



# CITY OF NEWARK

## Planning Commission

City Hall, City Council Chambers

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### MINUTES

Tuesday, November 14, 2023

7:00 P.M.

#### A. ROLL CALL

Chair Fitts called the meeting to order at 7:01 pm. All members of the Planning Commission were present: Chair Fitts, Vice Chair Aguilar, Commissioner Becker, Commissioner Bogisich, and Commissioner Pitpitan.

#### B. MINUTES

**B1. Approval of Minutes of the regular Planning Commission meeting of October 24, 2023.**

#### MOTION APPROVED

Chair Fitts requested a motion. Commissioner Aguilar moved, and Commissioner Becker seconded, to approve the Minutes of the regular Planning Commission meeting on October 24, 2023. The motion passed – **4 AYES, 1 ABSTAIN** (Chair Fitts was absent).

#### C. WRITTEN COMMUNICATIONS

None.

#### D. ORAL COMMUNICATIONS

*Members of the public are invited to address the Planning Commission on any item not listed on the agenda. Public Comments are generally limited to 5 minutes per speaker. Please note that State law prohibits the Commission from acting on non-agenda items.*

None.

## **E. PUBLIC HEARINGS**

### **E.1 Public Hearing to Consider a Recommendation to the City Council for the adoption of an ordinance adding chapter 17.15 to the Newark Municipal Code to establish the By Right Housing (-BRH) overlay district, amending the Newark Zoning Map by applying the BRH Overlay District to specific parcels, and making related miscellaneous amendments to Title 17, Zoning, of the Newark Municipal Code.**

Steven Turner, Community Development Director (CDD), provided a summary of the creation of a By Right Housing Overlay District and the rezoning of specific parcels. He started by describing the City's General Plan that establishes the City's vision, objectives, policies, and measures for how the City should develop and be built over time. He went on to say that the City has a housing element, which is a plan for the community's housing needs, that outlines where housing should be built and how much can be developed, places an emphasis on housing production targets which is expressed through the Regional Housing Needs Allocation process (RHNA), that it is updated every eight years, and must be reviewed and approved by the State of California. CDD Turner stated that the Planning Commission has spent the last year analyzing the recommended 2023-2031 Housing Element, and Staff has been developing the Draft Element for public assessment. He then stated that the Planning Commission reviewed the Housing Element on October 24, and recommended that the City Council adopt it and that it is now with the State's Department of Housing and Community Development for final review and possible certification by the end of December 2023. He went on to say that the State assigned 441,176 housing units to the Bay Area region owing to the region's need for affordable housing, which is an idealistic target for communities in the region to have the right rules and initiatives in place to encourage developers to create homes. He stated that Newark's portion of the 441,176 housing units is 1,874; therefore, the City must have policies and programs in place to encourage private construction of that housing over the next eight years. CDD Turner went on to state that the City has identified sites in the Housing Element, and with the planned residential development, the City could handle 1,874 units. Among those sites, he said, the Old Town area would have a good number of units for RHNA purposes, while other sites have approved projects, are under construction, or are in some stage of development, and some are



already zoned as residential, allowing housing as permitted uses. He claimed that with all this combined, the City would be able to meet its housing allocation of 1,874 units. Furthermore, he stated that there are two newly identified sites, Site 14 (New Park Place), which has a specific plan for that site, and Site 6 (Cedar Community Apartments), which recently converted 124 units of a former motel into housing for low-income, at-risk, or homeless families. He went on to say that most of the sites that have projects are in the early stages of development, or do not have projects but have been exhibited on past housing elements are referred to as reused or carryover sites. CDD Turner then stated that for the City to reuse the sites that were identified in previous housing elements, the State has enacted new laws that require cities to take specific measures, with the intention of creating incentives to encourage homeowners to build on their sites. One of those incentives is that sites that are being carried over to the new housing element must be rezoned as by-right housing sites, which implies that as long as developers follow all of the standards for creating residential developments, they will be approved by right. He also indicated that site rezoning must take place within one year following the adoption of the State's mandatory Housing Element deadline of January 31, 2023. He went on to state that by-right sites must allow for 20 dwellings per acre, and must be large enough to accommodate at least 16 units. Furthermore, he said that Newark has 26 reused properties that are eligible for by-right rezoning and that their dwellings must include a minimum of 20% units for low-income households as well as meet all objective standards and site development restrictions. CDD Turner noted that Policy H3.1 in the Housing Element says that projects with 20% affordable units on reused sites are eligible for by-right approval and that the Zoning Ordinance needs to be amended to reflect the by-right permission. He stated that the Zoning Ordinance Amendments are included in the Staff Report and consist of a new amendment to Section 17.03.010, which modifies By-Right Housing as an Overlay District, and a new chapter, 17.15, By-Right Housing, which includes the Overlay District, the Purpose, Applicability, Permitted Uses, and Procedures. To conclude his presentation, CDD Turner stated that the amendment is consistent with the General Plan and that the zoning amendment will promote and protect public health, safety, and general welfare. Finally, he stated that the public notice was advertised in Tri-Cities Voice on October 31st, that it was mailed to affected homeowners as well as property owners within 500 feet of each impacted parcel, and that the requested action is exempt from CEQA because there are no changes

to the existing land use, no changes to the extent of land use, no project entitlements would need to be approved, and no potential for causing major impact to the environment.

**STAFF RECOMMENDATION: Staff recommends that the Planning Commission adopt a resolution recommending that the City Council adopt an ordinance adding Chapter 17.15 to the Newark Municipal Code to establish the By Right Housing (-BRH) Overlay District, amending the Newark Zoning Map by applying the -BRH Overlay District to specific parcels and making related miscellaneous amendments to Title 17, Zoning, of the Newark Municipal Code.**

Chair Fitts inquired of the Commissioners whether they had any questions for Staff.

Vice Chair Aguilar requested CDD Turner to clarify whether the objective standards would be subject to the existing Overlay District or if new objective standards would be established following the By Right Housing approval.

As stated by CDD Turner, the City's objective standards are set forth in the Zoning Ordinance and apply to each zoning district; therefore, the By Right Overlay District does not alter those requirements; instead, it simply allows ministerial approval of certain residential development projects, subject to all site development regulations as well as the objective standards presently included in the Municipal Code.

Commissioner Becker questioned if property owners would have the final word on whether to sell or develop their property.

CDD Turner answered that the Overlay District does not require property owners to build any project on their site and that if a property owner desires to develop and propose a qualifying project, it provides a more expedited process for the City's approval.

Commissioner Becker stated that he is not a strong supporter of by-right housing because it takes control away from the City's , and he advised Staff that when the next eight years come around to do an updated Housing Element, be very cautious about using reused sites because doing so ties the City's hands in terms of the types of developments the City would like to see develop.



CDD Turner thanked Commissioner Becker for his comment.

Chair Fitts inquired of the Commissioners whether they had any questions for Staff. No one had any comments.

Chair Fitts opened the Public Hearing and invited anyone in the audience or via Zoom to speak on the agenda item. There were no comments from the audience, and there were no Zoom participants. Chair Fitts closed the Public Hearing.

Chair Fitts inquired whether all residents on the affected sites had been informed of the changes before the evening hearing.

CDD Turner replied in the affirmative, adding that all property owners affected by the modifications, as well as those living within 500 feet of each affected property, have been notified. He then mentioned that Staff received a letter from Alameda County Water District (ACWD) reminding Staff and property owners to be aware when doing future developments on their properties to communicate with ACWD concerning any facilities that may be on those properties, such as wells, hazardous materials, or any other kind of conditions that the water district may control or on which the water district may want to comment, so projects are adjusted according to their requirements.

Vice Chair Aguilar questioned Staff about whether the term "zoning" could be placed before the word "district" in Exhibit B, Section 17.15.040 so that it would read "zoning district." This way, he claimed, would support the motion, and clear up any confusion or ensure that it does not come up for interpretation in the future since it is entirely ministerial.

As stated by CDD Turner, Staff agrees that the modification would be a beneficial addition and would support the motion.

Vice Chair Aguilar moved, and Commissioner Bogisich seconded to approve the motion. **The motion passed unanimously – 5 AYES.**

**MOTION APPROVED**

## **F. STAFF REPORTS**

None.

## **G. COMMISSION MATTERS**

### *G.1 Report on City Council actions.*

As reported by CDD Turner, Chair Fitts was re-appointed by the City Council to the Planning Commission for another four-year term. He continued by saying that Commissioner Fitts had received great praise from the City Council for his tenure on the Commission, commitment to the City, and public service. In closing, he expressed Staff's congratulations to Commissioner Fitts on his appointment to the Commission.

Chair Fitts said he was glad to be on the Commission and that he was looking forward to continuing as long as he could contribute. He mentioned how much he enjoyed seeing all the projects that have been proposed, including the Costco project, which he thought was a terrific one.

## **H. PLANNING COMMISSIONER COMMENTS**

Chair Fitts announced that Commissioner Pitpitan's term on the Planning Commission will conclude at the end of December. Chair Fitts stated he appreciated her contributions. He said she had done a fantastic job, done her homework, attended the meetings, and wished her luck in all her future endeavors.

Commissioner Pitpitan expressed her gratitude to Chair Fitts and said it had been a joy and honor to serve. She also thanked Staff and the other Commissioners for their warm welcome and assistance in teaching her, saying it had been a fantastic experience. She continued by saying that she had been intermittently residing in Newark since 1982, that she loved the city, believed it was in excellent hands, and that the future looked promising.

Commissioner Becker asked Chair Fitts how long he had been in service and congratulated him on his reappointment.

As stated by Chair Fitts, he will begin his 38th year of service.

In addition, Commissioner Becker congratulated Commissioner Pitpitan, expressed gratitude to her for her service to the Commission, and wished her well in her upcoming endeavors.

Vice Chair Aguilar complimented Chair Fitts for his exceptional years of service and shared Commissioner Becker's words regarding Commissioner Pitpitan, congratulating her and saying it had been a pleasure working with her.

Commissioner Bogisich congratulated Chair Fitts and said that she was going to miss Commissioner Pitpitan.

## **I. ADJOURNMENT**

Chair Fitts adjourned the Planning Commission meeting at 7:31 p.m.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Steven Turner", followed by a long horizontal line extending to the right.

Steven Turner  
Secretary