



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, January 13, 2015**

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, December 9, 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

- E.1 Hearing to consider: (1) adopting a resolution making certain findings and recommending City Council approval of an Initial Study and Mitigated Negative Declaration (E-14-39); (2) adopting a resolution recommending City Council approval of a rezoning (RZS-14-40) for an approximately 10.1 acre portion of Vesting Tentative Map 8212 from R6000 (Single Family Residential) to LDR-FBC (Low Density Residential-Form Based Code); (3) adopting a resolution approving P-14-41, a planned unit development, and U-14-42, a conditional use permit, for a 77 lot single-family residential subdivision at 36120 Ruschin Drive, with Exhibit A, pages 1 through 34; and (4) by motion, recommending the City Council approve TM-14-43, Vesting Tentative Map 8212 – from Assistant City Manager Grindall. (RESOLUTIONS-3)(MOTION)**

F. STAFF REPORTS

- F.1 Recommendation that the City Council approve the Draft Housing Element Update and transmit the Draft Housing Element Update to the State Department of Housing and Community Development for their review and approval – from Assistant City Manager Grindall. (MOTION)**

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, December 9, 2014

A. ROLL CALL

At 7:32 p.m., Chairperson Nillo called the meeting to order. All Planning Commissioners were present except Commissioner Bridges (personal) and Commissioner Drews (personal).

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, October 28, 2014.

Commissioner Fitts moved, seconded by Commissioner Otterstetter, to approve the Minutes of October 28, 2014. The motion passed 5 AYES, 2 ABSENT (Bridges and Drews).

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

None.

F. STAFF REPORTS

Motion was made by Commissioner Fitts, seconded by Vice-Chairperson Hannon, to move Item F.2 prior to F.1 on tonight's Agenda. The motion passed 5 AYES.

F.2 Appeal of Community Development Director's approval of SFDR-14-52, a Single-family design review, for a second-story addition to the residence at 6281 Truckee Court.

Assistant City Manager Grindall gave the staff report.

Answering Vice-Chairperson Hannon, ACM Grindall stated the appropriate actions that the Planning Commission could take if they did not agree with the Architectural design of the proposed addition.

Answering Commissioner Aguilar, ACM Grindall stated the zoning designation for the neighborhood is R6000 (Low Density Residential) and anyone in the neighborhood could apply for a second-story addition which is subject to the Single-Family Design review process.

Answering Commissioner Fitts, ACM Grindall confirmed the original plans for the neighborhood included two-story homes.

Appellate Jack Wong, 6290 Truckee Court, Newark, CA 94560, stated his concerns with the proposed project as: 1) The neighborhood is primarily single-story homes; 2) The few second-story homes in the neighborhood have their second-story recessed towards the back; 3) It would be an obvious addition to the home since the streetscape view is garages first then houses.

Mr. Wong presented Google Map photos to the Planning Commission.

Mr. Wong stated he has no objection with second-story additions, he only wants the addition moved back to be consistent with the neighborhood.

Applicant John Walker, 6281 Truckee Court, Newark, CA 94560, stated although he appreciates Mr. Wong's concerns, he does not consider him to be his neighbor since Mr. Wong typically does not live at the property and uses it as rental property.

Mr. Walker stated he had put in a lot of thought and research into this design which would update the neighborhood and bring added value to the property and to the neighborhood.

Mr. Walker believes the addition would be barely visible since his next-door neighbor's house is two-story.

Mr. Ramil Menaldo, 740 Fargo Avenue, San Leandro, CA, Architect for the Applicant, stated concerns with privacy issues were resolved by eliminating a side window and designing a bay window on the front of the addition with was similar in design to other homes in the area.

Mr. Walker stated he had talked to his neighbors and showed them his plans which resulted in positive reactions with other neighbors expressing an interest in improving their homes in a similar fashion.

Vice-Chairperson Hannon commented he appreciates the fact that the Applicant stated he wanted to show off the improved aesthetic features of the addition by building it in the front.

Mr. Wong stated that although he rents out the property on Truckee Court, he was one of the original owners in the neighborhood and has chosen to keep and maintain the home because he likes the area.

Vice-Chairperson Hannon made a motion, seconded by Commissioner Fitts, to deny the appeal of Community Development Director's approval of SFDR-14-52, a single-family design review, for a second-story addition to the residence at 6281 Truckee Court. Motion passed 5 AYES.

Commissioner Aguilar recused himself due to his business's involvement with the property adjacent to the property in Item F.1.

F.1 Update on continued Public Hearing to consider revocation of Conditional Use Permit (U-84-14) for E-Z 8 Motel.

Assistant City Manager Grindall gave the staff report and reminded the Planning Commission that this is an Informational Item only.

ACM Grindall stated a letter in response to the City's letter dated December 2, 2014 was received from EZ-8 LLC and was provided to the Planning Commission.

Mr. Jonathan Wynne, representing E-Z 8, stated he was present to monitor and report the proceedings to his clients and was pleased that the Planning Commission received their response letter. Mr. Wynne stated he and his clients will be returning on January 7, 2015 for the Public Hearing.

Commissioner Aguilar returned to the Council Chambers and rejoined his fellow Planning Commissioners.

G. COMMISSION MATTERS

G.1 Election of Officers.

Commissioner Otterstetter nominated Commissioner Fitts for Planning Commission Chairperson for 2015. Seconded by Commissioner Aguilar, motion passed 5 AYES.

Chairperson Nillo nominated Commissioner Aguilar for Planning Commission Vice-Chairperson for 2015. Seconded by Vice-Chairperson Hannon, motion passed 5 AYES.

G.2 Cancellation of the regularly scheduled Planning Commission Meeting of Tuesday, December 23, 2014.

Motion by Commissioner Fitts, seconded by Vice-Chairperson Hannon, to cancel the regularly scheduled Planning Commission Meeting of Tuesday, December 23, 2014. Motion passed 5 AYES.

G.3 Report on City Council actions.

None.

ACM Grindall congratulated Vice-Chairperson Hannon on being elected to the City Council.

Commissioners' Comments

All Planning Commissioners congratulated Vice-Chairperson Hannon on being elected to the City Council and thanked him for his service on the Planning Commission.

All Planning Commissioners thanked Chairperson Nillo for his service as Planning Commission Chairperson.

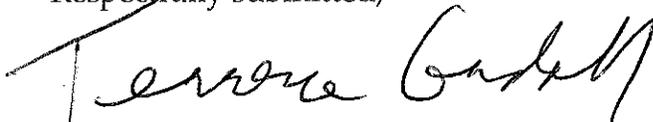
Vice-Chairperson Hannon thanked staff and his fellow Planning Commissioners on their outstanding work and assistance during his tenure on the Planning Commission.

Chairperson Nillo wished everyone Happy Holidays.

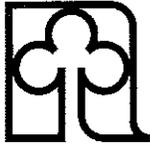
H. ADJOURNMENT

At 8:17 p.m., Chairperson Nillo adjourned the regular Planning Commission meeting of Tuesday, December 9, 2014 to Wednesday, January 7, 2015 at 6:00 p.m. in the City Council Chambers.

Respectfully submitted,



TERRENCE GRINDALL
Secretary



- E.1 Hearing to consider: (1) adopting a resolution making certain findings and recommending City Council approval of an Initial Study and Mitigated Negative Declaration (E-14-39); (2) adopting a resolution recommending City Council approval of a rezoning (RZ-14-40) for an approximately 10.1 acre portion of Vesting Tentative Map 8212 from R6000 (Single Family Residential) to LDR-FBC (Low Density Residential-Form Based Code); (3) adopting a resolution approving P-14-41, a planned unit development, and U-14-42, a conditional use permit, for a 77 lot single-family residential subdivision at 36120 Ruschin Drive, with Exhibit A, pages 1 through 34; and (4) by motion, recommending the City Council approve TM-14-43, Vesting Tentative Map 8212 – from Assistant City Manager Grindall. ⁶⁹
(RESOLUTIONS-3)(MOTION)

Background/Discussion – Classic Communities has made an application to construct up to 77 residential units at 36120 Ruschin Drive (the former Ruschin Elementary School). This property is currently zoned Single Family Residential and is occupied by a vacant elementary school. In 1960, a conditional use permit was approved in order to allow the school in this residential district. As a conditional of approval for this proposal, the existing use permit for the school will be revoked.

Community Meetings

Three community meetings were held to discuss this proposal. The key issues voiced by residents involved traffic, parking, privacy, and visual impacts. To address these issues, the developer redesigned the original proposal to eliminate all two-story buildings from the perimeter of the site. In addition, the number of lots was reduced from 85 to 77.

Project Benefits

- The existing permitted school use would not be compatible with the neighborhood.
- The project provides modern housing types, appropriately buffered from neighborhood.
- Provides over \$19 million of critically needed funding to the School District
- Provides \$2 Million in revenue for Affordable Housing
- Provides \$500,000 in revenue for Parks
- Project will improve surrounding property values

Project Design

The development is proposed to provide 77 single-family detached homes. Single-story homes ring the perimeter of the site, while the two-story homes are concentrated at the middle of the development to reduce the visual impact on existing homes.

Entrance to the community will be via two access points off of Ruschin Drive. There are sidewalks adjacent to both of the entrances. All of the products offer multiple floor plans and a

nice variation in design. All homes are front loading with private rear yards, traditional architecture, and usable front porches. Some of the materials that will be incorporated are stucco, siding, paneling, shudders, corbels, stone veneer, and decorative planter boxes.

Rezoning

The current zoning of the site is R-6000, which permits single-family residential homes with a minimum lot size of 6,000 square feet. The developer has requested that the site be rezoned to LDR-FBC (Low Density Residential – Form Based Code). This new designation provides greater flexibility with setbacks and project design. This designation is intended for single-family neighborhoods with an allowable density range between zero and fourteen dwellings per gross developable acre. In addition, as a condition of approval for this project, the existing conditional use permit allowing the school will be revoked upon City Council approval of the project.

Environmental Determination

The Initial Study/Mitigated Negative Declaration was prepared for this project by FirstCarbon Solutions out of Walnut Creek. The key issues analyzed were aesthetics, agricultural and forestry resources, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, and utilities and service systems.

Of these seventeen issues, the Initial Study found that the only potential significant impacts resulting from this project would include air quality, biological resources, cultural resources, and noise. These represent project-specific impacts that are specific to the location of the project site and the development proposed by the project. The initial study details the mitigation measures necessary to reduce these impacts to less-than-significant, which will be required as part of the project's approval.

Despite the fact that Traffic was not identified as having a significant impact in the Initial Study, it is the primary concern of the residents in the vicinity of the project and deserves to be discussed.

Hexagon Transportation Consultants prepared a Traffic Impact Analysis to assess the project's impacts on traffic operations. The potential impacts of the project were evaluated in accordance with the standards set forth by the City of Newark. The study included the analysis of AM and PM peak hour traffic conditions for five signalized intersections and five unsignalized intersections. The Traffic Impact Analysis determined the project would generate a total of 809 daily trips, with 64 trips occurring in the AM peak hour and 85 trips occurring in the PM peak hour. Hexagon found that, measured against the City's Level of Service (LOS) impact criteria, none of the signalized study intersections would operate at an unacceptable LOS and, therefore, would not be significantly impacted. All of the unsignalized study intersections would also operate at an acceptable LOS on the worst approach of the minor streets except for the intersection of Newark Boulevard/Ruschin Drive-Brittany Avenue.

The unsignalized intersection of Newark Boulevard/Ruschin Drive-Brittany Avenue would operate with unacceptable delays on the minor street approaches under cumulative conditions with or without the project. Although this intersection does not currently meet the peak hour

volume warrant, the City will be periodically monitoring the traffic operations at this intersection to see if a traffic signal should be installed. It should be noted that the City recently completed a detailed signal warrant analysis that looked at eight of the nine signal warrants in the 2006 California Manual on Traffic Control Devices, and found that this intersection did not fully meet any of the eight signal warrants. It should also be noted that alternative routes are available for vehicles on Brittany Drive and Ruschin Drive to access Newark Boulevard. Vehicles turning left from Brittany Drive onto northbound Newark Boulevard could alternatively use the signalized intersection of Cedar Boulevard/Newark Boulevard, and vehicles turning left from Ruschin Drive onto southbound Newark Boulevard could alternatively use the signalized intersection of Lafayette Avenue/Newark Boulevard to access Newark Boulevard. Therefore, the project's trip contribution to the Newark Boulevard/Ruschin Drive-Brittany Avenue intersection is considered less than significant.

The review period for the Initial Study/Mitigated Negative Declaration ended on September 17, 2014. The City received letters from Mr. Dean Ishihara, Jack and Jacque Burgess, and the Alameda County Water District. The issues raised by these letters have been addressed in the Initial Study/Mitigated Negative Declaration.

Attachments

Action – It is recommended that the Planning Commission: (1) adopt a resolution making certain findings and recommending City Council approval of an Initial Study and Mitigated Negative Declaration (E-14-9); (2) adopt a resolution recommending City Council approval of a rezoning (RZ-14-40) for an approximately 10.1 acre portion of Vesting Tentative Map 8212 from R6000 (Single Family Residential) to LDR-FBC (Low Density Residential-Form Based Code); (3) adopt a resolution approving P-14-41, a planned unit development, and U-14-42, a conditional use permit, for a 77 lot single-family residential subdivision at 36120 Ruschin Drive, with Exhibit A, pages 1 through 34; and (4) by motion, recommend the City Council approve TM-14-43, Vesting Tentative Map 8212.

RESOLUTION NO.

RESOLUTION RECOMMENDING THE AMENDMENT OF
TITLE 17 OF THE NEWARK MUNICIPAL CODE BEING THE
CITY OF NEWARK ZONING ORDINANCE BY CHANGING
THE ZONING OF A SPECIFIED AREA IN THE CITY OF
NEWARK

WHEREAS, Classic Communities has made an application to the Planning Commission of the City of Newark to consider the amendment (RZ-14-40) to Title 17 (Zoning) of the Newark Municipal Code and the Official Zoning Map, by rezoning property described as follows:

All that portion of real property shown on Vesting Tentative Map 8212 in the City of Newark, County of Alameda, State of California as shown on Exhibit A, attached hereto and incorporated herein by reference.

PURSUANT to Municipal Code Section 17.80.050, a public hearing notice was published in the Argus on January 2, 2015, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on January 13, 2015 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, the Planning Commission, based on the evidence and oral and written testimony presented at public hearings, and based on all the information contained in the Community Development Department's files on the project, including, but not limited to, the Initial Study/Mitigated Negative Declaration, the Planning Commission's staff report, does resolve:

- a. That the Planning Commission recommends that the Newark City Council amend Title 17 (Zoning) of the Newark Municipal code and Section 17.44.010 "Zoning Map" thereof, being the City of Newark Zoning Ordinance and Official Zoning Map, by rezoning the portion of property shown on Vesting Tentative Map 8212 from R6000 (Single Family Residential) to LDR-FBC (Low Density Residential-Form Based Code); and
- b. That the Planning Commission has reviewed said zoning and finds it consistent and compatible with the objective, policies, general land uses, and the programs of Newark's General Plan, necessary and desirable to achieve the purposes of the ordinance and proper, fair, and for the best interest of the health, safety, and general welfare of the City of Newark; and
- c. That a copy of the minutes be forwarded to the City Council as a summary of the hearing.

This resolution was introduced at the Planning Commission's January 13, 2015, meeting by Commissioner , seconded by Commissioner , and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

WILLIAM FITTS, Chairperson

NOTE:

1. SEE LEGEND ON SHEET C1.0



VESTING TENTATIVE MAP
BKF Project No. 20044922
DECEMBER 1, 2004



9550 Technology Drive, Ste. 600
San Jose, CA 95130
408.487.9000 408.487.9199

NEWARK, CALIFORNIA

CLASSICS AT NEWARK, TRACT 8212

CLASSIC COMMUNITIES

C1.1

A

RESOLUTION NO.

RESOLUTION RECOMMENDING APPROVAL OF P-14-41, A
PLANNED UNIT DEVELOPMENT, AND U-14-42, A
CONDITIONAL USE PERMIT, FOR A 77 LOT SINGLE
FAMILY RESIDENTIAL SUBDIVISION

WHEREAS, Classic Communities has filed with the Planning Commission of the City of Newark an application for a Planned Unit Development and a Conditional Use Permit for a 77 lot single-family residential subdivision at 36120 Ruschin Drive; and

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in The Argus on January 2, 2015 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on January 13, 2015 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, pursuant to Chapter 17.40 (Planned Unit Developments), Section 17.40.050 (Permit Procedure) and Chapter 17.72 (Use Permits), Section 17.72.070 (Action by Planning Commission), the Planning Commission makes the following findings:

1. That the proposed location of the planned unit development is in accord with the objectives of the zoning title and the purposes of the district in which the site is located;
2. That the proposed location of the planned unit development 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;
3. That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, off-street parking and off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the zoning title;
4. That the standards of population density, site area and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, and off-street parking and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities;
5. That the combination of different dwelling types and/or the variety of land uses in the development will complement each other and will harmonize with existing and proposed land uses in the vicinity.
6. That the proposed location of the conditional use is in accord with the purposes of the zoning title and the purposes of the district in which the site is located.

7. That 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.

8. That the proposed conditional use will comply with each of the applicable provisions of Chapter 17.72 (Use Permits).

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 34, subject to compliance with the following conditions:

Planning Division

- a. Upon approval of this resolution by the City Council, conditional use permit U-60-4 shall be revoked.
- b. Approval of TM-14-43, Vesting Tentative Map 8212, shall be effective at such time RZ-14-40, the Rezoning of the property within the boundary of Vesting Tentative Map 8212, takes effect.
- c. The project shall be subject to the environmental mitigation measures as described in the Initial Study/Mitigated Negative Declaration prepared for this project.
- d. Vesting Tentative Map 8212 Lots 1 through 31 shall be restricted to a single-story structure as shown on the approved plans. This deed restriction shall be recorded with the County of Alameda and copies provided to the City.
- e. There shall be no roof-mounted equipment other than satellite dishes, other similar television or radio antennas, and solar equipment. AC units shall not be mounted on the roof.
- f. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.
- g. Construction site trailers and buildings located on-site shall be used for office and storage purposes only, and shall not be used for living or sleeping quarters. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- h. The covenants, conditions and restrictions (CC&Rs) filed for this development shall include a provision requiring that that garages shall only be used for automobile parking.
- i. 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 cleanup shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site during construction shall remain graffiti free.

- j. All exterior utility pipes and meters shall be painted to match and/or complement the color of the adjoining building surface, as approved by the Community Development Director.
- k. Prior to the issuance of a building permit, the elevations as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council. The building elevations shall reflect all architectural projections such as roof eaves, bay windows, greenhouse windows, chimneys and porches. A site plan showing the building locations with respect to property lines shall also show the projections. Said elevations shall specify exterior materials.
- l. Prior to the issuance of a building permit, the floor plans as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council.
- m. All roof material shall consist of fire retardant shake roof, concrete tile, or a roof of similar noncombustible material. Mansard roofs with the above material may be used to screen tar and gravel roofs. All roofs shall be of Class C fire resistant construction or better. Composition shingles shall be Presidential-style or of comparable quality, subject to the review and approval of the Community Development Director.
- n. Prior to the issuance of a building permit, the manner and location for garbage and recycling collection for the project shall be submitted for the review and approval of Republic Services and the Community Development Director, in that order.
- o. Prior to issuance of a grading permit, the developer shall hire a qualified biologist to: (1) determine if occupied Burrowing Owl habitat(s) exist on the site, and (2) implement a plan to protect the owls and to excavate the site around any active burrows using hand tools to assure that the owls are not buried during grading in the event Burrowing Owl habitat(s) is found on the site. The occupied Burrowing Owl habitat(s), if found, shall not be disturbed during the nesting season. The Burrowing Owl study shall be conducted not more than 30 days prior to the time site grading activities will commence.
- p. Prior to their installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster. The mailbox compartments of centralized mailboxes shall identify the individual dwelling units with permanent, easily legible lettering.
- q. Prior to the issuance of a Certificate of Occupancy, roll-up garage doors with automatic garage door openers shall be provided for each unit.
- r. Prior to final inspection and utility release for each unit, the developer shall pre-wire each unit for satellite and cable television connections, as required by the Community Development Director.

- s. Prior to the issuance of a sign permit, all signs, other than those referring to construction, sale, or future use of this site, shall be submitted for the review and approval of the Community Development Director.
- t. Measures to respond to and track complaints regarding construction noise shall include: (1) a procedure and phone numbers for notifying the City of Newark Building Inspection Division and Newark Police Department (during regular construction hours and off-hours); and (2) a sign posted on-site pertaining to the permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours).
- u. During project construction, if historic, archeological or Native American materials or artifacts are identified, work within a 50-foot radius of such find shall cease and the City shall retain the services of a qualified archeologist and/or paleontologist to assess the significance of the find. If such find is determined to be significant by the archeologist and/or paleontologist, a resource protection plan conforming to CEQA Section 15064.5 shall be prepared by the archeologist and/or paleontologist and approved by the Community Development Director. The plan may include, but would not be limited to, removal of resources or similar actions. Project work may be resumed in compliance with such plan. If human remains are encountered, the County Coroner shall be contacted immediately and the provisions of State law carried out.

Engineering Division

- v. The developer shall obtain approval of a vesting tentative map and final tract map for the proposed residential development, filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. The final map shall designate and/or dedicate emergency vehicle access easements, private vehicle access ways, and all necessary public utility easements over all common areas of the project. The final map must be approved prior to the issuance of any building permits.
- w. The project shall conform to the approved vesting tentative map and all conditions of approval set forth herein. Approval of the vesting tentative map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Newark Municipal Code. The vesting tentative map provides a preliminary design for the infrastructure improvements associated with the proposed residential subdivision. The developer shall be responsible for any required changes to this preliminary design as determined necessary by the City of Newark to satisfy applicable design requirements of the City or any other public agencies or utilities with jurisdictional authority.
- x. Prior to approval of the final map, the developer shall guarantee all necessary street improvements adjoining the development as required by the City of Newark Subdivision Ordinance and in accordance with tract improvement plans to be approved by the City Engineer. Improvement plans for on-site common areas in the development, including, but not necessarily limited to all private street areas, underground utilities, storm drain

system improvements, common area storm water bio-treatment improvements, in-tract lighting, perimeter walls and fences, and public landscape areas shall be included with the tract improvement plans to ensure that the improvements are designed and constructed to City standards. Off-site improvements include, but are not necessarily limited to City standard driveways, curb ramps, 5-foot wide sidewalk along the Ruschin Drive frontage, street lighting, fire hydrants, landscape and irrigation facilities, utility connections, pavement overlays on the adjoining street, ADA facilities, repair of existing damaged public improvements, signage, traffic signal installations or modifications as warranted or determined necessary as mitigation measures, and any necessary pavement striping modifications required by the City Engineer. All such on-site and off-site improvements shall be considered in determination of the tract improvement plan set review and inspection fees for the subdivision. Additional or alternative improvements may be required based on the recommendations and/or mitigation measures associated with the traffic analysis for this project. Improvement plans must be prepared by a qualified person licensed by the State of California to do such work.

- y. Concurrent with approval of the final map, the developer shall effectuate the removal of any existing easements encumbering the property that conflict with areas proposed for improvement. Elimination or modification of existing easements on the site requires the approval from the respective utility district or company and the City of Newark. The final maps\ shall dedicate emergency vehicle access, private vehicle access ways, open space/recreational easements and public utility easements over all common areas of the project covered by this conditional use permit and planned unit development.

- z. This site is subject to the State of California National Pollutant Discharge Elimination System (NPDES) Program General Permit for Storm Water Discharges Associated with Construction Activity. Prior to issuance of a grading permit or a building permit, the developer needs to provide evidence that the proposed site development work is covered by said General Permit for Construction Activity. This will require confirmation that a Notice of Intent (NOI) and the applicable fee were received by the State Water Resources Control Board and the submittal of the required Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the City Engineer. In addition the grading plans need to state: "All grading work shall be done in accordance with the Storm Water Pollution Prevention Plan prepared by the developer pursuant to the Notice of Intent on file with the State Water Resources Control Board."

- aa. Prior to the issuance of a grading or any building permits for this project, the developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) for the review and approval of the City Engineer. The site specific plan shall include sufficient details to show how storm water quality will be protected during both: (1) the construction phase of the project and (2) the post-construction, operational phase of the project. The SWPPP shall be prepared by a Qualified SWPPP Developer (QSD) in the State of California. The construction phase plan shall include Best Management Practices from the California Storm Water Quality Best Management Practices Handbook for Construction Activities. The specific storm water pollution prevention measures to be maintained by the contractor shall be printed on the plans. The operational phase plan shall include Best Management Practices appropriate to the uses conducted on the site to effectively

prohibit the entry of pollutants into stormwater runoff from the project site including, but not limited to, low impact development stormwater treatment measures, trash and litter control, pavement sweeping, periodic storm water inlet cleaning, landscape controls for fertilizer and pesticide applications, labeling of storm water inlets with a permanent thermoplastic stencil with the wording “No Dumping - Drains to Bay,” and other applicable practices.

- bb. The project must be designed to include appropriate source control, site design, and stormwater treatment measures to prevent stormwater runoff pollutant discharges and increases in runoff flows from the site in accordance with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP), Order R2-2009-0074, revised November 28, 2011, issued to the City of Newark by the Regional Water Quality Control Board, San Francisco Bay Region. Examples of source control and site design requirements include, but are not limited to: properly designed trash storage areas, sanitary sewer connections for all non-stormwater discharges such as fountains, swimming pools, trash compactors, interior floor drains within parking garages, minimization of impervious surfaces, and treatment of all runoff with Low Impact Development (LID) treatment measures. A properly engineered and maintained biotreatment system will only be allowed if it is infeasible to implement other LID measures such as harvesting and re-use, infiltration, or evapotranspiration. The stormwater treatment design shall be completed by a licensed civil engineer with sufficient experience in stormwater quality analysis and design. The design is subject to review by the Regional Water Quality Control Board. The developer shall modify the site design to satisfy all elements of Provision C.3 of the MRP to the satisfaction of the City Engineer, including biotreatment system sizing and design. The use of treatment controls for runoff requires the submittal of a Stormwater Treatment Measures Maintenance Agreement prior to the issuance of any Certificates of Occupancy.
- cc. The site is subject to hydromodification management (HM) requirements stated in C.3.g of the MRP. This project shall incorporate site planning, sources control measures, and on-site structural controls to manage hydromodification impacts and comply with the requirements in Attachment B of the MRP. The Bay Area Hydrology Model (BAHM) shall be used to size the proposed flow duration controls. The proposed HM controls incorporated in the project shall include the treatment control design guidance for vector control included in the Alameda Countywide Clean Water Program’s Vector Control Plan.
- dd. All stormwater treatment measures and HM controls are subject to review and approval by the Alameda County Mosquito Abatement District. The developer shall modify the grading and drainage and stormwater treatment design as necessary to satisfy any imposed requirements from the District.
- ee. The entire site shall be equipped with full trash capture devices approved by the Regional Water Quality Control Board – San Francisco Bay Region, for 100% trash capture at all on-site and adjoining off-site storm drain inlets. All on-site trash capture devices shall be permanently maintained by the homeowners association.

- ff. The developer shall submit a grading and drainage plan for review and approval by the City Engineer and the Alameda County Flood Control and Water Conservation District. This plan must be based upon a City benchmark and needs to include pad and finish floor elevations of each proposed structure, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing drainage patterns. All on-site pavement and individual lots shall drain at a minimum of one percent. The developer shall ensure that all upstream drainage is not blocked and that no ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility.

Hydrology and hydraulic calculations shall be submitted for review and approval by the City Engineer prior to approval of the final map. The calculations shall show that the City freeboard requirements will be satisfied (0.75 feet to grate or 1.25 feet to the top of curb under a 10-year storm duration).

- gg. Where a grade differential of more than a 1-foot is created along the boundary parcel lines between the proposed development and adjacent property, the developer shall install a masonry retaining wall unless a slope easement is approved by the City Engineer. Said retaining wall shall be subject to review and approval of the City Engineer. A sub-drain system shall be provided along the entire exterior tract boundary and connected to the in-tract storm drain system as a means to minimize the potential for any drainage issues on adjoining properties. A grading permit is required by the Building Inspection Division prior to starting site grading work.
- hh. Prior to issuance of a building permit, the developer shall submit a pavement maintenance program for the drive aisles and parking areas on the project site. The maintenance program shall be signed by the property owner and the property owner shall follow the maintenance program at the City Engineer's direction.
- ii. Any new utilities including, but not limited to, electric, telephone and cable television services shall be provided underground.
- jj. Any proposed utility connections and/or underground work within structurally sound street pavement must be bored or jacked. Open street cuts will not be permitted across Ruschin Drive.
- kk. The developer shall repair and/or replace any public and private improvements damaged as a result of construction activity to the satisfaction of the City Engineer and adjoining property owners.
- ll. The developer shall ensure that a water vehicle for dust control operations is kept readily available at all times during construction at the City Engineer's direction.
- mm. The developer shall incorporate a Homeowner's Association consisting of all property owners of lots in the development at the time of incorporation and in the future for the purpose of owning and maintaining the association's property, including but not limited to all private streets and common drive aisles, parking areas, landscape areas, stormwater

treatment areas, storm drain systems, public access areas, and for paying for security lighting, any common garbage collection services, any security patrol services, if provided, and other functions of a Homeowner's Association. All common areas within the development shall be owned and maintained by the Homeowner's Association. Each property owner shall automatically become a member of the association and shall be subject to a proportionate share of the maintenance expenses. The Homeowner's Association shall be incorporated prior to the sale of any individual lots and/or prior to acceptance of tract improvements, whichever occurs first. The CC&Rs shall prohibit the use of private streets as alternative routes to the in-tract public street system.

- nn. Prior to City Council approval of any final maps, the bylaws governing the property owner's association and any declaration of covenants, conditions and restrictions (CC&Rs) filed for this development shall be reviewed and approved to the satisfaction of the Community Development Director and recommendations by the City Attorney. Said covenants, conditions and restrictions shall be prominently displayed in the project sales office at all times. Approval of the covenants, conditions and restrictions shall not make the City a party to enforcement of same. The CC&Rs shall apply equally to both owners and renters. The CC&Rs shall be written to require renters to comply with the regulations of the CC&Rs, and a copy of the CC&Rs shall be given to each renter. The CC&Rs shall be written to allow less than a majority of owners to have pavement or landscape maintenance done and the cost thereof assessed to all owners in the project. The CC&Rs shall include a pavement maintenance program for all private streets and common drive aisles.
- oo. The Homeowner's Association CC&Rs shall prohibit the on-site parking of non-self-propelled recreational vehicles, including boats, and any self-propelled recreational vehicles not used for transportation unless separate storage facilities are provided. The CC&Rs shall regulate the provision of any on-site parking of self-propelled recreational vehicles used for transportation. The CC&Rs shall prohibit the on-site repair and washing of all motor vehicles.
- pp. The CC&Rs for the project shall include a disclosure statement to all property owners indicating that the project site is located within a seismic hazard zone for liquefaction. The disclosure statement shall indicate that the buildings have been designed to current code requirements. The statement shall further indicate that the buildings, site improvements, and utilities are subject to damage during an earthquake and that the buildings may be uninhabitable after an earthquake. This CC&R disclosure statement is subject to review and approval of the City Engineer prior to final map approval.
- qq. The developer shall also assist the Homeowner's Association by having a management consultant firm review the maintenance and operating functions of the association. The management consulting firm shall be responsible to prepare a written report with recommendations to the association for managing the association's obligations and setting initial monthly assessment costs for each lot in the development. Membership and assessment cost shall be mandatory for all property owners of property in the development and shall run with the land. The developer shall pay all costs of incorporation and initial management review and reports.

- rr. The Homeowner's Association shall be required to contract with a professional management firm to handle all necessary maintenance operations. Documentation of such contract shall be submitted to the City of Newark. All commonly owned facilities shall be properly maintained in a manner consistent with the CC&Rs and project requirements.
- ss. The Homeowner's Association shall periodically provide educational materials on stormwater pollution prevention to all residents.
- tt. Each buyer shall sign an acknowledgment that he/she has read the constitution and bylaws of the Homeowner's Association and the CC&Rs applied to the development.
- uu. The developer shall provide a complete set of construction plans in electronic format and reproducible paper (mylar) format to the Homeowner's Association at the time of its formation.
- vv. All new utilities including, but not limited to, electric and communication services shall be provided underground for all buildings in the development in accordance with the City of Newark Subdivision Standards. Electrical transformers shall be installed in underground vaults with an appropriate public utility easement or within the public right-of-way.
- ww. Fire hydrants are to be located along public and private streets as determined by the Alameda County Fire Department.
- xx. A streetlight plan and joint trench plan shall be submitted by the applicant with the first tract improvement plan check and approved prior to final map approval. LED lighting shall be utilized on all public and private streets and other common areas.
- yy. On-site private street lanes are to be posted for "No Parking," except in those areas designed to accommodate guest parking, as shown on the tentative map.
- zz. Public Utility Easements (PUE), Water Line Easements (WLE), Storm Drain Easements (SDE), and Sanitary Sewer Easements (SSE) shall be dedicated over all private streets in the development. The PUE, WLE, SDE and SSE dedication statements on the final map shall state that the PUE, WLE, SDE and SSE are available for, but not limited to, the installation, access and maintenance of water supply sanitary and storm sewers, and gas, electrical, and communication facilities.
- aaa. Emergency Vehicle Access Easements (EVAE) shall be dedicated over the full pavement width on all private streets in the development. The final easement geometry shall be subject to the approval of the City Engineer.
- bbb. The developer shall request Pacific, Gas & Electric Co. to commence with the design of the underground utility improvements for the proposed development immediately following tentative map approval.

- ccc. Street names and an addressing scheme shall be developed during the final map and improvement plan review process in accordance with the City of Newark's Street Numbering and Naming Ordinance (Chapter 12.12). Available street names will need to be determined. All addressing is based on the Alameda County grid pattern with streets running generally northerly and southerly having 5-digit addresses and streets running generally westerly and easterly having 4-digit addresses.
- ddd. The developer shall repair and/or replace any public improvements damaged as a result of construction activity to the satisfaction of the City Engineer.
- eee. Prior to issuance of a Certificate of Occupancy or release of utilities for any residential units, private streets, common vehicle accessways and parking facilities serving said units shall be paved in accordance with the recommendation of a licensed engineer based on a minimum Traffic Index of 6.0. All private streets shall be constructed with a minimum asphalt concrete thickness of 0.30', and shall be constructed in two lifts unless otherwise approved by the City Engineer. The final lift shall not be placed until the majority of construction activity has been completed to the satisfaction of the City Engineer.
- fff. Prior to issuance of a Certificate of Occupancy or release of utilities for each dwelling unit, the on-site drive aisles and uncovered parking facilities shall be installed and striped as shown on the approved site plan. All on-site uncovered parking facilities and drive aisles shall be drained at a minimum slope of 1.0% for asphalt concrete surfaces and 0.3% for Portland cement concrete surfaces.
- ggg. Prior to the issuance of any permits, any proposed permeable pavement design shall be based on a geotechnical engineer's recommendation and reviewed by the manufacturer or the National Ready Mixed Concrete Association (NRMCA). The developer shall submit documentation to the City confirming approval by the manufacturer or NRMCA and geotechnical engineer. The developer shall also ensure that the contractor hired to install the permeable pavement be certified by the NRMCA. Documentation that confirms certification shall be submitted directly to the City Engineer for review and approval.
- hhh. The developer shall provide all required paper and digital submittals of the project final map, tract improvements plans, and as-built plans as required by the City Engineer, including, but not necessarily limited to the following: (1) One full-size reproducible copy and one reduced reproducible copy of the approved tentative map; (2) Two electronic copies of the approved final map and improvement plans in a format approved by the City Engineer; (3) One full-size mylar copy and one reduced copy of the recorded final map; (4) One reproducible set and four blue-line or photocopied sets of the approved tract improvement plans; (5) Two electronic copies and one mylar set of the as-built tract improvement plans. The City will require a digital submittal of all final maps and improvements plans. All CAD work must be prepared in a manner consistent with the Union Sanitary District's digital submittal requirements for layering conventions. This can be found on the web at: <http://www.unionsanitary.com/digitalSubmittal.htm>. Digital files submitted shall be based on accurate coordinate geometry calculations and the NAD83 State Plane Coordinate System (Zone III) and NGVD29 (USD requires

NAVD88) as vertical datum. A deposit of \$5,000 shall be provided by the developer to the City to ensure submittal of all required documents.

- iii. The developer shall provide as-built record drawings in both electronic format and on mylar paper based on full and complete review and inspection by the developer's project civil engineer, landscape architect, and other design professionals of all public improvements and all improvements on private streets and property included in the tract improvement plan set.
- jjj. If any condition of the tentative tract map be declared invalid or unenforceable by a court of competent jurisdiction, this vesting tentative map shall terminate and be of no force and effect, at the election of the City Council on motion.
- kkk. Pursuant to Government Code Section 66474.9, the subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Newark, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
- III. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of s 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 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.

Landscape-Parks Division

- mmm. The developer shall retain a licensed landscape architect to prepare working drawings for both off-site and on-site landscape plans in accordance with City of Newark requirements, the approved Conceptual Landscape Plan, and the State of California Model Water Efficient Landscape Ordinance. The landscape plans shall be included with the full tract improvement plan set. The associated Landscape Documentation Package must be approved by the City Engineer prior to the issuance of a building permit.
- nnn. The developer shall implement Bay Friendly Landscaping Practices in accordance with Newark Municipal Code, Chapter 15.44.080. Prior to the issuance of a building permit, the developer shall provide sufficient information to detail the environmentally-conscious landscape practices to be used on the project.
- ooo. The plant species identified for any proposed biotreatment measures are subject to final approval of the City Engineer.

- ppp. All maintenance associated with the landscape-based stormwater treatment measures shall be the responsibility of the homeowners association. The developer shall enter into a Landscape Maintenance Agreement prior to approval of the final map. This agreement shall run with the land and be binding to the homeowners association as successors. Landscape maintenance of these areas by the City under the terms of the Agreement would occur only in the event that City Council deems the homeowners association's maintenance to be inadequate. Any project perimeter walls and adjoining landscape areas shall be included in a dedicated landscape easement to guarantee adequate maintenance of the walls. Any work other than routine maintenance, including but not necessarily limited to, tree removal, tree pruning, or changes to the approved planting palette shall be approved in advance by the City Engineer. All tree pruning shall be performed by or under the direction of a certified arborist.
- qqq. 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. Street trees shall be planted along the project frontage at 40 feet on-center. All plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer.
- rrr. The developer shall provide recommendations for rear-yard landscaping improvements to homeowners based on Bay Friendly Landscaping Guidelines and consistency with the California Model Water Efficient Landscape Ordinance. These recommendations shall be included in the project CC&Rs.
- sss. 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.
- ttt. Prior to issuance of Certificate of Occupancy or release of utilities, the developer shall guarantee all trees for a period of 6 months and all other plantings and landscape for 60 days after completion thereof. The developer shall insure 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

- uuu. Construction for this project, including site work and all structures, can occur only between the hours of 8:00 AM and 6:00 PM, Monday through Friday. The applicant 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.

- vvy. Prior to the commencement of any demolition activities, the applicant shall conduct a lead and asbestos survey of the existing buildings. If any lead or asbestos is present the developer shall abate the lead and/or asbestos in compliance with state and local agency standards. A report shall be provided to the City Building Inspection Division certifying abatement has been completed prior to the issuance of a demolition permit.
- www. As per Chapter 15.09.020.F of the Newark Municipal Code, each dwelling shall be equipped with a fully automatic fire sprinkler system in compliance with NFPA 13D.

General

- xxx. 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 applicant shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval.
- yyy. If any condition of this Planned Unit Development and Conditional Use Permit be declared invalid or unenforceable by a court of competent jurisdiction, this Planned Unit Development and Conditional Use Permit shall terminate and be of no force and effect, at the election of the City Council on motion.
- zzz. This Planned Unit Development and Conditional Use Permit shall be given a public hearing before the City Council for the Council's review and approval.
- aaaa. Prior to the submittal for building permit review, all conditions of approval of this project, as approved by the City Council, shall be printed on the plans.
- bbbb. 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 or, alternatively, the City will rescind the approval.
- cccc. The Conditions of Project Approval set forth herein 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.

This Resolution was introduced at the Planning Commission's January 13, 2015 meeting by Commissioner , seconded by Commissioner, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

WILLIAM FITTS, Chairperson

RESOLUTION NO.

RESOLUTION OF THE CITY OF NEWARK PLANNING COMMISSION MAKING CERTAIN FINDINGS AND RECOMMENDING CITY COUNCIL APPROVAL OF AN INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION FOR A 77 UNIT SINGLE-FAMILY SUBDIVISION ON THE FORMER RUSCHIN SCHOOL SITE (APN: 92A-775-46)

WHEREAS, the Classic Communities project (“Project”), consists of the construction of a 77 lot single family subdivision with associated parking, landscaping and extension of utility services; and

WHEREAS, the entitlements requested include a Planned Unit Development, Conditional Use Permit, Rezoning, and a Vesting Tentative Tract Map; and

WHEREAS, pursuant to the requirements of the California Environmental Quality Act (CEQA), a project level Initial Study and Mitigated Negative Declaration has been prepared for the Project, pursuant to Section 15070 *et seq.* of the CEQA Guidelines, to analyze and mitigate the Project’s potentially significant environmental impacts; and

WHEREAS, through this study, it has been determined that the Project’s potentially significant environmental impacts specifically relate to impacts associated with biological resources, cultural resources, air quality, and noise; and

WHEREAS, these potentially significant impacts can be mitigated to less than significant as shown in Section 2 of the Initial Study/Mitigated Negative Declaration; and

WHEREAS, a 20-day public review period for the Notice of Availability of the IS/MND was established beginning on August 28, 2014 and ending on September 17, 2014. Copies of the notice were transmitted, along with copies of the IS/MND, to local agencies/individuals concerned with the Project.

WHEREAS, as of the date of this resolution, January 13, 2015, comment letters have been received and have been addressed in the Initial Study/Mitigated Negative Declaration; and

WHEREAS, on January 13, 2015, the Planning Commission of the City of Newark conducted a duly noticed public hearing to consider the Initial Study and Mitigated Negative Declaration of environmental impact for the proposed Project, considered all public testimony, written and oral, presented at the public hearing; and received and considered the written information and recommendation of the staff report for the January 13, 2015 meeting related to the proposed Project.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Newark that it hereby recommends that City Council consider adopting the Initial Study and approving the Mitigated Negative Declaration of environmental impact for the Planned Unit Development and Conditional Use Permit, making the following findings:

1. The Initial Study and corresponding Mitigated Negative Declaration of environmental impact were released for public review and said mitigation measures contained within the same would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and;

2. There is no substantial evidence in light of the whole record before the City of Newark that the project may have a significant effect on the environment.

3. The Planning Commission has read and considered the Initial Study and the Mitigated Negative Declaration, and the comments thereon, and has determined the Initial Study and the Mitigated Negative Declaration reflect the independent judgment of the City and were prepared in accordance with CEQA.

4. The Initial Study and the Mitigated Negative Declaration (including any revisions developed under 14 C.C.R § 15070(b)), all documents referenced in the same, and the record of proceedings on which the Planning Commission's decision is based is are located at City Hall for the City of Newark, located at 37101 Newark Blvd, California, and is available for public review.

This Resolution was introduced at the Planning Commission's January 13, 2015 meeting by Commissioner, seconded by Commissioner, and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

WILLIAM FITTS, Chairperson