



# CITY OF NEWARK

## Planning Commission

City Hall, City Council Chambers

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

### AGENDA

Tuesday, August 22, 2023  
7:00 P.M.

#### A. ROLL CALL

#### B. MINUTES

- B.1 Approval of Minutes of the regular Planning Commission meeting of July 25, 2023.**

(MOTION)

#### C. WRITTEN COMMUNICATIONS

#### D. ORAL COMMUNICATIONS

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

#### E. PUBLIC HEARINGS

- E.1 Public Hearing to receive public comments for the Notice of Availability of a Draft Environmental Impact Report for the Mowry Village Subdivision project located southwest of the Mowry Avenue intersection, including three parcels (APN 537-0850-001-11, 537-0850-001-13, and 537-0850-002-00)**

(Informational)

#### F. STAFF REPORTS

#### G. COMMISSION MATTERS

## **G.1 Report on City Council actions.**

## **H. PLANNING COMMISSIONER COMMENTS**

## **I. ADJOURNMENT**

### **MEETING INFORMATION**

Members of the public may attend the meeting in person, virtually via Zoom, or watch it via YouTube or Cable Channel 26.

The ability to participate and observe via Zoom, YouTube, or Cable Channel 26 is predicated on those technologies being available and functioning without technical difficulties. Should those platforms not be available, or become non-functioning, or should the City Council otherwise encounter technical difficulties that make those platforms unavailable, the City Council will proceed with business in person unless otherwise prohibited by law.

#### **How to view the meeting remotely:**

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Copy/paste the YouTube URL into your browser if the link does not automatically open.

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

From a PC, Mac, iPad, iPhone, or Android device:

<https://us06web.zoom.us/j/83750010276?pwd=akdNYWxPdnNPaTlhbjFaMjc3UjEwdz09>

From a telephone dial 1 669 900 6833, Webinar ID 844 9460 8889

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

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

Submission of Public Comments: Public comments received by 4:00 p.m. on the Planning Commission meeting date will be provided to the Planning Commission and considered before Planning Commission action. Comments may be submitted by email to [planning@newark.org](mailto:planning@newark.org).

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

#### **Commission Meeting Access/Materials:**

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

Pursuant to Government Code 54957.5, supplemental materials distributed less than 72 hours before this meeting, to a majority of the Planning Commission, will be made available for public inspection at this meeting and will be posted at <https://www.newark.org/departments/city-manager-s-office/agendas-minutes> and will concurrently be made available for public inspection during regular business hours at City Hall, 37101 Newark Boulevard, Newark CA. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection. For those persons who require special accommodations, please contact the Administrative Support Specialist at least two days prior to the meeting at [planning@newark.org](mailto:planning@newark.org) or 510-578-4330.



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### MINUTES

Tuesday, July 25, 2023  
7:00 P.M.

#### A. ROLL CALL

Chair Fitts called the meeting to order at 7:02 pm. All members of the Planning Commission were present: Chair Fitts, Vice Chair Aguilar, Commissioner Becker, Commissioner Bogisich, and Commissioner Pitpitan.

#### B. MINUTES

**B1. Approval of Minutes of the regular Planning Commission meeting of June 13, 2023.**

**MOTION APPROVED**

Chair Fitts requested a motion. Commissioner Bogisich moved, and Commissioner Pitpitan seconded, to approve the Minutes of the regular Planning Commission meeting on June 13, 2023. The motion passed – **4 AYES, 1 ABSTAIN** (Commissioner Aguilar).

#### C. WRITTEN COMMUNICATIONS

None.

#### D. ORAL COMMUNICATIONS

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

Chair Fitts noticed a comment card from Rebecca Strouse, who was sitting in the audience that evening, and asked if she wanted to comment on the new townhomes'

development. Ms. Strouse replied in the affirmative. Chair Fitts informed her that she would be allowed to comment during the public hearing under item E1 because that topic was on the agenda. Ms. Strouse understood.

Chair Fitts asked if anyone wanted to comment on something that was not on the agenda. No one commented. Chair Fitts closed the oral communications portion of the meeting.

## **E. PUBLIC HEARINGS**

**E1. Public Hearing to consider Public Hearing to consider a Resolution to recommend City Council approval of DR2022-011 and MUP2022-026, a Design Review, Minor Use Permit, and Vesting Tentative Map for a 76-unit residential development located at 38600 Cedar Boulevard (APNs 92A-2585-12-1, 92A-2585-31). The project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Sections 15168 and 15183 and California Public Resources Code Section 21083.3.**

Chair Fitts opened the Public Hearing and invited Staff to do the presentation.

Carmelisa Lopez, Senior Planner (SP) of the Community Development Department, welcomed the Planning Commission and presented the Waymark Townhomes project, which is located at 3600 Cedar Boulevard and consists of two parcels, an Alameda County flood channel I-880, a motel, and a single-family residential neighborhood. SP Lopez noted that this project is situated adjacent to the Robson Homes Project, which was approved by the City Council in May 2023. Following that, she provided a project summary of the site, which included the site's condition, background information on it, the applicant and owner's project proposal, the site plan, floor plans, open space areas, and landscaping, parking spaces required, access and vehicular circulation on the site, and several offsite improvements that would be happening with this project. SP Lopez further stated that a community meeting was held for this project on April 17, 2023, at the former Pape Machinery, and that site notices were mailed to property owners and interested parties within a 500-foot radius. She added that three community members attended and were generally supportive of the project. She also stated that neither Staff nor the

applicant received any written feedback. SP Lopez also talked about the entitlement process, entitlement requirements, and how the project complies with them. Finally, she stated that M-Group, a City consultant, assisted with the preparation of a CEQA analysis, which evaluated the project's environmental impacts and demonstrated that the project is consistent with the General Plan and is exempt from further environmental review pursuant to CEQA Guidelines Sections 15183 and 15168, as well as the California Public Resources Code Section 21083.3. Finally, SP Lopez noted that Staff has studied the project and the entitlement requests in general and that based on Staff's analysis, the project complies with all applicable regulations to recommend approval of the entitlement requests.

**Staff Recommendation: Staff recommends that the Planning Commission approves, by resolution, a recommendation to the City Council for the approval of DR2022-011 and MUP2022-026, a Design Review, Minor Use Permit, and Vesting Tentative Map for a 76-unit residential development located at 38600 Cedar Boulevard (APNs 92A-2585-12-1, 92A-2585-31).**

SP Lopez noted that she was open to any questions following the conclusion of her presentation, and if there were none at the time, she passed over to the applicant for his presentation.

Chair Fitts thanked and complimented SP Lopez for her comprehensive report and before opening the Public Hearing, he asked the Commission if there were any questions for Staff.

Commissioner Becker stated that there are several existing businesses on the site and that when projects like this one arise, meetings with not only the property owners but also the business owners take place, so he questioned whether those meetings took place, and what is being done to accommodate those businesses and the employees who may be displaced.

Steven Turner, Community Development Director (CDD), responded by forwarding the response to the applicant's team, who would comment on the tenants on site and how they are being accommodated.

Chair Fitts asked the applicant to state his name and address for the recorder.

The applicant identified himself as Jason Kliewer, Principal of Waymark Development. Mr. Kliewer said that Pape Machinery was the only tenant, which, as SP Lopez stated, has now relocated. Chair Fitts reported that Pape Machinery is by Auto Mall Parkway next to I-680.

Chair Fitts asked the Commission if there were any other questions of Staff.

Vice Chair Aguilar inquired if there were any additional feedback after the April meeting or community meeting with the applicant. SP Lopez stated that the community meeting took place, but no written comments were received. She further stated that from the entitlement process up to that day, Staff had not received any written comments from the public.

Chair Fitts asked if there were any further questions for Staff. There were no other inquiries. He then called the Public Hearing to order and invited the applicant to come up to the platform and give his name and address clearly for the recorder.

The applicant greeted the Commission and introduced himself as Brian Steele, representative of the owner and applicant. He went on to praise SP Lopez for a very extensive and thoughtful presentation and indicated that he would do his best not to duplicate all the information and data that SP Lopez had previously delivered. Mr. Steele went on to say that he is a co-principal of Waymark Development and that he and his partner are both property owners and applicants. He also stated that they are partners with Resmark, a multi-million dollar real estate investment corporation based in San Diego, and that his team has offices in San Ramon and Newport Beach. He added that they had done many deals with the Resmark company over the years and that he and his partner have completed projects in Newark of approximately 500 homes in the last ten years. He added that all that experience, relationships, and passion for product design have concluded in the Waymark Project. Mr. Steele confirmed that Pape Machinery relocated to Auto Mall Parkway in June to a much larger, more modern building. As a result, the location is vacant, and they were the only ones present. He went on to say that this proposed use is included in the City's General Plan from 2013, which indicated that this property, as well as many others along Cedar Boulevard, would transition into their intended use of medium-density residential. He went on to explain how the streetscape has changed over time, noting residential projects built in the last 10 years such as Timber Homes from Trumark, D. R. Horton's Prima Project, and, most recently, Robson Homes. He also compared the Waymark Project to the nearby Robson Homes Project to demonstrate how they interrelate their light industrial uses to their ultimate residential

designation. Mr. Steele underlined the enhancements to Cedar Boulevard as well as the deliberate building massing. He emphasized that in this project, all front doors communicate effectively with the public domain from the pedestrian standpoint. He noted that the project has porches, patios, Juliet doors, and a low wall that conceals the alleyways, all of which were designed to add to and enhance the massing along Cedar Boulevard. Beyond the streetscape and along Cedar, off Moores Avenue, where the project features a well-designed pedestrian experience, Mr. Steele highlighted some important aspects, such as the distribution of open space components, such as the Green Space, Zen Gardens, decks over the bioretention areas that bring in the design and feel of the unique environments. He went on to say that all pedestrian circulation is safe on the sidewalks, and it all culminates in a variety of experiences. He also noted that in the activity corridor, there are children's play structures of a more natural character, picnic benches, gaming places, and a shared dog area. According to Mr. Steele, all these elements featured throughout the community set the tone and vision of their design. Finally, Mr. Steele mentioned some of the off-site improvements along Cedar Boulevard, on the eight-foot Public Utilities Easement (PUE), such as upgraded landscaping, widening of the bicycle travel lane, and winding sidewalks, all of which were designed with an intentional separation between the public and private domains, all meant to improve public mobility in front of the project. Mr. Steele concluded his presentation by expressing gratitude, and excitement for the Planning Commission's consideration of the project and welcome any comments or questions. He noted that they could not accomplish it without Staff's hard work and the resources of their consultants, some of whom were present in the audience and others through Zoom in case any specific concerns arose.

Chair Fitts thanked the applicant for his presentation. He then asked the applicant if he had read the attached resolution and agreed with all the conditions. The applicant responded in the affirmative.

Chair Fitts asked whether the Commission had any questions for the applicant. None of the Commissioners had any questions.

Chair Fitts mentioned another person in the audience who had filled out a Request to Speak card, Rebecca Strouse, whom he welcomed to the platform and asked her to state her name and address for the recorder. Ms. Strouse approached the platform and said her name is Rebecca Strouse, and her address is on Delphinium Court, in Newark.

Ms. Strouse began by apologizing for not conducting all of her research, acknowledging that the project had been in the works for some years. Ms. Strouse indicated that she has



been in Newark since 1964, that the city is slightly more than 13 square miles in size, and that the only required development should be 10% for new homes annually. She also admitted that she could be mistaken and expressed that she had a concern. She went on to state that the City had an eight-year housing element program from 2015 to 2023. Ms. Strouse then inquired as to whether this project was part of that program.

Chair Fitts asked Staff for comments on Ms. Strouse's question.

According to CDD Steven Turner, the area was designated as an opportunity housing site within the fifth cycle housing element, which ended in 2022. Chair Fitts noted that this site has been in the works for a few years. Ms. Strouse acknowledged that the site was added at some point. She also inquired about the other two developments she observed and whether they were going to start soon. Chair Fitts stated that one project is near some single-family houses along the same route, right next to the public storage and the Waymark Project, and the Waymark Project is directly next to the E-Z 8 Motel, making the entire corridor residential. She inquired if they were different developers along the way. Chair Fitts responded affirmatively. Ms. Strouse then asked how long the developer has owned the property.

Chair Fitts directed Staff to respond to Ms. Strouse's inquiry. CDD Turner stated to Chair Fitts that if the Planning Commissioners had questions that they would like Staff to address, Staff can do so, but a dialogue with public speakers is discouraged. He went on to say that Staff would like to hear public feedback and that if any questions emerge because of those comments, staff from the City or the applicant would be happy to help answer them. With that said, CDD Turner requested to Chair Fitts that if the public speakers have comments and questions, the Chair would determine which questions to ask of Staff or the applicant, and staff would be pleased to answer them.

Ms. Strouse was requested to state her inquiry by Chair Fitts. Ms. Strouse questioned the developer's ownership of the land and whether it was a recent transaction. Chair Fitts said that he did not know the answer to her question, but that the entire process and the land use issue concerning the entire corridor had been reviewed over the last five years or so, as well as the many versions or updates to the City's General Plan and Housing components. He noted that they have always had the objective of cleaning up the entire corridor and that they had a state requirement to develop more homes, because there is not enough housing in the Bay Area, so that was also a factor. Ms. Strouse was aware of this, but because Newark is so small, as she stated, she wondered how it could continue in this fashion. Ms. Strouse went on to inquire how the traffic congestion will be dealt

with. She was aware that the traffic signal would be addressed, but she was concerned about its impact on the areas nearby. Chair Fitts repeated her question regarding how traffic would be handled. Ms. Strouse replied in the affirmative. Ms. Strouse said that she might find her answer somewhere in the plans, but she would like to have an answer regarding that specific question. She then inquired whether Caltrans had been contacted or whether the state would be responsible for upkeep from the opposite side of the wall to the freeway area. Chair Fitts stated that Caltrans is generally responsible for the upkeep of those sound walls. He also stated that the Commission will discuss this with Staff. Ms. Strouse stated that developers normally manage their own, but she acknowledged that she could be mistaken. Ms. Strouse ended her inquiries by stating that she will continue following up on Newark's future. She further stated that she does not want to see more development due to the local high school, being surrounded by Amazon, and the City becoming an expressway. She went on to say that there are more accidents, that children must walk to school, and that she has concerns. Chair Fitts thanked Ms. Strouse.

Chair Fitts asked if anyone else had any thoughts on the townhouse project. No other members of the public requested to speak. He then closed the Public Hearing and returned the item for discussion to the Commission.

Vice Chair Aguilar thanked Ms. Strouse and stated that her questions had been taken into account. Vice Chair Aguilar mentioned that there was a comment about the City being able to approve new residential units no more than 10% above existing housing units and suggested that the Commission discuss, and the City inform the community about regional housing needs allocation and how municipalities are impacted by State mandated housing goals on a yearly basis.

CDD Turner expressed thanks to Commissioner Aguilar for his question and for replying to the community member. He went on to explain that the City, through the Adopted Housing Element, is required to set goals, policies, and programs, as well as have the proper zoning and general plan policies to allow residential development and that the City has been assigned a housing goal to meet over eight years in the Housing Element and the Regional Housing Needs Assessment (RHNA). He went on to say that the City is not required to build the homes but rather to have the regulation, programs, and land use in place to allow it to happen. CDD Turner stated that there are requirements for development standards with density levels in the City's Ordinance and General Plan that property owners can follow and present proposals to the City for residential development. He also stated that the City does not have a specific cap, so he was unsure where the 10% figure came from, but if developer's projects are consistent with the

zoning, Municipal Code, and General Plan, as well as environmental regulations and other standards, they will be reviewed by Staff and presented for recommendation to decision-making bodies.

Commissioner Bogisich questioned CDD Turner's statement that "each city is mandated by the State" and the State decides that each city must build out 10% and that when the State decides that there is no regard for how the city is built out or what the population is; she asked if that is coming from the State. CDD Turner responded that he was not aware of a specific percentage or a cap for jurisdictions to build a certain to, but he referred the question to the City's consulting attorney, who was present that evening.

The City's consulting attorney, Alex Mog, of Meyers Nave, responded that there is no cap and that the way it works is that the State comes up with an overall number for the entire state and assigns it to each region, so they assign a certain number to the Bay Area, and then the Association of Bay Area Governments (ABAG) divides that number between the regions and has a public process that determines the methodology. He went on to say that this is mandated by state legislation and that it is required to create housing near public transportation, jobs, and other comparable things. Finally, Mr. Mog confirmed that there is no state legislation cap or goal of 10%.

Commissioner Aguilar inquired about the applicant's ownership of the land. One of the co-owners, Mr. Jason Kliewer, went up to the platform and stated that they have been in pursuit of this property for about three years. He said that they received a contract for it less than two years ago, closed it around a year and a half ago, and immediately started trying for project entitlements.

Commissioner Aguilar next asked the consultants for their feedback about Ms. Strouse's other two questions, regarding traffic congestion, how the City would cope with it, and Caltrans involvement. About the traffic and transportation topic, SP Carmelisa Lopez stated that is regulated by a recent State Bill which is based on the vehicle miles traveled and the location of the housing. She also mentioned that a City Engineering staff member was present for further clarification and that based on the CEQA analysis, it was determined that it was in compliance with the VMT (Vehicle Miles Traveled) requirements. SP Lopez reported that a traffic impact study and a traffic signal warrant assessment had been prepared for the project's transportation and traffic impact. Finally, she requested that Diana Cangco, the City's Principal Civil Engineer, who oversaw the project's transportation study provide further clarification.

Diana Cangco, the City's Principal Civil Engineer, introduced herself and stated that a traffic analysis was prepared and reviewed by Staff regarding the project's traffic impacts, and it was concluded that a warrant was met for the traffic signal at Smith and Cedar. As a result, she added, there is a condition of approval for the new traffic signal, which originated from the 2013 General Plan update, and it states that when the time comes when this unsignalized intersection is appropriate, it will be implemented. As a result, she explained, this development generated the warrant, and the traffic signal is being conditioned as part of the project.

Commissioner Becker mentioned Caltrans's concern about who would maintain the wall adjacent to the freeway. SP Carmelisa Lopez responded that the applicant is aware of coordinating with Caltrans about the sound wall and that there may be some requirements that they must follow, like the Robson Homes project, but the sound wall would be compatible with all the sound walls abutting I-880, and the property owner would be responsible for maintaining the wall on both sides.

Chair Fitts asked Ms. Strouse, the community member who expressed her concerns earlier if all her questions had been answered. Ms. Strouse answered positively.

Chair Fitts called the Public Hearing to a close, returned it to the Commission, and asked if there were any other comments.

Commissioner Aguilar stated that after reading the staff report, he realized that the properties have been rezoned, the land use designation updated in 2010, and seeing development and applications along Cedar Boulevard, all of which are compliant with zoning, the General Plan and housing are being built to provide for the State. Aside from that, as a community member, he continued that one of the things he favors, as in the Robson Project, Trumark Project, and Waymark Project, is seeing off-site improvements along Cedar Boulevard that would benefit the community, such as having a center median, crosswalks, traffic signals, and the forward-facing nature of the homes fronting Cedar Boulevard; thus, he would support the project for all those reasons.

Chair Fitts inquired if anyone else had any comments or questions. No one else made comments.

Chair Fitts requested a motion. Commissioner Aguilar moved the staff recommendation. Commissioner Becker seconded the motion. **The motion passed 5 AYES.**

Chair Fitts indicated that this proposal would also be considered by the City Council and that the Planning Commission's decision was not final. He went on to say that the City Council would hold a public hearing to hear their recommendations and request public opinions and that the City Council will make the ultimate decision at some point.

Chair Fitts inquired as to when the project would be heard by the City Council. SP Carmelisa Lopez responded that it will be heard on September 14, 2023.

**MOTION APPROVED**

## **F. STAFF REPORTS**

**None.**

## **G. COMMISSION MATTERS**

*G.1 Report on City Council actions.*

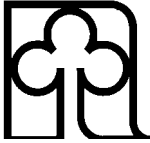
CDD Turner reported that the Mulberry Residential Project was approved by the City Council on June 22, 2023, which was an item heard by the Planning Commission earlier in June.

## **H. PLANNING COMMISSIONER COMMENTS**

**None.**

## **I. ADJOURNMENT**

Chair Fitts adjourned the regular Planning Commission meeting at 7:47 pm.



- E.1 Public Hearing to receive public comments for the Notice of Availability of a Draft Environmental Impact Report for the Mowry Village Subdivision project located southwest of the Mowry Avenue intersection, including three parcels (APN 537-0850-001-11, 537-0850-001-13, and 537-0850-002-00)– from Deputy Community Development Director Interiano.**

**(INFORMATIONAL)**

**SUBJECT**

Public hearing to receive comments on the Draft Environmental Impact Report (EIR) for a proposed new residential development including 203 single-story detached homes and on- and off-site improvements including, but not limited to, construction of on-street parking, drive aisles, utility improvements, landscaping, and widening of Mowry Avenue. The subject property would replace the auto parts and scrap metal salvage yard known as “Pick-n-Pull”. The subject property is 29 acres and has a General Plan designation of Low Residential and a zoning designation of Park.

**REASON FOR REQUEST:** In accordance with the California Environmental Quality Act (CEQA) the proposed project requires analysis of potential environmental impacts and identification of mitigation measures to reduce potentially significant impact to less-than-significant levels. CEQA requires a minimum 45-day public review and comment period after the Draft EIR has been prepared. This public hearing is intended to provide one method to receive public comments on the Draft EIR. The public can also submit written comments to [art.interiano@newark.org](mailto:art.interiano@newark.org). The public review and comment period for the Draft EIR ends on **Monday, September 18, 2023**.

Key Considerations: Review the environmental analysis, identification of potential environmental impacts and mitigation measures.

**BACKGROUND**

The City issued a Notice of Preparation (NOP) of an EIR for the proposed project on November 30, 2021. The NOP included an Initial Study that was prepared for the proposed project. The Planning Commission held a public scoping meeting on December 14, 2021. A summary of the NOP comments received can be found in Table 1.2-1 of the Draft EIR. The NOP comments were considered and are addressed in the Draft EIR as deemed necessary for compliance with CEQA. The Draft EIR was published on August 2, 2023, and will undergo a 45-day comment period consistent with the requirements of CEQA. The public can submit written comments on the Draft EIR as well as oral



comments at this public hearing.

## PROJECT DESCRIPTION

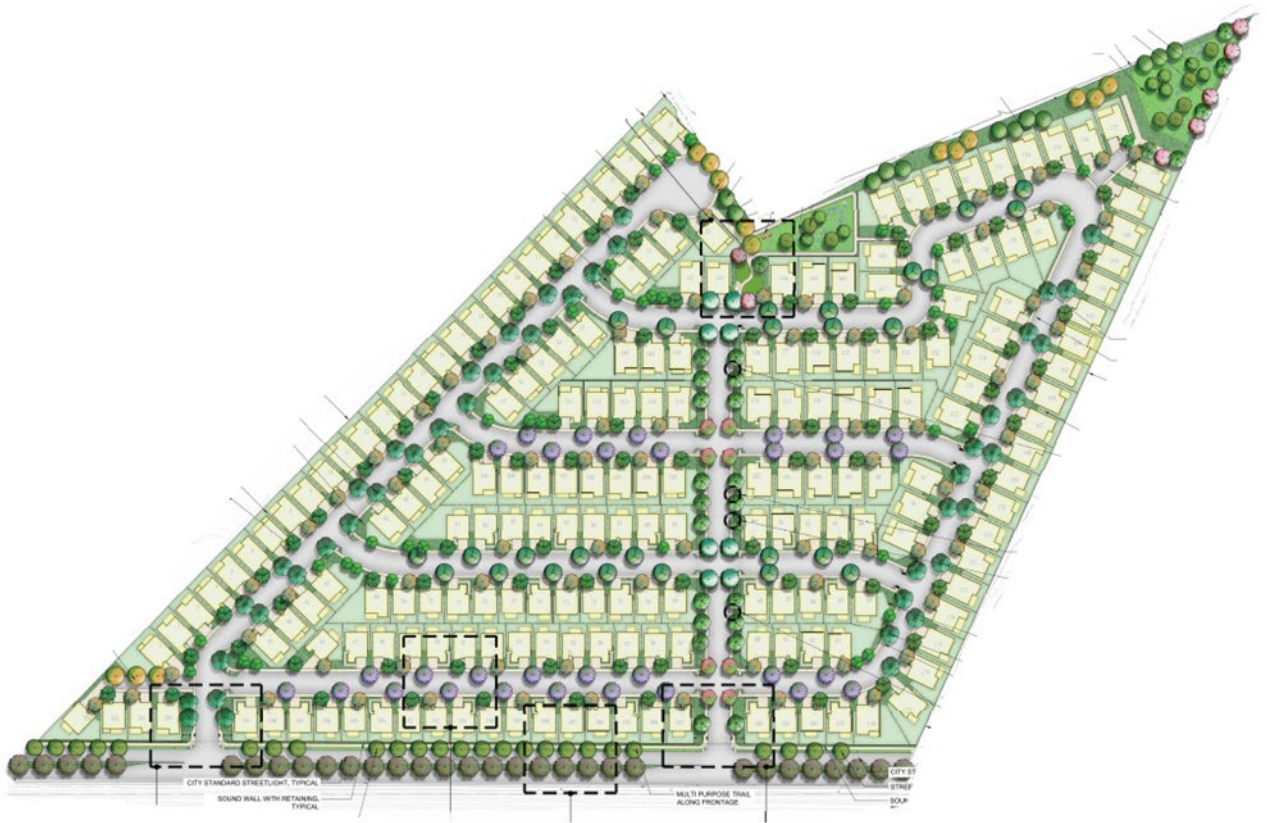
The project site is a 29-acre site located within the City of Newark in southwestern Alameda County, California, southwest of the intersection of Mowry Avenue and the UPRR tracks, west of Cherry Street (Figure 1). The project site is located within the Newark Areas 3 and 4 Specific Plan area that is currently developed as an auto part and scrap metal salvage lot, known as “Pick-n-Pull.” The proposed project is within Sub Area D of Area 4 and is zoned Park with the intention of a golf course or other recreational uses. The proposed project requests a Specific Plan Amendment to change the zoning from Park to RS-6000: Residential Single-Family.

Figure 1 – Project Site



The Applicant is proposing to demolish the existing onsite structures and remediate existing on-site soil and groundwater contamination to construct 203 single-family detached homes (Figure 2). The proposed single-family homes would be located on three typical lot sizes that are 3,375 square feet (SF), 3,600 sf, or 4,000 sf. Each house would be two stories tall and feature various floor plans with four to five bedrooms, a two-car garage, and a rear yard.

Figure 2- Site Plan/Landscape Plan



The proposed project would provide approximately 4.89 acres of onsite open space. The onsite open space would include 0.94 acres of common open space consisting of landscaping and bioretention areas. The on-site open space area providing recreational opportunities would be located in the project site's center and include amenities such as a lawn, pedestrian path, and picnic tables. The proposed project would also provide a rear yard for each home, resulting in a total of 3.95 acres of private open space.

Additional improvements include on-street parking, drive aisles, underground utilities, Low Impact Development drainage and water quality treatment areas, lighting, sidewalks, and landscaping.

The proposed project would also include improvements and widening of Mowry Avenue. The proposed project would widen the right-of-way of Mowry Avenue, south of the UPRR tracks. The proposed sidewalk along the frontage of Mowry Avenue would conform to the existing UPRR crossing to the north and the proposed project would provide pedestrian crossing improvements at the UPRR crossing. Additionally, a mid-block crossing would be located approximately mid-point between the UPRR tracks and Cherry Street, along the Silliman Center frontage and additional improvements would be completed. The



proposed project would also include off-site stormwater improvements associated with widening Mowry Avenue and off-site water main extensions. A more detailed description of the proposed project is provided in the DEIR in Section 2.0, Project Description.

Requested entitlements include rezoning, Planned Unit Development, Specific Plan Amendment, Vesting Tentative Map, Design Review, Grading, Building, and Encroachment Permit, and Alameda County LAFCO Annexation Approval.

## **ENVIRONMENTAL REVIEW**

The City determined that an EIR is required for the proposed project. The City issued a NOP on November 30, 2021, which informed State and local agencies and other interested parties that the City was preparing an EIR. A 30-day comment period allowed agencies and individuals to provide input on the scope and content of the EIR.

The City prepared a Draft EIR for the proposed project to evaluate the project's potential environmental impacts. The following impact topics were studied in the EIR:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

The Draft EIR identified one potential environmental impact that would result in a potentially significant and unavoidable (SU) impact with mitigation measures. Additionally, the Draft EIR identified impacts that would result in less than significant (LTS) impacts with the mitigation measures. The Draft EIR contains an executive summary with Table ES-1, "Summary of Impacts and Mitigation Measures from the Draft EIR" that summarizes identified impacts, levels of significance before mitigation, mitigation

measures, and level of significance after mitigation. Below is the identified SU impact referencing the associated analysis sections in the Draft EIR.

## **SIGNIFICANT UNAVOIDABLE IMPACTS**

### Transportation

The Draft EIR identified the following Transportation impacts that were found to be SU with the implementation of mitigation measures. According to SB 743(2013), CEQA Guidelines require all agencies to use a VMT-based threshold of significance in CEQA documents published after July 2020. VMT refers to the amount and distance of a automobile travel attributable to a project. Since the City of Newark has not developed their own VMT screening criteria, the analysis uses the Alameda County Transportation Commission(CTC) Countywide Travel Demand Model to estimate VMT. The Model includes a year 2020 scenario, which approximates existing conditions. The Bay Area regional average daily VMT per capita is 19.8 and the City of Newark citywide average daily VMT per capita is 22.8 under 2020 conditions. Review of the threshold of significance, impact analysis, conclusions, and mitigation measures, for Transportation are described in Section 3.17.3 Environmental Impacts of the Draft EIR.

**Impact TRANS-2:** The proposed project would conflict or be inconsistent with CEQA Guidelines Section 15064.3, Subdivision (b).

Implementing the proposed project would result in an increase in VMT and over 2020 and 2040 conditions, the average VMT per resident for the proposed project would be 44 and 47 percent higher, respectively, than the citywide average minus 15 percent, which is the threshold of significance. Therefore, the proposed project would have a significant impact on VMT as it would exceed existing citywide VMT per capita minus 15 percent. Though the Draft EIR identified a mitigation measure which requires the implementation of a Transportation Demand Management Plan to reduce project-generated VMT, it would not be adequate to reduce the project-generated VMT below the threshold of significance and the proposed project would have a significant and unavoidable impact.

## **LESS THAN SIGNIFICANT IMPACTS**

Below are the identified LTS impacts with the mitigation measures referencing the associated analysis sections in the Draft EIR.

### Air Quality

The Draft EIR identified the following Air Quality impacts that were found to be LTS with the implementation of mitigation measures. A review of the threshold of significance, impact analysis, conclusions, and mitigation measures, for Air Quality are described in Section 3.3.3 Environmental Impacts of the Draft EIR.

**Impact AIR-1:** The proposed project could conflict with or obstruct implementation of the applicable air quality plan.

**Impact AIR-2:** The proposed project could result in a cumulatively considerable net increase of any criteria pollutants for which the project region is non-attainment under an applicable federal or State air quality standard.

**Impact AIR-3:** The proposed project could expose sensitive receptors to substantial pollutant concentrations.

Potential impacts related to air quality identified in the Draft EIR relate to typical construction emission impacts and exposure of sensitive receptors to construction emissions. This impact is commonly identified for projects requiring construction, and the impacts were mitigated to a less than significant level with the implementation of commonly identified mitigation measures related to construction best management practices to reduce potential emissions and the use of Tier 4 certified construction equipment. For a detailed explanation of impacts and mitigation measures, see Section 3.3.3 Environmental Impacts of the Draft EIR.

#### Biological

The Draft EIR identified the following Biological Resources impacts that were found to be LTS with the implementation of mitigation measures. A review of the threshold of significance, impact analysis, conclusions, and mitigation measures, for Biological Resources are described in Section 3.4.3 Environmental Impacts of the Draft EIR.

**Impact BIO-1:** The proposed project could have a substantial adverse effect, either directly or through habitat modifications on any species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

**Impact BIO-5:** The proposed project could conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy.

Potential impacts related to biological resources identified in the Draft EIR relate to the potential effects to special-status species resulting from the construction and operation of the proposed project and conflict with ordinances protecting biological resources. The impacts were mitigated to a less than significant level with the implementation of mitigation measures related to standard construction best management practices, pre-construction biological resources surveys, post-construction management plans, and preparation of a Tree Preservation Plan. For a detailed explanation of impacts and mitigation measures, see Section 3.4.3 Environmental Impacts of the Draft EIR.

#### Cultural Resources

The Draft EIR identified the following Cultural Resources impacts that were found to be LTS with the implementation of mitigation measures. Review of the threshold of significance, impact analysis, conclusions, and mitigation measures, for Cultural Resources are described in Section 3.5.3 Environmental Impacts of the Draft EIR.

**Impact CUL-2:** The proposed project could cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.

**Impact CUL-3:** The proposed project could disturb any human remains, including those interred outside of dedicated cemeteries.

Potential impacts related to cultural resources identified in the Draft EIR relate to the

inadvertent discovery of undiscovered archaeological and cultural resources during construction activities. This impact is commonly identified for project's requiring subsurface work during construction and the impact was mitigated to a less than significant level with implementation of standard mitigation measures related to protocols for the inadvertent discovery of resources. For a detailed explanation of impacts and mitigation measures, see Section 3.5.3 Environmental Impacts of the Draft EIR.

### Geology and Soils

The Draft EIR identified the following Geology and Soils impacts that were found to be LTS with the implementation of mitigation measures. A review of the threshold of significance, impact analysis, conclusions, and mitigation measures, for Geology and Soils are described in Section 3.7.3 Environmental Impacts of the Draft EIR.

**Impact GEO-1:** The proposed project could directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault.
- ii) Strong seismic ground-shaking.
- iii) Seismic-related ground failure, including liquefaction.
- iv) Landslides.

**Impact GEO-2:** The proposed project could result in substantial soil erosion or the loss of topsoil.

**Impact GEO-3:** The proposed project could be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.

**Impact GEO-4:** The proposed project could be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property.

**Impact GEO-6:** The proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

Potential impacts related to geology and soils identified in the Draft EIR relate to construction and remediation activity impacts including inadvertent discovery of undiscovered paleontological resources, earthquake hazard impacts, and being located on expansive and unstable soils. The impacts were reduced to a less than significant level with the implementation of standard mitigation measures requiring the implementation of recommendations included in project-specific geotechnical reports, preparation of a Stormwater Pollution Prevention Plan (SWPPP) and dewatering plans with the implementation basic construction best management practices, and standard inadvertent discovery protocol mitigation. For a detailed explanation of the impacts and mitigation measures, see Section 3.7.3 Environmental Impacts of the Draft EIR.

### Hazards and Hazardous Materials

The Draft EIR identified the following Hazards and Hazardous Materials impacts that were found to be LTS with the implementation of mitigation measures. A review of the threshold of significance, impact analysis, conclusions, and mitigation measures, for Hazards and Hazardous Materials are described in Section 3.9.3 Environmental Impacts of the Draft EIR.

**Impact HAZ-1:** The proposed project could create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

**Impact HAZ-2:** The proposed project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

**Impact HAZ-4:** The proposed project could be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment.

Potential impacts related to hazards and hazardous materials identified in the Draft EIR relate to construction and remediation activity impacts and the existing on-site hazardous contamination. The impacts were reduced to a less than significant level with mitigation measures requiring remediation of on-site contamination and preparation of a SWPPP with implementation of basic construction best management practices. For a detailed explanation of the impacts and mitigation measures, see Section 3.9.3 Environmental Impacts of the Draft EIR.

#### Hydrology and Water Quality

The Draft EIR identified the following Hydrology and Water Quality impacts that were found to be LTS with the implementation of mitigation measures. A review of the threshold of significance, impact analysis, conclusions, and mitigation measures, for Hydrology and Water Quality are described in Section 3.10.3 Environmental Impacts of the Draft EIR.

**Impact HYD-1:** The proposed project could violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality.

**Impact HYD-2:** The proposed project could substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.

**Impact HYD-3:** The proposed project could substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

- i) Result in substantial erosion or siltation on- or off-site;
- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;

- iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
- iv) Impede or redirect flood flows.

**Impact HYD-5:** The proposed project could conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

Potential impacts related to hydrology and water quality identified in the Draft EIR relate to construction and remediation activity impacts on water quality. The impacts were reduced to a less than significant level with mitigation measures requiring the preparation of a SWPPP and dewatering plan, and implementation of basic construction best management practices. For a detailed explanation of the impacts and mitigation measures, see Section 3.10.3 Environmental Impacts of the Draft EIR.

### Noise

The Draft EIR identified the following Noise impacts that were found to be LTS with the implementation of mitigation measures. A review of the threshold of significance, impact analysis, conclusions, and mitigation measures, for Noise are described in Section 3.13.3 Environmental Impacts of the Draft EIR.

**Impact NOI-1:** The proposed project could result in a generation of a substantial temporary or permanent increase in ambient noise level in the vicinity of the project in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies.

Potential impacts related to noise identified in the Draft EIR related to interior traffic noise levels from nearby roadways and trains and proposed project fixed-source noise from the proposed project's on-site equipment. Additionally, the Draft EIR identified potential impacts related to temporary ambient noise increases resulting from the proposed project's construction. The impacts were reduced to a less than significant level by implementing standard mitigation measures requiring project-specific acoustical studies and adherence to City noise standards for construction. For a detailed explanation of the impacts and mitigation measures, see Section 3.13.3 Environmental Impacts of the Draft EIR.

### Tribal Cultural Resources

The Draft EIR identified the following Tribal Cultural Resources impacts that were found to be LTS with the implementation of mitigation measures. Review of the threshold of significance, impact analysis, conclusions, and mitigation measures, for Tribal Cultural Resources are described in Section 3.18.3 Environmental Impacts of the Draft EIR.

**Impact TRIB-1:** The proposed project could cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with

cultural value to California Native American tribe, and that is:

- i) Listed or eligible for listing in the CRHR or in a local register of historical resources as defined in PRC Section 5020.1(k), or
- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Potential impacts of tribal cultural resources identified in the Draft EIR relate to the inadvertent discovery of undiscovered tribal cultural resources during construction activities. This impact is commonly recognized for projects requiring subsurface work during construction. The impact was mitigated to a less than significant level with the implementation of commonly identified mitigation measures related to the inadvertent discovery of resources. For a detailed explanation of impacts and mitigation measures, see Section 3.18.3 Environmental Impacts of the Draft EIR.

Mitigation Monitoring and Reporting Program. Mitigation measures are actions which reduce a project's impact on the environment. CEQA Guidelines Section 15097 requires the preparation of a mitigation monitoring and reporting program (MMRP) if an EIR identifies mitigation measures to ensure that those measures are implemented after project approval. This program lists who is responsible for performing the mitigation and when it needs to be completed. The Draft EIR identified mitigation measures that would reduce the proposed project's impacts on the environment to less than significant levels. An MMRP will be prepared after the public review period for the Draft EIR and will be included with the Final EIR. Compliance with the MMRP would be a condition of project approval.

### **LESS THAN SIGNIFICANT OR NO IMPACT**

In regard to the other major environmental topics studied, the Draft EIR found that impacts associated with those topics for the proposed project were either less than significant, meaning they either created no significant impact or it is only less than significant, or that there simply was no impact.

### **PROJECT ALTERNATIVES**

CEQA requires that an EIR describe and qualitatively evaluate a range of reasonable alternatives that would feasibly attain most of the project's basic objectives and would avoid or substantially lessen any of the project's significant effects. The Draft EIR evaluated the proposed project against four alternatives, including:

1. No Project Alternative- Assumes that no additional development would occur on the project site and would continue to use the existing structures on the project site for commercial services.
2. Multi-family Residential Alternative- Provides 405 multi-family residential units that range from garden apartments and condominiums to townhomes and row

- houses that would have a maximum building height of 60 feet.
3. Reduced Density Alternative- Provides 64 single-family detached residential homes.
  4. 100 Percent Affordable Housing Alternative- Similar to Multi-family Alternative, would provide 405 multi-family units, however, these would be 100% affordable.

Table 1 below from the Draft EIR provides a comparison of the Alternatives' impacts to the proposed project impacts.

Table 1: Alternatives Impact Comparison

Environmental Resource Area	Proposed Project	No Project (Alternative 1)	Multi-family Residential (Alternative 2)	Reduced Density (Alternative 3)	100 Percent Affordable (Alternative 4)
Aesthetics	LTS	<	=	=	=
Agriculture and Forestry Resources	NI	=	=	=	=
Air Quality	LTS/M	<	>	<	>
Biological Resources	LTS/M	<	=	=	=
Cultural Resources	LTS/M	<	=	=	=
Energy	LTS	>	>	<	>
Geology and Soils	LTS/M	>	=	=	=
Greenhouse Gases	LTS	>	>	<	>
Hazards and Hazardous Materials	LTS/M	>	=	=	=
Hydrology and Water Quality	LTS/M	>	=	=	=
Land Use and Planning	LTS	>	=	=	=
Mineral Resources	NI	=	=	=	=
Noise	LTS/M	>	>	<	>
Population and Housing	LTS	<	=	=	=



Public Services	LTS	<	>	<	>
Recreation	LTS	<	>	<	>
Transportation and Traffic	SU	<	=	=	=
Tribal Cultural Resources	LTS/M	<	=	=	=
Utilities and Service Systems	LTS	<	>	<	>
Wildfire	LTS	<	=	=	=

Notes:

NI = No Impact

LTS = Less than Significant Impact

LTS/M = Less than Significant Impact with Mitigation

SU = Significant and Unavoidable

< = Less impact than the proposed project

= = Equivalent impact to the proposed project

> = Greater impact than the proposed project

CEQA requires that the Draft EIR identify an “environmentally superior alternative” to the Project. The Draft EIR identifies the Reduced Density Alternative as the environmentally superior alternative. Though the Reduced Density Alternative would not eliminate or reduce the significant and unavoidable impact on VMT, all other resource areas would be less than significant or less than significant with mitigation. Additionally, the Reduced Density Alternative would not result in greater impacts than the proposed project to any resource areas and would meet all project objectives.

In summary, the Draft EIR provides a project level analysis of the environmental impacts associated with the proposed project in compliance with the requirements of CEQA. It identifies mitigation measures that would reduce all but one of the potentially significant environmental impacts to a less than significant level. It identifies that there would be one significant and unavoidable environmental impact. It also evaluates several project alternatives and provides a qualitative analysis of the benefits and drawbacks of those alternatives.

Cumulative Effects. CEQA requires a discussion of the cumulative impacts of a project when the project’s incremental effect is cumulatively considerable. Cumulatively considerable, as defined in CEQA Guidelines Section 15065(a)(3), means that the “incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” The State CEQA Guidelines Section 15355 defines a cumulative impact as two or more individual effects that, when considered together, are considerable or that compound or increase other environmental impacts. Cumulative impacts can result from individually minor but collectively significant projects taking place

over time. The Draft EIR identified a list of past, present, and probable future projects within the vicinity of the project site that may have a cumulative effect on the resources of the project area. See Table 4.4-1 of the Draft EIR for the list of identified past, present, and future probable projects within the project vicinity that was considered for the analysis of cumulative effects.

The Draft EIR identified that the proposed project would have a cumulatively considerable impact with respect to VMT and would result in a significant and unavoidable cumulative impact. All other resource topics analyzed in the Draft EIR was determined to not have a cumulatively considerable impact. For a detailed cumulative effects analysis, see Section 4.0 Cumulative Effects of the Draft EIR.

### **PUBLIC NOTIFICATION**

Public Notice: Notice of the public release of the Draft EIR and the Planning Commission Public Hearing was mailed and published in the Tri-City Voice on August 2, 2023. Mailed notices were sent to interested parties and to the CEQA mandated agencies, including posting with the State Clearinghouse (SCH # 2021110436). Emailed notices were sent to the interested-parties list for the project and to adjacent neighborhood associations within a 3,500' radius of project boundary. The notice was posed on the project webpage. More information is available online at [Projects Under Environmental Review | Newark, CA](#).

### **NEXT STEPS**

The comment period for the Draft EIR commenced on Wednesday, August 2, 2023, and will conclude on Monday, September 18, 2023. Once the public comment period has closed, staff and the consultant team will evaluate and prepare responses to comments which will be complied with in the Final EIR. Once the Final EIR is released, there will be a 10-day public review period followed by Planning Commission review. The Planning Commission will hold a public hearing and make a recommendation on the Final EIR to City Council. The City Council will consider the Final EIR and take action on the proposed project.

### **Linked Documents**

These documents can also be found on the [Projects Under Environmental Review | Newark, CA](#):

1. [Draft EIR](#)
2. [Draft EIR Appendices](#)
3. [Notice of Availability](#)