



CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: city.clerk@Newark.org

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

AGENDA

Thursday, May 8, 2014

CITY COUNCIL:

Alan L. Nagy, Mayor
Ana M. Apodaca, Vice Mayor
Luis L. Freitas
Sucy Collazo
Robert Marshall

CITY STAFF:

John Becker
City Manager
Terrence Grindall
Assistant City Manager
Susie Woodstock
Administrative Services Director
Sandy Abe
Human Resources Director
Peggy A. Claassen
Public Works Director
Jim Leal
Police Chief
David Zehnder
Recreation and Community
Services Director
David J. Benoun
City Attorney
Sheila Harrington
City Clerk

Welcome to the Newark City Council meeting. The following information will help you understand the City Council Agenda and what occurs during a City Council meeting. Your participation in your City government is encouraged, and we hope this information will enable you to become more involved. The Order of Business for Council meetings is as follows:

- | | |
|-------------------------------------|-------------------------|
| A. ROLL CALL | I. COUNCIL MATTERS |
| B. MINUTES | J. SUCCESSOR AGENCY |
| C. PRESENTATIONS AND PROCLAMATIONS | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS | K. ORAL COMMUNICATIONS |
| E. PUBLIC HEARINGS | L. APPROPRIATIONS |
| F. CITY MANAGER REPORTS | M. CLOSED SESSION |
| G. CITY ATTORNEY REPORTS | N. ADJOURNMENT |
| H. ECONOMIC DEVELOPMENT CORPORATION | |

Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words **MOTION**, **RESOLUTION**, or **ORDINANCE** appear in parenthesis at the end of the item. If one of these words does not appear, the item is an informational item.

The attached *Agenda* gives the **Background/Discussion** of agenda items. Following this section is the word **Attachment**. Unless "none" follows **Attachment**, there is more documentation which is available for public review at the Newark Library, the City Clerk's office or at www.newark.org. Those items on the Agenda which are coming from the Planning Commission will also include a section entitled **Update**, which will state what the Planning Commission's action was on that particular item. **Action** indicates what staff's recommendation is and what action(s) the Council may take.

Addressing the City Council: You may speak once and submit written materials on any listed item at the appropriate time. You may speak once and submit written materials on any item **not** on the agenda during **Oral Communications**. To address the Council, please seek the recognition of the Mayor by raising your hand. Once recognized, come forward to the lectern and you may, but you are not required to, state your name and address for the record. Public comments are limited to five (5) minutes per speaker, subject to adjustment by the Mayor. Matters brought before the Council which require an action may be either referred to staff or placed on a future Council agenda.

No question shall be asked of a council member, city staff, or an audience member except through the presiding officer. No person shall use vulgar, profane, loud or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the presiding officer for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.



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City Administration Building
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AGENDA

Thursday, May 8, 2014

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, April 24, 2014. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Background/Discussion – Recently hired General Laborer Brandon Gordon and recently promoted Building Mechanic I Jose Rodriguez will be at the meeting to be introduced to the City Council.

C.2 Proclaiming May 18-24, 2014, as National Public Works Week in Newark. (PROCLAMATION)

Background/Discussion – May 18-24, 2014, has been designated National Public Works Week in Newark. A member of the Public Works Department will be at the meeting to accept the proclamation.

C.3 Proclaiming May 18-24, 2014, as National Emergency Medical Services Week in Newark. (PROCLAMATION)

Background/Discussion – May 18-24, 2014, has been designated National Emergency Medical Services Week in Newark. A member of the Alameda County Fire Department will be at the meeting to accept the proclamation.

C.4 Proclaiming May 18-24, 2014, as National Police Week in Newark. (PROCLAMATION)

Background/Discussion – May 18-24, 2014, has been designated National Police Week in Newark. A member of the Police Department will be at the meeting to accept the proclamation.

C.5 Presentation by Assemblymember Bob Wieckowski on the “State of the State.” (PRESENTATION)

Background/Discussion – Assemblymember Bob Wieckowski will give a presentation on the current “State of the State” and how recent laws and the budget affect cities.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 Hearing to consider P-14-2, a planned unit development, U-14-3, a conditional use permit, and E-14-4, an environmental determination, for a one-day carnival to be held on August 9, 2014 at NewPark Mall (APN 901-0111-025) in conjunction with the Halal Food & Eid Festival; and authorization to waive the application fee – from Assistant City Manager Grindall. (MOTIONS-2)

Background/Discussion – Mr. Irfan Rydhan has made an application for a carnival during the Halal Food & Eid Festival planned for August 9, 2014. This will be the Second Halal Food & Eid Festival at NewPark Mall and will include a wide variety of different cuisine from around the world including Indian, Pakistani, Middle Eastern, Arab, Mediterranean, African as well as American. There will also be a large bazaar featuring vendors selling a wide variety of items such as clothing, jewelry, gifts, toys and artwork from around the world. There will also be carnival rides and games for children and families. The Festival will be located in the same general area where the Farmers Market is held every weekend. The applicant, a nonprofit organization, has also requested a fee waiver.

Events like circuses and carnivals are not considered permitted uses in this Regional Commercial zoning district, so they require Planning Commission and City Council approval. As these events can attract large crowds, this process allows conditions of approval to be established in order to assure a safe and orderly event.

The proposed project is categorically exempt from the California Environmental Quality Act per section 15304, Class 4(e), minor temporary use of land having negligible or no permanent effect on the environment.

Attachment

Update – At its meeting of April 22, 2014, the Planning Commission approved Resolution No. 1866 with Exhibit A, for P-14-2, a planned unit development, U-14-3, a conditional use permit, and E-14-4, an environmental determination, for a one-day carnival to be held on August 9, 2014 at NewPark Mall (APN 901-0111-025) in conjunction with the Halal Food & Eid Festival.

Action – It is recommended that the City Council, by motions: (1) approve Resolution No. 1866, with Exhibit A, for P-14-2, a planned unit development, U-14-3, a conditional use permit, and E-14-4, an environmental determination, for a one-day carnival to be held on August 9, 2014 at NewPark Mall (APN 901-011-025) in conjunction with the Halal Festival; and (2) authorize a waiver of the application fee.

- E.2 Hearing to consider the development of approximately 217 residential units (Trumark Homes) on an approximately 21.4 acre project site (Jones Hamilton property) located on the south side of Enterprise Drive east of Willow Street: (1) Resolution making certain findings and adopting the Supplemental Environmental Impact Report to the Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan; (2) Introduction of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010, “Zoning Map” by rezoning all that real property shown on Vesting Tentative Map 8098 from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Codes); (3) Resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and authorizing the mayor to sign the Affordable Housing Implementation Agreement; (4) Resolution authorizing the Mayor to sign a Community Financing Agreement with Newark Enterprise Joint Venture, LLC; (5) Resolution authorizing the Mayor to sign a Park Agreement with Newark Enterprise Joint Venture, LLC; (6) Resolution approving TM-12-32, Vesting Tentative Map 8098; (7) By Motion, approving an Architectural and Site Plan Review; and (8) By motion, approving the Schedule of Impact Fees – from Assistant City Manager Grindall. (RESOLUTIONS- 5) (INTRODUCTION OF ORDINANCE) (MOTIONS-2)**

Background/Discussion – Trumark Homes has submitted an application for the development of 217 single-family residential homes. The project site is an approximately 21.4-acre parcel located within the City’s Dumbarton Transit-Oriented Development Specific Plan Area. The currently vacant site formerly contained various industrial and chemical land uses and as a result, will be remediated in order to accommodate the proposed residences. Specifically, the applicant proposes to rezone the site and obtain approval for a tentative map and an Architectural and Site Plan Review. The proposal also involves the approval of the Supplemental Environmental Impact Report (SEIR) for the Dumbarton Transit-Oriented Development Specific Plan.

Plan Conformance

The proposed project is consistent with the objectives, policies, and vision of the Dumbarton Transit-Oriented Development Specific Plan. Approved in 2007, the Plan has comprehensive guidelines aimed to foster the development of a sustainable, economically-viable community with a strong sense of place. At approximately 21.4-acres, the project site represents about one-tenth of the approximately 205-acres of land that comprises the Plan area. The complete project area, located on the south side

of Enterprise Drive east of Willow Street, is at a half-mile distance and ten minute walk from the proposed Dumbarton Rail train station.

In 2013, the City Council approved a Vesting Tentative Tract Map for 547 residential units on the west side of Willow Street at the terminus of Central Avenue, located southwest of the subject site. Staff has received concurrent applications for residential and commercial development near the project site and anticipates that more proposals will follow and thus, facilitate the growth of the planned community.

It is proposed to rezone the site area from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Code) to be consistent with the Specific Plan.

The Architectural and Site Plan Review

Two and three-story single-family detached homes are proposed, consisting of three different products, nine floor plans and multiple designs. The number and layout of the three home types will be divided almost equally throughout the project site. The homes will include three and four bedrooms and range from 1509 square feet to 2312 square feet in size. Larger homes will provide additional living area and will include a den, loft, or a bonus room. All homes will provide two-car covered parking; the three-story homes will provide rear loaded two-car garages. On-street guest parking will also be scattered throughout the site.

Outdoor amenities for the project include picnic tables, barbeque grills, benches, a shaded sitting area and a children's play structure. In addition, a large recreational turf area will be sited alongside the children's play structure. All of the amenities will be centrally located within the site.

Affordable Housing

Chapter 17.18 of the Newark Municipal Code (NMC) generally requires developers to set-aside a minimum of 15% of the total number of dwelling units in a project as inclusionary units for very low, low, and moderate income households. Nine percent of the units are required to be affordable to moderate income households (earning 110% or less of the median income) and 6% to be affordable to lower income households earning (80% or less of the median income). The NMC also authorizes alternative means of compliance with the City's Affordable Housing Program (AHP), including land dedication, payment of in-lieu fees, or approval of an alternative housing program consisting of any combination of alternative means of compliance. Enterprise Drive LLC intends to provide an alternative means of compliance with the City's Affordable Housing Program by entering into an "Affordable Housing Implementation Agreement". Per the agreement, the Developer will pay the City a fee in the amount of \$25,000 for each unit within the Project.

The fee will allow the City to address the need for affordable housing more effectively than compliance with the ordinance. The fee will allow for the purchase of property in appropriate locations and the flexibility to leverage the funds with public and private

sources to provide the type of housing that the community most needs. Generally regional, state and federal affordable housing funding or financing programs need an identified site to be competitive in the funding process. Without resources to acquire appropriate properties it is highly unlikely that the City would be able to effectively compete for these funds. Furthermore, this fee would allow the City to focus our housing efforts on areas of particular need in the community and to tailor the level of housing affordability to have the greatest positive impact on those needing housing assistance. The funding provided by this development would allow the City to advance project readiness of potential sites thus further improving the likelihood of receiving funding from regional, state and federal sources. The alternative means of compliance fulfills the purposes of the Inclusionary Housing Ordinance, and will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of the Ordinance. The alternative means of compliance will not unduly concentrate below market rate housing in one geographic area, because no particular project is now envisioned and the Planning Commission and City Council can monitor this concern when particular affordable housing developments are proposed.

Community Financing Agreement and Park Agreement

The Applicant will be required as a condition of approval to enter into a Park Agreement with the City. The proposed Park Agreement does not obligate the City to take any action related to the Gallade parcel (see Park Agreement § 1.02), but in the event the City does seek to acquire that parcel, the Park Agreement would require the Applicant to fund certain costs related to the acquisition of the Gallade parcel and its development as a public park in conformance with its designation under the TOD Specific Plan. The applicant has agreed to enter into a Community Financing Agreement that would provide additional financing for a neighborhood park. The development of the Gallade parcel as a neighborhood park was analyzed in the TOD Specific Plan EIR. The TOD Specific Plan EIR provides the required CEQA compliance for the approval of the Park Agreement and Community Financing Agreement. As explained in the FEIR (e.g., Response to Comment A-3) and the staff report's attachment, staff has determined that there is no new information, changes in the development contemplated in the TOD Specific Plan EIR, or changes in circumstances since the certification of the TOD Specific Plan EIR that would require further environmental review under CEQA of the potential development of the Gallade parcel as a public park. However, the timing of the development of the Gallade parcel is currently uncertain. Further CEQA review may be appropriate if and when future discretionary actions by the City occur related to the development of the Gallade parcel as a public park, including the potential decision to acquire the Gallade parcel, if any of the thresholds found in CEQA Guideline § 15162 is met at the time of that potential future approval. Also, consistent with the Subdivision Map Act (Gov. Code § 66462.5), if the City does not obtain sufficient property interest in the Gallade parcel in order for the park to be developed consistent with the timing of the Park Agreement, conditions related to the park would be waived except for payment of fees that would be used for future park projects. The potential waiver of these conditions would not foreclose development of a neighborhood park as envisioned by the TOD Specific Plan, but would alter the mechanism used to fund park improvements.

The Supplemental Environmental Impact Report (SEIR)

An Environmental Impact Report (EIR) was prepared in 2011 to evaluate the impacts from the adoption of the Dumbarton TOD Specific Plan. The Newark City Council certified the environmental document on September 8, 2011. Because the EIR did not evaluate project-level impacts at the proposed site, a Supplemental Environmental Impact Report (SEIR) has been prepared to determine if the proposed residential development would result in new significant impacts not addressed in the EIR.

The SEIR analyzed potential environmental impacts with respect to air quality, biological resources, cultural resources, greenhouse gases, hazards and hazardous materials, and noise. The document concluded that the only new significant impacts involve biological resources and hazardous material impact. As described in Section 4.2 of the SEIR, *Biological Resources*, the project would impact both seasonal wetlands and Cogdon's tarplant at the site. The tarplant impact would be mitigated to a less than significant extent by planting at an off-site mitigation site and/or planting on-site after remediation. Mitigation measures for wetland impacts include the purchase of off-site mitigation credits, with lost wetlands being replaced at a minimum one acre to one acre ratio. Section 4.5, *Hazards and Hazardous Materials*, of the SEIR explains that future residents of the project would be affected by an accidental release from industrial facilities located approximately one mile from the project. It's important to note that chemicals in the quantities evaluated for the project are routinely transported by rail and truck on public roadways, including Interstate 880 and State Route 84. The potential risk to the site from the accidental release of hazardous materials is, therefore, similar to that of other areas in Newark near industrial or transportation facilities.

The review period for the SEIR ended on February 7, 2014. During the review period, the City received letters from both the Alameda County Water District and the Department of Toxic Substances Control (DTSC). These letters have been addressed in the Final SEIR provided to the Planning Commission previously. In addition, the City received a letter via email on March 27, 2014 from legal counsel representing the Gallade Property. A response to this letter is included in the attachments.

Update – At its meeting of April 22, 2014, the Planning Commission: 1) Adopted Planning Commission Resolution No. 1870 making certain findings and recommending City Council adoption of a Supplemental Environmental Impact Report to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development; (2) adopted Planning Commission Resolution No. 1871 recommending rezoning (RZ-12-31), a 21.4-acre area (APN's 092-0116-058, 092-0116-059, 092-0116-060) from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Codes); 3) adopted Planning Commission Resolution No. 1872 making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and recommended City Council approve the attached Affordable Housing Implementation Agreement; 4) By motion recommended that the City Council approve TM-12-32, Vesting Tentative Map

8098; 5) By motion, recommended that the City Council approve ASR-12-33, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 69; and 6) By motion approved Exhibit B, Schedule of Impact Fees.

Attachments

Action – It is recommended that the City Council: (1) Adopt a resolution making certain findings and adopting the Supplemental Environmental Impact Report (E-12-30) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development Specific Plan; (2) Introduce an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010, “Zoning Map” by rezoning all that real property shown on Vesting Tentative Map 8098 from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Codes); (3) Adopt a resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and authorizing the Mayor to sign the Affordable Housing Implementation Agreement for the Jones Hamilton project; (4) Adopt a resolution authorizing the Mayor to sign a Community Financing Agreement with Newark Enterprise Joint Venture, LLC; (5) Adopt a resolution authorizing the Mayor to sign a Park Agreement with Newark Enterprise Joint Venture, LLC; (6) Adopt a resolution approving TM-12-32, Vesting Tentative Map 8098; (7) By Motion, approving ASR-12-33, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 69; and (8) By Motion, approving Exhibit B, Schedule of Impact Fees.

- E.3 Hearing to consider the development of approximately 27 residential units (Trumark Homes) on an approximately 2.14-acre project site (Enterprise Property) located on the north side of Enterprise Drive east of Willow Street: (1) Resolution making certain findings and adopting a Supplemental Environmental Impact Report to the Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan; (2) Introduction of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010 “Zoning Map” by rezoning all that real property shown on vesting tentative map 8110 from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Codes); (3) Resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and approving the Affordable Housing Implementation Agreement; (4) Resolution approving Vesting Tentative Map 8110; (5) Resolution authorizing the Mayor to sign a Community Financing Agreement with Enterprise Joint Venture, LLC; (6) By motion, approving an Architectural and Site Plan Review; and (7) By motion, approving the Schedule of Impact Fees – from Assistant City Manager Grindall.
(RESOLUTIONS- 4)(INTRODUCTION OF ORDINANCE)(MOTIONS-2)**

Background/Discussion – In collaboration with the landowners, the City of Newark began a planning effort in the Fall of 2007 to explore potential development around the planned Newark Dumbarton Rail Station. The Project Area includes approximately 205 acres of land that has previously contained various industrial, manufacturing, and chemical processing land uses since the early twentieth century. Most of the land is currently vacant.

Enterprise Drive, LLC has now submitted a proposed Vesting Tentative Map and building plans for 27 units to be located on approximately 2.14 acres along Enterprise Drive. It is proposed to rezone a portion of the Dumbarton TOD to be consistent with the Specific Plan. RZ-12-27 is a rezoning of an approximately 2.14-acre area (Assessor's Parcel Number 092-0140-006); an area generally located on the north side of Enterprise Drive east of Willow Street. The rezoning would be from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Codes which is consistent with the Specific Plan.

The Architectural and Site Plan Review

Three building designs are proposed, each with three different floor plans. All three designs will accommodate three stories that provide two covered parking spaces, a mid-level living area with dining room, family room, and kitchen, and a third story living area with three bedrooms. The ground floor will provide either a media/living room and/or an option for an additional bedroom.

Although these homes are somewhat narrow (22-feet wide), they provide a nice variation in design and offer balconies, dormers, several window treatments, recessed features, and wall treatments. The average lot size in this development is 2,177 square feet.

Community Financing Agreement and Park Agreement

The acquisition of the Gallade parcel would be required prior to the issuance of a Certificate of Occupancy for any of the proposed homes (Condition c). The Applicant will be required as a condition of approval to enter into a Park Agreement with the City. The proposed Park Agreement does not obligate the City to take any action related to the Gallade parcel (see Park Agreement § 1.02), but in the event the City does seek to acquire that parcel, the Park Agreement would require the Applicant to fund certain costs related to the acquisition of the Gallade parcel and its development as a public park in conformance with its designation under the TOD Specific Plan. The applicant has agreed to enter into a Community Financing Agreement that would provide additional financing for a neighborhood park. The development of the Gallade parcel as a neighborhood park was analyzed in the TOD Specific Plan EIR. The TOD Specific Plan EIR provides the required CEQA compliance for the approval of the Park Agreement and Community Financing Agreement. As explained in the FEIR (e.g., Response to Comment A-3) and the staff report's attachment, staff has determined that there is no new information, changes in the development contemplated in the TOD Specific Plan EIR, or changes in circumstances since the certification of the TOD Specific Plan EIR that would require further environmental review under

CEQA of the potential development of the Gallade parcel as a public park. However, the timing of the development of the Gallade parcel is currently uncertain. Further CEQA review may be appropriate if and when future discretionary actions by the City occur related to the development of the Gallade parcel as a public park, including the potential decision to acquire the Gallade parcel, if any of the thresholds found in CEQA Guideline § 15162 is met at the time of that potential future approval.

Affordable Housing

Chapter 17.18 of the Newark Municipal Code (NMC) generally requires developers to set-aside a minimum of 15% of the total number of dwelling units in a project as inclusionary units for very low, low, and moderate income households. Nine percent of the units are required to be affordable to moderate income households (earning 110% or less of the median income) and 6% to be affordable to lower income households earning (80% or less of the median income). The NMC also authorizes alternative means of compliance with the City's Affordable Housing Program (AHP), including land dedication, payment of in-lieu fees, or approval of an alternative housing program consisting of any combination of alternative means of compliance. Enterprise Drive LLC intends to provide an alternative means of compliance with the City's Affordable Housing Program by entering into an "Affordable Housing Implementation Agreement". Per the agreement the Developer will pay the City a fee in the amount of \$25,000 for each unit within the Project.

The fee will allow the City to address the need for affordable housing more effectively than compliance with the ordinance. The fee will allow for the purchase of property in appropriate locations and the flexibility to leverage the funds with public and private sources to provide the type of housing that the community most needs. Generally regional, State and Federal affordable housing funding or financing programs need an identified site to be competitive in the funding process. Without resources to acquire appropriate properties it is highly unlikely that the City would be able to effectively compete for these funds. Furthermore, this fee would allow the City to focus our housing efforts on areas of particular need in the community and to tailor the level of housing affordability to have the greatest positive impact on those needing housing assistance. The funding provided by this development would allow the City to advance project readiness of potential sites thus further improving the likelihood of receiving funding from regional, state and federal sources. The alternative means of compliance fulfills the purposes of the Inclusionary Housing Ordinance, and will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of the Ordinance. The alternative means of compliance will not unduly concentrate below market rate housing in one geographic area, because no particular project is now envisioned and the Planning Commission and City Council can monitor this concern when particular affordable housing developments are proposed.

The Supplemental Environmental Impact Report (SEIR)

The SEIR prepared for this project and the adjacent Jones-Hamilton property project was completed by David J. Powers & Associates, Inc. The key issues analyzed by

the SEIR were air quality, biological resources, cultural resources, greenhouse gas emissions, hazards and hazardous materials, and noise.

Of these six issues, the only new significant impacts resulting from this project would include biological impacts and hazardous material impact. These represent project-specific impacts that are specific to the location of the project sites and the development proposed by the project.

As described in Section 4.2 of the SEIR, *Biological Resources*, the project would result in impacts to seasonal wetlands and Cogdon's tarplant. These impacts would be mitigated to less than significant levels through mitigation measures identified in the SEIR, specifically the purchase of off-site mitigation credits for habitat impacts or alternatively, on-site propagation of Cogdon's tarplant on the Jones-Hamilton project site.

As described in Section 4.5 of the SEIR, *Hazards and Hazardous Materials*, the project could be affected by airborne hazardous substances in the event of an accidental release from facilities located approximately one mile from the project. Given the extensive area potentially impacted by a hazardous substance release, and the lack of feasible protective measures for single-family homes in the affected area, there is no feasible mitigation measure to protect future residents of the project from the hazard. This potential impact is therefore considered significant and unavoidable. It's important to note that chemicals in the quantities evaluated for the project are routinely transported by rail and truck on public roadways, including Interstate 880 and State Route 84. The potential risk to the site from the accidental release of hazardous materials is, therefore, similar to that of other areas in Newark near industrial or transportation facilities.

The review period for the SEIR ended on February 7, 2014. During the review period, the City received letters from both the Alameda County Water District and the Department of Toxic Substances Control (DTSC). These letters have been addressed in the Final SEIR provided to the Planning Commission previously. In addition, the City received a letter via email on March 27, 2014 from legal counsel representing the Gallade Property. Though there is no obligation to respond to comments submitted after the close of the comment period on the SEIR, a response to this letter is nonetheless included in the attachments.

Update – At its meeting of April 22, 2014, the Planning Commission: 1) Adopted Planning Commission Resolution No. 1867 making certain findings and recommending City Council adoption of a Supplemental Environmental Impact Report to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development; (2) adopted Planning Commission Resolution No. 1868 recommending rezoning (RZ-12-27), a 2.14-acre area (APN 92-140-6) from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Codes); 3) adopted Planning Commission Resolution No. 1869 making findings supporting the use of an alternative means of compliance with the

Inclusionary Housing Ordinance and recommended City Council approve the attached Affordable Housing Implementation Agreement; 4) By motion recommended that the City Council approve TM-12-28, Vesting Tentative Map 8110; 5) By motion, recommended that the City Council approve ASR-12-29, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 29; and 6) By motion approved Exhibit B, Schedule of Impact Fees.

Attachments

Action – It is recommended that the City Council: (1) Adopt a resolution making certain findings and adopting a Supplemental Environmental Impact Report (E-12-30) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development Specific Plan; (2) Introduce an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010 “Zoning Map” by rezoning all that real property shown on vesting tentative map 8110 from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Codes); (3) Adopt a resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and authorizing the Mayor to sign the Affordable Housing Implementation Agreement for the Enterprise Drive Project; (4) Adopt a resolution approving TM-12-28, Vesting Tentative Map 8110, Enterprise Property; (5) Adopt a resolution authorizing the Mayor to sign a Community Financing Agreement with Enterprise Joint Venture, LLC; (6) By motion, approve ASR-12-29, an Architectural and Site Plan Review; and (7) By motion, approve Exhibit B, Schedule of Impact Fees.

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.6 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

- F.1 Accepting the bid of Cyber Computers Inc. for the purchase of two Hewlett-Packard DL160 Servers for Public Works Department’s CRW Trakit permitting software system, Project No. CIP1043 – from Information Systems Manager Towne. (RESOLUTION)**

Background/Discussion – Two Hewlett-Packard (HP) DL160 servers are necessary for the successful implementation of the Public Works Department’s CRW Trakit permitting software system, Capital Improvement Project #1043.

In April Information Systems staff developed a Request for Quotes (RFQ), Project No. CIP1043, with a specification for the server equipment required. This RFQ was distributed to a number of HP resellers. As of the deadline of April 24, 2014, five vendors had

responded with quotes – CDW Government; Computerland; Cyber Computers Inc.; Howard Technologies; and Genisys.

The total cost of each quote is reflected in the table below.

CDWG	Computerland	Cyber	Howard	Genisys
\$10,496	\$11,200	\$10,360	\$10,490	\$12,341

It is recommended that the lowest total cost bid, provided by Cyber Computers Inc. for the HP server equipment, be accepted as the lowest responsible bid. The Cyber Computers Inc. quote was for \$10,360, which is available through the Capital Improvement Project #1043 budget.

Attachment

Action - It is recommended that the City Council, by resolution, accept the bid of Cyber Computers Inc. for the purchase of two Hewlett-Packard DL160 Servers, Project No. CIP1043.

F.2 Acceptance of work with Rosas Brothers Construction for 2013 Curb, Gutter and Sidewalk Replacement, Project 1042 – from Senior Civil Engineer Fajeau. (RESOLUTION)

Background/Discussion – On April 11, 2013, the City Council awarded a contract to Rosas Brothers Construction, Inc. for 2013 Curb, Gutter and Sidewalk Replacement, Project 1042. This project provided replacement concrete curb, gutter and sidewalk on various City streets.

The project was completed on time and within budget using Measure B Local Streets and Roads Program funds and Measure B Bicycle and Pedestrian Program funds.

Attachment

Action - It is recommended that the City Council, by resolution, accept the work with Rosas Brothers Construction for 2013 Curb, Gutter and Sidewalk Replacement, Project 1042.

F.3 Acceptance of work with VSS International, Inc. for 2013 Street Microsurfacing Program, Project 1041 – from Associate Civil Engineer Tran. (RESOLUTION)

Background/Discussion – On June 27, 2013, the City Council awarded a contract to VSS International, Inc. for 2013 Street Microsurfacing Program, Project 1041. This project provided microsurfacing application of sand, aggregate, and asphalt emulsion mixture and pavement re-striping on various City streets.

This project was completed on time and within the original budget using Alameda County Measure B Sales Tax funds, Alameda County Vehicle Registration Fee funds, and the Traffic Congestion Relief Fund.

Attachment

Action - It is recommended that the City Council, by resolution, accept the work with VSS International, Inc. for 2013 Street Microsurfacing Program, Project 1041.

F.4 Second reading and adoption of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code by rezoning all that real property shown on Vesting Tentative Map 8157 (APN 092-0115-11, 12 & 13) from MT-1 (High Technology Park District) to MDR-FBC (Medium Density Residential – Form Based Codes), HDR-FBC (High Density Residential – Form Based Code), and R-FBC (Commercial Retail – Form Based Code) – from City Clerk Harrington. (ORDINANCE)

Background/Discussion – On April 24, 2014, the City Council introduced an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010 “Zoning Map” by rezoning all that real property shown on vesting tentative map 8157 (APN 092-0115-11, 12 & 13) from MT-1 (High Technology Park District) to MDR-FBC (Medium Density Residential – Form Based Codes), HDR-FBC (High Density Residential – Form Based Code), and R-FBC (Commercial Retail – Form Based Code). This applies to the development of townhomes, affordable housing units and a commercial building along Enterprise Drive and Willow Street within the Dumbarton Transit Oriented Development Specific Plan.

Attachment

Action - It is recommended that the City Council adopt the ordinance amending Title 17 (Zoning) 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.

F.5 Endorsement of Measure AA the Alameda County Healthcare Services Tax on the June 3, 2014 ballot – from City Clerk Harrington. (RESOLUTION)

Background/Discussion – At the April 24, 2014 City Council meeting, Kuwaza Imara of the Committee for a Healthy Alameda County gave a presentation on Measure AA the Alameda County Healthcare Services Tax. In 2004, Measure A authorized Alameda County to impose a half-cent sales and use tax to “provide for additional financial support for emergency medical, hospital inpatient, outpatient, public health, mental health and substance abuse services to indigent, low-income, and uninsured adults, children, families, seniors and other residents of Alameda County.” The Alameda County Board of Supervisors has placed Measure AA on the June 3, 2014 ballot to maintain the half-cent sales tax as originally approved by Measure A with an extension of 15 more years upon the expiration of the current measure.

Attachments

Action - It is recommended that the City Council, by resolution, endorse Measure AA the Alameda County Healthcare Services Tax.

F.6 Approval of an agreement for participation in the Alameda County Operational Area Emergency Management Organization – from City Manager Becker. (RESOLUTION)

Background/Discussion – As a result of the 1991 East Bay Hills firestorm, State Senator Nicholas Petris sponsored legislation that established a standardized emergency management system, or SEMS, in California. An important component of SEMS is the Operational Area which is defined as:

An intermediate level of the state emergency services organization consisting of a county and all political subdivisions within the county area [California Government Code, section 8559 (b)].

State regulations assigned responsibility for developing the Operational Area Emergency Management Organization to local boards of supervisors'. In January 1995, the Alameda County Board of Supervisors implemented an "Operational Area" in Alameda County and approved an agreement for cities, special districts, and other public benefit non-profit corporations to participate in the Alameda County Operational Area Emergency Management Organization. In February 2005, the Board of Supervisors approved a revised version of the Operational Area Emergency Management Agreement.

Staff was recently contacted by the Alameda County Office of Emergency Services and advised that as a result of an oversight, the 2005 Operational Area Emergency Management Agreement was never formally approved by a number of cities in Alameda County including Newark. It is important that the City Council formally approve the participation agreement and that the Alameda County Office of Emergency Services has an approval resolution on file. There is no fiscal impact associated with the agreement.

Attachment

Action - It is recommended that the City Council, by resolution, approve an agreement for participation in the Alameda County Operational Area Emergency Management Organization.

NONCONSENT

F.7 Direction to file Annual Reports and intention to order improvements for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7 and 10 and setting date of public hearing – from Senior Civil Engineer Fajeau. (RESOLUTIONS-2)

Background/Discussion – The City Council has previously created Landscaping and Lighting District Nos. 1, 2, 4, 6, 7 and 10 to provide for the operation and maintenance of certain landscaping and lighting improvements. These districts are as follows:

Landscaping and Lighting District No. 1: Central Avenue between Filbert Street and Willow Street - Provides for the maintenance of median landscaping on Central Avenue between Filbert Street and Willow Street and buffer landscaping adjacent to the Alameda County Flood Control channel immediately west of Filbert Street, and for the maintenance and operation of median street lights along this portion of Central Avenue.

Landscaping and Lighting District No. 2: Jarvis Avenue and Newark Boulevard adjacent to Dumbarton Technology Park and Four Corners shopping centers - Provides for the maintenance of Jarvis Avenue and Newark Boulevard median island and in-tract buffer landscaping and landscape irrigation systems adjacent to and within the boundaries of Tract 5232, the Dumbarton Industrial Park, and the Four Corners shopping centers.

Landscaping and Lighting District No. 4: Stevenson Boulevard and Cherry Street adjacent to New Technology Park - Provides for the maintenance of Stevenson Boulevard median island landscaping from the Nimitz Freeway to the railroad tracks west of Cherry Street and maintenance of median island and up to 50 feet of greenbelt landscaping adjacent to Cherry Street and the future interior loop streets within the boundaries of New Technology Park, and the maintenance of landscaping across the Newark Unified School District property on Cherry Street.

Landscaping and Lighting District No. 6: Cedar Boulevard, Duffel Redevelopment Area No. 2 - Provides for the maintenance of all street landscaping within the public right-of-way, and landscaping and landscape irrigation systems within easement areas and developed properties in Redevelopment Area No. 2 at Cedar Boulevard and Stevenson Boulevard plus the Stevenson Station Shopping Center.

Landscaping and Lighting District No. 7: Newark Boulevard, Rosemont Square Shopping Center - Provides for the maintenance of buffer landscaping and the landscape irrigation system within the public right-of-way and easement areas for Rosemont Square Shopping Center.

Landscaping and Lighting District No. 10: Consolidated District - Provides for the maintenance of landscaping and landscape irrigation systems within the right-of-way and easement areas for all of the Inactive Subdistricts.

In the opinion of bond counsel, Brown Act amendments requiring two hearings for increasing assessments do not apply to the annual budget hearings unless there is an addition to the improvements or a change in the formula for allocating the cost among benefited properties. Neither of these cases applies for each of the above districts and the annual public hearings are simply to adopt a budget for the upcoming year.

Upon conclusion of the annual public hearings, the assessments for the cost of the work are added to the tax bills for those property owners included within the boundaries of the

particular Landscaping and Lighting District. Excess funds, or funds collected for which no work was done, can be carried over from one year to the next.

Attachment

Action - It is recommended that the City Council, by resolutions, direct the filing of annual reports for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7 and 10 in accordance with the provisions in the Landscaping and Lighting Act of 1972 and confirm the intent to order the improvements by setting the date for the annual public hearings for these districts for June 26, 2014.

F.8 Direction to file Annual Reports and intention to order improvements for Landscaping and Lighting District Nos. 11, 13, 15, 16, and 17 and setting date of public hearing – from Senior Civil Engineer Fajeau. (RESOLUTIONS-2)

Background/Discussion – The City Council has previously created Landscaping and Lighting District Nos. 11, 13, 15, 16, and 17 to provide for the operation and maintenance of certain landscaping and lighting improvements. These districts are as follows:

Landscaping and Lighting District No. 11: Edgewater Drive medians - Provides for the maintenance of landscaped medians on Edgewater Drive.

Landscaping and Lighting District No. 13: Citation Homes and Bren Development/Thornton Avenue - Provides for maintenance of the landscaping and lighting irrigation systems for Thornton Avenue, Cedar Boulevard, Willow Street, and other streets within these subdivisions. This district was relieved from the responsibility for maintenance of median landscaping on Thornton Avenue in May 1997. This district is therefore now an inactive district.

Landscaping and Lighting District No. 15: Robertson Avenue at Iris Court - Provides for the maintenance of the landscaping and irrigation systems on Robertson Avenue at Iris Court.

Landscaping and Lighting District No. 16: Kiote Drive in Tract 6671 - The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement along the street frontage of Kiote Drive in Tract 6671 and the landscaping, irrigation system, recreation facilities, and storm drainage pump station and filtration system for the mini-park common area.

Landscaping and Lighting District No. 17: Newark Boulevard and Mayhews Landing Road in Tract 7004 – The maintenance of landscaping and the landscape irrigation system within the public right-of-way of the Newark Boulevard and Mayhews Landing Road frontages of Tract 7004.

In the opinion of bond counsel, Brown Act amendments requiring two hearings for increasing assessments do not apply to the annual budget hearings unless there is an addition to the improvements or a change in the formula for allocating the cost among

benefited properties. Neither of these cases applies for each of the above districts and the annual public hearings are simply to adopt a budget for the upcoming year.

Upon conclusion of the annual public hearings, the assessments for the cost of the work are added to the tax bills for those property owners included within the boundaries of the particular Landscaping and Lighting District. Excess funds, or funds collected for which no work was done, can be carried over from one year to the next.

Attachment

Action - It is recommended that the City Council, by resolutions, direct the filing of annual reports for Landscaping and Lighting District Nos. 11, 13, 15, 16, and 17 in accordance with the provisions in the Landscaping and Lighting Act of 1972 and confirm the intent to order the improvements by setting the date for the annual public hearings for these districts for June 26, 2014.

F.9 Presentation by Godbe Research on the results of public opinion sampling and evaluation of possible public support for an extension of the existing City of Newark Utility User Tax – from City Manager Becker.

(MOTION)

Background/Discussion – On February 13, 2014, a City Council Work Session was held to discuss the 2014-2016 Biennial Budget and to review budget projections for subsequent years. Budget projections indicate that there will be significant operating budget deficits in the years following the December 31, 2015 expiration of the City's Utility User Tax (UUT) which was approved by Newark voters in November 2010.

The UUT supports a number of critical programs and services in the City including public safety staffing, parks and street maintenance, the Senior Center, programs for at-risk youth, community preservation, and school crossing guards. Despite the recent improvement in the economy, the UUT revenue continues to make up a vital portion of the City's operating revenue. The UUT generated \$3.2 million in revenue in fiscal year 2012-2013. This represents approximately nine percent (9%) of the City's total operating revenue.

Despite the City's continued conservative budget balancing measures, revenue growth is not projected to keep up with projected expenditures. In order to balance future budgets it is anticipated that reductions or elimination of programs and services would have to be made. Projections also indicate that the City's operating budget reserve funds, which were built after the passage of the UUT, would be quickly exhausted bridging the projected budget deficits. A continued need for the UUT revenue appears necessary to avoid long-term deficit without additional significant cuts in services to the community.

As a result of this information, the City Council directed staff to facilitate a public opinion poll to evaluate possible public support for an extension of the existing City of Newark Utility User Tax to address the projected operating budget deficits.

On March 13, 2014, the City Council authorized the Mayor to sign an agreement with Godbe Research for consultant services for public opinion sampling and evaluation of possible public support for the extension of the existing City Utility User Tax. Godbe Research, is a recognized leader in revenue measure feasibility polling services. The scope of work included:

- Reviewing voter and resident information and developing a stratified and clustered sample of Newark voters.
- Designing a survey instrument to determine issues of importance to the community and to identify resident's service priorities.
- Conduct a set of telephone interviews using a strict interview protocol.
- Analyze the survey results and prepare a comprehensive report of findings to be presented to City staff and the Newark City Council.

Godbe Research has completed their work and will be presenting the survey results to the City Council during the meeting. At the end of the presentation, staff will be asking the City Council for direction on whether or not to return at a future City Council meeting with the necessary actions to place a measure on the November 4, 2014 ballot to extend the City of Newark Utility User Tax beyond the current sunset date.

Action - It is recommended that the City Council, by motion, accept the results of the public opinion polling and provide direction to staff regarding an extension of the existing City of Newark Utility User Tax to address the projected operating budget deficit.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

M. CLOSED SESSION

N. ADJOURNMENT

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the City Council, will be made available for public inspection at this meeting and at the City Clerk's Office located at 37101 Newark Boulevard, 5th 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.

For those persons requiring hearing assistance, please make your request to the City Clerk two days prior to the meeting.