



**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION**

March 14, 2016

Mr. Michael Fortner  
City of Newark  
220 South Main Street  
Newark, DE 19711

RE: PLUS review 2016-02-03; City of Newark Comprehensive Plan

Dear Michael,

Thank you for meeting with State agency planners on February 24, 2016 to discuss the proposed update of the City of Newark's comprehensive plan. State agencies have reviewed the documents submitted and offer the following comments. Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

***Certification Comments: None.***

***Recommendations:*** Our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

This office has received the following comments from State agencies:

**Office of State Planning Coordination – Contact Herb Inden 739-3090**

Our office would like to commend the City of Newark for preparing a well-crafted and thorough comprehensive plan. The City has seen a great deal of growth and change over the past decade, but it is clear that the growth has been managed in a way that has maintained and enhanced the character and quality of life in Newark.

In particular, we appreciate that the City has included the “creation of healthy and active communities” in your vision. Our office feels that this is extremely important given the influence that the physical environment has been shown to have on the health of our citizens. The description given is that of what our office is promoting in the “complete communities” concept. We look forward to working with the City in implementing this concept.

Some comments/suggestions:

- We know that the City made an extensive effort to gain public input. We would like to see more documentation (including the number of meetings) about the public review process. You could expand on this effort in the Introduction where you discuss Public Participation on page 10 and/or you could do this in Chapter 3, the Vision, and relate how public participation influenced the City's vision.
- Vacant land designation: on various maps throughout the document, vacant land is identified, but, it is not always clear what the underlying land use is. We would suggest identifying underlying land use designation, as it would be useful to know what the "matter of right" use is for these parcels.
- Future Land Use Maps: it would be useful to know if there are any changes to these maps from the Existing Land Use maps, somehow highlighting such areas on the Future Land Use maps. This is particularly important since such changes will have to be reflected in your zoning code, as noted in **Del Code, Title 22, Chapter 7, § 702 (c)**:  
The comprehensive plan shall be the basis for the development of zoning regulations as permitted pursuant to Chapter 3 of this title. Should a jurisdiction exercise its authority to establish municipal zoning regulations pursuant to Chapter 3 of this title, it shall, within 18 months of the adoption of a comprehensive development plan or revision thereof, amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive development plan.
- Correction – state code reference on Page 171 should be 702 (g) not f.
- Chapter 12 "Coordination and Implementation": This chapter could be strengthened to be a little more specific with regard to a path forward given that most chapters offer Action Items without a discussion of a timeframe of taking such actions. This will also be helpful when preparing your Annual Report to our office.

**Department of Natural Resources and Environmental Control – Contact Michael Tholstrup 735-3352**

DNREC offers several comments and suggestions to improve conservation and protection of the City's resources. DNREC would welcome the opportunity to meet with the City in a collaborative manner to discuss these recommendations and possible future ordinances.

**Page 33, Water Supply.** We recommend moving this section on pages 33-34 ahead of the section on Water Treatment on page 32.

**Page 33, Wastewater.** "The majority of Newark's local sewer lines are capable of carrying additional flow." We recommend that the City develop an inventory of their wastewater infrastructure, to include treatment methods, capacities, and allocations.

**Page 79, Stormwater.** We recommend renaming this section "TMDLs and Water Quality."

**Page 81, Source Water Protection Areas.** We recommend moving the map and the accompanying text (which appears to be missing) to Chapter 4, Public Utilities and Infrastructure, as part of the discussion regarding water supply. DNREC recognizes the City's efforts in developing and adopting a source water protection ordinance; however, there is no discussion of the ordinance. It cannot be "incorporated in the plan by reference" (chapter 4, page 33).

In addition, the map included in the application does not show the City's southern well field (see map below) and the symbology of the map does not properly differentiate the features by the use of symbols and different colors, as does the map below.

The Comprehensive Plan must contain the following elements per the Memorandum of Understanding between the Office of State Planning and Division of Water dated July 2011. These elements are required by 7 Del. C. 6082 (b). The applicant has not met this requirement. This could be a certification issue.

Counties and Municipalities Over 2,000 Population (as reported in the most recent decennial Census):

- Text of the comprehensive plan must include description of source water requirements in 7 Del. C. 6082(b)<sup>1</sup>, and include goals and objectives related to the protection of the resource. This text shall be placed within the water and sewer element of the local government's comprehensive plan, as prescribed by Title 9 or Title 22 of the Delaware Code.
- A map of source water resources (excellent recharge areas, wellhead protection areas) shall be included in the plan. This map must be derived from the most current source water protection datasets<sup>2</sup> provided by the Department of Natural Resources and Environmental Control (DNREC).
- The map and plan text must clearly include the note that the regulatory provisions of any source water ordinance<sup>3</sup> will refer to the most current source water protection datasets<sup>2</sup>.

<sup>1</sup><http://delcode.delaware.gov/title7/c060/sc06/index.shtml>

<sup>2</sup><http://www.nav.dnrec.delaware.gov/DEN3/DataDownload.aspx>

<sup>3</sup>[https://www.municode.com/library/de/newark/codes/code\\_of\\_ordinances?nodeId=CH30WA\\_ARTVIIWAREPRRE](https://www.municode.com/library/de/newark/codes/code_of_ordinances?nodeId=CH30WA_ARTVIIWAREPRRE)

### **Delaware State Housing Authority – Contact Karen Horton 739-4263**

- DSHA has reviewed the City of Newark's draft Comprehensive Plan and supports its goals, objectives and strategies as they relate to housing. Based on a thorough analysis of demographic and market trends, and housing needs, the City critically examined the issues

facing their community and developed a meaningful and responsive strategy. It's implementation should facilitate an attractive inclusive community that would expand housing opportunities to a broad range of households of various incomes and stages of life, in settings that will enhance the ability of individuals and families to achieve positive life outcomes. Some specific comments include:

- We support the City's proposal to complete a comprehensive analysis of housing needs with regard to the supply of rental housing and approaches to encourage homeownership. DSHA is listed as a participating entity and we look forward to participating in this work.
- We support all of the recommendations listed under ***Goal 2: Promote and remove impediments to fair housing for a racially, ethnically, and socioeconomically diverse community.*** By taking proactive steps to implement these recommendations, the City of Newark will demonstrate its commitment to Affirmatively Further Fair Housing (AFFH) to promote racially, ethnically, and socioeconomically diverse communities.
- DSHA notes a technical correction on page 119. While DSHA administers the Downtown Development District Grant Program, it is the Office of State Planning Coordination that administers the application process for communities that wish to have a Downtown Development District designated.
- DSHA has developed a website, **Affordable Housing Resource Center**, to learn about resources and tools to help create housing for households earning 100% of median income or below. Our website can be found at: [www.destatehousing.com](http://www.destatehousing.com) "Affordable Housing Resource Center" under Other Programs.

If you have any questions, please feel free to call me at (302) 739-4263 ext. 251 or via e-mail at [karenh@destatehousing.com](mailto:karenh@destatehousing.com).

#### **Department of Agriculture – Contact Scott Blaier 698-4532**

- The Department of Agriculture applauds the city's urban forest management efforts to date, as outlined on pages 95 and 106 of the plan. The department's Forest Service would be glad to continue to assist the city in meeting their future urban forestry needs and goals.

#### **Department of Transportation – Contact Bill Brockenbrough 760-2109**

- In the Transportation Chapter under Goal 1, Action Item 1 concerns the creation of a Transportation Improvement District or TID. It begins "Work with DelDOT to establish an area in Newark's downtown core to create a TID. The TID should include East Main Street, Delaware Avenue and Cleveland Avenue from New London Road to Library Avenue." We have several comments in this regard:
  - Section 2.4.2.7 of DelDOT's Development Coordination Manual reads as follows:

“The Comprehensive Plan(s) should list and map any TIDs, and incorporate by reference any completed LUTPs (Land Use and Transportation Plans) and TID agreements. When a local government updates their Comprehensive Plan, they should also initiate an update of the LUTPs and TID agreements for those TIDs.”

While DelDOT is willing to begin work on creating a TID before the Comprehensive Plan is adopted, a map indicating at least the approximate location of the TID will need to be added to the Plan before DelDOT will enter a TID agreement. If the City and DelDOT have determined what the TID boundaries are to be, it would be appropriate to have a map just for that purpose. If only an approximate location is known, it might be more efficient to mark that location on another transportation-related map.

- Reading the full text of the Action Item, it appears that the City wants to expand the study area well beyond the downtown core described above. We believe there may be merit in doing so. An important aspect of a TID is that developments in the District pay fees used to fund improvements there. Thus, while the creation of any TID involves a comprehensive land use and transportation study, a district has more value in an area where many parcels are expected to be developed or redeveloped.
- Again in the Transportation Chapter under Goal 1, Action Item 2 concerns the creation of a “corridor-optimization program.” It begins “The City will work with partnering transportation agencies to maintain the most efficient use of traffic signals at key corridors identified in the *Newark Transportation Plan (2011)* by inspecting and modernizing signal equipment and taking advantage of new technologies.” We are certainly willing to work with the City in this regard. However, as discussed below, we have concerns about the two “Policy and program recommendations” that follow this Action Item:
  - The first recommendation is to “Consider restrictions to development and redevelopment on congested roadways with a Level of Service (LOS) of D, E, and F.” The City should understand that LOS D on urban arterial roads during peak hours is indicative of a healthy economy and appropriately-sized roads. Indeed in the downtown area, LOS E or F should be expected during peak periods. While we acknowledge the City’s authority to regulate land use as it sees fit, we suggest that too stringent an LOS standard may have undesirable consequences in terms of preventing desired development and redevelopment or creating roads that support driving at the expense of walking and bicycling.
  - The second recommendation is to “Consider pedestrian crosswalk signals to be used on congested roadways which have been designated with LOS of D, E, and F.” We have two points for the City to consider in this regard:

- First, the Plan should distinguish between pedestrian signals at intersections that have traffic signals and signals where pedestrians are crossing a road between intersections, a “mid-block” crossing. At signalized intersections in urban areas, typical of those in the City, pedestrian signals should be standard equipment. Installing signals, and for that matter marking crosswalks, at mid-block crossings is another matter. There are multiple factors to be considered in determining whether formalizing a mid-block crossing will increase or decrease pedestrian safety. The Plan should be clear about what is recommended.
- Second, we suggest that the City remove the reference to LOS from this recommendation. As written, the recommendation suggests that someone has assigned various LOS to the city streets and that installing the signals will somehow mitigate conditions. In fact, LOS is determined from analysis of traffic and the signals will worsen the LOS.

LOS, as the term is most commonly used, is a measure of the delay experienced by drivers. At a signalized intersection, the thresholds for going from LOS C to LOS D, from LOS D to LOS E and from LOS E to LOS F are respectively 35, 55 and 80 seconds of delay per vehicle. When people use the pushbuttons associated with pedestrian signals they interrupt the flow of traffic on the arterial street and they increase the delay on that street in much the same way as a car appearing on a side street. It may be appropriate to install a pedestrian signal at a mid-block crossing but doing so will mean increased delays for drivers.

- A comment that we did not specifically raise at the PLUS meeting concerns recommendation on page 66 for a mid-block crossing with an improved median on Library Avenue between Delaware Avenue and East Main Street. Briefly, we acknowledge that there is a lack of pedestrian amenities there but we disagree that the solution is to provide those amenities. This block of Library Avenue serves a high volume of vehicular traffic (29,520 vehicles per day based on a 2014 count) and is about 1,000 feet long. The northbound bus stop in its present position is only about 100 feet from the library entrance and library patrons would have to walk about 1,100 feet to get to the stop by way of the signalized crosswalk at Delaware Avenue, so it is understandable that people are crossing in the middle of the block. However, we believe a better solution may be to relocate the bus stop to either the Delaware Avenue intersection or the East Main Street intersection.

***Approval Procedures:***

- Once all edits, changes and corrections have been made to the Plan, please submit the completed document (text and maps) to our office for review. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review

process. In addition, please include documentation that the plan has been sent to other jurisdictions for review and comment, and include any comments received and your response to them.

- Our office will require a maximum of 20 working days to complete this review.
  - If our review determines that the revisions have adequately addressed all certification items (if applicable), we will forward you a letter to this effect.
  - If there are outstanding items we will document them in a letter, and ask the town to resubmit the plan once the items are addressed. Once all items are addressed, we will send you the letter as described above.
- Once you receive our letter stating that all certification items (if applicable) have been addressed, the Planning Commission and Council should adopt the plan pending State certification. We strongly recommend that your Council adopt the plan by ordinance. The ordinance should be written so that the plan will go into effect upon receipt of the certification letter from the Governor.
- Send our office a copy of the adopted plan along with the ordinance (or other documentation) that formally adopts your plan. We will forward these materials to the Governor for his consideration.
- At his discretion, the Governor will issue a certification letter to your Town.
- Once you receive your certification letter, please forward two (2) bound paper copies and one electronic copy of your plan to our office for our records.

Thank you for the opportunity to review this Comprehensive Plan. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in dark ink and is positioned below the word "Sincerely,".

Constance C. Holland, AICP  
Director, Office of State Planning Coordination