



# CITY OF NEWARK PLANNING COMMISSION

37101 Newark Boulevard, Newark, California 94560-3796 □ 510/578-4330 □ FAX 510/578-4265

City Administration Building  
7:30 p.m.  
City Council Chambers

## **AGENDA** Tuesday, April 11, 2017

### A. ROLL CALL

### B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, February 14, 2017. (MOTION)

### C. WRITTEN COMMUNICATIONS

D. ORAL COMMUNICATIONS (Anyone wishing to address the Commission on any planning item not on the Agenda may take the podium and state his/her name and address clearly for the recorder.)

### E. PUBLIC HEARINGS

E.1 Hearing to consider an amendment to P-74-1, a planned unit development, and U-74-1, a conditional use permit to rebuild an existing McDonald's restaurant at 35192 Newark Boulevard (APN: 92A-720-10) – from Associate Planner Mangalam. (RESOLUTION)

### F. STAFF REPORTS

### G. COMMISSION MATTERS

G.1 Report on City Council actions.

### H. ADJOURNMENT

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 at the Planning Division Counter located at 37101 Newark Boulevard, 1st Floor, during normal business hours. 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.

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# CITY OF NEWARK PLANNING COMMISSION

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City Administration Building  
7:30 p.m.  
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## MINUTES

Tuesday, February 14, 2017

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### A. ROLL CALL

At 7:32 p.m., Chairperson Nillo called the meeting to order. All Planning Commissioners were present except Commissioner Aguilar (personal).

### B. MINUTES

#### B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, January 24, 2017.

Commissioner Otterstetter moved, Vice-Chairperson Bridges seconded, to approve the Minutes of January 24, 2017. The motion passed 4 AYES.

### C. WRITTEN COMMUNICATIONS

None.

### D. ORAL COMMUNICATIONS

None.

### E. PUBLIC HEARINGS

None.

### F. STAFF REPORTS

#### F.1 Review and recommend approval of the Pedestrian and Bicycle Master Plan.

Assistant City Manager Grindall gave the staff report via a Power Point Presentation.

Answering Vice-Chairperson Bridges, ACM Grindall produced the slide showing the Top 5 Priority Projects that were identified and stated no funding is currently in place but several pavement rehabilitation projects are scheduled.

Answering Commissioner Bridges, ACM Grindall confirmed signal detection systems at the High School and Junior High Schools had been identified in the PBMP.

Answering Commissioner Otterstetter, ACM Grindall stated the priorities list was established later in the Master Plan process due to low staffing levels.

Answering Chairperson Nillo, ACM Grindall stated the Master Plan envisions bicycle travel lanes on both sides of roadways.

Newark resident Richard Slagel stated, in his experience, the most dangerous bicycle route is on Cherry Street between the Junior High School and Auto Mall. Mr. Slagel suggested installing a traffic button on Thornton Avenue by Gateway Boulevard.

Newark resident Angela Eldridge agreed with Mr. Slagel on the need of a traffic button on Gateway and stated it was also difficult to cross without a signal at the intersection of Central Avenue and Cedar Boulevard.

ACM Grindall stated these issues were identified and addressed in the PBMP.

Answering Commissioner Fitts, ACM Grindall stated the Public Works Department had already implemented interim improvements on the roadway by SR84/Thornton Avenue/Gateway Boulevard.

Answering Commissioner Fitts, ACM Grindall stated striping on Willow Street by Enterprise Drive and Thornton Avenue would be completed along with the new Development project that is being built.

ACM Grindall stated that the City was not eligible for County Funds from Measures B and BB because they did not have a PBMP in place, but will be applying for a Grant once the PBMP is adopted.

Answering Commissioner Fitts, ACM Grindall stated our Public Works Department will be working with the Federal Government to properly provide access to the Don Edwards Wildlife Refuge from the Cargill site.

Motion made by Commissioner Fitts, seconded by Vice-Chairperson Bridges to approve the Pedestrian and Bicycle Master Plan. Motion passed 4 AYES.

This item will be heard at the February 23, 2017 City Council Meeting.

## **G. COMMISSION MATTERS**

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

None.

Commissioners' Comments

Commissioner Fitts wished everyone a Happy Valentine's Day.

Vice-Chairperson Bridges mentioned Mirabeau Park needed maintenance of the overgrown plants.

Answering Vice-Chairperson Bridges, ACM Grindall confirmed Sprouts Grocery Store will be opening up in Newark.

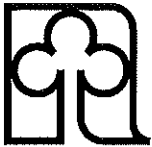
**H. ADJOURNMENT**

At 8:05 p.m., Chairperson Nillo adjourned the regular Planning Commission meeting of Tuesday, February 14, 2017.

Respectfully submitted,



TERRENCE GRINDALL  
Secretary



**E.1 Hearing to consider an amendment to P-74-1, a planned unit development, and U-74-1, a conditional use permit, to rebuild an existing McDonald's restaurant at 35192 Newark Boulevard (APN: 92A-720-10) – from Associate Planner Mangalam.**  
*SM* (RESOLUTION)

**Request** – Remove and replace an existing McDonald's Restaurant in the Rosemont Square Shopping Center.

**Background/Discussion** – Stantec Architecture, Inc., on behalf of McDonald's Corporation, has filed an application to rebuild an existing McDonald's restaurant located at 35192 Newark Boulevard.

The existing 3,544 square foot building is located on the east side of Newark Boulevard midway between Jarvis Avenue and Cedar Boulevard. The site is part of Rosemont Square, a commercial shopping center anchored by CVS Pharmacy and former Mi Pueblo Food Center and is zoned Community Commercial District. The existing McDonald's restaurant has one drive-thru lane that supports stacking/queuing of seven vehicles.

McDonald's Corporation is in the process of re-imagining stores in North America. The proposed redesign of the store is an arcade concept to break up the scale of the building with a palate of earth tone colors as shown on the proposed exterior elevations. The proposed exterior wall is cement plaster and tile finish with new aluminum trellis above all windows.

The existing building is to be removed and rebuilt with a completely updated structure of approximately 4,352 square foot. The new McDonald's restaurant will include a two-lane drive-thru layout. The proposed improvements will also include an additional customer order display and ordering kiosk; an additional menu board speaker; a separate payment window and order pick-up. This reconfiguration would increase the car stacking for the customer vehicles to 13-vehicles as well as assist to prevent any parked vehicles from being blocked during the peak periods. The existing retaining wall to the south west corner of the site would be extended and improved with stucco finish and decorative cap to help screen cars using the drive-thru as viewed from Newark Boulevard. The Landscape Planting Plan shows upgraded landscaping including additional trees, shrubs, vines and perennials.

Proposed signage consists of two building wall signs on the front and drive-thru facades; four channel wall logos; directional signs for drive-thru; address identification and refacing of the existing monument sign. In addition, there would be two menu boards, two canopy signs and window banners for "pick-up here and pay here" needed for the drive-thru.

**Environmental**

The proposed project is categorically exempt from the California Environmental Quality Act per Section 15302, Class 2, “replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.”

**Action** – It is recommended that the Planning Commission, by resolution, with Exhibit A, pages 1 through 26, approve an amendment to P-74-1, a planned unit development, and U-74-1, a conditional use permit to rebuild an existing McDonald’s restaurant at 35192 Newark Boulevard (APN: 92A-720-10).

**Attachment**

RESOLUTION NO.

RESOLUTION APPROVING AN AMENDMENT TO P-74-1, A PLANNED UNIT DEVELOPMENT, AND U-74-1, A CONDITIONAL USE PERMIT, TO REBUILD AN EXISTING MCDONALD'S RESTAURANT AT 35192 NEWARK BOULEVARD (APN: 92A-720-10)

WHEREAS, Stantec Architecture, Inc., on behalf of McDonald's Corporation, has filed an application with the Planning Commission of the City of Newark to amend P-74-1, a planned unit development, and U-74-1, a conditional use permit, to rebuild a McDonald's restaurant at 35192 Newark Boulevard; and

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in The Tri-City Voice on March 28, 2017, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on April 11, 2017 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, pursuant to Chapter 17.40 (Planned Unit Developments), Section 17.40.050 (Permit Procedure) and Chapter 17.72 (Use Permits), Section 17.72.070 (Action by Planning Commission), the Planning Commission hereby makes the following findings:

1. That the proposed location of the planned unit development is in accord with the objectives of the zoning title and the purposes of the district in which the site is located;
2. That the proposed location of the planned unit development and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
3. That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between the structures, usable open space, off-street parking and off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the zoning title;
4. That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between the structures, usable open space, off-street parking and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities;

5. That the combination of different dwelling types and/or the variety of land uses in the development will complement each other and will harmonize with existing and proposed land uses in the vicinity;
6. That the proposed location of the conditional use is in accord with the purposes of the zoning title and the purposes of the district in which the site is located;
7. That the proposed location of the conditional use and the conditions under which it is would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
8. That the proposed conditional use will comply with each of the applicable provisions of Chapter 17.72 (Use Permits).

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby approves this application as shown on Exhibit A, pages 1 through 26, subject to compliance with the following conditions:

Planning Division

- a. This project is subject to the conditions of Planning Commission Resolution No. 610, unless otherwise amended herein.
- b. There shall be no outdoor vending machines other than for the sale of newspapers. There shall be no outdoor storage of any materials for sale, display, inventory, or advertisement without the review and approval of the Community Development Director.
- c. The delivery of goods and materials restriction per Planning Commission Resolution No. 610 shall not apply to this project. Parking lot cleaning and sweeping or vacuum equipment shall not be permitted between 8:00 p.m. and 8:00 a.m. No delivery truck or van not associated with this business shall be left overnight on any portion of the site.
- d. All lighting shall be directed on-site so as not to create off-street glare.
- e. Prior to issuance of a building permit, the location and screening design for centralized garbage, refuse, organics, and recycling collection areas (including compactors) for the project shall be submitted for the review and approval of Republic Services, Inc. and the Community Development Director, in that order. Enclosures shall provide signage that states that the enclosure doors shall be closed immediately after use. Enclosures must be located so that the doors, when open, do not encroach into required drive-aisles or parking spaces. No refuse, garbage, organics, or recycling shall be stored outdoors except within the approved trash and recycling enclosures.
- f. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up, and maintenance of



awnings. Graffiti removal/repainting and site clean-up shall occur on a continuing, as needed basis. Awnings that become torn, faded, or fall into any disrepair shall be immediately replaced by the tenant. Any vehicle or portable building brought on the site during construction shall remain graffiti free.

- g. All exterior utility pipes and meters shall be painted to match and/or complement the color of the adjoining building surface, as approved by the Community Development Director.
- h. The color elevations submitted with this application have been reviewed and approved by the Planning Commission and the City Council. Prior to the issuance of a building permit, the Community Development Director shall review and approve final elevations for consistency with approved plans.
- i. The roof material as submitted with this application have been reviewed and approved by the Planning Commission and the City Council. Prior to the issuance of a building permit, the Community Development Director shall review and approve roof material for consistency with approved plans.
- j. All trash enclosures shall provide signage that states that the dumpsters shall remain in the enclosure(s) and that the enclosure's doors shall be closed immediately after use. The enclosure(s) shall be sited such that the enclosure's doors, when open, do not extend into drive aisles/back-up areas.

The enclosure(s) shall utilize integral color, split-face block or a suitable durable material, and be provided with a roof for storm water quality purposes. A stucco band shall be placed around the top of the enclosure(s) with a mortar cap on top to prevent the infiltration of water and leaching of materials from the block. The enclosure(s) shall be treated with a waterproof finish approved by the Building Official. The doors of the enclosure(s) shall be made of metal and painted to match the color of the enclosure's walls. The enclosure's materials, colors, and roof design shall be subject to the review and approval of the Community Development Director.

The required enclosure(s) shall be provided prior to final inspection.

- k. Prior to the issuance of a building permit, a screening design shall be submitted to and approved by the Community Development Director. Roof equipment shall not be visible from the adjacent public street. All equipment shall be fully screened within the context of the buildings' architecture. Said screening design shall be maintained to the satisfaction of the Community Development Director. The building owner shall paint the roof equipment and the inside of its screening wall within the context of the building's color scheme and maintain the painted areas to the Community Development Director's satisfaction. Screening panels shall not exceed six feet in height unless the screens are part of the integral design elements of the building.

- l. The signage as submitted with this application have been reviewed and approved by the Planning Commission and the City Council. Prior to the issuance of a building permit, the Community Development Director shall review and approve signage for consistency with approved plans.
- m. Prior to the issuance of a Certificate of Occupancy, all on-site parking facilities shown on the approved plans shall be installed and striped. This shall include, but not be limited to, identifying compact parking spaces and providing directional arrows as required by the Community Development Director.
- n. Prior to the issuance of a building permit, the property owner shall pay impact fees in affect at the time.

#### Engineering Division

- o. Frontage improvements along Newark Boulevard are required. The project shall remove and replace the shared driveway to the south with a new Type C – Commercial Driveway per City Standard Detail SD-106-2. Additional frontage improvements include, but are not limited to, removal and replacement of damaged curb, gutter and sidewalk.
- p. The project must be designed to minimize the pollution or contamination of stormwater runoff from the site. Examples of control measures include, but are not limited to: no uncovered trash enclosures or storage of products and materials; minimization of impervious surfaces; routing of pavement and roof runoff through vegetated swales or landscaped areas in-lieu of direct connections to the storm drain system; treatment controls for runoff from paved areas used for vehicle parking, repair and/or storage such as storm drain inlet filters, interceptors, separators or other acceptable treatment devices; installation of vegetated or turfed areas around storm water inlets, and other Best Management Practices to address the requirements of the NPDES permit issued to the City of Newark by the Regional Water Quality Control Board. The use of structural treatment controls for runoff quality requires the submittal of a maintenance agreement prior to the issuance of a Certificate of Occupancy.
- q. Prior to the issuance of a building permit for this project, the developer shall submit a Storm Water Quality Plan for the review and approval of the City Engineer. The plan shall include sufficient details to show how storm water quality will be protected during both: (1) the construction phase of the project and (2) the post-construction, operational phase of the project. The construction phase plan shall include Best Management Practices from the California Stormwater Quality Best Management Practices Handbook for Construction Activities. The specific storm water pollution prevention measures to be maintained by the contractor shall be printed on the plans. The operational phase plan shall include Best Management Practices appropriate to the uses conducted on the site to effectively prohibit the entry of pollutants into storm water runoff from this site including, but not limited to, trash and litter control, pavement sweeping, periodic storm water inlet cleaning, landscape controls for fertilizer and pesticide applications, labeling of storm water inlets with the wording "No Dumping - Drains to Bay," and other

applicable practices.

- r. The project must be designed to include appropriate source control, site design, and stormwater treatment measures to prevent stormwater runoff pollutant discharges and increases in runoff flows from the site in accordance with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP), Order R2-2015-0049, revised November 19, 2015, issued to the City of Newark by the Regional Water Quality Control Board, San Francisco Bay Region. Examples of source control and site design requirements include but are not limited to: properly designed trash storage areas, sanitary sewer connections for all non-stormwater discharges, minimization of impervious surfaces, and treatment of all runoff with Low Impact Development (LID) treatment measures. The stormwater treatment design shall be completed by a licensed civil engineer with sufficient experience in stormwater quality analysis and design. The design is subject to review by the Regional Water Quality Control Board. The developer shall modify the site design to satisfy all elements of Provision C.3 of the MRP. The use of treatment controls for runoff requires the submittal of a Stormwater Treatment Measures Maintenance Agreement prior to the issuance of any Certificates of Occupancy
- s. All stormwater treatment measures are subject to review and approval by the Alameda County Mosquito Abatement District. The developer shall modify the grading and drainage and stormwater treatment design as necessary to satisfy any imposed requirements from the District.
- t. The entire site shall be equipped with full trash capture devices approved by the Regional Water Quality Control Board – San Francisco Bay Region, for 100% trash capture at all on-site and adjoining off-site storm drain inlets. All on-site trash capture devices shall be permanently maintained by the property owner.
- u. The location, size and orientation of all trash enclosures shall be approved by Republic Services, the City's franchise waste hauler, based on the anticipated type and intensity of the proposed development. All waste bins shall be stored within the trash enclosure at all times. The location and orientation of the enclosure shall enable adequate servicing of the bins by Republic Services. Design requirements for trash enclosures shall include, but are not limited to, a roof fully covering the enclosure, floor drain connected to the sanitary sewer system subject to approval by Union Sanitary District (USD), hose bib for periodic wash down, and a pedestrian door. In addition, the main doors of the enclosure shall be designed such that they may be locked closed and held open with pin locks during loading.
- v. The applicant shall submit a detailed soils report prepared by a qualified engineer, registered with the State of California. The report shall address in-situ and import soils in accordance with the City of Newark Grading and Excavation Ordinance, Chapter 15.50. The report shall include recommendations regarding pavement sections. Grading operations shall be in accordance with recommendations contained in the soils report and shall be completed under the supervision of an engineer registered in the State of California to do such work.

- w. The project site is located in a Seismic Hazard Zone for Earthquake Induced Liquefaction according to maps released by the State of California. The applicant shall provide a geotechnical report(s) defining and delineating any seismic hazard(s). The report shall be prepared in accordance with guidelines published by the State. The report is subject to review and approval by a City selected peer review consultant. Construction documents shall conform to the recommendations of seismic hazard report.
- x. The developer shall submit a grading and drainage plan for review and approval by the City Engineer. This plan must be based upon a City benchmark and needs to include pad and finish floor elevations of each proposed structure, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing drainage patterns. All on-site pavement shall drain at a minimum of one percent. The developer shall ensure that all upstream drainage is not blocked and that no ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility.

Hydrology and hydraulic calculations shall be submitted for review and approval by the City Engineer prior to approval of the final map. The calculations shall show that the City freeboard requirements will be satisfied (0.75 feet to grate or 1.25 feet to the top of curb under a 10-year storm duration).

- y. Where a grade differential of more than 1-foot is created along the boundary parcel lines between the proposed development and adjacent property, the developer shall install a masonry retaining wall unless a slope easement is approved by the City Engineer. Said retaining wall shall be subject to review and approval of the City Engineer. A grading permit is required by the Building Inspection Division prior to starting site grading work.
- z. Prior to issuance of a Certificate of Occupancy or release of utilities for any building, common vehicle access ways and parking facilities serving said building shall be paved in accordance with the recommendation of a licensed engineer based on a Traffic Index of 5.0 and striped as shown on the approved site plan. All on-site uncovered parking facilities and drive aisles shall be drained at a minimum slope of 1.0% for asphalt surfaces and 0.3% for Portland cement concrete surfaces.
- aa. The property owner shall be responsible for a 2-inch grind and overlay within the shared parking lot/drive aisle with the property to the east and the shared drive aisle with the property to the south. Prior to the issuance of any permits, the property owner shall obtain approval and coordinate any work with the adjoining property owner(s). A letter from each owner shall be submitted to the City Engineer as evidence of approval to perform the 2-inch grind and overlay outside the project boundaries.
- bb. Prior to issuance of a building permit, the developer shall submit a pavement maintenance program for the drive aisles and parking areas on the project site. The maintenance program shall be signed by the property owner and the property owner shall follow the maintenance program at the City Engineer's direction.

- cc. At no time shall traffic queuing for the drive-thru operation of the facility extend to Newark Boulevard. In the event that regular queuing into the adjoining main shopping center drive aisle from Newark Boulevard is observed, the property owner and/or site operator shall coordinate with the City Engineer to resolve the issue at the property owner and/or site operator's expense.
- dd. Any new utilities including, but not limited to, electric, telephone and cable television services shall be provided underground.
- ee. Any proposed utility connections and/or underground work within structurally sound street pavement must be bored or jacked. Open street cuts will not be permitted across Newark Boulevard.
- ff. The developer shall repair and/or replace any public and private improvements damaged as a result of construction activity to the satisfaction of the City Engineer and adjoining property owners.
- gg. The developer shall ensure that a water vehicle for dust control operations is kept readily available at all times during construction at the City Engineer's direction.

#### Landscape-Parks Division

- hh. Prior to the issuance of a building permit, the property owner shall dedicate a 20-foot wide landscape easement along the Newark Boulevard frontage of the property, directly adjacent to the right-of-way limit. The easement shall be extended to cover all contiguous landscaped areas along the project frontage.
- ii. The developer shall retain a licensed landscape architect to prepare working drawings for on-site landscape plans in accordance with City of Newark requirements, the approved Conceptual Landscape Plan, and the State of California Model Water Efficient Landscape Ordinance. The landscape plans shall be included with construction plan set and shall include detailed irrigation plans for all modifications to the existing irrigation system within Landscaping and Lighting District No. 7 that are necessary to satisfy the model ordinance requirements. The associated Landscape Documentation Package must be approved by the City Engineer prior to the issuance of a building permit.
- jj. The developer shall implement Bay Friendly Landscaping Practices in accordance with Newark Municipal Code, Chapter 15.44.080. Prior to the issuance of a building permit, the developer shall provide sufficient information to detail the environmentally-conscious landscape practices to be used on the project.
- kk. The plant species identified for any proposed biotreatment measures are subject to final approval of the City Engineer.

- ll. All maintenance associated with the landscape-based stormwater treatment measures shall be the responsibility of the property owner. The property owner shall enter into a Landscape Maintenance Agreement prior to the issuance of a Certificate of Occupancy for all landscaping beyond the limits of Landscaping and Lighting District No. 7. This agreement shall run with the land and be binding upon all future owners. Landscape maintenance of these areas by the City under the terms of the Agreement would occur only in the event that City Council deems the property owner's maintenance to be inadequate. Any project perimeter walls and adjoining landscape areas shall be included in a dedicated landscape easement to guarantee adequate maintenance of the walls. Any work other than routine maintenance, including but not necessarily limited to, tree removal, tree pruning, or changes to the approved planting palette shall be approved in advance by the City Engineer. All tree pruning shall be performed by or under the direction of a certified arborist.
- mm. Prior to installation by the developer, plant species, location, container size, quality, and quantity of all landscaping plants and materials shall be reviewed and approved by the City Engineer. All plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer.
- nn. Prior to the release of utilities or issuance of any Certificate of Occupancy, all landscaping and irrigation systems shall be completed or guaranteed by a cash deposit deposited with the City in an amount to cover the remainder of the work.
- oo. Prior to issuance of Certificate of Occupancy or release of utilities, the developer shall guarantee all trees for a period of 6 months and all other plantings and landscape for 60 days after completion thereof. The developer shall insure that the landscape shall be installed properly and maintained to follow standard horticultural practices. All plant replacements shall be to an equal or better standard than originally approved subject to approval of the City Engineer.

#### Building Division

- pp. Construction for this project, including site work and all structures, can occur only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday. The applicant may make a written request to the Building Official for extended working hours and/or days. In granting or denying any request the Building Official will take into consideration the nature of the construction activity which would occur during extended hours/days, the time duration of the request, the proximity to residential neighborhoods and input by affected neighbors. All approvals will be done so in writing.
- qq. Prior to the commencement of any demolition activities at the site the developer shall obtain a demolition permit from Bay Area Air Quality Management District (BAAQMD).
- rr. As per the Newark Municipal Code, the new building shall be equipped with an automatic fire sprinkler system.

Fire Division

- ss. Plans shall meet the requirements of the codes and standards adopted at the time of building plan submittal.

General

- tt. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval.
- uu. If any condition of this amendment to a planned unit development and conditional use permit be declared invalid or unenforceable by a court of competent jurisdiction, this amendment to a planned unit development and conditional use permit shall terminate and be of no force and effect, at the election of the City Council on motion.
- vv. The developer hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
- ww. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

The Commission makes the findings prescribed in Newark Municipal Code Sections 17.40.050 and 17.72.070, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk who shall present said Notice to the City Council pursuant to Newark Municipal Code Section 17.72.080.

This Resolution was introduced at the Planning Commission's April 11, 2017 meeting by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and passed as follows:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
TERRENCE GRINDALL, Secretary

\_\_\_\_\_  
BERNIE NILLO, Chairperson