



CITY OF NEWARK

Planning Commission

City Hall, City Council Chambers

Various Locations, Newark, CA 94560 | (510) 578-4330 | E-mail: planning@newark.org

AGENDA

Tuesday, November 16, 2021

7:30 P.M.

HYBRID IN-PERSON/VIRTUAL MEETING

REFER TO THE END OF THE AGENDA TO REVIEW OPTIONS FOR PARTICIPATING IN THE MEETING REMOTELY OR IN-PERSON. IF YOU ATTEND THE MEETING IN PERSON, YOU ARE REQUIRED TO WEAR A FACE COVERING PURSUANT TO ALAMEDA COUNTY HEALTH OFFICER ORDER NO. 21-03.

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of September 28, 2021.

(MOTION)

C. WRITTEN COMMUNICATIONS

D. ORAL COMMUNICATIONS

Members of the public are invited to address the Planning Commission on any item not listed on the agenda. Public Comments are generally limited to 5 minutes per speaker. Please note that State law prohibits the Commission from acting on non-agenda items.

E. PUBLIC HEARINGS

E.1 Hearing to consider a conditional use permit to allow outdoor storage at an existing warehouse facility at 6691 Clark Avenue (APN 092-0065-005-00). The

subject site is zoned LI: Limited Industrial and has a general plan land-use designation of Limited Industrial – from Deputy Community Development Director Interiano.

(RESOLUTION)

F. STAFF REPORTS

G. COMMISSION MATTERS

G.1 Report on City Council actions.

G.2 Acknowledgement of Vice Chairperson Karen Bridges.

H. ADJOURNMENT

HYBRID IN-PERSON/VIRTUAL MEETING NOTICE

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Orders N-29-20 and N-08-21 regarding the COVID-19 pandemic. Members of the public may attend the meeting in person, virtually via Zoom, or watch it via YouTube. Pursuant to Alameda County Health Officer Order No. 21-03, all individuals attending the meeting in person are required to wear a face covering at all times.

Chairperson Aguilar, Vice Chairperson Bridges, and Commissioners Becker, Fitts, Otterstetter may be attending this meeting via teleconference. Teleconference locations are not open to the public. In the event that any members of the Planning Commission elect to attend this meeting via teleconference, all votes conducted during the teleconferencing session will be conducted by roll call vote.

How to view the meeting remotely:

Livestream online at YouTube: <https://www.youtube.com/channel/UC383NGSxaPwZP1IkJbo2T8A>
Copy/paste the YouTube URL into your browser if the link does not automatically open.

This meeting will broadcast on Comcast Channel 26.

How to participate in the meeting remotely, via Zoom Webinar:

From a PC, Mac, iPad, iPhone or Android device: <https://us06web.zoom.us/j/85812803453>

From a telephone dial 1 669 900 6833, Webinar ID 858 1280 3453

Provide live, remote public comments when the Chairperson calls for comments. Use the raise your hand feature in Zoom to be called upon by the Administrative Support Specialist.

For frequently asked Zoom questions, please go to [Agendas and Minutes](#) and select the Frequently Asked Questions link.

Submission of Public Comments: Public comments received by 4:00 p.m. on the Planning Commission meeting date will be provided to the Planning Commission and considered before Planning Commission action. Comments may be submitted by email to planning@newark.org. Comments may also be submitted via e-mail to planning@newark.org at any time prior to closure of the public comment portion of the item(s) under consideration.

No question shall be asked of a Planning Commissioner, city staff, or an audience member except through the Chairperson. No person shall use vulgar, profane, loud, or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the Chairperson for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.

Commission Meeting Access/Materials:

The agenda packet is available for review at [Agendas and Minutes](#). The packet is typically posted to the City website the Friday before the meeting, but no later than 72 hours before the meeting.

Pursuant to Government Code 54957.5, supplemental materials distributed less than 72 hours before this meeting, to a majority of the Planning Commission, will be made available for public inspection at this meeting and will be posted, if time allows, at [Agendas and Minutes](#). Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection. For those persons who require special accommodations, please contact the Administrative Support Specialist at least two days prior to the meeting at planning@newark.org or 510-578-4330.

3855735.1



CITY OF NEWARK

Planning Commission

City Hall, City Council Chambers

37101 Newark Boulevard, Newark, CA 94560 | (510) 578-4330 | E-mail: planning@newark.org

MINUTES

Tuesday, September 28, 2021

A. ROLL CALL

Chairperson Aguilar called the meeting to order at 7:30pm. Present via teleconference were Vice-Chairperson Bridges, Commissioners Fitts, Otterstetter and Becker.

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, August 24, 2021.

MOTION APPROVED

Commissioner Otterstetter moved, Commissioner Fitts seconded, to approve the revised Minutes of the regular Planning Commission meeting on August 24, 2021. The motion passed 4 AYES.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

- e.1 Timber Street Senior Housing – 37660 Timber Street (APN 92A-2125-10-2): GP-21-06, RZ-21-07, U-21-08, DR-21-09, E-21-10. A public hearing to consider a resolution to recommend City Council adoption of a mitigated negative

declaration supported by an initial study in accordance with the California Environmental Quality Act (CEQA) and adoption of: a general plan amendment, an ordinance amending the zoning map from RM: residential medium density to RH: residential high density; a conditional use permit, and design review to allow a 79-unit residential development. The subject site is zoned RM: residential medium density and has a general plan land-use designation of medium density residential – from Associate Planner Mayank Patel.

(RESOLUTION)

Associate Planner (AP) Patel provided an overview of the project proposal including proposed site plans, and Staff's recommendation.

Applicant Jared Nolan, project manager from Eden Housing, provided a background on Eden Housing and its role as an affordable housing developer, owner, property manager and provider of resident services.

Applicant Nolan turned the presentation over to Applicant Rick Williams of Van Meter Williams Pollack, architect for the proposed Timber Street Senior Housing project, who discussed the design of the project.

Associate Planner (AP) Patel finished the presentation.

Chairman Aguilar opened a question period from Planning Commissioners.

Commissioner Becker asked the total cost of the project and the minimum age requirement; Applicant Nolan responded the cost of the project is approximately \$52 million and the minimum age 62.

Commissioner Bridges commented that she is concerned about the price of \$2,000 per unit as well as expressed her excitement for the project.

Chairman Aguilar requested detail around the pricing of the project. Applicant Nolan commented that he anticipates that the majority of the rent per unit will be approximately \$1,200 per month and explained that as the project continues Eden Housing will continue to apply for different funding sources. Eden Housing is working with the City to apply a local live/work preference.

Commissioner Fitts commented that the proposed parking seems tight and asked if there is any street parking in front of the development, what is the square footage of the units, is there sufficient screening on the unit windows and decibel levels. He also inquired about the nearby industrial buildings and future use.

Applicant Williams responded that over time the need for parking will reduce as residents increasingly rely on public transportation and paratransit services. He also explained that the windows are operable and will have high quality ventilation for the units. The residential size of the units will be 525-550 net square feet.

Commissioner Otterstetter asked if other developments in the area from Eden Housing are primarily one-bedroom units.

Applicant Nolan responded that the size of the units is comparable given the type of project.

Commissioner Otterstetter asked about guest parking and asked if it's possible to create designated street parking.

Community Development Director Turner commented that it likely will not be possible because of fire lane access needs; clarified this with Associate Planner Patel.

Community Development Director Turner also mentioned that the City can work with surrounding business owners to ensure they're not storing their car inventory on the street. Commissioner Otterstetter suggested marking the street "no overnight parking".

Chairperson Aguilar asked what the timeline for the project is. Applicant Nolan explained the phases – design and plan check, and the finance phase to fund the project. The permitting side typically takes 12 months combined to prepare construction documents to the City and to work through the permitting process. The finance timeline is also approximately 12 months. He explained that the two phases will happen concurrently, and the construction process is approximately 20 months.

Chairperson Aguilar asked if this project would fulfill RHNA allocation for Cycle 6. Community Development Director Turner confirmed.

Chairperson Aguilar closed the public hearing.

Commissioner Becker complimented the applicant on a well-designed project.

Chairperson Aguilar agreed with Commissioner Becker and commented that he is hopeful it will create a more vibrant retail area.

Commissioner Fitts moved, Commissioner Becker seconded, to approve the resolution, with the adoption of Staff-recommended change to condition of approval D.

Chairperson Aguilar confirmed with Commissioners Fitts and Becker that both agree the adoption of Staff-recommended change to condition of approval D.

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

H. ADJOURNMENT

Chairperson Aguilar adjourned the regular Planning Commission meeting at 8:50 pm.

Respectfully submitted,

STEVEN TURNER
Secretary



- E. 1 Hearing to consider U-21-06, a Conditional Use Permit to allow outdoor storage at an existing warehouse facility at 6691 Clark Avenue (APN 092-0065-005-00). The subject site is zoned LI: Limited Industrial and has a General Plan Land-Use designation of Limited Industrial – from Deputy Community Development Director. (RESOLUTION)**

Background/Discussion

The city has received an application for a Conditional Use Permit (CUP) to allow outdoor storage at the existing building located at 6691 Clark Avenue. Per NMC 17.09.020, a condition use permit is required for outdoor storage associated with any warehouse use in the Limited Industrial zoning district. The applicant, White Cap LLC, is proposing to use an existing warehouse for a construction materials business. The request would allow the property to have a construction yard area for supplies related to their business. Per the company’s website, White Cap serves professional contractors through the entire project lifecycle as the leading construction supplies distributor in non-residential, residential and industrial applications. The company has more than 400 locations and over 7,000 associates across the U.S. and Canada.

Project Context and Proposal

The project site has a General Plan Land-Use designation of Limited Industrial and is zoned LI: Limited Industrial. Generally, the LI district is intended to meet the needs of a variety of light industrial and commercial service uses. It serves as a transition between heavier industrial activities and residential neighborhoods. Typical uses include light manufacturing, warehousing, auto repair, and general services. Limited office, recreation, assembly, and retail uses are allowed where appropriate in a light industrial setting. This district implements the limited industrial general plan land use designation.

The subject property is surrounded by properties that are zoned Limited Industrial, with the exception of the rear yard area which is adjacent to Plummer Creek and railroad tracks. Although a new warehouse use would require a conditional use permit, this is an existing warehouse which is legally non-conforming and is allowed to continue to be a warehouse aside from the proposed request for outdoor storage. The existing warehouse building was previously used by Palo Alto Foods.

Per NMC [Chapter 17.23, Parking and Loading](#), outdoor uses don’t have a specific requirement for parking, but given that the outdoor storage area affects the existing warehouse use, the minimum amount of 20 parking spaces will be required. Per the table 1 below, there is sufficient parking with the new parking layout. The applicant will be required to restripe the parking lot and meet the current parking standards regarding size and isle widths. Also, the Fire Department has asked for sufficient turn around space on the rear side of the building for the fire truck apparatus.

Table 1. Required Parking

Use	Required (based on 19,565 sq.ft.)	Provided
Warehouse	20	47

In addition to the revised parking layout, the applicant will be required to remove the existing non-conforming fence along Clark Avenue. The existing fence is a chain link fence (with slats) and outward facing barb wire at the top. Per NMC 17.17.040(B), hazardous fencing material such as barbed wire, razor wire, electrified and similar materials are prohibited unless approved by the Planning Commission. As a condition of approval, the applicant will replace the fence with a conforming fence, likely metal wrought iron fence or as approved by the Community Development Director. The surrounding chain link fence (with barb wire) on the rear and side property lines shall remain, as they were approved along with other site improvements for the property in 2016.

Requested Entitlements

Pursuant to [NMC §17.09.020, Land-Use Regulations](#), “outdoor storage” uses in the LI zoning district are subject to a CUP. The use permit review and approval process is intended to apply to uses that are generally consistent with the purposes of the zoning district where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. Therefore, per NMC [§17.35.030](#), the Planning Commission shall approve or conditionally approve the CUP request based on the findings required by NMC [§17.35.060](#):

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this title [NMC Title 17] 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 title [NMC Title 17];*
- 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.*

The inability to make one or more of the findings is grounds for denial of an application. Based on staff’s analysis, the CUP findings for the proposed Project can be made in the affirmative and are provided in Attachment 2 of this report.

California Environmental Quality Act (CEQA)

A [Class 1, Existing Facilities, Categorical Exemption](#) relieves this project from the California Environmental Quality Act (CEQA) provisions. Per [CEQA §15301\(e\)\(2\)](#), environmental review is not required because:

- a. The proposed project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan; and
- b. The area in which the project is located is not environmentally sensitive.

Furthermore, the proposed Project is exempt from environmental review under State CEQA Guidelines [§15061\(b\)\(3\), Common Sense Exemption](#). CEQA Guidelines [§15061\(b\)\(3\)](#) states that a project is exempt from CEQA if: “The activity is covered by the common sense exemption that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

Based on the Project description, the proposed use is not expected to result in a physical change in the environment. The subject property is occupied by an existing industrial building which will be continued to be used as warehouse with outdoor storage of goods and materials. Approval of the requested CUP does not involve the expansion of the existing building, nor does it disturb the physical environment. Any future development of the site would be subject to review under NMC Title 17 and CEQA. Therefore, no further environmental review is required.

Action

Staff recommends that the Planning Commission approve, by resolution, Conditional Use Permit U-21-06, as requested by the project applicant, based on the findings provided in Attachment 1, Draft Resolution.

Attachment(s)

1. Exhibit A (Project Plans)
2. Draft Resolution
 - a. Exhibit A – Findings of Fact
 - b. Exhibit B – Conditions of Approval

 **Norcross, Georgia Est. 1976**

Legal Name: **White Cap Holdings, LLC** ("White Cap")

Leading North American distributor of concrete accessories and specialty construction and safety products for professional contractors across non-residential, residential and infrastructure markets.



\$4+ Billion
Annual Revenue



7,000+/-
Associates

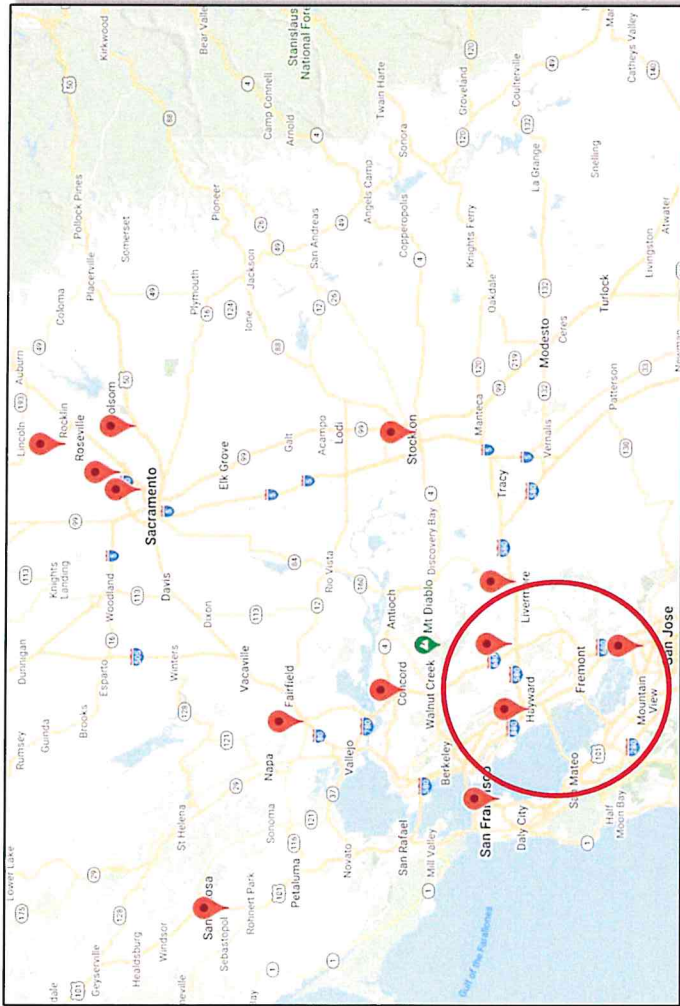


400+/-
Branches



46 US States
& 8 Canadian Provinces

LOCAL MARKET MAP



NEW BRANCH – NEWARK, CA

Projected Revenue:
\$26M Annual

Job Creation:
Projected 30 jobs created

Customers:

- **Single Family Residential**
- **Office & TI**
- **Apartments**

Jobsites (current/future):

- Fairfield/Inspiration Plaza Old Warm Springs Complex
\$100,000,000 Project (Fairfield Residential Co. LLC)
- New Civic Center D/B
\$90,000,000 Project (Webcor Builders)
- Toll Brothers TOD/Warm Springs Residential Block B
\$60,000,000 Project (Toll Brothers)
- Toll Brothers TOD/Warm Springs Residential Block G
\$60,000,000 Project (Toll Brothers)

NEW BRANCH 4th qtr 2021

2900 Mead Ave.
Santa Clara, CA 95051

San Jose 035

595 Brennan Street
San Jose, CA 95131

Hayward 022

411 West A Street
Hayward, CA 94541

Dublin 018

6341 Scarlett Court
Dublin, CA 94568



TYPICAL YARD PRODUCT

- Fabric Rolls, Lumber



- Rebar, Mesh



RESOLUTION NO. _____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWARK APPROVING A CONDITIONAL USE PERMIT FOR OUTDOOR STORAGE ASSOCIATED WITH AN EXISTING WAREHOUSE AT 6691 CLARK AVENUE (APN 092-0065-005-00)

WHEREAS, White Cap, on behalf of RLF III West LLC (the “Applicant”), has filed with the City of Newark an application for a Conditional Use Permit for Outdoor Storage associated with an existing warehouse building located at 6691 Clark Avenue Cedar (APN092-0065-005-00) (the “Project”); and

WHEREAS, the property at 6691 Clark Avenue (the “Project Site”) has a General Plan Land-Use designation of Limited Industrial and is currently zoned LI: Limited Industrial; and

WHEREAS, pursuant to Newark Municipal Code (“NMC”) §[17.09.020](#), Outdoor Storage uses in the LI: Limited Industrial zoning district is subject to a [Conditional Use Permit](#); and

WHEREAS, the Project Site is comprised of a 22,098 square-foot lot consisting of an existing one-story 19,565 square-foot building and 47 on-site parking spaces; and

WHEREAS, the Project does not propose any significant exterior modifications to the existing building. Site improvements include modifications to the parking areas, front yard fencing and vehicle circulation; and

WHEREAS, the Project is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to [CEQA Guidelines, Article 19, §15301](#) for Existing Facilities that involves minor alterations and negligible expansion of use; and

WHEREAS, pursuant to NMC [§17.31.060](#) and [§17.35.050](#), a public hearing notice was published in The Tri City Voice on November 2, 2021 and mailed as required for a public hearing and the Planning Commission held a meeting on said application at 7:30 p.m. on November 16, 2021; and

WHEREAS, the Planning Commission fully considered the Project application and entitlements, the Applicant’s statements, staff report, findings of fact, conditions of approval, public comments, and all other testimony and evidence presented at the public hearing; and

WHEREAS, the Planning Commission finds that the staff report, Categorical Exemptions from CEQA, and standards for approval reflects the City’s independent judgement and analysis of the Project; and

WHEREAS, the Planning Commission finds that the Project satisfies the requisite findings

of fact necessary for approval as further explained in the staff report and the findings of fact associated with this Resolution, as identified in "Exhibit A" attached to this Resolution; and

WHEREAS, the City's General Plan and the Zoning Code are incorporated herein by reference and are available for review at City Hall during normal business hours and on the City's website.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Newark as follows:

Section 1. That the forgoing recitals are true and correct and made part of this Resolution.

Section 2. That the Planning Commission hereby makes the necessary findings and determinations required by NMC §17.35.060 to approve the requested Conditional Use Permit for an Outdoor Storage Use at 6691 Clark Avenue, as further explained in the staff report and findings of fact for approval as set forth in "Exhibit A" attached hereto and incorporated herein by this reference.

Section 3. Based on the findings and determinations, the Planning Commission does hereby approve Conditional Use Permit for U-21-06 allowing for an Outdoor Storage Use at 6691 Clark Avenue, subject to the Conditions of Approval, as further set forth in "Exhibit B" attached hereto and incorporated herein by this reference.

This Resolution was introduced at the City of Newark Planning Commission's November 16, 2021 regular meeting by Commissioner _____, seconded by Commissioner _____, and passed as follows:

AYES:

NOES:

ABSENT:

STEVEN TURNER, Secretary

JEFF AGUILAR, Chairperson

Exhibit A: Findings of Fact

Exhibit A

FINDINGS OF FACT

U-21-06

6691 Clark Avenue

Alameda County Assessor's Parcel Number 092-0065-005-00

Conditional Use Permit (Newark Municipal Code [NMC] Chapter 17.35)

- A. The proposed use is conditionally allowed within the applicable zoning district and complies with all other applicable provisions of this title [NMC Title 17] and all other titles of the Municipal Code.

The Project Site is zoned LI: Limited Industrial. Pursuant to NMC Section 17.09.020, Outdoor Storage use in the LI zoning district are subject to a Conditional Use Permit (CUP). Therefore, the proposed use is allowed through the issuance of a CUP in order to be consistent with the existing zoning. The proposed use has been evaluated and found to be consistent with the NMC Title 17, Zoning, and other titles of the NMC. This finding can be made in the affirmative.

- B. The proposed use is consistent with the general plan and any applicable specific plan.

The Project Site has a General Plan Land-Use designation of Limited Industrial. This designation is provided to meet the needs of a variety of light industrial and commercial service uses. It serves as a transition between heavier industrial activities and residential neighborhoods. Typical uses include light manufacturing, warehouse, auto repair, and general services. Limited office, recreation, assembly, and retail uses are allowed where appropriate in a light industrial setting. The proposed Project is an existing warehouse which will be used in conjunction with indoor and outdoor storage of construction materials for the construction trade. There are no residential uses surrounding the property. The proposed use is consistent with the type of uses recommended for this type of zoning district. In addition, the Warehouse and Outdoor Storage use is consistent with many of Newark's General Plan policies, including but not limited to:

Policy E D-3.4 Affordable Industrial Space. Continue to support and foster the growth of general industrial uses, such as warehouse and distribution centers and manufacturing, in the Cherry Street and Central Avenue corridors and other areas designated for "General Industrial" uses on the Land Use Diagram.

Policy E D-3.10 Industry Clusters. Recognize opportunities to leverage Newark's major industries to attract businesses in the supply chains which serve those industries. In addition, provide technical support to serve other businesses in the Silicon Valley market which may benefit from ancillary facilities or support services within Newark.

The proposed use is not part of a specific plan area. This finding can be made in the affirmative.

Exhibit A: Findings of Fact

- 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.

The proposed use will occupy the existing building located at 36691 Clark Avenue. Historically, the building has been occupied by warehouse and distribution type businesses, therefore the proposed use is similar. The proposed use involves minor tenant improvements with no material changes to the exterior of the existing building and minor improvements to internal vehicle circulation and fencing on-site. As such, the use, as conditioned, will not generate additional glare, radiation, heat, odor, safety hazards, or air and water pollution nor will the proposed use have an adverse effect on the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements. This finding can be made in the affirmative.

- 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.

The proposed expansion of use on to the rear and side yards of the property will expand the business services provided by the contractor material business. The proposed business will occupy an existing empty warehouse and is expected to provide up to 30 jobs that is considered a community benefit. This finding can be made in the affirmative.

- 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 title [NMC Title 17].

The proposed outdoor storage use will have impacts to the parking circulation. However, the project is conditioned to improve parking circulation to meet current development standards and provide for sufficient parking spaces. Additionally, the project is conditioned to require that the fence along Clark Avenue be removed and improved to meet current development standards. The fence improvements must be consistent with General Plan policy LU-4.12.

Policy LU-4.12 Fences and Gates. Ensure that fences, gates, railings, walls, and other site elements intended to provide safety, security, and privacy are designed to be compatible with each other, with adjacent structures, and with the neighborhood context. Fence, wall, or hedge designs which obscure lines of sight for motorists, or create potential conflicts between pedestrians and cars, should be avoided.

This finding can be made in the affirmative.

- 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.

The subject site is in the LI: Limited Industrial zoning district, which is intended to meet the needs of a variety of light industrial and commercial service uses. The proposed use does not interfere with operations/businesses in the LI zoning district and will not impact any residential uses. The operations shall mainly include business to business services and will not have high

Exhibit A: Findings of Fact

volume activity and thus will have minimal impacts on surrounding uses. There are currently no zoning changes or specific plans recommendations existing for this area. Therefore, the design, location, size, and operating characteristics of the proposed use are compatible with the existing and foreseeable future land uses in the vicinity.

- 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.

The proposed business will occupy an existing business and all utilities are in place. The improvements proposed are not expected to be out of character with other uses in the area and what is typically allowed by the LI zoning district. The proposed use does not involve an expansion of the existing building, nor does it propose a high-intensity use. The City's parking requirements would be satisfied, and the site is physically suitable for the proposed use type. Therefore, this finding can be made in the affirmative.

California Environmental Quality Act Categorical Exemption Findings

The Project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15301, as it is an Existing Facility that involves minor alterations and negligible expansion of use; is in an area where all public services and facilities are available to allow for maximum development; and is not located in an environmentally sensitive area.

Exhibit B: Conditions of Approval

Exhibit B

CONDITIONS OF APPROVAL

U-21-06

6691 Clark Avenue

Alameda County Assessor's Parcel Number 092-0065-005-00

Planning Division

- a. Approval of this use permit shall supersede and revoke any previous approval at this location.
- b. The applicant shall remove existing non-conforming chain link fence located along Clark Avenue and replace the fence with a wrought iron fence in accordance with NMC 17.17.040. Any deviations in materials may be approved by the Community Development Director.
- c. The interior screening material for the construction yard shall be provided during the building permit phase.
- d. All conditions of approval for this project, as approved by the Planning Commission, shall be posted at the site and distributed to construction personnel.
- e. All project conditions of approval shall be printed in on the building-permit plans, as applicable.
- f. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission review and, if so decided, said changes shall be submitted for the Commission's review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission review and approval.
- g. Prior to commencing business activity, the operator of the subject facility shall obtain a Business License with the City of Newark.
- h. Prior to commencing business activity, the operator of the subject facility shall obtain any and all necessary federal, state, or county approvals. Failure to obtain the necessary approvals shall make the subject use permit null and void.
- i. If any complaint regarding parking and/or traffic is received, a parking/traffic analysis shall be prepared at the discretion of the Community Development Director and at the cost of the applicant. The applicant shall mitigate any problems identified by the study(s).
- j. Prior to the installation of any signage for the proposed facility, the property owner/applicant shall obtain a Sign Permit and any necessary building permits through the City of Newark.
- k. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.

Exhibit B: Conditions of Approval

- l. 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.
- m. The applicant and/or developer 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.
- n. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to [Government Code §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 developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code §66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of §66020, the developer will be legally barred from later challenging such exactions.

Building Inspection Division

- o. Building Permit is required for the following items:
 - 1. Re-striping of the accessible parking spaces.
 - 2. Demolition of the interior walls, counters, and termination of utilities.
 - 3. New walls.
 - 4. Provide a construction valuation to determine necessary upgrades to existing features that may need to be made accessible.

Alameda County Fire Department

- p. Existing and new fire apparatus access roads shall be marked or provided with signages. Fire lane shall not be obstructed at all times.
- q. A Knox box at front entry shall be provided.

Police Division

- r. The development shall comply with Chapter 15.06, Security Code, of the Newark Municipal Code and Section 510, Emergency Responder Radio Coverage, of the California Fire Code. Unless determined to be unfeasible by the Police Division.

Exhibit B: Conditions of Approval

- s. Security cameras will be installed inside and outside, in addition to a security monitoring system.

5013251.1