

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING DR-18-4, A DESIGN REVIEW FOR 4 NEW ADVANCED MANUFACTURING BUILDINGS LOCATED AT 7380 MORTON AVENUE, LOCATION OF FORMER MORTON SALT POND SITE (APNs: 537075100603, 537075100604, 092021300201, 092021300300, 092021200201, 092021100201 and 092021000201)

WHEREAS, Newark Industrial Partners, has filed an application for a Design Review for 4 new advanced manufacturing buildings at 7380 Morton Avenue, location of former Morton Salt Plant (APNs: 537075100603, 537075100604, 092021300201, 092021300300, 092021200201, 092021100201 and 092021000201); and

PURSUANT to Newark Zoning Ordinance Section 17.34.030 B, the Community Development Director may refer items directly to Planning Commission and/or the City Council and the project was presented to the Planning Commission at its regular meeting at 7:30 p.m. on April 24, 2018 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, at its meeting on April 24, 2018, the Planning Commission of City of Newark, reviewed and recommended approval of Design Review of said application to the City Council of City of Newark; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby, approves Design Review for 4 new advanced manufacturing buildings at 7380 Morton Avenue as shown on Exhibit A, pages 1 through 20.

The following regulations are reiterated from Newark Municipal Code and Newark Zoning Ordinance for clarity:

- a. No distribution or warehouse use is allowed without a conditional use permit.
- b. All storage of goods and material must be directly related to manufacturing use.
- c. No refuse, garbage or recycling shall be stored outdoors except within approved trash and recycling enclosure.

- d. 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 public right of way. All equipment shall be fully screened within the context of the building's architecture, as approved by the Community Development Director. 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. If screening panels are used, they shall not exceed six feet in height unless the screens are part of the integral design elements of the building, as determined by the Community Development Director.
- e. Construction site trailers and buildings located on-site shall be used for office and storage purposes 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. There shall be no outdoor vending machines other than 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.
- g. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 8:00 p.m. and 8:00 a.m.
- h. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.
- i. 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 cleanup. 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.
- j. 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.
- k. The applicant has submitted colored elevations for the review of the Planning Commission and City Council along with this application. The building elevations reflect all architectural features and projections such as roof eaves, bay windows, greenhouse

windows, chimneys and porches. A site plan showing the building location with respect to property lines also shows the projections. Said elevations specify exterior materials. Prior to the issuance of a building permit, final color elevations shall be submitted for the review and approval of the Community Development Director.

- l. The applicant has submitted the floor plans for the review of the Planning Commission and City Council along with this application. Prior to the issuance of a building permit, final floor plans shall be submitted for the review and approval of the Community Development Director.
- m. Prior to the issuance of a building permit, the location and screening design for centralized garbage, refuse, organics and recycling collection areas for the project shall be submitted for the review and approval of Republic Services, Inc. and the Community Development Director, in that order.
- n. During project construction, should archeological or paleontological artifacts or remains be discovered, work in the vicinity of the find shall stop immediately until a qualified archeologist or paleontologist, as appropriate, can evaluate the site and determine the significance of the find. Project personnel shall not collect or alter cultural resources. Identified cultural resources shall be recorded on forms DPR 422 (archeological sites) and/or DPR 523 (historic resources). If human remains are found, the County Coroner shall be contacted immediately.
- o. Prior to their installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster. The mailbox compartments of centralized mailboxes shall identify the individual units with permanent, easily legible lettering.
- p. 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.
- q. 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 to the Community Development Director for review and approval.
- r. The applicant shall contract with a qualified, licensed geotechnical engineering firm to identify appropriate materials and methods for soil compaction and the construction of

building foundations to ensure compliance with the Uniform Building Code. All recommendations contained in the geotechnical reports shall be followed by the applicant and the City of Newark during construction phases of the project.

- s. If 3 months passes subsequent to rough grading, the applicant shall hire a qualified biologist to: (1) determine if 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 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.
- t. Prior to the issuance of a building permit, the applicant shall pay the Development Impact Fess in effect at that time.
- u. If any condition of this Design Review be declared invalid or unenforceable by a court of competent jurisdiction, this Design Review shall terminate and be of no force, at the election of the City Council on motion.
- v. 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 or, alternatively, the City will rescind the approval.
- w. The Conditions of Design Review Approval set forth herein 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 property owner is hereby further notified that the 90-day approval period in which the property owner may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the property owner fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the property owner will be legally barred from later challenging such exactions.

Police Division

- x. The development shall comply with Chapter 15.06, Security Code, of the Newark Municipal Code and Section 5.10 of the California Fire Code for radio reception.
- y. It is recommended that prior to building being occupied security cameras should be installed for both interior and exterior of the building.

Building Division

- z. Construction for this project, including site work and all structures, can occur only between the hours of 7:00 AM and 7:00 PM, Monday through Saturday and between the hours of 10:00 AM and 6:00 PM on Sundays and holidays. 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.
- aa. Each building shall be equipped with a fully automatic fire sprinkler system.
- bb. This project will require a demolition permit from both the City and the Bay Area Air Quality Control Board.
- cc. This project will require the payment of school developer fees. School developer fees are assessed and collected by the Newark Unified School District

Engineering Division

- dd. Prior to the issuance of a building permit, the developer shall guarantee all required off-site improvements for the project. Improvements include, but are not necessarily limited to, traffic signals at the intersection of Central Avenue and Sycamore Street, traffic signal at the intersection of Central Avenue and Morton Avenue, completion of 6-foot wide meandering sidewalk, sidewalk, street light, new City of Newark Type S driveway aprons, landscaping, irrigation, frontage screen walls, pavement marking/stripping, handicap accessible curb ramps, etc.
- ee. Prior to the issuance of a building permit the applicant shall dedicate street right-of-way to the City along the south side of Morton Avenue to remove existing boundary lines within the public right-of-way.

- ff. The development will require approval of a tentative and record parcel map in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. The record map must be approved prior to the issuance of any building permits.
- gg. Prior to the issuance of a building permit on any parcel, utility easements shall be created where public utilities service a parcel are partially located on an adjoining property within the division of land. Public utilities include, but not necessarily limited to storm drain systems, sanitary sewer, water, fire lines, irrigation, telephone, communication, gas, and electrical services.
- hh. Surface drainage easements shall be created wherever drainage areas or systems cross parcel boundaries within the proposed division of land. The easements shall provide for perpetual release of surface storm water runoff onto adjoining properties as based on the proposed drainage patterns. The required easements must be created prior to the issuance of a building permit for any parcel.
- ii. Prior to the issuance of a building permit, the subdivider shall submit agreements for emergency vehicle access, reciprocal access and parking for approval by the City Engineer and City Attorney.
- jj. Prior to the issuance of a building permit, the developer shall quit claim, remove, or modify any existing easements on the property that are no longer required or conflicts with the proposed site layout. Easement modifications and removals should be performed with the parcel map for simplicity.
- kk. Prior to the issuance of the first building permit for construction of any of the identified industrial buildings, the applicant shall guarantee and implement all the mitigation measures summarized in the approved Transportation Impact Assessment Report to ensure that the City's minimum level of service at all affected intersections are maintained.
- ll. Prior to the issuance of a Certificate of Occupancy or release of utilities for any building, common vehicle access ways and parking facilities serving the proposed buildings shall be paved in accordance with the recommendation of the project geotechnical engineer based on a Traffic Index of 6.0.
- mm. Prior to issuance of a Certificate of Occupancy, the on-site drive aisle and uncovered parking facilities shall be installed 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 bare earth and 0.3% for Portland cement concrete surfaces.
- nn. This site is subject to the State of California National Pollutant Discharge Elimination System (NPDES) Program General Permit for Storm Water Discharges Associated with Construction Activity. Prior to issuance of a grading permit or a building permit, the developer needs to provide evidence that the proposed site development work is covered by said General Permit for Construction Activity. This will require confirmation that a Notice of Intent (NOI) and the applicable fee were received by the State Water Resources

Control Board and the submittal of the required Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the City Engineer. In addition the grading plans need to state: "All grading work shall be done in accordance with the approved Storm Water Pollution Prevention Plan prepared by the developer pursuant to the Notice of Intent on file with the State Water Resources Control Board."

- oo. Prior to the issuance of a grading or any building permits for this project, the developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) 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 SWPPP shall be prepared by a Qualified SWPPP Developer (QSD) in the State of California. 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 stormwater runoff from the project site including, but not limited to, low impact development stormwater treatment measures, trash and litter control, pavement sweeping, periodic storm water inlet cleaning, loading/unloading dock maintenance, 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.
- pp. 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 with roof and sanitary sewer connection, sanitary sewer connections for all non-stormwater discharges, roof over loading/unloading truck dock areas, sloping of loading/unloading truck dock area to prevent run-on, prohibiting roof downspout drainage to the loading/unloading truck dock area, loading dock design recommendations from the California Stormwater Quality BMP Handbook, Sheet SC-30, 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 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.

- qq. The developer shall install full trash capture devices in all existing and proposed on and off-site storm drain inlets, including overflow catch basins within bioretention areas, on the project site and along the Morton Avenue and Central Avenue street frontages. These trash capture devices shall be selected from a list of devices approved by the Regional Water Quality Control Board as meeting full trash capture requirements under the MRP. These devices shall be regularly cleaned and maintained by the property owner as part of the required Stormwater Treatment Measures Maintenance Agreement.
- rr. 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.
- ss. All stormwater treatment measures and HM controls 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.
- tt. Prior to the issuance of a Certificate of Occupancy, the developer shall vacuum clean and hydro flush the on and off-site storm drain system. The developer shall submit a narrated video inspection with report, from an accredited company specializing in underground construction and video inspection. The video must stop and pan around all joints, damages, etc. The video and detailed report must be submitted to the City Engineer for review and approval.
- uu. Prior to the issuance of a Certificate of Occupancy, the developer must apply for a Notice of Intent (NOI) with the State Water Resources Control Board to verify if post-construction stormwater discharges from the site are required to be permitted under the State Industrial General Permit. The developer or tenant must coordinate regular business inspections with City Engineering Staff on a yearly basis. The required Storm Water Pollution Prevention Plan (SWPPP) as part of the NOI needs to be prepared, reviewed, and implemented year around by a Qualified Industrial Storm Water Practitioner (QISP) or Qualified Stormwater Pollution Prevention Plan Developer (QSD). The developer or tenant must coordinate application for a NOI with Mr. Regan Morey, State Water Resources Control Board Engineer.
- vv. 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.

- ww. 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).
- xx. 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.
- yy. The site is within a special flood hazard area as shown on the Flood Insurance Rate Map (FIRM) for the City of Newark. It is recommended that the site redevelopment conform to the City's Flood Plain Management Ordinance and design the site to be removed from the special flood hazard area designation as shown on the FIRM.
- zz. 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.
- aaa. 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 Planning Commission and City Council review. The applicant shall pay for all costs related to the required peer review.
- bbb. 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.
- ccc. 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.

- ddd. 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.
- eee. Any proposed utility connections and/or underground work within structurally sound street pavement must be bored or jacked. Multiple open street cuts are not permitted across Morton Avenue or Central Avenue unless the affected area is scheduled for a pavement overlay or slurry seal concurrent with the site development. The developer must utilize any existing utility stub outs to the maximum extent possible.
- fff. All existing overhead utility within the development and along the fronting street rights-of-way shall be undergrounded to the nearest riser beyond the development's limits in accordance with the City of Newark Subdivision Ordinance. Undergrounding shall include all existing and proposed service drops.
- ggg. The developer shall repair and/or replace any private or public improvements damaged as a result of construction activity to the satisfaction of the City Engineer.
- hhh. 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.
- iii. 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.

Landscape Division

- jjj. Prior to the issuance of a building permit, the property owner shall dedicate a 10-foot wide landscape easement along the Morton Avenue, directly adjacent to the right-of-way limit. The easement shall be extended to cover all contiguous landscape areas along the project frontage.
- kkk. Prior to the issuance of any building or grading permits, the developer shall enter into a Landscape Maintenance Agreement with the City of Newark. The Agreement shall cover all landscaped areas contiguous to the site's public street frontage and all visible on-site landscaping. All landscape maintenance on-site and along the project frontage shall be the responsibility of the property owner. 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 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.
- lll. 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 State of California Model Water Efficient Landscape Ordinance. The associated Landscape Documentation Package must be approved by the City Engineer prior to the issuance of a building permit.
- mmm. 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.
- nnn. The plant species identified for any proposed stormwater treatment measures are subject to final approval of the City Engineer.
- ooo. 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.
- ppp. 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.
- qqq. 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 Division

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

sss. ACFD has reviewed and approved the general fire utilities design concept. Detailed design requirements will be reviewed in the Architectural plan check submittal.