Chapter 11
GROWTH AND ANNEXATION
(07/24/15)

Annexation is a process by which a municipality expands its corporate boundaries by incorporating unincorporated county land. The City only considers annexation when a property owner petitions for it. As stated in the *City of Newark Charter*, Section 103, "Annexation":

> *The council of the City of Newark shall have power to annex, by ordinance, any territory contiguous to the City of Newark whenever requested to do so by the owners of two-thirds or more of the area included within the territory proposed to be annexed. Said ordinance shall provide for the zoning of the annexed territory and shall further specify in which of the six (6) districts, hereinafter mentioned, the annexed territory shall become a part* (62 Del. Laws, Ch. 363; 63 Del. Laws, Ch. 139).

Title 22, Section 101(2) of the *Delaware Code* defines "contiguous" as some part of the parcel proposed for annexation having a shared border with the boundaries of the annexing municipality. Roads or rights-of-way cannot be used to create a "corridor" annexation.

Thus, Newark's annexation procedure is primarily in the form of a request from a landowner, or group of landowners, to City Council for approval to join the City. The City cannot initiate annexation. Because of these legal limitations, Newark has developed a series of inducements to annex, including a 10-year property-tax break for new light-industrial construction, a limitation on the taxes of unimproved annexed property, and the streamlining of procedural requirements for unimproved annexed subdivisions previously approved by New Castle County.

Despite these inducements, one complicating factor to City expansion remains: A three-quarters vote of the City Council—that is, at least six of the seven council members—is required to approve annexations if 20 percent of the adjoining property owners inside or outside the City formally protest the proposed annexation. The three-quarters rule, grounded in the State of Delaware's zoning laws, makes it possible for a relatively small minority of landowners to prevent the approval of annexation proposals.

Because of the procedural difficulties inherent in the three-quarters rule and the City's relatively healthy fiscal condition, Newark has not annexed at every opportunity. In fact, the City has been quite selective in considering annexation petitions in order to avoid potentially harmful growth. The process of picking and choosing had been somewhat informal; that is, although the 1969 *Comprehensive Plan* included the area-wide generalized plan, the document was not a systematic overview of City growth, past annexation history, or future service needs in terms of potential annexations. In the past—that is, prior to the adoption of the first *Adjacent Areas Land Use Plan*—the City Council and Planning Commission reviewed development proposals on an individual basis and tried to weigh the benefits and costs in a somewhat subjective and impressionistic manner.

In 1978, the Planning and Development Department and Commission came to recognize the need for a more systematic approach to the general question of annexation. In particular, it hoped to

counter the impression that the City did not carefully consider the impact of development in annexed areas and, more importantly, the City wanted to establish its own development scenarios for the mostly vacant land on its fringes. Established land-use categories, it believes, would discourage some developers from approaching the City and County simultaneously in search of the best zoning "offer." Beginning in that year, the Planning and Development Department devised worksheets for each large parcel adjacent to the City, which included the name or description of the tract, the land uses recommended in New Castle County's "Greater Newark District Plan," the current or previous land use, preliminary land-use proposals and supporting rationale, and any noteworthy conditions affecting the site. After staff review of the worksheets by City departments, a field survey of the study areas, and an analysis of the areas by the local Soil Conservation Service, the sheets were expanded to include the uses that have been proposed for the lands as presented in the 1969 *Comprehensive Development Plan* as well as an expanded set of categories made up of soils and floodplain data, water availability, sewer capacity, electrical service capacity, transportation systems, police service, public works, and parks and recreation requirements. Conferences with individual City department directors were held to discuss the conditions affecting service delivery in detail. Eventually, maps including important site characteristics and charts listing the required information were put together for each of 14 tracts, labeled "Planning Areas." The areas were selected primarily on the basis of their proximity to the City, the historical growth patterns, the City's ability to provide basic services, and the extent of Newark's water service area (which is beyond City boundaries).

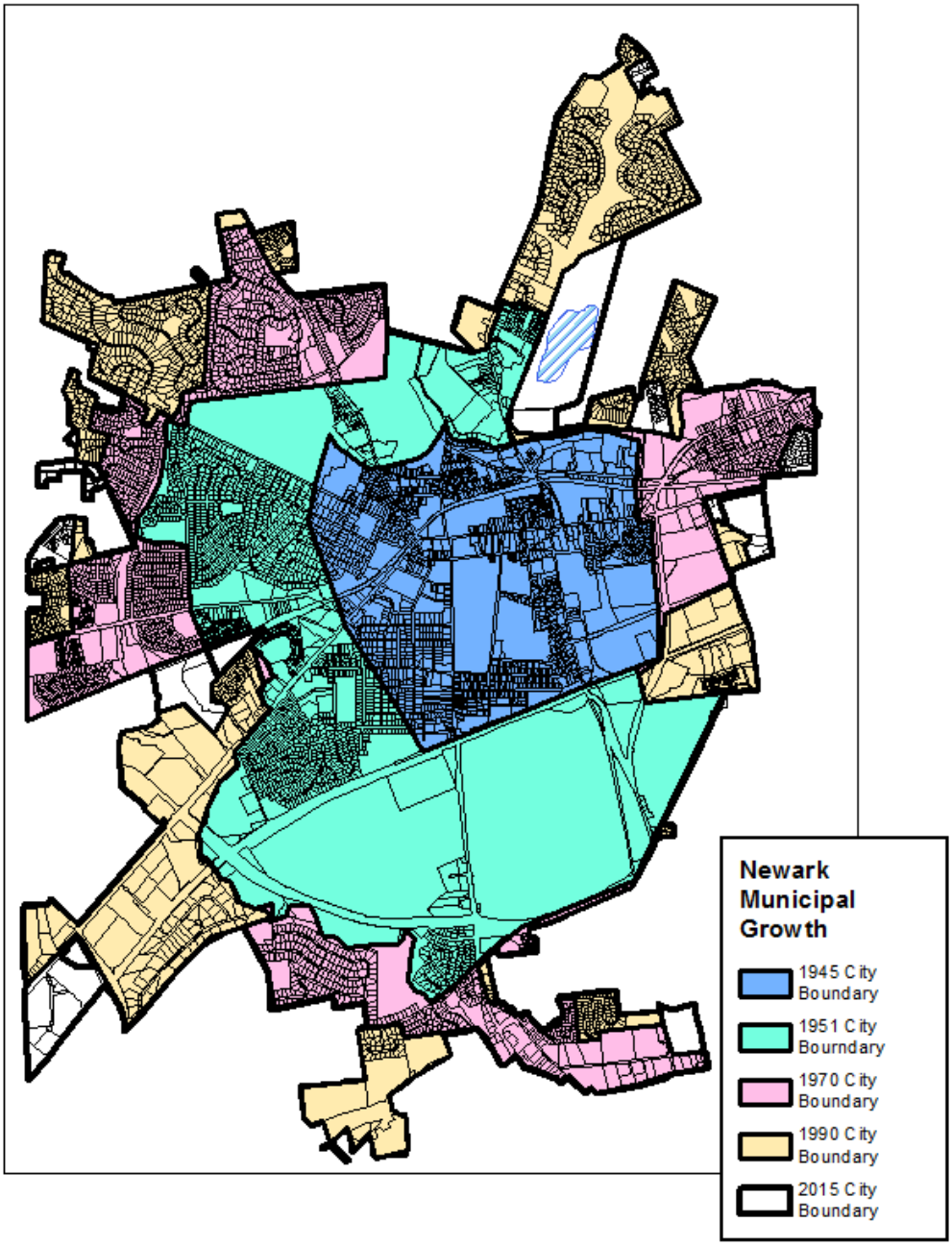
The Planning and Development Department presented a complete draft of the proposed *Adjacent Areas Land Use Plan* to the Planning Commission for final review and recommendation in September 1978 and on February 6, 1979. On March 23, 1979, after a series of minor amendments, the City Council adopted the *Adjacent Areas Land Use Plan* as an amendment to the City's *Comprehensive Development Plan*, thus making the *Adjacent Areas Land Use Plan* the official guide to City growth for lands on Newark's fringes. Perhaps most significantly, Newark's *Adjacent Areas Land Use Plan* was the first of its kind in Delaware and the only one for many decades.

Subsequently, beginning in August 2002, as part of its comprehensive planning–update process, the Planning and Development Department began preparing an updated and revised *Adjacent Areas Land Use Plan*. All the information from the 1978 plan was reconsidered and reviewed as part of this redrafting effort. Drafts were circulated to City management and operating departments in September 2002. Copies were also sent to the Office of State Planning Coordination. As required under City and State law, properly noticed and advertised workshops and regularly scheduled public meetings to review the plan were held in the City Municipal Building. Eventually, as part of its adoption of a fully revised and updated *Newark Comprehensive Plan*, the *Newark Adjacent Areas Land Use Plan II*, now consisting of 13 "Planning Areas," was adopted by City Council on May 12, 2003.

General Policy Statement

The City of Newark has a long history of responsible growth through annexation. The maps below outline the City's growth pattern over the past 70 years. When a property is annexed, it gains access to municipal services and the property's owners gain a political voice with the City government that is providing them with services and utilities. Indeed, municipal growth can be good land-use policy when a core element of "smart growth" is applied to direct development in or around existing towns and developed areas.

Map 11-1: Newark City Boundary 1945, 1951, 1970, 1990, and 2015



Strategies for State Policies and Spending is a document and accompanying map that outline the State's policy on land-use development. The document was updated in 2010 and identifies land as one of four levels of appropriateness for development.

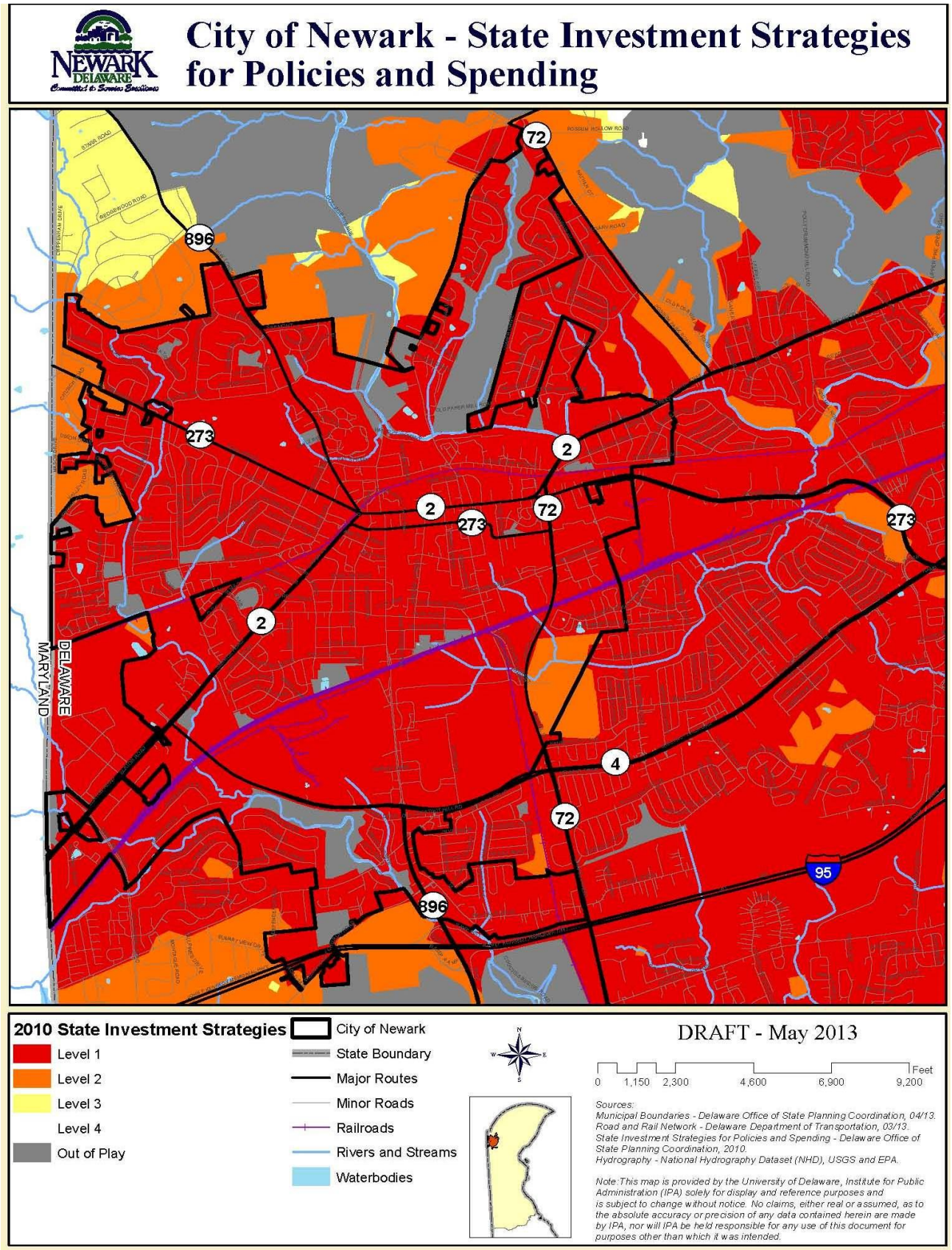
Level 1 is indicated in red on the following map (Map 11-1) and represents the highest priority for State investment and spending for infrastructure, public facilities, employment, and social services. Most of the City of Newark and much of the contiguous areas are designated as Level 1.

Level 2 is indicated in orange. Most of these areas are contiguous to the municipal boundary and are slated to be less developed. Spending strategies in Level 2 areas are to be used for promoting development that is less dense, well-designed for a variety of housing types and user-friendly transportation, open space, and recreational facilities.

Level 3 and Level 4, indicated in yellow and white, respectively, are located on the very outskirts of the greater Newark area and are designated for agriculture preservation and rural densities.

The complete report is available online:
http://stateplanning.delaware.gov/strategies/

Map 11-2


City of Newark - State Investment Strategies for Policies and Spending
NEWARK DELAWARE
Committed to Service Excellence
72
896
273
2
4
95
DELAWARE
MARYLAND
2010 State Investment Strategies
Level 1
Level 2
Level 3
Level 4
Out of Play
City of Newark
State Boundary
Major Routes
Minor Roads
Railroads
Rivers and Streams
Waterbodies
DRAFT - May 2013
0 1,150 2,300 4,600 6,900 9,200 Feet
Sources:
Municipal Boundaries - Delaware Office of State Planning Coordination, 04/13.
Road and Rail Network - Delaware Department of Transportation, 03/13.
State Investment Strategies for Policies and Spending - Delaware Office of State Planning Coordination, 2010.
Hydrography - National Hydrography Dataset (NHD), USGS and EPA.
Note: This map is provided by the University of Delaware, Institute for Public Administration (IPA) solely for display and reference purposes and is subject to change without notice. No claims, either real or assumed, as to the absolute accuracy or precision of any data contained herein are made by IPA, nor will IPA be held responsible for any use of this document for purposes other than which it was intended.

A final classification, called *Out of Play*, is designated for Newark's parks, open space, and waterways. Out of Play indicates areas that are to be preserved from development.

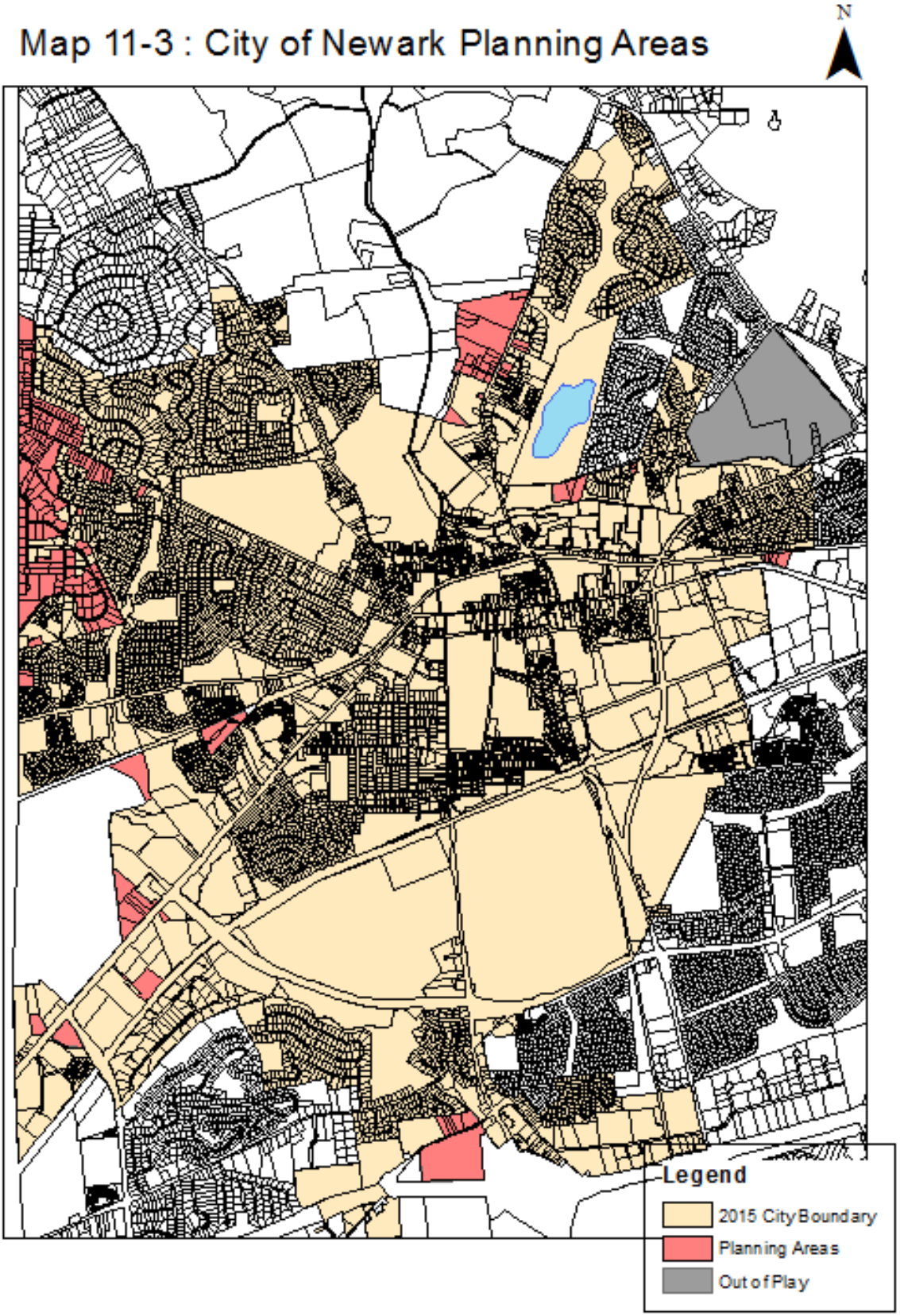
In considering the City's Growth and Annexation Plan, areas identified for potential annexation during the five-year horizon are largely consistent with Level 1, 2, and 3 areas.

Plan Goals and Action Items: Growth and Annexation

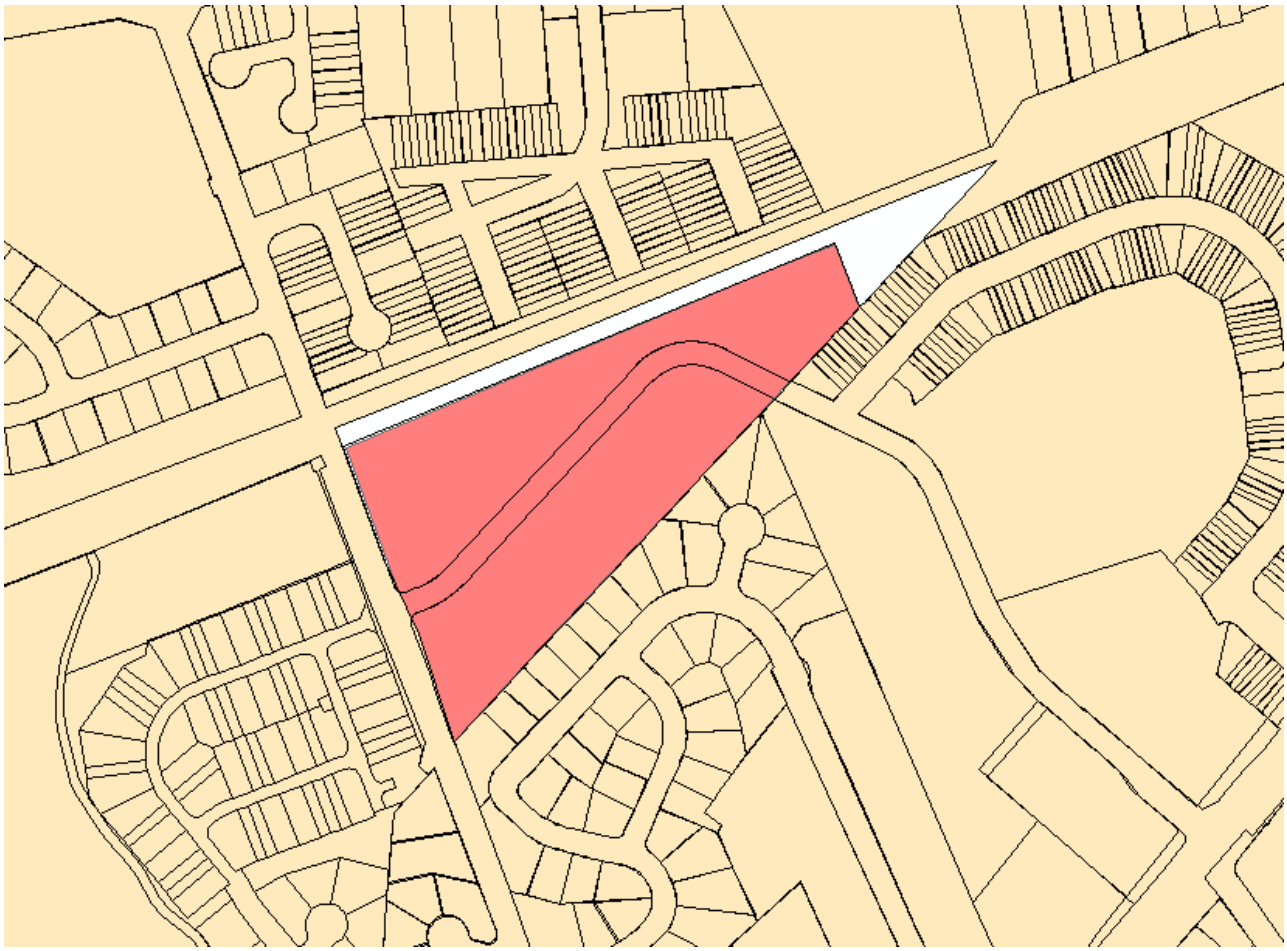
Restrict growth to orderly annexations that protect the environment and minimize the financial burden on the city, residents, and businesses.

Strategic Issues:

- Coordination between the City and all relevant state and county agencies with any proposed expansion of the City's municipal boundaries.
- Prioritizing environmental and financial sustainability when making annexation decisions.
- Keeping the long-term interests of the City and its current constituents as paramount considerations for any annexation plans.


Map 11-3 : City of Newark Planning Areas
N
Legend
2015 City Boundary
Planning Areas
Out of Play

Planning Area 1



Recommended Use(s)

Residential, High-Density

Location: Southwest of City boundary, along Casho Mill Road; "Island" surrounded by land in City

Existing Use(s): Apartments

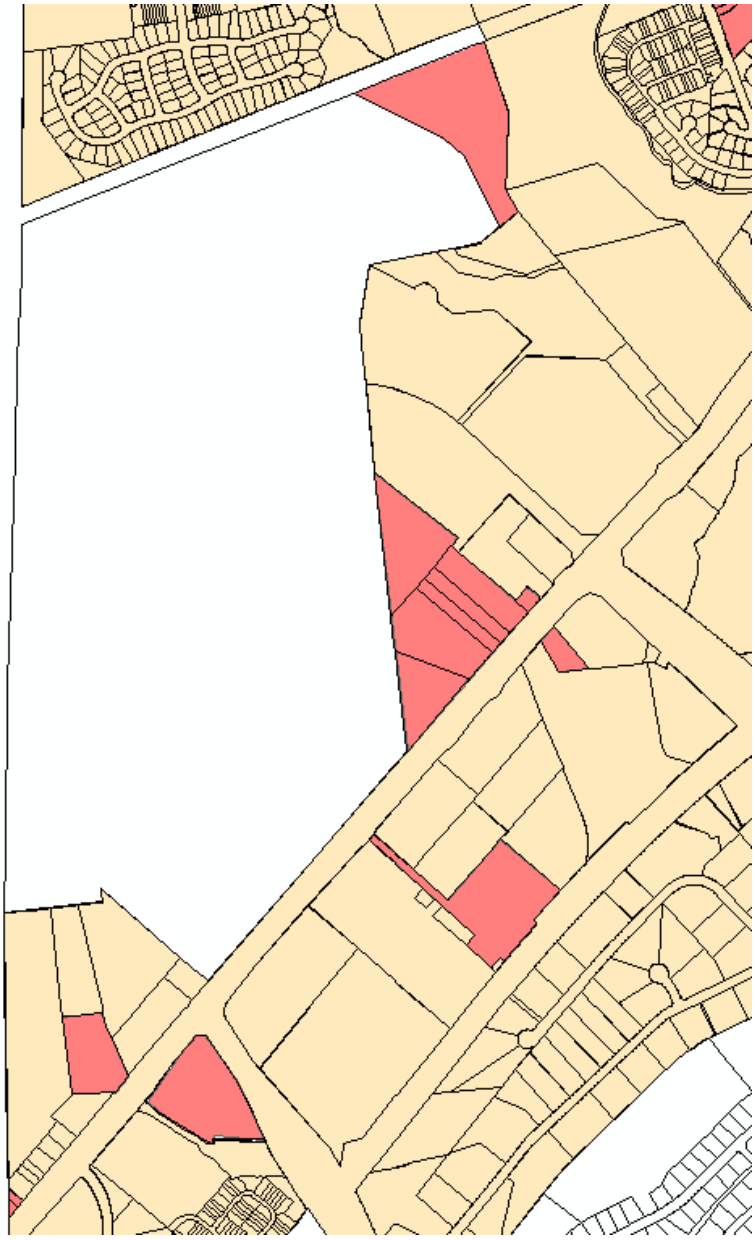
Previous Plan: Multi-Family Residential (Medium- to High-Density)

Special Conditions Affecting Development: None

Rationale for Recommended Uses(s): Developed as Residential, High-Density

Generalized Current County Zoning: Residential

Planning Area 2



Recommended Use(s)

Commercial • Industrial • Urban Mixed Use • Institutional • Parks/Open Space

Location: Around Elkton Road to the Maryland State Line

Existing Use(s): Industrial; Commercial; Residential

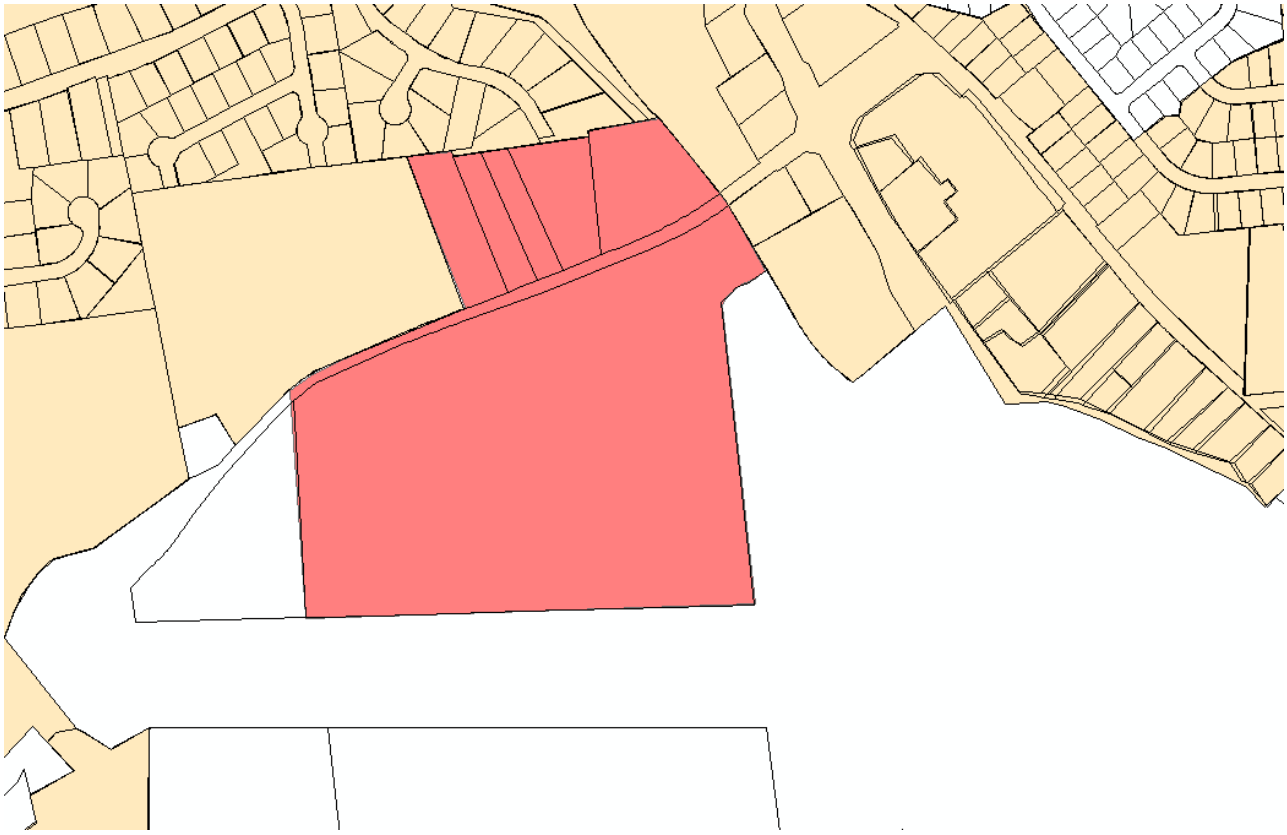
Previous Plan: Commercial; Industrial; Stream Valley

Special Conditions Affecting Development:
Limited sewer infrastructure
May not be cost-effective to service with City electric

Rationale for Recommended Uses(s):
Developed and developing as proposed
Access to I-95
Mixed Urban considered appropriate design; institutional uses should be compatible with surrounding uses

Generalized Current County Zoning:
Industrial
Neighborhood commercial

Planning Area 3



Recommended Use(s)

Residential, Low-Density • Parks/Open Space • Institutional

Location: South of City, along Welsh Tract Road to I-95

Existing Use(s): Residential, Low-Density; Institutional (church); Park/Open Space; I-95; Stream Valley

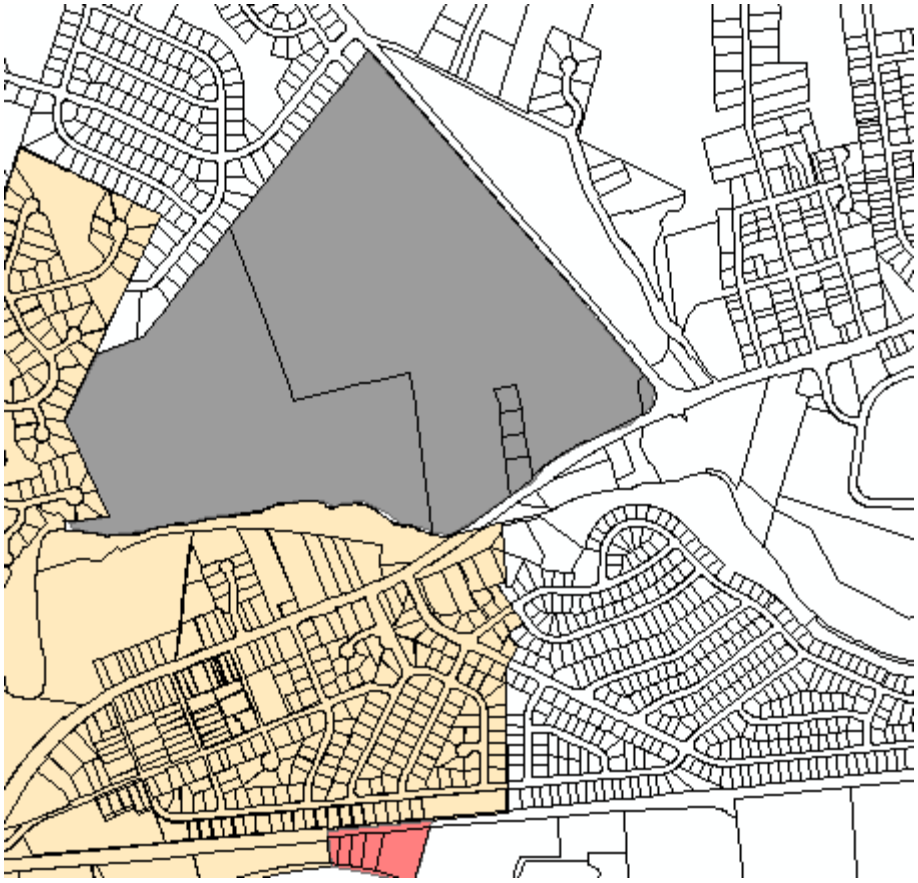
Previous Plan: Residential, Low-Density; Stream Valley; Parkland

Special Conditions Affecting Development:
Floodplain
Wooded areas
Proximity to I-95
May not be cost-effective to serve with City electric, water, and sewer

Rationale for Recommended Uses(s):
Residential, Low-Density may be acceptable with low impact on floodplain and wooded areas

Generalized Current County Zoning:
Suburban; Historic Preservation

Planning Area 4



Recommended Use(s)

Commercial • Industrial

Location: East boundary of City, between the CSX railroad and Newark-Christiana Road

Existing Use(s): Commercial; Industrial

Previous Plan: Manufacturing Office/ Research; Commercial (Auto-Oriented)

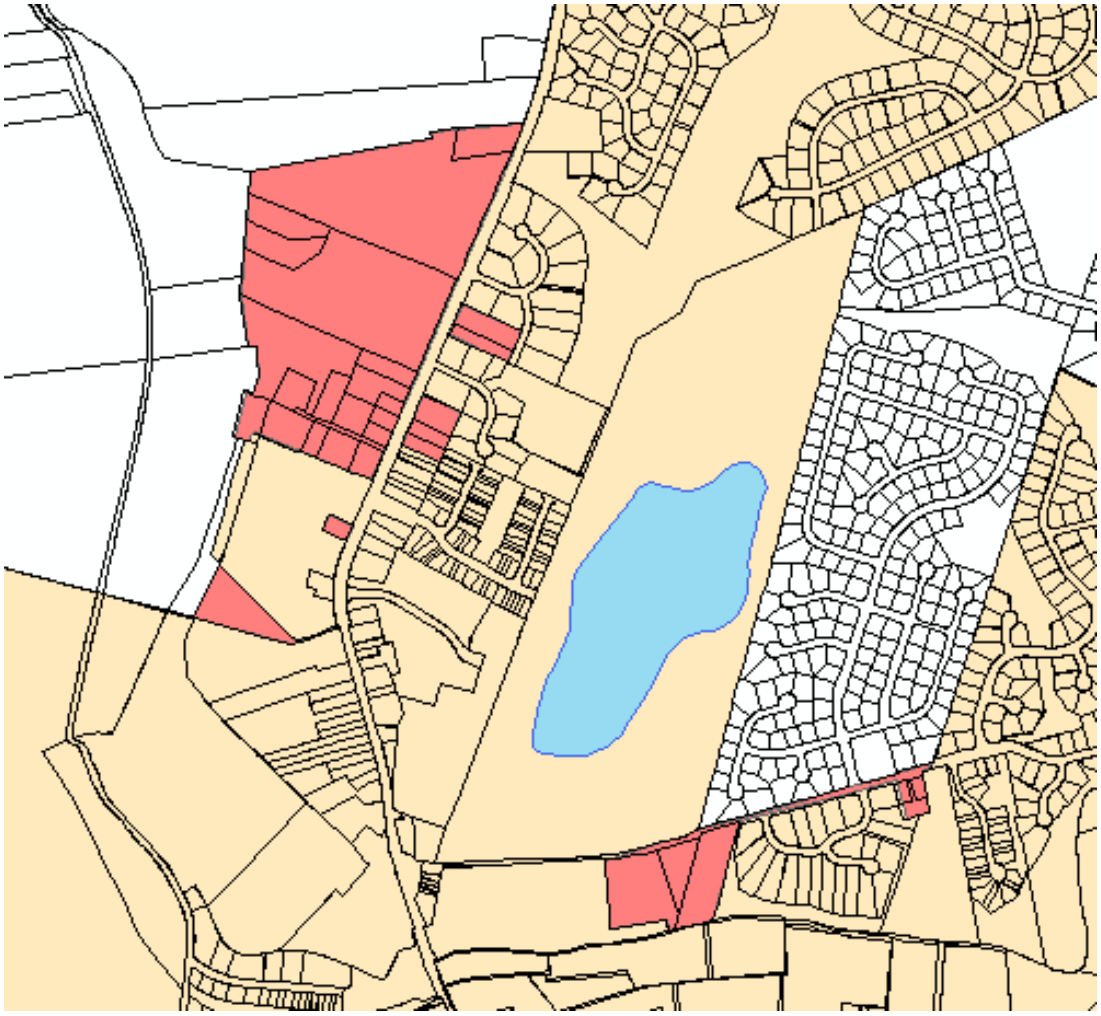
601 and 601½ Capitol Trail is designated "Out of Plan" for annexation because of legislation that would require the City to pay the State back $3.4 million in connection with the Newark Resevvoir

Special Conditions Affecting Development:
Wet soils near tributary
May not be cost-effective to serve with City electric, water, or sewer
Commercial to be carefully evaluated for potential negative impacts on Downtown Commercial uses.
Gateway to city

Rationale for Recommended Uses(s):
Developed and developing as proposed

Generalized Current County Zoning:
Industrial
Commercial Regional

Planning Area 5



Recommended Use(s)

Residential, Low Density

Location: Northeast of City on west side of Paper Mill Road and "Island" areas

Existing Use(s): Residential, Low-Density

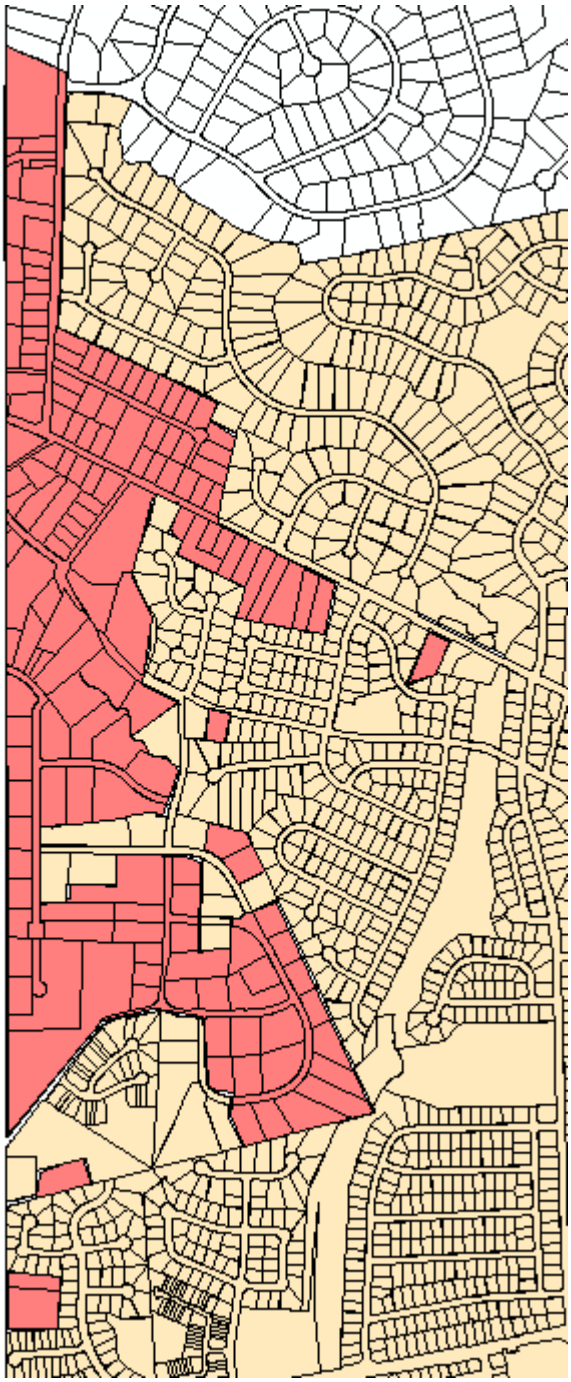
Previous Plan: Residential, Low-Density

Special Conditions Affecting Development:
Gateway to City on Paper Mill Road
May not be cost-effective to serve with City electric, water, and sewer

Rationale for Recommended Uses(s):
Developed and developing as proposed

Generalized Current County Zoning:
Residential

Planning Area 6



Recommended Use(s)

Residential, Low Density • Parkland • Institutional

Location: Christina Manor area west of City limits

Existing Use(s): Residential, Low-Density; Light Commercial

Previous Plan: Residential, Low-Density

Special Conditions Affecting Development:
Narrow main roadway (Valley Road); other narrow roads have no curb
Considerable existing development
Steep slopes
Wet soils
May not be cost-effective to serve with City electric, water, or sewer
Drainage requirements

Rationale for Recommended Uses(s):
Developed and developing as proposed

Generalized Current County Zoning: