



CITY OF NEWARK PLANNING COMMISSION

37101 Newark Boulevard, Newark, California 94560-3796 □ 510/578-4330 □ FAX 510/578-4265

City Administration Building
7:30 p.m.
City Council Chambers

AGENDA Tuesday, July 12, 2016

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the Special Planning Commission meeting of Tuesday, May 31, 2016. (MOTION)

C. WRITTEN COMMUNICATIONS

D. ORAL COMMUNICATIONS (Anyone wishing to address the Commission on any planning item not on the Agenda may take the podium and state his/her name and address clearly for the recorder.)

E. PUBLIC HEARINGS

F. STAFF REPORTS

F.1 Review of a conditional use permit (U-12-7) for a change of owner of a day care facility (from Genius Kids to Young Explorers) at 39768 Cedar Boulevard (Cedar Springs Shopping Center) – from Assistant Planner Bowab. (RESOLUTION)

G. COMMISSION MATTERS

G.1 Report on City Council actions.

H. ADJOURNMENT

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 at the Planning Division Counter located at 37101 Newark Boulevard, 1st Floor, during normal business hours. 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.

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City Administration Building
7:30 p.m.
City Council Chambers

MINUTES

Tuesday, May 31, 2016

A. ROLL CALL

At 7:31 p.m., Chairperson Aguilar called the meeting to order. All Planning Commissioners were present.

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, April 26, 2016.

Commissioner Fitts moved, Vice-Chairperson Nillo seconded, to approve the Minutes of April 26, 2016. The motion passed 5 AYES.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

None.

F. STAFF REPORTS

F.1 Presentation of the 2016-2018 Capital Improvement Plan and finding in conformance with the General Plan.

Public Works Director Fajeau gave the staff report via a PowerPoint presentation.

Answering Commissioner Bridges, PWD Fajeau confirmed the majority of Priority Level 1 projects involved maintenance for the Silliman Family Activity and Aquatic Center.

Answering Commissioner Fitts, PWD Fajeau stated the Speed Survey and the Email Message Archiving projects address legal requirements.

Answering Vice-Chairperson Nillo, PWD Fajeau described the Silliman Center Variable Frequency Drive Unit project.

PWD Fajeau confirmed that the City is responsible for the maintenance of the Fire Stations and Fire equipment, while Alameda County is mainly responsible for the personnel aspect of the Fire Department.

Commissioner Otterstetter commended the City on the Lakeshore Park Landscaping project and encouraged the other Planning Commissioners to visit the park.

Answering Commissioner Otterstetter, PWD Fajeau described the various criteria the City uses to prioritize street sign replacements.

Commissioner Otterstetter commented that she personally would like the Cultural Art Center project be moved up to a funded project if additional funds became available.

Answering Commissioner Bridges, PWD Fajeau gave examples of current and past CIP projects that involved automation.

Answering Chairperson Aguilar, PWD Fajeau stated if the Planning Commission and City Council approve the CIP, funding would be in place on July 1, 2016 for projects funded in fiscal year 2016-2017.

Answering Chairperson Aguilar, PWD Fajeau stated unfunded projects from previous CIPs are reassessed by the Executive Team prior to the next CIP cycle.

Answering Vice-Chairperson Nillo, PWD Fajeau stated there are no current projects proposed for the use of solar power.

Motion finding the 2016-2018 Capital Improvement Plan is in conformance with the General Plan was made by Vice-Chairperson Nillo, seconded by Commissioner Bridges. Motion passed 5 AYES.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

ACM Grindall informed the Planning Commission and the public of two upcoming Community Meetings being held at 6:30 p.m. at the Community Center; the Citywide Parks Master Plan will be held on June 7, 2016 and the Bike and Pedestrian Master Plan will be held on June 13, 2016.

Commissioners' Comments

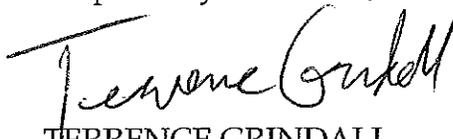
Commissioner Fitts and Commissioner Bridges encouraged the public to vote and to utilize the ballot drop box located at City Hall.

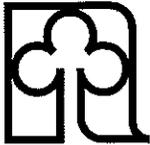
Vice-Chairperson Nillo and Chairperson Aguilar congratulated the 2016 graduates and wished good luck to the Golden State Warriors and the San Jose Sharks.

H. ADJOURNMENT

At 8:35 p.m., Chairperson Aguilar adjourned the regular Planning Commission meeting of Tuesday, May 31, 2016.

Respectfully submitted,


TERRENCE GRINDALL
Secretary



F.1 Review of a conditional use permit (U-12-7) for a change of owner of a day care facility (from Genius Kids to Young Explorers) at 39768 Cedar Boulevard (Cedar Springs Shopping Center) – from Assistant Planner Bowab.  (RESOLUTION)

Background/Discussion – Mr. Sachin Gupta of Young Explorers has submitted an application for a change of ownership of a day care facility located at 39768 Cedar Boulevard, in the Cedar Springs Shopping Center. Attached is Exhibit A, which includes a site plan, floor plan, outdoor area, and daily schedule.

Cedar Springs Shopping Center is on the east side of Cedar Boulevard, at the terminus of Joaquin Murieta Avenue. The center consists of four buildings sited in a “U” shape, with parking located in the center front of the property, on a rectangular shaped lot. The applicant’s request involves approximately 2,325 square feet tenant space at the south end of Building “C”, which is at the southeast corner of the property.

The site is zoned CC (Community Commercial) and has a CC (Community Commercial) General Plan Land Use designation. The existing day care facility (Genius Kids) was approved under the review of a conditional use permit (U-12-7) in June, 2012. The center was approved under a review of a conditional use permit (U-83-54) and a planned unit development (P-83-55) in December, 2004.

Young Explorers plans to operate exactly the same as Genius Kids, and is only requesting a name change. The hours of operation are 7:00 a.m. to 7:00 p.m., Monday through Friday. A daily schedule is attached. Class times are spread out such that drop-off and pick-up of children would be staggered throughout the day. The floor plan includes classrooms, an indoor play area, and a secure outdoor play area. The secure outdoor area is enclosed with a six (6) foot high block wall. To ensure children are safety escorted in and out of the building, parents would be required to park their car and walk their child into the building where they sign the children in and, at the end of the day, parents would be required to park their car and walk into the building to pick up their child. The only change proposed to the building exterior of this tenant space is a wall sign that would be submitted for staff review for compliance with the center’s sign program.

The staggered class schedule means parking or on-site circulation issues are not anticipated. As a precaution, a recommended condition of approval stipulates that if a complaint regarding parking, on-site circulation and/or traffic is received; a parking, on-site circulation and/or traffic analysis shall be prepared at the discretion of the Community Development Director and at the cost of the property owner. The property owner would be required to mitigate any problems identified by the parking, on-site circulation and/or traffic study.

On May 29, 2012, the Planning Commission approved a conditional use permit to allow for a day care facility at 39768 Cedar Boulevard. Staff supported a non-retail business, day care

facility, at this location given the tenant space is tucked behind Building “D”, which made it difficult for the property owner to attract retail uses there. Staff recommends approval of the Young Explorers’ request subject to the conditions in the attached resolution.

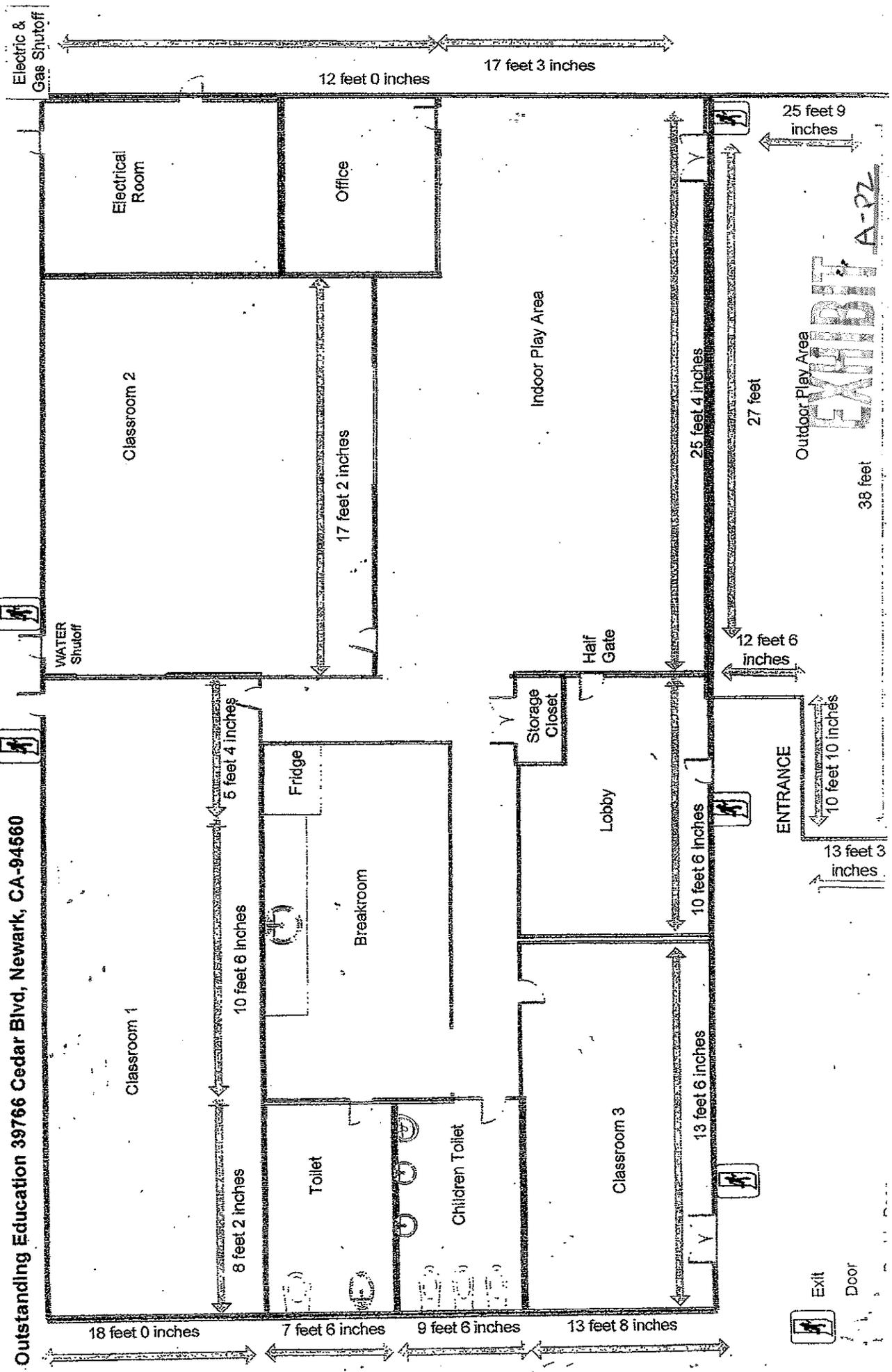
Environmental Review

This project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301, Class 1, existing facilities.

Attachment

Action – It is recommended that the Planning Commission, by resolution, with Exhibit A, pages 1 through 4, approve the review of a conditional use permit (U-15-7) for a change of owner of a day care facility (Young Explorers) at 39768 Cedar Boulevard (Cedar Springs Shopping Center).

Facility sketch

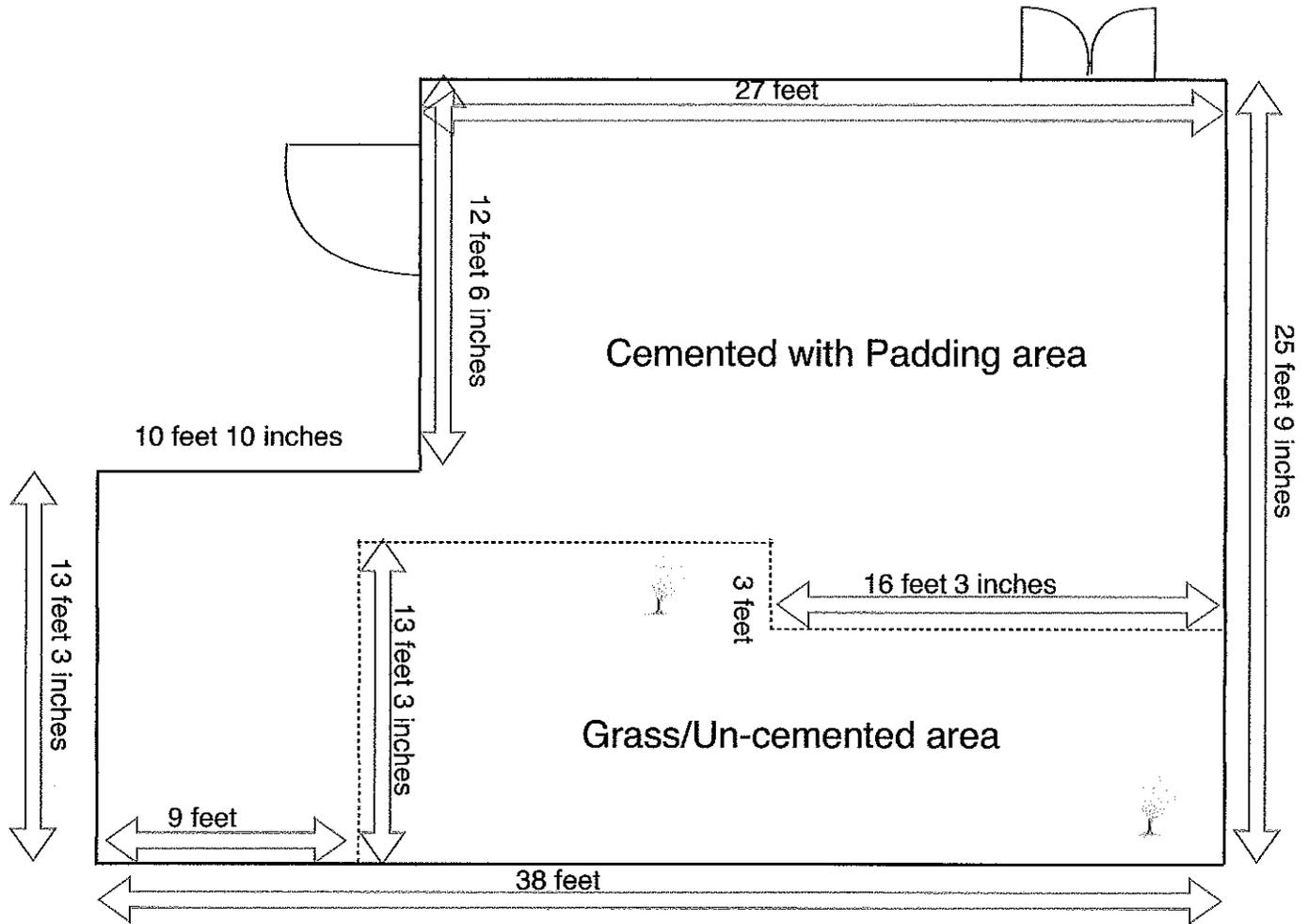


Outstanding Education 39766 Cedar Blvd, Newark, CA-94560

EXHIBIT A-27

Exit Door

39766 Cedar Blvd, Newark, CA - 94560



Outdoor Play Area

EXHIBIT A-P3

Timings	Schedule	Staff
	Young Explorers Newark	Estimated Capacity 40
7:00 AM	Center opens	AM shift director arrives
7:30 AM		1 PT teacher arrives
8:30 AM		1 FT teacher arrives
7:00 - 9:00 am	FT Day care children arrive - Group 1	1 PT teacher aid arrives
9:00 AM	PT Class arrive - Group 2	
10:00 AM	PT Class arrive - Group 3	
11:00 AM	PT Group 2 departs	
12:00 PM	PT Group 3 departs	1 PT teacher aid departs
1:00 PM	PT Class arrive - Group 4	AM Shift Director departs
		PM Shift Director arrives
		1 PT teacher arrives
3:00 PM	PT Group 4 departs	1 PT teacher aid departs
4:30 PM	Group 1 begin to depart	1 FT teacher departs
6:30 PM	Group 1 continue to depart	1 PT teacher departs
7:00 PM	Close center	PM Shift Director departs
	Group does not exceed 12 kids	
	If they are toddle group size does not exceed 6	
	Children play in the yard in the groups of 6 at a time	
	Students are dropped off in the lobby only	
	Parent conference and meetings after 5:30 pm	

EXHIBIT A-24

RESOLUTION NO.

RESOLUTION APPROVING A REVIEW OF AN EXISTING
CONDITIONAL USE PERMIT (U-12-7) FOR A CHANGE OF
OWNER OF A DAY CARE FACILITY (GENIUS KIDS TO
YOUNG EXPLORERS) AT 39768 CEDAR BOULEVARD
(CEDAR SPRINGS SHOPPING CENTER)

WHEREAS, Young Explorers has filed with the Planning Commission of the City of Newark application for a review of an existing conditional use permit for a change of owner of a day care facility at 39768 Cedar Boulevard in the Cedar Springs Shopping Center; and

WHEREAS, the Planning Commission considered said application at 7:30 p.m. on July 12, 2016 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend the City Council approve this application as shown on Exhibit A, pages 1 through 4, subject to compliance with the following conditions:

Planning Division

- a. This project shall be subject to the conditions of Planning Commission Resolution Nos. 950, 975, 1628 and 1826, unless otherwise amended herein.
- b. If any complaint regarding parking, on-site circulation and/or traffic is received, a parking, on-site circulation and/or traffic analysis shall be prepared at the discretion of the Community Development Director and at the cost of the property owner. The property owner shall mitigate any problems identified by the parking, on-site circulation and/or traffic study. If the property owner does not mitigate these problems, the use permit revocation procedures, as defined in Section 17.72.130 of the Newark Municipal Code, shall be initiated and all operations shall cease within 60 days of formal notification.
- c. All operations associated with this proposal, except for the outdoor play area, shall be conducted within an entirely enclosed structure. If any complaint regarding noise is received, a noise analysis shall be prepared at the discretion of the Community Development Director and at the cost of the applicant. The applicant shall mitigate any problems identified by the noise study. If the applicant does not mitigate these problems, the use permit revocation procedures, as defined in Section 17.72.130 of the Newark Municipal Code, shall be initiated and all operations shall cease within 60 days of formal notification.

- d. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up. Graffiti removal/repainting and site clean-up shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- e. Roof equipment shall not be visible from public streets. All equipment shall be fully screened within the context of the building's architecture, subject to the review and approval of the Community Development Director. Said screening design shall be maintained to the satisfaction of the Community Development Director. The building owner shall paint any visible portion(s) of the roof equipment and the inside of its screening wall within the context of the building's color scheme, and maintain the painted areas to the Community Development Director's satisfaction.
- f. The outdoor play area shall be enclosed by a 6-foot high block wall and gate per the exhibits herein.
- g. Signage shall comply with the sign program for this center.
- h. Upon discontinuation of this use, the site shall be restored to its pre-day care facility condition, as required by the Community Development Director. This may include, but not be limited to, removing the outdoor play area and wall/gate. The developer shall provide the City with a notice of intent to vacate the site a minimum of 30 days prior to the vacation.

Engineering Division

- i. The drainage pattern at the front entrance, outdoor play area, and parking lot shall be shown on the Preliminary Floor Plan or separate grading and drainage plan to show that the existing drainage patterns will not be adversely impacted by the 48-inch high wall installation. Any construction necessary to ensure this shall be the developer's responsibility and shown on the construction drawings for review and approval by the City Engineer.
- j. The contractor shall implement all applicable Best Management Practices (BMPs) from the California Stormwater Quality Association's Best Management Practice Handbook for Construction for the duration of all work activity. Additional BMPs may be required by the City Engineer, as necessary, to minimize the pollution of stormwater runoff from the project area. A note to this effect shall appear on the project plans.

Landscape-Parks Division

- k. Prior to the issuance of a building permit, the developer shall provide a detailed site plan to include all proposed modifications to the common area landscaping. All improvements are subject to the City of Newark Landscaping Guide and Newark

Municipal Code, Chapter 15.44.080.

- l. Prior to installation by the developer, plant species, location, container size, quality, and quantity of all landscaping plants and materials shall be reviewed and approved by the City Engineer. All plant replacements shall be to an equal or better standard than originally approved, subject to approval by the City Engineer.
- m. Prior to the release of utilities or issuance of any Certificate of Occupancy, all landscaping and irrigation systems shall be completed or guaranteed by a cash deposit deposited with the City in an amount to cover the remainder of the work.
- n. Prior to issuance of Certificate of Occupancy or release of utilities, the developer shall guarantee all trees for a period of six (6) months and all other plantings and landscape for 60 days after completion thereof. The developer shall ensure that the landscape shall be installed properly and maintained to follow standard horticultural practices. All plant replacements shall be to an equal or better standard than originally approved, subject to approval of the City Engineer.

Building Inspection Division

- o. This project will require building permits. The developer will need to make a separate application to the Building Inspection Division for a building permit. Such application shall include five (5) sets of complete construction drawings prepared by a California licensed architect, structural engineer or civil engineer. One (1) of the sets shall be stamped and signed by the architect or engineer of record.
- p. Construction for this project can occur only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. The developer may make a written request to the Building Official for extended working hours and/or days. In granting or denying any request, the Building Official will take into consideration the nature of the construction activity which would occur during extended hours/days, the time duration of the request, the proximity to residential neighborhoods and input by affected neighbors. All approvals will be done so in writing.
- q. Construction equipment, including compressors, generators and mobile equipment shall be fitted with heavy-duty mufflers designed to reduce noise impacts.

General

- r. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval.

- s. If any condition of this conditional use permit be declared invalid or unenforceable by a court of competent jurisdiction, this conditional use permit shall terminate and be of no force and effect, at the election of the City Council on motion.
- t. This conditional use permit shall be given a hearing before the City Council for the Council's review and approval.
- u. Prior to the submittal for building permit review, all conditional use permit conditions of approval for this project, as approved by the City Council, shall be printed on the plans.
- v. The developer hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
- w. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

The Commission makes the findings prescribed in Newark Municipal Code Section 17.20.040.C.1. regarding day care facilities and Section 17.72.070, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk who shall present said Notice to the City Council pursuant to Newark Municipal Code Section 17.72.080.

This Resolution was introduced at the Planning Commission's July 12, 2016 meeting by Commissioner _____, seconded by Commissioner _____, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

JEFF AGUILAR, Chairperson