

RESOLUTION NO. \_\_\_\_\_

RESOLUTION RECOMMENDING THAT THE CITY COUNCIL  
OF CITY OF NEWARK ADOPT AN ORDINANCE AMENDING  
THE OFFICIAL ZONING MAP OF THE CITY OF NEWARK  
FOR PROPERTY LOCATED AT 8787 ENTERPRISE DRIVE

WHEREAS, Willow Project Owner, LLC (“Applicant”) submitted applications for a General Plan Amendment, Rezone, Specific Plan Amendment, Design Review, Minor Use Permit, Density Bonus, Park Agreement Amendment, Alternative Means of Compliance to Payment of Housing Impact Fee, Vesting Tentative Map, and an Addendum to the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report with the City of Newark to allow phased residential and commercial development at 8787 Enterprise Drive (APNs 537-0852-001-08, 537-0852-002-09, & 092-0100-005) (the “Project”); and

WHEREAS, a component of the Project is an amendment to Title 17 (Zoning) of the Newark Zoning Ordinance and the Official Zoning Map, to rezone property described as follows:

From Business and Technology Park (BTP) and Park (PK) to Medium Density with Form Based Code (RM-FBC), Commercial Mixed Use with Form Based Code (CMU-FBC), Transit Station (TS), Public Facilities (PF), and Park (PK); and

WHEREAS, Exhibit A to draft Ordinance No. \_\_\_\_\_, which is attached hereto as Attachment A, depicts the affected portions of real property proposed for re-zoning as shown on Vesting Tentative Tract Map 8559 in the City of Newark, County of Alameda; and

WHEREAS, as described fully in section IV of the Findings and Determinations for the Willow Project (Exhibit B to the draft Ordinance attached hereto and incorporated herein), the Planning Commission finds that the proposed amendment meets the following criteria required by Newark Municipal Code section 17.39.080:

- a. The amendments are consistent with the General Plan;
- b. Any change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given zoning district; and
- c. The amendments will promote the growth of the City in an orderly manner and promote and protect the public health, safety, peace, comfort and general welfare.

WHEREAS, pursuant to Newark Zoning Ordinance Section 17.39.050.C, a public hearing notice was published in the Tri-City Voice on June 28, 2022, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on July 12, 2022 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, the Planning Commission, based on the evidence contained in the entire record, including the findings contained in Exhibit B to the Ordinance, and oral and written testimony presented at public hearings, and based on the Addendum prepared for the Willow Project, and the Planning Commission's staff report with attachments, does resolve:

- a. That the above recitals are true and correct.
- b. That the Planning Commission recommends that the Newark City Council adopt the Ordinance attached hereto as Attachment A amending the City's Zoning Map established pursuant to Title 17 (Zoning) and Section 17.03.020 of the Newark Zoning Ordinance.
- b. That the Planning Commission has reviewed the Ordinance and finds it consistent and compatible with the objective, policies, general land uses, and the programs of Newark's General Plan, necessary and desirable to achieve the purposes of the ordinance and proper, fair, and for the best interest of the health, safety, and general welfare of the City of Newark.
- c. That a copy of the minutes be forwarded to the City Council as a summary of the hearing.

This resolution was introduced at the Planning Commission's July 12, 2022, meeting by \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and passed as follows:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Steven Turner, Secretary

\_\_\_\_\_  
John Becker, Chairperson

Attachment A: Draft Ordinance  
Attachment B: Findings and Determinations

ORDINANCE NO. \_\_\_\_

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK AMENDING THE OFFICIAL ZONING MAP ESTABLISHED PURSUANT TO TITLE 17 (ZONING) AND SECTION 17.03.020 OF THE NEWARK ZONING ORDINANCE BY REZONING ALL THAT REAL PROPERTY SHOWN ON THE VESTING TENTATIVE MAP 8559 FROM BUSINESS AND TECHNOLOGY PARK (BTP) AND PARK (PK) TO MEDIUM DENSITY RESIDENTIAL WITH FORM BASED CODE (RM-FBC), COMMERCIAL MIXED USE WITH FORM BASED CODE (CMU-FBC), TRANSIT STATION (TS), PUBLIC FACILITIES (PF), AND PARK (PK)

WHEREAS, Willow Project Owner, LLC (“Applicant”) submitted applications for a General Plan Amendment, Rezone, Specific Plan Amendment, Design Review, Minor Use Permit, Density Bonus, Park Agreement Amendment, Alternative Means of Compliance to Payment of Housing Impact Fee, Vesting Tentative Map, and an Addendum to the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report with the City of Newark to allow phased residential and commercial development at 8787 Enterprise Drive (APNs 537-0852-001-08, 537-0852-002-09, & 092-0100-005) (the “Project”); and

WHEREAS, in accordance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.; “CEQA”) and sections 15162 and 15164 of the CEQA Guidelines, an initial study and addendum (collectively, “Addendum”) was prepared for the Project which determined that the Project does not result in any new significant impacts and that the conclusions contained in the Environmental Impact Report for the Dumbarton Transit-Oriented Development Specific Plan (SCH 2010042012); and

WHEREAS, a component of the Project is an amendment to Title 17 (Zoning) of the Newark Zoning Ordinance and the Official Zoning Map, to rezone property described as follows:

From Business and Technology Park (BTP) and Park (PK) to Medium Density with Form Based Code (RM-FBC), Commercial Mixed Use with Form Based Code (CMU-FBC), Transit Station (TS), Public Facilities (PF), and Park (PK); and

WHEREAS, Exhibit A to this Ordinance depicts the affected portions of real property proposed for re-zoning as shown on Vesting Tentative Tract Map 8559 in the City of Newark, County of Alameda; and

WHEREAS, as described fully in section IV of the Findings and Determinations for the Project attached hereto as Exhibit B and incorporated herein, the City Council finds that the Ordinance meets the following criteria required by Newark Municipal Code section 17.39.080:

- a. The amendments are consistent with the General Plan;

b. Any change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given zoning district; and

c. The amendments will promote the growth of the City in an orderly manner and promote and protect the public health, safety, peace, comfort and general welfare; and

WHEREAS, pursuant to Newark Zoning Ordinance Section 17.39.050.C, a public hearing notice was published in the Tri-City Voice on June 28, 2022, and mailed as required, and the Planning Commission held a public hearing to consider the Ordinance at 7:30 p.m. on July 12, 2022 at the City Administration Building, 37101 Newark Boulevard, Newark, California, and the Planning Commission voted [INSERT VOTE COUNT] to recommend that the City Council adopt the Ordinance; and

WHEREAS, pursuant to Newark Zoning Ordinance Section 17.39.050.C, a public hearing notice was published in the Tri-City Voice on \_\_\_\_\_, and mailed as required, and the City Council held a public hearing to consider the Ordinance at [INSERT DATES AND TIMES FOR FIRST AND SECOND READINGS] at the City Administration Building, 37101 Newark Boulevard, Newark, California.

The City Council of the City of Newark does ordain as follows:

Section 1: The above recitals are true and correct and are incorporated herein.

Section 2: Based on the substantial evidence set forth in the record, the City Council of the City of Newark finds that the Addendum adequately evaluates potential environmental impacts of the Project, including the rezonings in this Ordinance, consistent with the requirements of CEQA and the CEQA Guidelines. The applicable mitigation measures identified in the Specific Plan EIR would ensure that any potential environmental impacts of the Project would be reduced to less than significant levels. The impacts identified in the Specific Plan EIR as significant and unavoidable remain significant and unavoidable but the Project does not increase those previously identified impacts in their severity. No new mitigation measures are required to mitigate environmental impacts associated with the Project. Therefore, the Addendum supports the City's consideration of the Project, as outlined in the State CEQA Guidelines Section 15162 and 15164.

Section 3: Pursuant to Section 17.39.080 of the City of Newark Zoning Ordinance, the City Council of the City of Newark does hereby make the Findings and Determinations attached hereto as Exhibit B and incorporated herein, including specifically the findings contained in section IV, which support the zoning map amendments in this Ordinance. The City Council further finds that the that this Ordinance is necessary and desirable to achieve the purposes of Title 17 (Zoning) of the Newark Zoning Ordinance; is consistent with the policies, goals, and objectives of the General Plan; and promotes the public health, safety, morals, comfort, convenience, and general welfare of the residents of the City of Newark.

Section 4: The City's Official Zoning Map established pursuant to Title 17 (Zoning) and Section 17.03.020 of the Newark Zoning Ordinance is hereby amended by rezoning and

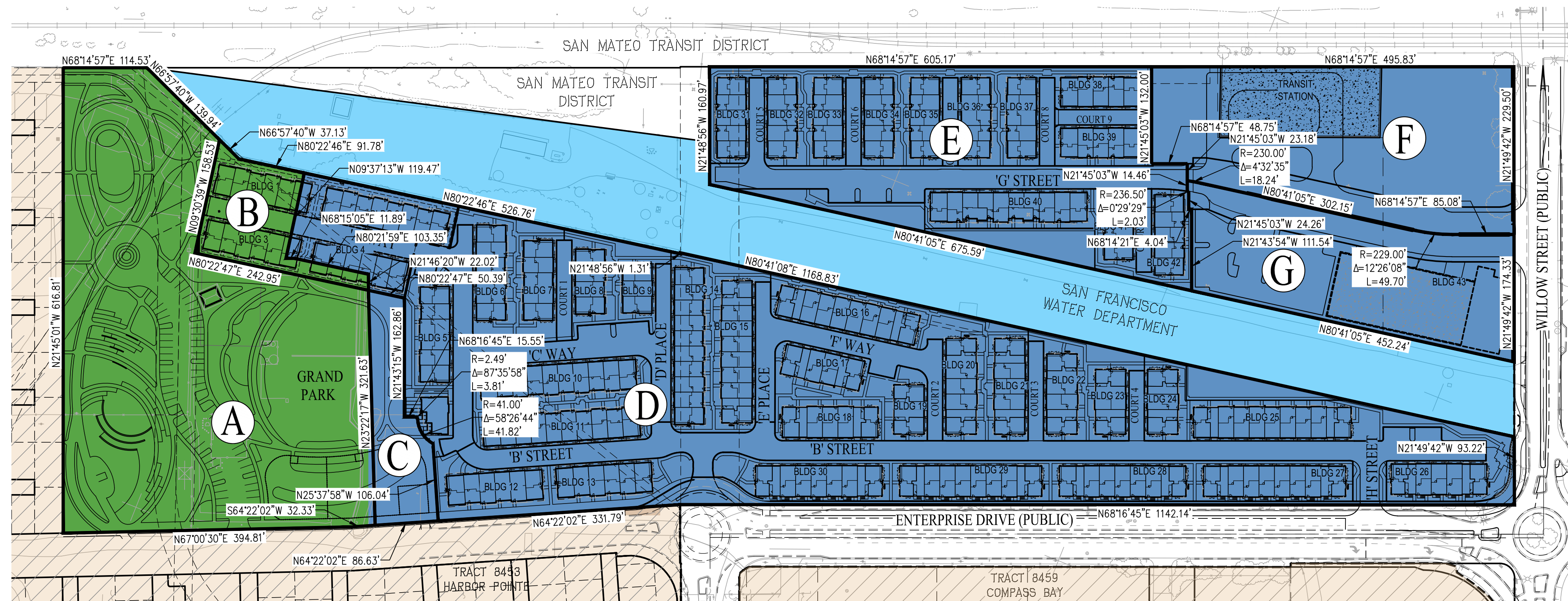
redistricting the territory in the City of Newark, County of Alameda, State of California as shown on Exhibit A attached to this Ordinance, which is incorporated herein.

Section 5. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof had been deleted.

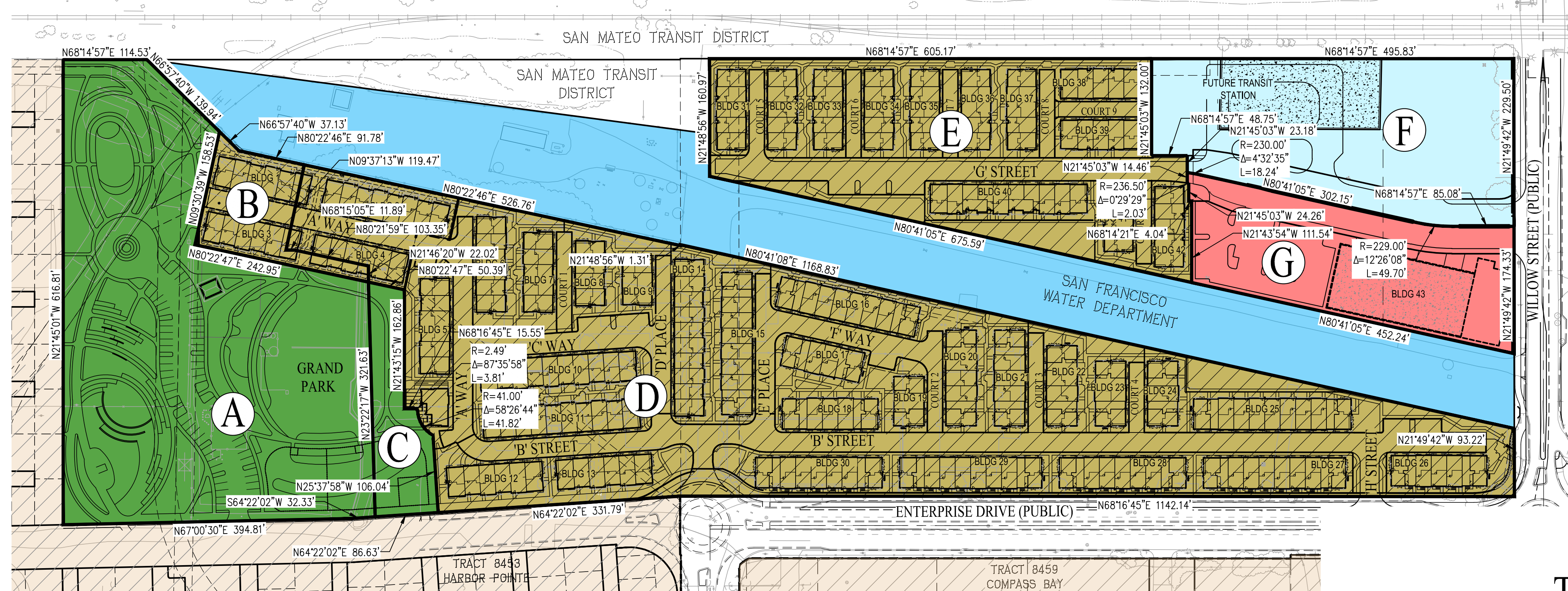
Section 6: Effective Date. This ordinance shall take effect thirty (30) days from the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance shall be published in The Argus, a newspaper of general circulation published and printed in the County of Alameda and circulated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

Exhibit A: Zoning Map Amendment for real property shown on Vesting Tentative Tract Map 8559

Exhibit B: Findings and Determinations for the Willow Project



CURRENT APPROVED ZONING



PROPOSED ZONING

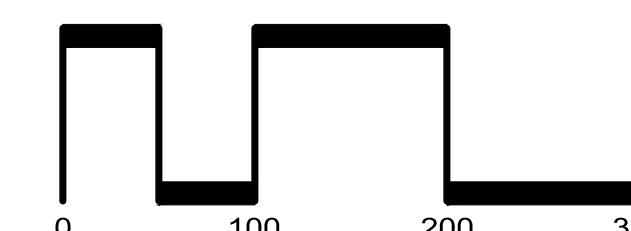
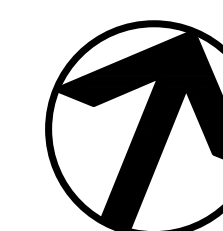
ZONING DESIGNATION TRANSFER AREA SUMMARY		
TRANSFER AREA	CURRENT ZONING	PROPOSED ZONING
A	PARKS (PF)	PARKS (PF)
B	PARKS (PF)	RESIDENTIAL MEDIUM DENSITY WITH FORM BASED CODE (RM)
C	BUSINESS AND TECHNOLOGY PARK (BTP)	PARKS (PF)
D	BUSINESS AND TECHNOLOGY PARK (BTP)	RESIDENTIAL MEDIUM DENSITY WITH FORM BASED CODE (RM)
E	BUSINESS AND TECHNOLOGY PARK (BTP)	RESIDENTIAL MEDIUM DENSITY WITH FORM BASED CODE (RM)
F	BUSINESS AND TECHNOLOGY PARK (BTP)	TRANSIT STATION (TS)
G	BUSINESS AND TECHNOLOGY PARK (BTP)	COMMERCIAL MIXED USE (CMU)

LEGEND

- RESIDENTIAL MEDIUM DENSITY WITH FORM BASED CODE (RM)
- COMMERCIAL MIXED USE (CMU)
- PARKS (PF)
- BUSINESS AND TECHNOLOGY PARK (BTP)
- PUBLIC FACILITIES (PF)
- TRANSIT STATION (TS)

# TRACT 8559 ZONING CHANGES FMC WILLOW

CITY OF NEWARK ALAMEDA COUNTY CALIFORNIA  
SCALE: 1"=100' DATE: JULY 5, 2022



CIVIL ENGINEERS • SURVEYORS • PLANNERS

SAN RAMON • (925) 866-0322  
SACRAMENTO • (916) 375-1877  
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**I. California Environmental Quality Act Determination** (Cal. Public Resources Code Section 21000, et. seq.)

The Dumbarton TOD Specific Plan was adopted after certification of a full environmental impact report.

The City of Newark (City) certified a Program Environmental Impact Report (PEIR) for the Bayside Newark Transit Oriented Development (TOD) Specific Plan (Specific Plan), formerly known as the Dumbarton TOD Specific Plan (State Clearinghouse No. 2010042012, July 2011). The City required preparation of an Initial Study (IS) to determine whether those changes to the FMC Willow and Grand Park project would result in any new or more substantial impacts from those identified in the prior adopted 2011 PEIR. Generally, the project's increased residential density replaces existing commercial and office. The IS concludes, based upon substantial evidence, that the proposed FMC Willow and Grand Park project is similar to the project evaluated in the adopted 2011 PEIR and would not cause any new or more severe impacts not previously addressed. Similar to the approved project, the proposed project involves the construction of a commercial/mixed-use and residential development, with a future transit station and recreational open space. As supported in the analysis contained in the accompanying IS, there are no substantial changes proposed in the FMC Willow and Grand Park project which would result in any new significant environmental effects or a substantial increase in the severity of significant effects previously identified in the 2011 PEIR. There is no new information of substantial importance which was not known for the 2011 PEIR, and no new mitigation measures are necessitated by new impacts. Therefore, under CEQA Guidelines 15162 and 15164, no further environmental analysis is required as none of the circumstances in Section 15162 exist and the City finds that an addendum to the 2011 PEIR is appropriate for the project. The IS and addendum (together the "IS/Addendum") is incorporated into these findings by reference.

**II. General Plan Amendment**

Pursuant to Newark Municipal Code Chapter 17.38, the City finds as follows:

A. *Reasons for the recommendation* - The General Plan Amendment is required to allow the proposed change in uses permitted on the 22.1 acre Project Site, and ensure consistency with the concurrently approved Bayside Newark TOD Specific Plan ("Specific Plan") Amendment and Rezoning, by amending the General Plan land use map to designate the Project Site with Medium Density Residential, Commercial Mixed Use, Public Institutional, and Parks and Recreation Facilities land use designations, a change from the existing Community Commercial, High Density Residential, Parks and Recreational Facilities, and Public Institutional designations.

B. *Findings related to supporting the recommendation-*

1. The request for the General Plan Amendment is consistent with the requirements and procedures set forth in the General Plan and Specific Plan;

2. The proposed Project (specifically including the General Plan Amendment, Specific Plan Amendment, Rezoning, Design Review, Minor Use Permit, Vesting Tentative Tract Map No.

EXHIBIT \_\_ : Findings of Fact

8559, and Affordable Housing-Alternative Means of Compliance to Payment of Housing Impact Fee) is consistent with the General Plan, including the following General Plan policies:

*Policy LU-1.1 Balance of Uses. Maintain a reasonable balance of land uses in the city so that residents can live close to where they work and satisfy their shopping, educational, personal, health, entertainment, and recreational needs close to home.* The Project would result in the development of market rate and affordable housing adjacent to retail and recreational uses, as well as a future transit station.

*Policy LU-1.2 Growth Focus Areas. Achieve a future growth pattern which includes new neighborhoods on vacant land along the southern and western edges of the city, and infill development in transit-served areas such as Old Town and the Greater NewPark Mall Area. Zoning and development review decisions should recognize these areas as the priority locations for growth and change over the next 20 years.* The Project would redevelop vacant, blighted former industrial sites on the western edge of the City with 279 market rate residential units, 90 affordable housing units, retail uses and parks/recreational uses.

*Policy LU-1.4 Coordinating Land Use and Transportation Decisions. Coordinate land use and development decisions with the capacity of the transportation system and plans for future transportation improvements.* The Project would develop residential and retail uses adjacent to, and reserve property for, a future transit station. As part of the Project, the applicant is dedicating the property for the future transit station.

*Policy LU-1.6 Strengthening the Retail Base. Diversify the retail base of the city to create jobs, generate tax revenue to support City services, and enable residents and workers to find the goods and services they need without leaving Newark.* The Project would develop retail uses on an underutilized, former industrial vacant site, increasing tax revenue.

*Policy LU-1.8 Housing Opportunity Sites. Ensure that adequate sites are provided for the private and non-profit sectors to develop housing for seniors, persons with disabilities, and lower income households. Such housing should be well designed and managed, and located in a manner that is compatible with existing uses and neighborhood character.* The Project would develop 90 high quality affordable housing units, which will be professionally managed along with the 279 market rate townhome units proposed by the Project, as a 370-unit mixed use community.

*Policy LU-1.9 Park and Recreation Expansion. Expand park and recreational lands and facilities to keep pace with population growth and support the leisure time needs of Newark residents.* The Project would include a five-acre community park (Grand Park), as well as a 1,485 square foot community building.

*Policy LU-1.10 Vacant and Underutilized Sites. Encourage the development of Newark's remaining vacant and underutilized sites for their highest and best use, consistent with the designations shown on the General Plan Diagram. Future growth in the city should generally be directed to the areas identified in this General Plan.* The Project would redevelop vacant, blighted former industrial sites on the western edge of the City with 279 market rate residential units, 90 affordable housing units, retail uses and parks/recreational uses.



EXHIBIT \_\_ : Findings of Fact

*Policy LU-1.15 Mixed-Use. Provide opportunities for development combining residential and commercial uses (e.g. "mixed-use" development) in areas where the impacts of one land use on the other and the impacts on nearby neighborhoods can be sufficiently mitigated.* The Project would redevelop vacant, blighted former industrial sites with a mixed used residential community that incorporates commercial/retail uses as part of the Project.

*Policy LU-2.3 High-Quality Development. Maintain standards for medium-density, high-density, and mixed-use development that ensure high quality development and adequate buffering and screening from nearby lower density uses.* The Project would comply with the Specific Plan's design guidelines and all the other standards imposed by the Design Review to ensure high quality development and adequate buffering, as applicable. The project will be buffered to the west by a 5-acre grand park. The bay trail corridor along Enterprise Drive will include a 7-foot landscape strip with tree planting and a 12-foot concrete pedestrian trail. Along the north side of the project is the Sam Trans right of way where a soundwall will be constructed along the property line. The east side of the project adjacent to Willow Street will include the future transit station site and the mixed-use parcel.

*Policy LU-2.7 Design Guidelines. Maintain design guidelines and a design review process that applies to building and site design throughout the city.* The Project would comply with the Bayside Newark Specific Plan's design guidelines and all the other standards imposed by the City's Design Review approval. Architecture will feature high quality materials such as stone/brick veneer, lap siding metal railings, awnings, and metal-look roofing, and fiber cement finishes. Landscaping will feature a blend of low maintenance, drought tolerant, and California native trees, shrubs, grasses and perennials

*Policy LU-2.8 Relating Density to Transit Service. Allow higher residential densities in areas with more frequent and reliable public transit service, and ensure that public transit services are expanded in areas where growth is projected.* The Project would develop higher density residential in the area surrounding the future transit station specifically, 79.1 du/ac at the commercial mixed/use site and 21.4 du/ac for the residential area and would dedicate a 1.8 net acre site to the City to be used for expanded transit services.

*Policy LU-4.3 Urban Centers. Create locations in Newark which are more urban and pedestrian-oriented in character than they are today. Such areas include the future Dumbarton Transit Oriented Development and Old Town. These areas should be transformed over time into mixed-use centers with retail, office, civic, and higher density housing uses.* The Project would redevelop vacant, blighted former industrial sites with a mixed used residential community that incorporates commercial/retail uses as part of the Project, high density residential condominiums, affordable for rent units, a bay trail compliant corridor along Enterprise Drive and Willow Street, as well as a five-acre park for use by the Project's residents and a future transit station. The project would incorporate sidewalk connections throughout both the project's northern and southern sites allowing for pedestrians to move freely throughout the area.

*Policy LU-6.1 Dumbarton TOD Land Uses. Plan for the following activities around the intersection of Willow Street and the proposed Dumbarton Rail Service: (1) a future transit station serving the region as well as neighboring residents; (2) a neighborhood center consisting of retail, grocery, visitor-serving, and higher-density residential uses; (3) up to 2,500 housing units with a*

EXHIBIT \_\_ : Findings of Fact

*wide range of unit types and affordability levels; (4) necessary infrastructure to support the development; (5) contribution toward an overpass on Central Avenue over the Union Pacific railroad tracks, and (6) a network of open space and parks, including a bayside trail.* The Project implements this Policy by dedicating a net 1.8 acre property for a future transit station and developing 3,600 sf of retail and 370 higher-density residential units, including 90 affordable housing units (and one manager's unit), a five-acre park and the necessary infrastructure to support the Project.

*Policy LU-6.2 Dumbarton TOD Design Guidelines. Apply design guidelines to future development at Dumbarton TOD which support the area's development as a "village" comprised of traditional city blocks, vernacular architectural styles, and a mix of housing types.* The Project would comply with the Specific Plan's design guidelines, and provide higher density residential housing products, including 90 affordable units, to allow for a variety of housing types. The contemporary architectural styles of the 3 residential products (Split, Towns, Stack) would use colors and materials (light color palette, stucco finishes, and lap siding) similar to surrounding residential developments, while incorporating contemporary low-slope roofs to give the development a subtle unique character to differentiate and add visual interest. With the adjacent location of the future transit hub, linking its future residents to nearby corporate campuses, the product styles would help blend the bold contemporary styles of the campuses with the traditional styles of neighboring residential communities. With the nearby 4-story apartment complex to the south of the project site, the 5-story mixed use podium building being of similar height and mass, would reflect a similar and complimentary style with the use of scored stucco, similar window awnings, and parapet walls with roofed tower elements, as well as a light color palette

*Policy LU-6.3 Dumbarton Rail. Advocate for construction of the Dumbarton Rail project connecting Newark to BART and the West Bay, with a station at Willow Street in Newark. As an interim measure until rail service is provided, advocate for high quality, rapid bus service connecting the Dumbarton TOD station area to BART, VTA, and the West Bay, to ensure that new development in this area can meet the TOD goals for the project.* As part of the Project, the applicant would dedicate property for the future development of this station. Staff will continue to work with SamTrans to eventually build a transit station at the project site to help the public transportation connection between this site and other services.

*Policy LU-6.4 Minimizing Dumbarton TOD Impacts. Minimize the impacts of the Dumbarton TOD on the natural environment by incorporating native plant species, reducing herbicide and pesticide use, using environmentally friendly construction and waste disposal techniques, and managing stormwater runoff to avoid water quality impacts to nearby wetlands and San Francisco Bay.* The EIR imposes mitigation measures on the Project that will ensure it is consistent with this Policy. Dumbarton TOD impacts will be mitigated through the use of plant species that specifically aid in phytoremediation which will naturally remove runoff pollutants and salts before runoff reaches sewer systems, wetlands, and adjacent water bodies. Bioretention basins are located in the majority of planter beds throughout the site which will add an additional layer of pollutant filtration. Trees with expansive canopies will be planted throughout the development and will intercept rainwater before touching the ground, thus adding another layer of water treatment.

EXHIBIT \_\_ : Findings of Fact

*Policy LU-6.5 Dumbarton TOD Landscaping and Streetscape. Use landscaping and tree planting to enhance the character of the Dumbarton TOD neighborhoods, define the community's edges, provide landmarks and focal points, make streets more pleasant for walking, and create a stronger sense of place. The landscape should reflect climate and soil conditions, as well as the desire to conserve water and create visual appeal* The Project would include landscaping consistent with this Policy, in compliance with the Specific Plan design guidelines and as part of the Project's Design Review approval. The landscape would enhance the character of Dumbarton TOD neighborhoods through the use of site specific materiality, planting design, and park design. Enhanced brick and stucco veneers would be utilized for seat walls and retaining walls to visually tie in the landscape built elements with the brick and stucco materials that will be used on the TOD neighborhood architecture. Custom enhanced steel architecture stoop railings and patio fences would match the decorative, linear architectural balcony railings for a heightened sense of identity. These same enhanced steel details will carry through to the landscape park overheads. The planting design would feature wispy, flowing native grasses to capture the native wetland feel of the adjacent bay. Flowering shrubs at pedestrian paseo entry points would add a natural highlight to neighborhood entrances and enhance wayfinding.

*Policy LU-6.6 Dumbarton TOD Lighting. Use lighting and illumination which compliments architectural styles, reduces glare and over-lighting impacts, ensures pedestrian safety, and highlights special design elements within the community.* The Project would include landscaping consistent with this Policy, in compliance with the Specific Plan design guidelines and as part of the Project's Design Review approval. Modern yet timeless street pole lights, pedestrian scale pole lights, and bollard lights would be specified to match the sconce lighting that will be featured on the community architecture. All pole and bollard lights would feature light fixture covers that would prevent vertical light pollution and also direct light throw towards pedestrian circulation areas and away from private residential units. All pedestrian circulation lighting would be strategically distributed to maintain uniform light coverage based on photometric plans that would be prepared by a certified lighting designer. This uniform lighting design would enhance safety and promote clear pedestrian circulation.

*Policy E D-2.4 New Retail Districts. Create additional shopping opportunities in newly developing neighborhoods, such as Dumbarton TOD, to meet the needs of new residents and workers, and reduce the loss of retail dollars to nearby communities. New commercial districts should be designed as integral parts of the neighborhoods they serve, so that patrons can easily walk or bicycle from home or work to shopping.* The Project is a mixed use residential project that would incorporate retail uses. The mixed use building would contain 3,600 square feet of ground floor retail space fronting along Willow Ave. The high floorplate façade for the retail space would serve as a grand entry to the project. Residential affordable units would be located above the retail space to provide proper massing and an urban feel. The current plan shows one 1,000 square foot retail space that could be used for a small coffee shop or café plus a 2,600 sf space for another neighborhood serving use such as a restaurant or deli. The retail frontage would also include an enclosed, secured elevator lobby for the affordable housing units.

The Project is consistent with the General Plan's Housing Element because it would increase overall housing stock in the City by 370 total units, including 90 affordable units, and would assist in addressing both the regional and statewide housing crisis.

### **III. Specific Plan Amendment**

A. *The proposed amendments to the Bayside Newark TOD Specific Plan are consistent with the Newark General Plan.* The amendments to the Specific Plan would include re-designation of the Project Site's land use designations/zoning so that the current office uses are replaced with 48 residential units (collectively "Specific Plan Amendment"). These changes are provided to enable implementation of the vision for buildout of the Specific Plan area and made in light of the fact that third part experts have determined that the development of office uses are not feasible on the Project Site. The Project would also be consistent with the overall development capacity and intensity for the Specific Plan area as identified in the General Plan and assumed in the 2013 General Plan Environmental Impact Report ("EIR") and 2011 PEIR. The Specific Plan Amendment would not result in increased development capacity or a change in the intensity of development or site improvements already planned or anticipated in the General Plan and Specific Plan. Nor would the amendments directly result in development types that were not already assumed and evaluated in the General Plan EIR and Specific Plan EIR. Specifically, the Specific Plan planned for the development of a total of 2,500 dwelling and 35,000 square feet of retail, and as of February 2022, a total of 2,171 dwelling units and 3,600 square feet of retail have been approved or are pending approval in the Specific Plan area, leaving plenty of capacity for the Project without resulting in any new or increased impacts on the environment, as concluded in the IS/Addendum to the PEIR prepared for the Project.

### **IV. Zoning Map Amendment**

Pursuant to Newark Municipal Code section 17.39.080, the City finds as follows:

A. *The amendment is consistent with the General Plan.* The City's zoning map would be amended to change the zoning of the Project Site from Business and Technology Park and Park to Medium Density Residential - Form Based Code, Commercial/Mixed Use - Form Based Code, Transit Station, Public Facilities, and Park. These zones are consistent with the General Plan land use designations for the Project Site, as amended – Medium Density Residential, Commercial Mixed Use, Public Institutional, and Parks and Recreation Facilities. The new zoning designations specifically, and the Project generally, would be consistent with the applicable polices of the General Plan, including but not necessarily limited to the Policies specifically listed in section II above. Therefore, the Zoning Map Amendment would be consistent with the General Plan.

B. *Any change in district boundaries is necessary to achieve the balance of land uses desired by the city, consistent with the general plan, and to increase the inventory of land within a given zoning district.* The Zoning Map Amendment would reflect the changes to land use designations eliminate infeasible office uses and replace them with housing, which is necessary to achieve the balance of land uses desired by the City, and consistent with the General Plan as set forth above. The zoning change would allow underutilized, vacant and blighted former industrial land to be developed consistent with the vision of the General Plan and Specific Plan, and would result in the dedication of property for the City's desired transit station.

C. *The amendment will promote the growth of the city in an orderly manner and to promote and protect the public health, safety, peace, comfort, and general welfare.* The Zoning Map

## EXHIBIT \_\_ : Findings of Fact

Amendment and Specific Plan, as amended, would guide the orderly development of the Project in a manner to promote and protect the public health, safety, peace, comfort and general welfare, as required through conformance of applicable policies and regulations of the Specific Plan in addition to the City's zoning requirements. The Zoning Map Amendment would ensure consistency with the Specific Plan and General Plan and would result in orderly and planned-for growth that promotes the General Plan policies described in section II above.

### **V. Design Review**

Pursuant to Newark Municipal Code section 17.34.060, the City finds as follows:

A. *The overall design of the project including its scale, massing, site plan, exterior design, and landscaping will enhance the appearance and features of the project site and surrounding natural and built environment.* The Project would redevelop and revitalize a largely vacant and blighted former industrial site with modern, aesthetically pleasing market rate and affordable residential units, commercial retail uses, a five-acre park, and other landscaping improvements, including trees and greenspaces and other aesthetic improvements such as open spaces on the property dedicated to the City for a future transit station. The massing of the residential units and other development would be appropriate for the area and would enhance the appearance and features of the project site and surrounding natural and built environment.

B. *The project design is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.* The Project would redevelop and revitalize a largely vacant and blighted former industrial site with modern, aesthetically pleasing market rate and affordable residential units, commercial retail uses, a five-acre park, and other landscaping improvements, including trees and greenspaces and other aesthetic improvements such as open spaces on the property dedicated to the City for a future transit station. The Project design and connectivity would encourage pedestrians, including Project residents and visitors, to walk to the retail uses, park, and future transit station.

C. *Project details, materials, signage and landscaping, are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design.* The high-quality exterior building materials, such as brick and stone, are integral to the architectural design per applicable Specific Plan Design Guidelines. The street level storefronts would help create a pleasant pedestrian experience, as well the features of the park and future transit station. Landscape seat walls and retaining walls would feature enhanced brick and stucco veneers with wall caps that would match the community architectural brick and veneer materials. These same brick and stucco materials would carry through to the two entry monument signs to further promote a sense of unique community identity. Custom metal details with linear elements would be featured on the park overheads, patio fences, and architectural unit stoop railings to tie in the custom linear metal balcony railings on the architecture. The project details would be internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed design.

D. *The design of streetscapes, including street trees, lighting, and pedestrian furniture, is consistent with the intended character of the area.* Consistent with the Specific Plan design guidelines, the Project would include these features, consistent with the intended character of the

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area, including landscaped walkways and streets, as well as trees. Modern yet timeless pedestrian furniture and light fixtures would be specified to reflect the modern forms of the architecture and the warm, timeless brick and stucco architecture facades. Street trees would feature strong structural forms for year-round interest and vibrant reddish-orange fall color which will create a noteworthy identity for the community. The Bay Trail would run along the perimeter of the community and will be lined with wide parkways and lush native planting which will encourage pedestrian use and interaction surrounding the community.

E. *Parking areas are designed and developed to buffer surrounding land uses; compliment pedestrian-oriented development; enhance the environmental quality of the site, including minimizing stormwater run-off and the heat-island effect; and achieve a safe, efficient, and harmonious development.* The Project would redevelop and revitalize a largely vacant and blighted former industrial site with modern, aesthetically pleasing market rate and affordable residential units, commercial retail uses, a five-acre park, and other landscaping improvements, including trees and greenspaces and other aesthetic improvements such as open spaces on the property dedicated to the City for a future transit station. This would enhance the environmental quality of the site.

F. *Lighting and lighting fixtures are designed to complement buildings, be of appropriate scale, provide adequate light over walkways and parking areas to create a sense of pedestrian safety, and avoid creating glare.* The Project's lighting would be designed in conformance with the Specific Plan's lighting design guidelines, which ensure the lighting will implement all of these goals. See response to LU-6.6 describing the character, specification, and design of landscape lighting.

G. *Landscaping is designed to be compatible with and enhance the architectural character and features of the buildings on site, and help relate the building to the surrounding landscape.* The landscaping design would incorporate "Bay Friendly" landscape practices including native, non-invasive and drought tolerant trees and shrubs to complement the buildings while providing shade and visual interest along the pedestrian path. The sidewalk landscaping would also designed as part of the stormwater management system in compliance with provision C.3 of the Municipal Regional Stormwater NPDES Permit issued by the California Regional Water Quality Control Board, which governs stormwater discharge for new development projects. Finally, the landscaping design would be consistent with and subject to the Specific Plan's design guidelines.

### **VI. Minor Use Permit**

Pursuant to Newark Municipal Code sections 17.35.060 and 17.23.050, the City finds as follows:

A. *The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Ordinance and all other titles of the Municipal Code.* The only aspect of the Project that would require a Minor Use Permit is the request to have a reduced number of parking spaces due to the proximity of the Project's residential uses to a transit station, pursuant to Newark Municipal Code section 17.23.050(A). The Project's uses are permitted in the Project's zoning, as amended, and the Project would qualify for reduced parking by meeting the requirements set forth in Newark Municipal Code section 17.23.050.

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B. *The proposed use is consistent with the General Plan and the Specific Plan.* The uses of the Project would be consistent with the General Plan and the Specific Plan as amended, as set forth in detail in the findings above.

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 Project, and specifically the reduced parking as a result of adjacent transit, would not be adverse the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements, and instead would reduce vehicle miles traveled and promote the use of transit instead of passenger vehicles, and pedestrian travel. The Project would further be consistent with the General Plan polices described in section II above, which are intended to promote the public health, safety, and welfare of the community.

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 Project would redevelop vacant and blighted former industrial property with residential and retail uses, thereby significantly increasing the City's property tax base by increasing the value of the property, as well as creating sales tax.

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 [Zoning] Ordinance.* The uses of the Project would comply with all applicable design and development standards and are allowed under the Specific Plan and Zoning 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.* The Project would comply with all applicable design and development standards. Further, the Project would qualify for reduced parking by meeting the requirements set forth in Newark Municipal Code section 17.23.050 due to the close proximity to a future transit station.

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 Project would comply with all applicable design and development standards, and the General Plan, Specific Plan and zoning. The Project's impacts have been analyzed in detail in the 2011 EIR and Addendum thereto prepared for the Project. Further, the Project would qualify for reduced parking by meeting the requirements set forth in Newark Municipal Code section 17.23.050 due to the close proximity to a future transit station.

**VII. Vesting Tentative Map No. 8559**

The City makes the following findings which indicate conformance with the State Subdivision Map Act and the City's Subdivision Ordinance (Newark Municipal Code Chapter 16.08):

A. The proposed map would be consistent with the General Plan and Specific Plan as specified in Government Code §65451 as it would provide sufficiently dense residential and commercial uses in an area with pre-existing commercial uses on adjacent property and the immediate area. It would also be consistent with the City's Subdivision Ordinance and the design or improvement of the proposed tentative tract map would be consistent with the General

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Plan in that the property is developed by street and parcel improvements in conformance with applicable goals and policies. The proposed map would be consistent with the General Plan and Specific Plan, as amended, for all the reasons set forth in the findings relating to the concurrent General Plan and Specific Plan amendments, and would propose sufficiently dense residential and commercial mixed uses on blighted, vacant former industrial property, which the Project would significantly improve. The street and parcel improvements would comply with all City requirements, and for the reasons discussed in the findings regarding the concurrent Design Review approval, implement the goals and policies of the General Plan and Specific Plan, specifically including redeveloping the western portion of the City.

B. The design and improvements of the proposed subdivision would be consistent with applicable General Plan and Specific Plan, as amended, as the proposed subdivision would include multi-family residential and commercial development, sidewalks, pedestrian paseos, event spaces, and landscaped areas which would be adequately served by streets, and provide sufficient drainage for the development, as detailed in the findings in support of the concurrent Design Review approval, as well as the findings for the concurrent General Plan and Specific Plan amendments.

C. The site would be physically suitable for the type of development in that it is a highly disturbed, blighted for former industrial development, that would be significantly improved to support the proposed residential and commercial uses. There are no known problems regarding cultural, historical or scenic aspects. Given the topography of the site and the location of the proposed construction, it appears that grading would be minimal and in compliance with all City regulations. Therefore, the site would be physically suitable for the type of development.

D. The site would be physically suitable for the proposed density of development as the development would be within with the residential and retail capacities identified in the Specific Plan. The proposed development would be compatible with adjacent and neighboring existing developments in the surrounding area and would significantly improve an area of the City that the City's planning documents have long targeted for development

E. The design of the subdivision or the proposed improvements would not likely cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, as set forth in detail in the CEQA addendum to the EIR prepared for this Project.. The existing subject property is a developed and highly disturbed former industrial property in an urban area. The proposed subdivision and related development would have no significant impact on the environment's flora or fauna and instead would improve a blighted area.

F. The design of the subdivision or type of improvements would not likely cause serious public health problems. Phased residential subdivisions and associated commercial development would not involve significant amounts of hazardous materials or projects, as set forth in detail in the CEQA addendum to the EIR prepared for this Project.

G. The design of the subdivision or the type of improvements would not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The City has reviewed the records related to the subject property and found that the subdivision would not have a conflict with any easements.



**VIII. Affordable Housing – Alternative Means of Compliance to Payment of Housing Impact Fee**

Pursuant to Newark Municipal Code section 17.18.050, the City finds as follows:

- A. *The proposed alternative means of compliance fulfills the purposes of this chapter as set forth in Section 17.18.010, Purpose. The alternative means of compliance would fulfill the purposes of section 17.18.010 in that the proposed Project would result in the production of affordable housing that would be available to households with incomes at the very low-, low-, and moderate-income levels. The affordable housing units would be administered through an affordable housing agreement between the City and the property owner that would establish affordability levels for a period of 55-years. The alternative means of compliance would contribute to a more economically balanced community and provides safe and stable housing for households at all income levels.*
- B. *The proposed alternative means of compliance will further affordable housing opportunities in the city to an equal or greater extent than compliance with the requirements of Section 17.18.020, Housing Impact Fee, and will fully mitigate the impact of the project on the need for affordable housing. The alternative means of compliance would result in the production of affordable units that have a value equal to or greater than the required housing impact fee and as a result would fully mitigate the impact of the Project on the need for affordable housing.*
- C. *The proposed alternative means of compliance would better address the city's needs than compliance with the requirements of Section 17.18.020, Housing Impact Fee. The alternative means of compliance would result in the production of affordable housing with a market rate housing project, resulting in the availability of affordable housing more immediately than what otherwise may be possible though the payment of the Housing Impact Fee.*
- D. *The proposed alternative means of compliance will not unduly concentrate affordable housing in one geographic area so as to result in housing segregation. The alternative means of compliance would result in the production of family affordable housing within the Specific Plan area, which does not currently have any restricted affordable housing units, other than 72 affordable units for seniors, out of the 2,500 total residential units allowed in the Specific Plan area, and 2,171 units approved or in process therein. Therefore, there would not be an undue concentration of affordable housing units within one geographical area.*

**I. California Environmental Quality Act Determination** (Cal. Public Resources Code Section 21000, et. seq.)

The Dumbarton TOD Specific Plan was adopted after certification of a full environmental impact report.

The City of Newark (City) certified a Program Environmental Impact Report (PEIR) for the Bayside Newark Transit Oriented Development (TOD) Specific Plan (Specific Plan), formerly known as the Dumbarton TOD Specific Plan (State Clearinghouse No. 2010042012, July 2011). The City required preparation of an Initial Study (IS) to determine whether those changes to the FMC Willow and Grand Park project would result in any new or more substantial impacts from those identified in the prior adopted 2011 PEIR. Generally, the project's increased residential density replaces existing commercial and office. The IS concludes, based upon substantial evidence, that the proposed FMC Willow and Grand Park project is similar to the project evaluated in the adopted 2011 PEIR and would not cause any new or more severe impacts not previously addressed. Similar to the approved project, the proposed project involves the construction of a commercial/mixed-use and residential development, with a future transit station and recreational open space. As supported in the analysis contained in the accompanying IS, there are no substantial changes proposed in the FMC Willow and Grand Park project which would result in any new significant environmental effects or a substantial increase in the severity of significant effects previously identified in the 2011 PEIR. There is no new information of substantial importance which was not known for the 2011 PEIR, and no new mitigation measures are necessitated by new impacts. Therefore, under CEQA Guidelines 15162 and 15164, no further environmental analysis is required as none of the circumstances in Section 15162 exist and the City finds that an addendum to the 2011 PEIR is appropriate for the project. The IS and addendum (together the "IS/Addendum") is incorporated into these findings by reference.

**II. General Plan Amendment**

Pursuant to Newark Municipal Code Chapter 17.38, the City finds as follows:

A. *Reasons for the recommendation* - The General Plan Amendment is required to allow the proposed change in uses permitted on the 22.1 acre Project Site, and ensure consistency with the concurrently approved Bayside Newark TOD Specific Plan ("Specific Plan") Amendment and Rezoning, by amending the General Plan land use map to designate the Project Site with Medium Density Residential, Commercial Mixed Use, Public Institutional, and Parks and Recreation Facilities land use designations, a change from the existing Community Commercial, High Density Residential, Parks and Recreational Facilities, and Public Institutional designations.

B. *Findings related to supporting the recommendation-*

1. The request for the General Plan Amendment is consistent with the requirements and procedures set forth in the General Plan and Specific Plan;

2. The proposed Project (specifically including the General Plan Amendment, Specific Plan Amendment, Rezoning, Design Review, Minor Use Permit, Vesting Tentative Tract Map No.

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8559, and Affordable Housing-Alternative Means of Compliance to Payment of Housing Impact Fee) is consistent with the General Plan, including the following General Plan policies:

*Policy LU-1.1 Balance of Uses. Maintain a reasonable balance of land uses in the city so that residents can live close to where they work and satisfy their shopping, educational, personal, health, entertainment, and recreational needs close to home.* The Project would result in the development of market rate and affordable housing adjacent to retail and recreational uses, as well as a future transit station.

*Policy LU-1.2 Growth Focus Areas. Achieve a future growth pattern which includes new neighborhoods on vacant land along the southern and western edges of the city, and infill development in transit-served areas such as Old Town and the Greater NewPark Mall Area. Zoning and development review decisions should recognize these areas as the priority locations for growth and change over the next 20 years.* The Project would redevelop vacant, blighted former industrial sites on the western edge of the City with 279 market rate residential units, 90 affordable housing units, retail uses and parks/recreational uses.

*Policy LU-1.4 Coordinating Land Use and Transportation Decisions. Coordinate land use and development decisions with the capacity of the transportation system and plans for future transportation improvements.* The Project would develop residential and retail uses adjacent to, and reserve property for, a future transit station. As part of the Project, the applicant is dedicating the property for the future transit station.

*Policy LU-1.6 Strengthening the Retail Base. Diversify the retail base of the city to create jobs, generate tax revenue to support City services, and enable residents and workers to find the goods and services they need without leaving Newark.* The Project would develop retail uses on an underutilized, former industrial vacant site, increasing tax revenue.

*Policy LU-1.8 Housing Opportunity Sites. Ensure that adequate sites are provided for the private and non-profit sectors to develop housing for seniors, persons with disabilities, and lower income households. Such housing should be well designed and managed, and located in a manner that is compatible with existing uses and neighborhood character.* The Project would develop 90 high quality affordable housing units, which will be professionally managed along with the 279 market rate townhome units proposed by the Project, as a 370-unit mixed use community.

*Policy LU-1.9 Park and Recreation Expansion. Expand park and recreational lands and facilities to keep pace with population growth and support the leisure time needs of Newark residents.* The Project would include a five-acre community park (Grand Park), as well as a 1,485 square foot community building.

*Policy LU-1.10 Vacant and Underutilized Sites. Encourage the development of Newark's remaining vacant and underutilized sites for their highest and best use, consistent with the designations shown on the General Plan Diagram. Future growth in the city should generally be directed to the areas identified in this General Plan.* The Project would redevelop vacant, blighted former industrial sites on the western edge of the City with 279 market rate residential units, 90 affordable housing units, retail uses and parks/recreational uses.

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*Policy LU-1.15 Mixed-Use. Provide opportunities for development combining residential and commercial uses (e.g. "mixed-use" development) in areas where the impacts of one land use on the other and the impacts on nearby neighborhoods can be sufficiently mitigated.* The Project would redevelop vacant, blighted former industrial sites with a mixed used residential community that incorporates commercial/retail uses as part of the Project.

*Policy LU-2.3 High-Quality Development. Maintain standards for medium-density, high-density, and mixed-use development that ensure high quality development and adequate buffering and screening from nearby lower density uses.* The Project would comply with the Specific Plan's design guidelines and all the other standards imposed by the Design Review to ensure high quality development and adequate buffering, as applicable. The project will be buffered to the west by a 5-acre grand park. The bay trail corridor along Enterprise Drive will include a 7-foot landscape strip with tree planting and a 12-foot concrete pedestrian trail. Along the north side of the project is the Sam Trans right of way where a soundwall will be constructed along the property line. The east side of the project adjacent to Willow Street will include the future transit station site and the mixed-use parcel.

*Policy LU-2.7 Design Guidelines. Maintain design guidelines and a design review process that applies to building and site design throughout the city.* The Project would comply with the Bayside Newark Specific Plan's design guidelines and all the other standards imposed by the City's Design Review approval. Architecture will feature high quality materials such as stone/brick veneer, lap siding metal railings, awnings, and metal-look roofing, and fiber cement finishes. Landscaping will feature a blend of low maintenance, drought tolerant, and California native trees, shrubs, grasses and perennials

*Policy LU-2.8 Relating Density to Transit Service. Allow higher residential densities in areas with more frequent and reliable public transit service, and ensure that public transit services are expanded in areas where growth is projected.* The Project would develop higher density residential in the area surrounding the future transit station specifically, 79.1 du/ac at the commercial mixed/use site and 21.4 du/ac for the residential area and would dedicate a 1.8 net acre site to the City to be used for expanded transit services.

*Policy LU-4.3 Urban Centers. Create locations in Newark which are more urban and pedestrian-oriented in character than they are today. Such areas include the future Dumbarton Transit Oriented Development and Old Town. These areas should be transformed over time into mixed-use centers with retail, office, civic, and higher density housing uses.* The Project would redevelop vacant, blighted former industrial sites with a mixed used residential community that incorporates commercial/retail uses as part of the Project, high density residential condominiums, affordable for rent units, a bay trail compliant corridor along Enterprise Drive and Willow Street, as well as a five-acre park for use by the Project's residents and a future transit station. The project would incorporate sidewalk connections throughout both the project's northern and southern sites allowing for pedestrians to move freely throughout the area.

*Policy LU-6.1 Dumbarton TOD Land Uses. Plan for the following activities around the intersection of Willow Street and the proposed Dumbarton Rail Service: (1) a future transit station serving the region as well as neighboring residents; (2) a neighborhood center consisting of retail, grocery, visitor-serving, and higher-density residential uses; (3) up to 2,500 housing units with a*

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*wide range of unit types and affordability levels; (4) necessary infrastructure to support the development; (5) contribution toward an overpass on Central Avenue over the Union Pacific railroad tracks, and (6) a network of open space and parks, including a bayside trail.* The Project implements this Policy by dedicating a net 1.8 acre property for a future transit station and developing 3,600 sf of retail and 370 higher-density residential units, including 90 affordable housing units (and one manager's unit), a five-acre park and the necessary infrastructure to support the Project.

*Policy LU-6.2 Dumbarton TOD Design Guidelines. Apply design guidelines to future development at Dumbarton TOD which support the area's development as a "village" comprised of traditional city blocks, vernacular architectural styles, and a mix of housing types.* The Project would comply with the Specific Plan's design guidelines, and provide higher density residential housing products, including 90 affordable units, to allow for a variety of housing types. The contemporary architectural styles of the 3 residential products (Split, Towns, Stack) would use colors and materials (light color palette, stucco finishes, and lap siding) similar to surrounding residential developments, while incorporating contemporary low-slope roofs to give the development a subtle unique character to differentiate and add visual interest. With the adjacent location of the future transit hub, linking its future residents to nearby corporate campuses, the product styles would help blend the bold contemporary styles of the campuses with the traditional styles of neighboring residential communities. With the nearby 4-story apartment complex to the south of the project site, the 5-story mixed use podium building being of similar height and mass, would reflect a similar and complimentary style with the use of scored stucco, similar window awnings, and parapet walls with roofed tower elements, as well as a light color palette

*Policy LU-6.3 Dumbarton Rail. Advocate for construction of the Dumbarton Rail project connecting Newark to BART and the West Bay, with a station at Willow Street in Newark. As an interim measure until rail service is provided, advocate for high quality, rapid bus service connecting the Dumbarton TOD station area to BART, VTA, and the West Bay, to ensure that new development in this area can meet the TOD goals for the project.* As part of the Project, the applicant would dedicate property for the future development of this station. Staff will continue to work with SamTrans to eventually build a transit station at the project site to help the public transportation connection between this site and other services.

*Policy LU-6.4 Minimizing Dumbarton TOD Impacts. Minimize the impacts of the Dumbarton TOD on the natural environment by incorporating native plant species, reducing herbicide and pesticide use, using environmentally friendly construction and waste disposal techniques, and managing stormwater runoff to avoid water quality impacts to nearby wetlands and San Francisco Bay.* The EIR imposes mitigation measures on the Project that will ensure it is consistent with this Policy. Dumbarton TOD impacts will be mitigated through the use of plant species that specifically aid in phytoremediation which will naturally remove runoff pollutants and salts before runoff reaches sewer systems, wetlands, and adjacent water bodies. Bioretention basins are located in the majority of planter beds throughout the site which will add an additional layer of pollutant filtration. Trees with expansive canopies will be planted throughout the development and will intercept rainwater before touching the ground, thus adding another layer of water treatment.

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*Policy LU-6.5 Dumbarton TOD Landscaping and Streetscape. Use landscaping and tree planting to enhance the character of the Dumbarton TOD neighborhoods, define the community's edges, provide landmarks and focal points, make streets more pleasant for walking, and create a stronger sense of place. The landscape should reflect climate and soil conditions, as well as the desire to conserve water and create visual appeal* The Project would include landscaping consistent with this Policy, in compliance with the Specific Plan design guidelines and as part of the Project's Design Review approval. The landscape would enhance the character of Dumbarton TOD neighborhoods through the use of site specific materiality, planting design, and park design. Enhanced brick and stucco veneers would be utilized for seat walls and retaining walls to visually tie in the landscape built elements with the brick and stucco materials that will be used on the TOD neighborhood architecture. Custom enhanced steel architecture stoop railings and patio fences would match the decorative, linear architectural balcony railings for a heightened sense of identity. These same enhanced steel details will carry through to the landscape park overheads. The planting design would feature wispy, flowing native grasses to capture the native wetland feel of the adjacent bay. Flowering shrubs at pedestrian paseo entry points would add a natural highlight to neighborhood entrances and enhance wayfinding.

*Policy LU-6.6 Dumbarton TOD Lighting. Use lighting and illumination which compliments architectural styles, reduces glare and over-lighting impacts, ensures pedestrian safety, and highlights special design elements within the community.* The Project would include landscaping consistent with this Policy, in compliance with the Specific Plan design guidelines and as part of the Project's Design Review approval. Modern yet timeless street pole lights, pedestrian scale pole lights, and bollard lights would be specified to match the sconce lighting that will be featured on the community architecture. All pole and bollard lights would feature light fixture covers that would prevent vertical light pollution and also direct light throw towards pedestrian circulation areas and away from private residential units. All pedestrian circulation lighting would be strategically distributed to maintain uniform light coverage based on photometric plans that would be prepared by a certified lighting designer. This uniform lighting design would enhance safety and promote clear pedestrian circulation.

*Policy E D-2.4 New Retail Districts. Create additional shopping opportunities in newly developing neighborhoods, such as Dumbarton TOD, to meet the needs of new residents and workers, and reduce the loss of retail dollars to nearby communities. New commercial districts should be designed as integral parts of the neighborhoods they serve, so that patrons can easily walk or bicycle from home or work to shopping.* The Project is a mixed use residential project that would incorporate retail uses. The mixed use building would contain 3,600 square feet of ground floor retail space fronting along Willow Ave. The high floorplate façade for the retail space would serve as a grand entry to the project. Residential affordable units would be located above the retail space to provide proper massing and an urban feel. The current plan shows one 1,000 square foot retail space that could be used for a small coffee shop or café plus a 2,600 sf space for another neighborhood serving use such as a restaurant or deli. The retail frontage would also include an enclosed, secured elevator lobby for the affordable housing units.

The Project is consistent with the General Plan's Housing Element because it would increase overall housing stock in the City by 370 total units, including 90 affordable units, and would assist in addressing both the regional and statewide housing crisis.

### **III. Specific Plan Amendment**

A. *The proposed amendments to the Bayside Newark TOD Specific Plan are consistent with the Newark General Plan.* The amendments to the Specific Plan would include re-designation of the Project Site's land use designations/zoning so that the current office uses are replaced with 48 residential units (collectively "Specific Plan Amendment"). These changes are provided to enable implementation of the vision for buildout of the Specific Plan area and made in light of the fact that third part experts have determined that the development of office uses are not feasible on the Project Site. The Project would also be consistent with the overall development capacity and intensity for the Specific Plan area as identified in the General Plan and assumed in the 2013 General Plan Environmental Impact Report ("EIR") and 2011 PEIR. The Specific Plan Amendment would not result in increased development capacity or a change in the intensity of development or site improvements already planned or anticipated in the General Plan and Specific Plan. Nor would the amendments directly result in development types that were not already assumed and evaluated in the General Plan EIR and Specific Plan EIR. Specifically, the Specific Plan planned for the development of a total of 2,500 dwelling and 35,000 square feet of retail, and as of February 2022, a total of 2,171 dwelling units and 3,600 square feet of retail have been approved or are pending approval in the Specific Plan area, leaving plenty of capacity for the Project without resulting in any new or increased impacts on the environment, as concluded in the IS/Addendum to the PEIR prepared for the Project.

### **IV. Zoning Map Amendment**

Pursuant to Newark Municipal Code section 17.39.080, the City finds as follows:

A. *The amendment is consistent with the General Plan.* The City's zoning map would be amended to change the zoning of the Project Site from Business and Technology Park and Park to Medium Density Residential - Form Based Code, Commercial/Mixed Use - Form Based Code, Transit Station, Public Facilities, and Park. These zones are consistent with the General Plan land use designations for the Project Site, as amended – Medium Density Residential, Commercial Mixed Use, Public Institutional, and Parks and Recreation Facilities. The new zoning designations specifically, and the Project generally, would be consistent with the applicable polices of the General Plan, including but not necessarily limited to the Policies specifically listed in section II above. Therefore, the Zoning Map Amendment would be consistent with the General Plan.

B. *Any change in district boundaries is necessary to achieve the balance of land uses desired by the city, consistent with the general plan, and to increase the inventory of land within a given zoning district.* The Zoning Map Amendment would reflect the changes to land use designations eliminate infeasible office uses and replace them with housing, which is necessary to achieve the balance of land uses desired by the City, and consistent with the General Plan as set forth above. The zoning change would allow underutilized, vacant and blighted former industrial land to be developed consistent with the vision of the General Plan and Specific Plan, and would result in the dedication of property for the City's desired transit station.

C. *The amendment will promote the growth of the city in an orderly manner and to promote and protect the public health, safety, peace, comfort, and general welfare.* The Zoning Map

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Amendment and Specific Plan, as amended, would guide the orderly development of the Project in a manner to promote and protect the public health, safety, peace, comfort and general welfare, as required through conformance of applicable policies and regulations of the Specific Plan in addition to the City's zoning requirements. The Zoning Map Amendment would ensure consistency with the Specific Plan and General Plan and would result in orderly and planned-for growth that promotes the General Plan policies described in section II above.

### **V. Design Review**

Pursuant to Newark Municipal Code section 17.34.060, the City finds as follows:

A. *The overall design of the project including its scale, massing, site plan, exterior design, and landscaping will enhance the appearance and features of the project site and surrounding natural and built environment.* The Project would redevelop and revitalize a largely vacant and blighted former industrial site with modern, aesthetically pleasing market rate and affordable residential units, commercial retail uses, a five-acre park, and other landscaping improvements, including trees and greenspaces and other aesthetic improvements such as open spaces on the property dedicated to the City for a future transit station. The massing of the residential units and other development would be appropriate for the area and would enhance the appearance and features of the project site and surrounding natural and built environment.

B. *The project design is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.* The Project would redevelop and revitalize a largely vacant and blighted former industrial site with modern, aesthetically pleasing market rate and affordable residential units, commercial retail uses, a five-acre park, and other landscaping improvements, including trees and greenspaces and other aesthetic improvements such as open spaces on the property dedicated to the City for a future transit station. The Project design and connectivity would encourage pedestrians, including Project residents and visitors, to walk to the retail uses, park, and future transit station.

C. *Project details, materials, signage and landscaping, are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design.* The high-quality exterior building materials, such as brick and stone, are integral to the architectural design per applicable Specific Plan Design Guidelines. The street level storefronts would help create a pleasant pedestrian experience, as well the features of the park and future transit station. Landscape seat walls and retaining walls would feature enhanced brick and stucco veneers with wall caps that would match the community architectural brick and veneer materials. These same brick and stucco materials would carry through to the two entry monument signs to further promote a sense of unique community identity. Custom metal details with linear elements would be featured on the park overheads, patio fences, and architectural unit stoop railings to tie in the custom linear metal balcony railings on the architecture. The project details would be internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed design.

D. *The design of streetscapes, including street trees, lighting, and pedestrian furniture, is consistent with the intended character of the area.* Consistent with the Specific Plan design guidelines, the Project would include these features, consistent with the intended character of the



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area, including landscaped walkways and streets, as well as trees. Modern yet timeless pedestrian furniture and light fixtures would be specified to reflect the modern forms of the architecture and the warm, timeless brick and stucco architecture facades. Street trees would feature strong structural forms for year-round interest and vibrant reddish-orange fall color which will create a noteworthy identity for the community. The Bay Trail would run along the perimeter of the community and will be lined with wide parkways and lush native planting which will encourage pedestrian use and interaction surrounding the community.

E. *Parking areas are designed and developed to buffer surrounding land uses; compliment pedestrian-oriented development; enhance the environmental quality of the site, including minimizing stormwater run-off and the heat-island effect; and achieve a safe, efficient, and harmonious development.* The Project would redevelop and revitalize a largely vacant and blighted former industrial site with modern, aesthetically pleasing market rate and affordable residential units, commercial retail uses, a five-acre park, and other landscaping improvements, including trees and greenspaces and other aesthetic improvements such as open spaces on the property dedicated to the City for a future transit station. This would enhance the environmental quality of the site.

F. *Lighting and lighting fixtures are designed to complement buildings, be of appropriate scale, provide adequate light over walkways and parking areas to create a sense of pedestrian safety, and avoid creating glare.* The Project's lighting would be designed in conformance with the Specific Plan's lighting design guidelines, which ensure the lighting will implement all of these goals. See response to LU-6.6 describing the character, specification, and design of landscape lighting.

G. *Landscaping is designed to be compatible with and enhance the architectural character and features of the buildings on site, and help relate the building to the surrounding landscape.* The landscaping design would incorporate "Bay Friendly" landscape practices including native, non-invasive and drought tolerant trees and shrubs to complement the buildings while providing shade and visual interest along the pedestrian path. The sidewalk landscaping would also designed as part of the stormwater management system in compliance with provision C.3 of the Municipal Regional Stormwater NPDES Permit issued by the California Regional Water Quality Control Board, which governs stormwater discharge for new development projects. Finally, the landscaping design would be consistent with and subject to the Specific Plan's design guidelines.

### **VI. Minor Use Permit**

Pursuant to Newark Municipal Code sections 17.35.060 and 17.23.050, the City finds as follows:

A. *The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Ordinance and all other titles of the Municipal Code.* The only aspect of the Project that would require a Minor Use Permit is the request to have a reduced number of parking spaces due to the proximity of the Project's residential uses to a transit station, pursuant to Newark Municipal Code section 17.23.050(A). The Project's uses are permitted in the Project's zoning, as amended, and the Project would qualify for reduced parking by meeting the requirements set forth in Newark Municipal Code section 17.23.050.

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B. *The proposed use is consistent with the General Plan and the Specific Plan.* The uses of the Project would be consistent with the General Plan and the Specific Plan as amended, as set forth in detail in the findings above.

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 Project, and specifically the reduced parking as a result of adjacent transit, would not be adverse the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements, and instead would reduce vehicle miles traveled and promote the use of transit instead of passenger vehicles, and pedestrian travel. The Project would further be consistent with the General Plan polices described in section II above, which are intended to promote the public health, safety, and welfare of the community.

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 Project would redevelop vacant and blighted former industrial property with residential and retail uses, thereby significantly increasing the City's property tax base by increasing the value of the property, as well as creating sales tax.

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 [Zoning] Ordinance.* The uses of the Project would comply with all applicable design and development standards and are allowed under the Specific Plan and Zoning 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.* The Project would comply with all applicable design and development standards. Further, the Project would qualify for reduced parking by meeting the requirements set forth in Newark Municipal Code section 17.23.050 due to the close proximity to a future transit station.

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 Project would comply with all applicable design and development standards, and the General Plan, Specific Plan and zoning. The Project's impacts have been analyzed in detail in the 2011 EIR and Addendum thereto prepared for the Project. Further, the Project would qualify for reduced parking by meeting the requirements set forth in Newark Municipal Code section 17.23.050 due to the close proximity to a future transit station.

## **VII. Vesting Tentative Map No. 8559**

The City makes the following findings which indicate conformance with the State Subdivision Map Act and the City's Subdivision Ordinance (Newark Municipal Code Chapter 16.08):

A. The proposed map would be consistent with the General Plan and Specific Plan as specified in Government Code §65451 as it would provide sufficiently dense residential and commercial uses in an area with pre-existing commercial uses on adjacent property and the immediate area. It would also be consistent with the City's Subdivision Ordinance and the design or improvement of the proposed tentative tract map would be consistent with the General

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Plan in that the property is developed by street and parcel improvements in conformance with applicable goals and policies. The proposed map would be consistent with the General Plan and Specific Plan, as amended, for all the reasons set forth in the findings relating to the concurrent General Plan and Specific Plan amendments, and would propose sufficiently dense residential and commercial mixed uses on blighted, vacant former industrial property, which the Project would significantly improve. The street and parcel improvements would comply with all City requirements, and for the reasons discussed in the findings regarding the concurrent Design Review approval, implement the goals and policies of the General Plan and Specific Plan, specifically including redeveloping the western portion of the City.

B. The design and improvements of the proposed subdivision would be consistent with applicable General Plan and Specific Plan, as amended, as the proposed subdivision would include multi-family residential and commercial development, sidewalks, pedestrian paseos, event spaces, and landscaped areas which would be adequately served by streets, and provide sufficient drainage for the development, as detailed in the findings in support of the concurrent Design Review approval, as well as the findings for the concurrent General Plan and Specific Plan amendments.

C. The site would be physically suitable for the type of development in that it is a highly disturbed, blighted for former industrial development, that would be significantly improved to support the proposed residential and commercial uses. There are no known problems regarding cultural, historical or scenic aspects. Given the topography of the site and the location of the proposed construction, it appears that grading would be minimal and in compliance with all City regulations. Therefore, the site would be physically suitable for the type of development.

D. The site would be physically suitable for the proposed density of development as the development would be within with the residential and retail capacities identified in the Specific Plan. The proposed development would be compatible with adjacent and neighboring existing developments in the surrounding area and would significantly improve an area of the City that the City's planning documents have long targeted for development

E. The design of the subdivision or the proposed improvements would not likely cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, as set forth in detail in the CEQA addendum to the EIR prepared for this Project.. The existing subject property is a developed and highly disturbed former industrial property in an urban area. The proposed subdivision and related development would have no significant impact on the environment's flora or fauna and instead would improve a blighted area.

F. The design of the subdivision or type of improvements would not likely cause serious public health problems. Phased residential subdivisions and associated commercial development would not involve significant amounts of hazardous materials or projects, as set forth in detail in the CEQA addendum to the EIR prepared for this Project.

G. The design of the subdivision or the type of improvements would not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The City has reviewed the records related to the subject property and found that the subdivision would not have a conflict with any easements.

**VIII. Affordable Housing – Alternative Means of Compliance to Payment of Housing Impact Fee**

Pursuant to Newark Municipal Code section 17.18.050, the City finds as follows:

A. *The proposed alternative means of compliance fulfills the purposes of this chapter as set forth in Section 17.18.010, Purpose. The alternative means of compliance would fulfill the purposes of section 17.18.010 in that the proposed Project would result in the production of affordable housing that would be available to households with incomes at the very low-, low-, and moderate-income levels. The affordable housing units would be administered through an affordable housing agreement between the City and the property owner that would establish affordability levels for a period of 55-years. The alternative means of compliance would contribute to a more economically balanced community and provides safe and stable housing for households at all income levels.*

B. *The proposed alternative means of compliance will further affordable housing opportunities in the city to an equal or greater extent than compliance with the requirements of Section 17.18.020, Housing Impact Fee, and will fully mitigate the impact of the project on the need for affordable housing. The alternative means of compliance would result in the production of affordable units that have a value equal to or greater than the required housing impact fee and as a result would fully mitigate the impact of the Project on the need for affordable housing.*

C. *The proposed alternative means of compliance would better address the city's needs than compliance with the requirements of Section 17.18.020, Housing Impact Fee. The alternative means of compliance would result in the production of affordable housing with a market rate housing project, resulting in the availability of affordable housing more immediately than what otherwise may be possible though the payment of the Housing Impact Fee.*

D. *The proposed alternative means of compliance will not unduly concentrate affordable housing in one geographic area so as to result in housing segregation. The alternative means of compliance would result in the production of family affordable housing within the Specific Plan area, which does not currently have any restricted affordable housing units, other than 72 affordable units for seniors, out of the 2,500 total residential units allowed in the Specific Plan area, and 2,171 units approved or in process therein. Therefore, there would not be an undue concentration of affordable housing units within one geographical area.*