



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, March 10, 2015

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, February 10, 2015. (MOTION)

B.2 Approval of Minutes of the regular Planning Commission meeting of Tuesday, February 24, 2015. (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

G. COMMISSION MATTERS

G.1 Proposal to amend the Planning Commission By-laws to: (1) establish a quorum as a majority of the Planning Commissioners; (2) establish a time limit of 5 minutes in which to address the Planning Commission; (3) allow for regular Planning Commission meetings to be held other than in the Council Chambers if duly noticed; and (4) change the number of Commissioners required to amend, revise, or repeal the By-laws from four to a majority – from Assistant City Manager Grindall. (MOTION)

G.2 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, 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.

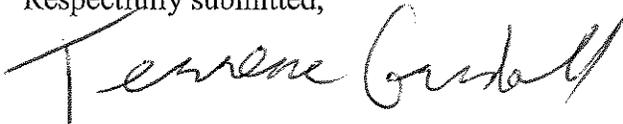
Commissioners' Comments

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

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City Administration Building
7:30 p.m.
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MINUTES

Tuesday, February 24, 2015

A. ROLL CALL

At 7:31 p.m., Chairperson Fitts called the meeting to order. All Planning Commissioners were present except Vice-Chairperson Aguilar (personal). There are two vacancies.

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, January 13, 2015.

Commissioner Nillo moved, Commissioner Otterstetter seconded, to approve the Minutes of January 13, 2015. The motion passed 4 AYES.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

E.1 Hearing to consider an amendment to U-83-41, a conditional use permit, for a truck unloading station and the addition of loading asphalt to railcar at 6880 Smith Avenue (Safety-Kleen of California, Inc.).

Assistant City Manager Grindall gave the staff report.

Chairperson Fitts opened the Public Hearing.

Mr Duc Tran, representing Safety-Kleen, 6880 Smith Avenue, Newark, CA 94560, stated he has read and agrees with conditions listed in Resolution 1905.

Answering Commissioner Nillo, Mr. Tran estimates it will take 1½ months to begin construction.

Answering Commissioner Otterstetter, Mr. Tran stated they average 14 trucks daily (both incoming and outgoing but anticipates a decrease in the number of outgoing trucks in the future.

Mr. Todd McHugh, Compliance Manager for Safety-Kleen introduced himself to the Planning Commission.

Answering Chairperson Fitts, Mr. McHugh described the measures Safety-Kleen has taken and will implement to reduce odor emissions.

Commissioner Otterstetter commented that she personally had not noticed any odor emission problems emitting from their site during the past 6 months.

Chairperson Fitts closed the Public Hearing.

Motion made by Commissioner Bridges, seconded by Commissioner Otterstetter, to approve Resolution 1905, with Exhibit A, pages 1 through 7, approving the amendment to U-83-41, a conditional use permit, for a truck unloading station and the addition of loading asphalt to railcar at 6880 Smith Avenue (Safety-Kleen). Motion passed 4 AYES.

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

ACM Grindall informed the Planning Commission that the City Council had approved the Ruschin School Site Project at their February 12, 2015 meeting.

Commissioner Bridges commented that she had received letters of concern on this project.

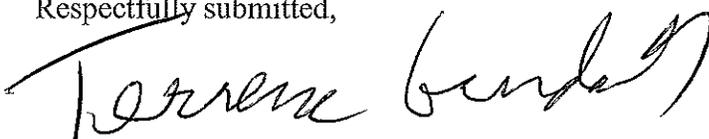
Commissioners' Comments

Commissioner Nillo congratulated Vice-Chairperson Aguilar on the birth of his daughter.

H. ADJOURNMENT

At 7:45 p.m., Chairperson Fitts adjourned the regular Planning Commission meeting of Tuesday, February 24, 2015.

Respectfully submitted,



TERRENCE GRINDALL
Secretary



- G.1 Proposal to amend the Planning Commission By-laws to: (1) establish a quorum as a majority of the Planning Commissioners; (2) establish a time limit of 5 minutes in which to address the Planning Commission; (3) allow for regular Planning Commission meetings to be held other than in the Council Chambers if duly noticed; and (4) change the number of Commissioners required to amend, revise, or repeal the By-laws from four to a majority – from Assistant City Manager Grindall. *VG* (MOTION)**

Background/Discussion – The current Planning Commission By-laws provide that “Four members of the Commission shall constitute a quorum for the purpose of conducting business.” Four has always constituted a quorum because there have always been seven Planning Commissioners appointed by the City Council. This stipulation provides no flexibility, however, if the number of Commissioners increases or decreases. If, for example, there were nine appointed Commissioners, it would be appropriate that five Commissioners be present in order to have a quorum. Conversely, if only five Commissioners were appointed, only three would be necessary to have a quorum. As such, staff is recommending that the By-laws be amended to require that a quorum simply be the majority of the Planning Commissioners.

In addition to the issue regarding a quorum, the current time limit established to address the Commission is inconsistent with that of the City Council. Currently, a total of ten minutes is allowed to address the Commission. In order to be in-line with the Council’s time limits, staff is recommending the time allowed to address the Planning Commission be adjusted to five minutes. A provision already exists in the By-laws that allows for additional time if so granted by a majority of the Commission present.

With the recent Ruschin School site project, it became clear that there are instances when the Council Chambers may not be sufficient to hold the number of expected attendees. As the By-laws are written, all regular Planning Commission meetings are to be held in the Council Chambers. Staff recommends this section be amended to provide the flexibility to hold an off-site Commission meeting in the event a larger-than-capacity crowd is expected, as long as it is properly noticed beforehand.

Lastly, the ability to amend, revise, or repeal the By-laws requires an affirmative vote of four members of the Commission. As with the quorum issue, this should be revised to require a majority vote of the Commissioners, whether there are five or seven.

Section 12 of the Planning Commission By-laws requires that amendments not be acted on until the meeting following the initial submittal of the item. The revision then becomes effective the meeting thereafter. If the Planning Commission would like staff to prepare a report regarding these amendments, they would need to set March 10, 2015 as the date to consider the report.

Action - The Planning Commission may, by motion, set March 24, 2015 as the date to consider amending the By-laws.