

# Transportation Improvement Districts

A Guide for Delaware Local Governments

By Marcia S. Scott & Matthew Watkins Institute for Public Administration

# Transportation Improvement Districts: A Guide for Delaware Local Governments

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Cover photo courtesy of James Pernol, DelDOT

### **Preface**

As the director of the Institute for Public Administration at the University of Delaware, I am pleased to provide this publication, Transportation Improvement Districts: A Guide for Delaware Local Governments. Funded by the Delaware Department of Transportation (DelDOT), this resource is intended to elevate an understanding of Delaware Transportation Improvements Districts (TIDs) and how they can support financing of Delaware's transportation system, better coordinate land use and transportation planning, manage impacts of growth, and attract investment to areas planned for growth and development. The publication highlights benefits of TIDs and provides an overview of DelDOT's amended regulations that expand TID protocols. TIDs are consistent with the Complete Communities planning framework that seeks to build local government capacity to create more efficient government, promote economic growth, and improve the quality of life for all Delaware citizens. A local government can incorporate a TID into its planning framework by following a simple, six-step process to create a TID. "Best practice" examples are provided for two Delaware local governments that have either planned for, or implemented, TIDs.

In Delaware, land use decisions are made at the local government level while the majority of infrastructure and services needed to support such decisions are provided by the State. IPA appreciates the continued support from both DelDOT and the Delaware Office of State Planning Coordination, which recognize the need to support wise land use decisions by local governments to align with the State's provision of infrastructure and services. I am pleased to acknowledge, on the following pages, IPA's staff, partners, and colleagues who contributed to the research and production of this publication, and the TID section on IPA's online *Delaware Complete Communities Planning Toolbox* (www.completecommunitiesde.org).

Jerome R. Lewis, Ph.D. Director, Institute for Public Administration

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The Institute for Public Administration (IPA) at the University of Delaware gratefully acknowledges its project partners and colleagues at the Delaware Department of Transportation (DelDOT), Delaware Office of State Planning Coordination (OSPC), and the City of Dover for their assistance and contributions to this research project and publication. Special thanks go to DelDOT planner Bill Brockenbrough, who provided key insights on changes to department regulations concerning transportation improvement districts (TIDs). These changes are expected to comprehensively coordinate land use and transportation within a specified area and equitably distribute the cost of transportation improvements associated with growth and development in Delaware. IPA would also like to thank DelDOT photographer James Pernol, who granted permission to use images of Delaware's transportation system within this document and IPA's online Delaware Complete Communities Planning Toolbox (https://completecommunitiesde.org).

David Edgell, a principal planner with OSPC, suggested ways that a local government may incorporate a TID within an amendment or update to a comprehensive plan or a master planning process. This concept complements master planning and the State's Downtown Delaware District Program by planning for necessary transportation infrastructure for (re)development in areas targeted for growth—including downtown infill areas.

City of Dover Planning and Community Development Direct Ann Marie Townsend emphasized the need for intergovernmental cooperation and explained how her jurisdiction worked collaboratively with DelDOT to proactively implement its TID. The City of Dover's TID is expected to provide needed transportation improvements along a major corridor that will encourage private-sector investment and enhance market-ready (re)development opportunities.

In addition to providing their perspectives, Brockenbrough, Edgell, and Townshend each made presentations to local government officials at IPA's Planning 202 Workshop on Planning for Transportation Improvement Districts, Downtown Development Districts, and Market-Ready (Re)Development on November 21, 2014.

IPA appreciates the commitment of time and concerted efforts of the following individuals who made this project and the production of this publication of TID content within the *Delaware Complete Communities Planning Toolbox* possible.

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### **EXECUTIVE SUMMARY**

Local communities are the backbone of the state's commerce and their economic growth depends on a well-maintained transportation network to efficiently move goods and people. Transportation infrastructure (highways, roads, bridges, and capital for transit systems) has largely been funded by an indirect user fee, in the form of gasoline taxes, at the federal and state levels. However, gas tax revenues have declined significantly in the last decade as a result of less driving, increasing fuel efficiency of cars, and decreasing purchasing power. In addition, federal and state transportation trust funds have experienced substantial shortfalls due to inflationary costs, limited resources, substantial increases in construction costs and debt financing, and declining revenues. It is estimated that only 40 percent of what is necessary is being invested to meet surface transportation infrastructure needs at all levels of government.

Declining revenues and funding constraints have required states to find alternative ways to fund transportation infrastructure.

Transportation Improvement Districts (TIDs) are an innovative funding mechanism being used to finance the construction, maintenance, and expansion of transportation infrastructure.

The Delaware Department of Transportation (DelDOT) recently revised its rules concerning TIDs. The new regulations provide a proactive and comprehensive approach to fund long-range transportation system improvements on an area-wide basis. As a transportation-based impact fee, TIDs set the stage for market-ready (re)development. They provide a way to equitably distribute the cost of development-related growth and infrastructure improvements to the private sector that benefits from the facilities.

TIDs can foster sustainable development and support the framework to plan for Complete Communities in Delaware. This philosophy recognizes the impact transportation investments have on land use, community form, economic development, and quality of life.

The Institute for Public Administration (IPA) at the University of Delaware developed this guide to help Delaware local governments better understand TIDs and DelDOT regulations, which govern the process to plan for and establish a District.

The guide discusses the purpose, benefits, and planning framework in Delaware that requires intergovernmental coordination. It provides a step-by-step process for Delaware local governments to create TIDs and two best-practice examples for planning (City of Newark) and implementation (City of Dover) of TIDs in Delaware.

This guide is a part of a comprehensive set of online tools on TIDs within the Complete Streets element of the *Delaware Complete Communities Planning Toolbox* (http://completecommunitiesde.org). The online *Toolbox* provides user-friendly information and tools for local governments on complete-communities planning approaches, implementation tools, and community engagement strategies.

IPA encourages local government officials and citizen planners to take advantage of resources available on the *Toolbox* and through course offerings in the Delaware Planning Education Program (www.ipa.udel.edu/localgovt/training/planning-ed.html).

### WHAT IS A TRANSPORTATION IMPROVEMENT DISTRICT?

#### **Definition**

The Delaware Department of Transportation (DelDOT) defines a Transportation Improvement District (TID) in its Standards and Regulations for Subdivision Streets and State Highway Access as "a geographic area defined for the purpose of securing required improvements to transportation facilities in the area" (Delaware General Assembly, 2013). TIDs comprehensively coordinate land use and transportation within a specific geographical area. <sup>1</sup>



Credit: James Pernol, DelDOT

#### **Need for TIDs**

Across the nation, state transportation departments face challenges in financing infrastructure improvements. Federal funding for transportation has eroded and traditional revenue sources have failed to keep pace with capital needs of transportation improvements. Delaware is no exception.

Delaware's Transportation Trust Fund (TTF), originally designated for construction costs, became financially constrained when DelDOT's operating budget was transferred to the TTF. Pressures to the TTF include a combination of stagnant or flat revenue streams, residual debt, rising operating and construction costs, increased transit expenses, ongoing maintenance requirements, and steadily rising demand for new projects to keep pace with economic expansion and traffic growth. Delaware's motor fuels tax, a primary source of TTF revenue, has not been increased since 1995.

Unlike other states, however, Delaware plays a key role in funding transportation and in strategic management of the state's transportation assets. DelDOT is responsible for maintaining nearly 90 percent of over 13,000 lane miles in Delaware, while the nationwide average for states is approximately 20 percent.

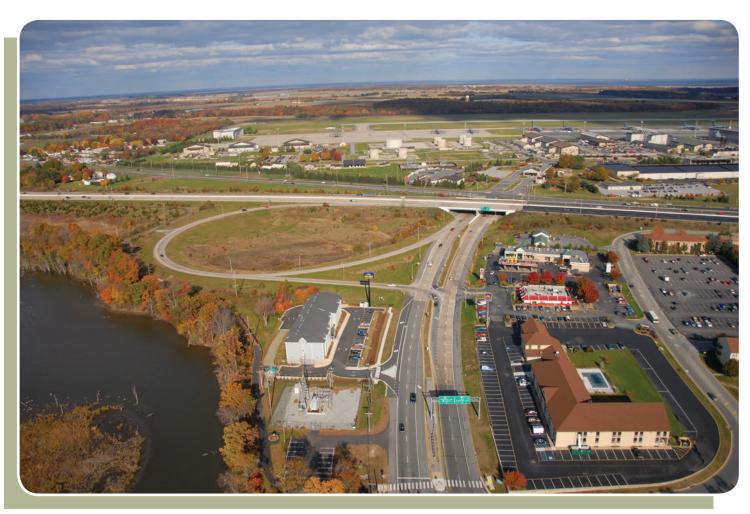
Many states are considering or have adopted alternative funding mechanisms, including TIDs, to supplement traditional transportation revenue streams. As a transportation-based impact fee, TIDs provide a way to equitably distribute the cost of development-related growth and infrastructure improvements to the private sector that benefits from the facilities, rather than costs being absorbed by the general public.

In 2015, DelDOT expects to adopt a comprehensive rewrite of the Standards and Regulations. It is expected that there will be minimal changes to TID regulations, but the document will be renamed to "Development Coordination Manual."

TIDs are designed to achieve equitable mitigation of transportation impacts. They provide a funding mechanism to secure required, long-term improvements on a "fair-share" basis from developers to fund transportation infrastructure and facilities within that area. In addition, TIDs can be an effective funding mechanism to ease land development pressures and prepare targeted growth areas for market-ready (re)development. Economic development and growth can bring jobs and additional revenue to a community.

However, unintended consequences of poorly planned growth include sprawl, traffic congestion, environmental problems, and increased costs for necessary public services and infrastructure.

A TID provides a framework for managing transportation impacts of planned growth. In addition, a TID can attract investment to an area targeted for growth and (re)development by expediting preconstruction phases and leveraging state and federal funds for improvements to state-owned transportation assets.



Credit: James Pernol, DelDOT

### TRADITIONAL USE OF TRAFFIC IMPACT STUDIES

Development places demands on the transportation system. New development may generate enough traffic to cause congestion, safety concerns, and/or the need for infrastructure improvements—such as new signalization, turn lanes, or crosswalks. A traffic impact study (TIS) is a common planning tool used by departments of transportation, such as DelDOT, to foresee demands on the transportation network and determine transportation improvements that may be necessary to accommodate new development. Traffic access and impact studies also are intended to maintain a satisfactory level of service and the appropriate access provisions for a proposed development.

#### When are Traffic Impact Studies Required?

DelDOT's Standards and Regulations defines a TIS as "a study conducted during the development approval process to determine the impacts that traffic generated by the proposed development will have on the surrounding street network and the improvements needed to the transportation system in order to mitigate those impacts" (DelDOT, 2013). In Delaware, a TIS may be required by DelDOT, a local government, or both. Although DelDOT is responsible for most of the state's transportation network, a local government may require a TIS to determine whether proposed development is appropriate for the site and land use context. A TIS may be required as a condition of land use approvals to ensure that area transportation facilities operate adequately to accommodate impacts of new development.

TISs may vary in range of detail and complexity—depending on the type, size, and location of the development. While some Delaware jurisdictions require a TIS as part of their rezoning and conditional use processes, they are most commonly, and perhaps most effectively,



Credit: James Pernol, DelDOT

required as part of the subdivision and land development plan processes. Also, DelDOT and Kent and New Castle Counties have warrants for when a TIS is required.

The extent of the study is determined in a "scoping meeting" that includes representatives from DelDOT, the developer and, usually, the local jurisdiction. The TIS process generally includes a review of base traffic conditions, an analysis of expected trip generation, an assessment of future traffic volumes, and an analysis of site access locations and nearby intersections. The TIS scope may also consider impacts to queuing at intersections, safety, and impact on other transportation modes (e.g., bicycle, pedestrian, and public transit).

# Limitations of a TIS as a Transportation Planning Tool

While a TIS is a valuable transportation planning tool, it is considered a more reactive approach for several reasons. First, a TIS focuses on the need to mitigate transportation impacts of single, new development (e.g., a subdivision) instead of providing a proactive strategy to plan for and fund long-term, area-wide transportation improvements. Second, in many cases, smaller or incremental developments, which cumulatively can have significant impacts, may not trigger the need for required transportation improvements. This may cause an unfair distribution of responsibility where the last developer in pays for all transportation improvements. Third, while the TIS estimates the number of trips generated and projects future traffic volumes, these forecasts are not necessarily incorporated into plans for future land use (e.g., comprehensive plans and master plans). Finally, the TIS approval process can be tedious and time consuming, particularly when multiple developers are involved.

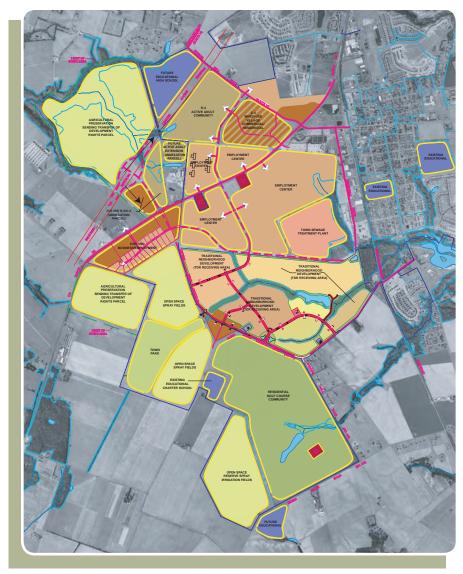


Credit: James Pernol, DelDOT

#### **History of TIDs in Delaware**

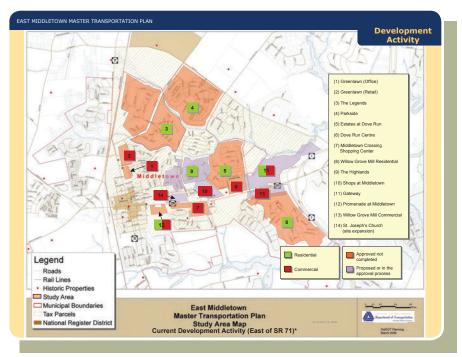
At various times, and at least since 1995, DelDOT has proposed transportation-related impact fees on a state-wide basis to plan for, and equitably distribute, long-term costs of development-related transportation improvements. New Castle County currently has two locations that operate as a TID in some respects—including the Churchman's Crossing area and the Route 40 Corridor. While these locations came about through inter-agency agreements to study the area, neither location has a TID agreement or, currently, a fee. A TID was also established as a voluntary program in Middletown, Del., as part of the Westown Master Plan, through a series of agreements with the affected land owners (Westown: Our healthy community, n.d.). Following a lengthy planning study, a Southern New Castle County TID was established in August 2014 for the area bounded by the Chesapeake and Delaware Canal, US Route 13 and State Route (SR) 71, and a local road. DelDOT, New Castle County, and area developers entered into agreements to participate in the TID. Under this arrangement, developers will make payments through the County to DelDOT in lieu of doing a TIS and constructing off-site improvements.

TIDs have also been endorsed as a means of directing growth to specific areas where comprehensive, multimodal transportation system improvements may be developed. For example, Kent County's Comprehensive Plan identifies eleven areas where TIDs are proposed as a means to develop "a more complete plan addressing a larger area for transportation improvements including road upgrades, interconnection of local roads, and bicycle and pedestrian facilities" (Kent County DE, 2008). In addition, it suggests creating TIDs in combination with master plans that incorporate area-wide plans for infrastructure and transportation enhancements. Dover/Kent County MPO's 2040 Metropolitan Transportation Plan Update endorses the use of a TID "as a means of encouraging growth in specific areas where comprehensive, multimodal transportation system improvements may be developed as part of a master land use and transportation planning effort" (Dover/Kent County MPO, 2013).



Map of Middletown's Westown Master Plan Source: Westown Circulation Concept Plan, McCormick Taylor, Inc.

Development also is underway of an Eastown TID in Middletown, located east of SR 71 in southern New Castle County. In the late 2000's, the Town of Middletown realized that planned development on the east side of town along SR 299 would also benefit from utilizing a strategy to master plan the needed traffic improvements, similar to Westown. The Town worked with DelDOT and developers to prepare the East Middletown Transportation Plan. The plan mirrors the Westown framework where developers will contribute their fair share of the overall cost of transportation improvements. It was adopted as an amendment to the transportation section of the Town of Middletown Comprehensive Plan in 2007 and served as the foundation for development of the Eastown TID.



Map of Anticipated Development Activity for East Middletown Source: East Middletown Master Transportation Plan, DelDOT

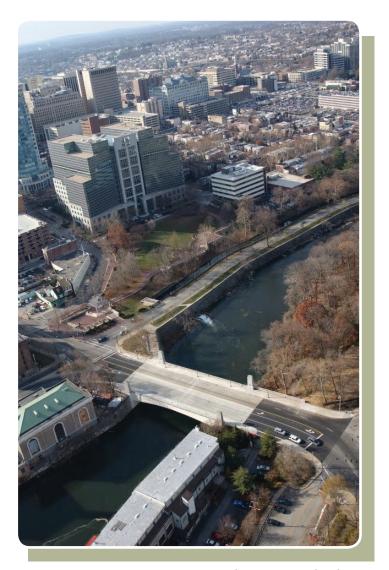
### **AMENDMENTS TO EXPAND TID PROTOCOLS**

Effective May 10, 2013, DelDOT formally adopted amendments to its existing regulations regarding subdivision streets and state highway access that revise TIS regulations and expand TID regulations (Delaware General Assembly, 2013).

The regulations recognize that a TID may be created by an act of the Delaware General Assembly, an action of the Council of an MPO, or a TID agreement between DelDOT and the relevant local government. Section 2.13 of the amended regulations explains how DelDOT and the local land use agency(ies) will work together to create TIDs and describes required/recommended elements necessary to establish, fund, and administer a TID.

The most significant change to the DelDOT regulations, which govern how the agency reviews access to state-maintained roadways, is the scope of the traffic study. The new regulations provide a rational, traffic-based method for determining study areas. Some unintended consequences have resulted from the new TIS regulations, such as excessively large study areas. However, DelDOT is proposing changes to allow flexibility to reduce the traffic study scope in such cases.

The expanded TID regulations were adopted to provide a more proactive and comprehensive approach. The process examines the need for long-range transportation system improvements on an area-wide basis, rather than a development-by-development basis. It is anticipated that TIDs will be an important tool in combining private and public financial resources to maximize a developing area's transportation facilities. Ideally, TIDs should be proposed in conjunction with the development of an area-wide master plan (OSPC, 2012), which provides more detailed planning for infrastructure than a local government's comprehensive plan.



Credit: James Pernol, DelDOT

### TIDS & PLANNING FOR COMPLETE COMMUNITIES IN DELAWARE

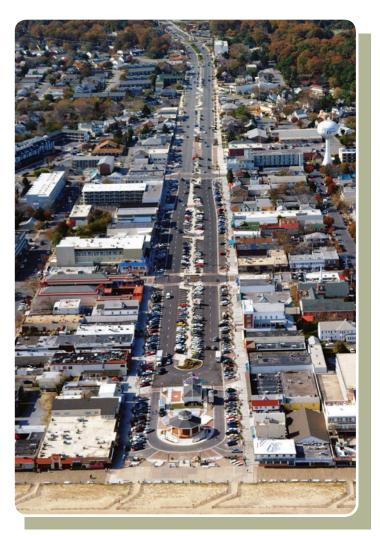
Planning for Complete Communities in Delaware identifies five elements of a Complete Community:

- 1. Complete Streets
- Efficient Land Use
- 3. Healthy and Livable
- Inclusive and Active
- 5. Sustainable and Resilient

As a proactive planning and financing tool, TIDs are consistent with at least three of the five elements that support Planning for Complete Communities in Delaware (IPA, n.d.).

### **Complete Streets**

One focus of DelDOT's Complete Streets Policy (DelDOT, 2009) is to ensure that all users are considered in planning, designing, building, operating, and maintaining the state's multi-modal transportation system. TIDs can incorporate Complete Street principles and provide context-sensitive solutions based on the planned use and classification of a roadway. TIDs can help plan for and finance the construction of transportation facilities that enhance safety and accessibility, serve users of all ages and abilities, support multiple transportation modes, advance community livability, and support the development of a good business climate.



Rehoboth Avenue streetscape Credit: Benjamin Brewer of Johnson, Mirmiram & Thompson

#### **Efficient Land Use**

In Delaware, local governments historically have had primary responsibility for land use planning, but have played a minor role in planning for transportation investments. Traditionally, state departments of transportation (DOTs), including DelDOT, have controlled the location, design, construction, and financing of major transportation infrastructure, but have had little influence over land use decisions.

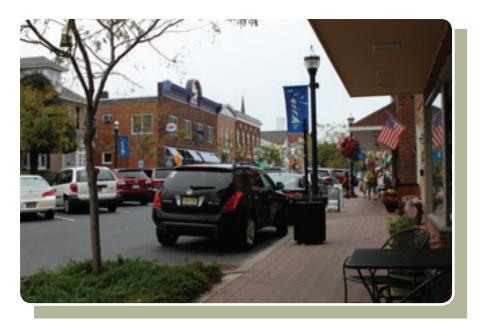
TIDs can support efficient land use by integrating transportation and land use decisions. When TIDs are considered and mapped within a comprehensive plan, and used in conjunction with a sound capital improvement plan, they can be an effective tool for ensuring adequate infrastructure to accommodate growth where and when it is anticipated.

#### **Sustainable and Resilient**

TIDs support sustainability and resiliency by directing development to planned growth areas. TIDs can be used to plan, direct, and coordinate growth to priority areas that are consistent with growth-oriented investment levels described and identified within the Delaware Strategies for State Policies and Spending (OSPC, 2010). DelDOT regulations require local government comprehensive plans to "list and map any TIDs." TIDs that are identified in a local government comprehensive plan and planned within a Level 1, 2, or 3 growth area, can serve to direct transportation investments to master planned areas, a Downtown Development District (OSPC, 2014), and/or other areas ripe for market-ready (re)development.



Credit: James Pernol, DelDOT



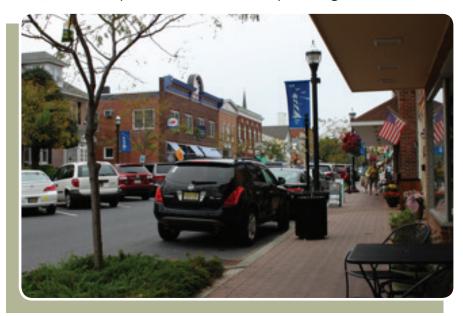
Downtown Lewes, Del. Credit: Institute for Public Administration

### **BENEFITS OF TIDS**

#### Foster Market-Ready (Re)Development

For Delaware to remain economically competitive, its transportation system must be able to move people and goods in a timely, efficient, and cost-effective manner.

TIDs provide a systematic and comprehensive approach to funding needed transportation improvements associated with development; mitigate negative transportation-related impacts of development; improve the performance and safety of the transportation system; and, direct transportation investments to planned growth areas.



Village of Five Points, Lewes, De. Source: Delaware by Design, www.flickr.com/photos/40255584@N06

Transportation improvements are critically important to attract business investment. TIDs provide transportation infrastructure necessary for market-ready (re)development and adaptive reuse of downtown districts, underutilized or declining retail centers, and aging strip malls along highway corridors. Plans developed to implement a TID can achieve acceptable levels of transportation service; accelerate development in a high-priority growth area; prioritize transportation improvements; and ensure that bicycle, pedestrian, motorist, and transit needs are addressed as development moves forward.

#### **Support Complete Communities**

Transportation investments can influence where development and economic activity occurs by providing access to land. At the same time, unmanaged land use and sprawling development patterns can drive the need for costly transportation infrastructure investment. TIDs can foster sustainable development and Complete Communities (IPA, n.d.) strategies by planning for transportation systems that better serve people while fostering economic vitality. Reconnecting land use and transportation can lower costs of new or expanded transportation infrastructure and facilities, which can better serve area residents, visitors, and businesses.

# Focus Transportation Investments to High-Priority Growth Areas

As a transportation-related impact fee, a TID can be an effective tool for ensuring adequate infrastructure to accommodate growth where and when it is anticipated. To be effective, a TID must be based on a comprehensive plan, used in conjunction with a sound capital improvement program, and funded through a proportional fee formula. A TID can focus and coordinate transportation investments in high-priority growth areas to help support desired development patterns.



Development at the Wilmington Riverfront Source: Delaware by Design www.flickr.com/photos/40255584@No6/

#### **Complement Master Plans**

Area-wide master plans can help to implement local government certified comprehensive plans by spelling out the details of, and the responsibilities for, the provision of infrastructure services in an efficient, timely, and cost-effective manner (OSPC, 2012). The master planning process can also help to achieve a local and regional economic vision for enhanced economic opportunities. Local jurisdictions are encouraged to develop a master plan that establishes a TID to reduce the number of required studies in a specific area. When a master plan and TID are prepared concurrently, the effects of the land use on the transportation network can be more accurately forecasted to plan for needed transportation improvements in a master-planned area.



Amazon Distribution Center, Middletown, Del. Credit: William Bretzger, The News Journal

# Support Plans for Downtown Development Districts

Delaware's Downtown Development Districts (DDDs) Act (OSPC, 2014) is intended to leverage state resources to spur private investment in commercial business districts and surrounding neighborhoods; to improve the commercial vitality of downtowns; and to increase the number of residents from all walks of life in downtowns and surrounding neighborhoods. A TID may be considered as part of an "implementation strategy" for a DDD and share the same geographic boundaries. A TID may also be regarded as a "local incentive" for a DDD by ensuring that the transportation network can accommodate new development, infill development, or redevelopment in the district.

# Provide for "Fair-Share" Contributions to Transportation Improvements

TIDs more fairly and equitably allocate the transportation impact of new development than individually negotiated developer agreements. TIDs provide an objective process to identify transportation improvements needed to accommodate growth, allocate fairly the costs of transportation improvements among new developments, and ensure the proper and timely accounting of improvements and funds. TIDs ensure that needed transportation infrastructure—road upgrades, interconnection of roads, and pedestrian, bicycle, and transit facilities—are constructed and that the costs of transportation improvements are not borne by the last developer. TIDs establish a fee program that is based on the premise that all new development (large and small) should pay a fair, or proportional share towards the costs of transportation improvements. TIDs that are supported through developer fair-share contributions can leverage state transportation investments and gain priority consideration during capital planning or transportation improvement planning (TIP) processes.

# Improve Cost-Effectiveness and Efficiency of Transportation Improvements

The scope of the TIS is generally based on the type and intensity of a proposed land use change or development. While a TIS can assess and mitigate congestion- and traffic-related impacts of development, it can be a reactive and narrow approach. A more comprehensive and extensive analysis may be needed for large-scale developments, multiple development proposals, or multi-phased development projects in a given area. A study area that is too large may be needlessly costly and time intensive—both to the developer and to plan reviewers. In addition, it may be difficult to ascertain whether a large, multi-phased or multiple development proposal has a demonstrable impact upon elements of the local transportation network. In these cases, creation of a TID is more proactive, cost effective, and expedient than the conducting several fragmented studies that focus on traffic-related impacts of development.



Credit: James Pernol, DelDOT

#### **Promote Intergovernmental Coordination**

Planning for TIDs can strengthen partnerships among local governments, DelDOT, and MPOs to ensure land use and transportation solutions are complementary. Because a TID can transcend the boundary of a local government (municipality or county), the process encourages collaboration to achieve long-term transportation solutions that could not be achieved by a single government agency or entity.

Creating a TID is consistent with a more comprehensive, regional approach to planning, programming, and coordinating land use policies, regulations, and transportation improvements. This approach will help the timing, type of, and investment in transportation improvements to accompany desired development activity.



Credit: James Pernol, DelDOT

### **TID PLANNING FRAMEWORK**

# Land Use and Transportation Planning Roles and Responsibilities in Delaware

Intergovernmental coordination is critical to address increased demands for public services, infrastructure expenditures, and capital improvements. The state of Delaware, local governments, and MPOs need to work together collaboratively and cooperatively to develop TIDs, and/or master plans that include TIDs.

**Delaware local governments** – have the authority to plan for and manage land use, and to institute zoning and other regulatory controls required to implement comprehensive plans. This authority includes the power to set public policy regarding the patterns, intensity, and locations of development.

**DelDOT** – has responsibility for and jurisdiction over much of Delaware's transportation system—including most of the state's public transit service and 89 percent of the roads and streets.

**MPOs** – including WILMAPCO and Dover/Kent County MPO, have federal statutory responsibility and are charged with planning and coordinating how federal transportation funds are invested in a region.



SR 54 Road Improvements Credit: Lee Cannon

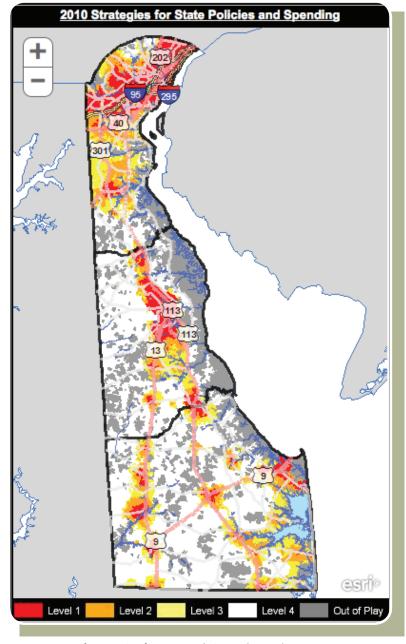
#### **Legal Basis for Intergovernmental Coordination**

State legislation provides the legal basis and tools that advance intergovernmental coordination in Delaware. *Delaware Strategies for State Policies and Spending* (OSPC, 2010) is a state policy and plan that is used to guide state investments that foster orderly growth and development. Delaware's Office of State Planning Coordination (OSPC) states that the intent of this document is to "coordinate land-use decision-making with the provision of infrastructure and services in a manner that makes the best use of our natural and fiscal resources."

The state has created five levels that determine areas that are most prepared for growth and where the state can make the most cost-effective infrastructure investment—including transportation. When a TID is created via an agreement between DelDOT and local government(s), it will be located in an area:

- Where the counties and municipalities are planning for growth
- Within an Investment Level 1, 2, or 3 (OSPC, 2014b) area, as described in the Strategies for State Policies and Spending
- Identified and mapped within a Delaware local government comprehensive plan

The **Delaware Preliminary Land Use Service** (PLUS) process, as authorized by state law (Delaware Code Title 29, Chapter 92), provides for state agency review of major land use change proposals at the start of the land development process. The creation of a TID, which is proposed as part of a Comprehensive Plan update or amendment, will trigger a PLUS process review by state agency officials. The process is designed to identify and mitigate potential impacts of development that may affect areas beyond local boundaries; to fully integrate local land use plans with the provision of state investments; and to bring state agency staff together with developers, and local officials, early in the process.



Map of Strategies for State Policies and Spending Investment Areas Source: Office of State Planning Coordination

### LOCAL GOVERNMENT PROCESS FOR CREATING A TID

TIDs can complement other local government planning initiatives already underway. A TID may be proposed in conjunction with planning for a DDD or preparing a master plan, which spells out the details of, and responsibilities for, the provision of infrastructure—including transportation. There may be several ways to create a TID that meets the criteria of the amended *Standards and Regulations* for *Subdivision Streets and State Highway Access* (DelDOT, 2013). The following process is informed by DelDOT's amended regulations and provides a step-by-step method to create and implement a TID.



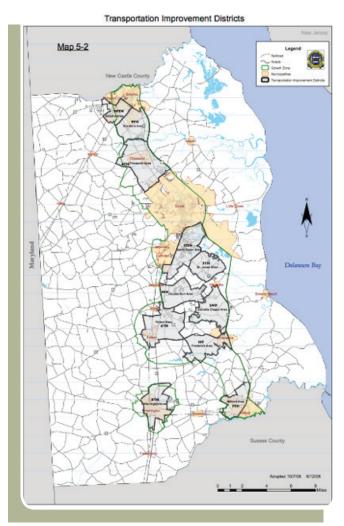
Credit: James Pernol, DelDOT

# Step 1: Review State, Local, and MPO Plans and Policies

Essential to the creation of a TID is the development of a comprehensive and specific land use and transportation plan within the geographic area of the District. A local government should first consider whether the location of a proposed TID is within a planned growth and Investment Level 1, 2, or 3 area in the Strategies for State Policies and Spending (OSPC, 2014b).

In addition, because it may be desirable for the TID to include lands under the jurisdiction of more than one local government, it is critical to review existing comprehensive plans of nearby jurisdictions and the long-range transportation plan of the region's MPO. For example, the transportation chapter of the 2007 Kent County Comprehensive Plan identifies and maps 11 TIDs where the "County, DelDOT, the MPO, and the community will develop a more complete plan addressing a larger area for transportation improvements including road upgrades, interconnection of local roads, and bicycle and pedestrian facilities" (Kent County, Del., 2008). The need to create TIDs on a regional basis was also addressed within Dover/Kent County MPO's Metropolitan Transportation Plan (MTP) 2040 update adopted January 2013. The MTP recommended that "existing standard of requiring traffic impact studies for individual developments should be replaced by the TID master plan..." (Dover/Kent County MPO, 2013).

City of Dover planners recognized the need for the creation of a TID along a major transportation corridor within its jurisdiction in Kent County. This proposed TID was not adequately addressed in either the Kent County or Dover/Kent County MPO's plans. City of Dover officials prepared a comprehensive plan amendment and TID agreement with DelDOT to bring the TID to fruition.



Map of TIDs in Kent County, Del. Source: 2007 Kent County Comprehensive Plan

# Step 2: Collaborate with Local, State, Regional Planning Officials

Delaware state law encourages the coordination of planning and development activities among local governments, regional entities, and state government agencies. Local governments should work collaboratively with DelDOT, the regional MPO, and OSPC to identify how all respective plans, policies, procedures, standards, studies, and regulations can be improved to support effective land use and transportation solutions—including a TID.

Because a TID may transcend local government boundaries, it may encompass lands of more than one jurisdiction. TIDs are created by an agreement between DelDOT, the relevant local government(s), and possibly the federally designated MPO responsible for coordinating transportation planning and programming in the proposed TID area. A local government needs to contact the appropriate planning professional at these entities to begin the process of creating a TID and its required elements. In addition, a local government may wish to contact its OSPC circuit-rider planner for assistance when a TID is proposed as part of an amendment or update to a comprehensive plan, or as part of a master planning process.

# Step 3: Determine Whether a TID Should Be Created as Part of a Master Plan or Land Use and Transportation Plan

Local government(s), the MPO, and DelDOT need to proactively align land use and transportation improvements. The first consideration is deciding the boundaries and target year for completion of the TID. Once these are set, there are two ways to proceed—a Master Plan or a Land Use and Transportation Plan (LUTP).

#### **Master Plan Option**

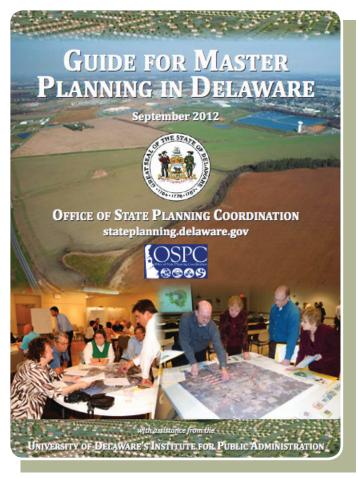
Where possible, it is recommended that creation of a TID be part of the master plan. As described in the Guide for Master Planning in Delaware (OSPC, 2012), master plans are more detailed than comprehensive plans, and include:

- Build-out calculations—number of homes, square footage of offices and retail stores;
- Infrastructure needs and costs—transportation improvements, water and sewer extensions; and
- Phasing and coordination of infrastructure provision with development.

Master planning brings all stakeholders together, includes significant public engagement, and is not constrained by jurisdictional boundaries. A master plan developed for a TID area will ideally "identify access, general improvements and needed infrastructure, and guide growth and development over a number of years and in phases." The guide provides examples of TIDs established in the master planned areas of Churchman's Crossing and Middletown's Westown area.

#### Land Use Transportation Plan (LUTP) Option

A local government can also choose to develop an LUTP for the TID. At a minimum, the LUTP requires a local government to provide a parcel-specific land use forecast inside the boundaries of a TID. Smaller jurisdictions should seek assistance from their MPO or DelDOT to develop this forecast. DelDOT models the forecast's effects on transportation to determine the improvements needed to meet agreed-upon service standards. Together the parcel-specific land use forecast and the needed improvements determine the LUTP.



Guide for Master Planning in Delaware Source: Delaware Office of State Planning Coordination

# Step 4: Amend or Update the Comprehensive Plan

Section 2.13.27 of DelDOT's regulations says, in part that "the [local government's] Comprehensive Plan(s) should list and map any TIDs..." Therefore, a local government should consider whether a comprehensive plan amendment or update is needed.

Local government comprehensive plans articulate general guidelines for achieving growth, development, and desired land use patterns. Delaware law prescribes the contents of comprehensive plans and the frequency with which they are to be reviewed or revised. Because land use, growth management, and transportation planning are inextricably linked, planning for TIDs must be incorporated into and consistent with a local government's comprehensive plan. State law requires that comprehensive plans be revised, updated, and amended as necessary. A plan should be reviewed every five years and re-adopted every ten years. TIDs can be incorporated into a local government comprehensive plan as an amendment or update.

#### **Amendment**

Each Delaware local government must review its adopted comprehensive plan at least every five years to determine if its provisions are still relevant. A comprehensive plan may be amended during the review period or as needed to specifically create a TID. Any amendment should at a minimum include a narrative describing the area of the TID, the goals it seeks to accomplish, and a revised map to identify the location of a TID and its boundaries.

#### Update

An adopted comprehensive plan must be also be revised, updated, and readopted at least every 10 years. If the TID is incorporated during the periodic 5-year review or 10-year re-adoption it can be added to the element/chapter concerning transportation planning. Policy direction and implementation strategies for the creation of a TID may be discussed in the transportation element/chapter and other

sections such as the vision, land use, intergovernmental cooperation, and possibly the economic development element. Maps within the comprehensive plan should delineate planned locations and boundaries of TIDs in relation to growth zones (e.g., State Strategy Level 1, 2, and 3 areas).

#### **Public Engagement**

A TID must go through a local public participation process as it is being developed. As with any planning process, it is essential to gain continuous public input and involve diverse stakeholders from the initial planning stages. Early involvement can build consensus on the need to amend/update a comprehensive plan, set forth a change in land use that has implications for transportation, or initiate plans for transportation improvements that support economic investment and development. A planning commission, and other boards or committees that serve an advisory role to elected officials must be involved in planning for a TID, and must recommend any changes to a comprehensive plan. Prior to adoption of a comprehensive plan amendment or update by the governing body, direct input is needed from the community through public workshops, forums, hearings, and/or online engagment.



Smyrna Charrette Credit: McCormick Taylor, Inc.

#### **PLUS Process Review**

Once approved locally, the comprehensive plan amendment or update must be submitted to OSPC under the Preliminary Land Use Service (PLUS) process (OSPC, 2014a) prior to official state adoption.

# Step 5: Consider the Required and Recommended Elements of a TID

Required TID elements that must be considered by a local government, according to DelDOT's regulations, include a:

- Land Use and Transportation Plan As previously described, the
  development of a specific LUTP within a designated geographic
  area, OR the creation of a master plan, is essential to the creation
  of a TID.
- TID Agreement A local government needs to enter into a written agreement with DelDOT (and its MPO and other jurisdictions if appropriate). The agreement needs to address:
  - Initial boundaries, target horizon year for the TID and procedures for amending them;
  - Roles and responsibilities for creating the LUTP;
  - Service standards to be used in developing the LUTP; and
  - Implementation of transportation improvements identified in the LUTP.
- Boundaries of the TID A TID must have distinct boundaries and follow geographic features that are easily identified and rarely altered but are not roads. TID boundaries should also follow Traffic Analysis Zone (TAZ) boundaries.
- Target Horizon Year Because this is based on a forecast of land use, the target is generally 20 years from the creation of the TID.
- Land Use Forecast The land use and transportation plan for the TID must include a quantitative assessment of development that has been approved, pending approval, or projected by the target horizon year.

- Service Standards With input from the public, DelDOT and the local government(s) will establish service standards to determine the necessary transportation improvements and investments required for the TID. The regulations state that "Service standards may include Levels of Service but should also include desired typical sections for local, collector and arterial streets, and standards for the presence and frequency of transit service" (DelDOT, 2013).
- Infrastructure Fee Program This impact fee establishes a formula that fairly apportions costs of transportation improvements to developers in the TID to pay for necessary transportation improvements.



Credit: James Pernol, DelDOT

#### **Recommended Elements of a TID**

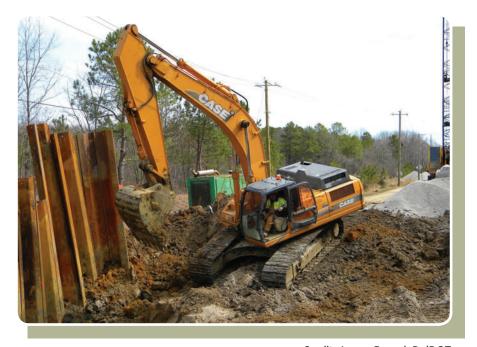
Suggested, but not required elements are: creating a TID as part of the development of a master plan, including a program for monitoring conditions in the TID, including the local MPO as a party to a TID agreement, or considering the need for a build-out analysis (if the build out is expected by the target horizon year).

#### **Step 6: Implement the TID**

The local government's role does not stop at simply identifying and mapping potential TID areas within a comprehensive plan update or amendment. To implement the TID, a local government must:

- Enter into a TID Agreement The TID agreement is essentially
  a parent document that outlines how the parties—DelDOT,
  local government(s), and MPO—will work together to create
  and maintain the TID. DelDOT has prepared a TID agreement
  template that includes all the required elements of a TID. The TID
  Agreement states that all parties will work together to create:
  - An LUTP or master plan
  - A TID-specific Capital Transportation Plan (TID-CTP)
  - An infrastructure fee program
- Prepare a TID Capital Transportation Program DelDOT will develop cost estimates for transportation improvements and TID-specific projects. Together, these projects and cost estimates, as approved by the local government, comprise the TID Capital Transportation Program (TID-CTP). Local governments, working in collaboration with its MPO, can make the case for including projects from its TID-CTP into DelDOT's long-term Capital Transportation Program. Following completion of the TID-CTP, the TID agreement can be amended to provide for a monitoring program. The monitoring program is a mechanism for determining when there is a need to add projects from the TID-CTP into DelDOT's Capital Transportation Program.

• Establish an Infrastructure Fee Program – The intent of the infrastructure fee program is to fairly allocate the costs of transportation improvements among new developments within a TID. A fee formula is established that requires developers in the TID to fund necessary transportation improvements either in the form of cash payments, construction of physical improvements, dedication of land for public rights-of-way, or a combination of the three. Using those cost estimates an Infrastructure Fee Program is established. As determined by the Program, developers pay a "fair-share" portion of transportation improvements. Developers can "pay into" the program either by 1) a cash payment, 2) construction of infrastructure, 3) land needed for right-of-way, or some combination of the three. Typically, local governments are responsible for the collection of fees from developers.



Credit: James Pernol, DelDOT

### **DELAWARE TID BEST PRACTICES**

The Cities of Newark and Dover, Del., have moved forward in planning for and establishing TIDs. The following describes how the City of Newark used the process of updating its comprehensive development plan to envision the creation of a TID in its downtown core. The City of Dover moved forward on the creation and implementation of a TID, along a corridor eyed for redevelopment, by amending its comprehensive plan.

#### **Planning – City of Newark**

The City of Newark's Comprehensive Development Plan serves as its blueprint for growth and development and provides a rational basis for local land use decisions. To meet the State's requirement under Section 702 of the Delaware Code Title 22, the City embarked on a two-year process to extensively review and update its comprehensive plan. Delaware Strategies for State Policies and Spending (OSPC, 2010), WILMAPCO's 2011 Newark Transportation Plan (WILMAPCO, 2014), and public input were used to guide and inform the plan update.

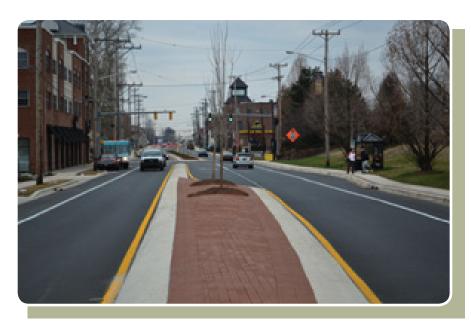
A public participation plan was developed to identify and engage stakeholders, establish an outreach timeline, and schedule a series of public gatherings to gain feedback. A series of neighborhood workshops, public hearings, visioning sessions, open houses, and meetings of the Planning Commission and a Transit Subcommittee were scheduled at various locations throughout the city during the two-year period between 2013 and 2014.

The draft Comprehensive Development Plan V update (City of Newark, 2014) built a consensus on its community vision to strive for a "healthy & active, sustainable, and inclusive community." This vision is carried through each chapter of the Newark Comprehensive Development Plan and established the ideal framework to incorporate the concept

of TIDs. Several chapters within the Plan specifically advance TIDs as a strategic way to address potential transportation-related impacts of development, including additional infrastructure requirements and associated costs.

#### **Chapter Six: Transportation**

The plan recognizes the need for the City to coordinate and partner with the State, New Castle County, WILMAPCO, DART First State, and other agencies on growth issues that impact the financing of infrastructure and public services. The Transportation Chapter (as of June 25, 2014) sets forth strategic issues, goals, and action items.



Proposed Newark Transportation Improvement District Source: City of Newark Comprehensive Plan V, Chapter 6 Transportation

Creating a TID as a "comprehensive land use and transportation plan for the established district" was described as both a top-priority strategic issue and action item. The proposed TID is envisioned as a means to reduce traffic congestion, prepare for infill development, and maximize efficiency of the transportation network. The TID would be located to boost market-ready (re)development within Newark's downtown core, west of the downtown to anticipate impacts of country club redevelopment, and east of the downtown to accommodate additional expansion of University of Delaware's STAR campus.

#### **Chapter Nine: Economic Development**

Building on its 2011 Economic Development Strategy and Action Plan, this chapter (as of June 3, 2014) sets forth a goal to "continue to enhance Downtown Newark's physical and economic vitality" (Wadley-Donovan GrowthTech, LLC & Garnet Consulting Services, Inc., 2011). To achieve this goal, an action item is provided to "address traffic congestion through the creation of a TID Downtown" and the "Downtown Newark Pedestrian and Streetscape Plan."

The TID and streetscape plan will identify opportunities to increase pedestrian safety at crosswalks while minimizing traffic congestion.

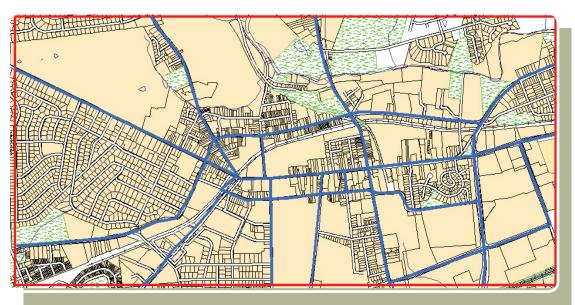
#### **Chapter Ten: Land Development**

The Land Development Chapter (as of June 3, 2014) reinforces the need to establish land-patterns and a transportation system that achieve sustainable growth. Core land-development principles include providing efficient land use through infill and redevelopment, a connected and accessible transportation system, and targeted business and industrial development. The proposed TID is listed as a "condition affecting development" for future land use within the University/ Newark Downtown and West Newark districts.

This section recognizes that transportation impacts to new development must be addressed to achieve recommended low- and high-density residential, mixed-urban, and commercial development uses. A TID will plan for transportation improvements associated with increased traffic volumes, infill and redevelopment, and planned areas of commercial adaptive re-use.

#### **Chapter Twelve: Coordination & Implementation**

The final chapter (as of June 25, 2014) of the City's draft Comprehensive Development Plan lists a series of action items for plan implementation. Creating a TID is listed as an action item under the Transportation and Economic Development sections. The City submitted the Comprehensive Development Plan V to OSPC for a Pre-PLUS review process and the Newark Planning Commission has recommended its adoption by the Newark City Council.



Proposed Newark Transportation Improvement District Source: City of Newark Comprehensive Plan V, Chapter 6 Transportation

#### Implementation - City of Dover

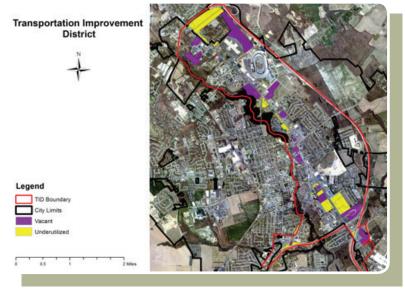
In 2013, City of Dover officials attended a DelDOT TIS scoping meeting to discuss a proposed development on US Route 13. During the course of the meeting, the City's Director of Planning and Community Development recognized that the extent of transportation improvements being conceptualized would be massive and would require a substantial investment (possibly over \$100,000) for the level of study required.

To plan for transportation improvements, support private-sector investment, and enhance market-ready (re)development opportunities, City of Dover and DelDOT officials proactively initiated the process to implement a TID for the US 13 and Bay Road Corridor area. As a first step, the City discussed the TID concept, obtained input, and received positive feedback from its Safety Advisory and Transportation Committee. In order to enter into a TID agreement and proceed with the detailed traffic study of the area, the City needed to amend its comprehensive plan to identify this TID.

The City submitted a PLUS process application to OSPC and proposed the following Comprehensive Plan amendment:

The constraints of the existing transportation infrastructure along this corridor have created significant challenges to the redevelopment along Route 13 and Bay Road. In an effort to support the goals of the Transportation Plan and support the redevelopment of underutilized properties along the Route 13 and Bay Road Corridors, the City intends to work with the Delaware Department of Transportation and the Dover/Kent County MPO to develop a memorandum of understanding for the creation of a Transportation Improvement District (TID) and to complete the associated transportation study of the area. The plan developed to implement the TID will establish acceptable levels of service and ensure that bicycle, pedestrian, and transit needs are addressed as development moves forward. The TID will create a predictable and fair framework for developers to contribute to transportation improvements, while also identifying projects that may be appropriate for the State's Capital Transportation Plan (City of Dover, 2009).

State agency representatives involved in the PLUS process reviewed the comprehensive plan amendment and OSPC approved the plan. The City is entering into a formal TID agreement with DelDOT, which will fund a district-wide traffic study and implementation plan. The results of the TID study will be an important component of the transportation chapter of an updated City of Dover Comprehensive Plan. Terms of the TID agreement will establish a funding formula for property owners and developers to pay for their fair share of transportation improvements.



Map of TID for the US 13/Bay Road Corridor in Dover, Del. Source: Ann Marie Townshend, City of Dover Director of Planning and Community Development

#### **Conclusion**

Essentially, TIDs can provide a win-win-win scenario for a Delaware municipality, DelDOT, and private developers. The TID process can make the overall land use and transportation planning process become more comprehensive and expeditious. It can coordinate studies to assess needed transportation improvements, and help ensure that costs associated with transportation improvements are shared equitability among current and future developers.

### FREQUENTLY ASKED QUESTIONS

DelDOT has prepared this list of frequently asked questions. Local governments that are interested in developing a TID, should contact DelDOT planner Bill Brockenbrough (phone: 302-760-2109 or email: Thomas.brockenbrough@state.de.us) for assistance and guidance.

DelDOT's TID regulations may also be viewed at: www.deldot.gov/information/pubs\_forms/revisions\_to\_ASR/ TrafficImpactStudiesDraftRegulationAmendment130214.pdf

# > What is the purpose of a Transportation Improvement District (TID)?

The purpose of a TID is to comprehensively coordinate land use and transportation within a specific geographical area and to secure required improvements to transportation facilities within that area.

#### > How are TIDs created?

TIDs are created by agreement between DelDOT and the relevant local government (town, city, or county) or governments. Where a Metropolitan Planning Organization (MPO) exists, they would also be a party to the agreement.

### > Is it mandatory for a Delaware local government to have TIDs?

No. In fact, DelDOT will not create a TID without the local government addressing the need and desire to create a TID within a comprehensive plan amendment or update.

### > What is the benefit to a local government that wishes to establish a TID?

Establishing a TID provides for comprehensive land use and transportation planning in the District. Any development consistent with planning done for the TID will not require Traffic Impact Studies (TIS), which thus accelerates the plan approval process.

## > If a local government wants to create a TID, what is the process?

Creating a TID begins with the parties entering a TID agreement, which establishes the District boundaries, the horizon year for which they will plan, standards for adequate transportation facilities in the District, and the roles of the parties. The parties then work as agreed to develop a land use and transportation plan for the TID, a set of buildable projects to implement the transportation improvements identified in the plan, a fee formula to fund or subsidize those improvements, and a monitoring program to track the need for the projects. These items are incorporated into the TID agreement as they are completed.

# > If a local government wants to create a TID, what is its responsibility?

Specific responsibilities will need to be established in the TID agreement but broadly they would have responsibility in three areas: 1) developing the land use plan and identifying what adequate transportation means within the TID; 2) collecting and administering fees; and, as necessary, 3) advocating the inclusion of projects in DelDOT's six-year Capital Transportation Program. Also see, "What would be the impact to the staff?" on the next page.

#### > What would be the impact to the staff?

Creating the TID requires the local government to develop a detailed land use plan for the area in the District and working with DelDOT to establish criteria for what adequate transportation means in the District and what is an acceptable program of transportation improvements to achieve adequacy. It may be more appropriate for the jurisdiction's planning commission to do this work than to delegate it to staff, but local government involvement is essential. DelDOT and the MPO can help in these regards.

In addition, administration of the TID involves collecting fees from developers to pay for needed transportation facilities. How this collection is done is something on which DelDOT and the jurisdiction have to agree. For local governments with adequate staff, DelDOT would prefer that the jurisdiction collect the fees as part of its building permit process, hold the money, and reimburse DelDOT for expenses as necessary.

# > Is there a cost to a local government to participate in TIDs? Will it be responsible for paying for the traffic study?

The costs to the jurisdiction would be in staff time, and possibly in consultant fees if a consultant is used to assist with land use planning. DelDOT plans to propose legislation whereby they would charge developers within the TID a fee to subsidize the traffic study; the local government would not be responsible for paying for the traffic study.

### > What are the implications if a TID crosses jurisdictional boundaries?

If the TID crosses jurisdictional boundaries, more than one local government will need to be a party to the TID agreement and participate in the planning aspects of the TID. It may or may not be appropriate for one of the local governments to handle the administrative aspects. That would have to be agreed on.

#### > Will the counties be a part of this process?

Yes, if they want to be. DelDOT has met with the counties to determine their interest in creating TIDs. Kent County has already identified areas where they want to create TIDs.

#### > Do TIDs currently exist in Delaware?

There are two TIDs operating, Westown in Middletown and the Southern New Castle County TID. Both of these districts predate DelDOT's current TID regulations. Two others, Eastown in Middletown and the US Route 13/Bay Road Corridor TID in Dover, are in development.

## > Does the TID replace the need for the developer to obtain a TIS?

Yes, if their development is consistent with the agreed upon land use plan for the TID.



Credit: James Pernol, DelDOT

#### > Are the fees associated with TIDs a duplicate cost?

No. The infrastructure fee associated with developing the TID takes the place of off-site improvements developers would otherwise be required to make. If they are required to make off-site improvements, their fee will be reduced accordingly. Earlier this year, DelDOT considered seeking legislative authorization for a fee that would subsidize its costs in preparing the traffic study for the TID. Developers paying this fee would not have had to do their own TIS.

# > What is the life of a TID and how often does it have to be amended?

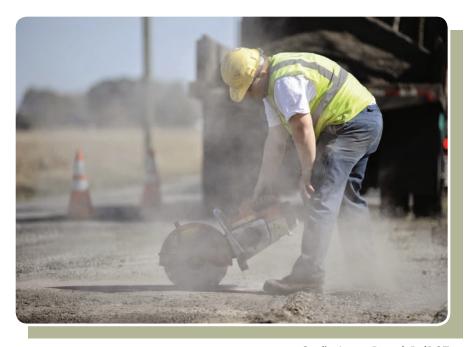
The planning effort for the TID will be done with a target horizon year, typically about 20 years. It will need to be updated as the local government's Comprehensive Plan is updated. Once the area within the TID is more or less fully developed, it should probably be dissolved.

> If a local government that does not own any roads chooses not to establish a TID, and a large box store comes in to build, will DelDOT charge the jurisdiction for the traffic study?

No. Under no circumstance would DelDOT charge a local government for a traffic study associated with a commercial development. Developers presently pay for their own TIS. If a TID is created, DelDOT will fund the traffic study from State funds. The legislation that was considered would have allowed DelDOT to recoup some of that cost from the developers.

> What will be done to address jurisdictional issues? In some locations, development in one jurisdiction can have implications on traffic in another jurisdiction.

TIDs will likely need to have inner and outer boundaries, the inner boundary defining the area for land planning and the outer boundary defining the area for transportation planning.



Credit: James Pernol, DelDOT

### **SUGGESTED RESOURCES**

#### Capital Transportation Program Development Process (DelDOT, n.d.)

This document serves as a guide to the members on DelDOT's Council on Transportation (COT) and the public and explains COT's role in developing the six-year Capital Transportation Program (CTP).

#### DelDOT Project Prioritization Criteria (DelDOT, n.d.)

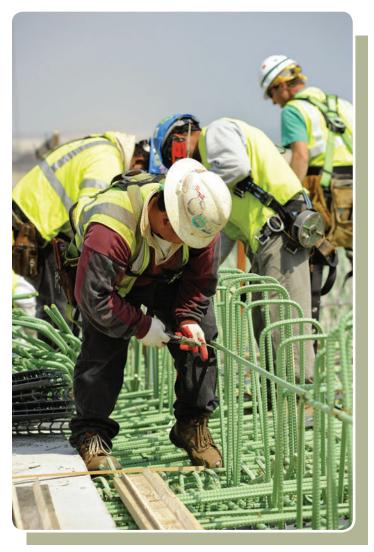
This document summarizes the process by which DelDOT prioritizes projects included in its CTP. It provides criteria used to establish a formula-based process as authorized under Delaware Code Title 29, Section 8419.

#### Delaware Register of Regulations (Delaware General Assembly, 2013a)

The April 1, 2013 issue provides the final, adopted *Standards and* Regulations for Subdivision Streets and State Highway Access, including changes related to TIS and TID regulations. The order to delay implementation (Delaware General Assembly, 2013) authorizes May 10, 2013 as the official adoption date of the revised regulations.

#### Guide for Master Planning in Delaware (OSPC, 2012)

Developed by the Delaware Office of State Planning Coordination (OSPC) with the assistance of the Institute for Public Administration (IPA) at the University of Delaware, this guide describes the characteristics of a master plan, how it is distinct from a comprehensive plan, provides a nine-step process for developing a master plan, and highlights successful examples in Delaware.



Credit: James Pernol, DelDOT

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