

RESOLUTION NO.

RESOLUTION RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF NEWARK APPROVE OF P-18-13, A PLANNED DEVELOPMENT PLAN, TO ALLOW FOR CONSTRUCTION OF TWENTY-ONE SINGLE-FAMILY HOMES LOCATED AT 6179 ROBERTSON AVENUE (APNs: 092A-2141-102, 092A-2143-039, 092A-2143-040-01, 092A-2143-040-02, 092A-2143-041, AND 092A-2143-042)

WHEREAS, Lafferty Communities has filed with the Planning Commission of the City of Newark an application for P-18-13, a planned development, for a twenty-one single-family lot subdivision project; and

PURSUANT to the Municipal Code Section 17.31.060, a public hearing notice was published in The Tri City Voice on January 8, 2019 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on January 22, 2019 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 34, 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 ground mounted and 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 the issuance of a building permit, the applicant shall pay the following fees: park impact fee (\$25,700 per unit), public safety impact fee (\$3,548 per unit), community service and facilities impact fee (\$2,376 per unit), transportation impact fee (\$5,113 per unit), housing impact fee (\$20.60 per square foot of building area for the first 1000 square feet and \$8.25 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).
- m. 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.
- n. 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.
- o. There shall be no Accessory Dwelling Units (including Standard Accessory Dwelling Units or Junior Accessory Dwelling Units) allowed.

- p. There shall be no short term rentals allowed.
- q. 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.
- r. Prior to the issuance of a Certificate of Occupancy, roll-up garage doors with automatic garage door openers shall be provided for each unit.
- s. 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.
- t. 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.
- u. Prior to the issuance of a Certificate of Occupancy, access drives shall be installed as shown on the approved site plan.
- v. The applicant shall meet all recommended mitigation measures listed in the Biological Resources Analysis Report conducted by Olberding Environmental, Inc. dated October 2017. The applicant shall conduct a Pre-Construction Avian Survey, Pre-Construction Bat Survey, and provide Erosion Control Plan.
- w. Prior to ground disturbance or demolition of structures, a pest inspection for rats, insects and other pests shall be conducted and any pests found be eradicated.
- x. 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

- y. The development will require approval of a Final Map filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. The final map must be approved prior to the issuance of any building permits.
- z. The applicant shall dedicate and secure the dedication of right-of-way and install complete roadway and utility improvements for the extension of Pomegranate Avenue between its current termini to the northeast and southwest of the project site. Pomegranate Avenue is a residential street with a right-of-way width of fifty six feet (56'). The Applicant shall also facilitate and secure the dedication of right-of-way over APN 092A-2143-40-02 required to complete the extension of Pomegranate Avenue. Dedication of the required right-of-way over APN 092A-2143-40-02 shall be recorded

prior to approval of the first Final Map that requires the extension of Pomegranate Avenue.

- aa. Required roadway and utility improvements for the extension of Pomegranate Avenue shall include, but are not limited to: installation of curb, gutter, sidewalk, driveways, drainage structures, street trees, landscaping, utilities, street lights, fire hydrants and stormwater treatment measures. The curb-to-curb width on Pomegranate Avenue shall be thirty six feet (36') to match the existing adjacent roadway cross sections. The project shall also install a 5' parkway strip (inclusive of curb width) and a 5' sidewalk on both sides of the Pomegranate Avenue extension.
- bb. The applicant shall dedicate right-of-way and install complete roadway and utility improvements for the extension of Honeysuckle Drive between its current termini to the northeast and southwest of the project site. Honeysuckle Drive is a residential street with a right-of-way width of fifty six feet (56').
- cc. Required roadway and utility improvements for the extension of Honeysuckle Drive shall include, but are not limited to: installation of curb, gutter, sidewalk, driveways, drainage structures, street trees, landscaping, utilities, street lights, fire hydrants and stormwater treatment measures. The curb-to-curb width on Honeysuckle Drive shall be thirty six feet (36') to match the existing adjacent roadway cross sections. The project shall also install a 5' parkway strip (inclusive of curb width) and a 5' sidewalk on both sides of the Honeysuckle Drive extension.
- dd. The Applicant shall remove the utility pole at the existing northeastern terminus of Honeysuckle Drive and underground all associated power lines to the next adjacent utility poles.
- ee. Frontage improvements on Robertson Avenue shall include, but are not limited to, removal of the existing monolithic sidewalk along the project's Robertson Avenue frontage; installation of a 5' parkway strip (inclusive of curb width) and new 5' separated sidewalk; removal of existing driveways and construction of new curb and gutter; construction of new City Standard driveways; street trees; landscaping; and grind and overlay of the street to centerline or beyond where utility tie-ins are necessary.
- ff. The Applicant shall remove the two existing joint utility poles along the project's Robertson Avenue frontage and underground all associated overhead lines to the adjacent utility pole fronting the property located at 6147 Robertson Avenue.
- gg. The Applicant shall remove all conflicting and/or temporary improvements at the existing termini of Honeysuckle Drive and Pomegranate Avenue adjacent to the project site and install permanent street, frontage and utility improvements at each existing terminus point necessary to complete the respective roadway extensions.

- hh. The Applicant shall dedicate a six foot (6') wide Public Utility Easement along the project's Robertson Avenue, Pomegranate Avenue and Honeysuckle Drive frontages. All perimeter fences shall be located outside of the 6' easement.
- ii. The Applicant shall secure the dedication of a six foot (6') wide Landscape Easement (LE) across the Pomegranate Avenue frontage of APN 092A-2143-40-02. A fence shall be installed along the rear of APN 092A-243-40-02 and shall be located outside of this Landscape Easement. The Applicant shall also be responsible for the installation of landscaping within the 6' Landscape Easement.
- jj. Any proposed utility connections and/or underground work within structurally sound street pavement shall be bored or jacked on Robertson Avenue. Open street cuts are not permitted on Robertson Avenue unless the affected pavement area is overlaid concurrent with the site development.
- kk. Prior to the issuance of a Certificate of Occupancy, any and all damage to public improvements as a result of construction activity associated with this project shall be repaired to the satisfaction of the City Engineer.
- ll. Prior to approval of the final map, the applicant shall guarantee all necessary street improvements within and adjoining the development in accordance with tract improvement plans to be approved by the City Engineer. These plans must be prepared by a qualified person licensed by the State of California to do such work.
- mm. Prior to the issuance of the initial grading or any building permits for this project, the applicant shall submit a Storm Water Pollution Prevention Plan for the review and approval of the City Engineer. The plan shall include sufficient details to show how storm water quality will be protected during both: (1) the construction phase of the project and (2) the post-construction, operational phase of the project. The construction phase plan shall include Best Management Practices from the California Storm Water Quality Best Management Practices Handbook for Construction Activities. The specific storm water pollution prevention measures to be maintained by the contractor shall be printed on the plans. The operational phase plan shall include Best Management Practices appropriate to the uses conducted on the site to effectively prohibit the entry of pollutants into storm water runoff from this site including, but not limited to, trash and litter control, pavement sweeping, periodic storm water inlet cleaning, landscape controls for fertilizer and pesticide applications, labeling of storm water inlets with a permanent thermoplastic stencil with the wording "No Dumping - Drains to Bay," and other applicable practices.
- nn. The project must be designed to include appropriate source control and site design measures in accordance with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP), Order R2-2015-0049, revised November 19, 2015, issued to the City of Newark by the Regional Water Quality Control Board, San Francisco Bay Region. Examples of source control and site design requirements include but are not

limited to: directing runoff from walkways on to vegetated areas, disconnecting roof downspouts, and minimization of impervious surfaces.

- oo. The Preliminary Stormwater Control Plan, Sheet TM-5 of the Tentative Map, prepared by Carlson, Barbee & Gibson, Inc., dated January 11, 2019 is approved in concept only. The final Stormwater Management Plan is subject to City Engineer approval prior to approval of the Tract Improvement Plans. Approval is subject to the applicant providing the necessary plans, details, and calculations that demonstrate the plan complies with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP), Order R2-2015-0049, revised November 19, 2015, issued by the San Francisco Bay Regional Water Quality Control Board.
- pp. In accordance with Provision C.10 of the Regional Water Quality Control Board's Municipal Regional Permit, storm drain inlet filters shall be installed in all adjacent off-site storm drain inlets. The storm drain inlet filters shall meet the full trash capture requirements of the San Francisco Bay Regional Water Quality Control Board and shall comply with maintenance and performance requirements of the Mosquito Abatement District. Alternative full trash capture devices such as hydrodynamic separators or pipe screens that meet the requirements of the Regional Water Quality Control Board and Mosquito Abatement District may also be used if approved by the City Engineer.
- qq. All stormwater treatment measures and full trash capture devices are subject to review and approval by the Alameda County Mosquito Abatement District. The applicant shall modify the grading, drainage, stormwater treatment or full trash capture design as necessary to satisfy any imposed requirements from the District.
- rr. Applicant shall enter into an Agreement with the City of Newark that guarantees the property owner's perpetual maintenance obligation for all stormwater management, 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. "No Dumping - Drains to Bay" thermoplastic stencils shall be placed on all on-site and adjacent off-site storm drain inlets.
- tt. The applicant shall submit detailed grading and drainage plans for review and approval by the City Engineer and the Alameda County Flood Control and Water Conservation District. These plans must be based upon a City benchmark and need to include pad and finish floor elevations of each proposed structure, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing drainage patterns. All on-site pavement shall drain at a minimum of one percent. The applicant 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 applicant's responsibility.

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

- uu. 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 applicant 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.
- vv. The applicant shall submit a detailed design-level geotechnical investigation 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.
- ww. The applicant shall provide a detailed design-level geotechnical report 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. The applicant shall pay for all costs related to the required peer review.
- xx. The Applicant shall establish a Homeowner's Association consisting of all owners of lands in the development at the time of incorporation and in the future for the purpose of maintaining private storm drain easements and associated improvements; public and private stormwater treatment and stormwater management facilities; landscaping, including landscaping in adjacent public rights-of-way; back-up fence and landscaping along APN 092A-2143-40-02; landscaping, emergency vehicle access gates and seat walls at the ends of the cul-de-sacs; and other functions of a Homeowner's Association. All common areas within the development shall be owned and maintained by the Homeowner's Association. Each property owner shall automatically become a member of the association and shall be subject to a proportionate share of the maintenance expenses. The Homeowner's Association shall be incorporated prior to the sale of any individual lots and/or prior to acceptance of tract improvements, whichever occurs first.
- yy. Prior to City Council approval of the final map, the bylaws governing the Homeowners' Association and any declaration of covenants, conditions and restrictions (CC&Rs) filed for this development shall be reviewed and approved by the City Council at its discretion after mandatory review and recommendations by the City Attorney. Said covenants,

conditions and restrictions shall be prominently displayed in the project sales office at all times. Approval of the covenants, conditions and restrictions shall not make the City a party to enforcement of same. The CC&Rs shall apply equally to both owners and renters. The CC&Rs shall be written to require renters to comply with the regulations of the CC&Rs, and a copy of the CC&Rs shall be given to each renter. The CC&Rs shall be written to allow less than a majority of owners to have pavement or landscape maintenance done and the cost thereof assessed to all owners in the project.

- zz. The 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.
- aaa. The Applicant shall assist the Homeowner's Association by having a management consultant firm review the maintenance and operating functions of the association. The management consulting firm shall be responsible for preparing a written report with recommendations to the association for managing the association's obligations and setting initial monthly assessment costs for each lot in the development. Membership and assessment cost shall be mandatory for all property owners of property in the development and shall run with the land. The applicant shall pay all costs of incorporation and initial management review and reports.
- bbb. The Homeowner's Association shall be responsible for trash and litter control 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.
- ccc. 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.
- ddd. The CC&Rs for the project shall include a disclosure statement to all property owners indicating that the project site is located within a seismic hazard zone for liquefaction. If project site is also located within a fault hazard zone, modify condition to add. The disclosure statement shall indicate that the buildings have been designed to current code requirements. The disclosure statement shall also indicate that the buildings, site improvements, and utilities are subject to damage during an earthquake and that the buildings may be uninhabitable after an earthquake. This CC&R disclosure statement is subject to review and approval of the City Engineer prior to final map approval.
- eee. The Applicant is to provide a complete set of construction plans and a copy of the project geotechnical report and recorded Final Map to the Homeowners Association at the time of its formation.

- fff. The CC&Rs shall contain a provision that prohibits the amendment of those provisions of the CC&Rs requested by City without the City's approval.
- ggg. 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.
- hhh. The Street Light and Joint Trench plan shall be submitted by the applicant with the first tract improvement plan check and approved prior to final map approval.
- iii. The applicant 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.
- jjj. The applicant shall submit design development Landscape Plans with the first tract improvement plan check. The Landscape Plans shall show details, sections and supplemental information as necessary for design coordination of the various civil design features and elements including utility location to the satisfaction of the City Engineer. Complete Landscape Plans shall be concurrently approved with the tract improvement plans and Final Map.
- kkk. The Applicant shall enter into a Landscape Maintenance Agreement with the City to ensure the perpetual maintenance of all landscaping within the development by the Homeowner's Association, including, but not limited to landscaping in adjacent public rights-of-way; landscaping, emergency vehicle access gates and seat walls at the ends of the cul-de-sacs; back-up fence and landscaping along APN 092A-2143-40-02; and landscape within both public and private stormwater treatment measures. This agreement shall run with the land and be binding upon all future owners or assigns. Any and all necessary easements shall be dedicated over individual lots to allow for the perpetual access and maintenance of landscaping. The full extent of landscape maintenance shall be determined based on the approved landscape improvement plans and detailed in said agreement. Landscape maintenance performed by the City at the expense of the Homeowner's Association or other property owner(s) shall only occur in the event the City Council deems the maintenance performed by the Homeowner's Association or property owner(s) is inadequate.
- lll. The applicant shall ensure that a water vehicle for dust control operations is kept readily available at all times during construction at the City Engineer's direction. A pick-up or vacuum type street sweeper shall be available at all times at the direction of the City Engineer to removed tracked dirt and debris from adjacent streets.
- mmm. The applicant shall implement the following measures for the duration of all construction activity to minimize air quality impacts:

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

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

- nnn. The applicant shall provide all required paper and digital submittals of the tentative map, project final map, tract improvement plans, and as-built plans as required by the City Engineer, including, but not necessarily limited to the following: (1) One full-sized reproducible copy and one reduced reproducible copy of the approved tentative map; (2) Electronic copies of the approved final map and improvement plans in a format approved by the City Engineer; (3) One full-sized mylar copy and one electronic copy of the recorded final map; (4) Four photocopied sets of the approved tract improvement plans; (5) One electronic copy and one mylar set of the as-built tract improvement plans. All digital copies of the final map and improvement plans shall be prepared in accordance with Southern Alameda County GIS Authority digital submittal standards. A deposit of \$5,000 shall be provided by the applicant to the City to ensure submittal of all required documentation.
- ooo. The plans submitted for construction must be drawn to an appropriate scale as required by the City Engineer.

Landscape/Parks Division

- ppp. The applicant shall retain a licensed landscape architect to prepare working drawings for landscape plans in accordance with City of Newark requirements. All landscape plans are subject to the review and approval of the City Engineer.
- qqq. Landscape construction plans shall be developed in accordance with Newark Municipal Code Section 15.44.080 related to Bay Friendly Landscaping Practices and City of Newark standard details. All landscaping materials selected for landscape-based stormwater treatment measures shall be consistent with the recommendations in the Alameda Countywide Clean Water Program C.3 Technical Guidance Manual.
- rrr. This project is subject to all applicable requirements of the State of California's Model Water Efficient Landscape Ordinance. The landscape design plan package, including the design plans, shall include all applicable requirements specified in this ordinance.
- sss. Prior to installation by the applicant, 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 applicant shall guarantee all trees for a period of 6 months and all other plantings and landscape for 60 days after completion thereof. The applicant shall insure that the landscape shall be installed properly and maintained to follow standard horticultural practices. All plant replacements shall be to an equal or better standard than originally approved subject to approval of the City Engineer.

Building Division

- vvv. Construction for this project, including site work and all structures, can occur only between the hours of 8:00 AM and 5:00 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.
- www. This project will require the installation of a fully automatic fire sprinkler system in compliance with the Newark Municipal Code.

- xxx. After any approvals are issued by Community Development the applicant shall submit construction documents and an application for a building permit from the City Building Inspection Division. Construction documents shall be prepared by a California licensed architect or structural engineer.
- yyy. Prior to commencing any demolition activity the applicant shall first obtain a permit from the Bay Area Air Quality Management District and then obtain a demolition permit from the City Building Inspection Division.
- zzz. Some of the units have clothes dryers located towards the center of the dwellings. At the time construction documents are submitted for a building permit confirm the exhaust duct length does not exceed the maximum dimension of 14 feet.
- aaaa. This project will require the payment of school applicant fees. School applicant fees are assessed and collected by the Newark Unified School District.

Police Department

- bbbb. The development shall comply with Chapter 15.06, Security Code, of the Newark Municipal Code.
- cccc. The proposed development should comply with the City of Newark street numbering system and tie in with the existing neighborhood street numbering. Additionally, the proposed single family detached homes should display their individual street address in a manner clearly visible from the adjacent roadway in order to facilitate public safety personnel's ability to quickly identify each location during emergency responses.

Fire Department

- dddd. A fire hydrant is required at each cul-de-sac.
- eeee. Automatic fire sprinkler system will be required for each home.
- ffff. A sign shall be provided at each gate indicating fire access road shall not be blocked.
- gggg. Trees shall not obstruct the fire access road at both gates.

General

- hhhh. This Vesting Tentative Map, Planned Development, and Environmental Determination shall be given a public hearing before the City Council for the Council's review and approval.
- iiii. 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.

- jjjj. If any condition of this Vesting Tentative Map, Planned Development, and Environmental Determination be declared invalid or unenforceable by a court of competent jurisdiction, this Vesting Tentative Map, Planned Development, and Environmental Determination shall terminate and be of no force and effect, at the election of the City Council on motion.
- kkkk. 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.
- llll. 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.
- mmmm. 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 January 22, 2019 meeting by , seconded by , and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

WILLIAM FITTS, Chairperson