

## Planning Commission Actions

Assistant City Manager Grindall informed the Planning Commission that staff and the Applicant are requesting continuing this item to a future Planning Commission Meeting.

Addressing Vice-Chairperson Hannon, ACM Grindall agreed to include language discussing Commercial and Industrial conversions to Residential in the future staff report.

Chairperson Nillo opened the Public Hearing. As no one from the public spoke on this item, Chairperson Nillo closed the Public Hearing.

Motion made by Vice-Chairperson Hannon, seconded by Commissioner Aguilar, to continue this hearing to a future Planning Commission Meeting. Motion passed 5 AYES, 2 ABSENT.

At ACM Grindall's recommendation, Chairperson Nillo opened Items E.1 and E.2 simultaneously with both items being heard concurrently.

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- E.1 Hearing to consider: 1) Adopting a resolution making certain findings and recommending City Council adoption of a Supplemental Environmental Impact Report (E-12-30) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development; (2) adopting a resolution recommending rezoning (RZ-12-27) a 2.14-acre area (APN 092-0140-006) from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Codes); (3) adopting a resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and recommending the City Council approve the attached Affordable Housing Implementation Agreement; (4) By motion, recommending that the City Council approve TM-12-28, Vesting Tentative Map 8110 to construct approximately 27 residential units; (5) By motion, recommending 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, approving Exhibit B, Schedule of Impact Fees.**
- E.2 Hearing to consider: 1) Adopting a resolution making certain findings and recommending City Council adoption of a Supplemental Environmental Impact Report (E-12-30) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development; (2) adopting a resolution 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) adopting a resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and recommending the City Council approve the attached Affordable Housing Implementation Agreement; (4) By motion, recommending the Mayor sign a Park Agreement with Newark Enterprise Joint Venture, LLC; (5) By motion, recommending that the City Council approve TM-12-32, Vesting Tentative Map 8098 to construct approximately 217 residential units; (6) By motion, recommending that the City Council approve ASR-12-31, an**

**Architectural and Site Plan Review, with Exhibit A, pages 1 through 69; and (7) By motion, approving Exhibit B, Schedule of Impact Fees.**

Assistant City Manager Grindall gave the staff report and presented background information via Powerpoint.

Answering Vice-Chairperson Hannon, ACM Grindall stated staff supports the toxic cleanup and development of these sites and a multitude of Agencies are involved with this process.

Answering Commissioner Bridges, ACM Grindall stated that the SEIR addresses all environmental impacts associated with these two proposed projects.

Discussion ensued between Vice-Chairperson Hannon and ACM Grindall on the inspection and monitoring of potential toxic substances and odors.

Answering Commissioner Bridges, ACM Grindall spoke briefly on the pond and groundwater contamination which is described in more detail in the Environmental Impact Report in the Specific Plan.

ACM Grindall continued with the staff reports.

Answering Commissioner Aguilar, ACM Grindall stated the Planning Commission will be determining the mix of Affordable Housing and Market Rate Housing at a future Meeting.

Answering Vice-Chairperson Hannon, ACM Grindall stated Gallade received notification that the SEIR was available and the SEIR was on the City's website.

Discussion ensued between Vice-Chairperson Hannon and ACM Grindall on the possible use of Eminent Domain.

Vice-Chairperson Hannon stated his opinion that the April 22, 2014 letter submitted by Timothy Taylor on behalf of Gallade did not have any bearing on the issue that is currently before the Planning Commission.

Chairperson Nillo opened the Public Hearing.

Applicant Veronica Vargas, Trumark Homes, 4185 Blackhawk Plaza Circle, Suite 200, Danville, CA 94506, thanked ACM Grindall on his assistance with these projects and thanked the Planning Commissioners for their time.

Ms. Vargas, stated she has read and agrees with all conditions pertaining to Items E.1 and E.2.

Ms. Juliette Cho, Stoel Rives, 3 Embarcadero, Suite 120, San Francisco, CA, on behalf of Gallade Chemical Inc., apologized for the late submission of their comment letter and requested continuance of Items E.1 and E.2.

Discussion ensued between Vice-Chairperson Hannon and Ms. Cho, on the topic of the submitted letter being a non-environmental issue.

Mr. Michael Rhodes, David J. Powers and Associates, 1871 The Alameda, San Jose, CA, stated the SEIR was circulated from December 24, 2013 through February 7, 2014 for public review and comments.

Answering Vice-Chairperson Hannon, ACM Grindall stated Gallade did not submit any correspondence to the City during the comment period.

Chairperson Nillo closed the Public Hearing.

ACM Grindall stated his opinion that the April 22, 2014 letter by Stoel Rives does not raise any issues that would change staff's recommendation for approval of Items E.1 and E.2.

Motion made by Vice-Chairperson Hannon, seconded by Commissioner Bridges to adopt Resolution 1867, making certain findings and recommending City Council adoption of a SEIR (E-12-30) to the EIR (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development Specific Plan. Motion passed 5 AYES, 2 ABSENT. Resolution 1867 repeals Resolution 1857.

Motion made by Vice-Chairperson Hannon, seconded by Commissioner Bridges to approve actions (2) through (6). Motion passed 5 AYES, 2 ABSENT. Resolution 1868 repeals Resolution 1858. Resolution 1869 repeals Resolution 1859.

Motion made by Commissioner Otterstetter, seconded by Commissioner Bridges to adopt Resolution 1870, making certain findings and recommending City Council adoption of a SEIR (E-12-30) to the EIR (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development Specific Plan. Motion passed 5 AYES, 2 ABSENT. Resolution 1870 repeals Resolution 1860.

Motion made by Vice-Chairperson Hannon, seconded by Commissioner Bridges to approve actions (2) through (7). Motion passed 5 AYES, 2 ABSENT. Resolution 1871 repeals Resolution 1861. Resolution 1872 repeals Resolution 1862.

Items E.1 and E.2 will be heard at the May 8, 2014 City Council Meeting.

## **F. STAFF REPORTS**

None.

## **G. COMMISSION MATTERS**

RESOLUTION NO. 1867

RESOLUTION OF THE CITY OF THE NEWARK PLANNING COMMISSION MAKING CERTAIN FINDINGS AND RECOMMENDING CITY COUNCIL ADOPTION OF A SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (E-12-30) TO THE ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NUMBER 2010042012) FOR THE DUMBARTON TRANSIT ORIENTED DEVELOPMENT SPECIFIC PLAN

WHEREAS, the City of Newark caused an Environmental Impact Report (State Clearinghouse Number 2010042012) to be prepared to assess the potential environmental impacts of the proposed Dumbarton Transit Oriented Development Specific Plan; and

WHEREAS, the Environmental Impact Report consists of a Draft Environmental Impact Report document as well as the Final Environmental Impact Report document, which in turn consists of all comments received by the City of Newark regarding the Draft Environmental Impact Report during the mandatory public review period and responses to those comments; and

WHEREAS, the Planning Commission held a duly noticed public hearing on August 23, 2011, and recommended that the City Council certify the Environmental Impact Report (State Clearinghouse Number 2010042012) for the Dumbarton Transit Oriented Development Specific Plan; and

WHEREAS, the City Council held a duly noticed public hearing on September 8, 2011, and certified the Environmental Impact Report (State Clearinghouse Number 2010042012) for the Dumbarton Transit Oriented Development Specific Plan after finding it complete and adequate pursuant to the California Environmental Quality Act; and

WHEREAS, the Planning Commission held a duly notice public hearing on April 22, 2014, and recommended that the City Council approve a Supplemental Environmental Impact Report (E-12-30) to the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report (State Clearinghouse Number 2010042012) after finding it complete and adequate pursuant to the California Environmental Quality Act, and;

WHEREAS, the proposed rezoning (RZ-12-27) and Vesting Tentative Map (TM-12-28) concern the development of the property within the Dumbarton Transit Oriented Development Specific Plan project area, and the proposed development is within the residential density limits analyzed by the Environmental Impact Report (State Clearinghouse Number 2010042012) and the Supplemental Environmental Impact Report (E-12-30) for the Dumbarton Transit Oriented Development Specific Plan; and

WHEREAS, the Planning Commission held a duly noticed public hearing on April 22, 2014, took testimony from the public, and upon fully considering all documents in the record, the Planning Commission determined that the Environmental Impact Report (State Clearinghouse Number 2010042012) and the Supplemental Environmental Impact Report (E-12-30) for the Dumbarton Transit Oriented Development Specific Plan specifically considered and fully analyzed all environmental impacts of the proposed amendment to TM-12-28, Vesting Tentative Map 8110, pursuant to Public Resources Code section 21000 *et seq.*

NOW, THEREFORE, the Planning Commission finds and resolves as follows:

1. That the Environmental Impact Report and the Supplemental Environmental Impact Report (E-12-30) for the Dumbarton Transit Oriented Development Specific Plan analyzed the impacts of the proposed development pursuant to the Specific Plan; and
2. That, as concluded by the Environmental Impact Report and the Supplemental Environmental Impact Report (E-12-30) for the Dumbarton Transit Oriented Development Specific Plan, the proposed rezoning and Vesting Tentative Map will not have a significant impact on the environment once the proposed mitigation measures in the Environmental Impact Report and the Supplemental Environmental Impact Report have been applied except for impacts related to traffic and hazards; and
3. That the Environmental Impact Report and the Supplemental Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan fully analyze and cover all environmental impacts of the proposed rezoning and adoption of the Vesting Tentative Map; and
4. That a copy of the minutes be forwarded to the City Council as a summary of the hearing.

NOW, THEREFORE, The Planning Commission recommends that:

- a. The City Council adopt findings of fact and a Statement of Overriding Considerations pursuant to CEQA Guidelines Sections 15091 and 15126.6, as set forth in Exhibit A to this Resolution and incorporated herein by reference;
- b. The City Council adopt a Mitigation Monitoring and Reporting Program, as set forth in Exhibit B to this Resolution and incorporated herein by reference;
- c. The City Council, 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 and City Council's staff reports, certify in accordance with CEQA Guidelines section 15090 that:
  1. The SEIR was prepared in compliance with CEQA and the CEQA Guidelines;
  2. The City Council has reviewed and considered the information contained in the SEIR prior to approving the project;

3. The SEIR adequately describes the project, its environmental impacts, reasonable alternatives and appropriate mitigation measures;
  4. The SEIR reflects the independent judgment and analysis of the City Council.
- d. This item shall be given a public hearing before the City Council for the Council's review and approval.

The resolution was introduced at the Planning Commission's April 22, 2014 meeting by Vice-Chairperson Hannon, seconded by Commissioner Aguilar, and passed as follows:

AYES: Aguilar, Bridges, Hannon, Nillo and Otterstetter.

NOES: None.

ABSENT: Drews and Fitts.

s/Terrence Grindall  
TERRENCE GRINDALL, Secretary

s/Bernie Nillo  
BERNIE NILLO, Chairperson

RESOLUTION NO. 1868

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, Enterprise Drive, LLC has made application to the Planning Commission of the City of Newark to consider the amendment (RZ-12-27) to Title 17 (Zoning) of the Newark Municipal Code and the Official Zoning Map, by rezoning property described as follows;

All that real property shown on Vesting Tentative Map 8110 in the City of Newark, County of Alameda, State of California as shown on Exhibit A, pages 1 through 5, attached hereto and incorporated herein by reference.

PURSUANT to Municipal Code Section 17.80.050, a public hearing notice was published in the Argus on April 11 & 17, 2014, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on April 22, 2014, at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

NOW, THEREFORE, the Planning Commission 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 all that real property shown on Vesting Tentative Map 8110 from ML (Limited Industrial) to MDR-FBC (Medium Density Residential – 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.

The resolution was introduced at the Planning Commission's April 22, 2014 meeting by Vice-Chairperson Hannon, seconded by Commissioner Bridges, and passed as follows:

AYES: Aguilar, Bridges, Hannon, Nillo and Otterstetter

NOES: None.

ABSENT: Drews and Fitts.

s/Terrence Grindall  
TERRENCE GRINDALL, Secretary

s/Bernie Nillo  
BERNIE NILLO, Chairperson



**VICINITY MAP**  
 SHEET NO. 1000  
 ENTERPRISE DRIVE, LUCAS, SHERMAN, AND WILLOW STREETS, SAN FRANCISCO, CALIFORNIA

**GENERAL NOTES:**

1. OWNER: ENTERPRISE PROPERTY
2. DESIGNER: [Firm Name]
3. CONTRACT NO.:
4. SHEET NO.:
5. DATE:

**PROPOSED PRIVATE STREETS (P.R.S.)**  
 (A. ROAD, B. PLACE, C. PLACE, D. PLACE)  
 TOTAL AREA TO BE ACQUIRED: [Area]

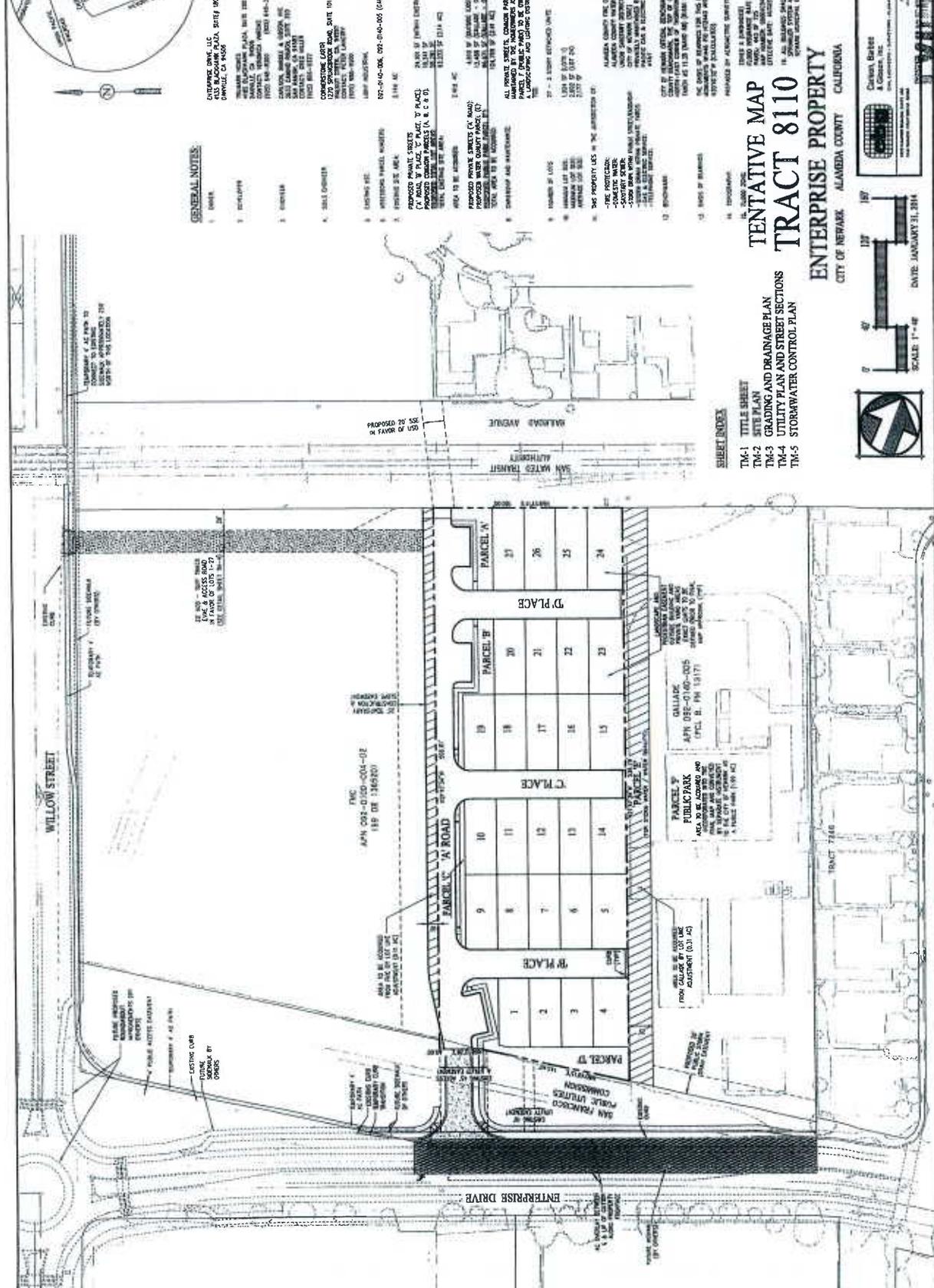
**PROPOSED WATER QUANTITY (W.Q.)**  
 TOTAL AREA TO BE ACQUIRED: [Area]

**PROPOSED PUBLIC UTILITIES (P.U.)**  
 TOTAL AREA TO BE ACQUIRED: [Area]

**PROPOSED PUBLIC UTILITIES (P.U.)**  
 TOTAL AREA TO BE ACQUIRED: [Area]

**PROPOSED PUBLIC UTILITIES (P.U.)**  
 TOTAL AREA TO BE ACQUIRED: [Area]

**PROPOSED PUBLIC UTILITIES (P.U.)**  
 TOTAL AREA TO BE ACQUIRED: [Area]



**TENTATIVE MAP**  
**TRACT 8110**  
**ENTERPRISE PROPERTY**  
 ALAMEDA COUNTY CALIFORNIA

**TITLE SHEET**  
**SITE PLAN**  
**GRADING AND DRAINAGE PLAN**  
**UTILITY PLAN AND STREET SECTIONS**  
**STORMWATER CONTROL PLAN**

**SHEET INDEX**  
 TM-1 TITLE SHEET  
 TM-2 SITE PLAN  
 TM-3 GRADING AND DRAINAGE PLAN  
 TM-4 UTILITY PLAN AND STREET SECTIONS  
 TM-5 STORMWATER CONTROL PLAN

**SCALE** 1" = 40'  
**DATE** JANUARY 31, 2014

**PREPARED BY** [Firm Name]  
**DESIGNED BY** [Firm Name]  
**CHECKED BY** [Firm Name]  
**APPROVED BY** [Firm Name]

**REGISTERED PROFESSIONAL ENGINEER**  
 CIVIL ENGINEERING  
 STATE OF CALIFORNIA  
 LICENSE NO. [Number]

**REGISTERED PROFESSIONAL LAND SURVEYOR**  
 STATE OF CALIFORNIA  
 LICENSE NO. [Number]

**ENTERPRISE PROPERTY**  
 1000 [Address]  
 SAN FRANCISCO, CALIFORNIA

**ALAMEDA COUNTY**  
 1000 [Address]  
 ALAMEDA, CALIFORNIA

**CITY OF NEWARK**  
 1000 [Address]  
 NEWARK, CALIFORNIA

**DATE** JANUARY 31, 2014

**SCALE** 1" = 40'

**PREPARED BY** [Firm Name]

**DESIGNED BY** [Firm Name]

**CHECKED BY** [Firm Name]

**APPROVED BY** [Firm Name]

**REGISTERED PROFESSIONAL ENGINEER**  
 CIVIL ENGINEERING  
 STATE OF CALIFORNIA  
 LICENSE NO. [Number]

**REGISTERED PROFESSIONAL LAND SURVEYOR**  
 STATE OF CALIFORNIA  
 LICENSE NO. [Number]

**DATE** JANUARY 31, 2014

**SCALE** 1" = 40'

**PREPARED BY** [Firm Name]

**DESIGNED BY** [Firm Name]

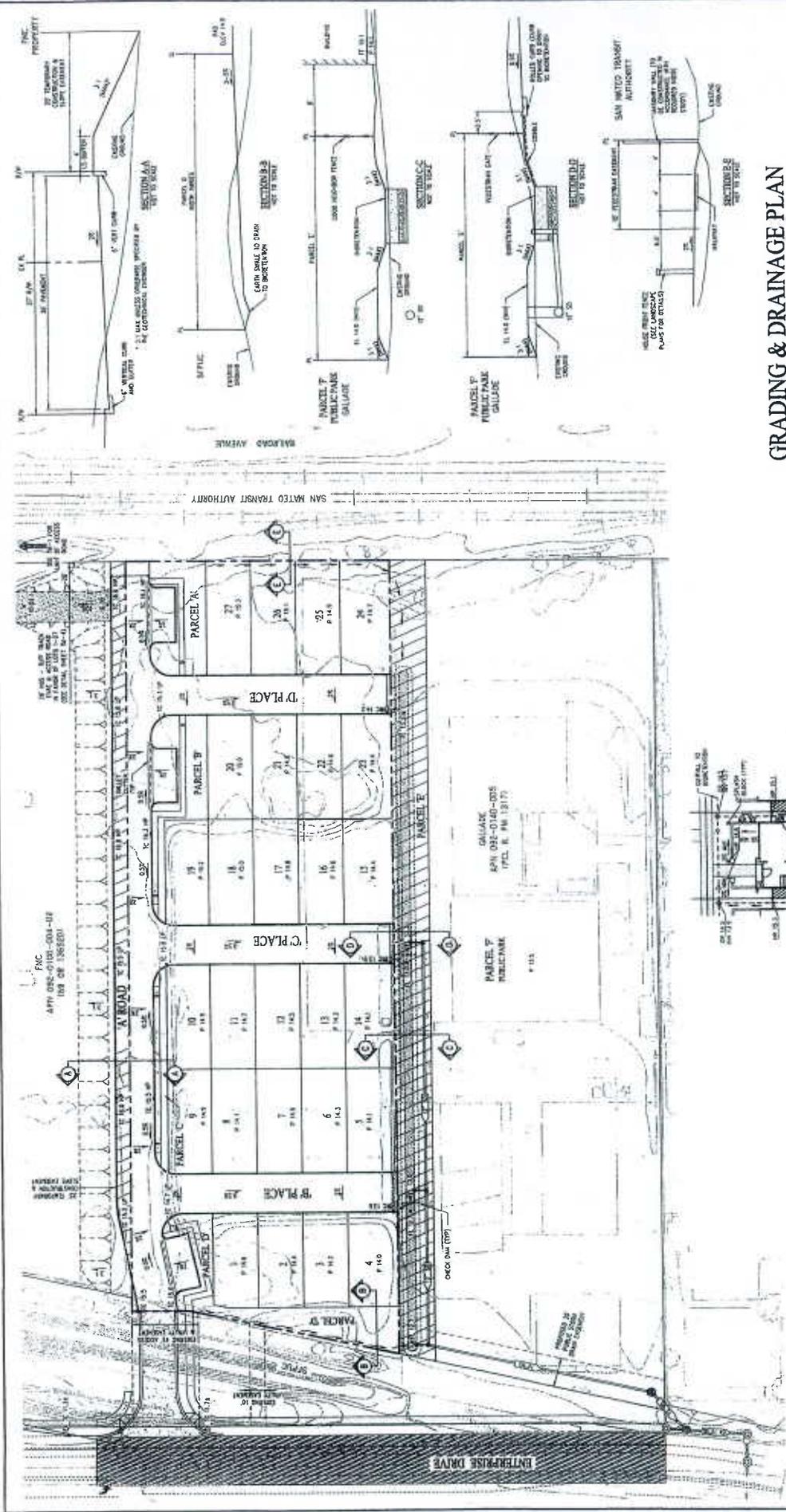
**CHECKED BY** [Firm Name]

**APPROVED BY** [Firm Name]

**REGISTERED PROFESSIONAL ENGINEER**  
 CIVIL ENGINEERING  
 STATE OF CALIFORNIA  
 LICENSE NO. [Number]

**REGISTERED PROFESSIONAL LAND SURVEYOR**  
 STATE OF CALIFORNIA  
 LICENSE NO. [Number]



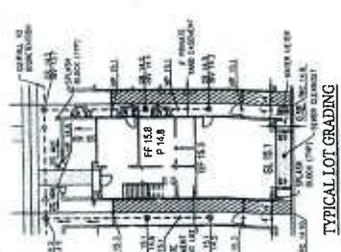


**GRADING & DRAINAGE PLAN**  
**TRACT 8110**  
**ENTERPRISE PROPERTY**  
 CITY OF NEWARK ALAMEDA COUNTY CALIFORNIA

SHEET NUMBER  
**TM-3**

City of Newark  
 1000 Broadway, Newark, CA 94560  
 (415) 763-3300  
 www.ci.newark.ca.us

DATE: JANUARY 11, 2011  
 SCALE: 1" = 30'







RESOLUTION NO. 1869

RESOLUTION OF THE NEWARK PLANNING COMMISSION  
RECOMMENDING THAT THE CITY COUNCIL APPROVE  
AN ALTERNATIVE MEANS OF COMPLIANCE WITH THE  
INCLUSIONARY HOUSING ORDINANCE FOR THE  
ENTERPRISE DRIVE PROJECT AND MAKING FINDINGS  
RELATED TO THE USE OF AN ALTERNATIVE MEANS OF  
COMPLIANCE

WHEREAS, the Enterprise Street Project includes a condition that the project comply with the City's Inclusionary Housing Ordinance (Municipal Code Section 17.18); and

WHEREAS, the Inclusionary Housing Ordinance includes provisions for the application of an alternative means of compliance; and

WHEREAS, the payment of a \$25,000 Affordable Housing Fee per housing unit completed in the Enterprise Drive project would provide funds to develop or preserve affordable housing in Newark and would be an alternative means of compliance with the Inclusionary Housing Ordinance; and

WHEREAS, the flexibility provided by the payment of the Affordable Housing Fee will allow the City to leverage funds with State and Federal programs to better address the needs of the Newark Community for affordable housing; and

WHEREAS, the funds from the Affordable Housing Fee will allow the City to target investment so that the achievement of affordable housing objectives can be coupled with the achievement of other Community objectives;

WHEREAS, the fee will allow the City to address the need for affordable housing more effectively than compliance with the ordinance and 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;

WHEREAS, 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 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.

WHEREAS, 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.

WHEREAS, 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; and

WHEREAS, the issue of concentration of future development of affordable housing is addressed because projects developed using the funds from the Affordable Housing Fee will be consistent with the General Plan and will require Planning Commission review and City Council approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission:

- a. Recommends that the City Council approve an Affordable Housing Agreement for the Enterprise Drive project, said agreement being on file with the Secretary of the Planning Commission; and
- b. That the Planning Commission does find that:
  - i) The proposed alternative means of compliance fulfills the purposes of this, the Inclusionary Housing Ordinance, as set forth in Section 17.18.010; and
  - ii) The proposed alternative means of compliance will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of Section 17.18.030; and
  - iii) The proposed alternative means of compliance would better address the City's needs than compliance with the requirements of Section 17.18.030; and
  - iv) The proposed alternative means of compliance will not unduly concentrate below market rate housing in one geographic area.

This Resolution was introduced at the Planning Commission's April 22, 2014 meeting by Vice-Chairperson Hannon, seconded by Commissioner Bridges, and passed as follows:

AYES: Aguilar, Bridges, Hannon, Nillo and Otterstetter

NOES: None.

ABSENT: Drews and Fitts.

s/Terrence Grindall  
TERRENCE GRINDALL, Secretary

s/Bernie Nillo  
BERNIE NILLO, Chairperson