



# CITY OF NEWARK

## Planning Commission

City Hall, City Council Chambers

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### MINUTES

Tuesday, August 22, 2023

7:00 P.M.

#### A. ROLL CALL

Chair Fitts called the meeting to order at 7:02 p.m. 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 July 25, 2023.**

#### MOTION APPROVED

Chair Fitts requested a motion. Commissioner Becker moved, and Commissioner Bogisich seconded, to approve the Minutes of the regular Planning Commission meeting on July 25, 2023. The motion passed – **5 AYES**.

#### 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 indicated that members of the public were invited to address the Planning Commission on subjects not on the agenda, and he asked the audience whether anyone

wanted to speak on anything other than the environmental impact study that was being discussed that evening.

Jana Sokale, a Newark resident who lives on Hazelnut, expressed an interest in discussing climate change that evening. She went on to argue that climate change has affected us all and that major climate researchers have stated that the effects they expected as carbon emissions increased were correct. She added that the effects are significantly higher, that fires are more intense and last longer, that the heat dome remains over the continents and does not move, and that the ice sheets in Greenland and the Arctic are melting faster than projected. Three years ago, she stated, Newark was covered in wildfire smoke from three complex fires burning in the Santa Cruz mountains, the Mount Hamilton range, and further north. Last year, she said, about 20 atmospheric rivers impacted Newark, bringing lots of water but also flooding her street over the sidewalk and into the front yards, and groundwater was noticeable coming out of the cracks in the sidewalks for several weeks afterward. Jana Sokale went on to say that she attended the Tri-city Local Hazard Mitigation Plan last week, which the City and four other jurisdictions are cooperating on, and that there is about \$18 billion in assessed value of property in the Tri-cities area that is at risk from multiple hazards, and that the work being done is insufficient. She challenged the Planning Commission to prioritize the environment in every interaction and decision they make in their personal and professional life and to consider what they can do as a city and as individuals to begin minimizing this danger. She concluded by expressing that the risk is occurring faster than anyone anticipated, and she thanked the Planning Commission for their time.

Chair Fitts thanked Ms. Sokale for sharing her opinions and asked if anyone else had any comments on the Mowry Village environmental impact report. No one else had any more comments. Chair Fitts then called the Public Hearing to order.

## **E. PUBLIC HEARINGS**

### **E1. 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).**

Chair Fitts emphasized that the meeting's primary objective was to get public feedback on the environmental impact report. He next directed his attention to the Staff to obtain the Staff reports.

Art Interiano, Deputy Community Development Director (DCDD), provided a PowerPoint presentation to the audience and indicated that the meeting's objective was to provide information on the environmental impact report and its process, as well as gather public feedback. He went on to explain the project, its location, the proposed project overview, the history of the site, the project site plan, the planned project elevations, the CEQA procedure, and the environmental report's effects. He next directed attention to Stantec, the environmental consultant, and its representatives, Anna Radonich, and Jennifer Webster, who were present that evening.

Anna Radonich, one of Stantec's representatives, approached the podium to explain the California Environmental Quality Act (CEQA) and the project's Environmental Impact Report (EIR). According to her, the EIR's goal is to inform the public and decision-makers about the project's possible environmental consequences, and it is a problem-solving document that identifies solutions to avoid or decrease impacts through mitigation measures or alternatives. She added that environmental impacts are one of the factors considered when deciding whether to approve or deny a project. She noted that this project is subject to CEQA, that a Notice of Preparation (NOP) was created and published on November 30, 2021, and that the Planning Commission convened a Scoping Meeting on December 14, 2021. She went on to say that the EIR for this project was created to assess in depth the possibly major environmental impacts and that a Draft EIR was made available to the public for 45 days from August 2, 2023, to September 18, 2023. She reaffirmed that the purpose of the EIR is to inform the public and decision-makers about the proposed project's potential physical environmental effects, to get the public involved in the environmental review process, to disclose the potential impacts of the proposed project on the physical environment, and to avoid and/or reduce possible impacts of the proposed project through mitigation actions and/or alternatives. Stantec's representative, Anna Radonich, continued outlining the EIR process procedures. The first

phase, she stated, was the Notice of Preparation (NOP), which was completed via a Public Scoping Hearing in December 2021. The Draft EIR will be finalized after the comments received during that night's meeting and the 45-day comment period and will become the Final EIR (FEIR). Following that, the FEIR will conduct a certification hearing for project approval. She noted that the public will be able to provide input at every phase of the EIR process. She went on to say that in this document, all 20 CEQA environmental resources were considered and analyzed. Finally, she added that the Draft EIR found that there is one major and unavoidable impact on Vehicle Miles Travel (VMT) which is 44% and 47% above the threshold under the transportation section. She also highlighted that other effects have been identified that could be reduced using mitigating methods. According to Anna Radonich, CEQA requires alternatives to a proposed project that can eliminate or substantially minimize one or more major project effects. She said that three alternatives were considered but rejected: the Location Alternative, which means another site that the City could provide to accommodate the number of units proposed in the project closer to a transit hub to reduce VMT, the Restoration Alternative, which would remediate the site while keeping it as a public open space or recreation, and the Small Project Alternative, which would create a project that would lessen the VMT threshold, by placing seven single-family units or 15 or 16 multi-family units. She added that there were four alternatives considered throughout the EIR process: No Project Alternative, which means no development would occur, the Multi-family Residential Alternative, by building 405 multi-family residential units, the Reduced Density Alternative, and the 100% Affordable Housing Alternative. She went on to say that after evaluating all the alternatives, none of them would eliminate the significant and unavoidable impact on VMT, but the Reduced Density Alternative is the environmentally superior alternative because it meets all the project goals and would not have a greater impact than the proposed project. She stated that the Draft EIR is available for review at the City Office as well as on the City website under the Planning Division, Projects Under Environmental Inspection. She closed her presentation by advocating effective commenting on the Draft EIR, and she requested both the public and the Planning Commissioners to offer comments focusing on anything they believed had been overlooked or omitted. People have opinions about whether they favor or dislike a project, but under CEQA, those comments will not be addressed in the final EIR. Finally, she clarified that the purpose of

that evening's Public Hearing was to gather public feedback on the Draft EIR created for the Mowry Village Project and that no action would be taken.

Chair Fitts thanked Stantec's representative, Anna Radonich, for her presentation and asked the Commissioners if they had any questions for Staff. The Commissioners did not ask any questions.

Chair Fitts welcomed public comments on the Draft EIR and announced that no final action would be taken on the matter under consideration. Chair Fitts noted that three participants filled out speaker cards, with two of them requesting to address the Commission jointly. Chair Fitts called Margaret Lewis and Olenka Villareal to the podium and asked them to state their name.

Instead, the podium was approached by Tracy Craig, who stated that she was there to comment on behalf of Evan Knapp, who is one of the partners of Integral Communities. Tracy Craig commented that Integral Communities has a lengthy and successful history of building 14,500 homes in California and 2,200 homes in Newark. She expressed that they are thrilled about the Mowry Village project, which provides housing for the middle class, and are willing to offer a 15% on-site affordable section, which will be aimed at low and very low-income people. She went on to mention certain environmental and safety concerns, claiming that the site had no wetlands or endangered species, which the Army Corps of Engineers confirmed. According to her, the project site cleans up the polluted ground of the former Pick and Pull scrap yard to repurpose it. Tracy Craig stated that Newark's General Plan authorizes low-density residential up to 8.7 units per acre where the project site is located, and their project proposes 7 units per acre, with the pad elevation being two feet higher than the BCDC Guidelines to account for anticipated sea level rise. She went on to say that the project will be entirely electric and will enlarge both lanes of Mowry Avenue, establishing a turning lane into Mowry Village as well as adding sidewalks, cycling lanes, and a pedestrian crosswalk to Silliman Center. The Emergency Vehicle Access (EVA) will be provided via the second separate lane built to Mowry, as well as additional access via the Sobrato property. In response to community outreach, she stated that the project adds approximately \$1 million to the City annually through net benefits, property, and sales taxes, and offered to use the 6.2 million in park fees plus an additional million to build two city parks in collaboration with the Magical Bridge Foundation and BMX Rider Nick Valencia. The Magical Bridge would be built at Birch

Grove Park and would be the 880 corridor's first magical bridge park all-abilities park. She went on to say that Magical Bridge is a wonderful organization that creates parks that are strategically built to satisfy the physical and social requirements of people of all ages and abilities, as well as providing customized play equipment for children, adults, and seniors. She went on to say that these parks are magical places that may provide Newark with a sense of inclusion, connection, and community. Tracy Craig added that they are planning on building a BMX park to serve ages three and up, which would offer great physical and mental benefits. Finally, she emphasized that they had engaged the community by holding meetings with environmental groups, briefing different organizations and neighborhoods, soliciting door-to-door, and holding an open house at the Silliman Center, where 80 people attended, the majority of whom supported the project and expressed interest in getting on the list to buy homes, as well as in the two parks. Tracy Craig concluded her remarks by stating that she had packets containing information on the open house, their boards and fact sheet, Magical Park information, and additional material for the Commission to review. With that, she thanked the Commission for giving her time to comment and for serving the City of Newark, and she asked anyone with further questions to contact her.

Chair Fitts thanked Tracy Craig for her comments and invited Olenka Villareal to the podium.

Olenka Villareal approached the podium and presented herself as the founder of the Magical Bridge Foundation. She began by saying how pleased she was to be there, especially when she drove along Newark Boulevard and was greeted with beautiful flags with a message printed on them stating that Newark is an inclusive community. She went on to remark that her organization believes that everyone should have access to a community park or playground and that Magical Bridge provided just that. She expressed her excitement about perhaps becoming a part of the Newark community with the approval of the Mowry Village project, which would be the first in the East Bay. She noted that within 48 hours of announcing the possibility of landing in the Newark community, they had received over 10,500 Newark community members reaching out and expressing excitement, for which she is grateful. She concluded her remarks by offering her services and a guided tour of any of the Bay Area playgrounds to any of the Commissioners. She believes that Magical Bridge would offer a magical touch to the Newark Community.

Chair Fitts thanked Olenka Villareal for her input and welcomed Margaret Lewis to speak.

Margaret Lewis addressed the Commission and noted that she was there to discuss two draft EIR items: transportation and hydrology. She expressed her concern that the proposed project conflicts with the CEQA Guidelines, Section 15064.3, Subdivision B, by increasing Vehicle Miles Traveled (VMT) by 44% to 47% above the citywide average, a significant effect that would exceed the existing citywide vehicle miles traveled per capita. She pointed out that, while the Draft EIR detailed a mitigation strategy, it did not address the project's VMT. She claimed that she looked at the options and noticed that they considered a nearby mass transit or people sharing rides, but it does not appear to be working with the project. She believes Newark should preserve housing within its urban center rather than spreading it out to places with no public amenities; there are no schools, shopping, or jobs in that area, so everything would have to be driven. She remarked that there are other parts of the city where housing may be built more suitably, such as the area near NewPark Mall. She stated that rather than doing it by random projects, traffic implications should be considered for the entire City and what the VMT would be. Furthermore, she stated that the railroad crossing at Mowry would experience an increase in freight and passenger train traffic and that the Mowry crossing on the main line between Oakland and San Jose might be expected to be blocked when trains are switching in the Newark yards. The proposed project's only access and exit is through the present crossing, which is unsafe. Concerning the hydrological issue, Margaret Lewis stated that raising the project's construction pads does nothing to prevent flooding of Mowry Avenue west of the train tracks. Flooding caused by sea level rise or high-water storm events cannot be prevented by road drainage plans. She stated that Mowry Village would be set on an island. The Mowry levy does not satisfy FEMA criteria, and it is unclear who will be responsible for its upkeep. Margaret Lewis concluded her comments by requesting that the comment period be extended by 30 days due to the complexity and unresolved concerns surrounding the proposed development so that the public and other agencies may thoroughly evaluate the document.

Chair Fitts asked if anyone else would like to comment on the Mowry Village EIR.

Jana Sokale went up to the podium and presented the Commission with her points of view. She continued by stating that the Pick and Pull site occupies 19 of the 29 acres at the end of Mowry Avenue, with 10 of those acres being undeveloped transitional upland habitat. People began dumping their cars there in the 1950s and 1960s, and when Pick and Pull was formalized in 1965, residents were unaware of the Baylands. She stated that the wetlands in Newark west of the Union Pacific Railroad are all in the 100-year FEMA flood plain, and the 29 acres for the proposed project are surrounded by channels on three sides, Line B goes down along Mowry and wraps around the back and dumps into Mowry Slough, which flows to San Francisco Bay, and Line D goes down along the south side of the property and also joins Mowry Slough and flows to the Bay. Line D inundated the fields directly adjacent to the 29-acre location, she added. As a result of increasing sea levels and rising groundwater, all that land would be susceptible to the beginning effects of climate change. Jana Sokale pointed out that groundwater is already rising in her neighborhood, and how vulnerable the entire Area 4 region is, so the proposed mitigation method for this project is to elevate the site; however, there is no remedy to mitigate Mowry Avenue; thus, the site would be an island, with only one street as available access, and the railroad tracks, and the Newark switching yard, where trains are frequently stopped. Additionally, she said, there are three planning documents considering improvements in that area that are not addressed in the DEIR, which are the Capital Corridor South Bay Connect Study, which looks to realign Capitol Corridor from San Jose to Oakland through that particular route, the Alviso Wetland Railroad Adaptation Study, that looks at the line from Santa Clara to Newark, which recognizes that the train tracks, especially in the South Bay will be flooded and will need to be raised all the way through Newark, and the 2040 California Rail Plan. She went on to state that if those plans are implemented, there will be two to three tracks in addition to the existing one, a switching yard, and the expectation of passengers moving every 30 minutes as well as freight traffic. She emphasized that Newark residents understand what it's like to be stranded behind a train, but her concern is what would happen to a family member in an emergency, and not having medical personnel able to attend to them due to only having one access in and out of the site, one access that will be the first thing to flood at a lower elevation than the homes, which in turn does not provide a safe area. Jana Sokale mentioned that the roads in Cathedral City, Palm Springs, were flooded and citizens were unable to leave the area. She noted that if Newark wanted to be proactive, it should join



the 30 x 30 plan, which has been adopted by Governor Newsom and President Biden on the federal level, to repair and conserve 30% of the land by 2030 for carbon sequestration. To conclude her remarks, she advised against approving the Mowry Village project, pointing out that similar projects can be built elsewhere in the City, and offering her assistance to the City in writing grants, constructing a magical Bridgeway Park at Birch Park, and finding a home for BMX riders at Sportsfield Park.

Chair Fitts thanked Jana Sokale for her comments and inquired whether anyone else had additional comments.

Community Development Director (CDD) Steven Turner announced that another person wanted to comment via Zoom; however, there were some problems with the Zoom communication, and if that person could not be heard that night, Staff would contact that person to ensure his/her comments were included in the public records. CDD Steven Turner then asked the Zoom participant to unmute and speak.

Because of the Zoom difficulties with communication, Luis Morante presented himself via YouTube and indicated that he is the Vice-President of Public Policy for the Bay Council, which represents around 330 of the Bay Area's major businesses. He went on to clarify that he supports the EIR and the project in general because it provides the type of housing that the Bay Area needs due to the housing and homelessness crisis, which is caused by a lack of housing supply, particularly a lack of homeownership alternatives. He went on to say that it would be ideal for him and his generation to be able to buy a home in the Bay Area and that developments like Mowry Village are what are required to make that happen. In terms of the project alternative of moving the project to another location, he stated that it passes CEQA regulations, but those who work in the Bay Area must commute more than two hours one way since they cannot afford to buy or rent a house in the Bay Area. As a result, a project like Mowry Village would address these environmental issues while also making the region competitive with cities like Austin, where young people can buy homes. Luis Morante concluded his comments by stating that he supports this project and that he would be happy to answer any questions regarding his remarks.

Chair Fitts thanked Luis Morante's comments and asked if there was anyone else in Zoom.

(CDD) Steven Turner announced that there was another participant on Zoom and asked the person to unmute himself to speak.

Victor Flores presented himself as Alliance's East Bay Resilience Manager. He went on to say that they are a 65-year-old advocacy non-profit group that advocates for climate resilient infrastructure and infill housing. Victor Flores expressed his and his organization's opposition to the project because it is zoned for park space, is not near transit, is a single-family home with lots of private parking, and his organization has identified this portion of Newark as a resilience hotspot; consequently, losing that portion of Newark, which could be used for park space and resilience measures, is an opportunity that they cannot afford to decline. He concluded by saying that it might have an immediate and long-term impact on Newark and the area.

(CDD) Steven Turner indicated that there was another person on Zoom and invited her to unmute herself for her to begin commenting.

The Zoom participant identified herself as Liz Ames, one of Newark's Art Directors, a member, and Vice-Chair of the Tri-city Ecology Center and indicated that she was opposed to the project because a climate resilience strategy for Southern Alameda County was required. She went on to say that she had noticed an encroachment of homes and buildings closer to the shoreline and that when they had predictions of 7 to 10 feet of sea level rise in 2100, about 75 years from now, there needed to be space for the water to move inland to create a new shoreline and habitat; thus, she stated, 10 feet of sea level rise on 10 to 12 feet of building pad will not be enough space for the new ecosystem to thrive. She concluded by expressing her hope that the Planning Commission and City Council thoroughly analyze the project proposal and that Newark decides to keep the area open space and develop homes somewhere, such as the NewPark Mall site or Downtown Newark Oldtown, rather than in that area.

(CDD) Steven Turner indicated that there were two more participants on Zoom and invited one of them to unmute herself and begin her comments.

The Zoom speaker introduced herself as Danny Zaky and indicated that she works for the Sierra Club's San Francisco Bay Area Chapter. She stated that she and her organization are opposed to the Mowry Village proposal. She went on to say that while they acknowledge the significant need for housing in our communities, green and open spaces are high

priorities for her organization and communities, and they want the area to remain open space.

(CDD) Steven Turner introduced Ali Lee as the next speaker on Zoom and invited her to begin her comments. Ali Lee was unable to participate due to Zoom communication issues; therefore, (CDD) Steven Turner announced that he would get back to her and invited the next participant on Zoom.

The next speaker, Nick Valencia, identified himself as a long-time Newark resident who expressed his support for the Mowry Village initiative. He emphasized that he understands all the pleas for conservation and that Newark is fortunate to have a lot of wetlands, but he believes in the great housing demand in Newark because it is a unique City with lots of biotech, and manufacturing companies, and it is equally important to balance the needs of the community and allow people in his demographic and age range to get some housing opportunity. He also mentioned that one of the major issues right now is a lack of housing inventory, which he anticipates will not diminish anytime soon. He stated that he looked over the development and liked a lot of the different features, such as the infrastructural upgrades, and park space they plan to install. He closed his remarks by stating his continued support for the project.

(CDD) Steven Turner attempted to allow Ali Lee to speak but was unable to do so due to Zoom communication issues. (CDD) Steven Turner stated that they would collect Ms. Lee's comments from her text messages via Zoom and add them to the meeting records of that night. There were no more Zoom participants.

Deputy Community Development Director (DCDD) Art Interiano addressed Chair Fitts, explaining that Staff, through Stantec's consultant Anna Radonich, would like to clarify a comment made about Mowry Road.

Stantec's consultant, Anna Radonich, addressed the Commission and stated that she would like to clarify four of the remarks made that evening. She began by stating that one of the commenters mentioned the alternative Location Alternative, which was considered but rejected; she apologized for her miscommunication and stated that the alternative location would have to be within the City of Newark rather than another city in the Bay Area or the valley. She then referred to another comment about the cumulative impact, emphasizing that all cumulative impacts for all 20 environmental resources are explained

in Chapter 4 of the EIR, specifically for transportation, which is where VMT (Vehicle Miles Traveled) falls under, in Section 4.5.17 of the Transportation. Finally, based on public comments, Anna Radonich confirmed that the project site is not located in a wetland under the jurisdiction of the Army Corps, Water Quality Board, or CDFW. She went on to say that the explanation is in the EIR's Biology section.

Before closing the Public Hearing, a member of the audience wanted to give his comments. Chair Fitts invited him to the podium and asked him to introduce himself.

The speaker approached the podium and introduced himself as Armaan Singh Randhawa. He stated that he is a San Jose resident who works for the Valley Transportation Authority (VTA) and that he supports the project because there is no available housing in Newark, and that the project would help alleviate traffic, long-distance commuters, and would open the door for new and previous home buyers to buy a house in Newark and make their commuting easier, as well as help them build their future in Newark.

Chair Fitts inquired whether there were additional comments on the agenda item.

Commissioner Becker expressed his concerns over access to the project's site. He went on to say that the only way to get in and out of the area by car is over the train tracks, that there is a lot of train traffic there, and that while there will be improvements, he is concerned that when a train crosses, there is no way for an emergency vehicle or people to get there. He also acknowledged that the property would have an emergency vehicle access plan, but that does not help the people who live there, he said. According to Commissioner Becker, the issue was not properly addressed in the EIR. Commissioner Becker also stated that before that night's meeting, he had not heard about the BMX park, the magical bridge playground, or anything about the affordable housing component and because the City is currently working on a Parks Master Plan Revision, the project's location is the most suitable location to include those components. Finally, he expressed concern that such community benefits would be included in the project at the very last moment.

Chair Fitts asked if there were additional comments.

In response to Commissioner Becker's remark, as well as the consultant's discussion of community benefits not included in the EIR, Vice-Chair Aguilar questioned what would be

the next steps now that the project has shifted due to the inclusion of those community benefits.

(DCDD) Art Interiano responded that the community benefits highlighted by the applicant's team that evening had not been formally presented to the City as a revision to their proposal. He said that if they decide to do so, it would be properly evaluated and it will be decided what adjustments to the CEQA process, if any, are required. For the time being, he stated, it is not part of the meeting's deliberation; the remarks are intended solely for the EIR report.

Chair Fitts asked whether anyone else had any further comments. No one made additional comments. Chair Fitts closed the Public Hearing.

Chair Fitts inquired as to when the final EIR document would be finished and what steps would be taken next.

Art Interiano (DCDD) indicated that the final EIR document will be evaluated. After that, another 10-day public review will take place before being certified at a public hearing. He also stated that any amendments to the application would need to be considered internally with the applicant, and the Planning Commission would be informed how that would proceed in the future.

## INFORMATIONAL

### F. STAFF REPORTS

None.

### G. COMMISSION MATTERS

*G.1 Report on City Council actions.*

None.

### H. PLANNING COMMISSIONER COMMENTS

None.

**I. ADJOURNMENT**

Chair Fitts adjourned the Planning Commission meeting at 7:58 p.m.

Respectfully submitted,

  
Steven Turner  
Secretary