

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 25, 2015

- A. ROLL CALL
- B. MINUTES
 - B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, July 28, 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
 - E.1 Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 Motel is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code – from Assistant City Manager Grindall. (CONTINUED FROM JULY 2, 2014, APRIL 28, 2015 AND JULY 28, 2015). (MOTION)
- F. STAFF REPORTS
- 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.

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, July 28, 2015

A. ROLL CALL

At 7:31 p.m., Chairperson Fitts 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, June 23, 2015.

Commissioner Nillo moved, Commissioner Bridges seconded, to approve the Minutes of June 23, 2015. The motion passed 5 AYES.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

Mr. Greg Lemos, 5788 Dichondra Place, Newark, CA 94560, expressed his concerns on how the increase in Newark residents from the recently approved housing projects would affect Newark's water supply and asked the Planning Commission to take this matter under consideration when looking at future housing projects.

E. PUBLIC HEARINGS

E.1 Continued Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 Motel is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code.

Vice-Chairperson Aguilar recused himself due to his employer's involvement with the adjacent property.

Assistant City Manager Grindall gave the staff report.

Answering Chairperson Fitts, ACM Grindall stated he will add language to the Conditions of Approval to address on-site inspections to determine continued compliance with the 17 agreed upon security measures.

Answering Commissioner Bridges, ACM Grindall confirmed all 17 measures had been substantially implemented.

Answering Commissioner Otterstetter, ACM Grindall confirmed that the communications between City staff and the E-Z 8 Motel Operators were good.

Commander Mike Carroll, City of Newark Police Department, gave an overview on the number of Police Reports and Arrests that occurred at the E-Z 8 Motel from 2009 to the present.

Answering Commissioner Bridges, Commander Carroll gave his opinion that the closure and demolition of Motel 6, the increase of E-Z 8 rates, and the sharing of E-Z 8 Motel's Registry, had contributed to the decrease in criminal activity at the E-Z 8 Motel.

Answering Chairperson Fitts, Commander Carroll stated the sharing of the Motel's registry is voluntary by the E-Z 8 Motel Operators.

Answering Commissioner Nillo, Commander Carroll stated crime statistics has decreased Citywide but he did not have any reports that specifically cover crime statistics for the surrounding neighborhoods by the E-Z 8 Motel.

The Planning Commission took a 5 minute recess.

Chairperson Fitts reopened the Continued Public Hearing.

Mr. Jerry Cannon, representing E-Z 8 Newark, LLC, 10399 Roof Fin Stairs, San Diego, CA 92018, stated he believed the interactions between E-Z 8 and Newark staff had been very positive.

Answering Commissioner Bridges, Mr. Cannon stated E-Z 8 intends to make improvements to their rooms after the current issues are resolved; he believes the motel still accommodates low-income families; and stated the Motel's occupancy rate after the rate increase is fine.

Mr. Jim Valiant, Santa Clara resident, stated he is encouraged by the improvements being made in Newark in decreasing criminal activity, and is hopeful that something similar could be done in Santa Clara. His only concern is with the Condition that the Motel must open up their guest registry, he would prefer this to be optional.

Ms. Emily Harris, Peppertree Court, Newark, CA 94560, gave her opinion that the E-Z 8 Motel is an eyesore; she stated she personally knows a family that resides at the Motel who have not received any Community assistance to enable them with the means to move into their own housing unit; and she questioned whether Section 8 Housing is going to Newark residents or to people from other areas.

Commissioner Bridges mentioned low-income housing assistance could be obtain by contacting Abode, but stated it does take approximately 6 months to go through their process.

Mr. Arnold Sharma, Newark resident, stated he has observed an increase in criminal activity taking place on the streets by the Motel and asked if additional safety measures could be extended to the surrounding neighborhoods.

Ms. Kim Aimes, Newark resident, stated her concerns that the Motel would not continue with the current safety measures and feels the Motel does not meet the revitalization standards of the City.

Chairperson Fitts stated he would like staff to work with the E-Z 8 Operators on future improvements to the Motel and suggested possibly changing the name of the Motel.

Commissioner Otterstetter thanked the E-Z 8 Operators and the City's Police Department for working together to reduce crime and stated she would like to ensure that the Safety Measures continue in the future by receiving regularly scheduled progress reports.

Motion made by Commissioner Bridges, seconded by Commissioner Otterstetter, to continue this Item to the August 25, 2015 Planning Commission Meeting. Motion passed 5 AYES.

Vice-Chairperson Aguilar returned to the Council Chambers and rejoined his fellow Planning Commissioners.

F. STAFF REPORTS

F.1 Review and recommend approval of the Greater NewPark Master Plan.

Assistant City Manager Grindall gave the staff report which included a PowerPoint presentation.

Chairperson Fitts thanked City staff and the Consultant firm Design Collective for their work on the Greater NewPark Master Plan.

Answering Chairperson Fitts, ACM Grindall stated the projects envisioned in the Plan would be undertaken by private developers who would be conditioned to include public improvement amenities such as sidewalks.

Answering Chairperson Fitts. ACM Grindall stated the owners of the NewPark Mall were favorable to the proposed Master Plan and had no formal comments. ACM Grindall also stated that the consensus of the surrounding property owners were positive.

Mr. Sohan Sharma, owner of McDonald's Restaurant, expressed his excitement with the potential growth in Newark and stated his relief that the egress and ingress to the NewPark Mall would not change.

Commissioner Otterstetter stated she was disappointed that the Community Area for outdoor gatherings was not larger.

ACM Grindall commented that the Greater NewPark Mall Master Plan is only conceptual and does not place size constraints on any structures or amenities.

Chairperson Fitts stated additional space for outdoor amenities could be obtained if each multi-story structure included underground parking.

Answering Vice-Chairperson Aguilar, ACM Grindall confirmed the mixed use structures could be built vertically or horizontally.

Answering Commissioner Nillo, ACM Grindall stated transportation and solar panels could be added to the Master Plan if warranted in the future.

Motion recommending the City Council approve the Greater NewPark Master Plan made by Commissioner Otterstetter, seconded by Commissioner Nillo. Motion passed 5 AYES.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

Commissioners' Comments

Commissioner Otterstetter encouraged the public to see Stage One's production of Aladdin being held at the Washington High School Amphitheater.

Commissioner Nillo wished a speedy recovery to Barbara Fitts.

H. ADJOURNMENT

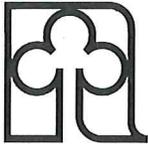
At 8:58 p.m., Chairperson Fitts adjourned the regular Planning Commission meeting of Tuesday, July 28, 2015.

Respectfully submitted,

A handwritten signature in cursive script that reads "Terrence Grindall". The signature is written in black ink and is positioned to the right of the typed name.

TERRENCE GRINDALL

Secretary



E.1 Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-18, issued to E-Z 8 Motel, on the grounds that E-Z 8 is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code – from Assistant City Manager Grindall. (CONTINUED FROM JULY 2, 2014, APRIL 28, 2015 AND JULY 28, 2015) (MOTION TO CONTINUE)

Background/Discussion – On July 26, 1984, the Newark City Council adopted 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 8 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.)

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”). The OSC and supporting documents contend that the level of criminal activity at E-Z 8 Motel constitutes a violation of the conditions on which the CUP was granted and, therefore, warrants revocation of the CUP. Those documents have been available to the public on the City’s website since April 29, 2014.

On July 2, 2014, the Planning Commission held a Public Hearing to consider revocation of the CUP. There was extensive public comment at the Hearing, focused primarily on three issues: 1) the negative impact that the Motel use has on the surrounding neighborhood; 2) the extraordinary Police resources that are required due to the Motel’s operation; and 3) the role the EZ-8 Motel played in providing housing for people facing homelessness. In an agreement with City Staff, EZ-8 committed to implement certain additional security measures to reduce the criminal activity at the Motel. That Agreement is attached to this staff report. The Planning Commission continued the Public Hearing to a future date so that the impact of the agreed upon security measures could be fully analyzed. On April 28, 2015, the Planning Commission re-opened the Public Hearing. At that hearing the slower than expected implementation of the agreed upon measures was discussed and the Public Hearing was continued to July 28, 2015, to allow enough time to assess the effectiveness of the agreed upon measures.

The measures, as outlined in the Agreement, include, in summary:

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 Police Department 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 robbery.
4. Locking the motel lobby and transact all business through the night window at or around dusk.
5. Requiring all registered guests to be at least 18 years of age.
6. Restricting anyone from access to a registered guest's room other than a guest and/or visitor who has provided government-issued photo ID to the front desk at check-in. The ID shall be photocopied by the motel and stored for at least 72 hours.
7. Providing for "quiet hours" on the motel premises between 10:00 p.m. and 7:00 a.m.
8. Maintain and enforce a policy of guests staying a maximum of 21 days.
9. Maintain and enforce a policy that the minimum time period room rental is 24 hours.
10. Install and maintenance of a permanent electronically controlled gate at the entrance to the guest parking area. The gate shall only admit persons possessing a valid and active room key or a visitor/ vendor temporary pass issued by a motel employee.
11. The motel shall have a licensed, bonded and insured security guard patrolling the premises between the hours of 6:00 p.m. and 2:00 a.m.
12. The motel shall maintain a security camera system which provides night time acuity and complete coverage of the motel premises.
13. 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.
14. Install and maintain on the front lobby counter and on the front of the building signs that indicate cooperation with the Newark Police Department.
15. Maintain and enforce the policy that there shall be no cooking in any of the guest rooms.
16. Maintain and enforce an active "no rent" list which flags guests who have acted inappropriately in a prior stay. The motel shall place any persons requested by the Police Department on the "no rent" list.
17. The on-site Manager or other E-Z 8 employees will notify the Police Department of any known violation of the law on the E-Z 8 premises.

Each of these security measures was to be implemented within a specific date. Most, but not all, were implemented in a timely manner. The installation of the security gate was supposed to be completed by October 4, 2014, but, unfortunately, was not completed until April 28, 2015 – the date of the last public hearing.

Newark Police have been in contact with E-Z 8 and their security consultant and have reviewed the crime statistics associated with the operation of the Motel. A summary of those statistics is also attached to this staff report. Based on the data, there appears to be some indication that substantial compliance with the Agreement has led to a decrease in the negative consequence of the motel operations on the neighborhood and Police resources. However, staff is concerned that these criminal issues can resurface if this matter is not appropriately addressed. Throughout the thirty year history of the operation of this Motel, it has been staff's experience that the level of criminal activity occurring at the Motel is cyclical in nature. In other words, as the crime rates and nuisance activities increase, staff intervenes to address public safety concerns, the crime activity reduces in response to that intervention, but then, after a period

of time, the criminal activity resurfaces. Staff prefers that the cyclical nature of crime activity stop and the increase in nuisance activities stop reoccurring.

Because the increased security measures as outlined in the Agreement appear to have led to a decrease in the criminal activity at the Motel, staff recommended that Conditional Use Permit No. U-84-18 allowing operations of a motel at 5555 Cedar Court be amended to include or reference security measures such as those listed in the Agreement.

On July 28, 2015 the Planning Commission held a hearing on this issue and continued the Public Hearing to August 25, 2015. At the July 28, 2015 meeting the Commission recommended that an amended Conditional Use Permit be drafted with the consultation of the EZ-8 Motel operators and brought before the Planning Commission for consideration.

Although a meeting was held between City staff and the Motel operator we have not yet reached agreement of the terms of an amended Conditional Use Permit.

Recommendation- Staff will need additional time to prepare an amended use permit and coordinate with the Motel operators. Therefore it is recommended that the Planning Commission continue this Public Hearing until September 8, 2015.

Action- After re-opening the Public Hearing and receiving testimony from the public on this matter, the Commission should move to continue the Public Hearing to the September 8, 2015 Planning Commission meeting.