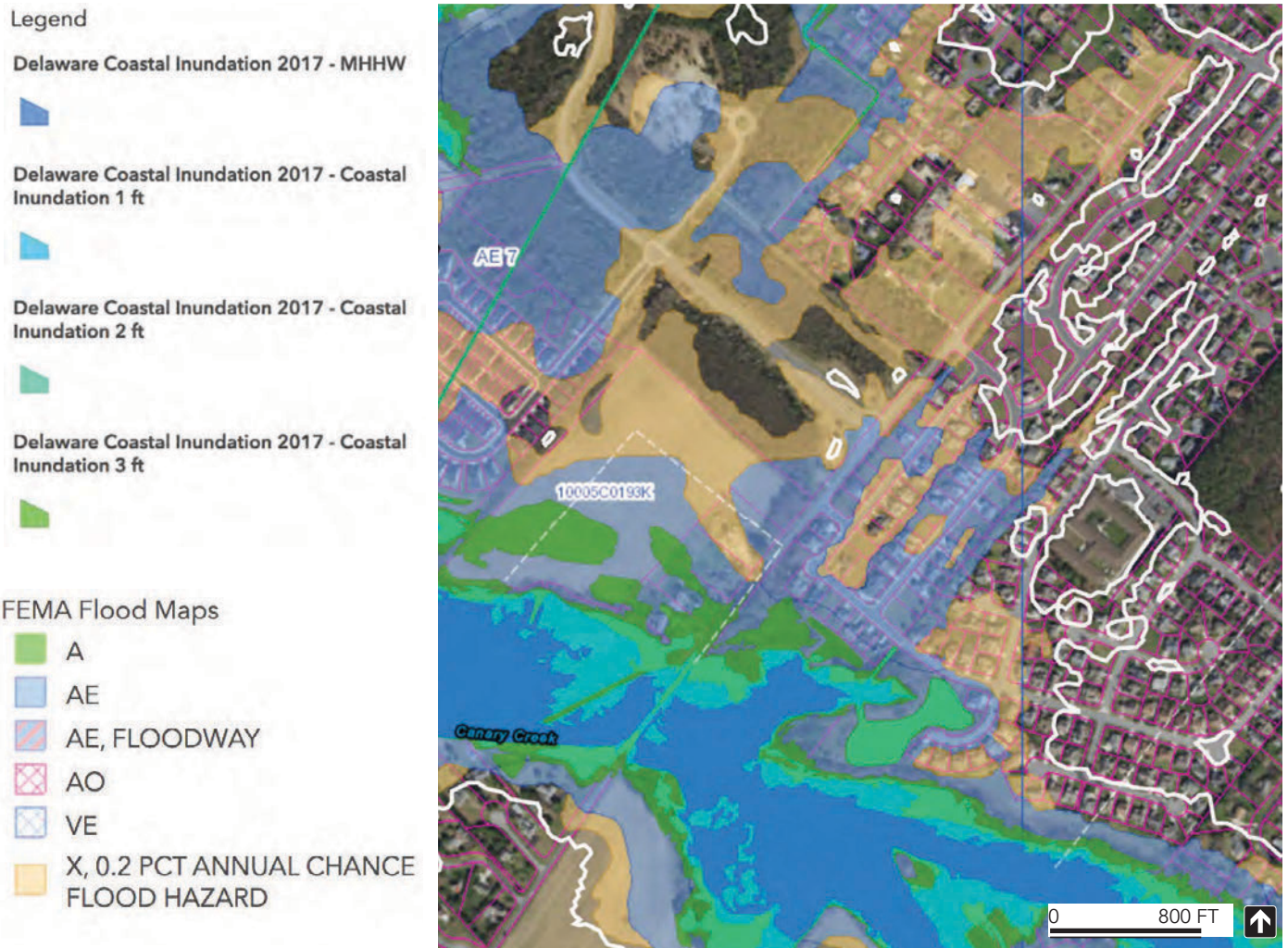


Figure 16 Map illustrating the effects of a one-, two- or three-foot rise in Sea Level for New Road between Canary Creek and 4th Street. The SLR elevations are overlain on top of the existing FEMA Flood Maps. The white contour shows the 10-foot elevation which would be the equivalent of the new 100-year floodplain under a three-foot SLR scenario.

the green curve is the 50% confidence curve, and the blue “Low” curve implies only a 5% chance that SLR will not exceed any year’s value along that curve.

Planners might choose the High curve for projects with a low tolerance for risk. An example where public safety is of concern would be an evacuation route or wastewater plant because there is a 95% probability that SLR will not exceed the points on that curve. Trade-offs will need to be made between the higher costs of designing projects based on a higher confidence level, or selecting an intermediate curve to design to and accepting some risk.

For the purpose of the Master Plan, an intermediate curve might be appropriate for a project with a life cycle in the 30-year range (the length of a typical mortgage, for example), while DelDOT designs bridges with life expectancies of 75-100 years. If New Road is an evacuation route, then the “high” curve should be considered.

The current 500-year floodplain will become part of the “new” 100-year floodplain with three feet of sea level rise. Land use changes, or other climate changes like more intense precipitation may promote expansion into that area sooner, but the most current models indicate that a 3’ SLR would be upon us in 2075 (just 57 years away) and well within the lifespan of a bridge that is planned for construction at the out years of the current CTP.

### **Complete Streets Policy**

Byway routes are, by Federal and State policy, multi-modal and should be designed to provide access to the venues and attractions found along the Byway route. In addition, the Historic Lewes Byway stated goal is to “Establish Byway routes as corridors for human powered recreation,” including the development of a shared-use pathway.

Achieving complete streets policies on scenic and historic roads, in general, and along New Road, in particular, may be difficult due to complexities and challenges associated with the goal of preserving the scenic and historic qualities of the designated routes, available right-of-way, roadside ditch lines that serve multiple neighborhoods, and floodprone areas.

DelDOT’s complete streets policy offers two approaches for addressing these issues:

- An exemption can be requested “if it is determined that a reasonable and equivalent alternative already exists for certain users or is programmed in the CTP/TIP as a separate project as determined by representatives of appropriate modes”
- A waiver can be requested no later than the semi-final design phase when “complexities and challenges exist[s] and there is a need to avoid or mitigate impacts to natural and cultural resources”

Large segments of the proposed shared-use trail along New Road will be built as part of the development of the Groome Church Property (Tower Hill) and the Brittingham Farm. Additional capital projects planned as part of the Minos Conaway Project, the Black Hog Village Development, the Old Orchard intersection (possibly developer contributions), and the Canary Creek Bridge reconstruction will make most of the proposed trail a reality in the near- to mid-term time-frame. Waivers may need to be requested for the urban segments, from Park Road to Pilottown Road, that address the right-of-way limitations and flooding problems.