



CITY OF NEWARK

Planning Commission

City Hall, City Council Chambers

37101 Newark Boulevard, Newark, CA 94560 | (510) 578-4330 | E-mail: planning@newark.org

AGENDA

Tuesday, November 14, 2023
7:00 P.M.

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the regular Planning Commission meeting of October 24, 2023.**

(MOTION)

C. WRITTEN COMMUNICATIONS

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.

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.**

(RESOLUTION)

F. STAFF REPORTS

G. COMMISSION MATTERS

G.1 Report on City Council actions.

H. PLANNING COMMISSIONER COMMENTS

I. ADJOURNMENT

MEETING INFORMATION

Members of the public may attend the meeting in person, watch online, or watch on Cable Channel 26. The ability to observe online or on Cable Channel 26 is predicated on those technologies being available and functioning without technical difficulties. Should those platforms not be available, or become non-functioning, or should the Planning Commission otherwise encounter technical difficulties that make those platforms unavailable, the Planning Commission will proceed with business in person unless otherwise prohibited by law.

How to view the meeting remotely:

YouTube Livestream: <https://www.youtube.com/@cityofnewark3077/streams>

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Cable Channel 26 - if the meeting does not broadcast live, please contact your service provider, and request the City of Newark channel lineup.

Zoom will no longer be available for public participation unless required by Assembly Bill 2449. Should a Planning Commission Member attend the meeting via Zoom pursuant to Assembly Bill 2249, then the Webinar ID **ADD WEBINAR ID HERE** will be activated. The Planning Commissioner Chairperson will make an announcement at the beginning of the meeting that the Planning Commission will be allowing public comment via Zoom. Raise your virtual hand to notify the Clerk that you would like to speak during the item that you wish to speak on.

Submission of Public Comments: Public comments received by 4:00 p.m. on the Planning Commission meeting date will be provided to the Planning Commission and considered before Planning Commission action. Comments may be submitted by email to planning@newark.org.

No question shall be asked of a Planning Commissioner, city staff, or an audience member except through the Chairperson. No person shall interrupt the meeting. Any person who refuses to carry out instructions given by the Chairperson for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.

Commission Meeting Access/Materials:

The agenda packet is available for review at [Agendas and Minutes](#). The packet is typically posted to the City website the Friday before the meeting, but no later than 72 hours before the meeting.

Pursuant to Government Code 54957.5, supplemental materials distributed less than 72 hours before this meeting, to a majority of the Planning Commission, will be made available for public inspection at this meeting and will be posted at <https://www.newark.org/departments/city-manager-s-office/agendas-minutes> and will concurrently be made available for public inspection during regular business hours at City Hall, 37101 Newark Boulevard, Newark CA. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection. For those persons who require special accommodations, please contact the Administrative Support Specialist at least two days prior to the meeting at planning@newark.org or 510-578-4330.



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MINUTES

Tuesday, October 24, 2023
7:00 P.M.

A. ROLL CALL

Vice Chair Aguilar called the meeting to order at 7:19 p.m. Present were Vice Chair Aguilar, Commissioner Becker, Commissioner Bogisich, and Commissioner Pitpitan. Chair Fitts was absent.

B. MINUTES

B1. Approval of Minutes of the regular Planning Commission meeting of October 10, 2023.

MOTION APPROVED

Commissioner Bogisich moved, and Commissioner Becker seconded, to approve the Minutes of the regular Planning Commission meeting on October 10, 2023. The motion passed – **4 AYES, 1 ABSENT**. 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 City Council for the Adoption of the 2023-2031 Housing Element and Safety Element Update of the City of Newark General Plan.

Community Development Director (CDD) Steven Turner greeted the Commission and stated that he would be presenting the Housing Element and Safety Element Updates, which is the result of many months of collaboration between City staff, consultants, and community feedback gathered over the past two years to help determine the Newark Housing Element and the Safety Element Update. He went on to talk about the agenda items that would be discussed that evening, such as an overview of the general plan for the Housing and Safety Elements, the 2023-2031 Housing Element summary, a proposed update to the Safety Element, the environmental assessment, and final revisions, as well as the steps that should be taken and recommendations. He then identified the City's consultants, Paul Peninger of Bay Area Economics, Kristy Wang of Community Planning Collaborative, Shannon Wages of Environmental Science Associates (ESA), and himself, who would be presenting that evening. He also stated that Erica Gonzalez, Attorney at Meyers Nave, was available to assist with any legal questions that may arise. As stated by CDD Turner, the City adopted its General Plan in 2013, which is a long-term plan of the City's goals, policies, and programs that should be pursued over 20 years. He also stated that the General Plan provides the foundation for planning development decisions, specifies the City's goals to benefit its citizens, and serves as a guide for Staff to pursue major public projects during the General Plan. He stated that under state law, municipalities must have a general plan that includes components or chapters such as land use, transportation, housing, conservation and sustainability, risks to the environment, parks, recreation, and open space. In addition to the latter, CDD Turner stated that there are three optional elements in Newark's General Plan: economic development, which promotes businesses within the City, community services and facilities, and health and wellness, which promotes healthy living and community safety. He indicated that Newark's Housing Element is a community housing plan that covers the rules, goals, and programs for housing placement and development, that it is required by State law, it is revised every eight years, and it must be reviewed and approved by the

State. He stated that the Regional Housing Needs Assessment (RHNA), which is part of the Housing Element, is responsible for determining home production objectives for the next eight years. He proceeded on to say that Newark is part of the Bay Area Region, which is governed by the Associated Bay Area of Governments (ABAG/MTC), and they get a RHNA assigned for the entire Bay Area. He went on to clarify that this allocation is based on population and people who do not require housing, such as prisons, vacancies, overpopulation, residential unit demolition, and people overpaying for housing. As stated by CDD Turner, the Bay Area Region received a RHNA allocation from the State of 441,176 housing units for the whole area, with Newark's RHNA being given 1,874 housing units based on a method discussed two to three years ago, due to factors such as high opportunity areas and job access. He added that this RHNA signifies a 70% increase, which is not as bad as other Bay Area adjacent municipalities. Per CDD Turner, Newark's 2023-2031 RHNA of 1,874 housing units are distributed among all income-level households in the community, ranging from very low income to above moderate income, and is based on comparisons to the County of Alameda and Bay Area percentages for each income classification. CDD Turner mentioned the timeline for the Housing Element Update, explaining that staff and consultants spent a significant amount of time from late 2021 to 2022 listening to the community feedback about their housing needs and preparing an analysis that resulted in the 350-page document presented to the Planning Commission that evening. He went on to note that much of the work from involving the community and working with State reviewers began in early February 2023 and culminated in the production of a draft Housing Element, which was available for public review and suggestions from the community for 30 days. Then, in late February, Staff held a study session with the Planning Commission to offer a summary of the Housing Element process and an update, he said. Following that, he noted that Staff and the consultants held a community workshop via Zoom to allow the community to learn more about the Draft Housing Element Update and provide feedback, which was then incorporated into the document. After that, the draft document was sent to the State Housing and Community Development (HCD) for a 90-day review, and they responded in July with a large list of adjustments they needed the City to make, noted CDD Turner. Staff then responded to HCD in August 2023 with the modifications completed, and HCD recently responded with additional modifications that need to be made. However, he stated, Staff believes the Housing Element dated October 3, 2023, is essentially compliant with State Housing

Element law, and as such, Staff chose to present it to the Planning Commission and City Council for consideration. Staff will continue to collaborate with HCD on minor adjustments after adoption but before certification by the State. CDD Turner concluded by stating that the Natural Hazards Element, which was renamed the Safety Element, is a component of Newark's General Plan. He went on to say that, like the Housing Element, the Safety Element contains goals, policies, and measures aimed at protecting the community from unreasonable dangers to the environment, that it has been in place and unchanged since 2013, and that, by state law, when the Housing Element is updated, the Safety Element must also be updated.

CDD Turner inquired whether the Planning Commission had any questions. The Commissioners did not have questions. CDD Turner directed his attention to the Community Planning Collaborative Consultant, Kristy Wang.

Kristy Wang, Consultant at Community Planning Collaborative, stated that it had been a pleasure working with the City Staff and that she would address the Housing Element objectives and policies in further detail, while Paul Peninger would discuss the actions and sites. She began her presentation by discussing community engagement, which began in 2021 and 2022 and was to gather feedback from the community through a community survey on the website, which received 342 responses, having in-person meetings where the community was invited to attend, as well as reaching out to community members at public places such as the library and the senior center, the Tri-City Mobile Pantry, and one-on-one interviews. Kristy Wang went on to say that during the engagement period, some of the concerns they heard from Newark residents included housing affordability due to rising housing prices, not feeling that they live in a neighborhood of opportunity but being interested in a variety of housing types, wanting to plan for climate change, and residents wanting to stay in their communities but finding it difficult because many are facing displacement. She continued her presentation by mentioning some of the Housing Element components, such as housing needs, Affirmatively Further Fair Housing (AFFH), restrictions, resources, housing design, and site inventory. She went on to explain some of the factors considered in housing needs, such as population, age, special needs, race and ethnic background, income levels, and affordability, and stated that Newark has done a good job in meeting housing demands but needs to do more work in providing dwellings at very low and low-income levels. She then discussed Affirmatively Further Fair Housing

(AFFH), a State requirement in which the City must address existing patterns of segregation and inequalities with active and proactive planning for equitable neighborhoods, which was accomplished by comparing Alameda County and the larger region, as well as looking at access to opportunities for different communities. As a result, she said, the emphasis is on both increasing the quality of life for individuals in low-income communities and facilitating access to higher-income ones. She also mentioned that this is closely tied to the recommended programs and planned sites. Kristy Wang pointed out the sites proposed for housing or housing sites zoned for housing from moderate to high resource categories in a PowerPoint presentation she shared, demonstrating that the City is providing all kinds of neighborhoods across Newark and not focusing lower income housing in certain communities or higher income neighborhoods in others. She went on to discuss the constraints, which is another section of the Housing Element, and stated that they have spent greater time internally and working in collaboration with the Department of Housing and Community Development (HCD), as well as considering the community's non-governmental and environmental barriers. Kristy Wang moved on to explain that because of the overall research on the housing needs, the AFFH, and the constraints, they are addressing the goals through policies and programs. She stated that the goals were developed through community involvement, the Planning Commission, and the City Council workshops and that in comparison to the previous Housing Element's housing, it includes protection, preservation, and production with an emphasis on fairness and environmental sustainability. She concluded her presentation by discussing the seven goals in greater detail, including the preservation and improvement of existing rental and owned housing, the facilitation of the development of more homes for more people, the reduction and removal of constraints to affordable housing developments, assisting members of the community to remain in their homes and communities, and increasing access to affordable housing through Notice of Funding Availability (NOFA) and down payment assistance, equity, and environmental justice, and further fair housing throughout the Newark. Kristy Wang turned her focus to the next presenter, Paul Peninger.

Paul Peninger, a Bay Area Economics consultant, discussed the program and site inventory, adding that there are over 30 regulations and several programs, but he wanted to highlight a few of them since they are distinctive. He began by discussing Preservation, which includes two programs aimed at maintaining home quality and conserving current

housing opportunities. Following that, he discussed the Missing Middle Housing program, which includes two of three programs that are driven by State laws passed two years ago, SP9 and SP10, which require cities to allow homeowners and small-scale builders to do urban splits and duplex development on their existing housing lots, and the third program is to support the production of accessory dwelling units (ADU), which is a growing community interest as a way to make extra income or as accommodation for extended families. He then discussed the Special Needs Housing program, which includes three distinct programs to assist people facing homelessness, the establishment of single-room occupancy, and housing mixed into current communities for people with severe developmental disabilities. Mr. Peninger mentioned the Addressing Government Constraints program, which consists of five separate programs designed to simplify permit approval procedures, develop objective design standards, update impact fees comparable to other cities, adjust zoning to allow mixed commercial and residential uses, and update the City's parking standards. He went on to say that those programs are in line with the City's principles and meet HCD regulations. Another program he mentioned was the Partnership program, which would involve collaboration with the Newark Unified School District and other public organizations that possess land to use those public properties for affordable housing. Paul Peninger also discussed the Anti-displacement and Tenant Support program, which consists of four other programs that focus on assisting Newark's current residents in maintaining a place in the community by finding decent affordable housing of all types to meet their family's needs, particularly in the Old Town area, an equitable eviction ordinance to make landlords more difficult to remove longtime renters for various reasons, the shared housing program, which connects the residents to share houses for everyone's affordability, and the tenancy stability program, which supports tenants' stability through minimum lease periods and relocation. He then addressed Affordable Housing Development, which entails assuring proper housing distribution through various programs, which Newark has previously accomplished. He concluded by discussing programs, specifically the First Time Homebuyer Program, which would be accomplished through the development of a Below Market Rate (BMR) homeownership program and down payment help, with an emphasis on first-time home buyers and households of color, both of which have notoriously low homeownership rates. Mr. Peninger continued his presentation by discussing the inventory of sites designated by the City to accommodate appropriate housing in various densities. He went

on to clarify that those locations are in the NewPark Place Specific Plan region, the Old Town area, the nearby area around Thornton Avenue, or the Bay Side Newark area, all of which are driven by policies and initiatives that the City has previously implemented. As a result, he stated, they are making the most of what is currently in place by implementing programs to aid in the development of those sites. To conclude his presentation, he cited the EZ-8 Motel, which the owner may choose to keep open, and the Sycamore vacant lot, both of which are categorized as residential high-density sites. He added that the City had considered this property for a future high-density residential project with a maximum allowance of 60 units per acre. When HCD looks for sites that could be ideal for the provision of affordable housing, one of the factors they consider is whether the sites can be developed at a minimum density of 30 dwelling units per acre or greater due to financial viability. This does not rule out the possibility of a developer purchasing the site and building non-affordable housing; it is the developer's option, he stated.

Community Development Director Turner asked the Commission if they had any questions about the Housing Element. There were no inquiries. CDD Turner stated that Shannon Wages from Environmental Science Associates (ESA) would be presenting the Safety Element, which, per State law, requires an update and is one of the mandatory components of the General Plan.

Shannon Wages from ESA began her presentation by stating that under California State law, cities are required to have a safety element that protects their communities from any unreasonable hazards and that this element must be updated at the same time with a housing element update that includes objectives, regulations, and actions to address every risk and increase their communities' capacity for adaptation to climate impacts. She also mentioned that as of 2019, SB99 and AB747 require the identification of evacuation routes within cities, as well as their capacity, safety, and affordability under a variety of circumstances. She went on to say that the Safety Element, which was formerly known as the Environmental Hazards Element in 2013, is a component of the City's General Plan that identifies safety issues and needs that are expected to be of ongoing concern and guarantees that the City takes appropriate action to reduce natural and man-made dangers and safety threats, as well as responds quickly to any public safety incident. She then described the process of updating the Safety Element, which included reviewing significant plans, analyzing each hazard throughout the City, and amplifying their research

with a community survey that identified community needs and concerns, and incorporating all that community feedback into the Draft Safety Element. She mentioned a few essential plans that were reviewed and incorporated in their analysis, including the soon-to-be-updated 2017 Union City/Newark Multi-Jurisdictional Local Hazard Mitigation Plan, the 2021 Alameda County Local Hazard Mitigation Plan, the 2010 Climate Action Plan Initial Framework, and the Emergency Operation Plan. Shannon Wages went over the Existing Conditions Analysis for each of the Newark-related topics in considerable detail, including air pollution, drought, and water quality, extreme weather, dam breakdown, geologic, flood, and fire threats, hazardous materials, emergency readiness, and noise and vibration. As stated by Ms. Wages, this work was carried out by conducting a community poll to gather opinions on each of the community's concerns, and the response was used to develop the Safety Element's goals, policies, and actions. She ended her presentation by adding that she had the Safety Element, the Existing Conditions Report, and the Evacuation Plan Analysis in front of her in case any questions emerged.

CDD Turner directed his attention to the Commissioners and asked if there were any questions for the consultants. There were no questions from the Commissioners. He went on to discuss the changes made to the Housing Element before submitting it to the State for consideration. He then explained that to update the Housing Element and the Safety Element, which qualify as CEQA projects, staff, and ESA consultants analyzed the changes to the General Plan regarding safety and housing and compared it to the entire Newark General Plan Tune-Up Environmental Impact report prepared in 2013. They discovered, he said, that no subsequent environmental impact report was required to be prepared because no substantial changes have been proposed or the conditions that require major revisions of the General Plan Tune-Up EIR, implying that there will be no changes to zoning in the Housing Element, similarly in the Safety Element the existing conditions report will be updated and new policies and programs will be added to address the conditions; thus, no further EIR is required. He further stated that all Housing and Safety Elements are bound to all mitigation proposals previously accepted from the 2013 EIR. Regarding the revisions to the Housing Element, CDD Turner stated that Staff has been working with the State's reviewers in an interaction process, where a revision was sent to the State in mid-August, the State took 60 days to review, and a new short comment letter was received back from them on October 16, stating that Staff needs to make additional revisions to the Housing Element before certification; Staff believes that the Housing Element is

consistent with State law, but more collaboration with the State is necessary to certify the document. He went on to note that Staff is suggesting adjustments that were not in the Planning Commission's version, but that Staff wanted the Planning Commission to recommend to the City Council that those changes be adopted as part of their recommendation to accept the Housing Element. He added that those adjustments were detailed in a memo that was put at their respective locations, that additional copies were accessible for the people who attended that night, and that they would also be given to the City Council. He went on to say that the amendments are adjustments to proposed programs like the ADU program, which deals with accessory dwelling units, and the Four Corners Program, which looks at commercial areas as a potential source of housing.

Commissioner Becker inquired if the Four Corners area included the Old Orchard Supply and Mi Pueblo. CDD Turner replied in the affirmative.

Commissioner Becker then inquired about the likelihood of a multi-story construction in those locations. CDD Turner answered that Staff would need to get community feedback, but he believes there is a chance for higher-density housing with the buildings, parking lots, or surrounding places.

Continuing with revisions, CDD Turner mentioned the Parking Standards update and studies, which Staff expects to push out to 2025 due to their extent, and Zoning Ordinance Amendments, which the State requires the City to update significant terms and processes that deal with special needs housing. Finally, CDD Turner stated that three new programs would be integrated into the Housing Element: an incentive program for small lot consolidation and development, ensuring maximum residential densities are achieved by reviewing and assessing rules and projects as they come and monitoring the progress of meeting the City's RHNA and residential development on an annual basis. He then informed the Planning Commission that their recommendation on the Housing and Safety Elements would be presented to the City Council through a resolution at the October 26 meeting. Finally, CDD Turner noted that their next actions would be to collaborate with HCD staff to incorporate the revisions into the Housing Element, to hold regular meetings with them through December 2023 to improve the Housing Element, and to seek HCD certification by the end of December 2023. Staff will return before the Planning Commission and City Council to show the adjustments made depending on the revisions submitted.

Staff Recommendation: Staff recommends that the Planning Commission recommend that the City Council adopt a Resolution for a General Plan Amendment to repeal the Fifth Cycle Housing Element for the period of 2015-2023 and adopt the Housing Element of the General Plan for the Period of 2023-2031 and repeal the existing Natural Hazards Element and adopt the Safety Element of the General Plan, in compliance with State Housing Element Law.

Staff recommends incorporating the Housing Element revisions as described in the October 24, 2023, memo.

Vice Chair Aguilar inquired if any of the Commissioners had any questions or comments before starting the Public Hearing.

Commissioner Becker indicated that he would like to make a few comments. He began by praising Staff and the consultants for their great efforts in putting together the document, and he stated that, while the Staff presentation was lengthy, it was necessary given the amount of work and time required to complete it. He stated that he dislikes the fact that the HCD/State has so much power and control over local planning. He understands that the Assembly and Senate Bills were approved by the State and that the City has little say in many areas, but he dislikes it. He believes that the City of Newark has done an excellent job of preparing for development over the years and that in many situations, adjustments mandated by the State tie the City's hands, to have it planned from the top rather than knowing local conditions, local needs, and preferences. With that said, he believes that the Staff and consultants did an excellent job of incorporating all those conditions into the new, revised General Plan and Safety Element and that it is an effective compromise. He went on to clarify that, as CDD Turner mentioned, it is not necessary for the City to build homes; rather, it is required for the city to have opportunities and decrease the limitations on development in the city. Commissioner Becker stated that he supports the City's continued implementation of fair housing regulations, which he believes the City has done well in the past. He added that he supports any measures addressing homelessness and special needs populations, which he believes are long overdue. He also added that he supports programs that help with the rehabilitation of aging housing and that he is looking forward to the ideas that Staff may come up with to help people maintain and stay in their homes as they age. Moreover, he addressed the rental inspection program, which he finds appealing and is looking forward to seeing how it is

implemented. He believes it is beneficial since it will protect tenants, who are often subjected to what landlords dictate. As a result, he stated, it is not a bad thing if done appropriately. Furthermore, he added that he supports the displacement program, particularly during and after the pandemic, because he believes it is critical to protect vulnerable communities who may be unfairly relocated. Commissioner Becker next discussed the initiatives he disliked, mentioning the By Right Development, which he believes ties the City's hands. Another program he cited was Urban Lots Splits, which he strongly opposes because individuals have invested heavily in single-family communities. Because the State requires it, the City will now allow property owners to split their property and develop two, three, or four units on their properties. He pointed out investors coming to Newark and purchasing significant areas of single-family communities before deciding to do a vast area of urban splits with no means to stop them. He believes it would hurt the communities and change the qualities of a single-family neighborhood. Finally, he stated that changes in parking requirements should be carefully examined. He stated that it would be contentious because people continue to drive cars, whether gas or electric, and there is no dependable public transportation, which means that individuals would have to park their cars somewhere else, and if there are no parking spots available, individuals would have to park their cars on other people's properties, causing difficulties among community members. He continued by remarking that, considering some of the restrictions the State has imposed, the City staff and consultants did an excellent job in developing the most recent version of the Housing Element, and moving forward he supports the new Housing Element version.

Vice Chair Aguilar thanked Commissioner Becker for his remarks and inquired whether any other Commissioners had any questions or comments.

Commissioner Bogisich agrees with the State requiring the number of units that must be constructed each year, but the State believes that old residences will be removed, and new ones built. In actuality, she claimed, people want to stay in their neighborhoods and homes, particularly in Newark. As a result, if the state requires the construction of a certain number of units, there will be no space to do so.

Vice Chair Aguilar inquired whether there were any further remarks or questions. He added that while nobody else had any questions or comments, he shared Commissioner Becker's opinions, that the presentation was outstanding, which reflected the amount of

work that went into it, and thanked Staff on behalf of all the Commissioners. He went on to say that hearing from the community's concerns about affordability and wanting to stay in their neighborhood caught his attention and that one of the key concepts of the Housing Element's goals and policy sections was providing affordable housing for all income categories. He went on to note that a couple more items attracted his attention, one of which was Policy H5.4, an amendment to the City's equitable housing program that guarantees affordable units being created on-site rather than the developer paying an in-lieu fee. He continued to say that what appealed to him was that affordable housing would be provided in real-time, indicating that the affordable units would be created at the same time as the market rate units. Vice Chair Aguilar stated that he had a few questions about the memo provided to the Commission that night, specifically whether the 360 units in the Four Corners were specific to one of the properties in the area or unit allocation for the entire Four Corners area. CDD Turner responded that the 360 units would be distributed around the Four Corners area. After completing the public planning process, he said that it may not be for all areas, that certain areas are more appropriate for higher-density residential than others, and that a 360-unit allocation for a Four Corners area is an achievable target.

Vice Chair Aguilar then stated that the Four Corners language of policy informs the State of the City's objectives for future unit allocation in the Four Corners area.

CDD Turner responded affirmatively, explaining that it is not a commitment, that it could be less or more than 360 housing units, and that it is not included in the Housing Element as a housing opportunity site, but rather a reasonable number of units given the amount of land, availability, and potential for development possibilities on that specific site.

Vice Chair Aguilar proceeded on to address the comment on the same policy about the Capital Corridor, which is still in the planning stages, and Newark having a specific plan in the Dumbarton TOD area potentially having a train stop there, to remember that when the time comes, to assess the specific Four Corners area for a better understanding of the probability of getting a station there, and the timing behind it.

CDD Turner agreed with Vice Chair Aguilar and stated that Staff would consider it an essential requirement to establish the residential densities described in the plan. Furthermore, he stated that if the South Bay Connect Project, which is looking into

realigning the freight and passenger rail on the different subdivisions in Southern Alameda County, does not include a passenger rail at Ardenwood, there would be no demand for that sort of housing within the area. He also stated that he believes Four Corners would be able to accommodate some moderate amount of housing in mixed-use projects, which would achieve a variety of goals, but accommodating a rail station in Fremont at Ardenwood, and then responding with some higher density housing that would make more walkable communities, and having people be able to access mass transit without driving, the Ardenwood station would be a pre-requisite for those goals. He concluded by noting that it would have to be closely monitored.

Vice Chair Aguilar stated that the revisions in the memo provided to the Commission that evening, Program H2.11, which is to stimulate the development of small sites through a lot consolidation incentive program, he admires it, especially given the recent approval of the Old Town Specific Plan, which encourages redevelopment. He went on to say that he agreed with everything in the memo and that it would be beneficial to invest in community outreach to educate different property owners about the incentives and all the reasons for lot consolidation and the assembly of a larger mixed-use development.

Lastly, Vice Chair Aguilar asked what the process would be if the Housing Element, once approved by the Planning Commission and adopted by the City Council, was sent to the State HCD is either returned to the Commission and City Council or if it is something that the City and the consultants can work on and have certified.

As reported by CDD Turner, the State's letter dated October 16 indicated that, in their opinion, the City's Housing Element still is not compliant with all the State's housing element rules, and that the revisions required to comply are not major. He went on to say that the adjustments are small and that the list of items in the October 16 letter is the final one. The City can seek adoption, and HCD is supportive of the process, particularly not only after adoption and implementation through resolutions that include the authority of those minor revisions, but also Staff returning to the Planning Commission and the City Council within 60 days of certification to express to the public, Council, and Planning Commission what those changes are and that they are acceptable.

Commissioner Bogisich asked about the Four Corners and whether the City plans to pursue economic development there. CDD Turner stated that the City will not eliminate

retail since it is such a neighborhood-serving commercial sector, that businesses will be pursued there, and that the City sees a type of potential and opportunity for a mixed-use area to help the City reach the goals that have been set.

Commissioner Bogisich cited the Sprouts Market and Safeway in Newark that welcome customers from North Fremont and Union City because those areas only have Lucky's in Union Landing.

CDD Turner restated that the City wants to keep retail feasible in Four Corners and that it is an important aspect of the City's objectives.

Vice Chair Aguilar opened the Public Hearing. He claimed that he had a speaker card from George Maciel, but that he was no longer present. Vice Chair Aguilar then asked if anyone wanted to address the Commission. No one said anything. The Vice Chair closed the Public Hearing.

Vice Chair Aguilar made a motion. Commissioner Becker moved, and Commissioner Bogisich seconded, recommending the Housing Element Update to the City Council for adoption. **The motion passed with 4 AYES and 1 ABSENT** (Chair Fitts was absent).

MOTION APPROVED

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

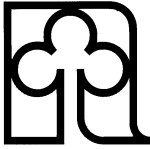
H. PLANNING COMMISSIONER COMMENTS

Commissioner Bogisich thanked the Staff for presenting in such an easy and detailed manner, and she hoped that this would be the final modification the State would give to the Staff.

I. ADJOURNMENT

Vice Chair Aguilar adjourned the Planning Commission meeting at 9:04 p.m.

DRAFT



- 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.

Background

Government Code [Sections 65580] regulates the use and requirements of housing elements in California. State law requires that cities and counties update their General Plan Housing Element every eight years. State law further requires the current update for jurisdictions in the Association of Bay Area Governments (ABAG) region, which includes the City of Newark, to comply by January 31, 2023.

Staff prepared an update to the Housing Element of the General Plan to affirmatively further fair housing and accommodate the City's 1,874-unit Regional Housing Needs Allocation (RHNA) for the Sixth Cycle 2023-2031 Housing Element cycle (the Housing Element Update). The content of the Housing Element Update is structured for consistency with the requirements set forth in state law. In addition to responding to state law requirements, the Housing Element Update also demonstrates the City's strategy to meet the City's locally determined housing needs and how these needs are addressed through policies and programs outlined within the Housing Element Update. Public review and input have been a critical component of the preparation of the Housing Element Update.

At their regular meeting on October 24, 2023, the Planning Commission held a public hearing and considered a staff recommendation and resolution to the City Council for the adoption of the Housing Element Update, as well as an update to the City's General Plan Natural Hazards Element, to be known as the Safety Element. The Planning Commission voted unanimously (4-0-0-1, Commissioner Fitts absent) to approve the staff recommendation and adopt the resolution that was forwarded to the City Council.

At their regular meeting on October 26, 2023, the City Council held a public hearing and considered the Planning Commission's resolution recommending that the City Council adopt the Housing Element Update and the Safety Element. The City Council voted unanimously (5-0-0-0) to approve the Planning Commission's recommendation and adopt the Housing Element Update and the Safety Element.

The Housing Element Update contains specifically identified vacant and non-vacant sites (Housing Element Update, Table C-1) that are anticipated to be developed with residential units during the 2023-2031 planning period. Table C-1 includes sites identified in earlier housing element cycles, including the Fourth Cycle (2009-2014) and Fifth Cycle (2015-2023). Specific sites from these previous cycles were included in the Sixth Cycle because 1. Residential projects had been previously approved on these sites, and construction of the units is expected to be completed during the Sixth Cycle, or 2. Residential projects have not been developed, proposed, or have existing valid residential development entitlements but are suitable for development during the Sixth Cycle.

Government Code Section 65583.2(c) provides that if a nonvacant site identified in the Fifth Cycle Housing Element, or a vacant site identified in both the Fourth Cycle Housing Element and the Fifth Cycle Housing Element, was not developed with a residential use, that site may only be included in the Sixth Cycle Housing Element if the City rezones the site within a specified period of time to allow residential use by right for housing developments in which at least 20% of the units are affordable to lower income households. For these housing developments, the City cannot require discretionary entitlements prior to approval of eligible residential projects, but instead, must approve these projects ministerially.

Discussion

The adopted Housing Element contains a policy (Policy H3.1) that communicates the City’s intent to amend the Zoning Ordinance to allow ministerial approval of eligible residential projects on specific sites that are reused from the Fourth and Fifth Cycle housing elements:

POLICY H3.1: Allow By-Right Approval of Projects with 20 Percent Affordable Units on “Reused” Sites. Pursuant to AB 1397, amend the Zoning Ordinance to require by-right approval of housing development that includes 20 percent of the units as housing affordable to lower-income households on sites being used to meet the 6th Cycle RHNA that represent “reuse sites” previously identified in the 4th and 5th Cycles Housing Element, and on sites that are subject to a text amendment to accommodate the lower-income RHNA.

Applicable Sites

Consistent with State law, reused Fourth and Fifth Cycle eligible sites include those vacant and non-vacant sites that meet the following criteria:

- Allow residential densities of 20 dwelling units per acre; and
- Can accommodate at least 16 units

The Housing Element Update identifies 26 eligible parcels comprising ten Housing Element Update sites that meet the above criteria (Program H3.6, Table 6-2). The Assessor Parcel Numbers and addresses are identified in Attachment A, Exhibit C, and shown on a map provided in Attachment B.

Qualifying Development

In order for “by-right” development to apply, residential development projects must:

- Set aside a minimum of 20 percent of the total units proposed as affordable to lower-income households, consistent with applicable requirements in state law and subject to the provisions of Newark Municipal Code 17.18.060 (Affordable Housing Program, Standards for alternatives to payment of housing impact fee).
- Comply with all applicable objective standards and criteria of the zone district where the site is located.

Qualifying residential projects on the identified sites that meet the required criteria, provide a

minimum of 20 percent of the units as affordable to lower-income households, and comply with all objective standards would be allowed ministerially “by right” and not require discretionary review. These projects are still subject to Design Review, except that such Design Review is ministerial. A qualifying residential project subject to ministerial review is not considered a “Project” under the California Environmental Quality Act.

Zoning Ordinance Amendments

To implement Policy H3.1, staff is recommending the following amendments to the Newark Municipal Code, Title 17 (Zoning):

- Section 17.03.010 (Districts established): modify Table 17.03.010: Base and Overlay Zoning Districts to include By-Right Housing (-BRH) as an Overlay District, and
- New Chapter 17.15 – By-Right Housing (-BRH) Overlay District, including Sections 17.15.010 (Purpose), 17.15.020 (Applicability), 17.15.030 (Permitted Uses), and 17.15.040 (Procedures).

The specific Zoning amendments, as summarized above in the “Applicable Sites” and “Qualifying Development” sections above, are provided in Attachment A, Exhibit B.

Sites Rezoned with the -BRH Overlay District

Staff recommends amendments to the Newark Zoning Map by applying the By-Right Housing (-BRH) Overlay District to specific parcels identified in Attachment A, Exhibit C (and provided below in Table 1) into the -BRH Overlay District.

Table 1: Parcels to be Rezoned with the By Right Housing (-BRH) Overlay District

92-30-17-2	6765 THORNTON AVE NEWARK 94560
92-30-14-3	6717 THORNTON AVE NEWARK 94560
92-30-16-2	6749 THORNTON AVE NEWARK 94560
92-30-18-4	6781 THORNTON AVE NEWARK 94560
92-30-15-2	6733 THORNTON AVE NEWARK 94560
92-31-16-2	6825 THORNTON AVE NEWARK 94560
92-31-15	36965 OLIVE ST NEWARK 94560
92A-900-1-2	36601 NEWARK BLVD NEWARK 94560
92-29-20-2	36976 MULBERRY ST NEWARK 94560
92-29-16-2	6537 THORNTON AVE NEWARK 94560
92-29-19-2	6625 THORNTON AVE NEWARK 94560
92-29-18-2	6609 THORNTON AVE NEWARK 94560
92-51-5-3	6716 THORNTON AVE NEWARK 94560
92-29-17-2	6553 THORNTON AVE NEWARK 94560
92-29-13	36937 CHERRY ST NEWARK 94560
92-51-2-3	6788 THORNTON AVE NEWARK 94560
92A-2125-17	37900 CEDAR BLVD NEWARK 94560
92A-2125-11-2	37750 TIMBER ST NEWARK 94560
92A-2125-13	37640 CEDAR BLVD NEWARK 94560
92A-2585-32	5545 CEDAR CT NEWARK 94560

92-50-13	37053 CHERRY ST NEWARK 94560
92-255-11	37200 SYCAMORE ST NEWARK 94560
92A-2375-32	38290 CEDAR BLVD NEWARK 94560
92-131-3	37257 FILBERT ST NEWARK 94560
92-131-2-4	37243 FILBERT ST NEWARK 94560
92-131-1-9	FILBERT ST NEWARK 94560

Findings of Fact

As provided in Section 17.39.080 (Criteria for zoning amendments), the Planning Commission shall not recommend, and the City Council shall not approve amendments to Title 17 unless the proposed amendments meet the following criteria:

- A. The amendment is consistent with the general plan;
- B. Any change in district boundaries is necessary to achieve the balance of land uses desired by the city, consistent with the general plan, and to increase the inventory of land within a given zoning district; and
- C. The amendment will promote the growth of the city in an orderly manner and to promote and protect the public health, safety, peace, comfort and general welfare.

The Findings of Fact applicable to the requested actions are provided in Attachment A, Exhibit A.

Public Notice

Notice of this public hearing with the recommended Zoning amendments was published in the Tri-City Voice on Tuesday, October 31, 2023. Mailed notices were sent to property owners of sites within 500 feet of each parcel to receive the -BRH Overlay District. A mailed notice, with an explanation of the Zoning amendments and the overlay district, was also provided to each property owner with sites that would be rezoned.

Environmental Review

The requested actions are exempt from further environmental review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3) since the proposed amendments to the Zoning Code and Zoning Map have no potential for causing a significant effect on the environment. The proposed changes to the Zoning Code and Zoning Map do not provide entitlements for any land use development projects, nor do they change the allowed uses of land or the intensity of any previously authorized use of land. Therefore, it can be seen with certainty that adoption of the proposed Zoning Code and Zoning Map amendments will have no significant effect of 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.

Attachment A: Resolution
Attachment B: Map, Parcels to be Rezoned with By Right Housing (-BRH) Overlay District

Attachment A

PLANNING COMMISSION RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWARK 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, REZONING CERTAIN PROPERTY INTO THE -BRH OVERLAY DISTRICT AND MAKING RELATED MISCELLANEOUS AMENDMENTS TO TITLE 17, ZONING, OF THE NEWARK MUNICIPAL CODE.

WHEREAS, The City Council of the City of Newark adopted Resolution No. 9684 adopting a Housing Element Update for the 4th Cycle period between 2009 and 2014 (the 4th Cycle Housing Element), which identified housing sites that would accommodate the City's Regional Housing Needs Allocation (RHNA); and

WHEREAS, The City Council of the City of Newark adopted Resolution No. 10361 approving the amendment to the General Plan by replacing the Housing Element with the 5th Cycle Housing Element Update 2015 (for the period between 2015 and 2023, the 5th Cycle Housing Element, which identified housing sites that would accommodate the City's Regional Housing Needs Allocation (RHNA); and

WHEREAS, the California Legislature has found that "California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives" (Gov. Code Section 65589.5); and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the City Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City of Newark's (City) RHNA of 1,874 housing units, comprised of 464 very-low-income units, 268 low-income units, 318 moderate-income units, and 824 above moderate-income units; and

WHEREAS, to comply with State Housing Element Law, the City has prepared the 2023-2031 Housing Element (the Housing Element) in compliance with State Housing Element Law which establishes the framework for housing goals, policies, and programs and has identified sites that can accommodate housing units meeting the City's RHNA; and

WHEREAS, on October 24, 2023, the Planning Commission adopted Resolution No. 2009, recommended that the City Council adopt a general plan amendment to repeal the Fifth Cycle Housing Element for the period of 2015-2023 and adopt the Housing Element of the General Plan

for the Period of 2023-2031 and adopt the Safety Element of the General Plan, in compliance with State Housing Element Law; and

WHEREAS, on October 26, 2023, the City Council adopted Resolution No. 11,575, adopting a general plan amendment to repeal the Fifth Cycle Housing Element for the period of 2015-2023 and adopt the Housing Element of the General Plan for the Period of 2023-2031 and adopt the Safety Element of the General Plan, in compliance with State Housing Element Law; and

WHEREAS, certain housing sites identified in the Housing Element Update 2015 were not developed with residential uses during the period between 2015-2022 and it is the City's desire to "carry over" these certain sites to the Housing Element 2023-2031 to be used as sites that can accommodate housing units meeting the City's RHNA; and.

WHEREAS, Government Code Section 65583.2(c) provides that if a nonvacant site identified in the Housing Element Update 2015, or a vacant site identified in both the both the 4th Cycle Housing Element and Housing Element Update 2015, was not developed with a residential use, that site may only be included in the Housing Element if the City rezones the site within a specified period of time to allow residential use by right for housing developments in which at least 20% of the units are affordable to lower income households.; and

WHEREAS, the Housing Element includes 26 sites that would be carried over from the 4th and 5th Cycle Housing Elements and identified as sites to accommodate the City's RHNA; and

WHEREAS, the identified carry-over sites are capable to be developed with residential uses having densities of at least 20 units per acre; and

WHEREAS, the City desires to update the Zoning Code by adding Chapter 17.15, By Right Housing (-BRH) Overlay District, to implement the Housing Element and, more specifically, identify the applicability standards for residential development that may be developed by-right without discretionary review; and

WHEREAS, the City also desires to amend the Newark Zoning Map by applying the By Right Housing (-BRH) Overlay District to specific parcels throughout the City and making other miscellaneous related changes; and

WHEREAS, the adoption of Chapter 17.15, By Right Housing (-BRH) Overlay District and an amendment of the Newark Zoning Map, and other miscellaneous related changes are collectively referred to as the "Project"; and

WHEREAS, a staff report dated November 14, 2023, and incorporated herein by reference, described and analyzed the Project for the Planning Commission; and

WHEREAS, on November 14, 2023, the Planning Commission conducted a duly and properly noticed public hearing to take public testimony and consider this Resolution regarding the proposed Project, the staff report and all attachments, and oral and written public comments;

and

WHEREAS, the Planning Commission finds that the Project meets the requisite findings of fact necessary for approval as further explained in the staff report and the recommended findings of fact and determinations associated with this Resolution, as identified in “Exhibit A” attached to this Resolution; and

WHEREAS, the location and custodian of the Project application and other documents that constitute a record of proceedings for the Project is the City of Newark, 37101 Newark Blvd., Newark, CA 94560; and

WHEREAS, the City’s General Plan, Zoning Code, and Municipal Code are incorporated herein by reference and are available for review at City Hall during normal business hours and on the City’s website.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby finds that, based on substantial evidence in the record:

The forgoing recitals are true and correct and are incorporated by reference into this action.

1. The Project is exempt from further environmental review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3) since the proposed amendments to the Zoning Code and Zoning Map have no potential for causing a significant effect on the environment. The proposed changes to the Zoning Code and Zoning Map do not provide entitlements for any land use development projects, nor do they change the allowed uses of land or the intensity of any previously authorized use of land. Therefore, it can be seen with certainty that adoption of the proposed Zoning Code and Zoning Map amendments will have no significant effect of the environment.
2. Pursuant to NMC Sections 17.39.0760 and 17.39.080, the Planning Commission of the City of Newark does hereby make the findings of fact and determinations required by the City of Newark Municipal Code as further explained in the staff report and set forth in “Exhibit A” attached hereto and incorporated herein by this reference.
3. The Planning Commission recommends the City Council approve an ordinance amending Title 17. Zoning, of the Newark Municipal Code to add Chapter 17.15, By Right Housing (-BRH) Overlay District, and to make other miscellaneous regulated changes as identified in “Exhibit B” attached hereto and incorporated herein by reference.
4. The Planning Commission recommends the City Council amend the Newark Zoning Map by applying the By Right Housing (-BRH) Overlay District to specific parcels throughout the City as identified in “Exhibit C” attached hereto and incorporated herein by reference.

Exhibit A: Findings of Fact

Exhibit B: Amendments to Title 17 of the City of Newark Municipal Code

Exhibit C: Parcels to be Rezoned with the By Right Housing (-BRH) Overlay District

Exhibit A

Findings of Fact

Pursuant to Newark Municipal Code Sections 17.39.0760 and 17.39.080, the Planning Commission of the City of Newark does hereby make the findings of fact and determinations required by the City of Newark Municipal Code.

The Planning Commission shall not recommend, and the city council shall not approve a zoning amendment unless the proposed amendment meets the following criteria:

A. The amendment is consistent with the general plan, in that on October 26, 2023, the City Council of the City of Newark adopted Resolution No. 11,575, adopting a general plan amendment to repeal the Fifth Cycle Housing Element for the period of 2015-2023 and adopt the Housing Element of the General Plan for the Period of 2023-2031 and adopt the Safety Element of the General Plan, in compliance with State Housing Element Law. The 2023-2031 Housing Element contains the following policy related to the recommended action:

POLICY H3.1: Allow By-Right Approval of Projects with 20 Percent Affordable Units on “Reused” Sites. Pursuant to AB 1397, amend the Zoning Ordinance to require by-right approval of housing development that includes 20 percent of the units as housing affordable to lower-income households, on sites being used to meet the 6th Cycle RHNA that represent “reuse sites” previously identified in the 4th and 5th Cycles Housing Element, and on sites that are subject to a text amendment to accommodate the lower-income RHNA.

B. Any change in district boundaries is necessary to achieve the balance of land uses desired by the city, consistent with the general plan, and to increase the inventory of land within a given zoning district. There are no changes to district boundaries proposed as part of the action.

C. The amendment will promote the growth of the city in an orderly manner and to promote and protect the public health, safety, peace, comfort and general welfare, in that the proposed action is necessary to comply with State law and may result in the production of additional housing that is affordable to lower-income households throughout the community.

Exhibit B

Amendments to Title 17 of the City of Newark Municipal Code

Additions to Title 17 are shown in redline

Chapter 17 ZONING ORDINANCE

17.03.010 - Districts established.

The city shall be classified into districts or zones, the designation and regulation of which are set forth in this title and as follows:

- A. Base Zoning Districts. Base zoning districts into which the city is divided are established as shown in Table 17.03.010, Base and Overlay Zoning Districts.
- B. Overlay Zoning Districts. Overlay zoning districts, one or more of which may be combined with a base district, are established as shown in Table 17.03.010, Base and Overlay Zoning Districts.

TABLE 17.03.010: BASE AND OVERLAY ZONING DISTRICTS		
Zoning District Symbol	Zoning District Name	General Plan Land Use Designation Implemented by Zoning District
Residential Districts		
RS	Residential Single Family	Low Density Residential
RL	Residential Low Density	Low-Medium Density Residential
RM	Residential Medium Density	Medium Density Residential
RH	Residential High Density	High Density Residential
Commercial and Mixed Use Districts		
NC	Neighborhood Commercial	Neighborhood Commercial
CMU	Commercial Mixed Use	Commercial Mixed Use
CR	Commercial Retail	Community Commercial
CC	Community Commercial	Community Commercial
RC	Regional Commercial	Regional Commercial
Employment Districts		
PO	Professional Office	Office Commercial
BTP	Business and Technology Park	Special Industrial
LI	Limited Industrial	Limited Industrial
GI	General Industrial	General Industrial

Public and Semi-Public Districts		
PF	Public Facilities	Public-Institutional
TS	Transit Station	Public-Institutional
PK	Park	Parks and Recreation Facilities
OS	Open Space	Conservation-Open Space
Resource Production District		
RP	Resource Production	Salt Harvesting, Refining, and Production
Overlay District		
-FBC	Form Based Code	Not Applicable
-PD	Planned Development	Not Applicable
-OT	Old Town	Not Applicable
<u>-BRH</u>	<u>By-Right Housing</u>	<u>Not Applicable</u>

Chapter 17.15 – BY-RIGHT HOUSING (-BRH) OVERLAY DISTRICT

17.15.010 - Purpose.

This overlay district provides supplementary land use, affordable housing requirements, and review procedures for base districts located within the City of Newark. The overlay district implements requirements of state law regarding streamlined review procedures for residential projects identified in the city’s adopted General Plan Housing Element that have been “carried over” from previously adopted housing elements. This district does not modify permitted uses, nor does it restrict property owners from developing projects consistent with the requirements provided in this Title for the base or underlying zone district.

17.15.020 - Applicability.

The standards and regulations of this chapter apply to the planning area designated with the -BRH extension on the Zoning Map. Except as provided in this chapter, all new structures and development, as well as alterations to existing structures, shall comply with the requirements of the base zoning district.

17.15.030 – Permitted Uses.

Any use permitted in the underlying District that is combined with an -BRH Overlay District shall be allowed subject to the procedures of the underlying District, as modified by the -BRH district.

17.15.040 – Procedures.

A. Residential Uses Allowed By-Right. Residential projects that comply with all applicable objective standards and criteria of the underlying District, include a minimum of 20 dwelling units per acre, and provide 20 percent of the units in the project as affordable to lower-income households do not require discretionary review under this Title. Lower-income shall have the same meaning as in Health and Safety Code section 50079.5. Qualifying projects are still subject to Design Review, except that such Design Review

shall be ministerial, notwithstanding anything in NMC Chapter 17.35 to the contrary.

B. Requirements for Affordable Units. The developer of a residential project under this chapter shall comply with the provisions of NMC 17.18.060 for the residential units designated as affordable to lower-income households, consistent with applicable requirements in state law. Where the requirements of state law conflict with the requirements of this Title, state law shall prevail.

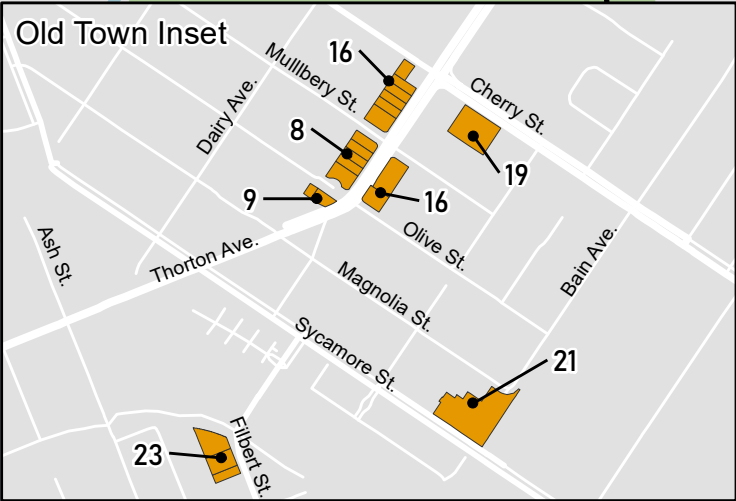
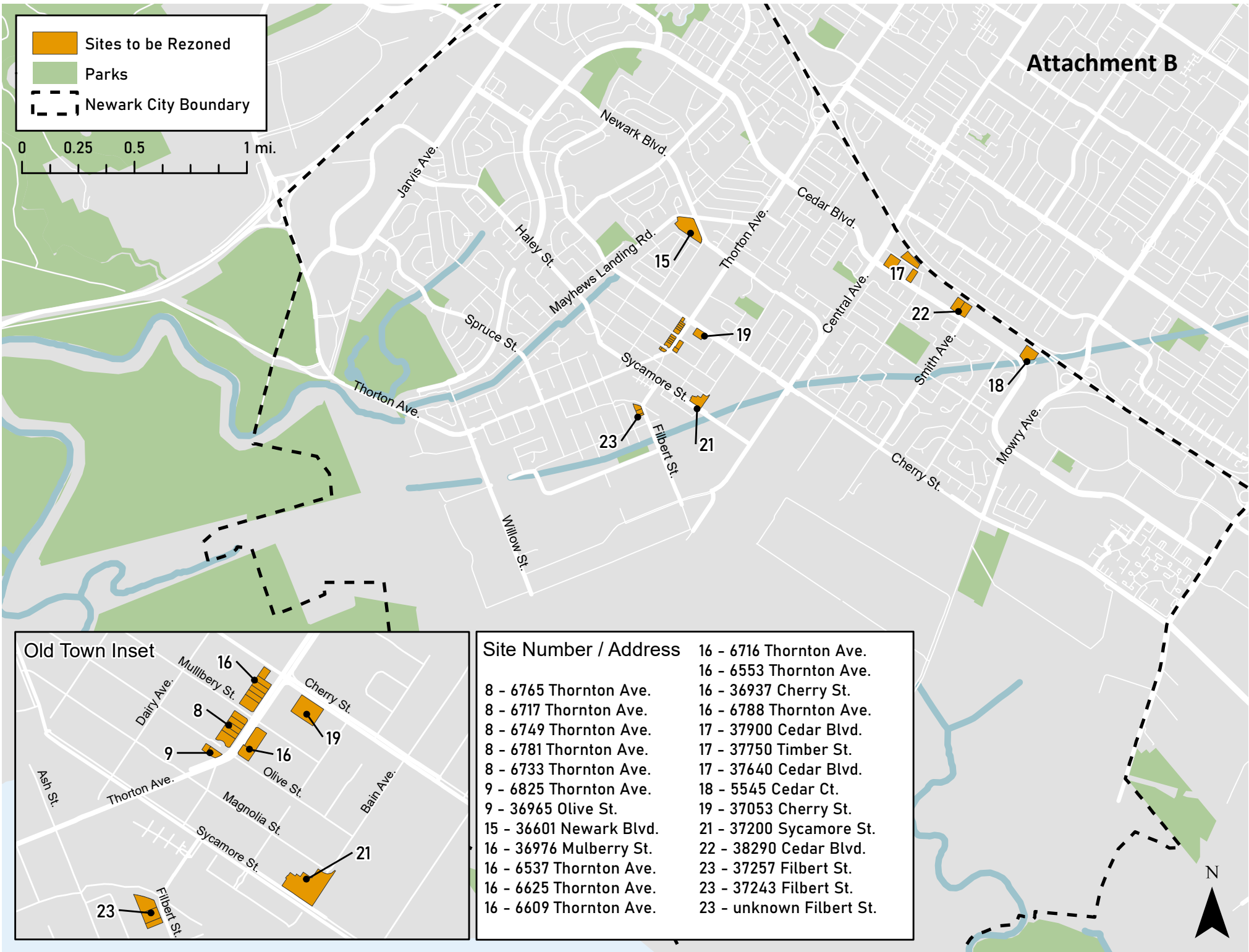
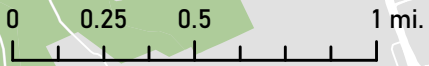
Exhibit C

Parcels to be Rezoned with the By Right Housing (-BRH) Overlay District

92-30-17-2	6765 THORNTON AVE NEWARK 94560
92-30-14-3	6717 THORNTON AVE NEWARK 94560
92-30-16-2	6749 THORNTON AVE NEWARK 94560
92-30-18-4	6781 THORNTON AVE NEWARK 94560
92-30-15-2	6733 THORNTON AVE NEWARK 94560
92-31-16-2	6825 THORNTON AVE NEWARK 94560
92-31-15	36965 OLIVE ST NEWARK 94560
92A-900-1-2	36601 NEWARK BLVD NEWARK 94560
92-29-20-2	36976 MULBERRY ST NEWARK 94560
92-29-16-2	6537 THORNTON AVE NEWARK 94560
92-29-19-2	6625 THORNTON AVE NEWARK 94560
92-29-18-2	6609 THORNTON AVE NEWARK 94560
92-51-5-3	6716 THORNTON AVE NEWARK 94560
92-29-17-2	6553 THORNTON AVE NEWARK 94560
92-29-13	36937 CHERRY ST NEWARK 94560
92-51-2-3	6788 THORNTON AVE NEWARK 94560
92A-2125-17	37900 CEDAR BLVD NEWARK 94560
92A-2125-11-2	37750 TIMBER ST NEWARK 94560
92A-2125-13	37640 CEDAR BLVD NEWARK 94560
92A-2585-32	5545 CEDAR CT NEWARK 94560
92-50-13	37053 CHERRY ST NEWARK 94560
92-255-11	37200 SYCAMORE ST NEWARK 94560
92A-2375-32	38290 CEDAR BLVD NEWARK 94560
92-131-3	37257 FILBERT ST NEWARK 94560
92-131-2-4	37243 FILBERT ST NEWARK 94560
92-131-1-9	FILBERT ST NEWARK 94560

Attachment B

Sites to be Rezoned
 Parks
 Newark City Boundary



Site Number / Address	Address
16	6716 Thornton Ave.
16	6553 Thornton Ave.
16	36937 Cherry St.
16	6788 Thornton Ave.
17	37900 Cedar Blvd.
17	37750 Timber St.
17	37640 Cedar Blvd.
18	5545 Cedar Ct.
19	37053 Cherry St.
21	37200 Sycamore St.
22	38290 Cedar Blvd.
23	37257 Filbert St.
23	37243 Filbert St.
23	unknown Filbert St.
8	6765 Thornton Ave.
8	6717 Thornton Ave.
8	6749 Thornton Ave.
8	6781 Thornton Ave.
8	6733 Thornton Ave.
9	6825 Thornton Ave.
9	36965 Olive St.
15	36601 Newark Blvd.
16	36976 Mulberry St.
16	6537 Thornton Ave.
16	6625 Thornton Ave.
16	6609 Thornton Ave.

