

# 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, November 10, 2015

### **A. ROLL CALL**

### **B. MINUTES**

**B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, October 27, 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: (1) Adopting a resolution recommending City Council approval of RZ-15-28, a rezoning for an approximately 68.55 acre portion of Vesting Tentative Tract Map 8270 from R-6000 (Low Density Residential) to LDR-FBC (Low Density Residential – Form Based Codes) and approximately 3 acres from R-6000 (Low Density Residential) to POS-FBC (Parks and Open Space – Form Based Codes); (2) Adopting a resolution recommending the City Council approve TM-15-27, Vesting Tentative Tract Map 8270 for 386 single family units; and (3) by motion, approving ASR-15-29, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 16. (RESOLUTIONS - 2)(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.

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# CITY OF NEWARK PLANNING COMMISSION

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

## MINUTES

Tuesday, October 27, 2015

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### A. ROLL CALL

At 7:30 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, September 8, 2015.

Commissioner Nillo moved, Vice-Chairperson Aguilar seconded, to approve the Minutes of September 8, 2015. The motion passed 5 AYES.

### C. WRITTEN COMMUNICATIONS

None.

### D. ORAL COMMUNICATIONS

None.

### 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.

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

ACM Grindall gave the staff report recommending continuance of this Item until the December 8, 2015 Planning Commission Meeting to allow staff and the representatives from the E-Z 8 Motel time to incorporate security measures into an amendment to the Conditional Use Permit.

Answering Chairperson Fitts, ACM Grindall stated an updated Activity Chart as well as a member of the Newark Police Department will be available at the December 8, 2015 Planning Commission Meeting.

Chairperson Fitts reopened the Continued Public Hearing.

No member of the public chose to speak on this item.

Motion made by Commissioner Nillo, seconded by Commissioner Otterstetter, to continue this Item to the December 8, 2015 Planning Commission Meeting. Motion passed 4 AYES, 1 RECUSED.

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

**F. STAFF REPORTS**

None.

**G. COMMISSION MATTERS**

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

None.

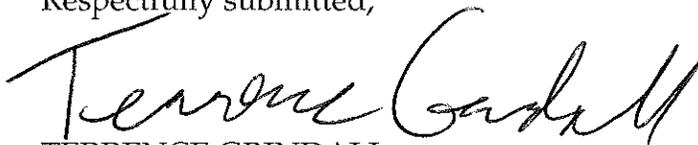
Commissioners' Comments

Commissioner Nillo and Chairperson Fitts wished everyone a safe and Happy Halloween.

**H. ADJOURNMENT**

At 7:39 p.m., Chairperson Fitts adjourned the regular Planning Commission meeting of Tuesday, October 27, 2015.

Respectfully submitted,



TERRENCE GRINDALL  
Secretary



- E.1 Hearing to consider: (1) Adopting a resolution recommending City Council approval of RZ-15-28, a rezoning for an approximately 68.55 acre portion of Vesting Tentative Tract Map 8270 from R-6000 (Low Density Residential) to LDR-FBC (Low Density Residential – Form Based Codes) and approximately 3 acres from R-6000 (Low Density Residential) to POS-FBC (Parks and Open Space – Form Based Codes); (2) Adopting a resolution recommending the City Council approve TM-15-27, Vesting Tentative Tract Map 8270 for 386 single family units; and (3) by motion, approving ASR-15-29, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 15 – from Assistant City Manager Grindall. *TG*  
(RESOLUTIONS-2)(MOTION)

**Background/Discussion** – The Sobrato Development Company has submitted an application for a 386 lot single family dwelling subdivision at the northwest corner of Cherry Street and Stevenson Boulevard. This area was previously referred to as “Area 3” in the General Plan and is now known as “Sanctuary”.

Tentative Map

The applicant has submitted a Vesting Tentative Tract Map encompassing approximately 77.55 acres of developable land. The map is divided into four villages that will be comprised of six different building types. The elevations for each village are conceptual in nature and will give guidance to each individual builder as to what is acceptable for design. The individual elevations proposed by the builders will require the review and approval of the Community Development Director before any permit is issued.

Rezoning

The current General Plan designation for the majority of the property is Low-Medium Density Residential. The remainder of the property has a Public-Institutional as well as a Parks and Recreational Facilities designation. This was in anticipation of both a school and a park locating in this area. The current zoning for the entire parcel, however, is R-6000 (Low Density Residential).

As the General Plan designation and zoning need to be consistent, approximately 68.55 acres of the site is proposed to be rezoned to LDR-FBC (Low Density Residential – Form Based Codes) which is a low density (zero to 14 dwelling units per gross developable acre) to accommodate the residential development. The LDR designation under the Form Based Codes allows for greater flexibility with setbacks and lot size, which is what the applicant is proposing. Approximately 3 acres is proposed to be rezoned to POS-FBC (Parks and Open Space – Form Based Codes) to accommodate the park. The remainder of the site (6 acres) where the school is proposed will remain R-6000. Any future school will require approval of a conditional use permit.

### Architectural Review

The architectural character of the proposed homes at Sanctuary draws upon the surrounding community to provide a diverse range of complementary home styles throughout the villages. Home styles reference Mission, Craftsman, Country, Ranch and Farmhouse elements—elements reflective of Newark’s railroad and agricultural history and built neighborhoods in the City. Several home styles are provided throughout each village to offer a variation in streetscape and ensure that no village is monotonous. The combination of diverse, yet complementary, home styles on a range of lot sizes will create a visually engaging environment for residents and guests alike.

The styles shown are not meant to limit creativity by the design team, but set priorities to achieve the following:

- Diverse and interesting massing/roof lines amongst the plans
- Utilization of high quality materials, including stucco, cementitious siding and concrete tile/composition roofing/or standing seam metal roofing.
- Each neighborhood shall incorporate three styles minimum. It is allowable for a theme to be established, that still allows for unique detailing and individuality.
- Corner lots shall be treated with dual frontage or as an enhanced side with similar materials and details wrapping both exposed elevations.

### Park

The design of the three acre public park will be completed at a later date. Design elements could include multi-turf areas for recreational purposes, playground areas for multiple school-age groups, and other passive features such as benches and picnic tables. The design will also take into consideration the shared-use needs of the adjacent school.

### Environmental

The Environmental Impact Report (EIR) that was prepared for Area 3 & 4 analyzed the impacts of the proposed uses and therefore no further environmental review is required. The project is, however, subject to the mitigation measures described in the EIR.

### **Attachment**

**Action** – It is recommended that the Planning Commission: (1) Adopt a resolution recommending City Council approval of RZ-15-28, a rezoning for an approximately 68.55 acre portion of Vesting Tentative Tract Map 8270 from R-6000 (Low Density Residential) to LDR-FBC (Low Density Residential – Form Based Codes) and approximately 3 acres from R-6000 to POS-FBC (Parks and Open Space – Form Based Codes); (2) Adopt a resolution recommending the City Council approve TM-15-27, Vesting Tentative Tract Map 8270 for 386 single family units; and (3) by motion, approve ASR-15-29, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 15.

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, Sobrato Development Company has made an application to the Planning Commission of the City of Newark to consider the amendment (RZ-15-28) 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 8270 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 Tri-City Voice on October 27, 2015, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on November 10, 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 SEIR, 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 portions of property shown on Vesting Tentative Tract Map 8270 from R-6000 (Medium Density Residential) to LDR-FBC (Low Density Residential-Form Based Codes) and POS-FBC (Parks and Open Space – Form Based Codes); 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 November 10, 2015, meeting by Commissioner, seconded by Commissioner, and passed as follows:

AYES:

NOES:

ABSENT:

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TERRENCE GRINDALL, Secretary

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WILLIAM FITTS, Chairperson

RESOLUTION NO.

RESOLUTION RECOMMENDING CITY COUNCIL  
APPROVAL OF VESTING TENTATIVE MAP 8270

WHEREAS, Sobrato Development Company has submitted VTM-15-27, Vesting Tentative Map 8270, to the Planning Commission of the City of Newark for a 442-unit residential project at the northwest corner of Cherry Street and Stevenson Boulevard (APNS: 901-185-18 through 24);

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in The Tri City Voice on October 27, 2015, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on November 10, 2015 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Newark does hereby recommend the City Council approve VTM-15-27, Vesting Tentative Map 8270 as shown on Exhibit A, pages 1 through 16 and made a part hereof by reference, subject to the following conditions:

Planning Division

- a. Approval of VTM-15-27, Vesting Tentative Map 8270, shall be effective at such time RZ-15-28, the Rezoning of the property within the boundary of Vesting Tentative Map 8270, takes effect.
- b. The project shall be subject to the mitigation measures as described in the Newark Areas 3 and 4 Specific Plan Project Environmental Impact Report (SCH No. 2007052065).
- c. 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.
- d. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.
- e. 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.
- f. Measures to respond to and track complaints pertaining to 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).

- g. 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.
- h. 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.
- i. 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.
- j. Prior to the issuance of a building permit, the conceptual 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 architectural projections such as roof eaves, bay windows, greenhouse windows, chimneys and porches. Said elevations shall specify exterior materials. Final elevations shall be submitted for the review and approval of the Community Development Director.
- k. Prior to the issuance of a building permit, floor plans consistent with those reviewed and approved by the Planning Commission and City Council, shall be submitted for the approval of the Community Development Director.
- l. Prior to the issuance of a building permit, the roof material shall be reviewed and approved by the Community Development Director. 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.
- m. Prior to the issuance of a building permit, the location and screening design for garbage, refuse and recycling collection areas for the project shall be submitted for the review and approval of Republic Services and the Community Development Director, in that order. The approved garbage, refuse and recycling areas shall be provided prior to the issuance of a Certificate of Occupancy, as required by the Community Development Director. No refuse, garbage or recycling shall be stored outdoors except within the approved trash and recycling enclosures.
- n. 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.

- o. 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.
- 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, including 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. In accordance with the Development Agreement, the applicant shall pay the following Development Impact Fees. These fees are due prior to the issuance of each permit:
  - Art in Public Places: \$270/unit
  - Public Safety: \$1,989/unit
  - Community Services/Facilities: \$1,942/unit
  - Transportation: \$801/unit
  - Community Development Maintenance Fee: 0.5% of Construction Valuation

#### Engineering Division

- u. The development will require approval of a final map(s) filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. The final map shall designate and/or dedicate all required easements, including but not necessarily limited to emergency vehicle access easements, private vehicle access ways, storm water drainage easements, open space/recreational easements and public utility easements over all common areas of the project. The final map must be approved prior to the issuance of any building permits.

- v. The project shall conform to the approved vesting tentative tract map and all conditions of approval set forth therein. Approval of the tentative tract 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 tract map provides a preliminary design for the infrastructure improvements associated with the proposed 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.
  
- w. Prior to approval of the final map, the developer shall guarantee all necessary public street improvements within and adjacent to 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. Off-site improvements include, but are not necessarily limited to all new in-tract public streets complete with all street paving, curb and gutter, and sidewalk facilities, landscaping, storm drainage, utilities, etc., and all other remaining off-site improvements within the adjoining Cherry Street and Stevenson Boulevard rights-of-way and adjoining easement areas, including traffic signal installation at the main Cherry Street entrance and other new street openings. Additional off-site improvements include the modification of the Cherry Street and Mowry Avenue intersection for installation of a second westbound left-turn lane and associated realignment as well as coordination with the City for additional improvements at this intersection by others. 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, and landscape areas shall also be included with the tract improvement plans and guaranteed by the developer prior to final map approval to ensure that the improvements are designed and constructed to City standards prior to transfer to the required homeowner's association. All private streets shall be designed based on a traffic index of not less than 6.0. Public streets shall be designed based on specific traffic indexes established by the City Engineer. Street paving shall be completed in not less than two lifts for all public and private streets. The tract improvement plans shall be prepared by a qualified person licensed by the State of California to do such work.
  
- x. 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."
  
- y. 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, stockpile protection, liquid storage containment, 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.

- z. 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, 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. Full trash capture devices meeting Regional Water Quality Control Board design criteria shall be installed by the developer in all storm drain inlets within the Cherry Street and Stevenson Boulevard rights-of-way along the project frontage. Full trash capture devices or LID controls equivalent to full trash capture shall be provided for the entire project. 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.
- aa. All stormwater treatment measures 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.
- bb. The developer shall submit detailed grading and drainage plans for review and approval by the City Engineer and the Alameda County Flood Control District (District). These plans must be based upon a City benchmark and need 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 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 and the District prior to the issuance of a grading and/or building permit. The calculations shall show that the City and County 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).

- cc. The developer shall enter into an agreement with the City of Newark for the permanent discharge of all public storm drain runoff within the development to the common area parcels designated for storm water treatment to be owned and maintained by the required homeowners association. Easements shall be dedicated to the public over these designated parcels with the final map as required by the City of Newark.
- dd. Where a grade differential of more than a 1-foot is created along the boundary lot lines between the proposed development and adjacent property, the developer shall install a masonry or concrete 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 grading permit is required by the Building Inspection Division prior to starting site grading work.
- ee. The applicant shall submit a detailed soils report prepared by a qualified engineer, registered with the State of California. The report shall address in-situ and import soils in accordance with the City of Newark Grading and Excavation Ordinance, Chapter 15.50. The report shall include recommendations regarding pavement sections for all public and private streets. Grading operations shall be in accordance with recommendations contained in the soils report and shall be completed under the supervision of an engineer registered in the State of California to do such work.
- ff. Prior to approval of the final map, the developer's engineer shall submit a pavement maintenance program for the drive aisles and parking areas for the review and approval of the City Engineer. The developer shall incorporate the program into the required Storm Water Pollution Prevention Plan (or Post Construction Storm Water Control Plan) and Storm Water Treatment Measures Maintenance Agreement.
- gg. 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 surfaces and 0.3% for Portland cement concrete surfaces.
- hh. The property owner shall be responsible for trash and litter control and sweeping of all private streets within the development. All private storm drain systems and all associated trash capture devices shall be cleaned on a regularly scheduled basis as detailed in the required Stormwater Treatment Measures Maintenance Agreement.

- ii. All new utilities including, but not limited to, electric, telephone and cable television 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.
- jj. 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. A pick-up or vacuum type street sweeper shall be available at all times at the direction of the City Engineer to removed tracked dirt and debris from adjacent streets.
- kk. The developer shall implement the following measures for the duration of all construction activity to minimize air quality impacts:
  - 1. Watering should be used to control dust generation during demolition of structures and break-up of pavement.
  - 2. All trucks hauling demolition debris from the site shall be covered.
  - 3. Dust-proof chutes shall be used to load debris into trucks whenever feasible. Watering should be used to control dust generation during transport and handling of recycled materials.
  - 4. All active construction areas shall be watered at least twice daily and more often during windy periods; active areas adjacent to the existing land uses shall be kept damp at all times or shall be treated with non-toxic stabilizers or dust palliatives.
  - 5. All trucks hauling soil, sand, and other loose materials shall be covered or require all trucks to maintain at least 2 feet of freeboard.
  - 6. All unpaved access roads, parking areas, and staging areas at construction sites shall be paved, watered three times daily, or treated with (non-toxic) soil stabilizers.
  - 7. All paved access roads, parking areas, and staging areas at construction sites shall be swept daily with water sweepers; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
  - 8. Limit traffic speeds on unpaved roads to 15 mph.
  - 9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
  - 10. Replant vegetation in disturbed areas as quickly as possible.
  - 11. Minimize idling time (5 minutes maximum).
  - 12. Maintain properly tuned equipment.

These measures shall be incorporated into the grading specifications as well as the best management practices of the storm water pollution prevention plan, and shall be implemented to the satisfaction of the City Engineer.

- ll. The developer shall provide all required paper and digital submittals of the vesting tentative map, final map, site civil plans, and as-built plans as required by the City Engineer, including, but not necessarily limited to the following: (1) One full-sized reproducible copy and one reduced reproducible copy of the approved vesting tentative map; (2) Two electronic copies of the approved final map and site civil plans in a format

approved by the City Engineer; (3) One full-sized mylar copy and one reduced copy of the recorded parcel map; (4) One reproducible set and four blue-line or photocopied sets of the approved site civil plans; (5) Two electronic copies and one mylar set of the as-built site civil plans. All digital copies of the record parcel map and site civil plans shall be prepared in accordance with Southern Alameda County Geographic Information Systems digital submittal standards. A deposit of \$5,000 shall be provided by the developer to the City to ensure submittal of all required documentation.

- mm. Prior to the approval of any final maps, detailed design review applications must be processed for all proposed building and landscaping improvements within each designated final map boundary. This future design review may result in required modifications to the infrastructure improvements shown on the tentative map, including but not necessarily limited to public street layout, street widths, utility system design, and the total scope of public improvements; private street layout, widths, and scope of improvements; lot sizes, lot patterns, and the total number of lots; park improvements; stormwater drainage design and stormwater treatment improvements; solid waste management facilities; and other public improvements. The developer shall be responsible for any and all required changes to the preliminary infrastructure design.
- nn. All traffic mitigation measures identified under existing plus project conditions in the Areas 3 and 4 Development Specific Plan Recirculated Environmental Impact Report that were not determined to be significant and unavoidable shall be completed or guaranteed prior to the approval of any final maps. The full scope of recommended improvements shall be incorporated into the tract improvement plans.
- oo. An independent Project Geotechnical Engineer shall be retained to review the final grading plans and specifications and provide construction inspection review at the developer's expense. The Project Geotechnical Engineer shall approve the grading plans prior to approval by the City of Newark for issuance of a grading permit.
- pp. 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, common 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.
- qq. 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 subject to review by the City Attorney and the Community Development Director. 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.

- rr. 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.
- ss. 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.
- tt. 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.
- uu. The developer shall enter into a Landscape Maintenance Agreement to ensure the perpetual maintenance of all common front yard, side yard, back-up, and frontage area landscaping within the development by the Homeowner's Association. This agreement shall run with the land and be binding upon all future owners or assigns. Any and all necessary easements shall be dedicated over individual lots to allow for the perpetual access and maintenance of landscaping. The full extent of landscape maintenance shall be determined with the future landscape improvements plans and detailed in said agreement. Landscaping by the City at the expense of the Homeowner's Association in these areas will only occur in the event the City Council deems the Homeowner's Association maintenance to be inadequate. Project perimeter walls and adjoining landscaped areas shall be included in a dedicated landscape easement to guarantee adequate maintenance of the walls.
- vv. All storm drain inlets within the entire development, located in both public and private areas, shall be equipped with full-capture trash devices approved by the Regional Water Quality Control Board that satisfy Provision C.10 requirements under the Municipal

Regional Stormwater NPDES Permit. Trash capture device selection is subject to approval by the City Engineer. All trash capture device maintenance within public rights-of-way shall be completed through the Landscaping and Lighting District. All trash capture device maintenance within private areas shall be completed by the Homeowner's Association. The Homeowner's Association shall be responsible for trash and litter control and sweeping of all private streets within the development. All private storm drain systems and all associated trash capture devices shall be cleaned on a regularly scheduled basis as detailed in the required Stormwater Treatment Measures Maintenance Agreement.

- ww. 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.
- xx. The Homeowner's Association shall periodically provide educational materials on stormwater pollution prevention to all residents.
- yy. 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.
- zz. 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.
- aaa. Fire hydrants are to be located along public and private streets as determined by the Alameda County Fire Department.
- bbb. 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.
- ccc. A signpost with a sign having an area of at least 15-inches by 21-inches shall be installed at or near each private street entrance. The name of each private street shall be placed on this sign in clearly legible 4-inch letters. The signs shall have painted, in at least 1-inch letters, "Private Property. Not dedicated for public use."
- ddd. On-site private streets are to be posted for "No Parking," except in those areas designed to accommodate guest parking, as shown on the vesting tentative map.
- eee. The connection between private streets and public streets shall be by a City of Newark standard driveway.
- fff. Garbage, trash, or recycling containers shall be suitably concealed in an area dedicated within the garage of each unit, except such features may be placed at curbside on the designated garbage pick-up day.

- ggg. 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.
- hhh. 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.
- iii. Easements for public access shall be dedicated over those parcels intended for public uses unless those parcels are otherwise dedicated to the public on a final map.
- jjj. The developer shall request Pacific, Gas & Electric Co. to commence with the design of the underground utility improvements for the proposed development as soon as practical following tentative map approval.
- kkk. 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.
- lll. The developer shall repair and/or replace any public improvements (pavement, curb, gutter, etc.) damaged as a result of construction activity to the satisfaction of the City Engineer.
- mmm. The developer shall be responsible for implementation or their fair share of all mitigation measures identified in the Recirculated Final Environmental Impact Report for the Newark Areas 3 and 4 Specific Plan.
- nnn. 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.
- ooo. If any condition of this vesting 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.
- ppp. 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.

- qqq. 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

- rrr. Prior to approval of the final map, the developer shall petition the City Council to participate in Landscaping and Lighting District No. 4 and shall pay all associated fees as established by the City's Master Fee Schedule. Areas covered under the terms of this existing district include but are not necessarily limited to the medians on Stevenson Boulevard between Interstate 880 and the westerly project boundary and the street medians on Cherry Street within the district boundary. Individual property owners within the development shall be assessed annually for the cost of existing landscape maintenance based on the current method of assessment distributed equally over each residential lot within the tract boundary. The costs for maintenance of new public areas within the tract boundary to be maintained under the district, including but not necessarily limited to public street tree maintenance, public street lighting, and storm drain trash capture device maintenance shall also be spread evenly over all residential lots within the tract boundary
- sss. All maintenance of common areas and site frontage areas within the development shall be maintained by the required homeowner's association, excluding the park and school sites. 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 under the direction of a certified arborist.
- ttt. Prior to final map approval, the developer shall provide a detailed park master plan for the 3-acre parcel site for approval by the Community Development Director and the Public Works Director. The plan shall be consistent with prior conceptual plans. Detailed construction plans for the park shall be completed prior to issuance of the first certificate of occupancy for any residential lots, excluding model homes, unless this requirement is waived by the Community Development Director and Public Works

Director. The park shall be improved and dedicated in accordance with the terms of the Development Agreement by and between the City of Newark and Newark Partners, LLC.

- uuu. Prior to the submittal of detailed landscape drawings as part of the tract improvement plan set for approval of any final maps, the developer shall provide a complete conceptual landscape plan that includes a full planting layout and complete planting palette. The developer shall obtain approval of this conceptual design prior to proceeding with detailed construction drawings.
- vvv. The developer shall retain a licensed landscape architect to prepare working drawings for all frontage area and common area landscape improvements in accordance with City of Newark requirements, the approved Conceptual Landscape Plan, the Specific Plan, and the State of California Model Water Efficient Landscape Ordinance. The landscape plans shall be included with the tract improvement plan set. The associated Landscape Documentation Package must be approved by the City Engineer prior to the issuance of a building permit.
- www. The developer shall implement Bay Friendly Landscaping Practices in accordance with Newark Municipal Code, Chapter 15.44.080. Prior to approval of the final map, the developer shall provide sufficient information to detail the environmentally-conscious landscape practices to be used on the project.
- xxx. The plant species identified for any proposed biotreatment measures are subject to final approval of the City Engineer.
- yyy. 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. All plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer.
- zzz. 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.
- aaaa. Prior to issuance of Certificate of Occupancy or release of utilities, the developer shall guarantee all trees for a period of 1 year 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 Division

- bbbb. 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, for all construction activities occurring within 300 feet of the north property line adjacent to Cherry Street. For construction activities occurring further than 300 feet from the north property line along Cherry Street the work hours shall be limited to 7:00 AM to 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.

General

- cccc. 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 developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval.
- dddd. 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.
- eeee. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of VTM-15-27, the developer shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the developer (which shall be the same counsel used by developer) and reasonably approved by the City. Developer's obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.

This resolution was introduced at the Planning Commission's November 10, 2015, meeting by Commissioner, seconded by Commissioner, and passed as follows:

AYES:

NOES:

ABSENT:

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TERRENCE GRINDALL, Secretary

WILLIAM FITTS, Chairperson