



CITY OF NEWARK PLANNING COMMISSION

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

Draft Tuesday, October 22, 2019

A. ROLL CALL

Chair Fitts and Planning Commissioners Bridges, Aguilar, Becker, and Otterstetter were present.

Chair Fitts announced that there were audio/video equipment issues in the Chambers and requested that everyone speak loudly.

Chair Fitts lead the Pledge of Allegiance.

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, August 13, 2019. **MOTION APPROVED**

Commissioner Becker moved, Commissioner Aguilar seconded to approve the minutes. The motion passed, 5 AYES.

C. WRITTEN COMMUNICATIONS

Chair Fitts stated that correspondence was received before the meeting. In response to Chair Fitts, Deputy Community Development Director Interiano stated that no written communications were submitted at the meeting.

D. ORAL COMMUNICATIONS

No one came forward to speak.

E. PUBLIC HEARINGS

E.1 Hearing to consider "Sanctuary West", a 469-unit residential project on an approximately 430-acre site within Area 4 of the "Areas 3 and 4 Specific Plan" located at the south western edge of the City of Newark. The Planning Commission will consider recommending to the City Council of the City of Newark: (1) based on E-19-4, the Compliance Checklist prepared pursuant to Sections 15164 and 15168 of the California Environmental Quality Act (CEQA) Guidelines, finding that the environmental effects of the proposed Sanctuary West Residential Project (Project) in Area 4 were sufficiently analyzed under and are within the scope of the previously-approved 2015 Recirculated Environmental Impact Report (REIR) for

the Areas 3 and 4 Specific Plan (State Clearinghouse No. 2007052065), that the REIR adequately describes the Project in Area 4, and that there are no new substantial changes to the Project or to the circumstances surrounding the Project, nor new information of substantial environmental significance, nor other events since that REIR was certified in 2015 that require supplemental or subsequent CEQA review and also exempt from CEQA pursuant to California Government Code Section 65457; (2) approving TTM-19-5, Vesting Tentative Tract Map 8495; and (3) approving U-19-6, a Conditional Use Permit and P-19-7, a Planned Unit Development to allow for construction of a 469-unit residential project located at the south western edge of the City of Newark.

RESOLUTION NOS. 1982-1983

Planning Commissioner Aguilar stated that he would recuse himself from this item because he was employed by CBRE a commercial real estate company. He stated that he might assist with the purchase and sale of the properties related to Sobrato Organization in the future and this could be a financial conflict of interest.

Planning Commissioner Becker stated that he did not have a financial interest, but would recuse himself, in that there might be a public perception that he could not act impartially since he made recommendations as City Manager on the previous entitlements.

Planning Commissioners Aguilar and Becker left the City Council Chambers.

Senior Planner Mangalam provided the staff presentation. Ms. Mangalam stated that the Sobrato Organization requested approval for a 469-lot single-family dwelling subdivision on a 430 acre site within Area 4. The surrounding area consisted of Mowry Avenue, Union Pacific Railroad, City of Fremont, salt flats, and Mowry Slough. The development area is zoned Single Family Residential.

Senior Planner Mangalam outlined the history of the area, previous City approvals, the Citizens Committee to Complete the Refuge lawsuit, and the actions taken to address the court ruling. She stated that the Areas 3 and 4 Specific Plan allowed for the development of up to 1,260 houses, an elementary school, a golf course, parks and open space areas, and retention of the existing light industrial and institutional uses. The developer has dedicated 66 acres for recreational purposes, a 6 acre parcel for an elementary school, and a 3 acre park for the neighborhood and school to share. The City agreed to maintain the land use rules, regulations, and polices in effect at the time of the re-adoption of the Development Agreement for any future projects within the Areas 3 and 4 Specific Plan.

Senior Planner Mangalam stated that the proposed project would include 469 single-family homes, three park parcels, and four board walk overlooks. There would be four “villages” of homes ranging in size from 2,326 square feet to 3,653 square feet. Parking spaces consisted of 938 covered off street, 938 uncovered off street, and 863 on street. An overpass bridge would be constructed at Stevenson Boulevard over the railroad tracks. A private roadway easement west of the Union Pacific Railroad (UPRR) alignment would serve as an Emergency Vehicle Access roadway and multi-use trail.

Judy Shandley of David J. Powers Inc., the City's environmental consultant for CEQA, described the preparation of the Compliance Checklist. She concluded that the proposed project was consistent with the adopted Areas 3 and 4 Specific Plan, that none of the events list in Public Resources Code Section 2116 nor CEQA Guidelines Section 15162 have occurred, and that the proposed project would not result in any new or more significant environmental impacts beyond those described in the Recirculated Environmental Impact Report.

Senior Planner Mangalam stated that Compliance Checklist comment letters were received from the U.S. Fish and Wildlife Services, San Francisco Bay Regional Water Quality Control Board, Grasseti Environmental Consulting, Geoffrey Hornek Environmental Air Quality and Acoustical Consulting and a verbal comment from Jana Sokale. Three letters were received on October 22, 2019 (the day of the Planning Commission meeting) from Stewart Fleischman, Josh Sonnenfeld Consulting, and the Citizens Committee to Complete the Refuge. Staff determined that these letters did not raise any new issues not previously analyzed in prior documents. Comments were also received from the Alameda County Water District on October 22, 2019, specific to project level design and construction, which staff recommended including as a condition of approval.

Chair Fitts opened the Public Hearing.

Tim Steele, Sobrato Development stated that he read the resolutions and agreed to the conditions, including the additional conditions from the Alameda County Water District.

Jana Sokale, resident and Citizens Committee to Complete the Refuge member gave a PowerPoint presentation (on file with Planning Department). She stated that the development traps, fragments, and damns the wetlands and did not meet CEQA. She stated that the USGS predicts sea level rise that would flood the homes. Not developing the area would give the City the opportunity to sequester carbon, fight climate change, and preserve the wildlife habitats.

Wayne Miller stated that the environmental documents were outdated and new environmental scientific data needed to be considered. He stated that Area 4 needed restoration and habitat protection. He stated that Area 4 was vulnerable to development citing a variety of reasons including stormwater runoff, soil movement, conflict with rail lines, potential cross contamination from hazardous material, risk of liquefaction, and impacts to wildlife.

Margaret Lewis, resident, requested that the Planning Commission not recommend approval of this project to the City Council. She stated that the houses, roads and infrastructure would be on lands subject to liquefaction, tons of fill would not make it safer, there was one way in and out on levies that were not up to FEMA Standards, sea level rise was a major concern, and residents would cross busy rail lines.

Carin High, Citizen Committee to Complete the Refuge, stated that Area 4 was a prime location to restore tidal marshes. She cited increased rail traffic, sea level rise, and the potential loss of the salt harvest mouse as reasons not to proceed. She stated that the Army Corps of Engineers indicating that the 2007 jurisdictional delineation of waters has not been re-verified nor recertified. She requested a Supplemental EIR to consider new environmental information.

Laurie Price, Sierra Club stated that they opposed the approval of the existing EIR. She stated that the San Francisco Regional Water Quality Control Board and the U.S. Fish and Wildlife Service have requested a Supplemental EIR. She stated that the EIR needs to be updated with current research, include impact on listed species, water quality and climate change aspects.

Dan Ondrasek, Friends of Coyote Hills stated that flooding events have increased in the last 12 years killing people. He stated that other cities are reviewing their zoning and the liability of putting housing near water. He stated that this project would cement over water that has to go somewhere and the land would be susceptible to flooding.

Josh Sonnenfeld, representing the Citizens Committee to Complete the Refuge and 11 other organizations stated that submitted a joint letter to the Planning Commission requesting rejection of this project. They believed that the Compliance Checklist was inadequate and requested a Supplemental EIR. They preferred that the area be restored and not developed. He requested to be notified of future meetings for this project.

Martin Doyle requested that the Planning Commission consider the future and preserve this area. He stated that much of the Bay has been destroyed and this open space should be preserved for children.

Chair Fitts asked if anyone else would like speak, no one came forward. Chair Fitts closed the public hearing.

Community Development Director Turner reviewed the actions in 2015 resulting in the City Council's decision that development of this area was a public benefit. He stated that the Development Agreement says that if a project is consistent with those previous approvals, then the City shall approve the project. Staff believes that the project is consistent and recommended approval.

Chair Fitts moved to approve: (1) Based on E-19-4, the Compliance Checklist/Addendum prepared pursuant to Sections 15164 and 15168 of the California Environmental Quality Act (CEQA) Guidelines, finding that the environmental effects of the proposed Sanctuary West Residential Project (Project) in Area 4 were sufficiently analyzed under and are within the scope of the previously-approved 2015 Recirculated Environmental Impact Report (REIR) for the Areas 3 and 4 Specific Plan (State Clearinghouse No. 2007052065), that the REIR adequately describes the Project in Area 4, and that there are no new substantial changes to the Project or to the circumstances surrounding the Project, nor new information of substantial environmental significance, nor other events since that REIR was certified in 2015 that require supplemental or subsequent CEQA review and also exempt from CEQA pursuant to California Government Code Section 65457; (2) approving TTM-19-5, Vesting Tentative Tract Map 8495; and (3) approving U-19-6, a Conditional Use Permit and P-19-7, a Planned Unit Development to allow for construction of a 469-unit residential project located at the south western edge of the City of Newark.

Chair Fitts further stated that the motion included the changes requested from the Alameda County Water District.

Commissioner Bridges stated that she thought the Compliance Checklist was adequate and that a

Supplemental Environmental Impact Report was not necessary. She requested that the Planning Commission consider continuing this item to the next meeting to allow further time to contemplate the project.

Commissioner Otterstetter stated that the City has done its due diligence and did not think that delaying the vote would result in additional information. She seconded the motion.

The motion passed 3 AYES, 2 RECUSALS (Aguilar and Becker).

Community Development Director Turner stated that this item would go to the City Council on November 14, 2019.

F. STAFF REPORTS

Community Development Director Turner stated there were no staff reports.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

Deputy Community Development Director Interiano stated that the Zoning Code text amendments approved by the Planning Commission in August have also been approved by the City Council.

H. ADJOURNMENT

At 9:02 p.m. Chair Fitts adjourned the meeting.