



CITY OF NEWARK

Planning Commission

City Hall, City Council Chambers

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MINUTES

Tuesday, October 10, 2023

7:00 P.M.

A. ROLL CALL

Chair Fitts called the meeting to order at 7:03 p.m. Present were Chair Fitts, Vice Chair Aguilar, Commissioner Becker, and Commissioner Bogisich. Commissioner Pitpitan was absent.

B. MINUTES

B1. Approval of Minutes of the regular Planning Commission meeting of August 22, 2023.

MOTION APPROVED

Chair Fitts requested a motion. Commissioner Bogisich moved, and Commissioner Becker seconded, to approve the Minutes of the regular Planning Commission meeting on August 22, 2023. The motion passed – **4 AYES, 1 ABSENT** (Commissioner Pitpitan was absent).

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.

None.

E. PUBLIC HEARINGS

E.1. Public Hearing to consider U2023-002, a Resolution approving a Conditional Use Permit for Seedling Childcare, a daycare center use at 5880 Thornton Avenue (APN 92A-1007-13-2). The subject site is zoned PO: Professional Office and has a General Plan Land-Use designation of Office Commercial

Associate Planner (AP) Joseph Balatbat gave a presentation on the Seedling Childcare project. He went on to say that the applicant is Ahmed Belgaumi, and the property owner is Mosharraf Hosan. He then presented the project summary, site details, layout, floor plan, parking and loading and unloading standards, traffic study, and the CEQA Exemption. He explained that the area of the site is approximately 34,500 square feet and that this project would occupy 969 square feet of the property and share the facility with two tenants, the Church of Christ, and Al Medina Education Center, known as MEC. He went on to say that the proposed site is zoned Professional Office and Office Commercial and that commercial office corporations, single-family housing, and St. Edwards School surround it. According to AP Balatbat, on-site exterior upgrades would include a new playground, new 6-foot-tall vinyl fencing around the playground sections, and a new 3-foot-vinyl picket fence in front of the classroom, between the parking and driving spaces. Interior modifications would include removing existing walls to create two classrooms, changing the flooring and mechanical systems, and adding new restrooms and doors, as stated by AP Balatbat. He went on to say that there would be four staff members and a maximum capacity of 28 children ages 2 to 5 years, which is in accordance with the proposed daycare center's building square footage and the State of California Department of Social Services Licensing standards. He went on to state that the hours of operation would be 8:00 a.m. to 6:00 p.m., Monday through Friday, with the day agenda consisting of caring, learning, eating, napping, and playing both inside and outside. AP Balatbat continued by saying that the project was reviewed in terms of applicable provisions of parking, loading, and unloading requirements, but before he did so, he stated that the property and parking were owned and occupied solely by the Church of Christ and that in 1971 the Church of Christ applied for a modification to allow for a reduction in the minimum required number of on-site parking spaces. The Planning Commission authorized this change on the condition that the property supplies 54 on-site

parking areas and 21 off-site, off-street parking spaces. According to AP Balatbat, the property was transferred to a new owner in 2022, who brought Al Medina Center to operate on the property. Al Medina received approval for a business license with the condition to supply 54 on-site parking spots in addition to the 21 off-site parking spaces. Al Medina Center and the Church of Christ have agreed to a joint parking agreement to satisfy the requirements of the 1971 CUP to have 75 total spaces available. According to AP Balatbat, a minimum of four parking spots would be required for the childcare facility, and with the additional renovations to the site, 56 parking spaces would be made available, four of which would be for the daycare center. As for loading and unloading children, AP Balatbat stated that the parking spaces closest to the entrance would be designated to the parents, and the applicant would be creating a schedule for pick up and drop off times, which would need to be submitted for review and approval by the Community Development Director as part of the conditions of approval, to ensure suitable parking and loading zones are provided to prevent traffic congestion. As noted by AP Balatbat, the applicant submitted a revised traffic analysis, which was part of a memorandum given to the Planning Commission that night, and that was presented to Staff to understand each tenant's operation schedule, the expected number of cars on the property, and if there would be any overlap with parking. Staff determined that, despite an overlap found between the uses, there would be enough on-site parking places for the daycare facility and the existing tenants to meet the parking standards. AP Balatbat finished his presentation by noting that the project is CEQA Exempt per CEQA Guidelines, Article 19, Section 15301, and Article 5, Section 15061(b), meaning that no additional environmental evaluation is required.

Following his presentation, AP Balatbat stated that the applicant and owner were both present and that they were all happy to address any questions the Commissioners had.

Staff Recommendation: Staff recommends that the Planning Commission approve, by resolution, Conditional Use Permit U2023-002, to approve a Conditional Use Permit for Seedling Childcare, a daycare center use at 5880 Thornton Avenue.

Before beginning the Public Hearing, Chair Fitts thanked AP Balatbat for his extensive presentation and asked if there were any questions for Staff. No one had any questions.

Chair Fitts called the Public Hearing to order and welcomed the applicant to the podium. The applicant stated that his name is Ahmed Belgaumi.

Chair Fitts asked him if he had read the attached resolution and if he agreed with all the requirements. Ahmed Belgaumi replied affirmatively. Chair Fitts then inquired if he had anything more to add to the Staff's report. Ahmed Belgaumi responded that he had nothing else to say and that he was very pleased with AP Balatbat's presentation and documentation efforts.

Chair Fitts asked if anyone else in the audience wished to speak about the item. Parvez Khasru, a member of the audience, stated that he is a long-time Newark resident and that he supported the project because the community needs it, and the parents would feel comfortable leaving their children with the applicant and his wife, who are both wonderful people and long-time Newark residents. He finished his comment by noting that Staff's presentation was excellent.

Chair Fitts asked if anyone else wanted to make any comments.

Another audience member, Masih Almulk Jalala, stated that he is a board member of the Al Medina Center (MEC), that he and MEC have been helping the homeless community and community members who have many issues, and that he is the owner of a security company that has been in business in the East Bay for the past 25 years. He also stated that as a courtesy, they have been securing the proposed project property and the professional center next door, as well as putting up security signs, and that he is confident that the crime rate in the neighborhood has decreased because of their presence there. He closed his remarks by saying that the project would be very beneficial to the community and would bring many positive changes.

Chair Fitts asked if anyone else had any more comments. Nothing further was said. Chair Fitts then closed the Public Hearing and referred it back to the Commission.

Chair Fitts then asked whether the playground surface on the site would be finished either with grass, dirt, or asphalt.

AP Balatbat stated that nothing had been decided, but that it would be requested and considered at the time of the building permit application request, especially if C3 requirements need to be met.

The applicant, Ahmed Belgaumi, explained that he had a phone meeting with the Engineering Department and that in the original request, there was a question about the C3 requirement, and it was agreed with the Engineering Department that it would not be an issue because they are not adding any concrete or hard surfaces to the playground area. He went on to say that they would keep the natural surface but improve it.

Chair Fitts asked if anyone had any questions for Staff or the applicant. There were no more questions.

Chair Fitts closed the Public Hearing and requested a motion. Commissioner Becker moved, and Commissioner Bogisich seconded to approve the motion. **The motion passed - 4 YES, 1 ABSENT** (Commissioner Pitpitan was absent).

Chair Fitts inquired as to when the daycare center will open. Ahmed Belgaumi, the applicant, said that they would open as soon as the State granted them the license. Chair Fitts congratulated the applicant and wished him the best.

Chair Fitts questioned Community Development Director (CDD) Steven Turner whether the matter would be considered in the City Council. Based on CDD Turner, the Planning Commission made the final decision.

MOTION APPROVED

F. STAFF REPORTS

Community Development Update

Art Interiano, Deputy Community Development Director (DCDD), updated the Planning Commission on recent projects that had been submitted to them, as well as new and ongoing projects. He began by discussing the rezoning of the Cedar Boulevard neighborhood, as well as the two most recent projects, Cedar/Robson Homes, and the Waymark Project. DCDD Interiano noted that both projects are consistent with each other with a more residential character, which will offer Cedar Boulevard a distinct atmosphere. He went on to discuss the D.R. Horton project, which has already been completed, and the benefits it offered to Cedar Boulevard, such as the wall and landscaping. He talked

about the Cedar/Robson Homes floor plan, its 118 units, the creative utilization of the open space, and the homes' construction, which will begin in the spring of 2024. DCDD Interiano then discussed the Waymark Project, a smaller unit with only 80 units intended, its floor plan and elevations, and the construction of the townhomes, which will begin in 2025. DCDD Interiano then discussed the Timber Senior Affordable Housing Project, its 79 affordable housing units, its anticipated construction in the Spring of 2024, and the approval of the project's tax credit financing, which allowed the project to provide affordability at 80% AMI or below. He also discussed the unit and affordability mix, ranging from very low-income families to the general population to the manager's unit. He concluded his presentation by discussing the most current project, the NewPark Plaza Project. He went on to explain to the Commission that this project is a Builder's Remedy application, meaning that based on the Housing Element, a developer may apply for a residential project even though it is in a commercial zone. The applicant, as stated by DCDD Interiano, is proposing 1000 residential units, which is a substantial amount of units, but they would make it consistent with the architectural styles envisioned in the NewPark Plan Specific Plan. He concluded his presentation by saying that this project also proposes some type of retail on Balentine and Balentine Drive, as well as the corner of Cedar and Balentine, which could be successful due to the new Costco opening, and the amount of traffic in that area.

Commissioner Becker inquired about the City, the Planning Commission, and the City Council's involvement in the design of the NewPark Plaza Project.

DCDD Interiano indicated that the City would have the ability to enforce objective standards, such as parking and other such standards.

Commissioner Becker expressed concern about the project's engagement in the design phase. He claimed that 2000 homes had previously been granted across the street from the proposed project and inquired as to what modifications occurred to allow the NewPark Plaza Project to proceed.

It is part of the Builder's Remedy, as outlined by DCDD Interiano, which allows an applicant to apply for a residential project within a commercial office zone district. He went on to clarify that it is also a component of state legislation. He went on to say that

this project would include 200 affordable housing units, which is mandated by the Builder's Remedy provisions.

Chair Fitts asked if the proposal would be given to the Planning Commission for evaluation before being directed to the City Council, allowing the Planning Commission to engage in some of the design and other components of the project.

DCDD Interiano stated that for the time being, it would be required to be reviewed by the Planning Commission.

Steven Turner, Community Development Director (CDD), stated that when residential developments are proposed, the State removes a city's power to conduct independent reviews on residential projects, especially when the projects have a significant affordable housing element. He went on to elaborate that because the project proposes 20% affordable housing units, and because it provides affordable housing and is a residential project overall, municipalities have significantly fewer options over the types of projects like the NewPark Plaza one. He additionally said that the Builder's Remedy is being applied in the NewPark Plaza project and that the City does not yet have an approved Housing Element, which explains the reason the planned project is being built in such a way. He went on to note that the City can apply objective criteria including heights, setbacks, and parking, and that the Zoning Ordinance Update in 2018 included some objective design standards that would be applied to projects like the one proposed. He stated that the City will pursue a new set of design standards as part of a program within the Housing Element Update that will give Staff additional options to objectively apply those standards to developments like the NewPark Plaza. CDD Turner stated that, in addition to working with a retail consultant, the NewPark Plaza applicant is collaborating extensively with Staff, listening to their concerns, and making modifications.

Commissioner Bogisich commented that if you see the proposed project from the top view parking spaces would not be visible.

CDD Turner agreed with Commissioner Bogisich and noted that it would be comparable to Phase A at the New Park Mall, meaning that the norm is to have a central parking area with a few floors rising, with landscaping surrounding it, and residential around.

Due to the City's inability to provide input on the NewPark Plaza proposal, Vice-Chair Aguilar asked if the project and applicant would still be subject to CEQA regulations, such as traffic, air quality, and all the standard items that the project would need to adhere to per CEQA requirements and prove that those aspects of the project can be alleviated.

DCDD Interiano stated that all applications are subject to the CEQA process.

In terms of design and with the use of the Builder's Remedy, Vice-Chair Aguilar questioned who determines what objective standards are applied to the project.

CDD Turner noted that the City can use objective standards in zoning as well as the objective requirements specified in the Specific Plan because it would be in the Specific Plan area.

Chair Fitts appreciated DCDD Interiano for keeping the Commission up to date on the projects and emphasized the upcoming opening of the new Costco, which was approved back in 2021.

Chair Fitts asked if anyone had any additional comments or questions regarding the New Park Plaza or any other development. No one had any more questions.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

H. PLANNING COMMISSIONER COMMENTS

Commissioner Bogisich commented about the utility boxes in Fremont and how they are painted nicely and asked if the Newark high school seniors who are artists could be allowed to show their work in Newark.

CDD Turner reported that the City is updating the citywide Public Art Master Plan, and public outreach events have been organized for the past year to gather public feedback on components of that kind. He went on to explain that an analysis based on those comments has been completed and is ready to be presented to the City Council for discussion of a draft plan, probably in November. He went on to say that the conversation will look into different ways to include public art in the community and that utility boxes are one of those types of public access to art in public buildings.

Commissioner Bogisich expressed her desire to see high school students involved in the art projects.

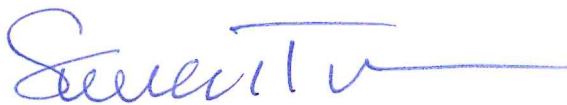
CDD Turner agreed and commented on a page on the City's website regarding the Public Art Master Plan that welcomes people of the community to provide feedback.

Chair Fitts asked if there were any more Planning Commissioner's comments. There were no more comments.

I. ADJOURNMENT

Chair Fitts adjourned the Planning Commission meeting at 7:48 p.m.

Respectfully submitted,



Steven Turner
Secretary