



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, May 9, 2017

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, April 25, 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. (CONTINUED FROM APRIL 11, 2017 AND APRIL 25, 2017) (RESOLUTION)

E.2 Hearing to consider Z-17-9, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to revise Chapter 17.20 (Commercial Districts) and Chapter 17.24 (Industrial Districts) by amending Section 17.20.030, 17.020.040, 17.24.030 and 17.24.040 to require distribution and warehouse uses to go through the Conditional Use Permit process to allow City Council to determine if there are any negative impacts to the surrounding area – from Deputy Community Development Director Interiano. (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.

CITY OF NEWARK PLANNING COMMISSION

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

MINUTES

Tuesday, April 25, 2017

A. ROLL CALL

At 7:31 p.m., Chairperson Nillo called the meeting to order. All Planning Commissioners were present.

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, April 11, 2017.

Commissioner Otterstetter moved, Commissioner Aguilar seconded, to approve the Minutes of April 11, 2017. The motion passed 5 AYES.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

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). (CONTINUED FROM APRIL 11, 2017)

Assistant City Manager Grindall and Associate Planner Mangalam gave the staff report.

ACM Grindall stated the traffic study determined there would be a reduction in traffic as a result of this project.

ACM Grindall stated detailed analysis responding to the issues raised in Miller Starr Regalia's correspondence of April 11, 2017 were included in the staff report but staff would like to verbally reiterate the findings for the CEQA exemption.

Chairperson Nillo opened the Public Hearing.

Mr. Tom Clark, Construction Manager for McDonald's Corporation, 2999 Oak Road, Walnut Creek, CA 94597, representing the Applicant, stated he feels they are bringing their best product design for the rebuild for this existing McDonald's restaurant.

Answering Chairperson Nillo, Mr. Clark clarified the location of the building's elevations in relation to Newark Boulevard and stated he has read and agrees with the Conditions listed in the Resolution.

Answering Commissioner Fitts, Mr. Clark confirmed there will be extensive landscaping by the building's stucco wall and the existing trees will remain.

Answering Chairperson Nillo, Mr. Clark demonstrated the traffic flow and stacking area for customer vehicles using each of the Newark Boulevard entrances into the Shopping Center.

Mr. Brian Winter, Land Use Attorney for Miller Starr Regalia, 1331 North California Boulevard, 5th Floor, Walnut Creek, CA 94596, representing the Ladrechs, owners of several properties in the Rosemont Shopping Center, stated their intent is not to stop this project, but to provide input to make the proposal better for the entire Shopping Center.

Mr. Winter stated the proposed building mass is double the size of the current building and would block visibility to his client's property.

Mr. Winter also discussed the Autoturn Analysis and stated his opinion that vehicles would spill into the main drive aisle entrance into the Shopping Center as they attempt to make the right turn to the drive-thru queue and also when more vehicles are present than what the stacked aisles can accommodate.

Mr. Winter provided a list of proposed conditions; pointed out an error on Table 1, page 6, of the Traffic Study; and suggested the City conduct a peer review of the Study.

Answering Vice-Chairperson Bridges, Mr. Clark acknowledged his client and the Applicant did meet to discuss their concerns.

Mr. Clark used the Exhibit Boards to demonstrate that the new design would allow more vehicles into the queue which would improve traffic flow in the Shopping Center and stated the existing trees are causing the visibility issues of the Ladrech's property.

Answering Commissioner Fitts, Mr. Clark stated McDonald's Corporation are open to discussions with the Ladrechs but feels their proposal is the best design and some of the issues brought up by the Ladrechs were not valid.

Commissioner Aguilar and ACM Grindall stated they are only now being presented with the list of added conditions proposed by the Ladrech's attorney.

Answering Chairperson Nillo, Mr. Clark stated the new design would allow vehicles to cycle through much faster than before.

Commissioner Fitts commented that more time should be given to allow the two parties adequate time to work out their issues.

ACM Grindall stated the Conditions in the Resolution covers the items in the list presented by Miller Starr Regalia, and feels the project meets all existing codes; is aesthetically pleasing; is more effective than what is currently in place; and recommends the Planning Commission moves forward with this item.

Addressing Commissioner Aguilar's concerns with Condition "cc" of the Resolution, ACM Grindall stated in the unlikely event of vehicles extending into Newark Boulevard, a number of options to alleviate the problem would be considered including signage redirecting vehicles to alternate entrances.

Answering Commissioner Aguilar, AP Mangalam stated the height limit in the Community Commercial zoning district is 100' and the existing building is 20' tall and the proposed building would be 23'4" tall.

Commissioner Otterstetter gave her opinion that when the new building is built the majority of customers would enter through the main entrance of the Shopping Center.

Commissioner Otterstetter stated she would approve the project as proposed but would like staff to keep watch on any issues with vehicles backing up and affecting Newark Boulevard.

Vice-Chairperson Bridges thanked staff for the detailed Analysis in the staff report.

Answering Chairperson Nillo, ACM Grindall stated staff did not receive any comment letters from any other Rosemont Shopping Center tenants, nor from the public.

Chairperson Nillo closed the Public Hearing.

Motion by Vice-Chairperson Bridges, originally seconded by Commissioner Otterstetter, by Resolution 1941, 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).

Commissioner Fitts stated he would like to continue this Item to allow the two parties additional time to work on their issues.

Commissioner Otterstetter withdrew her second to the motion made by Vice-Chairperson Bridges. The motion failed due to lack of a second.

Motion by Commissioner Fitts, seconded by Commissioner Aguilar, to continue deliberations on this Item to the May 9, 2017 Planning Commission Meeting. Motion passed 4 AYES, 1 NO (Bridges).

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

ACM Grindall announced the soft opening on April 26 and grand opening on April 27 for Jack's Restaurant and Bar; the ribbon cutting event on April 26 for John's Incredible Pizza; the 24 Hour Fitness opening for early June; and the opening for Sprout's Grocery Store in June.

ACM Grindall also informed the Planning Commission that the second Community Meeting for the Old Town Revitalization will be held on Saturday, April 29, 2017 at noon, in the City's Council Chambers, to discuss revitalizing Old Town.

Commissioners' Comments

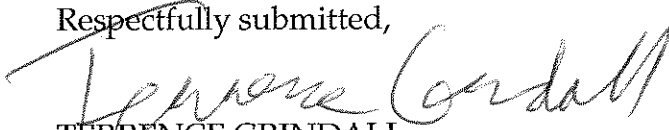
Commissioner Otterstetter thanked staff for all the updates and announced this weekend will be the last performance of Stage One's Bonnie and Clyde at Newark Memorial High School and encourage the public to attend.

Chairperson Nillo thanked Administrative Analyst Laurie Gebhard and all City staff that worked on the PowerPoint presentation for the Mayor's State of the City address.

H. ADJOURNMENT

At 8:24 p.m., Chairperson Nillo adjourned the regular Planning Commission meeting of Tuesday, April 25, 2017.

Respectfully submitted,

A handwritten signature in cursive script that reads "Terrence Grindall". The signature is written in black ink and is positioned above the printed name.

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.
(CONTINUED FROM APRIL 11, 2017 AND APRIL 25, 2017) (RESOLUTION)**

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Request – Replace an existing McDonald’s Restaurant in the Rosemont Square Shopping Center.

Background/Discussion – On April 11, 2017, the Planning Commission opened a Public Hearing to consider an amendment to a Planned Unit Development and Conditional Use Permit to rebuild an existing McDonald’s Restaurant in Rosemont Shopping Center. This item was continued to April 25, 2017 in order to allow staff and the applicant the time to review the letter dated April 11, 2017, received from Miller Starr Regalia legal firm representing the owners of former Mi Pubelo grocery store in Rosemont Shopping Center. The letter stated the following issues, in summary: (a) that the findings in the draft resolution are conclusive and not supported by substantial evidence; (b) that the use of the California Environmental Quality Act (CEQA) Guidelines Section 15302 exemption (“Replacement or Reconstruction”) is improper; and (c) that a private agreement among landowners would be violated by the project.

In response to the issues raised by the law firm representing the adjacent property owners, staff offered the following analysis at April 25, 2017 continued Public Hearing Meeting:

Findings under Planned Unit Development and Use Permits

The Findings given in the draft resolution of approval contains language that comes from the Newark Municipal Code, Sections 17.40.050 (“Planned Unit Development Permit – Permit procedure”) and 17.72.070 (“Use Permits – Action by Planning Commission”) and are supported by application materials on file.

Further elaboration for each finding is as follows:

- a. *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.*

The zoning for the site is CC – Community Commercial. Section 17.20.020 of Newark Municipal Code states the purpose of the district is: “The community commercial zone reserves appropriately located areas for commercial uses which serve the comparison shopping needs of the community. These prime commercial areas are intended for uses which support the economic diversity and future financial well-being of the city through generation of substantial amounts of revenue.” Restaurants and drive-through restaurants are a permitted use in this district per Section 17.20.030.

- b. *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.*

This is a replacement of an existing restaurant with a new one of similar size and capacity on the same property, which is a commercial site on a major street. There is no reason to anticipate any detrimental or injurious effects of the project.

- c. *That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between 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.*

Numerous conditions of approval are incorporated into the permit in order to ensure the desired environment of stable and desirable character for the site and the project.

- d. *That the standards of population density, site area and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, and 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.*

The new restaurant is not expected to generate more traffic than the existing restaurant. Existing utilities are adequate for the project, which will not require utility usage above that of the existing restaurant.

- e. *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.*

The restaurant is part of an existing shopping center, which is expected to continue to be devoted to compatible commercial uses after the project is in operation.

- f. *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.*

The zoning for the site is CC – Community Commercial. Restaurants and drive-through restaurants are a permitted use in this district.

- g. *That the proposed location of the conditional use 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.*

This is a replacement of an existing restaurant with a new one of similar size and capacity on the same property, which is a commercial site on a major street. There is no reason to anticipate any detrimental or injurious effects of the project. Numerous conditions of approval are incorporated into the permit in order to ensure the desired environment of stable and desirable character for the site and the project.

- h. *That the proposed conditional use will comply with each of the applicable provisions of Chapter 17.72 (Use Permits).*

Numerous conditions of approval are incorporated into the permit in order to ensure that the construction and operation of the restaurant will be in compliance with city code requirements.

California Environmental Quality Act (CEQA) exemption

Substantial evidence supports staff's determination that the project falls within a categorical exemption and therefore is exempt from CEQA analysis. (See *Dehne v. County of Santa Clara* (1981) 115 Cal.App.3d 827, 844.) CEQA Guidelines Section 15384 defines substantial evidence as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."

The project is exempt from CEQA analysis under Guidelines Section 15302, which covers the replacement or reconstruction of existing facilities. This categorical exemption does not require that new structures be constructed on the exact same footprint as the structures and facilities being replaced; instead, the new structure must be sites on the same lot on which the existing structure is built. (See *Dehne v. County of Santa Clara* (1981) 115 Cal.App.3d 827, 837.) Further, the requirement that the new building have the same purpose and capacity "speaks only to the productive purpose and capacity" of the structure and "does not demand minute scrutiny of each of the individual components" of the new structure. (Id. at p. 839.)

The project is located on the same parcel of land as the existing restaurant. The project does not alter ingress and egress into the surrounding shopping center. The building is approximately the same size as the existing one. In fact, the new building is actually smaller when taking into account the size of the existing basement. Further, there are a total of 86 seats in the existing restaurant and the proposed restaurant will have 80 seats.

Although the letter stated that the new second drive-through lane is an "unusual circumstances", it should be noted that there is still only one drive-through window. The second lane will reduce queuing or stacking problems, thus improving traffic flow around the site. It does not constitute "unusual circumstances" that would justify invoking Guidelines Section 15300.2 to decide that the normal exemption in Section 15302 does not apply to this project. For a project that meets the requirements of a categorical exemption, as this project does, a claim that unusual circumstances apply must present substantial evidence that the project will actually have a significant effect on the environment. (See *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1106.) The letter fails to demonstrate any actual significant effect on the environment as a result of the second drive-through lane, so the exception to the Class 2 exemption does not apply. No change is proposed for ingress or egress to or from the shopping center.

Finally, the letter asserted that the project would violate a provision of an agreement among property owners regarding use of the shopping center site. This is a private matter between land owners and should not enter into the City's decision on the requested permits.

At the continued Public Hearing on April 25, 2017, Mr. Brian Winter from Miller Starr Regalia raised an additional issue of the access to proposed McDonald's Restaurant from the main drive aisle. The concern is that the cars on the right lane entering McDonald's site would have to swing slightly into the left lane to adequately make 180 degree turn, thus affecting the left lane to the shopping center. Also at certain periods of time, the queuing will spill over to the main drive aisle affecting the operation of the shopping center.

After reviewing the site plan and having conversations with the owners of former Mi Pueblo,

staff recommends relocating the entry/exit point from the main drive aisle to the Shopping Center. Attached with this report is the revised site plan for proposed McDonald's Restaurant. The configuration is similar to the existing McDonald's Restaurant where customer vehicles can enter the site through either: (a) a private two-way shared driveway to the east of the site, and (b) shared parking lot on to the north side of the site. The proposed relocation of the entry/exit point will prevent the stacking of the vehicles entering into McDonald's Restaurant onto the main drive aisle as well as keep the traffic flow same as existing.

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).

Attachments

1. Revised site plan by Stantec Architecture Inc., dated April 28, 2017 (new)
2. Drawings by Stantec Architecture Inc., dated March 6, 2017
3. Signage drawings by Superior Electrical Advertising Inc., dated July 1, 2016
4. Letter of Opposition by Miller Starr Regalia dated April 11, 2017
5. Traffic Study by Stantec Consulting Services Inc., dated April 19, 2017 – on file

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 with the Planning Commission of the City of Newark an application 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;

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;

WHEREAS, at its meeting of April 11, 2017, the Planning Commission, at the request of the staff, continued the public hearing to consider the application for 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 to the April 25, 2017, Planning Commission Meeting;

WHEREAS, at its meeting of April 25, 2017, the Planning Commission continued the public hearing to consider the application for 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 to the May 9, 2017, Planning Commission Meeting;

WHEREAS, pursuant to Chapter 1740 (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 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 pavements 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 a 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 developer shall enter into a Landscape Maintenance Agreement prior to the issuance of a building permit. This agreement shall run with the land and be binding to the homeowners association as successors. 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 homeowners association'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 AM and 6:00 PM, 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. This planned unit development and conditional use permit shall be given a public hearing before the City Council for the Council's review and approval.
- ww. The developer hereby agrees to defend with separate counsel reasonably selected by the City, 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.
- xx. 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 May 9, 2017 meeting by Commissioner _____, seconded by Commissioner _____, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

BERNIE NILLO, Chairperson



**MILLER STARR
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April 11, 2017

VIA HAND DELIVERY

Bernie Nillo, Chairperson
c/o Sofia Mangalam, Association Planner
City of Newark Planning Commission
37101 Newark Boulevard
Newark, CA 94560
Email: sofia.mangalam@newark.org

**Re: April 11, 2017 Planning Commission Agenda Item E1.
Replacement and Expansion of McDonald's at 35192 Newark Boulevard**

Dear Chairperson Nillo and Commissioners:

This law firm represents Maurice A. Ladrech, Nicole A. Ladrech, Andre A. Ladrech, and Eric. E. Ladrech, the owners of the former Mi Pueblo grocery store at 35156 Newark Boulevard and several parcels in the Rosemont Square Shopping Center that surround the existing McDonald's at 35192 Newark Boulevard. For the reasons explained below, our clients object to the proposed McDonald's expansion project and respectfully request that the Planning Commission deny it.

As you know, the project would involve an expansion of the existing approximately 3,544 square foot McDonald's restaurant with a single drive-thru lane with a queuing capacity of seven vehicles. The expansion project would result in an approximately 4,352 square foot McDonald's restaurant and double drive-thru lanes with a queuing capacity of thirteen vehicles. The project would also involve numerous other improvements, including customer ordering facilities and extensive signage.

State law requires that adjudicative land use decisions such as this must be supported by findings and that the findings be supported by evidence. To be legally adequate, findings must "bridge the analytic gap between the raw evidence and ultimate decision or order." *See, e.g., Topanga Association for a Scenic Community v. County of Los Angeles*, 11 Cal.3d 506, 515 (1974). Each finding must be supported by substantial evidence in the record. *See California Code of Civil Procedure* § 1094.5.

The proposed findings in the proposed resolution for this project are legally deficient. Instead of connecting the dots between the required findings and the decision, the proposed findings merely regurgitate the requirements of the Newark

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Bernie Nillo, Chairperson
April 11, 2017
Page 2

Zoning Ordinance. The law is well settled that an agency's factual findings cannot merely restate legal requirements. *Topanga*, 11 Cal.3d at 517 n.16 (findings must contain more than just "the language of the applicable legislation").

The proposed findings thus do not meet the minimum standards set forth in *Topanga* and are insufficient to approve this project. See, e.g., *Honey Springs Homeowners Ass'n. v. Board of Supervisors*, 157 Cal.App.3d 1122, 1151 (1984) (a finding that is made "perfunctorily" and "without discussion or deliberation and thus does not show the ... analytical route from evidence to finding will be struck down"); *California Aviation Council v. City of Ceres*, 9 Cal.App.4th 1384, 1395 (1992) (conclusory findings that were not "fact specific" were held to fall "far short of the mark").

There also appears to be no substantial evidence in the record upon which legally adequate findings could be made. For example, there is nothing in the record of which we are aware that would enable the conclusion that the project would "not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities." If there is a traffic report that addresses such issues, we have not seen it. The inadequacy of the proposed findings and the lack of substantial evidence in the record precludes the Planning Commission's approval of the project.

In addition, City staff propose to exempt the project from the requirements of the California Environmental Quality Act ("CEQA") and CEQA Guidelines (Cal. Pub. Res. Code § 21000 *et seq.* and 14 Cal Code Regs. § 15000 *et seq.*) pursuant to CEQA Guidelines section 15302. Section 15302 provides an exemption for the "replacement or reconstruction of existing structures or 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." 14 Cal. Code Regs. § 15302. Projects that qualify for the "replacement exemption" include the replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity." The McDonald's expansion project cannot rely on this exemption, however, because it would increase the size of the restaurant by approximately 23% and double the drive through capacity.

The proposed CEQA exemption is also not justified because "exceptions" to the exemption apply. In particular, the CEQA Guidelines preclude use of an exemption "where there is a reasonable possibility the project will have a significant impact on the environment due to unusual circumstances." CEQA Guidelines §15300.2(a)(c)(d). Unusual circumstances exist here given the doubling of the project's drive thru capacity. Thus, even if the City could properly exempt the project under the Class 2 "replacement or reconstruction" exemption—which it cannot do for the reasons stated above—the project cannot be determined exempt from CEQA because unusual circumstances exist.

Bernie Nillo, Chairperson
April 11, 2017
Page 3

Our clients also object to the project itself, which would impair the ability of the public on Newark Boulevard to view their existing building and any potential redevelopment of the vacant parcel adjacent to the former Mi Pueblo store. In addition, it appears that the project would drastically alter ingress and egress to the shopping center as well as the traffic flow within the shopping center. We are aware of nothing in the record to show that these issues have been properly analyzed, and any such impacts would violate the First Amendment to Declaration of Establishment of Restrictions, Conditions, Easements and Agreements, which precludes any change that "would adversely affect the ingress and egress routes to and from the Shopping Center or the traffic flow pattern within the Shopping Center"

For the foregoing reasons, we respectfully request the Planning Commission to deny the project.

Sincerely,

MILLER STARR REGALIA

A handwritten signature in cursive script that reads "Bryan W. Wenter, AICP".

Bryan W. Wenter, AICP

BWW

cc: Clients
Michael E. DiGeronimo, Esq.



- E. 2 Hearing to consider Z-17-9, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to revise Chapter 17.20 (Commercial Districts) and Chapter 17.24 (Industrial Districts) by amending Section 17.20.030, 17.020.040, 17.24.030 and 17.24.040 to require distribution and warehouse uses to acquire a Conditional Use Permit– from Deputy Community Development Director Interiano.

(RESOLUTION)

Background/Discussion – A zoning text amendment is proposed to require distribution and warehouse uses to be evaluated through the conditional use permit process. Currently, these use are listed as a permitted use in some commercial and most industrial zoning districts. It should be noted that the uses discussed above have not been re-evaluated since the inception of the City zoning codes in 1965.

The purpose of a conditional use permit is to enable a municipality to control certain uses which could have detrimental effects on the community. Staff is recommending distribution and warehouse uses be considered for discretionary approval by City Council.

Distribution and warehouse uses have been identified as uses which are generally heavily dependent on large areas of land and heavy truck traffic as part of their daily business. Therefore, a more thorough analysis is needed of the placement of these types of uses and the general impacts they have on a neighborhood and the City as a whole. Among other factors, the two areas listed below shall be closely monitored for negative impacts:

Compatibility

- Discourage placement within close proximity to residential uses and schools. Review noise impacts, size of the proposed structures and orientation of bays. Review location of outdoor storage space and impacts on adjacent uses.

Transportation

- Require a traffic analysis, specifically looking at traffic volumes, operations and level-of-service on surrounding roadways and at key intersections. Determine the feasibility of the proposed truck route based on existing roadway geometry and types of trucks anticipated. Assess potential impacts to roadway surfaces and identify any significant off-site roadway improvements required along the anticipated truck route.

Summary of Changes:

Zoning District	Permitted Section Deletions	CUP Section Insertions
General Commercial	Storage Buildings and Warehouse Use	Warehouse Use
Intermediate Commercial	Storage Buildings and Warehouse Use	Warehouse Use
High Technology Park	Warehouse Use	Warehouse/distribution operations
Industrial Technology Park	Warehouse Use	Warehouse/distribution operations
Industrial Park	Warehouse Use	Warehouse Use/distribution operations
Limited Industrial	Freight Terminal and Warehouse Use	Freight Terminal and Warehouse/distribution operations
General Industrial	Freight Terminal and Warehouse Use	Freight Terminal and Warehouse Use/distribution operations

CEQA-The proposed text amendment is categorically exempt from the California Environmental Quality Act (CEQA) under section 5060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 1506(b)(3) (General Rule that CEQA only applies to project which have the potential to cause a significant effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

Action – It is recommended that the Planning Commission, by resolution, recommend that the City Council approve Z-17-9, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to revise Chapter 17.20 (Commercial Districts) and Chapter 17.24 (Industrial Districts) by amending Section 17.20.030, 17.020.040, 17.24.030 and 17.24.040 to require distribution and warehouse uses to acquire a Conditional Use Permit.

Attachment

1. Resolution
2. Draft Ordinance
3. Exhibit A

RESOLUTION NO.

RESOLUTION RECOMMENDING APPROVAL OF Z-15-33, A TEXT AMENDMENT TO TITLE 17 (ZONING) OF THE NEWARK MUNICIPAL CODE TO REVISE CHAPTER 17.20 (COMMERCIAL DISTRICTS) AND CHAPTER 17.24 (INDUSTRIAL DISTRICTS) BY AMENDING SECTIONS 17.20.030, 17.020.040, 17.24.030 AND 17.24.040.

WHEREAS, an amendment to Chapter 17.20 (Commercial Districts) and Chapter 17.24 (Industrial Districts) by amending Sections 17.20.030, 17.020.040, 17.24.030, and 17.24.040;

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in the Tri-City Voice on Aril 25, 2017 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on May 9, 2017 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, the Planning Commission resolves as follows:

- a. That Chapter 17.20 (Commercial Districts) and Chapter 17.24 (Industrial Districts) by amending Sections 17.20.030, 17.020.040, 17.24.030, and 17.24.040;
- b. That the City Council amend Title 17 (Zoning) of the Newark Municipal Code as set forth in Exhibit A, attached hereto and made part hereof by reference.
- c. That a copy of the minutes be forwarded to the City Council as a summary of the hearing.
- d. That the text amendments herein shall be added to the appropriate sections of the Newark Municipal Code, after review and approval by the City Council, when it is next published, with the notation of the date when the amendments became effective.

This Resolution was introduced at the Planning Commission's May 9, 2017 meeting by Commissioner _____, seconded by Commissioner _____, and passed as follows:

AYES:

NOES:

ABSENT:

s/Terrence Grindall
TERRENCE GRINDALL, Secretary

s/ Bernie Nillo
BERNIE NILLO, Chairperson

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK AMENDING TITLE 17 (ZONING) OF THE NEWARK MUNICIPAL CODE TO REVISE CHAPTER 17.20 (COMMERCIAL DISTRICTS) AND CHAPTER 17.24 (INDUSTRIAL DISTRICTS) BY AMENDING SECTIONS 17.20.030, 17.020.040, 17.24.030 AND 17.24.040.

The City Council of the City of Newark does ordain as follows:

Section 1: Pursuant to Section 17.80.070 of Title 17 (Zoning) of the City of Newark Municipal Code, the City Council of the City of Newark does hereby find that the zoning text amendments embodied in this ordinance as set forth in Exhibit A, attached hereto and made a part hereof by reference, is necessary and desirable to achieve the purposes of Title 17 (Zoning) of the Newark Municipal Code, which seeks to remove “Distribution and Warehousing Uses” as a permitted use in the General Commercial, Intermediate Commercial, High Technology Park, Industrial Technology Park, Industrial Park, Limited Industrial, and General Industrial Zoning Districts and add “Distribution and Warehouse Uses” as a conditional use in the General Commercial, Intermediate Commercial, High Technology Park, Industrial Technology Park, Industrial Park, Limited Industrial, and General Industrial Zoning Districts with the aim of establishing the appropriate process to determine potential negative impacts associated with Distribution and Warehouse Uses.

Section 2: The City Council of the City of Newark does hereby find and declare that the zoning text amendment embodied in this ordinance as set forth in Exhibit A, attached hereto and made a part hereof by reference, is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that where it can be seen with certainty that there is no possibility that the activity in question may have a significant impact on the environment, the activity is not subject to CEQA.

Section 3: Title 17 (Zoning) of the Newark Municipal Code is hereby amended as shown in Exhibit A, with ~~strikeout~~ denoting deletions and underline denoting additions.

Section 4: Effective Date. This ordinance shall take effect thirty (30) days from the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance shall be published in The Argus, a newspaper of general circulation published and printed in the County of Alameda and circulated in the City of Newark.

The foregoing ordinance was introduced and read before the City Council of the City of Newark by _____ at the regular meeting of the City Council of the City of Newark held on June ____, 2017.

This ordinance was read at the regular meeting of the City Council held June ____, 2017. Council Member _____ moved that it be adopted and passed, which motion was duly seconded, and said ordinance was passed and adopted.

AYES:

NOES:

ABSENT:

SECONDED:

APPROVED:

ATTEST:

s/ALAN L. NAGY
Mayor

s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:

s/David Benoun
City Attorney

Exhibit A

17.20.030 - Permitted uses.

Uses shall be permitted in the respective C commercial districts according to the appropriate list below, provided that the structure, if any, which any use shall occupy, use, retain or place upon the use's site shall be of new construction at the time of initial occupancy, and further provided that in the CG and CI districts, when in the planning director's opinion, the permitted use could result in air pollution, production of smoke, dust, vibrations, noxious odors, danger of fire or explosion or any danger to health or safety, a use permit as provided in this chapter shall be required.

Subsections A-E have been omitted for ease of review.

F. Uses permitted in the general commercial district (CG):

- Administrative, financial, professional and real estate offices;
- Automobile repairing and refurbishing within enclosed buildings;
- Automobile sales of new and used cars, parts and supplies including servicing within enclosed buildings;
- Bakery goods stores and bakeries for on-site sales;
- Bakery products plants;
- Barber shops;
- Beauty shops;
- Boat sales and service;
- Book binding;
- Building materials yards other than gravel, rock or cement yards when located at least three hundred feet from an R district;
- Cabinet and carpenter shops;
- Carpet and rug cleaning and dyeing;
- Catering shops;
- Christmas tree and other seasonable sales lots, not to exceed six per year (lots shall be cleaned up within seven days after sales have ceased);
- Coffee shops and specialty food stores;
- Cold storage plants;
- Contractor's equipment rental and storage yards when located at least three hundred feet from an R district;
- Diaper supply services;
- Electrical contractor shops;

- Exterminators;
- Feed and fuel stores;
- Food lockers;
- Garage door installation, repair, sales and service within enclosed building (no outdoor storage);
- Gift shops;
- Glass replacement and repair shops;
- Gunsmiths;
- Heating and ventilation shops;
- Household equipment repair shops;
- Laboratories, not including flammable liquids or explosives;
- Laundries and cleaning and dyeing plants;
- Linen supply services;
- Live storage, killing or dressing of poultry or rabbits for retail sales on the premises when located at least three hundred feet from an R district;
- Locksmiths;
- Lumber yards, not including planing mills or saw mills when located at least three hundred feet from an R district;
- Medical and dental offices and clinics;
- Meeting halls;
- Motorcycle sales and service;
- Musical instrument repair shops;
- Newspaper publishing and printing;
- Newsstands;
- Nurseries and garden supply stores;
- Office and business equipment repair shops;
- Packing and crating;
- Parcel delivery services, including repair shop facilities;
- Parking lots improved according to the standards prescribed for required off-street parking;
- Photocopy shops including self-serve facilities;
- Photographic developing and printing plants;

- Plumbing shops;
- Post offices;
- Prescription pharmacies and dental and optical laboratories;
- Printing, lithographing and engraving plants;
- Refrigeration and air conditioning equipment shops;
- Rental of hand tools, garden tools, power tools, trailers and other similar equipment;
- Repair and storage garages within enclosed buildings;
- Restaurants and drive-in restaurants, excluding filmed or live entertainment;
- Safe and vault repair shops;
- Self-service laundries and dry-cleaning establishments;
- Sheet metal shops;
- Stone and monument yards when located at least three hundred feet from an R district;
- ~~Storage buildings for commercial and household goods (except for the storage of perishable, flammable, explosive or dangerous materials, live animals, or use of the storage facilities for a dwelling or place of business, manufacturing or production);~~
- Storage yards for commercial vehicles;
- Taxidermists;
- Tire sales, retreading and recapping, within enclosed buildings;
- Trailer sales, service and other associated retail;
- Transit yards when located at least three hundred feet from an R district;
- Travel agencies and services;
- Trucking terminals when located at least three hundred feet from an R district;
- Union halls;
- Upholstering shops;
- Veterinarians' offices and small animal hospitals, including short-term animal boarding and incidental care but not including long-term boarding or kennels, with all operations conducted within a completely enclosed building;
- Veterinarians' offices and small animal hospitals, including long-term boarding and kennels, when located at least three hundred feet from an R district;
- ~~Warehouses except for the storage of fuel or flammable liquids or explosives;~~
- Accessory structures and uses located on the same site with and necessary for the operation of a permitted use.

G. Uses permitted in the intermediate commercial district (CI):

- Administrative, financial, professional and real estate offices;
- Administrative social services facilities;
- Automobile sales of new and used cars, parts and supplies including servicing within enclosed buildings;
- Automobile repairing and refurbishing within enclosed buildings;
- Bakery goods stores and bakeries for on-site sales;
- Bakery products plants;
- Barber and beauty supply stores;
- Boat sales and service;
- Bookbinding;
- Bottling works;
- Building contractor shops within enclosed buildings when located more than three hundred feet from an R district;
- Building materials manufacture and assembly, including composition wallboards, panels and prefabricated structures, within enclosed buildings;
- Cabinet and carpenter shops;
- Carpet and rug cleaning and dyeing;
- Catering shops;
- Christmas tree and other seasonable sales lots, not to exceed six per year (lots shall be cleaned up within seven days after sales have ceased);
- Clothing and yardage sales including wholesale;
- Cold storage plants;
- Community service organizations and facilities;
- Dairy products plants;
- Delicatessen stores;
- Diaper supply services;
- Feed and fuel stores;
- Fire protection equipment manufacture, assembly, sales and service;
- Food lockers;
- Food stores and supermarkets;
- Forklift rental, sales, service and storage within an enclosed building;
- Furniture auction halls;

- Garage door manufacture, assembly, sales and service within enclosed buildings;
- Glass replacement and repair shops;
- Gunsmiths;
- Gymnasiums and health spas;
- Heating and ventilation shops;
- Hobby shops;
- Household equipment repair shops;
- Household major appliance sales and service;
- Housewares stores;
- Laboratories, not including flammable liquids or explosives;
- Laundries and cleaning and dyeing plants;
- Linen supply services;
- Locksmiths;
- Lumberyards, not including planing mills or sawmills;
- Machine shops, not using drop hammers, automatic screw machines or punch presses with a rated capacity of over twenty tons, within enclosed buildings when located more than three hundred feet from an R district;
- Meeting halls;
- Motion picture and video production;
- Motorcycle sales and service;
- Musical instrument repair shops;
- Newspaper publishing and printing;
- Nurseries and garden supplies stores;
- Office and business equipment sales and repair stores;
- Packing and crating;
- Paint, glass and wallpaper stores;
- Parcel delivery services, including repair shop facilities within enclosed buildings;
- Parking lots improved according to the standards prescribed for required off-street parking;
- Party supply stores including wholesale;
- Pet and bird stores;
- Photocopy shops including self-service facilities;

- Photographic developing and printing plants;
- Plumbing shops;
- Printing, lithographing and engraving plants;
- Radio and television repair shops;
- Refrigeration and air conditioning equipment shops;
- Rental of hand tools, garden tools, power tools, trailers and other similar equipment within buildings;
- Repair and storage garages within enclosed buildings;
- Restaurant equipment sales, rental and service;
- Safe and vault repair shops;
- Sporting goods stores;
- ~~Storage buildings for commercial and household goods (except for the storage of perishable, flammable, explosive or dangerous materials, live animals, or use of the storage facilities for a dwelling or place of business, manufacturing or production);~~
- Storage yards for recreational vehicles when located more than three hundred feet from an R district;
- Taxidermists;
- Tire sales, retreading and capping within enclosed buildings;
- Trailer sales, service and other associated retail;
- Trophy manufacturing and sales;
- Union halls;
- Upholstering shops;
- Veterinarians offices and small animal hospitals, including short-term animal boarding and incidental care, but not including long-term boarding or kennels, with all operations conducted within a completely enclosed building;
- ~~Warehouses except for the storage of fuel or flammable liquids or explosives;~~
- Woodworking shops and sash and door manufacture, including only incidental millwork conducted within enclosed buildings when located more than three hundred feet from an R district;
- Accessory structures and uses located on the same site with and necessary for the operations of a permitted use.

17.20.040 - Conditional Uses.

Conditional uses shall be permitted in the respective C commercial districts, subject to securing a use permit, according to the appropriate list below. The planning director may determine if a use permit is required for accessory structures and uses located on the same site with and necessary for the operation of a conditional use.

Subsections A-E have been omitted for ease of review.

F. Conditional uses permitted in the general commercial district (CG):

- Automobile washing, including the use of mechanical conveyors, blowers and steam cleaning;
- Convenience food stores;
- Filmed or live entertainment at restaurants;
- Massage studios;
- Nonprofit youth clubs;
- Planned unit development as provided in Chapter 17.40;
- Public buildings, grounds, parks, playgrounds and other public recreational facilities;
- Public and private utility facilities and equipment;
- Service stations, subject to the following conditions:
 1. All operations except gasoline sales and automobile washing shall be conducted in buildings enclosed on at least three sides,
 2. No gasoline pump island shall be located closer than twenty feet to any property line.
- Warehouses except for the storage of fuel or flammable liquids or explosives.

G. Conditional uses permitted in the intermediate commercial district (CI):

- Automobile washing, including the use of mechanical conveyors, blowers and steam cleaning;
- Barber shops;
- Beauty shops;
- Convenience food stores;
- Financial institutions;
- Massage studios;
- Nonprofit youth clubs;
- Planned unit development as provided in Chapter 17.40;
- Public and private utility facilities and equipment;
- Public buildings, grounds, parks, playgrounds and other public recreational facilities;

- Radio and television broadcasting studios;
- Service stations, subject to the following conditions:
 1. All operations except gasoline sales and automobile washing shall be conducted in buildings enclosed on at least three sides,
 2. No gasoline pump island shall be located closer than twenty feet to any property line,
 3. No rental of trailers or tools;
- Technical and trade schools;-
- Warehouses except for the storage of fuel or flammable liquids or explosives.

17.24.030 - Permitted uses.

Uses shall be permitted in the respective M industrial districts according to the appropriate list below, except when, in the planning director's opinion, the permitted use could result in air pollution, production of smoke, dust, vibrations, noxious odors, danger of fire or explosion or any danger to health or safety or where a permitted use could be deemed a nuisance as defined at common law, by statute of the state or code of the city, a use permit as provided in this chapter shall be required.

- A. Uses permitted in the high technology park district (MT-1):
- Administrative, financial and professional offices;
 - Business machine manufacture and assembly;
 - Cafeterias for site employees and business guests only incidental to, necessary for the operation of, and on the same site as a permitted use;
 - Camera and photographic equipment manufacture and assembly, except film;
 - Computer software development;
 - Day care facilities for site employees, only incidental to and on the same site as a permitted use;
 - Electronic instrument and component manufacture and assembly;
 - Drug and pharmaceutical manufacture and assembly;
 - Laboratories devoted to experimentation, research and development;
 - Medical hardware manufacture and assembly;
 - Motion picture and television production;
 - Musical instrument manufacture and assembly;
 - Optical goods manufacture and assembly;
 - Parking lots improved according to the standards for required off-street parking facilities;
 - Photographic processing and developing;
 - Precision instrument manufacture and assembly;

- Printing, publishing, lithographing, engraving and binding;
- Research and development;
- Scientific, medical, dental and drafting instrument manufacture and assembly;
- Warehouse/distribution operations, except that such use shall only be permitted in a business park setting where no more than thirty-three percent of the total developable area is used for this purpose;
- Accessory structures located on the same site with and necessary for the operation of a permitted use.

B. Uses permitted in the industrial technology park district (MT):

- Administrative, financial and professional offices;
- Business machine manufacture and assembly;
- Cafeterias for site employees and business guests only incidental to, necessary for the operation of, and on the same site as a permitted use;
- Camera and photographic equipment manufacture and assembly, except film;
- Computer software development;
- Day care facilities for site employees, only incidental to and on the same site as a permitted use;
- Drug and pharmaceutical manufacture and assembly;
- Electronic instrument and component manufacture and assembly;
- Laboratories devoted to experimentation, research and development;
- Medical hardware manufacture and assembly;
- Motion picture and television production;
- Optical goods manufacture and assembly;
- Parking lots improved according to the standards for required off-street parking facilities for the same site as the use for which it is intended only;
- Photographic processing and developing;
- Precision instrument manufacture and assembly;
- Printing, publishing, lithographing, engraving and binding;
- Recreational and educational facilities for site employees and business guests only incidental to, necessary for the operation of, and on the same site as a permitted use;
- Research and development;
- Retail stores for sale of products manufactured on-site incidental to and necessary for the operation of a permitted use;

— Residences for business guests, employees on temporary assignment and maintenance and security personnel only, incidental to, necessary for the operation of, and on the same site as a permitted use;

— Scientific, medical, dental and drafting instrument manufacture and assembly;

~~— Warehouses for related products not to exceed forty percent of the total site floor area, only incidental to, necessary for the operation of, and on the same site as a permitted use;~~

— Accessory structures for custodial and maintenance services only incidental to, necessary for the operation of, and on the same site as a permitted use.

C. Uses permitted in the industrial park district (MP):

— Administrative, financial and professional offices;

— Bottling works;

— Camera and photographic equipment manufacture and assembly, except film;

— Ceramic products manufacture and assembly, using only previously pulverized clay and electric or gas-fired kilns;

— Cold storage plants;

— Cosmetic, perfume and toiletry manufacture, not including refining or rendering of fats or oils;

— Commercial advertising structure manufacture and assembly;

— Day care facilities for site employees, only incidental to and on the same site as a permitted use;

— Die and pattern making manufacture and assembly;

— Drug and pharmaceutical manufacture and assembly;

— Electrical appliance, supplies and equipment manufacture, provided that no noxious or offensive fumes or odors are emitted;

— Electronic instrument and component manufacture and assembly;

— Forklift rental, sales, service and storage;

— Hardware manufacture and assembly;

— Laboratories devoted to experimentation, research and development;

— Light sheet metal product manufacture and assembly;

— Manufacturing, assembling, compounding, packaging and processing from the following previously prepared materials:

— bone,

— canvas,

— cellophane,

— cellulose,

- cloth,
- cork,
- feathers,
- felt,
- fiber and synthetic fiber,
- fur,
- glass,
- hair,
- horn,
- leather,
- paint (not using a boiling process),
- paper,
- plastics,
- precious or semiprecious metals or stones,
- rubber and synthetic rubber,
- shell,
- straw,
- textiles,
- tobacco,
- wood;
- Medical hardware manufacture and assembly;
- Metal products manufacture through stamping or extrusion of small items such as pins, buttons and kitchen utensils;
- Motion picture and television production;
- Musical instrument manufacture and assembly;
- Optical goods manufacture and assembly;
- Parking lots improved according to the standards for required off-street parking facilities;
- Precision instrument manufacture and assembly;
- Printing, publishing, lithographing, engraving and binding;
- Retail stores incidental to and on the same site with a permitted use;

- Scientific, medical, dental and drafting instrument manufacture and assembly;
- Union halls;
- ~~Warehouse, except for storage of flammable liquids;~~
- Accessory structures located on the same site with and necessary for the operation of a permitted use.

D. Uses permitted in the limited industrial district (ML):

- Administrative, financial and professional offices;
- Automobile repairing and refurbishing within enclosed buildings;
- Battery manufacture and assembly;
- Bottling works;
- Box factories and cooperage;
- Breweries, distilleries and wineries;
- Building materials manufacture and assembly, not including cement, clay and metal products;
- Bus depots;
- Camera and photographic equipment manufacture and assembly, except film;
- Candle manufacture and assembly, not including rendering;
- Carpet and rug manufacture and assembly;
- Ceramic and porcelain products manufacture and assembly, using only previously pulverized clay and electric or gas-fired kilns;
- Cold storage plants;
- Commercial advertising structure manufacture and assembly;
- Cork manufacture and assembly;
- Cosmetic, perfume and toiletry manufacture, not including refining or rendering of fats or oils;
- Cotton ginning, cotton wadding and linter manufacture and assembly;
- Dairy product plants;
- Die and pattern making manufacture and assembly;
- Drug and pharmaceutical manufacture and assembly;
- Electrical appliances, supplies and equipment manufacture and assembly, provided that no noxious or offensive fumes or odors are emitted;
- Electronic instrument and component manufacture and assembly;
- Food and food product manufacture and assembly, provided that no noxious or offensive fumes or odors are emitted;

- Forklift rental, sales, service and storage;
- Freight forwarding terminals;
- Furniture manufacture and assembly;
- Glass and glass product manufacture and assembly;
- Hardware manufacture and assembly;
- Laboratories devoted to experimentation, research and development;
- Light sheet metal product manufacture and assembly;
- Lumberyards, not including planning mills or sawmills;
- Machine shops, not using drop hammers, automatic screw machines or punch presses with a rated capacity of over twenty tons;
- Manufacturing, assembling, compounding, packaging and processing from the following previously prepared materials:
 - bone,
 - canvas,
 - cellophane,
 - cellulose,
 - cloth,
 - cork,
 - feathers,
 - felt,
 - fiber and synthetic fiber,
 - fur,
 - glass,
 - hair,
 - horn,
 - leather,
 - paint (not using a boiling process),
 - paper,
 - plastics,
 - precious or semiprecious metals or stones,
 - rubber and synthetic rubber,

- shell,
- straw,
- textiles,
- tobacco,
- wood;
- Mattress manufacture and assembly;
- Medical hardware manufacture and assembly;
- Metal container manufacture and assembly;
- Metal finishing and plating;
- Metal products manufacture through stamping or extrusion of small items such as pins, buttons and kitchen utensils;
- Motion picture and television production;
- Motor and generator manufacture and assembly;
- Musical instrument manufacture and assembly;
- Optical goods manufacture and assembly;
- Painting, enameling and lacquering shops;
- Paper products manufacture and assembly;
- Paraffin products manufacture and assembly;
- Parking lots improved according to the standards for required off-street parking facilities;
- Plastics manufacture and assembly;
- Precision instrument manufacture and assembly;
- Printing, publishing, lithographing, engraving and binding;
- Railroad stations;
- Retail stores incidental to and on the same site with a permitted use;
- Scientific, medical, dental and drafting instrument manufacture and assembly;
- Shoe polish manufacture and assembly;
- Small boat manufacture and assembly, not including ship building;
- Storage yards for commercial vehicles;
- Trailer rentals, sales and service;
- Transit yards;

- Trucking terminals;
- Union halls;
- ~~Warehouse, except for storage of flammable liquids;~~
- Welding shops;
- Woodworking shops, with incidental millwork conducted within a completely enclosed structure only;
- Accessory structures located on the same site with and necessary for the operation of a permitted use.

E. Uses permitted in the general industrial district (MG):

- Administrative, financial and professional offices;
- Aircraft and aircraft accessories and parts manufacture and assembly;
- Automobile, truck and trailer manufacture and assembly, including accessories and parts;
- Battery manufacture and assembly;
- Boiler works;
- Bottling works;
- Box factories and cooperage;
- Breweries, distilleries and wineries;
- Building materials manufacture and assembly, not including cement, clay and metal products;
- Bus depots;
- Camera and photographic equipment manufacture and assembly, except film, provided that no sensitive electronics or precision parts of equipment are used or manufactured;
- Candle manufacture and assembly, not including rendering;
- Carpet and rug manufacture and assembly;
- Cement products manufacture and assembly;
- Ceramic, clay and porcelain products manufacture and assembly;
- Chemical products manufacture and assembly, provided no fire or explosive hazard is created;
- Cold storage plants;
- Commercial advertising structure manufacture and assembly;
- Cork manufacture and assembly;
- Cosmetic, perfume and toiletry manufacture, not including refining or rendering of fats or oils;
- Cotton ginning and cotton wadding and linter manufacture and assembly;

- Dairy products manufacture and assembly;
- Die and pattern making manufacture and assembly;
- Drug and pharmaceutical manufacture and assembly;
- Electrical appliance, supplies and equipment manufacture and assembly, provided that no noxious or offensive fumes or odors are emitted;
- Electronic instrument and component manufacture and assembly; provided that no sensitive electronics or precision parts or equipment are used or manufactured;
- Firearms manufacture and assembly;
- Food and food products manufacture and assembly;
- Forklift rental, sales, service and storage;
- Freight forwarding terminals;
- Furniture manufacture and assembly;
- Glass and glass products manufacture;
- Grain elevators;
- Graphite and graphite product manufacture and assembly;
- Gravel, rock and cement yards;
- Hardware and hand tool manufacture and assembly;
- Ink manufacture and assembly;
- Jute, hemp, sisal and oakum manufacture and assembly;
- Laboratories devoted to experimentation, research and development, with no sensitive electronic or precision parts or equipment;
- Leather and finishing and dyeing, not including tanning and curing;
- Light sheet metal product manufacture and assembly;
- Lumberyards, not including planing mills or sawmills;
- Machine shops, not using drop hammers, automatic screw machines or punch presses with a rated capacity of over twenty tons;
- Machine tool manufacture and assembly;
- Machinery manufacture, including light and heavy machines and appliances;
- Manufacturing, assembling, compounding, packaging and processing from the following previously prepared materials:
 - bone,
 - canvas,

- cellophane,
- cellulose,
- cloth,
- cork,
- feathers,
- felt,
- fiber and synthetic fiber,
- fur,
- glass,
- hair,
- horn,
- leather,
- paint (not using a boiling process),
- paper,
- plastics,
- precious or semiprecious metals or stones,
- rubber and synthetic rubber,
- shell,
- straw,
- textiles,
- tobacco,
- wood;
- Mattress manufacture and assembly;
- Meat product manufacture and assembly not including slaughtering and glue size manufacture;
- Medical hardware manufacture and assembly;
- Metal alloy and foil manufacture and assembly;
- Metal casting and foundries not including magnesium foundries;
- Metal container manufacture and assembly;
- Metal finishing and plating;

- Metal products manufacture through stamping or extrusion of small items such as pins, buttons and kitchen utensils;
- Motion picture and television production;
- Motor and generator manufacture and assembly;
- Motor testing of internal combustion engines;
- Musical instrument manufacture and assembly, provided that no sensitive electronics or precision parts of equipment are used or manufactured;
- Optical goods manufacture and assembly;
- Painting, enameling and lacquering shops;
- Paper product manufacture and assembly;
- Paraffin product manufacture and assembly;
- Parking lots improved according to the standards for required off-street parking facilities;
- Plastics manufacture and assembly;
- Precious metals reduction, smelting and refining;
- Precision instrument manufacture and assembly, provided that no sensitive electronics or precision parts of equipment are used or manufactured;
- Printing, publishing, lithographing, engraving and binding;
- Railroad freight stations, repair shops and yards;
- Railroad stations;
- Retail stores incidental to and on the same site with a permitted use;
- Rubber product manufacture and assembly;
- Salt works;
- Sandblasting;
- Scientific, medical, dental and drafting instrument manufacture and assembly;
- Shoe polish manufacture and assembly;
- Small boat manufacture and assembly, not including ship building;
- Starch and dextrine manufacture and assembly;
- Steel product manufacture and assembly;
- Stone products manufacture and assembly, including items such as abrasives;
- Storage, sorting, collecting or baling of iron, junk, paper, rags, or scrap metal within a completely enclosed structure;
- Storage yards for commercial vehicles;

- Textile bleaching;
- Textile, knitting and hosiery mills;
- Tobacco curing and processing;
- Trailer rentals, sales and service;
- Transit yards;
- Trucking terminals;
- Union halls;
- ~~Warehouse, except for storage of flammable liquids;~~
- Watch and clock manufacture and assembly, provided that no sensitive electronics or precision parts of equipment are used or manufactured;
- Welding shops;
- Wire and cable manufacture and assembly;
- Wood and lumber processing and woodworking;
- Wool scouring and pulling;
- Accessory structures located on the same site with and necessary for the operation of a permitted use.

17.24.040 - Conditional uses.

Conditional uses shall be permitted in the respective M industrial districts according to the appropriate list below, subject to securing a use permit. The planning director may determine if a use permit is required for accessory structures and uses located on the same site with and necessary for the operation of a conditional use.

- A. Conditional uses permitted in the high technology park district (MT-1):
 - Accessory commercial uses when in conformity with an adopted specific plan;
 - Biotechnology research, development and manufacturing operations;
 - Hotels and motels, including restaurants and lounge bars as an integral part thereof, but excluding live and filmed entertainment;
 - Planned unit developments as provided in Chapter 17.40;
 - Public and private utility facilities and equipment;
 - Railroad stations when in conformity with an adopted specific plan;
 - Restaurants;
 - Schools and colleges when in conformity with an adopted specific plan;
 - Warehouse, except for storage of flammable liquids/distribution operations.
- B. Conditional uses permitted in the industrial technology park district (MT):

- Biotechnology research, development and manufacturing operations;
- Planned unit developments as provided in Chapter 17.40;
- Public and private utility facilities and equipment;
- Public buildings and grounds;
- Warehouse, except for storage of flammable liquids/distribution operations.

C. Conditional uses permitted in the industrial park district (MP):

- Financial institutions;
- Planned unit developments as provided in Chapter 17.40;
- Public buildings and grounds;
- Public and private utility facilities and equipment;
- Restaurants;
- Service stations, subject to the following conditions:
 1. All operations except gasoline sales and automobile washing shall be conducted in buildings enclosed on at least three sides,
 2. No gasoline pump island shall be located closer than twenty feet to any property line,
 3. No rental of trailers, hand tools, garden tools, power tools and other similar equipment as an incidental part of the service station operation,
 4. No major automobile repairs, such as engine overhaul, transmission and differential repair, body and fender work, and other repairs of a similar nature shall be performed;
- Technical and trade schools;
- The uses listed below shall be permitted with a conditional use permit, provided that on the basis of the use permit application and evidence submitted, the planning commission makes the following findings in addition to the findings prescribed for granting a use permit:

1. That consideration of all the determinable characteristics of the use which is the subject of the application indicates that the use has the same essential characteristics as the uses permitted in the MP district with respect to method of operation, type of process, materials, equipment, structures, storage and appearance,
2. That the use will not create significantly more vehicular or rail traffic than the volumes normally created by uses permitted in the MP district,
3. That the use reasonably can be expected to conform with the special conditions prescribed in Section 17.24.120 for uses permitted in the MP district,

Uses:

- Automobile repairing and refurbishing within enclosed buildings,
- Battery manufacture and assembly,
- Boat manufacture and assembly of small boats only, not including shipbuilding,
- Box factories and cooperage,

- Breweries, distilleries and wineries,
- Building materials manufacture and assembly, not including cement, clay and metal products,
- Bus depots,
- Candle manufacture and assembly, not including rendering,
- Carpet and rug manufacture and assembly,
- Cork manufacture and assembly,
- Cotton ginning and cotton wadding and linter manufacture and assembly,
- Dairy products plants,
- Food and food product manufacture, provided that no noxious or offensive fumes or odors are emitted,
- Freight forwarding terminals,
- Furniture manufacture and assembly,
- Glass and glass product manufacture and assembly,
- Lumberyards, not including planing mills or sawmills,
- Machine shops, not using drop hammers, automatic screw machines or punch presses with a rated capacity of over twenty tons,
- Mattress manufacture and assembly,
- Metal container manufacture and assembly
- Metal finishing and plating,
- Motor and generator manufacture and assembly
- Painting, enameling and lacquering shops,
- Paper product manufacture and assembly,
- Paraffin product manufacture and assembly,
- Plastics manufacture and assembly,
- Porcelain manufacture and assembly,
- Railroad stations,
- Shoe polish manufacture and assembly,
- Storage yards for commercial vehicles,
- Trailer rentals, sales and service,
- Transit yards,
- Trucking terminals,

- Watchman's living quarters incidental to and on the same site with a permitted use,
- Warehouse, except for storage of flammable liquids/distribution operations,
- Welding shops,
- Woodworking shops, including only incidental millwork conducted within a completely enclosed structure.

D. Conditional uses permitted in the limited industrial district (ML):

- Automobile washing, including the use of mechanical conveyors, blowers and steam cleaning;
- Financial institutions;
- Freight forwarding terminals;
- Planned unit developments as provided in Chapter 17.40;
- Public buildings and grounds;
- Public and private utility facilities and equipment;
- Restaurants;
- Service stations, subject to the following conditions:
 1. All operations except gasoline sales and automobile washing shall be conducted in buildings enclosed on at least three sides,
 2. No gasoline pump island shall be located closer than twenty feet to any property line,
 3. No rental of trailers, hand tools, garden tools, power tools and other similar equipment as an incidental part of the service station operation;
- Technical and trade schools;
- The uses listed below shall be permitted with a conditional use permit, provided that on the basis of the use permit application and evidence submitted, the planning commission makes the following findings in addition to the findings prescribed for granting a use permit:

1. That consideration of all the determinable characteristics of the use which is the subject of the application indicates that the use has the same essential characteristics as the uses permitted in the ML district with respect to method of operation, type of process, materials, equipment, structures, storage and appearance,
2. That the use will not create significantly more vehicular or rail traffic than the volumes normally created by uses permitted in the ML district,
3. That the use reasonably can be expected to conform with the special conditions prescribed in Section 17.24.120 for uses permitted in the ML district,

Uses:

- Aircraft and aircraft accessories and parts manufacture and assembly,
- Automobile, truck and trailer manufacture and assembly, including accessories and parts,
- Boiler works,
- Cement product manufacture and assembly,

- Chemical product manufacture and assembly provided no fire or explosive hazard is created,
- Clay product manufacture and assembly,
- Firearms manufacture and assembly,
- Food processing, roasting, refining, pasteurizing and extracting, not including processing of meat or fish,
- Grain elevators,
- Graphite and graphite process manufacture and assembly,
- Gravel, rock and cement yards,
- Ink manufacture and assembly,
- Jute, hemp, sisal and oakum products manufacture and assembly,
- Leather and fur finishing and dyeing, not including tanning and curing,
- Machine tool manufacture and assembly,
- Machinery manufacture and assembly, including light and heavy machines and appliances,
- Meat product processing and packaging, not including slaughtering and glue size manufacture,
- Metal alloy and foil manufacture and assembly,
- Metal casting and foundries not including magnesium foundries,
- Motor testing of internal combustion engines,
- Precious metals reduction, smelting and refining
- Railroad freight stations, repair shops and yards,
- Rubber product manufacture and assembly,
- Salt works,
- Sandblasting,
- Starch and dextrine manufacture and assembly
- Steel and structural steel product manufacture and assembly,
- Stone product manufacture and assembly, including items such as abrasives,
- Storage, sorting, collecting or baling of iron, junk, paper, rags, or scrap metal within a completely enclosed structure,
- Textile bleaching,
- Textile, knitting and hosiery mills,
- Tobacco curing and processing,
- Warehouse, except for storage of flammable liquids/distribution operations.

- Watchman's living quarters incidental to and on the same site with a permitted use,
- Wire and cable manufacture and assembly,
- Wood and lumber processing and woodworking,
- Wool scouring and pulling.

E. Conditional uses permitted in the general industrial district (MG):

- Airports and heliports;
- Asphalt and asphalt product manufacture and assembly;
- Automobile washing, including the use of mechanical conveyors, blowers and steam cleaning;
- Cement, lime, gypsum and plaster of paris manufacture;
- Charcoal, lampblack and fuel briquette manufacture;
- Chemical manufacture with potential fire or explosive hazard;
- Coal, coke and tar products manufacture and assembly;
- Drop forges;
- Explosives manufacture and assembly, including fireworks;
- Film manufacture and assembly;
- Financial institutions;
- Fish products manufacture;
- Freight forwarding terminals;
- Gas manufacture and storage;
- Gelatin, glue or size manufacture from animal or fish refuse;
- Lard manufacture;
- Linoleum or oil cloth manufacture and assembly;
- Magnesium foundries;
- Manure, peat and topsoil processing and storage;
- Match manufacture and assembly;
- Metal and metal ores reduction, refining, smelting and alloying;
- Motor vehicle wrecking yards;
- Paint manufacture including enamel, lacquer, shellac, turpentine and varnish;
- Paper manufacture and assembly;
- Petroleum and petroleum products refining;

- Planned unit developments as provided in Chapter 17.40;
- Public and private utility facilities and equipment;
- Public buildings and grounds;
- Recycling plants;
- Restaurants;
- Rifle ranges;
- Rolling mills;
- Rubber manufacture or processing;
- Sensitive electronic or precision parts or equipment used or manufactured as part of a permitted use;
- Service stations, subject to the following conditions:
 1. All operations except gasoline sales and automobile washing shall be conducted in buildings enclosed on at least three sides,
 2. No gasoline pump island shall be located closer than twenty feet to any property line,
 3. No rental of trailers, hand tools, garden tools, power tools and other similar equipment as an incidental part of the service station operation;
- Soap manufacture including rendering of fats or oils;
- Steam plants;
- Storage of flammable liquids;
- Tallow manufacture;
- Tanneries and storage and curing of rawhides;
- Technical and trade schools;
- Warehouse, except for storage of flammable liquids/distribution operations;
- Watchman's living quarters incidental to and on the same site with a permitted use;
- Wood and bones distillation;
- Wood pulp and fiber reduction and processing.