



- E.2 Hearing to consider P-17-05, a planned unit development, E-17-06, environmental determination, TTM-17-07, vesting tentative tract map 8387, and U-17-08, a conditional use permit, for a proposed eight-lot, sixteen-unit, multi-family residential townhome-style subdivision at 37243 and 37257 Filbert Street (APN(s) 092-0131-001-09, 092-0131-002-04 AND 092-0131-003) – from Assistant Planner Bowab. *[Signature]* (RESOLUTIONS-2) (MOTION)**

Background

SRAJ Development Inc. has submitted an application for a 16-unit residential condominium project. The project area is a vacant lot that is approximately 41,709 square feet (0.96 +/- acre) in size and is bounded by a railway right-of-way to the north, multi-family residential to the west, a single-family residence the south and Filbert Street on the east. The subject site is zoned R-2500 (Medium Density Residential) with a Medium Density Residential general plan land use designation. This project was scheduled for a Planning Commission Public Hearing on August 8, 2017, and the meeting was adjourned to a regular Planning Commission meeting on August 22, 2017.

The project consists of six 3-story townhome-style buildings with 2 to 3 units per building. Each unit is approximately 1,960 square feet, with 4 bedrooms, 3.5 bathrooms, an attached 2-car garage, and a private balcony. Vehicular access will be off of one driveway on Filbert Street. The architectural design and character is influenced by Craftsman and Mediterranean Eclectic styles with a variety of colors, finishes, and textures to provide the units a unique look while still maintaining a cohesive, complimentary whole. Each unit was designed with a distinct main entry porch, articulated roof lines, pop-outs and balconies to avoid large expanses of blank walls. Exterior materials consist of stucco, stone veneer, trim treatments, decorative columns, knee brackets, wood balcony railings, and a/c unit screens. Careful attention was given to the street side elevations to provide the streetscape with visual interest and attractiveness. All units along the Filbert Street were designed with street facing porch entryways and the driveway is to include decorative pavers. In addition, due to the proximity of a single-story, single-family home on the south side of the project, the proposed buildings were setback 20 feet from the south property line.

There is a common open space area located on the north side of the site with amenities to include barbeque grills, picnic tables, a children's play area (for ages 2-5 years), trellises, and a gazebo. A masonry wall, ranging from 6 feet to 12 feet high, will be built along the perimeter of the project, including along the railroad right-of-way side of the site. Enhanced landscaping will be planted along the interior perimeter wall to discourage graffiti. Enhanced landscaping will also be installed along the entire front of the site along with street improvements. Five uncovered guest parking spaces and ring style bicycle parking racks will be provided.

A community meeting was held by the applicant on Thursday November 3, 2016. The notice was

sent to a 300 foot radius around the project site. Two adjacent property owners were in attendance and in support of the project.

Planned Unit Development and Conditional Use Permit Findings

The Findings given in the draft resolution of approval contains language that comes from the Newark City 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 the application materials on file, this staff report and the supporting exhibits attached.

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 R-2500 (Medium Density Residential). Section 17.16.020 of Newark Municipal Code states that R residential districts are included in the zoning title to reserve appropriately located areas for family living at a reasonable range of population densities consistent with sound standards of public health and safety; to reserve areas appropriate by location and character for high density multifamily dwellings; and to assure adequate light, air, privacy and open space for each dwelling. There are 16 residential condominium units proposed on an approximate 43,222 square foot site, which meets the residential land use requirement of the district as well as the minimum site area of 2,500 square feet per dwelling unit.

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.

The townhomes are proposed on a site zoned for medium density residential, 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 project in order to ensure the desired environment of stable and desirable character consistent with the objectives of the zoning title.

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 proposed development meets the off-street parking requirements for residential uses as well as guest parking as required by Newark Municipal Code. There is only one proposed curb-cut off Filbert Street into the development site. The project is conditioned to relocate utilities and provide storm drain improvements to ensure the new residential development will not overload existing utilities. Existing public streets are adequate to accommodate the usage of 16 additional residential units at the proposed location.

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 development site is bounded by a railway right-of-way to the north, multi-family residential to the west, a single-family residence the south and a single-family residence across Filbert Street on the east. Thus, the proposed residential condominiums will be compatible with the surrounding residential uses.

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 R-2500 Medium Density Residential and multi-family dwellings 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.

Townhome-style condominiums are proposed in a medium density residential district. There is no reason to anticipate any detrimental or injurious effects of the project. Numerous conditions of approval are incorporated into the project in order to ensure the desired environment of stable and desirable character for the site and the neighboring area.

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 project in order to ensure that the planning of the project site will be in compliance with city code requirements.

Environmental Review

A sound and vibration study (Exhibit B) was prepared by Wilson Ihrig due to the proximity of the adjacent railroad right-of-way. The project is conditioned to meet the interior and exterior noise standards of the General Plan and to construct a recommended 12 foot high block wall along the perimeter property line adjacent to the railroad right-of-way.

This project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15332 (In-Fill Development Projects). A biological assessment (Exhibit C) was prepared by LSA Associates, Inc. to ensure this site does not contain any sensitive habitats and will not result in any significant adverse biological impacts.

Recommendation

Staff believes this project will be beneficial for the City and recommends approval of the proposed eight-lot, sixteen-unit, multi-family residential townhome-style subdivision project, subject to the conditions of approval listed in the attached resolution.

In addition, staff also recommends waiving the Art in Public Places and Private Development impact fee due to the applicant agreeing to provide a Historical Marker to identify historical significance to the site.

Action – It is recommended that the Planning Commission, by resolutions: (1) approve P-17-05, a planned unit development, E-17-06, environmental determination, and U-17-08, a conditional use permit, for a proposed eight-lot, sixteen-unit, multi-family residential townhome-style subdivision at 37243 and 37257 Filbert Street (APN(s) 092-0131-001-09, 092-0131-002-04 AND 092-0131-003), with Exhibits A, B and C; (2) TTM-17-07, vesting tentative tract map 8387, Exhibit A; and (3) by motion, recommending that the City Council waive the Art in Public Places and Private Development impact fee.

Attachments

A- Plan Set, May 24, 2017

B- Sound and Vibration Study by Wilson Ihrig, August 29, 2016 rev. November 15, 2016

C- Biological Assessment by LSA Associates, Inc., October 14, 2016

RESOLUTION NO.

RESOLUTION APPROVING P-17-05, A PLANNED UNIT DEVELOPMENT, AND U-17-08, A CONDITIONAL USE PERMIT, TO ALLOW FOR A PROPOSED EIGHT-LOT, SIXTEEN-UNIT, MULTI-FAMILY RESIDENTIAL TOWNHOME-STYLE SUBDIVISION AT 37243 AND 37257 FILBERT STREET (APN(S): 092-0131-001-09, 092-0131-002-04 AND 092-0131-003)

WHEREAS, SRAJ Development Inc. has filed with the Planning Commission of the City of Newark an application for P-17-05, a planned unit development, and U-17-08, a conditional use permit, for a 16-unit residential condominium project; and

PURSUANT to the Municipal Code Section 17.72.060, a public hearing notice was published in The Tri City Voice on July 25, 2017 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on August 8, 2017 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, the public hearing was scheduled for August 8, 2017 and was adjourned to a regular Planning Commission meeting on August 22, 2017; and

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

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

5. That the combination of different dwelling types and/or the variety of land uses in the development will complement each other and will harmonize with existing and proposed land uses in the vicinity;
6. That the proposed location of the conditional use is in accord with the purposes of the zoning title and the purposes of the district in which the site is located;
7. That the proposed location of the conditional use and the conditions under which it 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 does hereby approves this application and recommends the City Council approve this application as shown on Exhibit A, B and C, subject to compliance with the following conditions:

Planning Division

- a. There shall be no roof-mounted equipment other than satellite dishes, other similar television or radio antennas, and solar equipment. A/C units shall not be mounted on the roof.
- b. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.
- c. Construction site trailers and buildings located on-site shall be used for office and storage purposes only, and shall not be used for living or sleeping quarters. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- d. Measures to respond to and track complaints pertaining to construction noise shall include: (1) a procedure and phone numbers for notifying the City of Newark Building Inspection Division and Newark Police Department (during regular construction hours and off-hours); and (2) a sign posted on-site pertaining to the permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours).
- e. The covenants, conditions and restrictions (CC&Rs) filed for this development shall include a provision requiring that garages shall only be used for automobile parking.
- 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. Graffiti

removal/repainting and site cleanup shall occur on a continuing, as needed basis. 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. Color elevations shall be submitted by the developer as part of this application to be reviewed and approved by the Planning Commission and City Council. The building elevations shall reflect all architectural projections such as roof eaves, bay windows, greenhouse windows, chimneys and porches. A site plan showing the building locations with respect to property lines shall also show the projections. Said elevations shall specify exterior materials. Any minor changes shall be submitted for the review and approval of the Community Development Director to assure consistency with the approved project.
- i. Prior to the issuance of a building permit, any change to the floor plans as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council. Any minor changes shall be submitted for the review and approval of the Community Development Director to assure consistency with the approved project.
- j. Prior to the issuance of a building permit, the roof material as submitted by the developer as part of this application shall be reviewed and approved by the Community Development Director. All roof material shall consist of fire retardant shake roof, concrete tile, or a roof of similar noncombustible material. Mansard roofs with the above material may be used to screen tar and gravel roofs. All roofs shall be of Class C fire resistant construction or better. Composition shingles shall be Presidential-style or of comparable quality, subject to the review and approval of the Community Development Director.
- k. Prior to the issuance of a building permit, the project shall be submitted for the review and approval of Republic Services and the Community Development Director, in that order. The appropriate garbage, refuse and recycling service shall be approved prior to the issuance of a Certificate of Occupancy, as required by the Community Development Director. No refuse, garbage or recycling shall be stored outdoors except within the approved trash and recycling containers.
- l. Prior to issuance of a grading permit, the developer shall hire a qualified biologist to: (1) determine if occupied Burrowing Owl habitat(s) exist on the site, and (2) implement a plan to protect the owls and to excavate the site around any active burrows using hand tools to assure that the owls are not buried during grading in the event Burrowing Owl habitat(s) is found on the site. The occupied Burrowing Owl habitat(s), if found, shall not be disturbed during the nesting season. The Burrowing Owl study shall be conducted not more than 30 days prior to the time site grading activities will commence.

- m. During project construction, if historic, archeological or Native American materials or artifacts are identified, work within a 50-foot radius of such find shall cease and the City shall retain the services of a qualified archeologist and/or paleontologist to assess the significance of the find. If such find is determined to be significant by the archeologist and/or paleontologist, a resource protection plan conforming to CEQA Section 15064.5 shall be prepared by the archeologist and/or paleontologist and approved by the Community Development Director. The plan may include, but would not be limited to, removal of resources or similar actions. Project work may be resumed in compliance with such plan. If human remains are encountered, the County Coroner shall be contacted immediately and the provisions of State law carried out.
- n. Prior to the issuance of a building permit, the developer shall pay the following fees: park impact fee (\$18,000 per unit), public safety impact fee (\$3,451 per unit), community service and facilities impact fee (\$2,311 per unit), transportation impact fee (\$2,586 per unit), housing impact fee (\$20 per square foot of building area for the first 1000 square feet and \$8 per square foot above 1000 square feet per unit), and the community development maintenance fee (0.5% of construction valuation).
- o. There shall be no Accessory Dwelling Units (including Standard Accessory Dwelling Units or Junior Accessory Dwelling Units) allowed.
- p. Prior to their installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster, in that order. The mailbox compartments of centralized mailboxes shall identify the individual dwelling units with permanent, easily legible lettering.
- q. Prior to the issuance of a Certificate of Occupancy, roll-up garage doors with automatic garage door openers shall be provided for each unit.
- r. Prior to final inspection and utility release for each unit, the developer shall pre-wire each unit for satellite and cable television connections, as required by the Community Development Director. The exterior connections for the pre-wire shall be made to the roof and not on the side elevation walls of the units.
- s. Prior to the issuance of a sign permit, all signs, other than those referring to construction, sale, or future use of this site, shall be submitted for the review and approval of the Community Development Director.
- t. Prior to the issuance of a Certificate of Occupancy, the parking areas, aisles and access drives shall be installed and striped as shown on the approved site plan. Guest parking spaces shall be clearly marked as reserved for guests, as approved by the Community Development Director.
- u. 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.

- v. If any condition of this Tentative Map, Planned Unit Development, Conditional Use Permit, and Environmental Determination be declared invalid or unenforceable by a court of competent jurisdiction, this Tentative Map, Planned Unit Development, Conditional Use Permit, and Environmental Determination shall terminate and be of no force and effect, at the election of the City Council on motion.
- w. 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 applicant shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval.
- x. The developer hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
- y. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of this project, the developer shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the developer (which shall be the same counsel used by developer) and reasonably approved by the City. Developer's obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.
- z. Prior to the submittal for building permit review, all conditions of approval for this project, as approved by the City Council, shall be printed on the plans.
- aa. Unless a building permit is issued within 24 months of project approval, the entitlements expire unless extended by Community Development Director.

Engineering Division

- bb. The development will require approval of a Final Map filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. The final map must be approved prior to the issuance of any building permits.
- cc. The Developer shall dedicate two feet (2') of right-of-way in fee to the City of Newark along the project's Filbert Street frontage such that the typical half-street right-of-way

width of Filbert Street is forty two feet (42').

- dd. The ultimate Filbert Street right-of-way shall be concentric to and ten feet (10') behind the existing face of curb, resulting in a uniform half-street right-of-way width of forty two feet (42') across the project's entire Filbert Street frontage. Where the curvature of the street and existing right-of-way limits provide for a half-street right-of-way of more than 42 feet, the project shall facilitate the vacation of the excess right-of-way. Vacation of the excess right-of-way shall occur with the Final Map.
- ee. A ten foot (10') wide Landscape and Public Utility Easement shall be dedicated along the project's entire Filbert Street frontage. All perimeter walls shall be located outside of the 10' easement.
- ff. Frontage improvements on Filbert Street shall include, but are not limited to, removal of existing eight foot wide monolithic sidewalk and construction of new five foot (5') wide detached sidewalk and four and a half foot (4.5') landscape parkway strip (inclusive of curb width); removal of existing driveways and construction of new curb and gutter; construction of new City Standard driveway; street trees; landscape and irrigation; utility relocation; storm drain improvements; street lights; and grind and overlay of the street to centerline or beyond where utility tie-ins are necessary.
- gg. A City standard Type-S driveway cut shall be constructed at the project entrance on Filbert Street.
- hh. The Developer shall remove all existing joint utility poles located along the project's Filbert Street and UPRR frontages and underground all associated overhead utility lines up to the existing joint utility pole located on the property line shared with 37271 Filbert Street (APN 092-0131-004).
- ii. The Developer shall obtain an encroachment permit from UPRR for the replacement of the existing wall adjacent to the northern property line and portion of the two inch grind and overlay on Filbert Street within the UPRR right-of-way. The Developer shall provide a copy of the encroachment permit issued by the UPRR to the City for records.
- jj. Any proposed utility connections and/or underground work within structurally sound street pavement shall be bored or jacked. Open street cuts are not permitted on Filbert Street unless the affected area is scheduled for a pavement overlay concurrent with the site development.
- kk. Prior to the issuance of a Certificate of Occupancy, any and all damage to public improvements as a result of construction activity associated with this project shall be repaired to the satisfaction of the City Engineer.
- ll. The Developer shall establish private street access rights and install complete street improvements for the proposed townhome project and entry drive aisle shown on Vesting Tentative Tract Map 8387.

- mm. Public Utility Easements (PUE), Sanitary Sewer Easements (SSE) and Water Line Easements (WLE) shall be established over all private streets within the subdivisions. The PUE, SSE and WLE dedication statements on the Final Map are to recite that the easements are available for, but not limited to, the installation, access and maintenance of sanitary and storm sewers, water, electrical and communication facilities. Project entry monument signs and walls shall not be located within these easements.
- nn. The Developer shall dedicate Emergency Vehicle Access Easements (EVAE) over the clear pavement width of all private streets and motor courts. Easement geometry shall be subject to the approval of the City Engineer and Alameda County Fire Marshall.
- oo. Prior to approval of the final map, the developer shall guarantee all necessary street improvements adjoining the development and over the common area in accordance with tract improvement plans to be approved by the City Engineer. Improvement plans for on-site common areas in the development shall be included with the tract improvement plans to ensure that such improvements are designed and constructed to City Standards. These plans must be prepared by a qualified person licensed by the State of California to do such work. Common area improvements on-site include, but may not be limited to curb & gutter, pavement areas, sidewalks, access ramps & driveways; enhanced street paving; parking spaces; street lights (wired underground) and appurtenances; drainage facilities; utilities; landscape and irrigation facilities; open space landscaping; recreational areas and facilities; screen walls and fencing; stormwater treatment facilities; striping and signage; and fire hydrants.
- pp. Prior to the issuance of the initial grading or any building permits for this project, the developer shall submit a Storm Water Pollution Prevention 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 Storm Water 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 a permanent thermoplastic stencil with the wording "No Dumping - Drains to Bay," and other applicable practices.
- qq. The project must be designed to include appropriate source control and site design measures 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: directing runoff from walkways on to vegetated areas, properly designed trash storage areas, sanitary sewer connections for all non-stormwater discharges and minimization of impervious surfaces.

- rr. The Preliminary Stormwater Management Plan, Sheet TM-7 of the Vesting Tentative Map, prepared by DeBolt Civil Engineering, dated March 24, 2017 is approved in concept only. The final Stormwater Management Plan is subject to City Engineer approval prior to approval of the Tract Improvement Plans. Approval is subject to the developer providing the necessary plans, details, and calculations that demonstrate the plan complies with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP), Order R2-2015-0049, revised November 19, 2015, issued by the San Francisco Bay Regional Water Quality Control Board.
- ss. In accordance with Provision C.10 of the Regional Water Quality Control Board's Municipal Regional Permit, storm drain inlet filters shall be installed in all on-site and adjacent off-site storm drain inlets. The storm drain inlet filters shall meet the full trash capture requirements of the San Francisco Bay Regional Water Quality Control Board and shall comply with maintenance and performance requirements of the Mosquito Abatement District. Alternative full trash capture devices such as hydrodynamic separators or pipe screens that meet the requirements of the Regional Water Quality Control Board and Mosquito Abatement District may also be used if approved by the City Engineer.
- tt. All stormwater treatment measures and full trash capture devices are subject to review and approval by the Alameda County Mosquito Abatement District. The developer shall modify the grading, drainage, stormwater treatment or full trash capture design as necessary to satisfy any imposed requirements from the District.
- uu. Developer shall enter into an Agreement with the City of Newark that guarantees the property owner's perpetual maintenance obligation for all stormwater treatment and trash capture measures installed as part of the project. Said Agreement is required pursuant to Provision C.3 of the Municipal Regional Stormwater NPDES Permit, Order No. R2-2015-0049. Said permit requires the City to provide verification and assurance that all treatment measure and trash capture devices will be properly operated and maintained. The Agreement shall be recorded against the property and shall run with the land.
- vv. "No Dumping - Drains to Bay" thermoplastic stencils shall be placed on all on-site and adjacent off-site storm drain inlets.
- ww. The developer shall submit detailed grading and drainage plans for review and approval by the City Engineer and the Alameda County Flood Control and Water Conservation District. These plans must be based upon a City benchmark and need to include pad and finish floor elevations of each proposed structure, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing drainage patterns. All on-site pavement shall drain at a minimum of one percent. The developer shall ensure that all upstream drainage is not blocked and that no

ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility.

Hydrology and hydraulic calculations shall be submitted for review and approval by the City Engineer and the Alameda County Flood Control District prior to approval of the final map(s). The calculations shall show that the City and County freeboard requirements will be satisfied.

- xx. Where a grade differential of more than a 1-foot is created along the boundary lot 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.
- yy. 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 for all public and private streets. 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.
- zz. 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 prior to Final Map approval. The applicant shall pay for all costs related to the required peer review.
- aaa. The project geotechnical/soils report shall analyze the suitability of constructing bio-retention areas directly adjacent to or in close proximity to building foundations (i.e. next to Unit 16). In such instances, the adjacent bio-retention treatment soil and drain rock cannot be compacted and would be continuously saturated. If necessary, recommendations regarding the special design of building foundations adjacent to bio-retention areas shall be discussed and reflected in the project construction documents. A letter from the project geotechnical engineer shall be submitted approving the design and location of the bio-retention areas directly adjacent to building foundations.
- bbb. Prior to approval of the final map, the developer's engineer shall submit a pavement maintenance program for the drive aisles and parking areas for the review and approval of the City Engineer. The developer shall incorporate the program into the required Storm Water Pollution Prevention Plan and Storm Water Treatment Measures Maintenance Agreement.
- ccc. Prior to issuance of a Certificate of Occupancy or release of utilities for any building,

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.

- ddd. The developer shall establish a Homeowner's Association consisting of all property owners of lands in the development at the time of incorporation and in the future for the purpose of maintaining the association's property, common drive aisles, parking facilities, stormwater treatment facilities, and landscaping, including landscaping in adjacent public rights-of-way, and for paying for security lighting, any common garbage collection services, any security patrol services, if provided, and other functions of a Homeowner's Association. All common areas within the development shall be owned and maintained by the Homeowner's Association. Each property owner shall automatically become a member of the association and shall be subject to a proportionate share of the maintenance expenses. The Homeowner's Association shall be incorporated prior to the sale of any individual lots and/or prior to acceptance of tract improvements, whichever occurs first.
- eee. Prior to City Council approval of the final map, the bylaws governing the Homeowners' Association and any declaration of covenants, conditions and restrictions (CC&Rs) filed for this development shall be reviewed and approved by the City Council at its discretion after mandatory review and recommendations by the City Attorney. Said covenants, conditions and restrictions shall be prominently displayed in the project sales office at all times. Approval of the covenants, conditions and restrictions shall not make the City a party to enforcement of same. The CC&Rs shall apply equally to both owners and renters. The CC&Rs shall be written to require renters to comply with the regulations of the CC&Rs, and a copy of the CC&Rs shall be given to each renter. The CC&Rs shall be written to allow less than a majority of owners to have pavement or landscape maintenance done and the cost thereof assessed to all owners in the project. The CC&Rs shall include a pavement maintenance program for on-site pavement.
- fff. The Homeowner's Association CC&Rs shall prohibit the on-site parking of non-self-propelled recreational vehicles, including boats, and any self-propelled recreational vehicles not used for transportation unless separate storage facilities are provided. The CC&Rs shall regulate the provision of any on-site parking of self-propelled recreational vehicles used for transportation.
- ggg. The developer shall also assist the Homeowner's Association by having a management consultant firm review the maintenance and operating functions of the association. The management consulting firm shall be responsible for preparing a written report with recommendations to the association for managing the association's obligations and setting initial monthly assessment costs for each lot in the development. Membership and assessment cost shall be mandatory for all property owners of property in the development and shall run with the land. The developer shall pay all costs of incorporation and initial management review and reports.

- hhh. The Homeowner's Association shall be responsible for trash and litter control and sweeping of all private streets within the development. All private storm drain systems and all associated trash capture devices shall be cleaned on a regularly scheduled basis as detailed in the required Stormwater Treatment Measures Maintenance Agreement.
- iii. The Homeowner's Association shall be required to contract with a professional management firm to handle all necessary maintenance operations. Documentation of such contract shall be submitted to the City of Newark. All commonly owned facilities shall be properly maintained in a manner consistent with the CC&Rs and project requirements.
- jjj. The CC&Rs shall contain a provision that prohibits the amendment of those provisions of the CC&Rs requested by City without the City's approval.
- kkk. All new utilities including, but not limited to, electric, telephone and cable television services shall be provided underground for all buildings in the development in accordance with the City of Newark Subdivision Standards. Electrical transformers shall be installed in underground vaults with an appropriate public utility easement or within the public right-of-way.
- lll. The Street Light and Joint Trench plan shall be submitted by the applicant with the first tract improvement plan check and approved prior to final map approval. The City Engineer may reject the initial submittal of the tract improvement plan set if the required Street Light plan, Joint Trench plan, and complete civil/landscape plans are not provided.
- mmm. The developer shall request Pacific, Gas & Electric Co. to commence with the design of the underground utility improvements for the proposed development immediately following approval of the tentative map.
- nnn. The developer shall provide a minimum three feet of cover over utility lines equal to or greater than two and a half inches within any public or private street. Any utility lines that cross-over or run parallel to each other shall have a minimum one foot clearance.
- ooo. The construction drawings shall show (both plan view and cross-section) a subdrain system along the project perimeter to prevent potential drainage issues with adjoining properties. The design of the subdrain system shall be approved by the project geotechnical engineer.
- ppp. The developer shall submit design development Landscape Plans with the first tract improvement plan check. The Landscape Plans shall show details, sections and supplemental information as necessary for design coordination of the various civil design features and elements including utility location to the satisfaction of the City Engineer. Complete Landscape Plans shall be concurrently approved with the tract improvement plans and Final Map.

- qqq. 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. A pick-up or vacuum type street sweeper shall be available at all times at the direction of the City Engineer to removed tracked dirt and debris from adjacent streets.
- rrr. The developer shall implement the following measures for the duration of all construction activity to minimize air quality impacts:
1. Watering should be used to control dust generation during demolition of structures and break-up of pavement.
 2. All trucks hauling demolition debris from the site shall be covered.
 3. Dust-proof chutes shall be used to load debris into trucks whenever feasible. Watering should be used to control dust generation during transport and handling of recycled materials.
 4. All active construction areas shall be watered at least twice daily and more often during windy periods; active areas adjacent to the existing land uses shall be kept damp at all times or shall be treated with non-toxic stabilizers or dust palliatives.
 5. All trucks hauling soil, sand, and other loose materials shall be covered or require all trucks to maintain at least 2 feet of freeboard.
 6. All unpaved access roads, parking areas, and staging areas at construction sites shall be paved, watered three times daily, or treated with (non-toxic) soil stabilizers.
 7. All paved access roads, parking areas, and staging areas at construction sites shall be swept daily with water sweepers; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
 8. Limit traffic speeds on unpaved roads to 15 mph.
 9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 10. Replant vegetation in disturbed areas as quickly as possible.
 11. Minimize idling time (5 minutes maximum).
 12. Maintain properly tuned equipment.

These measures shall be incorporated into the grading specifications as well as the best management practices of the storm water pollution prevention plan, and shall be implemented to the satisfaction of the City Engineer.

- sss. The developer shall provide all required paper and digital submittals of the tentative map, project final map, tract improvement plans, and as-built plans as required by the City Engineer, including, but not necessarily limited to the following: (1) One full-sized reproducible copy and one reduced reproducible copy of the approved tentative map; (2) Electronic copies of the approved final map and improvement plans in a format approved by the City Engineer; (3) One full-sized mylar copy and one electronic copy of the recorded final map; (4) Four photocopied sets of the approved tract improvement plans; (5) One electronic copy and one mylar set of the as-built tract improvement plans. All digital copies of the final map and improvement plans shall be prepared in accordance with Southern Alameda County GIS Authority digital submittal standards. A deposit of

\$5,000 shall be provided by the developer to the City to ensure submittal of all required documentation.

- ttt. The plans submitted for construction must be drawn to an appropriate scale as required by the City Engineer. Three reduced copies (11"x17" size prints) of the approved tract improvement plans shall be submitted prior to the issuance of any permits.

Landscape/Parks Division

- uuu. Concurrent with the final map, the developer shall dedicate a minimum 10-foot wide landscape and public utility easement along the Filbert Street frontage of the project adjacent to the new right-of-way limit.
- vvv. Prior to approval of the final map, the developer shall enter into a Landscape Maintenance Agreement to ensure the perpetual maintenance of all landscaping along the property frontage and within the common areas of the site. This agreement shall be transferred to the Homeowners Association and incorporated into the project CC&Rs.
- www. The developer shall retain a licensed landscape architect to prepare detailed landscape plans for construction in accordance to with City of Newark requirements and the State of California Model Water Efficient Landscape Ordinance. The associated Landscape Documentation Package must be approved by the City Engineer prior to final map approval.
- xxx. The developer shall implement Bay Friendly Landscaping Practices in accordance with Newark Municipal Code, Chapter 15.44.080. Prior to final map approval, the developer shall provide sufficient information to detail the environmentally-conscious landscape practices to be used on the project.
- yyy. The plant species identified for any proposed landscape-based stormwater treatment measures are subject to final approval of the City Engineer.
- zzz. 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.
- aaaa. 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.
- bbbb. 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.

- cccc. Landscaping adjacent to the public right-of-way must conform to the City's visibility requirements in accordance with Newark Municipal Code, Chapter 10.36.

Building Division

- dddd. 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.
- eeee. As per the Newark Municipal Code all the structures shall be equipped with a fully automatic fire sprinkler system.

Police Department

- ffff. The development shall comply with Chapter 15.06, Security Code, of the Newark Municipal Code.
- gggg. Security cameras need to be placed so that the driveways/streets areas are captured by surveillance cameras. Cameras placed at the entrance to the complex should be of sufficient acuity to identify vehicle license plates, vehicle make, model and color. Cameras need to be placed at pedestrian and vehicle access points to deter criminal activity. Cameras could be operated and controlled by individual owners or a HOA.

General

- hhhh. 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 applicant shall pay the prevailing fee for each additional separate submittal of project exhibits requiring Planning Commission and/or City Council review and approval.
- iiii. If any condition of this planned unit development and conditional use permit be declared invalid or unenforceable by a court of competent jurisdiction, this 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.
- jjjj. The applicant hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any

and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.

kkkk. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of this project, the developer shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the developer (which shall be the same counsel used by developer) and reasonably approved by the City. Developer's obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.

llll. 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 applicant is hereby further notified that the 90-day approval period in which the applicant may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The Planning Commission makes the findings prescribed in Newark Municipal Code Sections 17.40.050 and Section 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 August 22, 2017 meeting by , seconded by , and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

BERNIE NILLO, Chairperson