



PLANNING & DEVELOPMENT
CITY OF NEWARK

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March 12, 2018

Mr. Randall J. Myers
526 Massey Church Road
Smyrna, DE 19977

Dear Mr. Myers:

The City of Newark's Subdivision Advisory Committee has reviewed the minor subdivision application submitted on November 15, 2017. Please find below some general Planning Staff comments, to be followed by specific comments from the Subdivision Advisory Committee.

General Planning Staff (Staff) comments

The proposed site plan does not meet code for a submittal requirement for a minor subdivision as described in Chapter 27, Section 27-20 (a), and zoning requirements for a parcel zoned RM as described in Chapter 32, Article IV, Section 32-11. Specific code requirements are described in the Planning and Development Department and Public Works and Water Resources sections of this letter. Considering this, Staff has the following options, concerns, and recommendations for your consideration.

An option to explore is the Site Plan Approval process as described in Chapter 32, Article XXVII, Section 32-97. The Site Plan Approval process allows for reasonable variations from the use and area regulations of a zoning district which, in this case, is RM, in order to encourage variety and flexibility for new development and redevelopment and site plans that demonstrate distinctiveness and excellence of site arrangement and design. Please refer to the above described Code citation for specifics. Having said that, Staff is concerned that the proposal is too intense for the site both in density and in area. Staff feels that while it would be reasonable to seek relief from the area and density regulations, Staff recommends that the project be scaled back to stay in the 16 unit per acre range and within the current side yard and front setback. Two options to contemplate include: 1) combine it with the adjacent lot, 71 New London Road (Parcel 1801900263), and create a three-unit structure through the Site Plan Approval process; 2) rebuild one unit under the Nonconforming Uses, Structures and Buildings provision found in Chapter 32 Section 32-51 through the building permit process.

Please find below the balance of the comments from the Planning Staff and the comments from the Subdivision Advisory Committee.

Electric Department

1. The existing aerial electric service from across New London Road will be reused.
2. Owner will pay for any changes to the existing service, including demolition, temporary, and permanent services.

Parks and Recreation Department

1. The Developer would be required to pay \$450 per unit for a total of \$900 for cash in lieu of land as per Chapter 27, Appendix VI of the Code of the City of Newark, Delaware.

Police Department

1. The Police Department has no comment or concern with this project.

Planning and Development Department

Code Enforcement Division

1. Comments based on 2012 IBC.
2. All new buildings or additions must meet all applicable Building and Fire Code requirements. Complete architectural, structural, plumbing, HVAC, electrical and fire protection drawings are required for review prior to permits.
3. No windows or doors can be within 3 feet of the property line so it appears that this house would not be able to provide windows or doors on either side. Egress windows are required for every bedroom.
4. Code recommends that floor plans be submitted for review prior to approval to ensure compliance with the above comments.
5. Parking crosses the property lines and would need cross access agreements. The parking spots are configured in such a way that it appears that they are not usable by the West Cleveland entrance without backing into the road. The majority of the parking spots do not meet the minimum 9 by 18 foot requirement.

Land Use Division

1. Future plans and correspondence should reference PR#17-11-02.

2. Plan title should include Minor Subdivision, Site Plan Approval (if appropriate), and Comprehensive Plan Amendment.
3. Several required variances are listed in comments below. These variances could be incorporated into an application for approval by Site Plan Approval if desired by applicant. If electing to utilize the Site Plan Approval process, the applicant should review ARTICLE XXVII. - SITE PLAN APPROVAL in the City of Newark Zoning Code and provide required details.
4. Application indicates the proposed use is 2 townhouses, but it is assumed the intention is 2 townhouse apartments. Please verify proposed use and indicate properly.
5. Sec. 32-11. (a)(1) allows garden apartments, but garden apartments are defined as multi-family dwellings which must be three or more families. This proposed development requires a variance to allow only 2 families in this multi-family dwelling. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances required for Site Plan Approval.
6. Sec. 32-11. (a)(1)(a) indicates the maximum number of dwelling units per acre shall be 16, while the density of this proposal is 20 units/acre. This proposed development requires a variance to allow only 20 units per acre. This could be included in Site Plan Approval application, but it exceeds allowable density increase allowed in Article XXVII., however, it does qualify for some density increases. See Sec. 32-11. (a)(1)(b) and (c). If utilizing Site Plan Approval, this should be included on the plan in a table listing variances required for Site Plan Approval.
7. Sec. 32-11. (a)(1)(d) indicates maximum lot coverage shall be 20%, while the coverage of this proposal is 33.1%. This proposed development requires a variance to allow 33.1% coverage. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances required for Site Plan Approval.
8. Sec. 32-11. (a)(1)(g) indicates a required street frontage of 50 feet, but this parcel is only 31.34 feet wide. This proposed development requires a variance to a 31.34 street frontage. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances required for Site Plan Approval. Note that Sec 32-56.2(b) indicates "In the case of a lot with a building on it at the date of adoption of this chapter, but with a width less than that prescribed for the district in which it is located, such building may be altered or a new building erected thereon provided it complies with all other provisions of this chapter", but this lot does not comply with all other provisions of this chapter. It is grandfathered to rebuild a new structure within the current footprint, but not a 2-unit structure.

9. Sec. 32-11. (a)(1)(h) indicates a minimum lot size of one acre, but this parcel is 0.1 acres. This proposed development requires a variance to allow a 0.1 acre lot size. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances required for Site Plan Approval.
10. Sec. 32-11. (a)(1)(i) indicates at least 40% of the lot area shall be devoted to open area, but this plan only shows 11.6% open area. This proposed development requires a variance to allow only 11.6% open area. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances required for Site Plan Approval.
11. Sec. 32-11. (a)(1)(j) indicates parking spaces must be at least 10 feet from property lines, but this plan shows 9 parking spaces abutting the property line. This proposed development requires a variance to allow parking spaces to abut property line. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances required for Site Plan Approval.
12. Sec 32-11(c)(1) indicates "minimum lot area shall be one acre with 2,725 square feet per family for garden apartments, unless certain density bonuses are granted as specified in this section. In no case shall the minimum lot area be less than 2,350 square feet per family for a garden apartment. The minimum lot area for any other permitted use, together with accessory buildings, shall be 6,250 square feet."

Note that Code requires 1-acre minimum and 2,725 square feet/family unit x 2 family units or 5,450 square feet. Plan is short 0.9 acres of the 1-acre requirement and 1,094 square feet of the per family requirement. Exceptions (Sec. 32-56.2(a)) indicate that this property is grandfathered to allow construction on this lot even though it is too small, but it must meet all other requirements of the Code and is not grandfathered to construct 2 units and it is not grandfathered to have less than 2,350 square feet per unit. This plan would require a variance to allow smaller lot size. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances required for Site Plan Approval.

13. Sec 32-11(c)(4) indicates building cannot exceed 3 stories or 35 feet. Plan must indicate proposed building height.
14. Sec 32-11(c)(5) indicates building setback must be at least 15 feet, but apartments must be 30 feet from street and 25 feet from exterior lot lines. The plan shows less than a 3-foot setback from the street line and less than 1 foot from the north and south lot lines. This proposed development requires a variance to allow these setbacks. As with previous comments, this property is grandfathered to allow rebuilding of another structure, but only in the same footprint and not 2-unit structures. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances

required for Site Plan Approval.

15. Sec 32-11(c)(7) indicates side yards for a house must be at least 7 feet with a 15-foot aggregate, and side yards for apartment must be at least 20 feet. The plan shows less than 1-foot side yards. This proposed development requires a variance to allow these side yards. As with previous comments, this property is grandfathered to allow rebuilding of another structure, but only in the same footprint and not 2-unit structures. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances required for Site Plan Approval.
16. Sec. 32-51.(a) indicates "A building, structure, or use which is not in conformity with the provisions of this chapter at the effective date of this chapter may be continued in its present location provided that no subsequent alteration or addition is made which would extend said building, structure, or use for more than 20 percent of the cubical content of the building or buildings or structure or structures existing and used for the nonconforming use, or for more than 20% of the lot area existing and used for the nonconforming use. Any building and structure addition shall conform to the area and height regulations of the district wherein it is located."

The proposed structure is almost twice the footprint of the existing structure, does not incorporate any of the existing structure, does not qualify for a 20% increase in size and is shown at almost double the existing size. This could be included in Site Plan Approval application. If so, this should be included on the plan in a table listing variances required for Site Plan Approval.

17. Code requires parking spaces to be at least 9 feet by 18 feet. The provided spaces do not appear to meet the minimum parking space size required.
18. This plan shows a change to the parking on the neighboring property. As such, the neighboring property parking requirements should be included in the parking calculations.
19. The Comprehensive Development Plan shows this property as Residential Low Density which is a density of 11 or fewer dwelling units per acre. The Plan shows density of 20 units per acre which would require a Comprehensive Development Plan Amendment to adjust the parcel to a Land Use of Residential High Density.

Public Works and Water Resources Department

SITE:

1. Add a north arrow to the Vicinity (Location) Map.

2. Fill in the date for the "Source of Topography" in the Data Column, Note No. 18.
3. Revise the plan title in the title block to reference New London "Road" not "Avenue".
4. West Cleveland Avenue ends at New London Road. Revise the road name on the east side of New London Road to be "Hillside Road".
5. Provide a "Purpose of Plan" to the Site Data column. In general, explain what is being removed and what is being proposed.
6. All property owners within 200 feet of the project need to be shown on the plan. This includes those on the other side of Hillside Road.
7. A list of all utility owners, including electric, gas, cable, etc. shall be added to the Data Column as part of the Subdivision Plan submission.
8. One (1) bicycle parking spot is required for every five (5) off-street parking spots required. Add the Bicycle parking rationale to the Data Column. Provide the location of the proposed bike rack(s) on the plan.
9. The bike racks and rack layout will need to conform to the City of Newark Bicycle Plan and DelDOT Standard Construction Detail M-4 – "Bike Rack Layout Details".
10. Two of the proposed parking stalls are located on the adjacent property (71 New London Road). A cross access easement will be required for the purposes of vehicular and pedestrian ingress and egress between the two lots. Similarly, a cross parking easement may be required for use of parking spaces on the adjacent lot.
11. Provide existing topography, proposed contours, and additional spot elevations at high and low points, building corners, tops of structures and any other critical elevations to help determine surface water flow directions.
12. Show any existing trees on the property and specify their removal if applicable.
13. Show the existing curb and sidewalk on the plan. Include the proposed tie-in of existing and proposed curb and sidewalk.
14. The project proposes a new curb cut on an existing DelDOT maintained section of Hillside Road. A DelDOT Email of No Impact (EONI) for the proposed entrance on Hillside Road (DelDOT Minor Arterial) must be furnished to PWWR approval.
15. The parking stalls shown on the plan are dimensioned as 8.5' in width and 18' in length. The City's standard parking stall dimensions are 9' x 18'. Revise the parking layout accordingly.

WATER & SEWER:

1. Show the locations of existing water mains and services.
2. Show the locations of proposed domestic and fire service with a meter pit on the domestic service line(s).
3. The proposed homes are required to have sprinkler systems. A separate fire service is required for each unit.
4. All fire and domestic water services shall have individual valves located at the edge of the right of way.
5. Water services to new construction are required to have Mueller Thermal-Coil meter pits and standard City meters and transmitters. Show the meter pits on the plan and label them accordingly.
6. The Developer shall investigate the capacity of the water system to determine if sufficient capacity exists to handle the proposed development and provide the report to the city for review and approval. Contact the Public Works and Water Resources Department to schedule a flow test at a cost of \$300 per test.
7. The Developer shall provide a set of water system drawings in accordance with the State Department of Health Drinking Water Standards for their review and approval. A copy of the approval letter (Approval to Construct) shall be provided to the City prior to CIP approval. A copy of the "Approval to Operate" from the Department of Public Health shall be provided to the City prior to the issuance of any certificate of occupancy.
8. Provide the City of Newark with a signed and sealed copy of the Department of Public Health approved water as-built plans within 30 days of DPH approval. Delaware State Plane Coordinates shall be provided for all fittings, valves, bends and hydrants.
9. Provide size, material, and invert elevations for all proposed and existing sanitary sewer manholes, mains, and laterals.
10. Provide a wastewater flow generation summary on the plan which shows existing and proposed average and peak wastewater flows using New Castle County Department of Special Services flow generation standards. Apartment and townhouse units with an occupancy greater than four unrelated tenants shall use a flow generation rate of 300 gallons per day. A peaking factor of 4 shall be used for all projects.
11. Projects that generate more than 2,000 gallons per day average sewer flow require a DNREC "Construction of Wastewater Collection and Conveyance Systems" permit. Plans which do not meet the 2,000 gallons per day threshold shall be submitted to DNREC but

do not need to submit the accompanying permit application and review fee. A copy of the approved permit shall be provided to the City prior to CIP approval.

12. Provide the City of Newark with a signed and sealed copy of the DNREC approved sanitary sewer as-built plans within 30 days of DNREC approval. Delaware State Plane coordinates shall be provided for all manholes, lateral connections, and cleanouts. Diameter and depth shall be provided for all cleanouts.
13. Add the following notes to the plan:
 - a. *"Any damage to the City storm sewer, water, or sanitary sewer infrastructure shall be repaired or replaced to the satisfaction of the Public Works and Water Resources Director."*
 - b. *"Unused water and sewer services shall be terminated at the utility main unless a more suitable location is determined by the PWWR Department during construction."*
 - c. *"The Developer shall pay the Sewage Treatment Plant (STP) fee prior to receiving a building permit."* A credit for the existing building will be given when determining the STP fee.
 - d. *"The Developer shall pay fees associated with the new water meters prior to issuance of a building permit."*
 - e. *"The Developer will be responsible for the installation of additional transmission equipment as necessary should the proposed building negatively affect the performance of the City's wireless meter reading system."*

STORMWATER:

1. This project will be handled as a Residential Standard Plan Application. A standard plan application and required fee shall be submitted for Department review and approval. See the link provided for the Standard Plan application.
<https://newarkde.gov/DocumentCenter/View/7173>
2. Add a Limit of Disturbance (LOD) line to the plans and include the LOD area in the Site Data column.
3. Show the sizes and material makeup of existing stormwater inlets and pipes adjacent to the property.
4. Show the location of downspouts and roof leaders on the plans.

This Subdivision Plan review is solely based upon the information and details provided in the submitted documents. Additional comments may be generated during any future submission or CIP phases.

Mr. Randall J. Myers
March 12, 2018

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I hope you find this information helpful. Should you have questions or need more information, please do not hesitate to contact me at 366-7000, extension 2040. We would be happy to schedule a meeting to discuss.

Sincerely,



Mary Ellen Gray, AICP
Planning and Development Director

MEG/tf