CITY OF NEWARK
CITY COUNCIL

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

AGENDA

Thursday, January 14, 2016

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

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, December 10, 2015. (MOTION)

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

C.2 Commending William Spinola for his service on the Alameda County Mosquito Abatement District.

C.3 Presentation on City Service.

C.4 Union Sanitary District presentation on their services and proposed rate changes.

D. WRITTEN COMMUNICATIONS

D.1 Notice of Planning Commission's decision to amend the E-Z 8 Motel Conditional Use Permit to include a Settlement Agreement condition – from Assistant City Manager Grindall. (REVIEW OPTIONAL)

D.2 Planning Commission referral of proposed changes to the City of Newark Street Names Theme Map to allow for a "Bay Features" theme for the Dumbarton Transit Oriented Development area and a "Bay Animals" theme for the areas known as Sanctuary and Area 4 in the General Plan – from Assistant City Manager Grindall. (RESOLUTION)

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Minutes **Thursday, December 10, 2015**

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

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, November 12, 2015.

Moved by Council Member Freitas, seconded by Vice Mayor Collazo to approve the minutes. The motion passed, 5 AYES.

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Commending retired Fire Department employees.

Mayor Nagy presented commendations to retiring Fire Department employees: Brian Caminada, Tony Connell, Ernie Morua, and Steve Perry.

At 7:45 p.m., Mayor Nagy called for a recess. At 7:47 p.m., the meeting resumed.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 Hearing to consider the Sanctuary Project, 386 single family units at the northwest corner of Cherry Street and Stevenson Boulevard by: (1) an ordinance rezoning approximately 68.55 acre portion of Vesting Tentative Tract Map 8270 from R-6000 (Low Density Residential) to LDR-FBC (Low Density Residential – Form Based Codes) and approximately 3 acres from R-6000 (Low Density Residential) to POS-FBC (Parks and Open Space – Form Based Codes); (2) approving a resolution for Vesting Tentative Tract Map 8270; and (3) by motion, approving an Architectural and Site Plan Review.

ORDINANCE INTRODUCED
RESOLUTION NO. 10429
MOTION APPROVED

Assistant City Manager Grindall gave a presentation. This project is for 386 two-story

homes in Sub Area A of the Areas 3 and 4 Specific Plan Project. There will be open space amenities, a school site, a joint-use park dedicated by the developer, and impact fees payable to the City and the School District. He stated that pesticides will be cleaned before land is dedicated to the School District. The project conditions include compliance with all identified mitigation measures.

In response to City Council questions, Assistant City Manager Grindall stated that the school site location was determined with input from school district officials. The School District will determine the type of school for that location. The adjacent park will be used by the school when it is open.

Mayor Nagy opened the public hearing at 8:07 p.m.

Paul Lettieri, Landscape Architect gave a presentation on the project. He stated, on behalf of the applicant, that they had read and agreed to the conditions.

In response to Council questions, Mr. Lettieri stated that the park design in the presentation is conceptual and the needs for the area could be incorporated when the park is designed. There will be a homeowners association for the neighborhood.

Assistant City Manager stated that there was a sufficient buffer between this property and the industrial properties to the south.

Mayor Nagy closed the public hearing at 8:17 p.m.

Moved by Council Member Freitas, seconded by Vice Mayor Collazo to: 1) introduce an 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; 2) by resolution, approve Vesting Tentative Map 8270 for 386 single family units at the northwest corner of Cherry Street and Stevenson Boulevard; and 3) by motion, approve ASR-15-29, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 15. The motion passed, 5 AYES.

F. CITY MANAGER REPORTS

Council Member Hannon requested that Consent Calendar Item F.1 and F.2 be removed for separate consideration.

Vice Mayor Collazo requested that Consent Calendar Item F.7 be removed for separate consideration.

Council Member Bucci moved, Vice Mayor Collazo seconded, to approve Consent Calendar Items F.3 through F.6 and F.8, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 5 AYES.

CONSENT

F.3 Acceptance of the Annual Report on Newark Development Impact Fees for Fiscal Year 2014-2015 in accordance with Government Code Section 66006(b). **MOTION APPROVED**

F.4 Approval of specifications, acceptance of bid, and award of contract to Mike Davis Landscape Services for Park and Landscape Maintenance Services, Project 1123A . **MOTION APPROVED SPECIFICATIONS RESOLUTION NO. 10430 CONTRACT NO. 15043**

F.5 Approval of the final map for Tract 8212, a 77-lot single-family residential subdivision (Classic 36120 Ruschin, L.P.) at 36120 Ruschin Drive. **RESOLUTION NO. 10431**

F.6 Approval of Amendment No. 1 to the Project Specific Funding Agreement with Alameda County Transportation Commission for the Preliminary Engineering/Environmental (PE/Env), and the Final Design (PS&E) Phases of the Central Avenue Overpass, Project 1014. **RESOLUTION NO. 10432**

F.8 Approval to reorganize the management structure in Administrative Services by establishing a Division Chief for Finance by amending Resolution No. 2505, the Employee Classification Plan, to add the classification of Accounting Manager; amending Resolution No. 10401, the Compensation and Benefit Plan for City Officials, and the Management, Supervisory and Professional Group, to add the classification of Accounting Manager; and amending Resolution No. 10235, the 2014-2016 Biennial Budget, to add a position and the funding for the position of Accounting Manager and to delete the position of Accountant. **RESOLUTION NOS. 10433-10435**

NONCONSENT

F.1 Authorization for the City of Newark to accept a California Department of Alcoholic Beverage Control (ABC) grant and authorizing the Police Chief to sign the standard agreement. RESOLUTION NO. 10436

Council Member Hannon commended staff for seeking the grant funds and educating local establishments.

Council Member Hannon moved, Council Member Freitas seconded to, by resolution, authorize the City of Newark to accept a California Department of Alcoholic Beverage Control (ABC) grant and authorize the Police Chief to sign the standard agreement. The motion passed, 5 AYES.

F.2 Approval of the 2016 Local Appointments List – from City Clerk Harrington. MOTIONS (3) APPROVED

Council Member Hannon thanked the residents who serve on local committees.

Council Member Hannon moved, Council Member Bucci seconded to, by motions: (1) approve the 2016 Local Appointments List, (2) designate the Newark Public Library as the library to receive a copy of the list, and (3) direct staff to post the Local Appointments List. The motion passed, 5 AYES.

F.7 Adoption of a resolution making the five-year findings for the Community Development Maintenance Impact Fee as required by Government Code Section 66001(d). RESOLUTION NO. 10437

Vice Mayor Collazo requested an oral report.

Community Development Director Grindall stated that the Community Development Maintenance Impact Fee was established to fund major planning efforts such as the Zoning Ordinance update. The fee is one-half percent of construction valuation on building permits.

Vice Mayor Collazo moved, Council Member Hannon seconded to, by resolution make the five-year findings for the Community Development Maintenance Impact Fee as required by Government Code Section 66001(d). The motion passed, 5 AYES.

F.9 Approval of Contractual Services Agreement with Quincy Engineering, Inc. to provide professional engineering services for the Central Avenue Overpass, Project 1014, Alameda CTC Project No. 1211.001.
RESOLUTION NO. 10438
CONTRACT NO. 15044

Public Works Director Claassen stated that the Central Avenue Overpass Project will construct a grade separation structure (bridge overpass including sidewalks and bicycle lanes) at the railroad crossing on Central Avenue between Sycamore Street and Morton Avenue, resulting in relief of traffic congestion within the Dumbarton Corridor.

In addition to structural bridge and retaining wall design, the scope of work will include civil engineering field work and design; coordination with UPRR, the California Public Utilities Commission and utility companies with facilities in the project limits that may require relocation or protection during the construction. The design will determine the right of way needs for the project and the consultant will provide necessary documentation for any identified acquisition needs. Geotechnical studies will be conducted to address design issues for the bridge structure and retaining walls. A traffic management plan will be completed to determine and address mitigation for the roadway network during construction. The community outreach component that will consist of two public outreach meetings, five stakeholder meetings, media outreach and development of informational materials.

The project will be ready to be publicly bid for construction upon conclusion of the Quincy Engineering contract, estimated in fall of 2017.

Council Member Freitas moved, Council Member Bucci seconded to, by resolution, approve the Contractual Services Agreement with Quincy Engineering, Inc. to provide Professional Engineering Services for the Central Avenue Overpass, Project 1014, Alameda CTC Project No. 1211.001, in an amount not to exceed $1,894,000. The motion passed, 5 AYES.

F.10 Approval of solid waste collection and recycling services maximum rates for 2016 with an increase of 3.4% over 2015 maximum rates.

RESOLUTION NO. 10439

Administrative Services Director Woodstock explained how the rates were calculated resulting in a 3.4 percent increase for solid waste collection and recycling services. The average household that uses a 32-gallon cart will see a $0.98 per month increase. Commercial customers with the average 3-yard bin with a once-a-week pick-up will see an increase of $10.54 per month.

Mayor Nagy complimented Ms. Woodstock for explaining the technicalities of the contractual rate adjustment in an understandable manner.

Moved by Council Member Freitas, seconded by Vice Mayor Collazo, by resolution, to establish the maximum limit for rates for solid waste collection and recycling services for Calendar Year 2016. The motion passed 5 AYES.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Appointment of Mayor Pro Tempore and authorization for the Mayor Pro Tempore to sign and endorse checks, warrants, and other instruments.

MOTION APPROVED
RESOLUTION NO. 10440

Mayor Nagy recommended the appointment of Council Member Freitas as Mayor Pro Tempore. He complimented Vice Mayor Collazo on her service as Vice Mayor.

Vice Mayor Collazo moved, Council Member Bucci seconded to: (1) by motion, appoint Luis Freitas Mayor Pro Tempore; and (2) by resolution, authorize the new Mayor Pro Tempore to sign and endorse checks, warrants, and other instruments. The motion passed, 4 AYES, 1 ABSTENTION (Freitas).

I.2 Appointments of City Council Members to agencies, boards, commissions, and committees.

RESOLUTION NO. 10441

Mayor Nagy asked the City Council Members if they wanted to make any changes to their appointments for the upcoming year. Council Member Hannon requested, and Vice Mayor Freitas concurred to switch their appointments on the Alameda County Waste management Authority Board/Stopwaste.org. No other changes were requested. The assignments for 2016 are as follows:

Alameda County Fire Advisory Commission	Council Members Bucci and Collazo – delegate and alternate
Alameda County Library Advisory Commission	Council Members Collazo and Mayor Nagy – delegate and alternate
Alameda-Contra Costa Transit District Policy Advisory Committee	Council Members Bucci and Hannon – delegates
Alameda County Transportation Commission	Council Members Freitas and Collazo – delegate and alternate
Alameda County Waste Management Authority Board/Stopwaste.org	Council Members Hannon and Freitas – delegate and alternate

Association of Bay Area Governments (ABAG)	Council Member Bucci and Mayor Nagy – delegate and alternate
Community Development Advisory Committee	Mayor Nagy and Council Member Freitas – delegates
Dumbarton Rail Policy Advisory Committee	Council Members Nagy and Bucci – delegate and alternate
Newark City Council-Board of Education Liaison Committee	Council Members Hannon and Collazo - delegates
Tri-City Elder Coalition	Mayor Nagy - delegate
Senior Citizen Standing Advisory Committee	Mayor Nagy delegate and chairperson
Southern Alameda County Geographic Information System Authority	Mayor Nagy - delegate Council Member Bucci - alternate
Tri-City Waste Facility Financing Authority	Mayor Nagy and Council Member Hannon – delegates

Vice Mayor Freitas moved, Council Member Collazo seconded, by resolution, to approve the appointments to the various agencies, boards, commissions, and committees. The motion passed, 5 AYES.

I.3 Reappointment of Planning Commissioners Fitts and Otterstetter. RESOLUTION NO. 10442

Mayor Nagy recommended the reappointment of William Fitts and Debbie Otterstetter to the Newark Planning Commission for another four year term.

Council Member Collazo moved, Council Member Bucci seconded, by resolution, to approve the reappointment of William Fitts and Debbie Otterstetter to the Newark Planning Commission, for a term to expire on December 31, 2019. The motion passed 5 AYES.

Mayor Nagy stated that William Spinola has resigned from the Alameda County Mosquito Abatement District after decades of service.

Council Member Collazo stated that she enjoys serving the community.

Council Member Hannon reminded the public that there are people who need assistance during this time of year.

Vice Mayor Freitas commended the retiring Fire Department employees: Brian Caminada, Tony Connell, Ernie Morua, and Steve Perry. He also commended William Spinola for his service. He wished everyone a safe and prosperous new year.

Council Member Bucci noted that Viola Blythe collects toys for children and needed gifts for older children.

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

K. ORAL COMMUNICATIONS

Rich Dominguez thanked the City Council and shared his pleasure that the Motel 6 closed in Newark. He stated that he liked the new homes that were being constructed.

John Marston proposed a revision to the Municipal Code that would allow recreational vehicles parked on residential property for storage purposes only. They could be parked on a driveway or concrete pad only. He shared the situation with his neighbor.

City Manager Becker stated that staff has met with Mr. Marston and the neighbor has been cited. The recreational vehicle is properly screened; however, using it to live in is a violation of the Newark Municipal Code. Mr. Marston needs to notify staff as soon as possible if he sees people living in the recreational vehicle.

L. APPROPRIATIONS

City Clerk Harrington read the Register of Audited Demands: Check numbers 106250 to 106418.

Vice Mayor Freitas moved, Council Member Collazo seconded, to approve the Register of Audited Demands. The motion passed, 5 AYES.

M. CLOSED SESSION

N. ADJOURNMENT

At 9:05 p.m. Mayor Nagy adjourned the City Council meeting.

C.1 Introduction of employees.

Background/Discussion – The following newly hired or promoted city employees will be introduced at the City Council meeting:

Senior Equipment Mechanic Brian Lewis
Maintenance Supervisor Neal Hornbeck
Associate Civil Engineer Diana Cangco
Senior Accountant Krysten Lee
Police Officer Timothy Prakash.

C.2 Commending William Spinola for his service on the Alameda County Mosquito Abatement District.

Background/Discussion – William M. Spinola has served as Newark's representative on the Alameda County Mosquito Abatement District since the early 1980s. A commendation has been prepared thanking Mr. Spinola for his 33 years of service.

C.3 Presentation on City Service.

Background/Discussion – A brief presentation will be made on the benefits of city service.

C.4 Union Sanitary District presentation on their services and proposed rate changes.

Background/Discussion – The Union Sanitary District serves the cities of Fremont, Newark, and Union City by collecting and treating over eight billion gallons of sewage per year. General Manager Paul Eldredge will provide a general overview of the District and its services as well as information regarding currently proposed rate increases.

D.1 Notice of Planning Commission's decision to amend the E-Z 8 Motel Conditional Use Permit to include a Settlement Agreement condition – from Assistant City Manager Grindall. (REVIEW OPTIONAL)

Summary – Approximately a year and a half ago, City staff issued a notice to E-Z 8 Motel requiring the owners to appear at a Planning Commission public hearing to explain why their existing use permit should not be revoked because of the high level of criminal activity occurring at the Motel. City staff and E-Z 8 representatives engaged in extensive discussions in an attempt to arrive at a solution that did not require revocation of the use permit. After further negotiations and a series of public hearings spanning a year and a half, the Planning Commission adopted a resolution amending the use permit granted to E-Z 8 Motel by adding condition "rr". This new condition requires E-Z 8 Motel to comply with the terms of a Settlement Agreement between E-Z 8 and the City. The essential terms require E-Z 8 to enact and maintain numerous independent security measures and in exchange for these measures the Planning Commission dismissed the Order to Show Cause.

Review of the Planning Commission's action to amend the use permit is optional. Pursuant to the Municipal Code, the Council could either: (1) call the matter for review, which would effectively require a public hearing at a future Council meeting at which point the Council would be free to reverse, affirm, or modify the Commission's decision; or (2) decline to review the matter, which would effectively let the amendment to the use permit stand.

Background/Discussion – In 1984, E-Z 8 Newark submitted an application for a conditional use permit to operate a motel in an ML Limited Industrial District, specifically at 5555 Cedar Court. The Planning Commission denied the application and the applicant appealed to the City Council. On a 4-1 vote, the City Council overturned the Planning Commission's denial and issued the use permit by adopting Resolution No. 4565.

The Council made several findings in granting the permit, including "[t]hat the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity." (Newark Municipal Code Section 17.72.070)

Approximately ten years later, criminal activity at the Motel had increased to unacceptable levels and culminated with SWAT teams exchanging fire with a wanted murderer who was hiding out at E-Z 8. In response, the Council created a task force consisting of representatives from staff, the Council, the police department, the Motel, and the surrounding neighborhood. The task force held several meetings and adopted a "Security Plan" that included increased lighting, a security guard, and required guests to show government-issued identification (ID) before check-in, among others.

While there was a decrease in criminal activity in response to these measures, that respite was short-lived. Criminal activity subsequently resurfaced after E-Z 8 abandoned the measures agreed to in the Security Plan. Between 2008 and 2012, there was an extremely high amount of criminal activity occurring at E-Z 8 Motel, as evidenced by the following statistics:

- 760 arrests within an approximate five year period (average of 13 arrests per month)
- 753 police reports taken within an approximate four year period (average of 16 reports per month)
- 2,422 calls for police and/or emergency service within an approximate four year period (average of 53 calls for service per month)

In response to this widespread criminal activity, in April 2013 the City Attorney issued a notice of illegal activity to both E-Z 8 Motel and the landowner, informing them of the grossly disproportionate amount of crime at the Motel, the various types of crime occurring at the Motel (from rape to battery to drugs to prostitution), as well as highlighting some of the crimes specifically victimizing children, including child prostitution and lewd acts with minors. The City threatened various civil remedies, including civil litigation, administrative prosecution, imposition of extraordinary police fees, and/or use permit revocation.

City staff and E-Z 8 Motel exchanged correspondence and attempted to resolve the matter informally. Unfortunately, the settlement discussions were unfruitful and criminal activity persisted at unacceptable levels.

Use Permit Revocation

Consequently, on April 28, 2014, the City issued an Order to Show Cause Why E-Z 8's Use Permit Should Not Be Revoked ("OSC"). The City alleged in the OSC that the level of criminal activity at E-Z 8, in addition to draining City and Police Department resources, and particularly when compared to the levels of criminal activity at other hotels and motels operating in the City, constitutes a violation of the conditions on which the CUP was granted and therefore warrants revocation of the CUP. The OSC is rather extensive as it attaches hundreds of pages of police reports, as well as declarations from various City personnel.

The matter was calendared for hearing on May 28, 2014, and was continued to July 2, 2014, at the request of E-Z 8. During this time period City staff and E-Z 8 engaged in settlement discussions in hopes of arriving at a mutually agreeable solution. Those efforts resulted in an agreement that required E-Z 8 to implement a variety of enhanced security measures, including installation of an auto entry gate, enhanced video surveillance, maintaining a "no rent" list, and longer security guard hours to be provided from a licensed and bonded security company. In exchange for implementing these measures, City staff agreed to recommend to the Planning Commission that it continue the public hearing for six months to allow enough time for the security measures to be implemented and for the Police Department to assess the effectiveness of those measures.

This agreement was presented to the Commission at a special meeting held on July 2nd. The meeting lasted 3.5 hours and the Commission received considerable testimony from residents and the public. The majority of the testimony focused on three issues: (1) the negative impact that the Motel use has on the surrounding neighborhood; (2) the extraordinary Police resources that are required due to the Motel's operation; and (3) the role that E-Z 8 Motel plays in providing housing for people facing homelessness. The Commission ultimately adopted staff's recommendation and continued the public hearing.

On December 9, 2014, in response to the Commission's request, staff provided the Commission with an update on the status of the implementation of the agreed upon security measures. Staff expressed concern that E-Z 8 failed to comply with some of the material terms of the agreement, including failing to increase security guard hours and failure to install gates to control auto entry. E-Z 8 denied the allegations.

On April 28, 2015, the Commission re-opened the public hearing. Staff again expressed concern regarding the failure to implement some of the security measures. Staff was also concerned that because of E-Z 8's failure to fully comply with the agreement, staff was unable to meaningfully evaluate the crime levels at the Motel and determine whether the additional security measures had any considerable impact. E-Z 8 denied any breach of the contract and represented to the Commission that the measures had been implemented. At staff's request, the Commission continued the matter so to allow sufficient time to elapse so that staff could properly evaluate whether the agreed upon security measures positively impacted public safety.

At the continued public hearing on July 28, 2015, staff advised the Commission that: (1) Newark Police was in contact with E-Z 8 and their security consultant; (2) crime statistics associated with the operation of the motel were exchanged and analyzed; (3) based on the data, there was a decrease in the negative consequence of the motel operations on the neighborhood and police resources. However, staff expressed its concern that these criminal issues could resurface if these security matters were not appropriately addressed. Staff also reported on the cyclical history of the Motel's thirty year operation. In other words, as the crime rates and nuisance activities increase, staff intervenes to address public safety concerns and the crime activity reduces in response to that intervention, but after a period of time the criminal activity resurfaces. Accordingly, staff recommended that the Commission direct staff to negotiate with E-Z 8 to amend the use permit to incorporate the security measures so that the nuisance activities stop permanently. The Commission accepted staff's recommendation and continued the public hearing.

The public hearings were re-opened again on August 28, September 8, and October 27, 2015. At each of those hearings, staff reported that additional time was needed to negotiate and prepare the appropriate amendment for the Commission's consideration.

Settlement Agreement

On December 8, 2015, staff reported to the Commission that an agreement had been reached. The Agreement contractually obligates E-Z 8 to maintain and enforce a host of stringent security measures and procedures indefinitely.

The security measures include, in part:

1. Having an on-site Resident Manager living on the Motel property.
2. Requiring the Resident Manager and all Motel employees to cooperate with the Police Department by providing access to E-Z 8's guest register upon request.
3. Storing motel revenues in a time-locked safe to minimize opportunities for robbery.

4. Locking the motel lobby and transact all business through the night window at or around dusk.
5. Requiring all registered guests to be at least 18 years of age.
6. Restricting anyone from access to a registered guest's room other than a guest and/or visitor who has provided government-issued photo ID to the front desk at check-in. The ID shall be photocopied by the motel and stored for at least 72 hours.
7. Providing for "quiet hours" on the motel premises between 10:00 p.m. and 7:00 a.m.
8. Maintain and enforce a policy of guests staying a maximum of 21 days.
9. Maintain and enforce a policy that the minimum time period room rental is 24 hours.
10. Install and maintenance of a permanent electronically controlled gate at the entrance to the guest parking area. The gate shall only admit persons possessing a valid and active room key or a visitor/vendor temporary pass issued by a motel employee.
11. The motel shall have a licensed, bonded and insured security guard patrolling the premises between the hours of 6:00 p.m. and 2:00 a.m.
12. The motel shall maintain a security camera system which provides night time visual sharpness and complete coverage of the motel premises.
13. Maintain and enforce the policy that there shall be no more than 2 adult guests and 2 children under 13 years of age per single room and no more than 4 adults and 4 children under 13 per double room.
14. Install and maintain on the front lobby counter and on the front of the building signs that indicate cooperation with the Newark Police Department.
15. Maintain and enforce the policy that there shall be no cooking in any of the guest rooms.
16. Maintain and enforce an active "no rent" list which flags guests who have acted inappropriately in a prior stay. The motel shall place any persons requested by the Police Department on the "no rent" list.
17. The on-site Manager or other E-Z 8 employees will notify the Police Department of any known violation of the law on the E-Z 8 premises.

In exchange for these security measures, the Commission made a finding that the Motel is presently in compliance with the Agreement and that the Order to Show Cause is dismissed.

E-Z 8 additionally agreed to an amendment to its use permit. The amendment requires E-Z 8 to comply with the Settlement Agreement. The amendment, known as condition "rr', states as follows:

> "Developer agrees to operate its motel in such a manner that it complies with the Settlement Agreement with the City dated December 8, 2015."

Summary – After holding *eight* meetings and receiving hours of testimony from the public, the Commission resolved this matter by adopting a Resolution that dismisses the Order to Show Cause and requires E-Z 8 to comply with the Settlement Agreement that includes several security measures. Staff believes that the nuisance activity at E-Z 8 Motel has been abated, but, more importantly, staff believes that modification to the use permit enhances public safety because it requires E-Z 8 to

maintain a host of stringent security measures indefinitely. In other words, staff believes that the likelihood of this motel being a safe haven for criminals has been diminished. If, however, E-Z 8 breaches the Agreement staff will be quick to intervene for the safety of the public and community.

Attachments – Planning Commission Resolution No. 1922 adopted December 8, 2015
Settlement Agreement between City of Newark and E-Z 8 Newark, LLC
Minutes from Planning Commission meetings held on:
July 2, 2014;
December 9, 2014;
April 28, 2015;
July 28, 2015;
August 25, 2015;
September 8, 2015;
October 27, 2015; and
December 8, 2015.

Action – Review of this item is optional. The Council should decide to either: (1) call this matter for review, which would then require that this matter be calendared for a duly noticed public hearing, at which point the Council could either affirm, reverse, or modify the Commission's decision; or (2) decline to review this matter, which would effectively let the Commission's decision stand and the use permit modified accordingly.

RESOLUTION NO. 1922

RESOLUTION OF THE CITY OF NEWARK PLANNING COMMISISON TO: (1) DISMISS AN ORDER TO SHOW CAUSE; (2) FIND THAT THE E-Z 8 MOTEL IS PRESENTLY IN COMPLIANCE WITH CONDITIONAL USE PERMIT (U-84-18); AND (3) AMEND CITY COUNCIL RESOLUTION NO. 4565 BY ADDING CONDITION "RR"

WHEREAS, on July 26, 1984, the Newark City Council adopted Resolution No. 4565, granting the application for Conditional Use Permit U-84-18 ("CUP") at 5555 Cedar Court to E-Z 8 ("E-Z 8" or "Motel"); and

WHEREAS, on April 28, 2014, the City of Newark, pursuant to Municipal Code Section 17.72.130, issued an Order to Show Cause Why Conditional Use Permit No. U-84-18, Issued to E-Z 8 Motel, Should Not Be Revoked ("OSC"), alleging that the level of criminal activity at the Motel, in addition to draining City and Police Department resources, constitutes a violation of the conditions on which the CUP was granted; and

WHEREAS, the Motel denies any and all allegations made by the City in the OSC; and

WHEREAS, a Public Hearing on the OSC was set before the Newark Planning Commission on July 2, 2014, at the Newark City Council Chambers located at 37101 Newark Blvd, 6th Floor, Newark, California; and

WHEREAS, prior to that Public Hearing, the City and E-Z 8 entered into the July 2, 2014 Agreement in which E-Z 8 agreed to implement certain security measures intended to address the City's public safety concerns at the Motel and, in exchange, City staff agreed to recommend that the Planning Commission continue the Public Hearing; and

WHEREAS, the Public Hearing was continued from July 2, 2014, to April 28, 2015, and, again, to July 28, 2015, all at the same location; and

WHEREAS, at the continued Public Hearing on July 28, 2015, City staff reported to the Planning Commission that there is some indication that E-Z 8's implementation of the agreed upon security measures has led to a reduction of negative consequences in the surrounding neighborhood and that E-Z 8 reported to the Planning Commission that it was not seeing any security problems at the Motel; and

WHEREAS, the City and E-Z 8 have entered into a written agreement in which E-Z 8 has agreed to maintain and enforce twenty-five (25) itemized security measures and procedures, provided that the Planning Commission dismisses the pending OSC and make a finding that the Motel is presently operating in compliance with its use permit.

NOW, THEREFORE, in exchange for the City's dismissal of the OSC and mutual waivers of litigation and/or claims, E-Z 8 agrees to an amendment to the CUP that references the attached Settlement Agreement; and

THEREFORE, the Planning Commission makes the finding that E-Z 8 is presently in compliance with the CUP and the OSC is dismissed.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission amends City Council Resolution No. 4565, to add condition "rr" as follows:

> rr. "Developer agrees to operate its motel in such a manner that it complies with the Settlement Agreement with the City dated December 8, 2015, a copy of which is attached hereto."

This Resolution was introduced at the Planning Commission's December 8, 2015 meeting by Commissioner Bridges, seconded by Commissioner Nillo, and passed as follows:

AYES: Bridges, Fitts, Nillo and Otterstetter.

NOES: None.

ABSENT: Aguilar.

s/Terrence Grindall
TERRENCE GRINDALL, Secretary

s/William Fitts
WILLIAM FITTS, Chairperson

SETTLEMENT AGREEMENT BETWEEN
CITY OF NEWARK AND E-Z 8 NEWARK, LLC

This Settlement Agreement ("Settlement Agreement"), effective December 8, 2015, is entered between the CITY OF NEWARK, a California municipal corporation ("City") and E-Z 8 Newark, a California Limited Liability Company, ("E-Z 8" or "Motel"), collectively referred to as "Parties". It is intended to supersede and restate that certain agreement between the Parties dated July 2, 2014, and its amendment (the "July 2 Agreement").

RECITALS

A. On July 26, 1984, the Newark City Council adopted Resolution No. 4565, granting the application for Conditional Use Permit U-84-18 ("CUP") at 5555 Cedar Court to E-Z 8. The City Council made several findings in granting the permit, including "[t]hat the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity." (Newark Municipal Code Section 17.72.070)

B. E-Z 8 has operated the Motel on said property continuously and without interruption for approximately 30 years.

C. On April 28, 2014, City, pursuant to Municipal Code Section 17.72.130, issued an Order to Show Cause Why Conditional Use Permit No. U-84-18, Issued to E-Z 8 Motel, Should Not Be Revoked ("OSC"). The basis of the OSC is that the City alleges that the level of criminal activity at the Motel, in addition to draining City and Police Department resources, and particularly when compared to the levels of criminal activity at other hotels and motels operating in the City, constitutes a violation of the conditions on which the CUP was granted.

D. E-Z 8 asserts that the Motel is properly operated and denies any and all allegations made by the City in the OSC.

E. A public hearing on the OSC was set before the City Planning Commission on July 2, 2014, at the Newark City Council Chambers located at 37101 Newark Blvd, 6th Floor, Newark, California.

F. Prior to that hearing, the Parties entered into the July 2 Agreement in which E-Z 8 agreed to implement certain security measures intended to address the City's public safety concerns at the Motel and, in exchange, City staff agreed to recommend that the Planning Commission continue the public hearing.

G. The public hearing was continued from July 2, 2014, to April 28, 2015, and, again, to July 28, 2015, all at the same location. At the continued public hearing on July 28, 2015, City staff reported to the Commission that there is some indication that E-Z 8's implementation of the

agreed upon security measures has had a positive impact on motel operations and has led to a reduction of negative consequences in the surrounding neighborhood. E-Z 8 reported to the Commission that it was not seeing any security problems at the motel.

H. In exchange for the City's dismissal of the OSC and mutual waivers of litigation and/or claims, E-Z 8 agrees to an amendment to the CUP that references this Settlement Agreement.

SETTLEMENT AGREEMENT

SECTION 1. SECURITY MEASURES

(A) E-Z 8 Motel agrees to maintain and enforce the following security measures and procedures:

1. Having an on-site Resident Manager living on the Motel property.
2. Requiring the Resident Manager and all Motel employees to cooperate with the NPD, by providing access to E-Z 8's guest register upon request.
3. Storing Motel revenues in a time-locked safe to minimize opportunities for the Motel to be robbed.
4. Locking the Motel lobby and transacting all business through the night window at or around dusk each day.
5. To the extent permitted by law, requiring all registered guests (other than accompanying minors/juveniles) to be at least 18 years of age.
6. Posting and enforcing a curfew on use of the pool and spa between the hours of 10 p.m. and 9 a.m. daily with summer hours of 11 p.m. – 9 a.m. daily.
7. Not allowing anyone, other than a guest who has provided appropriate ID to the front desk at check-in, access to a registered guest's room. When a registered guest requires a replacement key, the room will be re-keyed.
8. Not allowing large dogs on the premises if there is reason to believe the dog will be a safety threat. Current policies provide that pets are to be on leashes, not left unattended in rooms and not in the lobby or pool area. The Motel will continue to accommodate service dogs.
9. Providing for "Quiet Hours" on the Motel premises which shall be from 10:00 p.m. to 7:00 a.m. daily.
10. Not allowing any more than two (2) adult guests and two (2) children under the age of 13 in any single room, and no more than four (4) adults and four (4) children under the age of 13 in any double room.
11. Continuing the current policy of guests staying a maximum of 21 days.
12. Continuing the current policy that the minimum time period for renting a room is 24 hours.
13. Requiring every person, whether guest or visitor or vendor, to the E-Z 8, to provide a government-issued photo ID which shall be photocopied by the Motel and maintained for no less than 72 hours after completion of the guest's or visitor's stay.

14. Limiting access to the Motel property by maintaining a permanent, electronically controlled gate at the entrance to the property (after check-in parking). The gate shall only admit persons possessing a valid and active room key or a visitor/ vendor temporary pass which has been issued by a Motel employee after the visitor/ vendor enters the lobby, provides appropriate identification, and registers as a visitor/ vendor.
15. Requiring all visitors/vendors to the Motel, after showing a valid form of picture ID and registering as a visitor/vendor with the Motel, to indicate what room he or she will be visiting, the name(s) of the person(s) he or she will be visiting, and the purpose of his or her visit.
16. Employing one security guard to patrol the premises every day between the hours of 6 p.m. and 2 a.m., or for an alternative eight (8) hour shift, as agreed upon by the parties. Any security guard hired by E Z-8 shall be licensed, bonded and insured.
17. Operating a security camera system at the Motel which provides night time acuity and complete coverage of the Motel premises. NPD will be provided access to the camera-images within 24 hours of a request from NPD.
18. Keeping posted on the front lobby counter and on the front of the building signs that read as follows: "WE ACTIVELY COOPERATE WITH THE NEWARK POLICE DEPARTMENT TO DISCOURAGE ANY FORM OF ILLEGAL ACTIVITY ON THESE PREMISES. WE SHARE OUR REGISTRY WITH THE NEWARK POLICE DEPARTMENT. NO ILLEGAL ACTIVITY WILL BE ALLOWED ON THIS PROPERTY AND IF WE OBSERVE SUCH ACTIVITY THE NEWARK POLICE WILL BE IMMEDIATELY CALLED AND ANYONE INVOLVED IN SUCH ACTIVITY WILL BE EVICTED FROM THE PREMISES AND NOT ALLOWED TO RETURN".
19. Keeping posted signs at the entrance to the property that will read: "ALL PERSONS ENTERING THIS PROPERTY MUST REGISTER AT THE FRONT DESK, GIVE THEIR VEHICLE LICENSE NUMBER AND RECEIVE AND DISPLAY A PARKING PERMIT. VIOLATORS OF THIS POLICY WILL BE ASKED TO LEAVE AND VEHICLES MAY BE TOWED WITHOUT FURTHER NOTICE".
20. Retaining the services of a person with law enforcement experience to act as a Security Advisor to the Motel and who shall participate in formally scheduled meetings described in Paragraph 1(C) below.
21. Continuing a policy that there shall be no cooking in any of the Motel guest rooms. No cooking apparatus, including a stove top, butane cooking unit, or barbeque, shall be allowed in any E-Z 8 room.
22. Continuing a policy requiring that all guests, visitors, and vendors with vehicles on the Motel property provide the license plate number of their vehicles to the front desk.
23. Continuing a policy of issuing parking permits to each registered guest, visitor, or vendor and requiring that they put the parking permit on their front dashboard. The parking permit shall include the following statement: "WE SHARE OUR REGISTRY WITH THE NEWARK POLICE DEPARTMENT". Vehicles of all guests will be subject to the same requirement.
24. Continuing to keep an active "no rent" list which flags in the Motel's computer system all guests who have acted inappropriately in a prior stay. The Motel shall place any persons

reasonably requested by the NPD on the "no rent" list. The Motel shall thereafter refuse to rent to persons on the "no rent" list.

25. Continuing a policy that the on-site Manager or other E-Z 8 employees will continue to notify the NPD of any known violation of the law on the E-Z 8 premises.

(B) Definitions. For the purposes of this Settlement Agreement, the following terms shall have their respective definitions ascribed to them:

"Guest" shall mean "a person is who paying to rent a motel room at E-Z 8 or who registers with the person who is paying to rent the room, and intends to stay in the room (e.g. spouse or family member)".

"Visitor" shall mean "a person who is not paying to rent a motel room, but is visiting a guest at E-Z 8".

"Vendor" shall mean "a person who is on the E-Z 8 premises for the purpose of providing goods or services".

"Single Room" shall mean "a room with one queen size bed, refrigerator, cable TV, air conditioning, shower tub, toilet and vanity, one desk table with two chairs".

"Double Room" shall mean "a room with two queen size beds, refrigerator, cable TV, air conditioning, shower tub, toilet and vanity, one dresser and one chair".

"Register" shall mean "to provide the front desk with a valid, government issued ID or, if a juvenile accompanied by an adult and under the age of 18, the juvenile's name and date of birth".

(C) Meetings. The City and E-Z 8 representatives shall meet from time to time to discuss the status and success of these security measures, the level of criminal activity documented by the NPD as occurring on the property, and options for addressing any issues that may arise. Also upon reasonable request and as appropriate, the City will provide E-Z 8 with statistics of calls, arrests, criminal and police activity at the Motel. These meetings shall be attended by, at minimum, a representative from the Newark Police Department, the E-Z 8 Site Manager, and the E-Z 8 Security Advisor. The E-Z 8 Security Advisor may participate by telephone if participation in that form is reasonable given the circumstances of the meeting.

(D) Waiver of *City of Los Angeles v. Patel.* The Parties are aware of the recent United States Supreme Court decision in *City of Los Angeles v. Patel*, 576 U.S. ___ (2015), decided June 22, 2015 (hereinafter "*City of Los Angeles*"), wherein the U.S. Supreme Court invalidated a Los Angeles City Ordinance that authorized warrantless searches of hotel registries by law enforcement. City contends that the holding in *City of Los Angeles* is inapplicable to any of the

security measures herein, including, but not limited to Section 1(A)(2) above because by execution of this Settlement Agreement E-Z 8 consents to the search of its registry and other such security terms. Notwithstanding the foregoing, even if the holding of *City of Los Angeles* (or any successor case) is applicable to situations involving consent, E-Z 8 knowingly and intelligently waives the applicability of the *City of Los Angeles* holding to this present situation and knowingly and intelligently agrees to all of the security terms above, including, but not limited to sharing its registry with Newark PD under Section 1A(2) above.

SECTION 2. AMENDMENT TO CONDITIONAL USE PERMIT U-84-14

(A) Adoption of Resolution Amending CUP. The City agrees to recommend that the Planning Commission adopt a Resolution amending the CUP to include condition "rr" as follows:

> "Developer agrees to operate its motel in such a manner that it complies with the Settlement Agreement with the City dated December 8, 2015, a copy of which is attached hereto."

(B) Consent. E-Z 8 consents to the inclusion of the above terms and conditions in its CUP subject to the following terms and conditions:

1. Dismissal: The Planning Commission shall make a finding that E-Z 8 is presently in compliance with the CUP and the OSC is dismissed:

2. Notice of Breach and Opportunity to Cure. If either party believes that the other party is in material breach of any term of this Settlement Agreement or the CUP, as amended, the non-defaulting party shall submit to the defaulting party a notice in writing indicating which provisions herein are believed to be in breach and an explanation thereof. The defaulting party shall provide a written response within 30 days, indicating why it is not in breach or, if it is in breach, an explanation of how and when the breach will be cured. If there is a breach, the breach shall be cured within 30 days of providing the written reply, or, if the breach requires more than 30 days to cure, the cure shall be commenced within 30 days and diligently completed. Motel shall be in compliance as long as there is no material, uncured breach of this Agreement.

3. Notices: Any notices required under this Settlement Agreement, including those identified in Section 2 (C) 2. above, shall be sent by U.S. Postal Service first class mail and e-mail to the following:

E-Z 8 Motel	City of Newark
Attn: Director of Operations	Attn: Community Development Director
2484 Hotel Circle Place	37101 Newark Boulevard

San Diego, CA 92018
dbarger@ez8motels.com

Newark, CA 94560

With a copy to:
John Wynne, Esq.
Duckor, Spradling
3043 Fourth Ave.
San Diego, CA 92103-5801
Newark, CA 94560
wynne@dsmw.com

With copy to:
City of Newark
Attn: City Attorney
37101 Newark Boulevard

With a copy to:
General Manager
E-Z 8 Newark
5555 Cedar Court
Newark, CA 94560-4812

(C) Public Hearing Date. Upon E-Z 8's execution of this Settlement Agreement, City staff shall take reasonable steps to have a proposed Resolution adding condition "rr" scheduled for a public hearing before the Planning Commission as soon as practically possible.

(D) No Contest. E-Z 8 agrees to support the proposed Resolution and in no way shall it contest, challenge, or file litigation against the City in regards to the adoption of the proposed Resolution, either directly by itself or indirectly by supporting any third party.

SECTION 3. MUTUAL RELEASES

(A) Release. For the consideration herein, both Parties hereby and for their respective heirs, executors, administrators, successors, agents, partnerships, subsidiaries, associations, planning commission, boards, other agents and employees, as well as their respective assigns forever release acquit and discharge the other Party and any and all of its agents, employees, managers, officers, partners, members, servants, successors, heirs, executors, administrators and all other persons, firms, corporations associations ,partnerships or affiliated business agencies of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of business, expenses, and compensation whatsoever in regards to the OSC or for any liability for prior nuisance or arising from the matters claimed or described in the City's OSC application.

(B) Denial of Liability. It is understood and agreed that this mutual release is the compromise of mutual claims and that execution of this Settlement Agreement is not to be construed as an admission of liability on part of the Party or Parties hereby released, and that said released deny liability therefore and intend merely to avoid litigation and buy their peace.

(C) Waiver of Section 1542. It is further understood and agreed that all rights under Section 1542 of the Civil Code of California and any similar law of any State or territory are hereby waived. Section 1542 of the Civil Code of California provides that:

> **A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**

SECTION 4. EFFECTIVE DATE

(A) Effective Date. This Settlement Agreement shall become effective as of December 8, 2015, if, and only if, all of the following four conditions occur: (i) E-Z 8 consents to the amended CUP as required under Section 2 herein; (ii) the Planning Commission issues said amended CUP; (iii) the OSC is dismissed; and (iv) all of the deadlines and/or statutes of limitations to appeal and/or challenge such actions have passed. If any of these conditions are not satisfied, then this Settlement Agreement shall be null and void.

(B) Superseding and Restating Previous Agreement. Immediately upon this Settlement Agreement taking effect, the July 2 Agreement shall be superseded by this Settlement Agreement.

SECTION 5 . GENERAL PROVISIONS

(A) Signatures. The individuals executing this Settlement Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Settlement Agreement on behalf of the respective legal entities. This Settlement Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

(B) Entire Agreement. This Settlement Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the Parties. This Settlement Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral.

(C) Severability. If any term of this Settlement Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Settlement Agreement shall be construed as not containing that term, and the remainder of this Settlement Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the Parties' intent under this Settlement Agreement.

(D) Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Settlement Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Settlement Agreement shall be filed and heard in a court of competent jurisdiction in the County of Alameda or United States District Court with jurisdiction over that county.

(E) Interpretation. The terms of this Settlement Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Settlement Agreement. Paragraph headings used herein are for convenience only and shall not be deemed to be a part of such paragraphs and shall not be construed to change the meaning thereof.

(F) Amendments. This Settlement Agreement can be modified by the Parties in writing at any time.

CITY OF NEWARK / "CITY"

Mr. John Becker, City Manager

E-Z 8 Newark, LLC / "E-Z 8" or "Motel"

Mr. Jerry M. Cannon
For Pasatiempo Management, LLC

Attest:

Ms. Sheila Harrington, City Clerk

CITY OF NEWARK
PLANNING COMMISSION

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4330 • FAX 510-578-4265

MINUTES

Wednesday, July 2, 2014

City Administration Building
6:00 p.m.
City Council Chambers

A. ROLL CALL

At 6:02 p.m., Chairperson Nillo called the Special Meeting to order. All Planning Commissioners were present except Commissioner Aguilar (recused).

B. MINUTES

None.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

E.1 Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code. (RESCHEDULED FROM MAY 28, 2014)

Assistant City Manager Grindall gave background information and based upon a negotiated agreement with EZ-8 representatives recommends the hearing regarding revocation be continued for six months.

Ms. Anna Roppo with Duckor, Spradling, Metzger & Wynne, 3043 4th Avenue, San Diego, CA 92103, representing E-Z 8 Newark LLC, stated her clients do not waive any of their rights but are attending the meeting to show cooperation in working with the City.

Ms. Roppo presented a PowerPoint presentation, making special note to a slide depicting onsite signage that states E-Z 8 actively participates with the Newark Police Department to discourage illegal activity on their premises.

Ms. Roppo listed E-Z 8's current security measures and the supplemental measures per the Agreement with the City.

Vice-Chairperson Hannon suggested that any future PowerPoint presentations be provided to the Planning Commission prior to the Planning Commission Meetings.

Referencing the PowerPoint slide on the signage, Vice-Chairperson Hannon asked for the number of Newark residents that were evicted from E-Z 8 within the last 12 months. Mr. Ansel Battle, General Manager at the E-Z 8 Motel, 5555 Cedar Court, stated approximately 25-30 people were evicted and added to their "do not rent" list.

Answering Vice-Chairperson Hannon, Mr. Battle stated E-Z 8 needed Police assistance with evicting guests on "an almost daily basis" for a variety of reasons.

Answering Vice-Chairperson Hannon, Mr. Battle described his work experience.

Answering Commissioner Drews, Mr. Battle stated it is a judgment call as to whether or not he or his staff calls for Police assistance.

Answering Vice-Chairperson Hannon, Mr. Battle stated one or two arrests were made per week as a result of sharing their Registry with the Newark Police Department. Ms. Roppo added that some of those were for warrant arrests.

Discussion ensued on security cameras, cooking not being allowed in the motel rooms, and the keeping of the "no rent" list.

Answering Commissioner Bridges, Mr. Battle stated in comparison to other E-Z 8 Motels, the only difference he sees is the security measures at the entry points.

Answering Commissioner Drews, Ms. Roppo clarified what the "no rent" list is.

Mr. Battle stated half of their guests stay for 21 days, vacate the property for 48 hours, then return to rent rooms for another 21 days.

Discussion ensued among Commissioner Otterstetter, Ms. Roppo, and Mr. Battle on what security measures had been implemented and which ones was not yet in place.

Discussion ensued between Vice-Chairperson Hannon and Ms. Roppo on the Public Records Act request that they made to the City.

Discussion ensued between Vice-Chairperson Hannon and ACM Grindall on the process regarding revocation of a Conditional Use Permit. Ms. Roppo stated she and her clients disagree with the revocation.

Answering Commissioner Drews, ACM Grindall stated the 6-month timeframe was negotiated between staff and E-Z 8 and was deemed appropriate to determine if the new practices and procedures are successful.

Answering Vice-Chairperson Hannon, Mr. Lester Crouch, 2 Camino LaVente, Las Vegas, NV, stated the costs associated with employing two security guards was too expensive and believes the security gate is sufficient.

Answering Vice-Chairperson Hannon, Mr. Gannon from San Diego, CA, stated the security gate is only for vehicle access to the property; the repairs to their security systems were made; and they will improve the nighttime acuity of the surveyance cameras per the new Agreement.

Mr. Gannon stated the crime statistics detailing arrests made at their property includes arrest warrants for unknown reasons which occurred elsewhere.

Answering Commissioner Bridges, Mr. Gannon described the clientele that stays for the 21 days and indicated they work with ABODE and church groups to keep families from living inside their vehicles.

Chairperson Nillo opened the Public Hearing.

Unknown Speaker #1 believes the PowerPoint Presentation did not accurately depict what goes on there. She stated her opinion that E-Z 8 is not a good Corporate Neighbor and would like the Conditional Use Permit be revoked at tonight's meeting.

Richard Dominguez, 5647 Moores Avenue, Newark, CA, believes the E-Z 8 Motel is a sore spot for the Community; the Agreement is only a band aid; and he supports revocation of the Use Permit.

Mike Bucchi, 6249 Wilma Avenue, Newark, CA, believes revocation is long overdue and cited incidences of crime and the loss of investors for neighboring businesses due to negative activity he attributes to the E-Z 8 Motel.

Stephanie Jones, 4948 Norwich Place, Newark, CA, questioned why it has taken so long for E-Z 8 to implement security measures. She also stated she would like their Conditional Use Permit revoked.

Tim Jones, 5948 Norwich Place, Newark, CA, questioned why E-Z 8 sequester their employees and wall off their property. Mr. Jones stated the security gate can easily be walked around and the wall is easy to climb over. Mr. Jones suggested drug testing of the E-Z 8 employees and asked why this particular Motel is the cheapest one in their chain.

Mary Florio, 6057 Moores Avenue, Newark, CA, stated her concerns with the type of people and situations she encounters on her walks. She stated she supports revocation of the Use Permit.

Richard Dominguez, 6312 Narcissus Avenue, Newark, CA, described activity involving cars temporarily parked on Moore Avenue and Cedar Boulevard; described activity involving SWAT teams in an incident that occurred in 1984; and described recent arrest activities that he believes involved drugs.

David Blakesley, 36219 Landes Place, Newark, CA, described his observations as a RAVEN Volunteer while parked in his patrol vehicle at the BJ Restaurant parking lot, at Motel 6 and at the E-Z 8 Motel, and stated he believes his presence is a deterrent to crime in those areas.

Newark resident Patty Born, stated her belief that Churches and E-Z 8 should continue their partnership to keep homeless families off of the streets and asked that the City join in the partnership instead of trying to close E-Z 8.

Newark resident Jolie Agusa, stated through her Church she has met a number of families living at the E-Z 8 Motel who are thankful for being able to be a part of the Newark Community. Ms. Agusa also stated that in the 2-3 years that she visited the Motel she personally did not witness and crime or arrests.

Hannah Mills, 35324 Severn Drive, Newark, CA, described her experience helping the families living at E-Z 8 Motel and stated her perspective changed from wanting to avoid them to making them her friends.

Tara Anderson-Mills, 35324 Severn Drive, Newark, CA, stated there is a 3 to 4 month waiting list at ABODE for family shelter and surmised if E-Z 8 Motel closes the displaced families would be living on the streets. Ms. Anderson-Mills believes living at the Motel may be the only affordable option for a safe environment for these families.

Unknown Speaker #2, stated he does not feel safe in his front yard and has witnessed various SWAT activities. He asked that the E-Z 8 Motel be shut down.

Kim Cross, 6257 Wilma Street, Newark, CA, feels the homeless problem is a separate issue. Ms. Cross referenced the Nexel Report and commented that the same crimes are repeatedly being committed at E-Z 8 Motel which in her option is not good for businesses nor the Community. Ms. Cross also expressed support for Use Permit revocation.

Sarah Nelson, 5692 Moores Avenue, Newark, CA, described SWAT activities in her neighborhood and indicated support for revocation of the motel's Use Permit.

Dianna Hernandez, E-Z 8 Motel resident, described her circumstance and living environment at E-Z 8 and encouraged the City to look into providing affordable

housing. Ms. Hernandez commented that SWAT activities occurs in neighborhoods, as well as, at the Motel.

Angel Ramirez, E-Z 8 Motel resident, asked where would her family go to live if E-Z 8 is closed. Ms. Ramirez stated there are two family shelters in Alameda County and they have long wait lists. Ms. Ramirez invited City staff to visit her room to see first-hand how they live and how they get along with the other families living there.

Newark resident Sorri Hedges, stated her concerns with the stress and strain placed upon the Newark Police Officers; questioned Mr. Battle's procedure of when he decides to notify the Police; wants to see the analysis of the crime statistics; and wondered where E-Z 8's financial funding comes from. Ms. Hedges submitted a written statement signed by her neighbors to the Planning Commission.

Answering Newark resident Glen Nelson, Ms. Roppo replied she stays at E-Z 8 Motel when she is in town.

Commissioner Otterstetter read three emails that she received from citizens unable to attend tonight's meeting:

1) Vivian Larsen believes E-Z 8 Motel is detrimental to the City by bringing in crime, draining Police resources, and tarnishing the City's image.

2) Judy Melburg believes the threat to public safety outweighs the loss of jobs at E-Z 8 and wants to see their permit revoked.

3) Mark Hilton believes the lack of proper leadership and management resulted in the decline of the motel and feels for the betterment of Newark it is time to revoke their permit.

Chairperson Nillo closed the Public Hearing.

Contract City Attorney Samantha Zutler addressed Vice-Chairperson Hannon's earlier concern on the timeliness of the City's response to the Public Records Act request by stating the City has consistently responded per Statute.

Police Commander Mike Carroll believes the arrest rate associated with E-Z 8 Motel has not changed in the past 23 years but has remained consistently high.

Commander Carroll stated the Police Department makes a concerted effort to show a Police presence at E-Z 8 Motel to deter criminal activity and stated possible security measures to reduce crime (i.e. employing two security guards, raising room rates and raising the age limit for renting rooms).

Police Sergeant Jeff Mapes, stated although the arrest warrants discovered through the registry search were for activity committed elsewhere, subsequent investigation reveals additional criminal activity had taken place at or near E-Z 8's property.

Answering Vice-Chairperson Hannon, ACM Grindall replied the City has not charged businesses for the cost associated with providing extra Police services, but a newly adopted Ordinance would allow the City to do so in the future.

Vice-Chairperson Hannon requested staff to look into having all Newark Hotels and Motels pay a percentage of the Police Liaison's salary.

Discussion ensued between Vice-Chairperson Hannon and ACM Grindall on the Transient Occupancy Tax.

Answering Commissioner Drews, Sergeant Mapes stated the proposed security cameras at E-Z 8 Motel had not been installed yet.

Commissioner Drews stated she is in favor of having two security guards employed by E-Z 8.

Answering Chairperson Nillo, Sergeant Mapes stated camera footage is recorded onto a DVR system which the Police Department is able to view with Mr. Battle's permission.

Answering Vice-Chairperson Hannon, Commander Carroll stated remote access to the video footage is an excellent idea but it did not come up in discussions with E-Z 8.

Mr. Roppo stated the request by Vice-Chairperson Hannon to modify the executed Agreement during the Planning Commission Meeting was unorthodox.

Planning Commission Attorney Judith Robbins, stated the actions that the Planning Commission could take are:

1. Grant the 6-month continuance of the Public Hearing; or

2. Not accept the recommended continuance and allow E-Z 8 Motel the time to return to another Public Hearing with their record; whereby the City staff would prepare a Resolution to revoke or modify the Use Permit.

Vice-Chairperson Hannon suggested the following changes to the Agreement for Planning Commission concurrence:

1. Increase the age for renting rooms to 21
2. Increase the number of security guards from1 to 2
3. Change the wording "upon reasonable request" in Item B5 to "within 24 hours"
4. Add a new condition to have remote access to the camera footage available to the Police Department
5. Give a copy of the wording on their signage to all guests in English, Vietnamese and Spanish
6. Shorten timeframe in Item 8 to 10 days
7. Give the security advisor's name to the Police Department
8. Change Item 3 on the last page of the agreement to be "on an as needed basis"

Commissioner Fitts would like the timeframe to install the gate and security cameras reduced so the Planning Commission could have a longer period of time to see if these measures are effective.

Commissioner Bridges suggested having the hours increased for the one security guard.

Commissioner Otterstetter would like to see two security guards onsite until the new gate is installed.

ACM Grindall stated his belief that the Planning Commission had reached a consensus and is requesting that staff renegotiate the Security Agreement.

ACM Grindall suggested the Planning Commission continue this Public Hearing for 6 months with the condition the City and E-Z 8 renegotiate the Security Agreement and if they cannot come to terms on a new Agreement this item will return to the Planning Commission within 30 days with a Resolution prepared to revoke the Use Permit.

Commissioner Fitts stated two separate issues were brought up at tonight's meeting: 1) the neighbors feeling unsafe; and 2) the lack of affordable housing or shelters for homeless families.

Commissioner Drews stated she was in favor of shortening the timeframe to install the gate and cameras.

Commissioner Bridges commented that there is a significant cost associated with providing extra Police services, but the closing of a business is an extreme measure. Commissioner Bridges stated she is in favor to the 6-month continuance with the minor changes to the Security Agreement.

Chairperson Nillo stated he was in favor of the continuance and stresses the safety and quality of life for Newark residents is extremely important but feels the closing of the business would be detrimental to everyone.

Chairperson Nillo encouraged E-Z 8 to work on improving their reputation among the Community.

Motion made by Commissioner Bridges, seconded by Commissioner Fitts to continue this hearing regarding revocation of conditional use permit U-84-18 to the January 7, 2015 Planning Commission meeting with the condition that within 30 days staff would renegotiate the Security Agreement to amend it as follows: Change the age to register to 21; have remote access to camera footage available to the Newark Police Department; have two security guards employed until the new gate is installed then reduce the number to one; reduce the timeframe for installation of the cameras and the gate; and if the negotiations are unsuccessful revocation proceedings would be brought before the Planning Commission. Motion passed 6 AYES, 1 RECUSAL (Aguilar).

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

None.

Commissioners' Comments

Chairperson Nillo wished everyone a Happy and Safe Fourth of July.

H. ADJOURNMENT

At 9:27 p.m., Chairperson Nillo adjourned the Special Planning Commission meeting of Wednesday 2, 2014.

Respectfully submitted,

Terrence Grindall

TERRENCE GRINDALL
Secretary

Vice-Chairperson Hannon commented he appreciates the fact that the Applicant stated he wanted to show off the improved aesthetic features of the addition by building it in the front.

Mr. Wong stated that although he rents out the property on Truckee Court, he was one of the original owners in the neighborhood and has chosen to keep and maintain the home because he likes the area.

Vice-Chairperson Hannon made a motion, seconded by Commissioner Fitts, to deny the appeal of Community Development Director's approval of SFDR-14-52, a single-family design review, for a second-story addition to the residence at 6281 Truckee Court. Motion passed 5 AYES.

Commissioner Aguilar recused himself due to his business's involvement with the property adjacent to the property in Item F.1.

F.1 Update on continued Public Hearing to consider revocation of Conditional Use Permit (U-84-14) for E-Z 8 Motel.

Assistant City Manager Grindall gave the staff report and reminded the Planning Commission that this is an Informational Item only.

ACM Grindall stated a letter in response to the City's letter dated December 2, 2014 was received from EZ-8 LLC and was provided to the Planning Commission.

Mr. Jonathan Wynne, representing E-Z 8, stated he was present to monitor and report the proceedings to his clients and was pleased that the Planning Commission received their response letter. Mr. Wynne stated he and his clients will be returning on January 7, 2015 for the Public Hearing.

Commissioner Aguilar returned to the Council Chambers and rejoined his fellow Planning Commissioners.

G. COMMISSION MATTERS

G.1 Election of Officers.

Commissioner Otterstetter nominated Commissioner Fitts for Planning Commission Chairperson for 2015. Seconded by Commissioner Aguilar, motion passed 5 AYES.

Chairperson Nillo nominated Commissioner Aguilar for Planning Commission Vice-Chairperson for 2015. Seconded by Vice-Chairperson Hannon, motion passed 5 AYES.

Answering Commissioner Otterstetter, Ms. Sisk stated the Circus Operator provides the security which is part of their staff.

Chairperson Fitts closed the Public Hearing.

Motion by Commissioner Nillo, seconded by Vice-Chairperson Aguilar, to approve Resolution 1908, with Exhibit A, pages 1 through 3, approving the request by LOV (League of Volunteers), for P-15-11, a planned unit development, and U-15-12, a conditional use permit, to have a circus at the NewPark Mall parking lot (APNS: 901-111-20 & 21) with performances from September 3 through September 7, 2015.

Vice-Chairperson Aguilar recused himself due to his business's involvement with the adjacent property for Item E.2.

E.2 Continued Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 Motel is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code.

ACM Grindall gave the staff report and recommended that this Item be opened, public testimony be received, then the Item be continued to a specific date approximately 3 months later to allow time for a full assessment of the agreed upon security measures.

ACM Grindall mentioned correspondence dated April 27, 2015 from E-Z 8 Newark, LLC, which was received both electronically and via mail delivery, were given to the Planning Commissioners.

Discussion ensued between Chairperson Fitts and ACM Grindall clarifying the objective for the 3 month continuance.

Chairperson Fitts reopened the Public Hearing.

Mr. Jerry Cannon, representing E-Z 8 Newark, LLC, 10399 Roof Fin Stairs, San Diego, CA 92108 and Mr. John Wynne from Duckor, Spradling, Metzger, Wynne, 32043 4th Avenue, San Diego, CA 92103 stepped up to the podium.

Mr. Cannon stated he believed E-Z 8 had fully complied with the Agreement as documented in his April 27, 2015 correspondence.

Mr. Cannon described his interactions with the Newark Police Department as favorable and felt rapport with the Police Department had been restored and hopes the same would happen with all City Staff.

Mr. Cannon stated the 3 month continuance would be beneficial; he reserves all legal claims; and he described the permitting process for the security gates.

Answering Commissioner Otterstetter, Mr. Cannon stated one other property that he oversees has a similar gate in place which took 3-4 months to install.

Commissioner Otterstetter described her personal observations at E-Z 8 where the gates were not yet installed, were installed but not working, and no security personnel were on site.

Answering Commissioner Nillo, Mr. Alonzo Battle, 5555 Cedar Court, Newark, CA 94560, described the process for registering hotel guests and the visitors of hotel guests.

Answering Commissioner Nillo, Mr. Cannon stated he thought the Newark Police was his point of contact and he did not know what information was relayed to other City Staff.

Commissioner Nillo suggested Mr. Cannon work with both the Police Department and the Community Development Department staff.

Mr. Wynne emphasized his letter dated April 27, 2015 details their position on this matter and thanked staff for making his letter as well as the letter from Mr. Cannon and Mr. Crouch part of the Administrative record.

ACM Grindall stated the intent behind staff's letter from December 23, 2014 was to implore E-Z 8 to abide by the Agreement and stated staff was not contacted by E-Z 8 to attend the meeting between E-Z 8 and their Security Advisor.

Mr. Richard Dominquez, 5647 Moores Avenue, Newark, CA 94560, gave his opinion that the security measures would give the hotel the appearance of a prison. Mr. Donimquez thanked City staff for trying to move the City forward.

Ms. Cindy Parks, 36283 Birkshire Place, Newark, CA 94560, stated she was disappointed by the lack of compliance with the Agreement and had hoped the Conditional Use Permit had been revoked back in July 2014 but understands why the City want to grant additional time to E-Z 8 to determine if the security measures is effective or not.

Ms. Parks stated her belief that 24 hours was not a sufficient length of time for the Security Advisor to make an accurate assessment of the E-Z 8 operation.

Mr. Richard Main, 6007 Peppertree Court, Newark, CA 94560, stated his opinion that City staff and the Police Department exhibits an abuse of power towards the E-Z 8 in order to curtail criminal activity.

Mr. Main asked Chairperson Fitts for an extension of the 5-minute time limit that is given to all speakers, which was denied.

Mr. Main stated his belief that the City would be liable to E-Z 8 for expenses incurred and liable if E-Z 8 goes out of business.

Ms. Lucille Schulzman, 5644 Arbutus Court, Newark, CA 94560, stated businesses should be responsible for the customers that their business attracts and should make sure the business is not detrimental to the City or to the residents surrounding their business.

Mr. Lirenso, 5806 Wintergreen Drive, Newark, CA 94560, stated he and his neighbors had signed a petition to raise their fence height to keep people from the E-Z 8 Motel from jumping over their fences as they are fleeing from the Police.

Mr. Lirenso stated it is important to hear first-hand experiences from people living in close proximity to the Motel.

Chairperson Fitts stated Mr. Main was out of order for making comments about the time keeper from his seat in the audience.

Motion made by Commissioner Nillo, seconded by Commissioner Otterstetter to continue this Item to the July 28, 2015 Planning Commission Meeting. Motion passed 3 AYES.

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

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

ACM Grindall informed the Planning Commissioners that both the Enterprise and Jones Hamilton projects were approved at the April 23, 2015 City Council Meeting.

Commissioners' Comments

Commissioner Nillo wished the public a Happy Cinco De Mayo and a Happy Mother's Day.

H. ADJOURNMENT

At 8:52 p.m., Chairperson Fitts adjourned the regular Planning Commission meeting of Tuesday, April 28, 2015.

Respectfully submitted,

Terrence Grindall

TERRENCE GRINDALL
Secretary

CITY OF NEWARK
PLANNING COMMISSION

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4330 • FAX 510-578-4265

MINUTES

Tuesday, July 28, 2015

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

A. ROLL CALL

At 7:31 p.m., Chairperson Fitts called the meeting to order. All Planning Commissioners were present

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, June 23, 2015.

Commissioner Nillo moved, Commissioner Bridges seconded, to approve the Minutes of June 23, 2015. The motion passed 5 AYES.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

Mr. Greg Lemos, 5788 Dichondra Place, Newark, CA 94560, expressed his concerns on how the increase in Newark residents from the recently approved housing projects would affect Newark's water supply and asked the Planning Commission to take this matter under consideration when looking at future housing projects.

E. PUBLIC HEARINGS

E.1 Continued Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 Motel is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code.

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

Assistant City Manager Grindall gave the staff report.

Answering Chairperson Fitts, ACM Grindall stated he will add language to the Conditions of Approval to address on-site inspections to determine continued compliance with the 17 agreed upon security measures.

Answering Commissioner Bridges, ACM Grindall confirmed all 17 measures had been substantially implemented.

Answering Commissioner Otterstetter, ACM Grindall confirmed that the communications between City staff and the E-Z 8 Motel Operators were good.

Commander Mike Carroll, City of Newark Police Department, gave an overview on the number of Police Reports and Arrests that occurred at the E-Z 8 Motel from 2009 to the present.

Answering Commissioner Bridges, Commander Carroll gave his opinion that the closure and demolition of Motel 6, the increase of E-Z 8 rates, and the sharing of E-Z 8 Motel's Registry, had contributed to the decrease in criminal activity at the E-Z 8 Motel.

Answering Chairperson Fitts, Commander Carroll stated the sharing of the Motel's registry is voluntary by the E-Z 8 Motel Operators.

Answering Commissioner Nillo, Commander Carroll stated crime statistics has decreased Citywide but he did not have any reports that specifically cover crime statistics for the surrounding neighborhoods by the E-Z 8 Motel.

The Planning Commission took a 5 minute recess.

Chairperson Fitts reopened the Continued Public Hearing.

Mr. Jerry Cannon, representing E-Z 8 Newark, LLC, 10399 Roof Fin Stairs, San Diego, CA 92018, stated he believed the interactions between E-Z 8 and Newark staff had been very positive.

Answering Commissioner Bridges, Mr. Cannon stated E-Z 8 intends to make improvements to their rooms after the current issues are resolved; he believes the motel still accommodates low-income families; and stated the Motel's occupancy rate after the rate increase is fine.

Mr. Jim Valiant, Santa Clara resident, stated he is encouraged by the improvements being made in Newark in decreasing criminal activity, and is hopeful that something similar could be done in Santa Clara. His only concern is with the Condition that the Motel must open up their guest registry, he would prefer this to be optional.

Ms. Emily Harris, Peppertree Court, Newark, CA 94560, gave her opinion that the E-Z 8 Motel is an eyesore; she stated she personally knows a family that resides at the Motel who have not received any Community assistance to enable them with the means to move into their own housing unit; and she questioned whether Section 8 Housing is going to Newark residents or to people from other areas.

Commissioner Bridges mentioned low-income housing assistance could be obtain by contacting Abode, but stated it does take approximately 6 months to go through their process.

Mr. Arnold Sharma, Newark resident, stated he has observed an increase in criminal activity taking place on the streets by the Motel and asked if additional safety measures could be extended to the surrounding neighborhoods.

Ms. Kim Aimes, Newark resident, stated her concerns that the Motel would not continue with the current safety measures and feels the Motel does not meet the revitalization standards of the City.

Chairperson Fitts stated he would like staff to work with the E-Z 8 Operators on future improvements to the Motel and suggested possibly changing the name of the Motel.

Commissioner Otterstetter thanked the E-Z 8 Operators and the City's Police Department for working together to reduce crime and stated she would like to ensure that the Safety Measures continue in the future by receiving regularly scheduled progress reports.

Motion made by Commissioner Bridges, seconded by Commissioner Otterstetter, to continue this Item to the August 25, 2015 Planning Commission Meeting. Motion passed 4 AYES.

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

F. STAFF REPORTS

F.1 Review and recommend approval of the Greater NewPark Master Plan.

Assistant City Manager Grindall gave the staff report which included a PowerPoint presentation.

Chairperson Fitts thanked City staff and the Consultant firm Design Collective for their work on the Greater NewPark Master Plan.

CITY OF NEWARK
PLANNING COMMISSION

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MINUTES

Tuesday, August 25, 2015

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

A. ROLL CALL

At 7:30 p.m., Chairperson Fitts called the meeting to order. All Planning Commissioners were present

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, July 28, 2015.

Commissioner Nillo moved, Commissioner Otterstetter seconded, to approve the amended Minutes of July 28, 2015. The motion passed 5 AYES.

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

E.1 Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 Motel is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code.

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

Assistant City Manager Grindall gave the staff report.

Answering Commissioner Bridges, ACM Grindall stated due to conflicting schedules, all Parties involved needed more time to communicate and prepare the amended Use Permit Conditions.

Chairperson Fitts reopened the Continued Public Hearing.

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

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

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

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

ACM Grindall informed the Planning Commission that the Greater NewPark Master Plan will be presented to the City Council at their September 10, 2015 Meeting.

ACM Grindall also informed the Planning Commission that a Community Meeting on the Civic Center Replacement Project will be held on September 9, 2015 at the Silliman Center, 6800 Mowry Avenue, Newark, CA 94560, at 7 p.m.

Commissioners' Comments

Chairperson Fitts thanked City Staff for the repairs at the "at-grade" railroad crossing on Willow Street.

Commissioner Nillo asked that drivers watch out for children returning to school and wished the public a Great Labor Day.

Commissioner Bridges announced Newark Days will be held September 17, 2015 through September 20, 2015 with the theme "Sail Away with Newark".

H. ADJOURNMENT

At 7:40 p.m., Chairperson Fitts adjourned the regular Planning Commission meeting of Tuesday, August 25, 2015.

E. PUBLIC HEARINGS

E.1 Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 Motel is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code.

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

ACM Grindall gave the staff report and informed the Planning Commission that the absence of any representative from E-Z 8 is not indicative of any problems between them and City staff; they merely did not want to incur additional travel expenses knowing staff is recommending continuance.

Answering Chairperson Fitts, ACM Grindall stated E-Z 8 has not had any downsliding in their operations.

Chairperson Fitts reopened the Continued Public Hearing.

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

Motion made by Commissioner Bridges, seconded by Commissioner Nillo, to continue this Item to the October 27, 2015 Planning Commission Meeting. Motion passed 4 AYES, 1 RECUSED.

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

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Cancelation of the regularly scheduled Planning Commission Meeting of Tuesday, September 22, 2015.

Motion made by Commissioner Bridges, seconded by Commissioner Nillo, to cancel the September 22, 2015 Planning Commission Meeting. Motion passed 5 AYES.

G.2 Report on City Council actions.

None.

CITY OF NEWARK
PLANNING COMMISSION

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MINUTES

Tuesday, October 27, 2015

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

A. ROLL CALL

At 7:30 p.m., Chairperson Fitts called the meeting to order. All Planning Commissioners were present

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, September 8, 2015.

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

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

E.1 Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 Motel is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code.

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

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

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

Chairperson Fitts reopened the Continued Public Hearing.

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

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

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

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.

Commissioners' Comments

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

H. ADJOURNMENT

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

Respectfully submitted,

Terrence Grindall

TERRENCE GRINDALL
Secretary

0852-009; 537-0852-10; and 537-0852-11) from MT-1 (High Technology Park District) to MDR-FBC (Medium Density Residential – Form Based Codes) and HDR-FBC (High Density Residential – Form Based Codes); (3) approve Resolution 1920 for P-14-49, a planned unit development and U-14-50, a conditional use permit, for a 589-unit residential project (Gateway Station West) located within the Dumbarton Transit Oriented Development Specific Plan area at the western edge of the City of Newark; (4) by Motion recommend that the City Council approve TM-14-47, Vesting Tentative Map 8099, to construct approximately 589 residential units; (5) by Motion approve ASR-14-51, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 45. Motion passed 4 AYES.

This item will be heard at the January 14, 2016 City Council Meeting.

E.2 Hearing to consider U-15-30, a Conditional Use Permit for a preschool (Little Scholar's Preschool) to locate at 5472A Central Avenue (Palms on Central Shopping Center). APN: 92A-2125-9-2.

Assistant Planner Jimenez gave the staff report.

Chairperson Fitts opened the Public Hearing.

Ms. Cherryl Figone, 5472A Central Avenue, Newark, CA 94560, stated she has read and agrees to the Conditions in Resolution 1921.

Answering Commissioner Nillo, Ms. Figone stated she expects to open her preschool next summer.

Chairperson Fitts closed the Public Hearing,

Motion made by Commissioner Nillo, seconded by Commissioner Otterstetter, to approve Resolution 1921, with Exhibit A, pages 1 through 4, approving U-15-30, a Conditional Use Permit, for a preschool (Little Scholar's Preschool) to located at 5472A Central Avenue (Palms on Central Shopping Center). Motion passed 4 AYES.

Motion made by Commissioner Nillo, seconded by Commissioner Otterstetter, to reorder the Agenda and hear Item E.4 prior to Item E.3. Motion passed 4 AYES.

E.4 Hearing to consider whether the Planning Commission should revoke Conditional Use Permit (CUP) No. U-84-14, issued to E-Z 8 Motel, on the grounds that E-Z 8 Motel is not complying with the conditions of the permit and is violating applicable provisions of Title 17 of the City of Newark Municipal Code; consider a Resolution to: (1) Dismiss an Order to Show Cause; (2) Find that E-Z 8 Motel is presently in compliance with Conditional Use Permit (U-84-18); and (3) Amend City Council Resolution No. 4565 by adding condition "rr".

DRAFT

ACM Grindall gave the staff report.

Answering Chairperson Fitts, ACM Grindall stated if approved, this Item would only be brought back to the Planning Commission if any issues comes up that require Planning Commission action, or if the Planning Commission requests an update.

Answering Commissioner Otterstetter, ACM Grindall read Section 2(B)2 "Notice of Breach and Opportunity to Cure".

Answering Commissioner Nillo, ACM Grindall stated no additional comments or complaints were received by anyone living in the surrounding neighborhoods.

Answering Chairperson Fitts, Newark Police Commander Carroll distributed a chart of crime statistics for the E-Z 8 Motel site and indicated that crime at that location had decreased.

Chairperson Fitts opened the Public Hearing.

Mr. Jerry Cannon, representing E-Z 8 Motel, 10399 Roof Fin Stairs, San Diego, CA 92108, thanked the Planning Commission for moving this Item up from the Agenda order, and stated he was in agreement with the Conditions in the Settlement Agreement.

Commissioner Bridges commented that she would like E-Z 8 to better serve their clients with upgrades to their accommodations.

Chairperson Fitts closed the Public Hearing.

Motion made by Commissioner Bridges, seconded by Commissioner Nillo, to approve Resolution 1922 to: (1) Dismiss the Order to Show Cause; (2) Find that E-Z 8 Motel is presently in compliance with Conditional Use Permit (U-84-18); and (3) Amend Use Permit U-84-18 (approved by City Council Resolution No. 4565) by adding condition "rr" as follows: "Developer agrees to operate its motel in a manner that complies with the Settlement Agreement with the City dated December 8, 2015, a copy of which is attached hereto."

Motion passed 4 AYES.

ACM Grindall informed the Planning Commission that this Item would go to the January 14, 2016 City Council Meeting under "Written Communications".

E.3 Hearing to consider Z-15-33, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to add Section 17.04.050 "Permissive Code" to Chapter 17.04 "General Provisions".

D.2 Planning Commission referral of proposed changes to the City of Newark Street Names Theme Map to allow for a "Bay Features" theme for the Dumbarton Transit Oriented Development area and a "Bay Animals" theme for the areas known as Sanctuary and Area 4 in the General Plan – from Assistant City Manager Grindall. (RESOLUTION)

Background/Discussion – In 1963, the Planning Commission approved a policy for the systematic naming of streets, adopting certain categories and names for various geographic sections of the City in the form of a Street Name Themes Map which delineates street name themes for each area. In 1983, the City Council modified this policy by authorizing industrial and commercial developers to use street names to aid in marketing their properties.

There has been a considerable amount of development approved in the past two years. The majority of this development has been residential subdivisions located in the Dumbarton Transit Oriented Development (TOD) area. This area will be comprised of multiple subdivisions that have an opportunity to bring a distinct identity to this area. The various developers of this area have indicated a willingness to coordinate the naming of streets within each subdivision in order to provide consistency, improve their marketing, and to ultimately bring a sense of place to this developing region.

Although the approved theme for this area is currently "Trees", the proximity of the Dumbarton TOD to the San Francisco Bay lends itself more to "Bay" or "Water" themed streets. The developers of the Torian parcel have proposed "Bayshores" as the name of their development, so similar themed street names for the remainder of the area would be appropriate. As such, staff is recommending that "Bay Features" be the street name theme for this area.

Plans for the Sanctuary (formerly known as Area 3) development have recently been approved by the Planning Commission and City Council. Although no development plans have been submitted for the Area 4 development, it's appropriate to establish an appropriate street name theme for both areas at this time. The current theme approved for this area is "California History". Staff feels again that a Bay theme best captures the feel of this area and is recommending "Bay Animals" for street names. The developers for all of these parcels have been consulted on these themes and they agree on their usage.

Attachment

Update – At its December 8, 2015 meeting, the Planning Commission approved Resolution 1924, with Exhibit A, approving a change to the Street Names Theme Map to allow for a "Bay Features" theme for the Dumbarton Transit Oriented Development area and a "Bay Animals" theme for the areas known as Sanctuary and Area 4 in the General Plan.

Action – It is recommended that the City Council, by resolution, with Exhibit A, approve a change to the Street Names Theme Map to allow for a "Bay Features" theme for the Dumbarton Transit

Oriented Development area and a "Bay Animals" theme for the areas known as Sanctuary and Area 4 in the General Plan.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING CHANGES TO THE CITY OF NEWARK STREET NAME THEMES MAP

WHEREAS, the City adopted a Street Names Theme Map in 1963; and

WHEREAS, the Map adopted certain categories and names for various geographic regions of the City, delineating street name themes for each area; and

WHEREAS, the Dumbarton Transit Oriented District will be comprised of multiple subdivisions, all of which have a geographical connection to the San Francisco Bay; and

WHEREAS, a "Bay Features" theme for this area would be better suited for the area than the original "Trees" theme and would help to bring a distinct identity to this area; and

WHEREAS, Sanctuary (formerly Area 3) and General Plan Area 4 have a similar connection to the San Francisco Bay and its wildlife and therefore a "Bay Animals" theme would provide the appropriate sense of place to this region; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the changes to the Street Names Theme Map as shown on Exhibit A.

CITY OF NEWARK

STREET NAME THEMES MAP

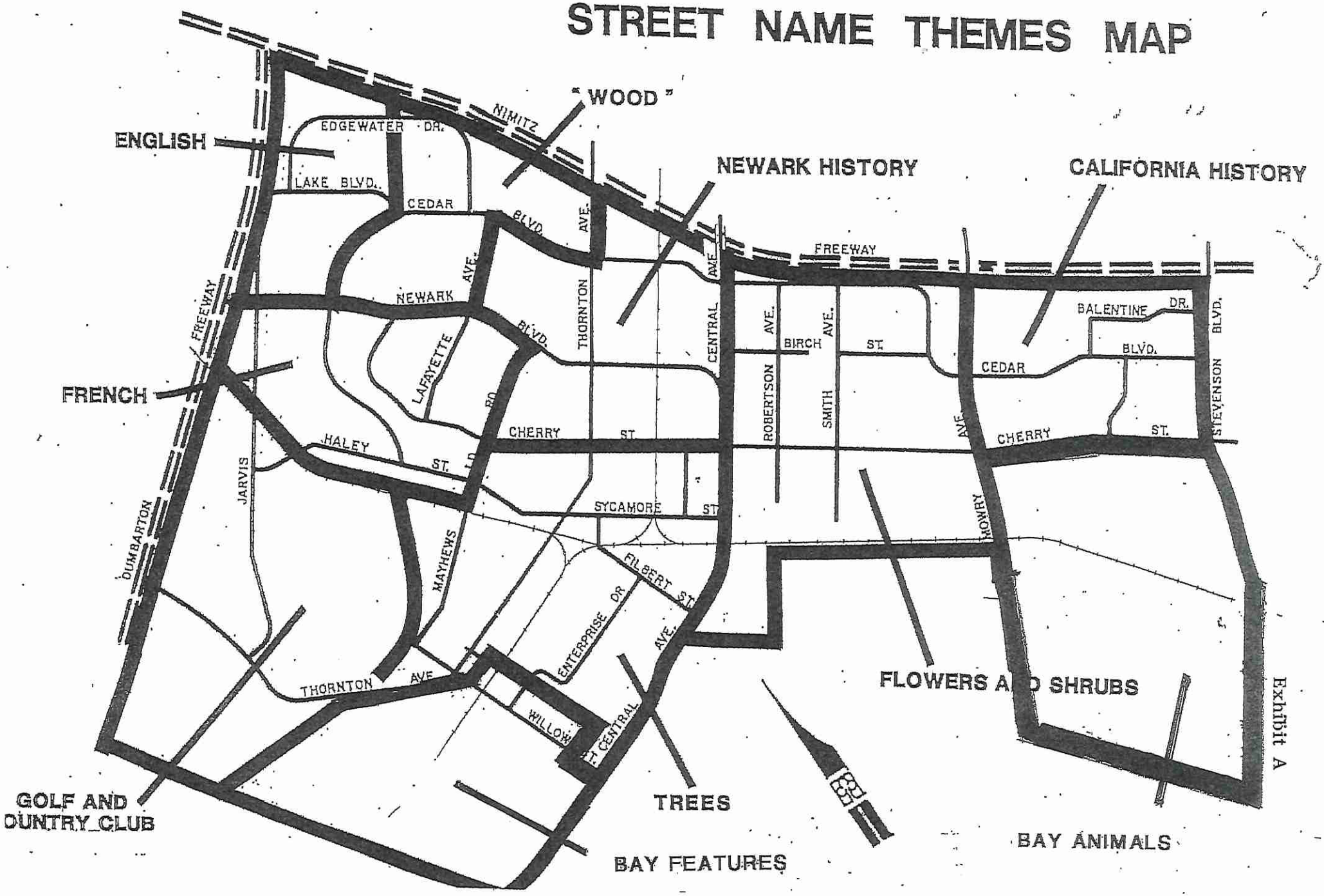

Exhibit A