



CITY OF NEWARK PLANNING COMMISSION

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

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

AGENDA Tuesday, April 12, 2016

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, March 22, 2016. (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: (1) Adopting a resolution revoking an existing planned unit development (P-12-22) and conditional use permit (U-12-21) for a veterinary emergency facility at 5600 John Muir Drive; (2) E-16-13, an Addendum to an existing Environmental Impact Report; and (3) ASR-16-9, an Architectural and Site Plan Review, for a hotel to be located at 5600 John Muir Drive – from Assistant City Manager Grindall.

(RESOLUTIONS - 3)

F. STAFF REPORTS

G. COMMISSION MATTERS

G.1 Report on City Council actions.

H. ADJOURNMENT

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the Planning Commission, will be made available for public inspection at this meeting and at the Planning Division Counter located at 37101 Newark Boulevard, 1st Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

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

MINUTES

Tuesday, March 22, 2016

A. ROLL CALL

At 7:30 p.m., Chairperson Aguilar 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, February 23, 2016.

Commissioner Fitts moved, Vice-Chairperson Nillo seconded, to approve the Minutes of February 23, 2016. The motion passed 5 AYES.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

None.

F. STAFF REPORTS

F.1 Planning Commission consideration of an extension to Vesting Tentative Map 8157 (SHH Project).

Assistant City Manager Grindall gave the staff report.

Answering Commissioner Bridges, ACM Grindall stated the delay with the Vesting Tentative Map was caused by delays with other projects that this project is dependent upon.

Answering Chairperson Aguilar, ACM Grindall stated he had discussions with a potential buyer for the retail development portion of this project.

Chairperson Aguilar invited members of the public to speak on this item.

Answering Mr. Stephen Lawrence, Newark resident from Sandalwood Street, ACM Grindall stated the Development Impact Fees were vested at the time the Vesting Tentative Map was approved.

Vice-Chairperson Nillo moved, Commissioner Bridges seconded, to approve Resolution 1930, approving a two-year extension to Vesting Tentative Map 8157, with Exhibit B, pages 1 through 7. The motion passed 5 AYES.

F.2 ASR-15-31, an Architectural and Site Plan Review for a two hotel (Staybridge Suites & SpringHill Suites) and one restaurant (Bubba's 33) project at 6000 NewPark Mall Road (APN: 901-111-3 & 4) and E-15-32, an addendum to an Environmental Impact Report.

ACM Grindall gave the staff report and stated no comments were received on the Addendum to the EIR.

Answering Commissioner Fitts, ACM Grindall stated any minor changes to the architectural design would be approved at staff level, but any major changes would go back to the Planning Commission for approval.

Answering Vice-Chairperson Nillo, ACM Grindall stated his belief that the Dodge Dealership is temporarily using this site's parking lot as overflow for their new vehicles as a matter of convenience.

Answering Commissioner Otterstetter, ACM Grindall confirmed that condition "II" should state "property owner" instead of "homeowners association".

Answering Chairperson Aguilar, ACM Grindall stated sidewalks are required for this project since the overall Master Plan for NewPark Mall envisions a more pedestrian-friendly site.

Mr. Robert Atkinson, SyWest Development, 150 Pelican Way, San Rafael, CA 94901, stated he has read and is in agreement to the Conditions in Resolutions 1931 and 1932.

Answering Commissioner Bridges Mr. Atkinson responded Staybridge Suites is owned by the Intercontinental Hotel Group which also owns Hilton, Holiday Inn and Crowne Plaza.

Answering Commissioner Fitts, Mr. Atkinson stated he anticipates the demolition of the existing building to be in the Spring, and the beginning of construction to be in the Fall.

Ms. Emily Bernahl, Greenberg Farrow Architects, 21 South Evergreen Avenue, Suite 200, Arlington Heights, IL 60005, described both the outdoor play feature and the uncovered outdoor patio feature for Bubba’s 33.

Vice-Chairperson Nillo moved, Commissioner Otterstetter seconded, to approve Resolution 1931, approving ASR-15-31, an Architectural and Site Plan Review for a two hotel (Staybridge Suites & SpringHill Suites) and one restaurant (Bubba’s 33) project at 6000 NewPark Road (APN: 901-111-3 & 4) with Exhibit A, pages 1 through 16; and approve Resolution 1932, making certain findings and adopting an Environmental Impact Report for a two hotel (Staybridge Suites & Springhill Suites) and one restaurant (Bubba’s 33) project at 6000 NewPark Mall Road. The motion passed 5 AYES.

ACM Grindall stated this item will be heard at the April 14, 2016 City Council Meeting.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

ACM Grindall informed the Planning Commission that the Citywide Parks Master Plan’s RFQ deadline is Friday, March 25, 2016; and the Bicycle Master Plan process will be reconvening in the near future.

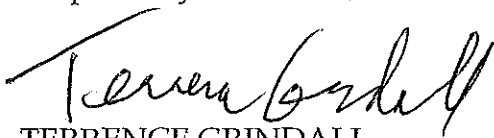
Commissioners’ Comments

None.

H. ADJOURNMENT


At 8:04 p.m., Chairperson Aguilar adjourned the regular Planning Commission meeting of Tuesday, March 22, 2016.

Respectfully submitted,



TERRENCE GRINDALL
Secretary



- E.1 **Hearing to consider: (1) Adopting a resolution revoking an existing planned unit development (P-12-22) and conditional use permit (U-12-21) for a veterinary emergency facility at 5600 John Muir Drive; (2) E-16-13, an Addendum to an existing Environmental Impact Report; and (3) ASR-16-9, an Architectural and Site Plan Review, for a hotel to be located at 5600 John Muir Drive – from Assistant City Manager Grindall.**  **(RESOLUTIONS - 3)**

Background/Discussion – Shivam Real Estate, LLC has submitted an application for a hotel to be located at 5600 John Muir Drive. This site is currently occupied by Silver Creek Fitness and Physical Therapy. Attached is Exhibit A, pages 1 through 12. The applicant has indicated that this will be a national brand; however, the specific brand has yet to be determined.

Zoning and General Plan

The property is zoned Community Commercial with a Regional Commercial General Plan designation. A portion of the existing building is being used by the Silver Creek Fitness and Physical Therapy, which is a permitted use in this district. In addition, in 2012 the Planning Commission and City Council approved a planned unit development and conditional use permit for a veterinary emergency facility at this site. Although the underlying zoning allows hotels as a permitted use, the existing planned unit development and conditional use permit needs to be revoked to allow a use other than the veterinary emergency facility. The hotel project before the Planning Commission is for design review only as the use is permitted.

Access to the project site will be via two driveways off of John Muir Drive. The site contains no wetland drainage ways or wetland areas. Supporting utilities and services, including water, sewer, drainage, electrical, and natural gas and related facilities have all been provided. The site is within an urbanized area surrounded by commercial uses.

Hotel Design

The five-story hotel contains 110 guest rooms, meeting facilities, an indoor pool, and dining facilities. The modern design has an undulating roof line, three prominent “pop out” features along the east (I-880) elevation. This design also incorporates a stucco panel system with a stone split face base and an arched glass entryway. Signage for the site will consist of a sign on both the east and west elevations, with smaller signs along the north and south. In addition, a 20-foot high pole sign will be located on-site and visible from the adjacent interstate.

Parking

Hotels are required to provide one-off street parking space for each employee, plus one additional parking space for each guest room or for each two beds, whichever is greater. The total number of guest rooms provided is 110. A total of 116 parking spaces is provided on-site. This results in 1.1 spaces per room, which is acceptable to the City as it has worked well for several other hotels throughout Newark.

Environmental Analysis

An Addendum to the existing General Plan Environmental Impact Report (EIR) was performed by First Carbon Solutions. Seventeen environmental issues were analyzed (Outlined in Section 3 of the Addendum), none of which was found to have any new significant impact. Table 1-1 of Appendix A details the mitigation measures already in place from the original General Plan EIR.

The Addendum was made available to the public beginning March 28, 2016. Staff did not receive any comments on this project prior to preparing this report for the Planning Commission.

Attachment

Action - It is recommended that the Planning Commission: (1) by resolution, revoke the existing planned unit development (P-12-22) and conditional use permit (U-12-21) for a veterinary emergency facility; (2) by resolution, approve E-16-13 an Addendum to an existing Environmental Impact Report, and; (3) by resolution, approve, ASR-16-9, an Architectural an Site Plan Review, with Exhibit A, pages 1 through 12, for a hotel to be located at 5600 John Muir Drive.

RESOLUTION NO.

RESOLUTION REVOKING A PLANNED UNIT DEVELOPMENT (P-12-22) AND A CONDITIONAL USE PERMIT (U-12-21) FOR AN EMERGENCY VETERINARY FACILITY AT 5600 JOHN MUIR DRIVE

WHEREAS, on December 13, 2012, the City Council of the City of Newark approved a planned unit development and conditional use permit to allow an emergency veterinary facility at 5600 John Muir Drive; and

WHEREAS, subsequent to that approval, the applicant informed the City the project would not be pursued; and

WHEREAS, pursuant to Chapter 17.72.160 of the Newark Municipal Code, a conditional use permit granted pursuant to the provisions of Chapter 17.72 (Use Permits) shall run with the land and shall continue to be valid upon change of ownership of the site or structure which was the subject of the use permit application; and

WHEREAS, Shivam Real Estate, LLC has filed with the Planning Commission of the City of Newark an application to revoke the planned unit development (P-12-22) and conditional use permit (U-12-21) for an emergency veterinary facility to be located at 5600 John Muir Drive.

NOW, THEREFORE, the Planning Commission, after due consideration, revokes the planned unit development (P-12-22) and conditional use permit (U-12-21) for an emergency veterinary facility to locate at 5600 John Muir Drive, under the authority granted in the Newark Municipal Code Section 17.72.130, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk who shall present said Notice to the City Council pursuant to Newark Municipal Code Section 17.72.080.

This Resolution was introduced at the Planning Commission's April 12, 2016 meeting by Commissioner _____, seconded by Commissioner _____, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

JEFF AGUILAR, Chairperson

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWARK MAKING CERTAIN FINDINGS AND ADOPTING AN ADDENDUM TO AN ENVIRONMENTAL IMPACT REPORT FOR A HOTEL AT 5600 MOWRY SCHOOL ROAD (APN: 901-195-18 & 19)

WHEREAS, the Hotel project (“Project”), which is located within the Greater NewPark Mall area, consists of the construction of one, five-story hotel consisting of 110 guest rooms; and

WHEREAS, the entitlements requested include an Architectural and Site Plan Review (ASR-16-9); and

WHEREAS, pursuant to the requirements of the California Environmental Quality Act (CEQA), an initial study and an Addendum to the 2013 General Plan Environmental Impact Report has been prepared for the Project, pursuant to Section 15070 *et seq.* of the CEQA Guidelines, to analyze and mitigate the Project’s potentially significant environmental impacts; and

WHEREAS, through this study, it has been determined that the Project does not result in any new significant impacts and the conclusions in the 2013 Environmental Impact Report remain unchanged; and

WHEREAS, the IS/Addendum was made available to the general public beginning on March 28, 2016; and

WHEREAS, on April 12, 2016 the Planning Commission of the City of Newark conducted a duly noticed meeting to consider the Initial Study and Addendum of environmental impacts for the proposed Project, considered all public testimony, written and oral, presented at the meeting; and received and considered the written information and recommendation of the staff report for the April 12, 2016 meeting related to the proposed Project.

NOW, THEREFORE, the Planning Commission finds and resolves the following:

1. The Initial Study and corresponding Addendum of environmental impacts were released for public review and said mitigation measures contained within the same would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur; and
2. There is no substantial evidence in light of the whole record before the City of Newark that the project may have a significant effect on the environment; and
3. The Planning Commission has read and considered the Initial Study and the Addendum and the comments thereon, and has determined the Initial Study and the Addendum reflect the independent judgment of the City and were prepared in accordance with CEQA; and

4. The Initial Study and the Addendum (including any revisions developed under 14 C.C.R § 15070(b)), all documents referenced in the same, and the record of proceedings on which the Planning Commission and City Council's decision is based are located at City Hall for the City of Newark, located at 37101 Newark Blvd, California, and is available for public review.

NOW, THEREFORE, the Planning Commission:

a. Based on the evidence and oral and written testimony presented at the public meeting, and based on all the information contained in the Community Development Department's files on the project, including, but not limited to, the Initial Study/Addendum, the Planning Commission staff reports, certifies in accordance with CEQA guidelines that:

1. The Initial Study/Addendum was prepared in compliance with CEQA and CEQA guidelines;
2. The Planning Commission has reviewed and considered the information contained in the Initial Study/Addendum prior to approving the project;
3. The Initial Study/Addendum adequately describe the project, its environmental impacts, reasonable alternatives and appropriate mitigation measures;
4. The Initial Study/Addendum reflect the independent judgment and analysis of the City Council.

This Resolution was introduced at the Planning Commission's April 12, 2016 meeting by Commissioner _____, seconded by Commissioner _____, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

JEFF AGUILAR, Chairperson

RESOLUTION NO.

RESOLUTION APPROVING AN ARCHITECTURAL AND
SITE PLAN REVIEW (ASR-16-9) FOR A HOTEL AT 5600
JOHN MUIR DRIVE

WHEREAS, Shivam Real Estate, LLC, has filed, with the Planning Commission of the City of Newark, an application for an Architectural and Site Plan Review (ASR-16-9) for a hotel at 5600 John Muir Drive.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby approves this application as shown on Exhibit A, pages 1 through 12, subject to compliance with the following conditions:

Planning Division

- a. There shall be no outdoor vending machines other than for the sale of newspapers. There shall be no outdoor storage except Christmas trees, of any materials for sale, display, inventory or advertisement without the review and approval of the Planning Commission and City Council.
- b. The drive aisles shall not be used by delivery trucks between the hours of 11:00 p.m. and 7:00 a.m. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 11:00 p.m. and 7:00 a.m. No delivery truck or van shall be left overnight on any portion of the site.
- c. Prior to issuance of a sign permit, all signs, other than those referring to construction, sale or future use of this site, shall be submitted to the Community Development Director for review and approval.
- d. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.
- e. 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.
- f. 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.
- g. Prior to the issuance of a building permit, the elevations as submitted by the developer as part of this application shall 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. Final color elevations shall be submitted for the review and approval of the Community Development Director.

- h. Prior to the issuance of a building permit, 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.
- i. Prior to the issuance of a building permit, roof material as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council. 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.
- j. Prior to the issuance of a building permit, the location and screening design for garbage, refuse and recycling collection areas for the project shall be submitted for the review and approval of Republic Services and the Community Development Director, in that order. The approved garbage, refuse and recycling areas shall be provided 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 enclosures.
- k. 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).
- l. The developer shall pay all impacts fees in effect at the time of issuance of a Building Permit. All fees, with the exception of the Community Development Maintenance Fee, are based on the site's net square footage increase.

Engineering Division

- m. 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; separation of all car wash activities from the storm drain system; 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 storm water treatment controls for runoff quality requires the submittal of a maintenance agreement prior to the issuance of a Certificate of Occupancy.

- n. 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 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 the wording "No Dumping - Drains to Bay," and other applicable practices.
- o. The project must be designed to include appropriate source control, site design, and storm water treatment measures to prevent storm water runoff pollutant discharges and increases in runoff flows from the site in accordance with Provision C.3 of the Municipal Regional Storm water 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-storm water discharges such as fountains, swimming pools, trash compactors, interior floor drains within parking garages, minimization of impervious surfaces, and treatment of all runoff with Low Impact Development (LID) treatment measures. A properly engineered and maintained biotreatment system will only be allowed if it is infeasible to implement other LID measures such as harvesting and re-use, infiltration, or evapotranspiration. The storm water treatment design shall be completed by a licensed civil engineer with sufficient experience in storm water 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 Storm Water Treatment Measures Maintenance Agreement prior to the issuance of any Certificates of Occupancy.
- p. All storm water treatment measures are subject to review and approval by the Alameda County Mosquito Abatement District. The developer shall modify the grading and drainage and storm water treatment design as necessary to satisfy any imposed requirements from the District.
- q. The developer shall submit a grading and drainage plan for review and approval by the City Engineer and the Alameda County Flood Control and Water Conservation District.

This plan must be based upon a City benchmark and needs to include pad and finish floor elevations of each proposed structure, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing drainage patterns. All on-site pavement shall drain at a minimum of one percent. The developer shall ensure that all upstream drainage is not blocked and that no ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility.

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

- r. 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.
- s. 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.
- t. Prior to the issuance of a building permit, the developer shall obtain an Encroachment Permit for all off-site improvements within the frontage street rights-of-way and adjoining easement areas. Improvements shall include but are not necessarily limited to utility tie-ins, driveway and sidewalk modifications, placement of curb and gutter where driveway removal is proposed, landscaping, pavement restoration, and other improvements.
- u. The developer shall upgrade the existing wheel chair accessible ramps along the frontage of the site in accordance with Curb Ramp Detail No. A88A from the Caltrans Standard Plans, dated July 2015.
- v. Any new utilities including, but not limited to, electric, telephone and cable television services shall be provided underground.
- w. 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 John Muir Drive and Mowry School Road.
- x. 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.

- y. 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

- z. The developer shall retain a licensed landscape architect to prepare working drawings for both off-site and on-site landscape plans in accordance with City of Newark requirements, the approved Conceptual Landscape Plan, and the latest version of the State of California Model Water Efficient Landscape Ordinance. The landscape plans shall be included with the full tract improvement plan set. The associated Landscape Documentation Package must be approved by the City Engineer prior to the issuance of a building permit.
- aa. 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. Not less than 3 inches of bark mulch shall be provided in all non-turf landscape areas.
- bb. The plant species identified for any proposed biotreatment measures are subject to final approval of the City Engineer.
- cc. The developer shall enter into a Landscape Maintenance Agreement prior to the issuance of a building permit to ensure adequate maintenance of all proposed landscape areas. Landscape maintenance of these areas by the City under the terms of the Agreement would occur only in the event that City Council deems the property owner's maintenance to be inadequate. Any project perimeter walls and adjoining landscape areas shall be included in a dedicated landscape easement to guarantee adequate maintenance of the walls. Any work other than routine maintenance, including but not necessarily limited to, tree removal, tree pruning, or changes to the approved planting palette shall be approved in advance by the City Engineer. All tree pruning shall be performed by or under the direction of a certified arborist.
- dd. The developer's landscaping shall include minimum 30-inch high mounding or combination of mounding and low masonry screen walls to screen parking and provide an interesting greenbelt along the frontages of John Muir Drive and Mowry School Road. The screening shall be located outside of the City right-of-way and screen wall design, materials, and color finish shall be approved by the Community Development Director.
- ee. 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. Street trees shall be planted along the project frontage at a minimum 40-foot on-center and tree replacement shall be at not less than a 1:1 ratio. All plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer.

- ff. 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.
- gg. 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.

Fire Department

- hh. This project is subject to the 2013 California Fire Code.
- ii. The Porte Cochere shall have an unobstructed vertical height of at least 13 feet 6 inches.

Building Division

- jj. Construction for this project, including site work and all structures, can occur only between the hours of 7:00 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.

General

- kk. 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.
- ll. 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.

- mm. If any condition of this Architectural and Site Plan Review be declared invalid or unenforceable by a court of competent jurisdiction, this Architectural and Site Plan Review shall terminate and be of no force and effect, at the election of the City Council on motion.
- nn. This Architectural and Site Plan Review shall be presented before the City Council for the Council's review and approval.
- oo. 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.
- pp. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

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

This Resolution was introduced at the Planning Commission's April 12, 2016 meeting by Commissioner _____, seconded by Commissioner _____, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

JEFF AGUILAR, Chairperson