

**E. 1 Hearing to consider MUP-19-1, a Minor Use Permit to allow an Art Studio with Instructional Services at 6180 Jarvis Avenue Suite H, J, & K. The property is zoned Community Commercial– from Acting Community Development Director Interiano. (RESOLUTION)**

**Background/Discussion** – CalColor Art is looking to establish an art studio which also provides instructional art classes. The use of instructional services in the Community Commercial (CC) zoning district requires approval of a Minor Use Permit. A stand-alone art studio is a permitted use.

The applicant is proposing to locate their business in a 2,600 sq.ft. suite at 6180 Jarvis Ave. The property is adjacent to the Lido Faire Shopping Center and consists of one single building with 14 rental spaces (see Location Map and existing Business List). The proposed operation will be open Monday through Friday from 3pm-7pm and weekends from 9am-7pm. The space will be used by artists to practice and sell their art. In addition, the business will host art classes and workshops to both adults and children.

The CC zoning district was designed to encourage mainly retail uses and allow other uses to be considered through careful consideration of a MUP. As an example of that, the Community Commercial zoning district table allows General Retail, Business Services, Cinemas, Banks and Hotels as Permitted Uses. In comparison, almost all other uses listed require either a Minor Use Permit or Conditional Use Permit. To further support this argument, staff provided the CC zoning district description and applicable General Plan policies below:

“Community Commercial (CC)- This district provides locations for services and businesses which meet the comparison shopping needs of the City’s residents and workers. Such centers may include supermarkets, home improvement stores, variety stores, pharmacies, restaurants, and similar uses which serve the community. Large-scale commercial uses such as hotels and office buildings are acceptable. Community Commercial areas generally not appropriate for residential use, although housing may be considered as a component of Planned Developments within these areas in the event a shopping center is reused. This District implements the Community Commercial General Plan Land Use Designation.”

“General Plan-Economic Development Policy 1.3 Revenue Generation. Support continued expansion of the municipal tax base, including property, transient occupancy, and sales tax, to ensure adequate funding for the public facilities and services. Development should generally have a positive fiscal impact on the City, unless other compelling community benefits will be provided.”

“General Plan-Economic Development Policy 2.10 (2.A) Non-Retail Businesses. Periodically evaluate the impact of the non-retail businesses on the vitality of retail centers. Zoning for retail centers should be revised to require a conditional use permit for non-retail uses and to establish

thresholds for the maximum amounts of space that may be used by non-retail businesses”

As part of the overall review of application MUP-19-1, staff evaluated the impacts of the overall application which included consistency with the zoning code, general plan, parking standards and operational impacts. In particular, staff found that the existing non-retail uses outnumbered the retail uses in size and frontage, therefore further allowing additional non-retail businesses would be contrary to the intent of the zoning district which is to allow mainly retail uses. It is staff’s opinion that retail centers should have approximately 30 percent or less of non-retail uses. The subject building has more than 50 percent of its business as non-retail.

As a result of the March 26, 2019 Planning Commission meeting, additional information was requested to better understand the retail health of other Newark Shopping Centers. Specifically, the Commission requested the percentages of retail versus non-retail uses in similar in-line commerce centers. Therefore, staff surveyed the eight largest shopping centers and provides the following data:

<b>Shopping Center</b>	<b>% of Retail Uses*</b>
Balentine Plaza	68
Cedar Springs	60
Cedar Village/Lions Center	71
Home Depot Center	66
Lido Faire Shopping Center	75
Newark Marketplace	38
Rosemont Center	23**
Sprouts Center	27
Proposed Location	48

\*Based on approximate square footage

\*\*Limited sample due to 5 in-line stores

Based on the results above, the majority of the eight largest in-line commerce centers located in the City’s shopping centers are above 60 percent in terms of retail uses. As stated by staff in the previous meeting, there is a strong correlation between the success of a business when there are several retail establishments in high concentrations located near that business. The data supports staff’s position that retail centers should be approximately 60-70 percent retail and the further allowance of the proposed application of a non-retail use reduces the retail health of the in-line center and the City’s tax base, which is contrary to economic development policies in the General Plan.

Therefore, staff does not recommend approval of MUP-19-1 because allowing the proposed MUP-19-1 would be detrimental to the future vitality of the in-line center, and contrary to the intent of the CC zoning district and the policies of the General Plan as stated above.

**CEQA-** This project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301, Class 1, existing facilities.

**Action –** It is recommended that the Planning Commission deny Application MUP-19-1.

## **Attachment**

1. Resolution
2. Location Map



RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWARK APPROVING MUP-19-1, A MINOR USE PERMIT TO ALLOW INSTRUCTIONAL SERVICES, ART CLASSES, IN THE COMMUNITY COMMERCIAL ZONING DISTRICT AT 6180 JARVIS AVENUE SUITE H, J, & K. (APN: 092A259407900)

WHEREAS, Mr. Ligang Wu, has filed with the Planning Commission of the City of Newark an application for MUP-19-1, a minor use permit, to allow for instructional services, art classes; and

PURSUANT to the Municipal Code Section 17.31.060, a public hearing notice was published in The Tri City Voice on April 9, 2019 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on April 23, 2019 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, pursuant to Chapter 17.35 (Use Permits), Section 17.35.060 (Required Findings), the Planning Commission hereby makes the following findings:

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable zoning district and complies with all other applicable provisions of this Ordinance and all other titles of the Municipal Code;
- B. The proposed use is consistent with the General Plan and any applicable specific plan;
- C. The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements;
- D. Tax revenue generated by the development will exceed the City's cost of the service demand as a result of the development or a compelling community benefit will be provided.
- E. The proposed use complies with any design or development standards applicable to the zoning district or the use in question unless waived or modified pursuant to the provisions of this Ordinance;
- F. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and
- G. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby approves this application, subject to compliance with the following conditions:

1. The hours of operation are limited to Monday through Friday 3pm-7pm and weekends 9am-7pm.
2. Art Classes for minors (under age of 13) shall require the parents of the children to be present and through the duration of the art class.

The Commission makes the findings prescribed in Newark Municipal Code Section 17.35.060, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk.

This Resolution was introduced at the Planning Commission's April 23, 2019 meeting by \_\_\_\_\_, seconded by \_\_\_\_\_, and passed as follows:

AYES:

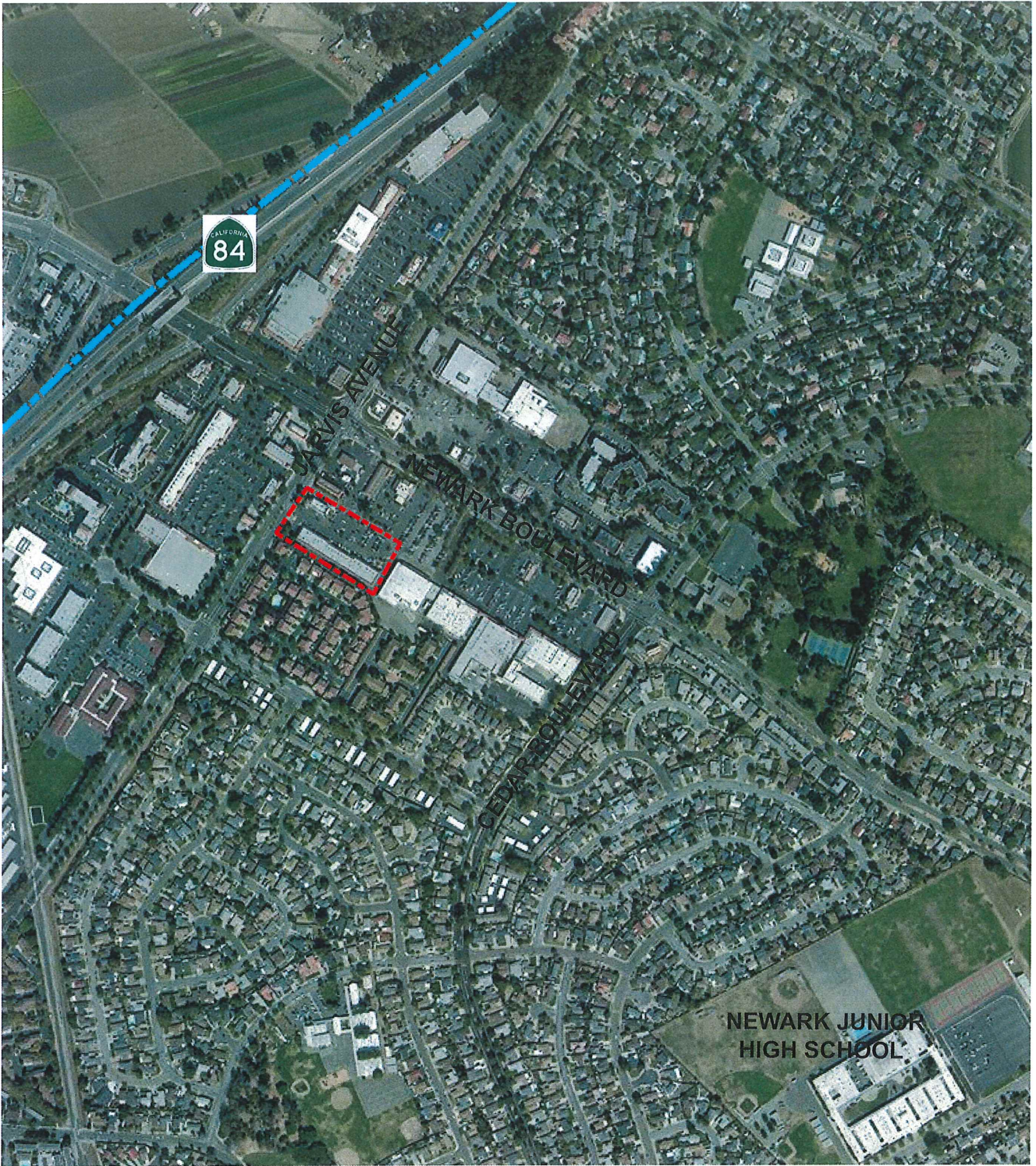
NOES:

ABSENT:

\_\_\_\_\_  
ART INTERIANO, Secretary

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





----- SUBJECT SITE AT 6180 JARVIS AVENUE