

---

# CITY OF NEWARK PLANNING COMMISSION

---

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4330 • FAX 510-578-4265

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

## MINUTES

Tuesday, February 10, 2015

---

### A. ROLL CALL

At 7:31 p.m., Chairperson Fitts called the meeting to order. All Planning Commissioners were present. There are two vacancies.

### B. MINUTES

#### B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, January 27, 2015.

Vice-Chairperson Aguilar moved, Commissioner Nillo seconded, to approve the Minutes of January 27, 2015. The motion passed 4 AYES, 1 ABSTENTION (Bridges).

### C. WRITTEN COMMUNICATIONS

None.

### D. ORAL COMMUNICATIONS

None.

### E. PUBLIC HEARINGS

#### E.1 Hearing to consider U-88-42, an amendment to a conditional use permit, for a remodel to the Salvation Army building at 36700 Newark Boulevard.

Assistant Planner Jimenez gave the staff report.

Answering Commissioner Otterstetter, AP Jimenez stated the existing building is approximately 10,000 sq. ft. and on-street parking will be allowed.

Answering Vice-Chairperson Aguilar, AP Jimenez stated the gate will be installed on the north-end of the property and must be fully functional prior to Occupancy.

Answering Chairperson Fitts, AP Jimenez stated a rendering of the cell tower will be provided to the Planning Commission at a later date; people will enter the building from the rear of the property to receive food; and a concrete retaining wall will be installed.

Chairperson Fitts opened the Public Hearing.

Captain Dan Williams, representing The Salvation Army, 36700 Newark Boulevard, Newark, CA 94560, stated he has read and agrees with conditions listed in Resolution 1899.

Answering Commissioner Nillo, Captain Williams described the demolition process which he estimates will commence in April or May.

Answering Commissioner Bridges, Captain Williams gave his estimate of 10-12 months for construction.

Answering Commissioner Nillo, Captain Williams stated the Salvation Army is actively looking for a facility to lease so they can continue to run some of their programs while their new facility is being constructed.

Answering Chairperson Fitts, Captain Williams clarified that the basketball court had been downsized to a basketball pole which will be available to his patrons at limited times of the day.

Chairperson Fitts closed the Public Hearing.

Motion made by Commissioner Bridges, seconded by Commissioner Nillo, to approve Resolution 1899, approving U-88-42, an amendment to a conditional use permit, with Exhibit A, pages 1 through 4, for a remodel to the Salvation Army building at 36700 Newark Boulevard. Motion passed 5 AYES.

This item will be heard at the February 26, 2015 City Council Meeting.

Assistant City Manager Grindall gave the staff report for Items E.2 and E.3 via a Powerpoint Presentation.

Answering Commissioner Otterstetter, ACM Grindall stated it has been more than 10 years since the wetland boundaries were set and no offers to purchase the wetland site had been reported to City Staff.

Answering Commissioner Bridges, ACM Grindall commented that the February 10, 2015 letter from the Citizens Committee to Complete the Refuge reiterated issues that were addressed in the FEIR.

- E.2 Hearing to consider: 1) Revocation of Planning Commission Certification of E-10-12, a Final Environmental Impact Report on the Newark Areas 3 and 4 Specific Plan Project; 2) Recommendation that the City Council rescind Certification of a Final Environmental Impact Report on the Newark Areas 3 and 4 Specific Plan Project; 3) Recommendation that the City Council rescind approvals of GP-10-13, Newark Areas 3 and 4 Specific Plan and related General Plan amendments and a map amendment to the General Plan Diagram to change the General Plan land use designations for certain parcels of land; 4) Recommendation that the City Council rescind Ordinance 442 which approved and adopted the Newark Areas 3 and 4 Specific Plan**

**Project Development Agreement; and 5) Recommendation that the City Council rescind Ordinance 443 which approved Z-10-17, a Map Amendment to Title 17 (Zoning) of the Newark Municipal Code rezoning parcels to be consistent with the Newark Areas 3 and 4 Specific Plan.**

Chairperson Fitts opened the Public Hearing.

Speaker Vanessa, on behalf of the Heberts (owners of 7580 Mowry Avenue, Newark, CA 94560), asked that the Planning Commission not approve this item due to their belief that the City is not allowing viable commercial, industrial or agricultural uses on their property.

Mr. Hebert, 7580 Mowry Avenue, Newark, CA 94560, stated he would like to operate his business until development is underway to minimize his financial hardship.

ACM Grindall clarified that the public comments heard thus far were not relevant to Item E.2 but is more appropriate for Item E.3.

Mr. Andrew Sabey, representing the Applicant Newark Partners, stated he is available to answer any questions on Items E.2 or E.3.

Answering Ms. Jean Cunningham, 6318 Joaquin Murieta Avenue, Newark, CA 94560, ACM Grindall stated landfill from this project would not increase the risk of flooding in any part of Newark.

Mr John Bradley, 4958 Bosworth Court, Newark, CA 94560, stated he would like the Planning Commission to rescind the items listed for Item E.2 since he disagrees with the approval of the original project.

Commissioner Nillo thanked staff and the public and stated he has a greater appreciation of the work and components involved with bringing a project of this magnitude forward.

Chairperson Fitts closed the Public Hearing.

Motion made by Commissioner Bridges, seconded by Commissioner Nillo, to: 1) approve Resolution 1900 to rescind the Planning Commission Certification of E-10-12, a Final Environmental Impact Report on the Newark Areas 3 and 4 Specific Plan Project; 2) Recommend the City Council repeal Resolution No. 9745, Certifying the Final Environmental Impact Report on the Newark Areas 3 and 4 Specific Plan Project; 3) Recommend the City Council repeal Resolution No. 9746, approving GP-10-13, Newark Areas 3 and 4 Specific Plan and related General Plan amendments and a map0 amendment to the General Plan Diagram to change the General Plan land use designations for certain parcels of land; 4) Recommend the City Council repeal Ordinance 442 which approved and adopted the Newark Areas 3 and 4 Specific Plan Project Development Agreement; and 5) Recommend the City Council repeal Ordinance 443 which approved Z-10-17, a Map Amendment to Title 17 (Zoning) of the Newark Municipal Code rezoning parcels to be consistent with The Newark Areas 3 and 4 Specific Plan. Motion passed 5 AYES.

- E.3 Hearing to consider: 1) Recommending City Council Certification of E-15-4, a Recirculated Final Environmental Impact Report addressing and disclosing the Environmental Impacts of the Newark Areas 3 and 4 Specific Plan Project; 2) Recommendation that the City Council approve GP-10-13, the Newark Specific Plan: Area 3 and 4 of the General Plan, related General Plan amendments, and a map amendment to the General Plan Diagram to change the General Plan land use designations for certain parcels of land; 3) Recommendation that the City Council approve DA-10-14 and adopt the Newark Areas 3 and 4 Specific Plan Project Development Agreement; and 4) Recommendation that the City Council approve Z-10-17, a Map Amendment to Title 17 (Zoning) of the Newark Municipal Code rezoning parcels to be consistent with the Newark Specific Plan: Area 3 and 4 of the General Plan.**

Chairperson Fitts opened the Public Hearing.

Mr. John Bradley, 4958 Bosworth Court, Newark, CA 94560, stated he is against this project because he believes it will create isolation for that area's residents; drain City Resources; and create a loss of value to the wetlands.

Mr. Wayne Studer, 6246 Joaquin Murieta Avenue, Newark, CA 94560, stated his concerns of increased traffic on Joaquin Murieta and the decrease in his home's value.

Ms. Jana Sokale, 7788 Hazelnut Drive, Newark, CA 94560, and also representing Citizens Committee to Complete the Refuge, informed the Planning Commission that the US Congress had declared in 1990 that most of Area 4's land was appropriate for inclusion in the National Wildlife Refuge and also stated the US Fish and Wildlife Service had declared these types of wetlands as the most important wetlands to acquire.

Ms. Sokale, stated her belief that this project does not support the health of the Community and the Bay's eco-system and stated the Recirculated FEIR will need further CEQA review.

Answering Mr. Wayne Studer, ACM Grindall stated Sub-Area A is proposed to be developed as residential with a school.

ACM Grindall reminded the Planning Commission that Mr. Hebert's earlier comments apply to this Item.

Chairperson Fitts closed the Public Hearing.

Answering Commissioner Nillo, ACM Grindall stated a Championship Golf Course would command higher green fees and will make the project financially feasible for the Developer.

ACM Grindall stated conceptually the limited fill of Sub-Areas B and C would ultimately enhance the habitat in Sub-Area E.

Answering Vice-Chairperson Aguilar, ACM Grindall explained the difference between a project level and a program level review.

Answering Vice-Chairperson Aguilar, ACM Grindall stated the Developer has 8 years from the start of developing Area 3 to begin development of Area 3, and the City will bear no costs in the development of the infrastructure and all public improvement costs will be funded by the Developer.

Answering Chairperson Fitts, ACM Grindall stated the dedication of the 66 acres to the City will occur prior to the development of Area 3.

Answering Commissioner Bridges, ACM Grindall stated Mitigation measures were identified to address traffic concerns at the intersection of Cherry Street and Mowry Avenue and no significant traffic impacts were identified for Joaquin Murieta.

Motion made by Commissioner Bridges, seconded by Vice-Chairperson Aguilar, to approve: 1) Resolution 1901, recommending that the City Council certify a Recirculated Final Environmental Impact Report (E-15-4) addressing and disclosing the Environmental Impacts of the Newark Areas 3 and 4 Specific Plan Project; and 2) Resolution 1902, recommending approval of the Newark Specific Plan: Area 3 and 4 of the General Plan and related General Plan amendments: A map amendment to the General Plan Diagram to affirm the General Plan land use designations for certain parcels of land (GP-10-13); recommending adoption of the Newark Areas 3 and 4 Specific Plan Project Development Agreement; and 3) Resolution 1903 recommending the City Council approve Z-10-17, a Map Amendment to Title 17 (Zoning) of the Newark Municipal Code Rezoning Parcels to be Consistent with the Newark Specific Plan: Area 3 and 4 of the General Plan. Motion passed 5 AYES.

- E.4 Hearing to consider recommending that the City Council approve a Resolution clarifying the Council's intent in its Resolution (Council Res. No. 10,146) certifying the General Plan Tune Up Environmental Impact Report (EIR) in December of 2013, as follows: (a) that action was not intended to provide environmental disclosure or CEQA compliance or clearance for the Newark Areas 3 and 4 Specific Plan Project; (b) that the Newark Areas 3 and 4 Specific Plan Project would not rely on the General Plan Update EIR to comply with the California Environmental Quality Act; and (c) that Res. No. 10,146 was not intended to affect or limit the pending judicial review of the Areas 3 and 4 Specific Plan Project (Case No. RG 10530015).**

Assistant City Manager Grindall gave the staff report.

Answering Commissioner Nillo, ACM Grindall stated Clarification of Intent is processed by Resolution.

Chairperson Fitts opened the Public Hearing.

Ms. Jana Sokale, 7788 Hazelnut Drive, Newark, CA 94560, stated her belief that adoption of a Resolution is not legally binding and stated her preference for an Amendment to the General Plan with a new EIR.

Chairperson Fitts closed the Public Hearing.

Motion made by Commissioner Otterstetter, seconded by Commissioner Nillo, to approve Resolution 1904, recommending the City Council approve a resolution clarifying the Council's intent in its Resolution (Council Reso. No. 10,146) certifying the General Plan Tune Up Environmental Impact Report (EIR) in December of 2013, as follows: (a) that action was not intended to provide environmental disclosure or CEQA compliance or clearance for the Newark Areas 3 and 4 Specific Plan Project; (b) that the Newark Areas 3 and 4 Specific Plan Project would not rely on the General Plan Update EIR to comply with the California Environmental Quality Act; and (c) that City Council Resolution No. 10,146 was not intended to affect or limit the pending judicial review of the Areas 3 and 4 Specific Plan Project (Case No. RG 10530015). Motion passed 5 AYES.

**F. STAFF REPORTS**

None.

**G. COMMISSION MATTERS**

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

None.

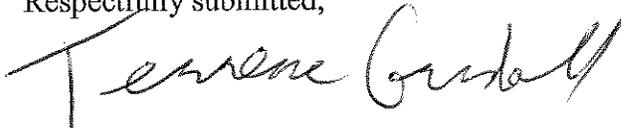
Commissioners' Comments

Chairperson Fitts reminded the public that the City Council will hold the Public Hearing for the Ruschin School Site project on Thursday, February 12, 2015 at the Newark Pavilion at 7:30 p.m.

**H. ADJOURNMENT**

At 8:55 p.m., Chairperson Fitts adjourned the regular Planning Commission meeting of Tuesday, February 10, 2015.

Respectfully submitted,



TERRENCE GRINDALL  
Secretary