



**E.1 Hearing to consider P-18-6, a planned development, and TTM-18-7, vesting tentative tract map 8409, for a six unit multi-family residential townhome subdivision located at 36589 Newark Boulevard (APN: 92A-623-43) – from Assistant Planner Bowab. & (RESOLUTIONS-2)**

Background

David Langan Construction, Inc. has submitted an application for a six unit residential townhome project. The project area is a vacant lot that is approximately 22,449 square feet (0.53 +/- acre) in size and is bounded by low density residential to the north, Mayhews Landing Road to the west, and Newark Boulevard on the east. The project site was previously developed with a gas station, which was abandoned and removed in 1992. The subject site is triangular shaped and bisected with a 14 foot easement. The site is zoned RM (Medium Density Residential) with a Medium Density Residential general plan land use designation.

The project consists of two 2-story townhome buildings with 3 units per building. Each unit is approximately 2,017 – 2,408 square feet, range from 3-4 bedrooms, 2.5-3 bathrooms, an attached 2-car garage, and a private yard. Vehicular access will be off a driveway on Mayhews Landing Road. The architectural design and character is influenced by a Tuscan style with a variety of finishes and textures to complements the single family subdivision directly to the north of the site. Each unit was designed with a distinct main entry porch, articulated roof lines, and pop-out elements to avoid large expanses of blank walls. Exterior materials consist of stone veneer, stucco, trim treatments, decorative doors, corbels, and roof tiles. Careful attention was given to the street side elevations to provide the streetscape with visual interest and attractiveness. All units along the street fronts were designed with street facing porch entryways with decorative front gates.

An 8 foot high precast wall with decorative columns will be built along the perimeter of the project. This wall is designed to match the existing decorative perimeter wall and columns around the adjacent development directly to the north of the site. Enhanced landscaping will be installed along the entire front of the site along with 7 new street trees and street improvements. In addition to the street trees, there will be 25 new trees on-site. 10 new trees were placed in the rear of the project to provide an additional buffer between the existing single family homes and proposed project. In addition to the six new 2-car garages, the project will provide three uncovered guest parking spaces.

A community meeting was held by the applicant on Thursday, January 11, 2018. The notice was sent to property owners within a 300 foot radius around the project site. Three adjacent property owners were in attendance. Some concern regarding parking was raised in discussion but there was overall support of the project.

### Planned Development Findings

The subject site is constrained for development. With an irregular triangular shape lot, two street frontages, and a 14 foot easement bisecting the lot, a Planned Development is needed to build a viable project. The findings given in the draft resolution of approval contains language that comes from the Newark Zoning Ordinance, Section 17.12 (Planned Development Overlay District) and are supported by the application materials on file, this staff report, and the attached supporting exhibits.

Further elaboration for each finding is as follows:

- a. *The proposed development is consistent with the General Plan and any applicable specific plan, including the density and intensity limitations that apply.*  
The general plan land use designation for this site is Medium Density Residential which allows for 14 to 30 units per net acre. The proposed project's density is 15 units per net acre, which falls within the allowed density envisioned by the general plan for this site.
- b. *Adequate transportation facilities and public services exist or will be provided in accord with the conditions of development plan approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of traffic levels of service or public services so as to be a detriment to public health, safety, or welfare.*  
The subject site is located on one of the major arterials in the City that provides adequate transportation facilities and public services for the area. Existing public streets are adequate to accommodate the addition of six units and the proposal will not affect the existing level of service. The proposed development meets the off-street parking requirements for residential uses as well as guest parking as required by Newark Municipal Code. The development will be using existing driveways and access to the site will only be provided through Mayhews Landing Road. The project is conditioned to relocate utilities and provide storm drain improvements to ensure the new residential development will not overload existing utilities.
- c. *The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area.*  
The proposed project is designed to meet what the general plan envisioned for this site and was carefully designed to match the Tuscan style of the neighboring subdivision, provide additional landscape buffer, and kept small in scale to mitigate the impact to the surrounding neighborhoods. In addition, the proposed project will upgrade the surrounding area with a right-of-way dedication, undergrounding of existing overhead lines, and provide a landscape easement dedication along both street fronts.
- d. *The development generally complies with applicable adopted design guidelines;*  
The proposed project was carefully designed to generally comply with all design standards.

- e. *The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation and/or substantial public benefit.*

The subject site is constrained for development with an irregular triangular shape, two street frontages, and a 14 foot easement bisecting the site. A Planned Development approval will allow for a grander viable project with a very restricted site.

#### Environmental Review

An environmental noise assessment (Exhibit B) was prepared by Illingworth & Rodkin, Inc. due to the proximity of Newark Boulevard. The project is conditioned to meet the interior and exterior noise standards of the General Plan and to construct a recommended 8 foot high block wall along the perimeter of the project.

The project site was formally a gas station facility. The gas station facility was removed in December, 1992. The San Francisco Bay Regional Water Quality Control Board monitored the site cleanup and closed the case on June 24, 2016. As an extra precaution, this project is conditioned to conduct soil testing and provide evidence the site has no further contamination and is suitable for residential use prior to any building permit approval.

This project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15332, Class 32, In-Fill Development Projects.

#### Recommendation

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

**Action** – It is recommended that the Planning Commission: (1) by resolution and ordinance, recommends the City Council approve P-18-6, a planned development, for a six unit multi-family residential townhome subdivision located at 36589 Newark Boulevard (APN: 92A-623-43), with Exhibits A and B; and (2) by resolution, approve TTM-18-7, vesting tentative tract map 8409, Exhibit A.

#### Attachments

A- Plan Set, May 4, 2018

B- Environmental Noise Assessment by Illingworth & Rodkin, Inc., May 5, 2017, rev. January 18, 2018

RESOLUTION NO.

RESOLUTION RECOMMENDING APPROVAL OF P-18-6, A  
PLANNED DEVELOPMENT, TO ALLOW FOR A SIX UNIT  
MULTI-FAMILY RESIDENTIAL TOWNHOME SUBDIVISION  
AT 36589 NEWARK BOULEVARD (APN: 92A-623-43)

WHEREAS, David Langon Construction, Inc. has filed with the Planning Commission of the City of Newark an application for P-18-6, a planned development, for a six unit residential townhome project; and

PURSUANT to the Municipal Code Section 17.31.060, a public hearing notice was published in The Tri City Voice on May 15, 2018 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on May 29, 2018 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, pursuant to Chapter 17.12 (Planned Development), Section 17.12.060 (Required Findings), the Planning Commission hereby makes the following findings:

- a. The proposed development is consistent with the General Plan and any applicable specific plan, including the density and intensity limitations that apply;
- b. Adequate transportation facilities and public services exist or will be provided in accord with the conditions of development plan approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of traffic levels of service or public services so as to be a detriment to public health, safety, or welfare;
- c. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area;
- d. The development generally complies with applicable adopted design guidelines; and
- e. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation and/or substantial public benefit.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommends the City Council approve this application as shown on Exhibit A, pages 1 through 29, and Exhibit B, 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 be fully screened from public view.
- 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. Any changes to the approved color elevations 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.
- i. Prior to the issuance of a building permit, any major changes to the floor plans as submitted by the applicant 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 applicant 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 applicant 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 applicant 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), art in public places and private development impact fee (\$270/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. There shall be no pools allowed.
- q. There shall be no short term rentals allowed.
- r. 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.
- s. Prior to the issuance of a Certificate of Occupancy, roll-up garage doors with automatic garage door openers shall be provided for each unit.
- t. Prior to final inspection and utility release for each unit, the applicant 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.
- u. 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.
- v. 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.
- w. The applicant shall meet all mitigation measures listed in the Environmental Noise Assessment conducted by Illingworth & Rodkin, Inc. dated January 18, 2018, with original dated May 5, 2017.
- x. Prior to the initial submittal of plans for any permits, soil vapor samples must be collected to confirm that the residual benzene concentrations do not pose a potential risk to human health.
- y. Prior to the initial submittal of plans for any permits, provide documentation that the site, including adjacent right-of-ways, have been cleaned up to residential living standards. In addition, provide approvals from all regulating agencies.
- 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.

## Engineering Division

- aa. The developer shall obtain approval of a tentative and final map filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. The final map shall be approved and recorded prior to the issuance of any building permits.
- bb. The final map shall dedicate emergency vehicle access easements, private vehicle access ways, public utility easements, sanitary sewer easement, waterline easements, and storm drain easement over the private drive aisle.
- cc. The final map shall dedicate to the City of Newark an additional 4-foot wide (total 54 feet from centerline) roadway easement for street purposes along the Newark Boulevard frontage within the limits of the development.
- dd. The Developer shall widen Newark Boulevard along the project frontage such that the new centerline-to-curb width is forty four feet (44'). Frontage improvements on Newark Boulevard shall conform to the existing adjacent improvements to the north of the project and shall include, but are not limited to, construction of new ten foot (10') wide monolithic sidewalk with tree wells; installation of new curb, gutter; pavement widening; street trees; utility relocation; storm drain improvements; street lights; and stormwater treatment measures.
- ee. Prior to approval of the final map, the developer shall guarantee all necessary street improvements adjoining the development, common area improvements, private streets, private alleys and all other subdivision improvements to be owned and/or maintained by the homeowners' association 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. Such improvements include, but are not 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; stormwater treatment facilities; striping and signage; and fire hydrants.
- ff. The Developer shall remove the two (2) existing joint utility poles located near the intersection of Newark Boulevard and Mayhews Landing Road and underground all associated overhead utility lines crossing both Newark Boulevard and Mayhews Landing Road.
- gg. The final map shall dedicate to the City of Newark a minimum 10-foot wide landscape and public utility easement over the Newark Boulevard and Mayhews Landing Road frontage of the development. This easement shall incorporate all landscape areas beyond the minimum dimension to the nearest physical constraints. Landscape work in the easement area and adjoining street right-of-way requires the issuance of an Encroachment Permit.



- hh. The project must be designed to include appropriate source control, site design, and stormwater treatment measures to prevent stormwater runoff pollutant discharges from the site in accordance with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP), Order R2-2015-0049, revised November 19, 2015, issued to the City of Newark by the Regional Water Quality Control Board, San Francisco Bay Region. Examples of source control and site design requirements include but are not limited to: properly designed trash storage areas, sanitary sewer connections for all non-stormwater discharges, minimization of impervious surfaces, and treatment of all runoff with Low Impact Development (LID) treatment measures. The project Stormwater Management Plan is approved in concept only. The final Stormwater Management Plan is subject to City Engineer approval prior to issuance of Building Permits. Approval is subject to the developer providing the necessary plans, details, and calculations that demonstrate the plan complies with the standards issued by the Regional Water Quality Control Board.
- ii. Prior to the issuance of the initial grading or any building permits 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 a permanent thermoplastic stencil with the wording “No Dumping - Drains to Bay,” and other applicable practices.
- jj. The project Stormwater Management Plan shall incorporate 100% full trash capture devices to address the requirements of Provision C.10 of the Regional Water Quality Control Board (RWQCB) Municipal Regional Permit (MRP) to the satisfaction of the City Engineer. The proposed full trash capture devices must be approved by the RWQCB and the City Engineer.
- kk. The developer shall enter into an Agreement with the City of Newark that guarantees the property owner’s perpetual maintenance obligation for all stormwater treatment measures and trash capture devices installed as part of the project. Said Agreement is required pursuant to Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Said permit requires the City to provide verification and assurance that all treatment and trash capture devices will be properly operated and maintained. The Agreement shall be recorded against the property and shall run with the land.
- ll. The developer shall submit a grading and drainage plan for review and approval by the City Engineer. Approval of this plan by the Alameda County Flood Control District and the issuance of an encroachment permit by the District will also be required for any

proposed connection to the existing Line I storm drain line. The grading and drainage 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. The calculations shall show that the City and County freeboard requirements will be satisfied.

- mm. 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.
- nn. The Developer 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 required report shall cover soil stability, existing contaminated soils and groundwater on the project site and under Mayhews Landing Road, steps taken if contaminant levels are found, potential health hazards resulting from contaminated soils, and recommendations regarding pavement sections for the private street. Grading operations shall be in accordance with recommendations contained in the required soils report and grading shall be supervised by an engineer registered in the State of California to do such work.
- oo. The Project Geotechnical Engineer shall be retained to review all final grading plans and specifications. The Project Geotechnical Engineer shall approve all grading plans prior to City approval and issuance of grading permits.
- pp. Prior to the issuance of any Certificates of Occupancy or release of utilities for any buildings, common vehicle access ways and parking facilities serving the proposed buildings need to be paved in accordance with the recommendation of a licensed civil engineer based on a Traffic Index of 5.0.
- qq. Prior to the issuance of any Certificates of Occupancy or release of utilities for any buildings, the on-site drive aisle and uncovered parking facilities shall be installed and striped as shown on the approved site plan. All on-site covered parking facilities and drive aisles shall drain at a minimum slope of 1.0% for asphalt concrete surfaces and 0.3% for Portland cement concrete surfaces.

- rr. 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.
- ss. The developer shall submit design development Landscape Plans with the first plan check for the street improvement plans and final map. 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 Agreement and Final Map.
- tt. Streetlight/Joint Trench Plans shall be submitted with the first plan check for the street improvement plans and final map. The final streetlight/joint trench plan shall be completed prior to Final Map and will be subject to the review and approval by the City Engineer.
- uu. The developer shall incorporate a property owners' 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, and landscaping, including landscaping in adjacent public rights-of-way, and for paying for security lighting, any common garbage collection services, and other functions of a property owners' association. All common areas within the development shall be owned and maintained by the property owners' 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 property owners' association shall be incorporated prior to the sale of any individual lots and/or prior to acceptance of tract improvements, whichever occurs first.
- vv. Prior to City Council approval of the final map, the bylaws governing the property owners' 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.
- ww. The property owners' 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.

- xx. The developer shall also assist the property owners' association by having a management consultant firm review the maintenance and operating functions of the association. The management consulting firm shall be responsible to prepare 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.
- yy. 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.
- zz. 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.
- aaa. Prior to final map approval, 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 follow the maintenance program at the City Engineer's direction and shall be part of the project CC&Rs.
- bbb. 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 on Newark Boulevard or Mayhews Landing Road. If open trenching is required, the applicant must grind and overlay and/or slurry seal the pavement (limits to be determined) on Newark Boulevard and/or Mayhews Landing Road to the satisfaction of the City Engineer.
- ccc. The project may involve the installation of various above ground utility facilities such as backflow prevention devices and pad-mounted transformer and telephone facilities. These facilities must be located outside the street right-of-way to the extent possible. Special consideration should be given to the placement of pad-mounted facilities. Such facilities should be located as far as possible from the street and screened in an aesthetically pleasing manner.
- ddd. As part of the grading operations, the developer shall ensure that the site is watered on a sufficiently frequent basis to control dust as directed by the City Engineer. A pick-up or vacuum type street sweeper shall be available at all time at the direction of the City Engineer to remove tracked dirt and debris from adjacent streets.
- eee. Prior to final map approval, any outstanding Area Improvement District assessments will have to be either paid off or segregated. If segregation is to occur, an amended assessment diagram will be required at the developer's expense.

- fff. Prior to the issuance of any permits, the applicant shall submit a noise study justifying the type, height, and the limits of the new sound wall along the Thornton Avenue and Mayhews Landing Road frontages.
- ggg. The site is within an area determined to be outside the 0.2% annual chance floodplains (Zone X – Unshaded) shown on the Flood Insurance Rate Map (FIRM) for the City of Newark. All site construction must conform to the City’s Flood Plain Management Ordinance.
- hhh. Prior to the issuance of a Certificate of Occupancy, any and all damage to public improvements and along shared boundary lines on private property as a result of construction activity associated with this project shall be repaired to the satisfaction of the City Engineer and/or adjoining property owners.
- iii. The developer shall provide all required paper and electronic versions of the project final map, tract improvements plans, and as-built plans as required by the City Engineer, including but not necessarily limited to the following: (1) One full-size reproducible copy and one reduced reproducible copy of the approved tentative map; (2) Two electronic copies of the approved final map and improvement plans in a format approved by the City Engineer; (3) One full-size mylar copy and one reduced copy of the recorded final map; (4) One reproducible set and four blue-line or photocopied sets of the approved tract improvement plans; (5) Two electronic copies and one mylar set of the as-built tract improvement plans. A deposit of \$500 shall be submitted by the developer to the City to ensure the submittal of the recorded map.
- jjj. Prior to the initial submittal of plans for any permits, soil and groundwater contamination of the site needs to be reassessed and evaluated by a certified environmental testing laboratory in the State of California. The results of the laboratory tests shall be submitted to Mr. Bruce H. Wolfe of the State Water Resource Control Board to determine whether Case File No. 01-1804 (BGS), as referenced in the Case Closure letter dated June 24, 2016, needs to be re-opened and if a site cleanup program should be initiated. In addition, laboratory test results shall be submitted to the Alameda County Water District for review prior to the initial submittal of plans for any permits. Any additional mitigation measures, health risk assessments, and sampling required by the State or the Alameda County Water District shall be summarized in a formal letter to the Public Works Director/City Engineer and reflected in the site improvement plans.
- kkk. Prior to the initial submittal of plans for any permits, the applicant shall obtain and submit current laboratory results to identify/investigate any residual contamination, as a result of the previous use of the site, within the Mayhews Landing Road public right-of-way that could pose an unacceptable risk to human health, safety, or the environment. The laboratory tests and evaluation shall be performed by an environmental testing laboratory certified in the State of California. A detailed report that outlines the results of the investigation and any required remediation measures in the public right-of-way shall be submitted to the Public Works Director/City Engineer for review and approval prior to

the initial submittal of plans for any permits. Any remediation measures within the public right-of-way requires the issuance of a City of Newark Encroachment Permit.

- lll. Prior to the initial submittal of plans for any permits, the applicant shall notify the State Water Resources Control Board, as stated in Geotracker (State Database), for any additional site management requirements. Submit a letter to the Public Works Director/City Engineer confirming that all on and off-site management requirements from the State Water Resources Control Board have been satisfied.
- mmm. Prior to the initial submittal of plans for any permits, the applicant shall coordinate with the Alameda County Water District the removal/destruction of all on and off-site wells as required by the Regional Water Quality Control Board.

Landscape/Parks Division

- nnn. Concurrent with the final map, the developer shall dedicate a minimum 10-foot wide landscape and public utility easement along the Newark Boulevard and Mayhews Landing Road frontages of the project adjacent to the new right-of-way limit.
- ooo. 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 run with the land and be binding upon all future owners or assigns.
- ppp. 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.
- qqq. 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.
- rrr. The plant species identified for any proposed landscape-based stormwater treatment measures are subject to final approval of the City Engineer.
- sss. 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.
- ttt. 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.

- uuu. 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.
- vvv. 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

- www. A fully automatic fire sprinkler system shall be installed in each dwelling.
- xxx. This project will require the payment of school developer fees. School developer fees are assessed and collected by the Newark Unified School District.

#### Police Department

- yyy. 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.
- zzz. 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.

#### Fire Department

- aaaa. Proposed fire hydrant shall be relocated closer to the building. Coordinate new location with ACFD prior to the issuance of a building permit.

#### General

- bbbb. 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.
- cccc. If any condition of this Planned Development be declared invalid or unenforceable by a court of competent jurisdiction, this planned development and conditional use permit shall terminate and be of no force and effect, at the election of the City Council on

motion.

- dddd. 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.
  
- eeee. 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 applicant 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 applicant (which shall be the same counsel used by applicant) and reasonably approved by the City. Applicant'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.
  
- ffff. 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.

This Resolution was introduced at the Planning Commission's May 29, 2018 meeting by \_\_\_\_\_, seconded by \_\_\_\_\_, and passed as follows:

AYES:

NOES:

ABSENT:

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

\_\_\_\_\_  
WILLIAM FITTS, Chairperson