

- E.1 Hearing for the Prima Project, a 281 unit residential development at 5699 Mowry Avenue. The City Council will consider: (1) an Initial Study and Mitigated Negative Declaration; (2) a General Plan amendment to change the land use designation from CC (Community Commercial) to MR (Medium Density Residential); (3) introduction of an Ordinance to amend Title 17 (Zoning) of the Newark Municipal Code to change the zoning for an approximately 10 acre portion of Vesting Tentative Map 8208 from CC (Community Commercial) to R-2500 (Medium Density Residential – 2,500); (4) by motion, approving a planned unit development, and, a conditional use permit, (5) a Vesting Tentative Map 8208 for a 281 unit residential development at 5699 Mowry Avenue, with Exhibit A, pages 1 through 42; and (6) finding the proposed benefits to the community are in excess of those required by the impacts of the project and waive the Housing Impact Fee – from Assistant City Manager Grindall. (RESOLUTIONS-4)(ORDINANCE)(MOTION)**

Background/Discussion – Prima Residential and Mowry Capella, LLC have made an application to construct up to 281 residential units at 5699 Mowry Avenue. This property is currently zoned Community Commercial and is occupied by B.J.’s Restaurant and Brewhouse and a vacant former Mervyn’s building. The property that is occupied by the Motel 6 building is also a part of this application.

The project proposes no changes to the BJ’s Restaurant and Brewhouse, its parking lot, the Swiss Park facility, 76 Gas Station nor the Firestone Auto shop. A separate parcel will be created for the restaurant and it will retain its Community Commercial zoning.

A community meeting to discuss this proposal was held on July 28, 2014. Approximately 13 people attended the meeting, including representatives of the neighboring Swiss Park facility. Questions and concerns from the public included proposed landscaping, site pedestrian access, traffic safety, the demolition of Motel 6, construction duration, and noise generating from events held at Swiss Park. The applicant discussed the issues that were raised and took note of the public’s concerns.

Environmental Determination

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

Of these 17 issues, the only new significant impacts resulting from this project would include air quality, hazards and hazardous materials, noise, and traffic/circulation. These represent project-specific impacts that are specific to the location of the project site and the development proposed by the project.

As described in Section 3, *Air Quality*, of the attachment to the Initial Study, the project will reduce construction-related air quality emissions to a less-than-significant level (these measures are consistent with Bay Area Air Quality Management District [BAAQMD] recommendations. As such, the developer will be required to use water as needed to control dust and eliminate visible dust plumes. In addition, covering of all trucks hauling building debris, soil, sand, and other loose materials will be required. Another option could be to require all trucks to maintain at least two feet of freeboard.

Some of the future residences closest to Interstate 880 (I-880) could be exposed to pollutants from vehicle traffic that exceed the BAAQMD threshold for operational impacts, therefore the applicant will install air filtration and ventilation systems in residential buildings in the affected areas that would include sensitive receptors.

Section 8, *Hazards and Hazardous Materials*, recognizes that existing buildings on the site will be demolished. Prior to their demolition, a licensed contractor will determine the presence or absence of lead based paints or asbestos on the site. If found in quantities at or above objectionable levels as determined by the Alameda County Fire Department and Newark Building Division, these materials shall be safely removed consistent with OSHA and other applicable standards and disposed of in an appropriate location.

Section 12, *Noise*, notes that single-family residences proposed along Cedar Boulevard would be exposed to future noise levels of approximately 67dBA Ldn and would be considered “conditionally acceptable” according to the Environmental Hazards Element of the Newark General Plan. As shown in the Perimeter Wall Plan as part of the proposed project, an 8-foot masonry noise barrier would shield private outdoor use areas, resulting in exterior noise levels of 60 dBA Ldn or less when accounting for the acoustical attenuation provided by the proposed noise barrier. Exterior noise levels at private use areas of single-family residences along Cedar Boulevard would be considered “normally acceptable” according to the Environmental Hazards Element of the Newark General Plan. However, since the final designs of buildings and final topographic grades on the site are not established, the final height and location of the perimeter wall shall be reviewed by a qualified acoustical professional to ensure that the ultimate height, location, and design of the perimeter wall will ensure City of Newark standards for exterior noise exposure are met.

As currently proposed, noise levels expected from outdoor concerts at the adjacent Swiss Park would be in compliance with the City of Newark exterior and interior noise standards at the nearest residential land uses at the project site. However, to ensure that residents are fully aware of potential noise resulting from outdoor concerts at Swiss Park, residents of dwellings on the west side of the project site within 200 feet of the western property line, including owners and renters, shall receive written notice that outdoor music concerts, some with amplified sound, and other outdoor activities will occur at Swiss Park. Wording of this disclosure shall be approved by the Community Development Director.

Traffic noise levels at the exterior facades of condominium buildings proposed nearest to I-880 were calculated to range from 74 to 77 dBA Ldn and would be considered “normally acceptable” to “clearly unacceptable” according to the Environmental Hazards Element of the Newark

General Plan. The facades of condominium buildings adjacent to I-880 would require sound rated building elements to control traffic noise intrusion. As such, building facades for the proposed condominium dwellings near the I-880 freeway shall achieve an outdoor to indoor composite noise reduction of 35 dBA to reduce traffic noise to below 45 dBA Ldn with an adequate margin of safety. A similar treatment will be applied to condominiums nearest to Mowry Avenue to achieve an outdoor and indoor composite noise reduction of 30 dBA.

As with most projects, construction noise could be audible at the adjacent residential dwellings and, if on-site construction takes place over multiple phases, occupants of earlier phases of construction could be subject to excessive noise from later phases of on-site construction. To reduce noise impacts, equipment and trucks used for project demolition and construction will utilize the best available noise control techniques (e.g., improve mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible). Impact tools shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporation insulation barriers or other measures to the extent feasible.

Section 16, *Transportation/Traffic*, notes that there would be no significant impacts at any intersections due to the addition of project trips. Although there are three intersections of concern because of traffic levels from existing or planned development the Prima project traffic would neither cause the level of service to degrade to an unacceptable level nor cause the average delay at any of the intersections to increase by four or more seconds. All of the other study intersections would operate at acceptable levels of service.

The traffic analysis recommends that the final site incorporate on-site pedestrian and bicycle facilities, including but not limited to pedestrian paths and/or sidewalks bicycle lanes, bicycle racks and/or guarded bicycle parking and marked crosswalks to facilitate pedestrian and bicycle circulation. In addition, the on-site circulation system shall ensure that adequate travel lanes and turning radii will allow access by trucks, solid waste collection vehicles and fire equipment.

The review period for the Initial Study/Mitigated Negative Declaration ended on September 18, 2014. The City received letters from the Alameda County Water District, Swiss Park, and a property owner. These letters have been addressed in the Mitigated Negative Declaration.

General Plan Amendment/Rezoning

The current General Plan designation for the majority of the property is Community Commercial. The former Motel 6 property has a General Plan and zoning designation of High Density Residential and therefore needs no change. The change from Community Commercial to Medium Density Residential for the balance of the site is consistent with the project's density.

As the General Plan designation and zoning need to be consistent, approximately 10 acres of the site is proposed to be rezoned from Community Commercial to R-2500, which is a medium density zoning designation. The remainder of the site where BJ's Restaurant and Brewhouse is located will remain Community Commercial.

Project Design

The development, which will be known as “Prima”, is proposed to contain approximately 42 detached homes, 146 attached townhomes, and 93 attached row condominiums. The developer is requesting approval of up to 281 homes for the project, including the triangular piece of property at the corner of Cedar Boulevard and Cedar Court which is now under contract and part of the Prima project.

The community’s main entrance will be via a new private lane off of Cedar Boulevard with a secondary auto entrance proposed at Cedar Court. There are sidewalks adjacent to both of the entrances, as well as two additional pedestrian gates located at the southwest and southeast ends of the residential site. A community park located along the main drive will include an open turf area, picnic and sitting areas, and a youth play structure. Other open spaces include a toddler’s play area as well as numerous landscaped open spaces throughout the community.

All three products (detached, townhomes, and condominiums) offer multiple floor plans. The plans offer a nice variation in design and many of the homes have private enclosed patios or balconies. The varying heights of the buildings, along with the strong architectural features and contrasting paint schemes add to the high quality of this development.

Housing Impact Fee

Section 17.18.050 (Discretionary Exemption by City Council) of the Newark Municipal Code allows the City Council to waive the payment of the Housing Impact Fee if a developer of a residential or non-residential project includes a provision of community benefits in excess of those required by the impacts of the project, and if the City Council finds that the proposed benefits to the community exceed those that would be provided by the payment of the housing impact fee. Such community benefits may include the provision of senior housing, the generation of significant sales taxes, or the elimination of nuisances. The amount that would be waived would typically be about \$30,000 per dwelling unit. If the City Council elects to waive the housing impact fees pursuant to this provision, the community benefits shall be guaranteed by a binding document in a form that is acceptable to the City Attorney.

Motel 6 has been the site of a significant amount of Police activity over the past years. Crimes allegedly committed on the property include rape, battery and assault with a deadly weapon, robbery, burglary, grand theft, domestic violence, drugs, prostitution and kidnapping. The elimination of this nuisance site will reduce the calls to the area significantly and allow the Police Department to allocate resources elsewhere. The Planning Commission recommended that the City Council find the proposed benefits to the community are in excess of those required by the impacts of the project and a waiver of the Housing Impact fee was in order.

Attachments

Update – At its meeting of September 23, 2014, the Planning Commission: approved Resolution 1886 making certain findings and recommending City Council approval of E-14-14, an Initial Study/Mitigated Negative Declaration; (2) approved Resolution 1887 recommending City Council approval of GP-14-15, a General Plan Amendment to change the land use designation

from CC (Community Commercial) to MR (Medium Density Residential); (3) approved Resolution 1888 recommending City Council approval of RZ-14-38, a rezoning from CC (Community Commercial) to R-2,500 (Medium Density Residential – 2,500); (4) approved Resolution No. 1889 with Exhibit A, pages 1 through 42, approving P-14-16, a planned unit development, and U-14-17, a conditional use permit; (5) by motion, recommended City Council approval of TM-14-18, Vesting Tentative Map 8208; and (6) by motion, recommended the City Council find the proposed benefits to the community are in excess of those required by the impacts of the project and waive the Housing Impact Fee.

Action – It is recommended that the City Council: (1) By resolution, make certain findings and adopt an Initial Study and Mitigated Negative Declaration for 281 dwelling units at 5699 Mowry Avenue The Prima Project; (2) By resolution approve an amendment to the Land Use Element of the General Plan from CC (Community Commercial) to MR (Medium Density Residential); (3) introduce an ordinance to amend Title 17 (Zoning), Section 17.44.010 of the Newark Municipal Code to change the zoning for an approximately 10 acre portion of Vesting Tentative Map 8208 from CC (Community Commercial) to R-2500 (Medium Density Residential – 2,500); (4) by motion, approve P-14-16, a planned unit development, and U-14-17, a conditional use permit, (5) By resolution, approve Vesting Tentative Map 8208 and Subdivision and Zoning Variances thereto (6) By resolution, find that the project provides a benefit to the community in excess of those required by the impacts of the project and granting a waiver of the Housing Impact Fee.

F. STAFF REPORTS**DRAFT****F.1 MUP-14-37, a minor conditional use permit, to establish a large family day care home at 5557 Jonathan Drive.**

Assistant Planner Jimenez gave the staff report and stated that one objection letter was received by Walter Johnston who resides at 5505 Jonathan Place, Newark, CA 94560.

Answering Commissioner Drews, AP Jimenez confirmed that Applicant Sonia Landa had sent all neighbors within 100 feet of her residence, a copy of her letter written to the Parents of the children who attend the daycare.

Answering Commissioner Aguilar, Assistant City Manager Grindall explained the difference between a Minor Use Permit and a Conditional Use Permit.

Applicant Sonia Landa, 5557 Jonathan Drive, Newark, CA 94560, stated she has read and agrees with all conditions for the Minor Use Permit as stated in the August 15, 2015 Zoning Administrator letter.

Answering Vice-Chairperson Hannon, Ms. Landa stated her business hours as 7:00 am to 5:45 pm.

Vice-Chairperson Hannon suggested the Applicant periodically check with her neighbors to see if they had any new concerns with her business.

The Planning Commission chose not to review this Item.

E. PUBLIC HEARINGS

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- E.1 Hearing to consider: 1) adopting a resolution making certain findings and recommending City Council approval of an Initial Study and Mitigated Negative Declaration (E-14-14); 2) adopting a resolution recommending City Council approval of a General Plan Amendment (GP-14-15) to change the land use designation from CC (Community Commercial) to MR (Medium Density Residential); 3) adopting a resolution recommending City Council approval of a rezoning (RZ-14-38) for an approximately 10 acre portion of Vesting Tentative Map 8208 from CC (Community Commercial) to R-2500 (Medium Density Residential); 3) adopting a resolution approving P-14-16, a planned unit development, and U-14-17, a conditional use permit, for a 281 unit residential development at 5699 Mowry Avenue, with Exhibit A, pages 1 through 42; 5) by motion, recommending the City Council approve TM-14-187, Vesting Tentative Map 8208; and 6) by motion, recommending the City Council find the proposed benefits to the community are in excess of those required by the impacts of the project and waive the Housing Impact Fee.**

Commissioner Aguilar recused himself from the Council Chambers.

ACM Grindall and AP Jimenez gave the staff report. AP Jimenez brought to the Planning Commission's attention, the revised Conditions of Approval recommended by Assistant City Engineer Soren Fajeau in his September 23, 2014 memo.

Consultant Jerry Haag, 2029 University Avenue, Berkeley, CA 94704, discussed the Initial Study and Mitigated Negative Declaration.

Commissioner Fitts commented that he would like to see a high quality sound wall and landscaping for this project since it will be a Gateway for Newark.

Answering Commissioner Bridges, ACM Grindall stated this project will not have vehicle access on Alpinrose Court.

Addressing Commissioner Bridges concerns regarding noise, ACM Grindall stated the 8' sound wall meets City Standards and double-paned windows will be installed in the housing units.

Answering Commissioner Drews, ACM Grindall stated there will be street parking and guest parking available for this project.

Answering Commissioner Bridges, ACM Grindall stated the City Arborist will look into using a variety of drought-resistant plants.

Commissioner Bridges commented that she would like to see top-of-the-line high quality playground equipment in the proposed neighborhood tot lots.

Chairperson Nillo opened the Public Hearing.

Applicant Kelly Snider, Prima Residential, 2633 Camino Ramon #350, San Ramon, CA 94583, stated she has read and is in agreement with all Conditions listed in the Resolutions and has taken note of all the Planning Commissioner's comments from tonight's meeting.

Answering Commissioner Drews, Ms. Snider stated each private garage will have the availability to install customized charging stations for electric vehicles.

Answering Commissioner Fitts, Ms. Snider indicated she would work with staff to choose the most aesthetically pleasing sound wall for this project but indicated Caltrans was reluctant to install and maintain landscaping in the right-of-way.

Answering Commissioner Bridges, Ms. Snider stated the pedestrian gates will be locked.

Discussion ensued between Vice-Chairperson Hannon and Ms. Snider on having the Homeowner Association solicit feedback from the surrounding neighborhoods.

Answering Commissioner Drews, ACM Grindall stated the maintenance and painting of the wall facing Newark would be the responsibility of property owners but the other side of the wall would be Caltrans responsibility.

Commissioner Fitts suggested ivy be planted on the homeowners side of the wall and have the ivy grow and cover the Caltran's side of the wall.

ACM Grindall confirmed that pedestrian gates would be installed to allow resident access to Swiss Park and BJ's Restaurant.

Chairperson Nillo opened the Public Hearing.

Mr. Bill Bellhopper, Swiss Park, 5911 Mowry Avenue, Newark, CA 94560, stated he was concerned that he had to modify his business practice of holding evening events due to possible noise complaints. ACM Grindall stated there would be no change to the running of his business.

Ms. Margrith Reichmuth, 36348 Tunbridge Drive, Newark, CA 94560, representing Aelpler Gruppe Swiss Club, confirmed that Swiss Park does hold night time events and stated, under direction by the City when they decided to build their amphitheater, the speakers were directed towards the vacant area now being proposed for this residential project.

Answering Ms. Reichmuth, ACM Grindall stated an 8' masonry wall will be constructed between Swiss Park and the new development and the exact placement of the pedestrian gates and subsequent sidewalks have not yet been determined.

Ms. Reichmuth suggested a red light camera be installed as a traffic calming measure.

Mr. Chris Nguyen, General Manager for the NewPark Mall, 2086 NewPark Mall Road, Newark, CA 94560, gave his support for this project.

Ms. Reichmuth stated her concerns with waiving the Housing Impact Fee.

Mr. Arnold Ambrel, representing the Swiss Park Board of Directors, 5911 Mowry Avenue, Newark, CA 94560, asked staff to look at the surrounding properties when planning future development projects and stated his belief that after the grace period when the Developer leaves and the Homeowner Association takes over, is when complaints will be made.

Addressing Mr. Kurt Clausen's concerns, ACM Grindall stated a public walkway is envisioned between the existing neighborhood and the Alpinrose and Mowry Avenue intersection.

Mr. John Burky, who gave his address as Sycamore Bay Apartments, stated train noise from his second-floor apartment is an issue.

Ms. Margaret Lewis, 36102 Spruce Street, Newark, CA 94560, stated she believes with the revitalization of the NewPark Mall, this site would be better served by staying commercial.

Mr. Tim Jones, 4948 Norwich Place, Newark, CA 94560, stated during the economic boom period this site did not do well for retail establishments and other locations are better suited for commercial properties. Mr. Jones also stated the City needs affordable housing units and he is in favor of this project but would like to see the 8' wall be increased to 10 or 12 feet high.

Chairperson Nillo closed the Public Hearing.

Commissioner Fitts commented that he would prefer to see a high-quality residential project move forward on this site, than for the site to remain vacant waiting for a commercial project that may never materialize.

Commissioner Bridges commented that the City Council will decide on whether the Housing Impact fee is waived and reiterated that she want to see top-of-the-line tot lots and playground equipment for this project.

Answering Commissioner Bridges, ACM Grindall stated it was common for CC&Rs to prohibit some activities such as washing cars in driveways or repairing cars inside residential garages.

Commissioner Otterstetter stated she supports this project and she encouraged the Developer to build a taller sound wall and to use three-paned windows on the buildings closest to Swiss Park.

Vice-Chairperson Hannon suggested staff add a condition of approval to require all trucks to maintain at least two-feet of freeboard.

Chairperson Nillo closed the Public Hearing.

Commissioner Hannon moved, seconded by Commissioner Bridges, to approve Resolution 1886, making certain findings and recommending City Council approval of an Initial Study and Mitigated Negative Declaration for 281 dwelling units on an approximately 16.1 acre project site. The motion passed 6 AYES, 1 ABSENT (Aguilar).

Commissioner Fitts moved, seconded by Commissioner Bridges to approve: 1) Resolution 1887, recommending City Council approval of an amendment to the Land Use Element of the General Plan; 2) Resolution 1888, 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; 3) Resolution 1889, approving P-14-16, a Planned Unit Development, and U-14-17, a Conditional Use Permit, for a 281-Unit residential development (Prima Residential) at 5699 Mowry Avenue; 4) by motion, recommend the City Council approve TM-14-18, Vesting Tentative Map 8208; and 5) by motion, recommend the City Council find the proposed benefits to the Community are in excess of those required by the impacts of the project and waive the Housing Impact Fee. Motion passed 6 AYES, 1 ABSENT (Aguilar).

Commissioner Aguilar rejoined his fellow Planning Commissioners.

E.2 Hearing to consider a recommendation for City Council approval of an Ordinance amending the Newark Municipal Code Chapter 17.18 (Affordable Housing Program) by exempting residential additions from the fee.

ACM Grindall gave the staff report.

Vice-Chairperson Hannon commented that he appreciates receiving the lined-out version of the Affordable Housing Program to easily see the proposed changes.

Chairperson Nillo opened the Public Hearing. Since no one from the public chose to speak on this item, Chairperson Nillo closed the Public Hearing.

Motion made by Vice-Chairperson Hannon, seconded by Commissioner Aguilar, to recommend City Council approval of an Ordinance amending the Newark Municipal Code Chapter 17.18 to exempt additions to existing residential dwellings from the Affordable Housing Impact Fee. The motion passed 7 AYES.

This item will be heard at the October 9, 2014 City Council Meeting.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

Commissioners' Comments

Commissioner Otterstetter announced Stage One's production of West Side Story will start on September 27, 2014 and run for three weekends.

Commissioner Fitts stated he is happy to see new developments coming into the City.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK MAKING CERTAIN FINDINGS AND ADOPTING
AN INITIAL STUDY AND MITIGATED NEGATIVE
DECLARATION FOR 281 DWELLING UNITS AT 5699
MOWRY AVENUE THE PRIMA PROJECT

WHEREAS, the Prima Project ("Project"), consists of the construction of 281 dwelling residential dwelling units on approximately 16.3 acre site located at 5699 Mowry Avenue (APN's 092A-2587-006; 092A-2587-007; 092A-2587-008; 092A-2588-006; 092A-2588-005; and 092A-2588-008-03).

WHEREAS, the entitlements requested include Tentative Map 8208 (TM-14-18), a general plan amendment, rezoning; planned unit development; conditional use permit; and

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

WHEREAS, through this study, it has been determined that the Project's potentially significant environmental impacts specifically relate to impacts associated with air quality, hazards and hazardous materials, noise, and traffic/circulation; and

WHEREAS, these potentially significant impacts can be mitigated to less than significant as shown in Section 18 of the Initial Study/Mitigated Negative Declaration, and;

WHEREAS, a 20-day public review period for the Notice of Availability of the IS/MND was established beginning on August 29, 2014 and ending on September 18, 2014. Copies of the notice were transmitted, along with copies of the IS/MND, to local agencies concerned with the Project. The notice was posted with the Office of the Alameda County Clerk on August 29, 2014; and

WHEREAS, as of the date of this resolution, October 9, 2014, three comment letters have been received and addressed in the Initial Study/Mitigated Negative Declaration; and

WHEREAS, on September 23, 2014, the Planning Commission of the City of Newark conducted a duly noticed public hearing to consider the Initial Study and Mitigated Negative Declaration of environmental impact for the proposed Project, considered all public testimony, written and oral, presented at the public hearing; and received and considered the written information and recommendation of the staff report for the September 23, 2014 meeting related to the proposed Project, and;

WHEREAS, the Planning Commission of the City of Newark recommended that City Council consider adopting the Initial Study and approving the Mitigated Negative Declaration of environmental impact for Vesting Tentative Map 8208 (TM-14-18), the amendment of the Land

Use element of the Newark General Plan, the amendment to Title 17 (Zoning) of the Newark Municipal Code and the Official Zoning Map (RZ-14-38) and;

NOW, THEREFORE, the City Council finds and resolves the following:

1. The Initial Study and corresponding Mitigated Negative Declaration of environmental impact were released for public review and said mitigation measures contained within the same would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and;
2. There is no substantial evidence in light of the whole record before the City of Newark that the project may have a significant effect on the environment.
3. The City Council has read and considered the Initial Study and the Mitigated Negative Declaration, and the comments thereon, and has determined the Initial Study and the Mitigated Negative Declaration reflect the independent judgment of the City and were prepared in accordance with CEQA.
4. The Initial Study and the Mitigated Negative Declaration (including any revisions developed under 14 C.C.R § 15070(b)), all documents referenced in the same, and the record of proceedings on which the Planning Commission and City Council's decision is based are located in the Community Development Department at City Hall for the City of Newark, located at 37101 Newark Blvd, California, and is available for public review.

NOW, THEREFORE, the City Council:

- a. Adopts the Mitigation Monitoring and Reporting Program, as set forth in Exhibit B to this Resolution and incorporated herein by reference;
- b. Based on the evidence and oral and written testimony presented at public hearings, and based on all the information contained in the Community Development Department's files on the project, including, but not limited to, the Initial Study/Mitigated Negative Declaration, the Planning Commission's and City Council's staff reports, certifies in accordance with CEQA guidelines that:
 1. The Initial Study/Mitigated Negative Declaration was prepared in compliance with CEQA and CEQA guidelines;
 2. The City Council has reviewed and considered the information contained in the Initial Study/Mitigated Negative Declaration prior to approving the project;
 3. The Initial Study/Mitigated Negative Declaration adequately describes the project, its environmental impacts, reasonable alternatives and appropriate mitigation measures;
 4. The Initial Study/Mitigated Negative Declaration reflects the independent judgment and analysis of the City Council.