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.