



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, August 12, 2014**

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, July 22, 2014. (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 Report on follow-up to Hearing on revoking Conditional Use Permit (U-84-14) for E-Z 8 Motel – from Assistant City Manager Grindall. (INFORMATION)

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, July 22, 2014

A. ROLL CALL

At 7:30 p.m., Chairperson Nillo called the meeting to order. All Planning Commissioners were present except Commissioner Drews (personal).

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, July 8, 2014.

Commissioner Fitts moved, seconded by Vice-Chairperson Hannon, to approve the Minutes of July 8, 2014. The motion passed 4 AYES, 2 ABSTENTION (Aguilar and Bridges) and 1 ABSENT (Drews).

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

E.1 Hearing to consider Z-14-32, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability) – from Assistant City Manager Grindall.

Assistant City Manager Grindall gave the staff report.

Answering Commissioner Fitts, ACM Grindall confirmed the Form Based Codes had only been applied to the Dumbarton TOD project.

ACM Grindall also stated that if this item is approved it would allow the Planning Commission and City Council the ability to approve Form Based Codes to other projects on a case-by-case basis.

Answering Commissioner Aguilar, ACM Grindall stated Form Based Codes would be another tool for staff to use to approve projects that normally would have to go through a zoning designation change or a PUD process.

Addressing Vice-Chairperson Hannon's concerns, ACM Grindall further clarified his response to Commissioner Aguilar and stated the public would have a better understanding of design guidelines that are associated with Form Based Codes and will be able to envision approved projects more easily.

Chairperson Nillo opened the Public Hearing. As no one chose to speak on this item, Chairperson Nillo closed the Public Hearing.

Vice-Chairperson Hannon moved, seconded by Commissioner Bridges, to approve Resolution 1882, recommending approval of Z-14-32, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability). The motion passed 6 AYES, 1 ABSENT (Drews).

This item will be heard at the September 11, 2014 City Council Meeting.

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

ACM Grindall informed the Planning Commission that Sand Hill Development Company will be holding a Community Meeting on July 28, 2014 at 6:30 p.m. at Ray's Crab Shack, to discuss a residential development project on the Mervin's and Motel 6 site.

ACM Grindall also informed the Planning Commission that a Community Meeting will be held on July 30, 2014 at 7:00 p.m., at the Silliman Center to discuss the Housing Element.

Commissioners' Comments

Commissioner Otterstetter announced Stage One will be holding their final performances of Fiddler on the Roof this weekend at Newark Memorial High School.

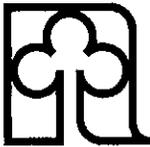
Answering Vice-Chairperson Hannon, ACM Grindall replied no serious firework-related injuries occurred in Newark during the Fourth of July Holiday.

H. ADJOURNMENT

At 7:45 p.m., Chairperson Nillo adjourned the regular Planning Commission meeting of Tuesday, July 22, 2014.

Respectfully submitted,


TERRENCE GRINDALL
Secretary



F.1 Report on follow-up to Hearing on revoking Conditional Use Permit (U-84-14) for E-Z 8 Motel – from Assistant City Manager Grindall. *TG* (INFORMATION)

Background/Discussion – On April 8, 2014 the Planning Commission held a Public Hearing to consider revoking the use permit for the E-Z 8 Motel. At that meeting the Planning Commission continued the Hearing until January 7, 2015. The continuance was provided in recognition of an agreement between EZ-8 and City Staff regarding measures to reduce the nuisance conditions and public safety problems. However, the Planning Commission requested that staff work with E-Z-8 ownership to amend the agreement to strengthen certain elements. In response to Planning Commission suggestions and further negotiations, an amendment to the agreement was signed. The amendment includes agreement to:

- Shorten the timeframe for installing entrance gates from 120 days to 60 days.
- Increase the number of security guards and hours to two guards, until the entrance gates are installed, and shifted the hours to 6:00 pm to 2:00 am from 9:00 pm to 5:00 pm in the original agreement.
- Shorten the timeframe for installing an upgraded security camera system from 120 days to 60 days.
- Raise the posted rate to \$69.99 for weekend and \$64.99 for weekdays subject to certain conditions.

The amendment and the original agreement are attached.

Staff will closely monitor this situation and report to the Commission periodically. The Public Hearing to consider revoking the Use Permit is scheduled for January 7, 2015.

Action- Information Only

**AGREEMENT BETWEEN
CITY OF NEWARK AND E-Z 8 NEWARK, LLC**

This Agreement (Agreement) is entered into between the CITY OF NEWARK, California (NEWARK or the CITY) and E-Z 8 NEWARK, LLC (E-Z 8 or Motel) as of July 2, 2014 (Effective Date), as follows:

RECITALS

A. On July 26, 1984, the Newark City Council passed Resolution No. 4565, granting the application for Conditional Use Permit U-84-18 ("CUP") in an ML Limited Industrial District, at 5555 Cedar Court, to E-Z Newark, LLC. The City Council made several findings in granting the permit, including "[t]hat the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity." (City of Newark Municipal Code Section 17.72.070.)

B. E-Z 8 has operated the Motel on the Property continuously and without interruption for approximately 30 years.

C. The CITY, including the Newark Police Department ("NPD" or "Police Department") believes and alleges that the level of criminal activity at E-Z 8, in addition to draining CITY and Police Department resources, and particularly when compared to the levels of criminal activity at other hotels and motels operating in the CITY, constitutes a violation of the conditions on which the CUP was granted.

D. Accordingly, on April 28, 2014, the CITY, pursuant to City of Newark Municipal Code Section 17.72.130, issued an Order to Show Cause Why Conditional Use Permit No. U-84-18, Issued to E-Z 8 Motel, Should Not Be Revoked (OSC). Pursuant to City of Newark Municipal Code Section 17.72.060, a public hearing on this matter is set before the City Planning Commission for July 2, 2014, at 6:00 p.m., at 37101 Newark Blvd., 6th Floor, Newark, California.

E. E-Z 8 believes that the Motel is properly operated and denies the allegations made in the OSC. However, E-Z 8 desires to cooperate with the CITY and address any potential public safety issue at the Motel. E-Z 8 has taken and is willing to take certain actions to further address any potential public safety issue at the Motel, and to assure the CITY that E-Z 8 continues to be committed to the public safety of its guests and the citizens of NEWARK.

AGREEMENT

1. **Definitions.** For purposes of this Agreement, the parties understand that a "guest" is a person who is paying to rent a motel room at E-Z 8 or who registers with the person who is paying to rent the room, and intends to stay in the room (e.g. spouse or family member); a "visitor" is a person who is not paying to rent a motel room, but is visiting a guest at E-Z 8; and a

“vendor” is a person who is on the E-Z 8 premises for the purpose of providing goods or services.

EZ-8 defines a “single room” as a room with one queen size bed, refrigerator, cable TV, air conditioning, shower tub, toilet and vanity, one desk table with two chairs. EZ-8 defines a “double room” as a room with two queen size beds, refrigerator, cable TV, air conditioning, shower tub, toilet and vanity, one dresser and one chair. The City reserves all rights regarding enforcement of any relevant City Ordinances regarding the number of persons permitted to register for a room.

“Register” means to provide the front desk with a valid, government issued ID or, if a juvenile accompanied by an adult and under the age of 18, the juvenile’s name and date of birth.

2. Security Measures.

(a) E-Z 8 agrees to maintain and enforce its current security measures and procedures, including:

- (1) Having an on-site Resident Manager living on the Motel property.
- (2) Requiring the Resident Manager and all Motel employees to cooperate with the NPD, by providing access to E-Z 8’s guest register upon request
- (3) Storing Motel revenues in a time-locked safe to minimize opportunities for the Motel to be robbed.
- (4) Locking the Motel lobby and transact all business through the night window at or around dusk each day.
- (5) Requiring all registered guests (other than accompanying minors/juveniles) to be at least 18 years of age.
- (6) Posting and enforcing a curfew on use of the pool and spa between the hours of 10 p.m. and 9 a.m. daily with summer hours of 11 p.m. – 9 a.m. daily.
- (7) Not allowing anyone other than a guest who has provided appropriate ID to the front desk at check-in with access to a registered guest’s room. When a registered guest requires a replacement key, the room will be re-keyed.
- (8) Not allowing large dogs on the premises if there is reason to believe the dog will be a safety threat. Current policies provide that pets are to be on leashes, not left unattended in rooms and not in the lobby or pool area. The Motel will continue to accommodate service dogs.
- (9) Providing for “Quiet hours” on the Motel premises which shall be from 10:00 p.m. to 7:00 a.m.

(10) Not allowing any more than two (2) adult guests and two (2) children under the age of 13 in any single room, and no more than four (4) adults and four (4) children under the age of 13 in any double room.

(11) Maintain and enforce the current policy of guests staying a maximum of 21 days.

(12) Maintain and enforce the current policy that the minimum time period for renting a room is 24 hours.

(b) In addition, E-Z 8 agrees to supplement existing policies and procedures, or implement the additional policies and procedures as follows:

(1) Every person, whether guest or visitor, or vendor, to the E-Z 8, shall provide a government-issued photo ID which shall be photocopied by the Motel and maintained for no less than 72 hours after completion of the guest's or visitor's stay. This policy shall be implemented within 10 days of execution of this Agreement by all parties hereto.

(2) Limit access to the Motel property by installing and maintaining a permanent electronically controlled gate at the entrance to the property (after check-in parking). The gate shall only admit persons possessing a valid and active room key or a visitor/ vendor temporary pass issued by a Motel employee after the visitor/ vendor enters the lobby, provides appropriate identification and registers as a visitor/ vendor. The gate shall be installed and operational by 120 days from the date of execution of this Agreement by all parties hereto.

(3) All visitors/vendors to the Motel after showing a valid form of picture ID and registering as a visitor/vendor with the Motel, will indicate what room he or she will be visiting, the name(s) of the person(s) he or she will be visiting, and the purpose of his or her visit. This policy shall be implemented by no later than 30 days from the execution of this Agreement by all parties hereto.

(4) The Motel shall have one security guard patrolling the premises between the hours of 9 p.m. and 5 a.m. Any security guard hired by E Z-8 shall be licensed, bonded and insured. Coverage from 1 p.m. to 5 a.m. shall begin within 5 days of execution of this Agreement by all parties. and continue for a period of 4 months thereafter at which time E-Z 8 will revert back to 9 p.m. to 5 a.m..

(5) The Motel shall install an upgraded security camera system at the Motel which provides night time acuity and complete coverage of the Motel premises. NPD will be provided access to the camera-feed upon reasonable request.. The upgraded camera system shall be installed within 120 days of the date of execution of this Agreement by all the parties hereto.

(6) Maintain and enforce the policy that there shall be no more than 2 adult guests and 2 children under 13 years of age per single room and no more than 4 adults and 4 children under 13 per double room.

(7) Install and maintain on the front lobby counter and on the front of the building signs that read as follows: WE ACTIVELY COOPERATE WITH THE NEWARK POLICE DEPARTMENT TO DISCOURAGE ANY FORM OF ILLEGAL ACTIVITY ON THESE PREMISES. WE SHARE OUR REGISTRY WITH THE NEWARK POLICE DEPARTMENT. NO ILLEGAL ACTIVITY WILL BE ALLOWED ON THIS PROPERTY AND IF WE OBSERVE SUCH ACTIVITY THE NEWARK POLICE WILL BE IMMEDIATELY CALLED AND ANYONE INVOLVED IN SUCH ACTIVITY WILL BE EVICTED FROM THE PREMISES AND NOT ALLOWED TO RETURN. These signs will be ordered within 10 days of the execution of this Agreement by all the parties hereto and then posted immediately upon receipt of the signs.

(8) Install and maintain signs at the entrance to the property that will read: ALL PERSONS ENTERING THIS PROPERTY MUST REGISTER AT THE FRONT DESK, GIVE THEIR VEHICLE LICENSE NUMBER AND RECEIVE AND DISPLAY A PARKING PERMIT. VIOLATORS OF THIS POLICY WILL BE ASKED TO LEAVE AND VEHICLES MAY BE TOWED WITHOUT FURTHER NOTICE. These signs will be posted within 60 days of the execution of this Agreement by all the parties hereto.

(9) Retain the services of a retired member of law enforcement to act as a Security Advisor to the Motel and who shall be present at any meeting described in Paragraph 3 below. The Security Advisor shall be retained within 30 days of the execution of this Agreement by all the parties hereto.

(10) Maintain and enforce the policy that there shall be no cooking in any of the Motel guest rooms. No cooking apparatus, including a stove top, butane cooking unit, or barbeque, shall be allowed in any E-Z 8 room.

(11) Maintain and enforce a policy requiring that all guests, visitors, and vendors with vehicles on the Motel property provide the license plate number of their vehicles to the front desk.

(12) Maintain and enforce a policy of issuing parking permits to each registered guest, visitor, or vendor and requiring that they put the parking permit on their front dashboard. The parking permit shall include the following statement: WE SHARE OUR REGISTRY WITH THE NEWARK POLICE DEPARTMENT. Vehicles of all guests will be subject to the same requirement. E-Z 8 will begin issuing the modified parking permits within 30 days of the execution of this Agreement by all of the parties hereto.

(13) Maintain and enforce an active "no rent" list which flags in the Motel's computer system all guests who have acted inappropriately in a prior stay. The Motel shall place any persons requested by the NPD on the "no rent" list. The Motel shall thereafter refuse to rent to persons on the "no rent" list.

(14) The on-site Manager or other E-Z 8 employees will continue to notify the NPD of any known violation of the law on the E-Z 8 premises.

3. The City is willing to meet with EZ-8 representatives at the request of EZ-8 upon reasonable notice, including on a regular basis, to discuss the status and success of these security measures, the level of criminal activity documented by the NPD as occurring on the property, and options for addressing any issues that may arise. Also upon reasonable request and as appropriate, the City will provide E-Z 8 with statistics of calls, arrests, criminal and police activity at the Motel.

4. **Continuing the CUP Revocation Action.** The parties shall present this Agreement to the Planning Commission at the currently scheduled July 2, 2014 hearing. At that time, the City staff will recommend to the Planning Commission that this action be continued for approximately six (6) months.

The undersigned are authorized representatives of NEWARK and E-Z 8 and have the authority to bind NEWARK and E-Z 8 to the terms set forth in this Agreement. The undersigned represent that they hereby acknowledge by their signatures below that they have read and understood the terms of this Agreement.

For the City:



Mr. JOHN BECKER, City Manager

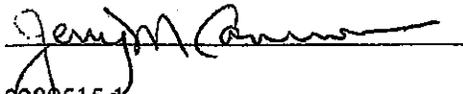
Approved as to Form: <

Attest:



SHEILA HARRINGTON, City Clerk

For E-Z 8 Newark, LLC:



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2292913.1

**AMENDMENT TO AGREEMENT BETWEEN CITY OF
NEWARK AND E-Z 8 NEWARK, LLC**

This Amendment ("Amendment") to the Agreement Between City of Newark and E-Z 8 Newark, LLC ("Agreement"), effective July 2, 2014, is made as of the last date set forth below next to the signature lines (the "Amendment Effective Date"), as follows:

I. Section 2(b)(2) of the Agreement, which currently reads:

(2) Limit access to the Motel property by installing and maintaining a permanent electronically controlled gate at the entrance to the property (after check-in parking). The gate shall only admit persons possessing a valid and active room key or a visitor/ vendor temporary pass issued by a Motel employee after the visitor/vendor enters the lobby, provides appropriate identification and registers as a visitor/vendor. The gate shall be installed and operational by 120 days from the date of execution of this Agreement by all parties hereto.

is hereby superseded in its entirety. The new section 2(b)(2) shall read:

(2) Limit access to the Motel property by installing and maintaining a permanent electronically controlled gate at the entrance to the property (after check-in parking). The gate shall only admit persons possessing a valid and active room key or a visitor/vendor temporary pass issued by a Motel employee after the visitor/vendor enters the lobby, provides appropriate identification and registers as a visitor/vendor. E-Z 8 shall take all steps commercially reasonable to have an operating gate installed within sixty (60) days of the Amendment Effective Date.

II. Section 2(b)(4) of the Agreement, which currently reads:

(4) The Motel shall have one security guard patrolling the premises between the hours of 9 p.m. and 5 a.m. Any security guard hired by E Z-8 shall be licensed, bonded and insured. Coverage from 1 p.m. to 5 a.m. shall begin within 5 days of execution of this Agreement by all parties and continue for a period of 4 months thereafter at which time E-Z 8 will revert back to 9 p.m. to 5 a.m.

is hereby superseded in its entirety. The new section 2(b)(4) shall read:

(4) The Motel shall have one security guard patrolling the premises between the hours of 6 p.m. and 2 a.m. Any security guard hired by E-Z-8 shall be licensed, bonded and insured. Coverage from 1 p.m. to 5 a.m. by one security guard shall begin within Five (5) days of the Amendment Effective Date and continue until the gate mentioned above in Section 2(b)(2) is operational. Once the gate is operational, E-Z 8 will revert back to one security guard from 6 p.m. to 2 a.m. The guard hours may be modified by mutual written consent of the parties to the Agreement.

III. Section 2(b)(5) of the Agreement, which currently reads:

(5) The Motel shall install an upgraded security camera system at the Motel which provides night time acuity and complete coverage of the Motel premises. NPD will be provided access to the camera-feed upon reasonable request from NPD. The upgraded camera system shall be installed within 120 days of the date of execution of this Agreement by all the parties hereto.

is hereby superseded in its entirety. The new section 2(b)(5) shall read:

(5) The Motel shall install an upgraded security camera system at the Motel which provides nighttime acuity and complete coverage of the Motel premises. NPD will be provided access to the camera-feed upon reasonable request from NPD. NPD and E-Z 8 shall discuss the feasibility of creating a direct camera feed to NPD. E-Z 8 shall take all steps commercially reasonable to have the new camera system operational within sixty (60) days of the Amendment Effective Date.

IV. A New Section 5 shall be added to the Agreement and shall read as follows:

5. Within Thirty (30) days from the Amendment Effective Date, other than as set forth below, E-Z 8 will raise its posted rates for new guests for a one person, one bed room to the following: \$69.99 for weekends and \$64.99 for weekdays. E-Z 8 shall adjust its internet rates to reflect this price. E-Z 8 shall continue offering a 10% discount for those who book on the internet. E-Z 8 will offer lesser rates to families in need (for a limited number of rooms) and

workers. The understanding of the parties to this Amendment is that the intent is to raise the posted walk-in rate. E-Z 8 takes this step in good faith and to respond to a City request and will raise its rates further if, in E-Z 8's sole judgment, economic conditions allow. However, since E-Z 8 is a "for profit" business, it must reserve the right to lower those walk-in rates if, in E-Z 8's sole judgment, economic conditions warrant a reduction.

All other provisions of the Agreement shall remain valid, enforceable and in effect.

The undersigned are authorized representatives of NEWARK and E-Z 8 and have the authority to bind NEWARK and E-Z 8 to the terms set forth in the Agreement and this Amendment. The undersigned represent that they hereby acknowledge by their signatures below that they have read and understood the terms of this Agreement.

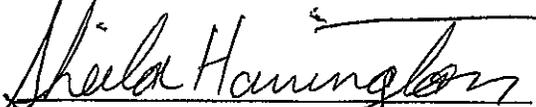
For the City of Newark:



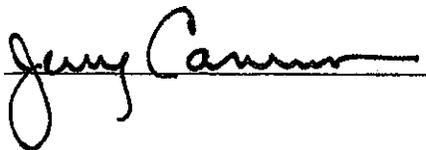
Date: 8-5-14

Mr. TERRENCE GRINDALL, Assistant City Manager

Attest:


SHEILA HARRINGTON, City Clerk

For E-Z 8 Newark, LLC:



Date: 7-29-2014