



CITY OF NEWARK
DELAWARE

2D

October 6, 2021

TO: Mayor and Members of Council

FROM: Mary Ellen Gray, AICP, Planning and Development Director *MEG*

VIA: Tom Coleman, PE, City Manger *TC*

RE: **Planning Commission 2021 Annual Report and 2022 Work Plan**

Please find enclosed a memo dated October 6th, 2021, from the Planning Commission Chair, Will Hurd and the Planning Commission Vice Chair regarding the 2021 Planning Commission Annual Report and the 2022 Work Plan that was adopted by the Planning Commission at its regularly scheduled meeting on October 5th, 2021.

The Planning and Development Department and Planning Commission looks forward to working on the 2022 Work Plan items during the next reporting period, given available time and resources.

Thank you.

MEG/kd

Attachments:

Planning Commission 2021 Annual Report
Planning Commission 2022 Work Plan

CITY OF NEWARK

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PLANNING COMMISSION

2021 ANNUAL REPORT

About the Commission

The Planning Commission makes recommendations to City Council concerning:

- Annexation
- Rezoning of Property
- Subdivision
- Development Approval
- Zoning Code and Subdivision Regulations Amendments
- Adoption and Amendment of Comprehensive Plans
- Demolition of Historic Buildings
- Municipal Capital Expenditures

The Commission also makes determinations on requests for off-street parking requirements waivers in the BB zoning district. The Commission's advice to the City Council, except in the case of parking waivers, is always in the form of a recommendation; City Council may also hear appeals of, review, modify or deny the commission's approval, disapproval, or approval with conditions of off-street parking waivers upon the recommendation of a member of Council, Planning and Development Director and/or the City Manager.

Membership

Six Commissioners are nominated by City Council members from the districts they represent, and one at-large Commissioner is nominated by the mayor, each for three-year terms. Nominations are subject to confirmation by majority vote of the Council.

Current Members (as of September 2021):

Allison Stine - District 1

Willard F. Hurd, AIA (Chair) - District 2

Stacy McNatt, PE - District 3

Mark Serva - District 4

Alan Silverman (Vice Chair) - District 5

Karl M. Kadar - District 6

Jennifer Wallace

Also serving during this period was Commissioner Thomas Wampler. Commissioner Wampler was appointed to the District 4 position on the Planning Commission on September 24th, 2018, and his last meeting was August 3rd, 2021. Commissioner and Chair Willard Hurd was reappointed to the Planning Commission by Council on August 23rd, 2021, on September 28, 2020. Mark Serva (District 4) was also appointed on August 23rd, 2021.

Executive Summary

From September 30, 2021, to September 30, 2022, the City of Newark Planning Commission considered the following:

Annexation - 2

Rezoning - 3

Comprehensive Plan Amendment - 2

Major Subdivision - 4

Minor Subdivision -

Site Plan Approval Plan - 4

Special Use Permit - 7

Parking Waiver - 4

Request for Extension - 0

Code Amendment - 7

The Planning Commission 2022 Work Plan Draft was heard by the Planning Commission on September 7th, 2021. **(Insert date that plan was approved and date that it was sent to Council)** Discussions of the Planning Commission 2021 Work Plan occurred at the Commission's meeting on September 7th, 2021.

As a result of the COVID-19 pandemic and the subsequent proclamation issued by Governor John Carney and Lieutenant Governor Bethany Hall-Long, Planning Commission meetings transitioned from onsite meetings held in the Municipal Building Council Chamber to remote meetings held via the GoToMeeting platform during this reporting period. Planning Commission members participated in training sessions facilitated by Planning and Development Department staff on June 22nd, 2021, to review the duties of the Planning Commission and land use. September 1st, 2020; October 6th, 2020; October 20, 2020; November 3, 2020; December 1, 2020; January 5th, 2021; February 2nd, 2021; March 2nd, 2021; April 6th, 2021; May 4th, 2021; June 1st, 2021; July 6th, 2021; and September 7th, 2021, meetings were held remotely. The Planning Commission meeting held on August 3rd, 2021, was held in person in Council Chambers before the transition back to virtual in September 2021. As of September 2021, the Planning Commission plans on meeting virtually until a hybrid option becomes available.

Members of the Planning Commission participated in some informational and training sessions during this reporting period. A training framework and schedule was developed during this reporting period

Planning Commission Activities 10/01/2020 – 9/30/2021

A detailed description of the Commission's actions may be found below:

Development Approvals

132-138 East Main Street

At their December 1st, 2021, meeting, the Planning Commission heard and considered the major subdivision with site plan approval, special use permit, and parking waiver for the property at 132-138 East Main Street proposing a mixed-use development of commercial space and residential apartments. This item was continued to a later meeting. The Planning Commission then voted on the item at their January 5th, 2021, meeting and recommended approval to Council with a vote of 5-0. The mayor appealed the Planning Commission decision on the parking waiver in accordance with City Code. At their February 8th, 2021, meeting, City Council voted on the 64-space parking waiver. The motion failed with a vote of 3-4.

141, 143, 145 East Main Street

At their December 1st, 2021, meeting, the Planning Commission heard and considered the major subdivision, site plan approval, special use permit, and parking waiver for the property at 141, 143, 145 East Main Street and 19 Haines Street proposing a mixed-use development of commercial space and residential apartments. The Planning Commission recommended approval to Council for the major subdivision with site plan approval with a vote of 3-2. The Planning Commission recommended approval of the special use permit with a vote of 3-2. The parking waiver was continued to a later meeting. At their January 5th, 2021, meeting, the Planning Commission reconsidered the parking waiver for the property located at 141, 143, and 145 East Main Street. With a motion vote of 5-0 the Planning Commission recommended a shared use agreement between the property and the city for a parking garage. The city would be expected to include the management of the parking and enforcement along with the instillation of the city's parking system that comprises the T2 parking and kiosk parking system, and the camera/lighting system, striping, and the T2 hardware and software system. In addition, the city would manage the parking permitted for apartment use. Also at this meeting, the Planning Commission voted to approve the 52-space parking waiver with a vote of 3-2. However, this motion did not approve the request to increase the density of the project. The plan was set to go to Council for a hearing, but the applicant chose to withdraw their plan and submit a revision for the Planning Commission and Council consideration. At their April 6th, 2021, Planning Commission meeting, the consideration for the major subdivision with site plan approval and special use permit for the property at 141, 143, 145 East Main Street and 19 Haines Street was heard again with plan revisions. The Planning Commission recommendation to Council to approve the major subdivision with site plan approval failed with a vote of 2-5. The mayor appealed the Planning Commission decision on the parking waiver in accordance with City Code. The parking waiver came before City Council on May 10th, 2021. The motion passed with a vote of 5-2. City Council rejected the major subdivision with site plan approval with a vote of 3 to 4. The plan was then brought back to Council on for a revote on June 14, 2021, due to procedural concerns with the Council vote at their May 10th, 2021, meeting. The Council voted approval with a vote of 6-0 and the plan was approved.

92-96 East Main Street

At their February 2nd, 2021, meeting, the Planning Commission considered the major subdivision with site plan approval, special use permit, and parking waiver for the property located at 92-96 East Main Street (Green Mansion). The plan proposes a hotel and apartments. The Planning Commission recommended approval to Council of the major subdivision and special use permit with a vote of 5-0. The mayor appealed the Planning Commission decision on the parking waiver in accordance with City Code. At the March 8th, 2021, City Council meeting, council voted to uphold the Planning Commission's approval of the parking waiver with a vote of 5-1. Council then proceeded to approve the major subdivision, site plan approval, and special use permit with a vote of 5-1.

751 Paper Mill Road (Walton Farm)

At their February 2nd, 2021, meeting, the Planning Commission considered the annexation, rezoning, minor subdivision, and special use permit for "Agriculture, horticulture, and forest land uses" for the property located at 751 Paper Mill Road. It was proposed to rezone the property to "RE", subdivide the property to create a 1 +/- acre parcel in order to construct a single-family dwelling, with the residue land of 13.49 +/- acres to continue as a single-family dwelling. The Planning Commission recommended that Council approve this plan with a vote of 5-0. At their March 22nd, 2021, City Council meeting, council members voted to approve the project with a vote of 7-0.

268 East Main Street

At their March 2nd, 2021, meeting, the Planning Commission considered the major subdivision, special use permit, comprehensive plan amendment, and parking waiver for a property located at 268 East Main Street. The Planning Commission recommended that Council approve the comprehensive plan amendment, rezoning from BC to BB, and special use permit with a vote of 6-0. The first vote on major subdivision by site plan approval failed with vote of 2-4. The second vote for the major subdivision by site plan approval motion passed with a vote of 5-1 with the condition that the plan be made code complainant with respect to parking and front setback. However, the motion regarding the 17-space parking waiver was denied with a vote of 2-4. The applicant revised the plan according to the recommendation from the Planning Commission and eliminated the need for a parking waiver. At their August 9th, 2021, meeting, City Council voted 6-0 to amend the Comprehensive development plan. They passed the motions for the rezoning (from BC to BB), major subdivision, and special use permit of the property with a vote of 6-0.

1501 Casho Mill Road

At their May 4th, 2021, meeting, the Planning Commission reviewed the major subdivision, comprehensive development plan amendment for the property located at 1501 Casho Mill Road. The plan to demolish the existing office and to construct a 3-story building with office and apartments on the first floor in addition to apartments on the second and third floors. The Commission recommended that Council approve this development with a vote of 6-0. At their July 12th, 2021, meeting, the City Council approved the development with a vote of 5-0.

200 Whitechapel Drive

At the June 1st, 2021, meeting, the Planning Commission considered a special use permit for a cell tower/antenna at 200 Whitechapel Drive and recommended that council approve this development with a vote of 6-0. At their June 28th, 2021, meeting City Council approved this special use permit with a vote of 5-0.

1105 Elkton Road and Otts Chapel

At their July 6th, 2021, meeting, the Planning Commission considered the annexation and rezoning of the property located at the corner of Otts Chapel Road and 1105 Elkton Road (Parcel #11-004.00-013) The Planning Commission recommended approval to Council with a vote of 6-0. This item will go before Council on September 27th, 2021, for a second reading.

1325 Cooches Bridge Road

At their July 6th, 2021, meeting, the Planning Commission considered the application for a special use permit for a cell tower at the property located at 1325 Cooches Bridge Road. The Planning Commission recommended approval to Council with a vote of 6-0. This item will go before Council on September 27th, 2021, for a second reading.

Rodney Park Rezoning (Name Pending)

At their August 3rd, 2021, meeting, the Planning Commission heard a presentation on the progress of the Comprehensive Development Plan given by Planner Fortner. They voted to rezone Rodney Park (name pending at the time of writing this) from UN to PL. The motion passed with a vote of 6-0. As of September 2021, this item has yet to go before Council.

Code Amendments

At their August 4th, 2020, meeting the Planning Commission heard and considered an ordinance amending Chapter 14A, Floodplains, and Chapter 32, Zoning, Code of the City of Newark, Delaware, by Changing Flood Zone References from OFD to SFHA and changing the effective date for the updated FEMA Flood Insurance Study and Updated FEMA Flood Insurance Rate map. The Planning Commission recommended that Council approve this ordinance revision. At their October 26th, 2020, meeting Council voted adopt this ordinance with a vote of 7-0.

At their September 1st, 2020, meeting, the Planning Commission reviewed and considered a revision to Chapter 32 Article IX to add a zoning definition table. The Planning Commission recommended that Council approve this ordinance revision at their October 26th meeting, City Council voted to adopt this ordinance with a vote of 7-0.

At their November 3rd, 2020, meeting, the Planning Commission reviewed and considered an ordinance to amend Chapter 32 Appendix XXV-Landscape Screening and Treatment. The City Council voted to adopt this ordinance with a vote of 5-0.

At their February 2nd, 2021, meeting, the Planning Commission reviewed and considered a revision to Chapter 32 Article IV Use and Area Regulation for Residence Districts, Section 32-9 RH Districts (one family detached residential including RH, RT, and RS districts) to add a new district “RE” (Residential Estate, minimum one-acre lot size) and new use under Section 32-9(b)(12) for “Agricultural, horticultural, and forest land uses. At the March 22nd, 2021, City Council meeting, council proposed changes to Sections 5-3 and 5-4 that would exempt agricultural, horticultural, and forest land uses of 10 acres or more. The City Council voted to adopt this ordinance as amended with a vote of 6-1.

At their March 2nd, 2021, meeting, the Planning Commission considered an amendment to Chapter 2 Section 2-84 (a) of the Code to change the Planning Commission Agenda notification from 15 to 10 days. The Planning Commission unanimously recommended that Council approve this ordinance revision at their April 6th meeting by a vote of 6-0. The City Council adopted this ordinance on April 26th, 2021, with a vote of 7-0.

At their April 6th, 2021, the Planning Commission considered an amendment to Chapter 32 Section 32-18 (d)(5) Building setback lines in the BB (Central Business District) Zoning District.

The Commission recommended that Council approve this ordinance with a vote of 5-2. At their June 14th, 2021, meeting, Council approved this amendment with a vote of 5-0.

At their May 4th meeting, the Planning Commission considered amendments to Chapter 32 Section 32-45 (b) BB central business district off-street parking option, subsections 5,6, and 8. The Commission voted to send this language back to staff for review with a vote of 6-0. After a revision of language by Planning Department Staff, at their June 1st, 2021, meeting, the Planning Commission recommended that Council approve the amendments to Chapter 32-45 (b) BB central business off-street parking option subsections 5, 6, and 8 with a vote of 6-0. The City Council adopted this ordinance on August 9th, 2021, with a vote of 6-0.

Planning Commission Training

On June 22nd, 2021, the Planning Commission underwent training hosted by Max Walton pertaining to Land use and the overall duties of the Planning Commission including but not limited to articulating reasons for voting, confidentiality, and the procedure to approve a land use project.

Commissioner Hurd attended several webinars on issues of equity in planning, community planning, energy codes, and parliamentary procedure.

Planning and Development Department Employment

In September of 2021 the Planning Department advertised two positions: one for a Community Planner and one for a Planner. After a lack of applicants, the advertising date was extended until September 24th, 2021. At the time of this report, interview scheduling is in progress.

On September 24th, 2021, the Planning Department advertised one position for a Deputy Planning Director. At the time of this report, the position has just been advertised.

Comprehensive Development Plan V

At their October 6th, 2020, meeting, the Planning Commission heard and considered the Planning Commission 2021 Work Plan, including the plan for Planning for the five-year review of Comprehensive Development Plan V. The Planning Commission passed this motion with a vote of 6-0.

At their November 3rd, 2020, meeting, the Planning Commission heard a status update on the formation of the Steering Committee. A vote was not taken regarding the 5-year plan during this meeting.

At their January 5th, 2020, meeting, the Planning Commission heard and considered the formation of the Steering Committee for the Comprehensive Development Plan V review. This motion passed with a vote of 5-0.

At their August 3rd, 2021, meeting, the Planning Commission received a status report on the Comprehensive Development Plan V. Planner Fortner presented the progress that the Steering Committee had made thus far. This was meant to be an informative presentation only, so the Planning Commission did not make any motions regarding the item.

2020 - 2024 Capital Improvement Program

The Planning Commission reviewed and considered the 2021-2025 Capital Improvement Program (CIP) at their meeting on October 20, 2020. The Commission forwarded the CIP to City Council with a favorable recommendation (6-0), and Council subsequently approved the CIP (7-0) on November 2nd, 2020.

Downtown Newark Parking Plan

The City of Newark's Planning and Development department consulted with Kimley-Horn regarding the downtown parking plan. During this time, the Planning Department reviewed the Parking Plan created by Kimley-Horn and worked with the company in completing Phase I and working towards Phase II.

Transportation Improvement District (TID) Process

At their July 6th, 2021, meeting, the Planning Commission heard and reviewed Transportation Improvement District service standards and transportation improvements. These were presented by Sarah Coakley, AICP from DelDot. City Council heard the same presentation by Ms. Coakley at their August 23rd, 2021 and voted to approve the plan as is unanimously.

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**PLANNING COMMISSION
2022 WORK PLAN
2nd and FINAL DRAFT**

The Commission looks forward to working with Planning Staff on the following during the next reporting period given available time and resources:

1. Continue the review and consideration of land development projects according to the Planning Commission Submission Deadline schedule to make recommendations to Council.
2. Review and make recommendations on Code revisions related to the recommendations from the Parking Consultant Kimley-Horn and Associates.
3. Review and make recommendations to Council on the Newark *Transportation Improvement District* Subcommittee recommendations prior to said recommendations going to City Council.
4. Continue to work with Planning and Development Staff, City Council and the Public to complete the five (5) year review of the Comprehensive Development Plan V per Delaware State Title 22 Chapter 7 Section 702 (e) whereby “At least every 5 years a municipality shall review its adopted comprehensive plan to determine if its provisions are still relevant given changing conditions in the municipality or in the surrounding areas...”
5. Review and make recommendations on Code revisions related to the Rental Housing Workgroup including the inclusionary zoning ordinance and the accessory dwelling unit ordinance.
6. Review and make recommendations on revisions to BB (Central Business District) and RA (Multi-family -High Rise Dwelling) zoning districts.
7. Continue quarterly reporting on Work Plan.
8. Participate in training sessions as applicable and available.

The following items will be considered only if the land use plans that are currently in-house for review do not move forward for whatever reason or if additional resources are afforded to the Planning Department:

1. Consider amendments to the Zoning and Subdivision Code regulations as they pertain to development plan submittal requirements.

2. Research and make policy recommendations on the differences between the City Code and New Castle County Code regarding annexations and why development want to annex into the City. This effort should include looking at the resource protections in City Code.
3. Research and make policy recommendations on a developer's role in stormwater capacity downstream of a development.
4. Research and make policy recommendations on the application of the existing Site Plan Approval process for areas involving redevelopment.

2022 Planning and Development Land Use Staff Planning Work Plan

During 2022, the Planning and Development Department has several areas of responsibility as defined by Code, determined by City management or City Council as well as determined by Department directives. In the area of Planning and Land Use, staff is responsible for the following activities as described below. The City Code mandated activity takes priority.

Boards, Committees, and Meetings

- Planning Commission
- City Council
- Board of Adjustment
- Design Committee
- Community Development/Revenue Sharing Committee
- Newark Partnership Economic Enhancement Committee

Land Use and Land Development Activities

- Implementation and maintenance of Comprehensive Development Plan V
- Interaction with the development community and city residents in dealing with zoning and land development codes
- Code Amendments
- Process Code-mandated responsibilities:
 - Annexations
 - Rezoning
 - Comprehensive Plan Amendments
 - Major Subdivisions
 - Minor Subdivisions
 - Site Plan Approval Plans
 - Special Use Permits
 - Parking Waivers
 - Requests for Extensions
- Other Code-mandated responsibilities
 - Subdivision Advisory Committee (SAC) administration

- Building permit review
- Flood plain review
- Construction Improvement plan review
- Review of variance applications

Planning Related Major Initiatives

- Work with the Planning Commission, City Council and the public to finalize the five (5) year review of the Comprehensive Development Plan V per Delaware State Title 22 Chapter 7 Section 702 (e) whereby “At least every 5 years a municipality shall review its adopted comprehensive plan to determine if its provisions are still relevant given changing conditions in the municipality or in the surrounding areas...”
- Work on the Charrette and revision to the BB (Central Business District) and RA (Multifamily dwelling-high rise) Zoning Ordinances.
- Continue to work with the Conservation Advisory Committee on implementing the *Newark Sustainability Plan*.
- Continue to work with WILMAPCO on follow up to the completed *Newark Area Transit Study Project*.
- Provide staff support and guidance to the *Transportation Improvement District (TID)* Subcommittee for the City of Newark and the development of the TID for the City of Newark.
- Continue to implement the Work Plan for the approved recommendations and priority matrix of the Rental Housing Workgroup. For 2022 this includes but not limited to working on developing ordinances for accessible dwelling units (ADUs) and inclusionary housing.
- Continue to participate in the Delaware State Housing Authority Analysis of Impediments to Fair Housing.
- Continue to work with the GIS staff and the GIS database to portray land use development information in a parcel-based format.
- Continue to review the Code and make recommended revisions to Planning Commission and City Council.
- Continue to work on developing policy recommendations to address the student housing issue for consideration by the Planning Commission and City Council.

Other Regular Duties

- Continue to implement the *Community Development Block Grant Program*
- Participation in WILMAPCO Technical Advisory Committee (TAC)
- Participation in WILMAPCO Public Advisory Committee (PAC)
- Participation in Bike Newark
- Managing Unicity Bus system
- Community Rating Service
- Buyer’s Affidavit
- Zoning verification letters
- Responding to zoning and related planning inquires (phone and walk-in)

Planning Commission Support

- Preparation of support material, background reports and information packets
 - Public notification and posting requirements
 - Administrative and secretarial support (Code-required)
 - Transcription services
 - Applicant interface
 - Commission requests for data and information
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- Continue to provide exemplary assistance to other City departments, Planning Commission and City Council.
 - Implement the Planning Commission 2022 Work Plan as resources allow.