

I, Sheila Harrington, City Clerk of the City of Newark, State of California, hereby certify under penalty of perjury the foregoing instrument to be a full, true and correct copy of the original now on file in my office.

Date:

11/22/2021

Sheila Harrington – City Clerk

By:

Deputy City Clerk

ORDINANCE NO. 534

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWARK AMENDING THE ZONING MAP FROM RM:
RESIDENTIAL MEDIUM DENSITY TO RH: RESIDENTIAL
HIGH DENSITY FOR THE PROPERTY LOCATED AT 37660
TIMBER STREET (APN 92A-2125-10-2)

WHEREAS, Timber Street Investors L.P. [a.k.a. Eden Housing] (the “Applicant”), has filed with the City of Newark an application for a General Plan Amendment, an amendment to the Zoning Map, a Conditional Use Permit, and Design Review to construct a 79-unit affordable housing development for seniors at 37660 Timber Street (APN 92A-2125-10-2) (the “Property”) (the “Project”); and

WHEREAS, the Property has a General Plan Land-Use designation of Medium Density Residential and is currently zoned RM: Medium Density Residential; and

WHEREAS, the Applicant seeks an amendment to the Zoning Map for the Property from RM: Residential Medium Density to RH: Residential High Density to establish consistency with the amendment to the general plan map and text from Medium Density Residential to High Density Residential; and

WHEREAS, the applicant is concurrently requesting approval of Design Review and a Conditional Use Permit for the Project; and

WHEREAS, pursuant to and in accordance with the provisions of the California Environmental Quality Act ([Public Resources Code §21000 et seq.](#); herein referred to as “CEQA”), the State of California Guidelines for the Implementation of the California Environmental Quality Act (commencing with §15000 of [Title 14 of the California Code of Regulations](#); herein referred to as the “[CEQA Guidelines](#)”), the City is the “lead agency” for the preparation and consideration of environmental documents for the Project; and

WHEREAS, pursuant to CEQA Section 21080(c)(2), CEQA Guidelines Section 15070 and [NMC §17.31.050](#), an Initial Study/Mitigated Negative Declaration (“IS/MND”) was prepared for the Project. The IS/MND analyzed the requested entitlements, regulatory approvals, and operation of the Project itself, to determine if these actions would result in significant impacts to the environment; and

WHEREAS, the IS/MND did not identify any significant environmental impacts arising from the requested entitlements, regulatory approvals, and operation of the Project itself that could not be mitigated to a less than significant level; and the City reviewed the IS/MND, and based upon substantial evidence in the record, determined that all potentially significant effects of the project can and will be avoided or mitigated to a less than significant level by project revisions or other requirements imposed on the project; and

WHEREAS, pursuant to [Newark Municipal Code \(“NMC”\) §17.31.060](#), the Planning Commission held a duly noticed public hearing on the Project at which time all interested parties had an opportunity to be heard at 7:30 p.m. on September 28, 2021 utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic and the Planning Commission recommended approval of the Project and recommended approval of the MND by a vote of 5-0; and

WHEREAS, pursuant to [NMC §17.31.060](#), a public hearing notice was published in the Tri City Voice on October 12, 2021 and mailed as required, and the City Council held a duly noticed public hearing at which time all interested parties had an opportunity to be heard on the Project at 7:00 p.m. on October 28, 2021.

NOW, THEREFORE, the City Council of the City of Newark does ordain as follows:

Section 1: That the foregoing recitals are true and correct and hereby made part of this Ordinance.

Section 2: The City Council of the City of Newark does hereby find and declare that the Initial Study/Mitigated Negative Declaration (IS/MND), for the requested zoning map amendment and related entitlements and regulatory approvals, embodied in this ordinance has been completed in compliance with the California Environmental Quality Act ([California Public Resources Code §21000 – 21178](#)). The IS/MND was presented to the Planning Commission, which, at a hearing before the public on September 28, 2021, reviewed and considered the information contained in the IS/MND prior to making a recommendation to the City Council regarding the Project and its associated development entitlements. The City Council does hereby further find and determine, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the Project and its associated actions will not have a significant effect upon the environment and that the IS/MND reflects the lead agency’s independent judgment and analysis as the Lead Agency; and

Section 3: Pursuant to [NMC §17.39.070](#) and [NMC §17.39.080](#) of Title 17 (Zoning) of the NMC, the City Council of the City of Newark does hereby find that the zoning map amendment embodied in this ordinance is consistent with the General Plan, necessary to achieve the balance of land uses desired by the City, and to increase the inventory of land within a given zoning district, and promotes the growth of the City in an orderly manner and promotes and protects the public health, safety, peace, comfort, and general welfare of the residents of the City of Newark.

Section 4: The City Council hereby approves the Zoning Map Amendment as identified in “Exhibit A”, attached hereto and incorporated herein by reference.

Section 5: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Newark hereby declares that it would have adopted each section, subsection, subdivision,

paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

Section 6: Effective Date. This ordinance shall take effect thirty (30) days from the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance shall be published in The Tri-City Voice, a newspaper of general circulation published and printed in the County of Alameda and circulated in the City of Newark.

The foregoing ordinance was introduced and read, by title, before the City Council of the City of Newark by Vice Mayor Bucci at the regular meeting of the City Council of the City of Newark held on October 28, 2021.

This ordinance was read, by title, at the regular meeting of the City Council held November 18, 2021. Vice Mayor Bucci moved that it be adopted and passed, which motion was duly seconded, and said ordinance was passed and adopted.

AYES: Council Members Freitas, Collazo,, Hannon, Vice Mayor Bucci and Mayor Nagy

NOES: None

ABSENT: None

SECONDED: Council Member Collazo

APPROVED:

s/ALAN L. NAGY
Mayor

ATTEST:

s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:

s/KRISTOPHER J. KOKOTAYLO
Interim City Attorney

EXHIBIT A: ZONING MAP CHANGE

Figure 1. Existing Zoning Designation.

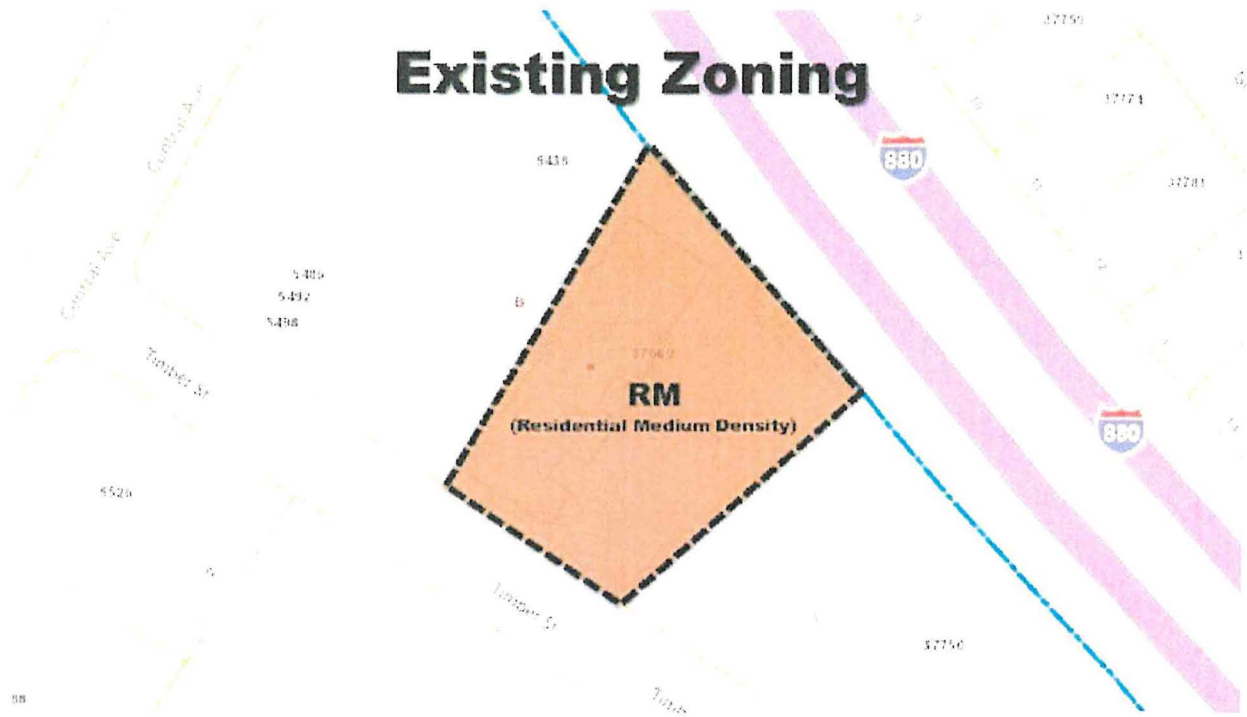


Figure 2. Proposed Zoning Designation.

