

E. PUBLIC HEARINGS

- E.1 Public 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” - from Assistant City Manager Grindall. (INTRODUCTION OF ORDINANCE)**
- E.2 Public Hearing to consider U-15-30, a Conditional Use Permit, for a preschool (Little Scholar’s Preschool) at 5472A Central Avenue (Palms on Central Shopping Center) – from Assistant City Manager Grindall. (RESOLUTION)**
- E.3 Public Hearing to consider Gateway Station West, a 589-unit residential project within the Dumbarton Transit Oriented Development Specific Plan area located at the western edge of the City. The City Council will consider: (1) by resolution, adopting a Supplemental Environmental Impact Report to the Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan; (2) by introduction of an ordinance, approving rezoning for an approximately 41-acre area (APNs: 537-852-9, 537-852-10 and 537-852-11) 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) by resolution, approving a planned unit development and a conditional use permit; (4) by resolution, approving Vesting Tentative Map 8099; (5) by motion, approving an Architectural and Site Plan Review; (6) by resolution, authorizing the Mayor to sign a Community Financing Agreement with Dumbarton Area 2, LLC – from Assistant City Manager Grindall. (RESOLUTIONS- 4)(INTRODUCTION OF ORDINANCE)(MOTIONS-1)**

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.5 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

E.1 Public 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” - from Assistant City Manager Grindall.
(INTRODUCTION OF ORDINANCE)

Background/Discussion – The “Newark Zoning Ordinance”, which is Title 17 of the Newark Municipal Code, governs the use and development of individual property within the City of Newark. The Zoning Ordinance is a collection of regulations established to promote desired and mutually compatible patterns of land use within the City. While the comprehensive Zoning Ordinance was adopted 1965, it has been subsequently amended many times by the City Council. The review and revision of the Zoning Ordinance is an ongoing project within the Community Development Department.

Typically, there are three types of zoning ordinances:

- **Prohibitive** - a prohibitive ordinance is one that lists uses that are not permitted. It is presumed that everything that is not prohibited is permitted in that district. This is illustrative of the very earliest zoning ordinances.
- **Permissive** - a permissive ordinance lists all the uses that are permitted within a given district. Everything that is not specifically listed is prohibited in that district. This type of zoning ordinance is the most common type of ordinance.
- **Performance** - a pure performance ordinance would have no districts. It would argue that any two uses are compatible with each other if the correct combination of lot sizes, setbacks, buffers, noise regulations, light regulations, etc., are applied.

The Newark Zoning Ordinance is a “permissive” zoning code. It was adopted as a permissive zoning code in 1965 and has been operating as such continuously up through the present. Like most California cities, the Newark Zoning Ordinance contains various chapters for each zoning district that outlines all permitted uses, including those permitted with conditions and those without conditions. The result is that if the use is not specifically included in the zoning district, then such use is unlawful for that district.

Experts understand what a “permissive” zoning code is and that the Newark Zoning Ordinance is permissive. However, members of the general public unfortunately sometimes do not fully understand these concepts. In order to facilitate and promote a better understanding of the Newark Zoning Code with the public, it is recommended that the City Council adopt an ordinance adding a section to the Newark Zoning Code that expressly declares that the Newark Zoning Ordinance is a “permissive” zoning code and make it clear that if the use is not permitted then such use is unlawful.

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 5060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15061(b)(3) (General Rule that CEQA only applies to project which have the potential to cause a significant effect on the environment) of

the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

Update – At its meeting of December 8, 2015, the Planning Commission approved Resolution No. 1923, with Exhibit A, recommending that the City Council approve 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”.

Attachment

Action – It is recommended that the City Council introduce an ordinance amending Chapter 17.04 (General Provisions) of Title 17 (Zoning) by adding Section 17.04.050 (Permissive Code) to the Newark Municipal Code.

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWARK AMENDING CHAPTER 17.04 (“GENERAL
PROVISIONS”) OF TITLE 17 (“ZONING”) BY ADDING
SECTION 17.04.050 (“PERMISSIVE CODE”) TO THE
NEWARK MUNICIPAL CODE

The City Council of the City of Newark does ordain as follows:

Section 1: Pursuant to Section 17.80.070 of Title 17 (Zoning) of the City of Newark Municipal Code, the City Council of the City of Newark does hereby find that the zoning text amendments embodied in this ordinance as set forth in Exhibit A, attached hereto and made a part hereof by reference, is necessary and desirable to achieve the purposes of Title 17 (Zoning) of the Newark Municipal Code.

Section 2: The City Council of the City of Newark does hereby find and declare that the zoning text amendment embodied in this ordinance as set forth in Exhibit A, attached hereto and made a part hereof by reference, is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that where it can be seen with certainty that there is no possibility that the activity in question may have a significant impact on the environment, the activity is not subject to CEQA.

Section 3: Title 17 (Zoning) of the Newark Municipal Code is hereby amended as shown in Exhibit A, with ~~strikeout~~ denoting deletions and underline denoting additions.

Section 4: Severability and Validity. If any section, subsection, sentence, clause, or phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful, or otherwise invalid by a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Newark hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

Section 5: Effective Date. This ordinance shall take effect thirty days from the date of its passage. Before expiration of fifteen days after its passage, this ordinance shall be published in The What’s Happening’s Tri-City Voice, a newspaper of general circulation published nearest thereto.

EXHIBIT A

Chapter 17.04 (“General Provisions”) of Title 17 (“Zoning”) is hereby amended to add Section 17.04.050 (“Permissive Code”) as follows (strikeout denotes deletions, underline denotes additions):

17.08.050 Permissive Code

The Newark zoning ordinance is a permissive zoning code. Any use of land that is not specifically permitted is unlawful, except where otherwise authorized under this Title 17.

E.2 Public Hearing to consider U-15-30, a Conditional Use Permit, for a preschool (Little Scholar’s Preschool) at 5472A Central Avenue (Palms on Central Shopping Center) – from Assistant City Manager Grindall. (RESOLUTION)

Background/Discussion – Ms. Cheryl Figone and Ms. Sonu Sidhu have made an application to locate a preschool at 5472A Central Avenue. This tenant space is within the Palms on Central Shopping Center. The space is in the rear building and adjacent to Timber Street.

Ms. Figone and Ms. Sidhu noted that their mission is to design a program for preschoolers that will allow them to grow their creativity and develop intellectually, emotionally, and socially. The program will consist of child-directed and teacher-guided activities based on individual child and family needs. Along with structured classes, they will be providing on-site childcare and after school programs for children up to the 6th grade.

The facility will be able to support up to 25 children and will operate Monday through Friday from 8:30 a.m. to 6:30 p.m. On Saturday they will open from 10:30 a.m. to 3:30 p.m. There will be one full-time Director, two part-time teachers, and a part-time assistant.

The proposed project is categorically exempt from the California Environmental Quality Act per Section 15301, Class 1, “Existing Facilities”.

Update – At its meeting of December 8, 2015, the Planning Commission approved Resolution No. 1921, with Exhibit A, 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).

Attachment

Action – It is recommended that the City Council, by resolution, approve 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).

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK APPROVING 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)

WHEREAS, Ms. Cherryl Figone and Ms. Sonu Sidhu have filed with the City Council of the City of Newark, an application for U-15-30, a Conditional Use Permit, for a preschool at 5472A Central Avenue in the Palms on Central Springs Shopping Center; and

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in The Tri-City Voice on December 29, 2015, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on January 14, 2016 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves this application as shown on Exhibit A, subject to compliance with the following conditions:

Planning Division

- a. This project shall be subject to the conditions of Planning Commission Resolution No. 1591, unless otherwise amended herein.
- b. Based on the existing parking spaces provided at the Shopping Center, the number of employees shall not exceed seven (7) on-site.
- c. All operations associated with this proposal, other than an outdoor play area, shall be conducted within an entirely enclosed structure. If any complaint regarding noise is received, a noise analysis shall be prepared at the direction of the Community Development Director and at the cost of the Applicant. The Applicant shall mitigate any problems identified by the noise study. If the Applicant does not mitigate these problems, the Use Permit revocation procedures, as defined in Section 17.72.130 of the Newark Municipal Code, shall be initiated and all operations shall cease within 60 days of formal notification.
- d. If any complaint, regarding parking, on-site circulation, and/or traffic is received, a parking, on-site circulation and/or traffic analysis shall be prepared at the discretion of the Community Development Director and at the cost of the Applicant. The Applicant and/or owner shall mitigate any problems identified by the parking, on-site circulation and/or traffic study. If the Applicant/owner does not mitigate these problems, the Use Permit revocation procedures, as defined in Section 17.72.130 of the Newark Municipal Code, shall be initiated and all operations shall cease within 60 days of formal notification.
- e. All lighting shall be directed on-site so as not to create glare off-site.

- f. No refuse, garbage or recycling shall be stored outdoors except within the approved trash and recycling enclosures.
- g. Signage shall comply with the Sign Program for this Center.

Engineering Division

- h. The contractor shall implement all applicable Best Management Practices (BMPs) from the California Best Management Practices Handbook for Construction Activities for the duration of all work activity. Additional BMPs may be required by the City Engineer as necessary to minimize the pollution of storm water runoff from the project area. A note to this effect shall appear on the plans.

General

- i. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The Applicant shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval. All time-extensions for this Conditional Use Permit shall be approved by the Planning Commission and City Council.
- j. If any condition of this Conditional Use Permit be declared invalid or unenforceable by a court of competent jurisdiction, this Conditional Use Permit shall terminate and be of no force and effect, at the election of the City Council on motion.
- k. The Applicant hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, Boards, Commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, Boards, Commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
- l. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The Applicant is hereby further notified that the 90-day approval period in which the Applicant may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the Applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the Applicant will be legally barred from later challenging such exactions.

E.3 Public Hearing to consider Gateway Station West, a 589-unit residential project within the Dumbarton Transit Oriented Development Specific Plan area located at the western edge of the City. The City Council will consider: (1) by resolution, adopting a Supplemental Environmental Impact Report to the Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan; (2) by introduction of an ordinance, approving rezoning for an approximately 41-acre area (APNs: 537-852-9, 537-852-10 and 537-852-11) 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) by resolution, approving a planned unit development and a conditional use permit; (4) by resolution, approving Vesting Tentative Map 8099; (5) by motion, approving an Architectural and Site Plan Review; (6) by resolution, authorizing the Mayor to sign a Community Financing Agreement with Dumbarton Area 2, LLC – from Assistant City Manager Grindall.

(RESOLUTIONS- 4)(INTRODUCTION OF ORDINANCE)(MOTIONS-1)

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

Integral Communities has now submitted a proposed Vesting Tentative Map and building plans for 589 units to be located on approximately 41 acres along Willow Street at the western edge of the City. This project is consistent with the Specific Plan's vision of a vibrant pedestrian oriented community. The project will provide important amenities, including a segment of bay-side trail that will be eligible for Bay Trail designation and a small, neighborhood dog park. The cost of these amenities is to be provided by the developer. Although a total of 15.75 acres of wetlands are on-site, the project will only affect a total of 6.1 acres of these wetlands; and the applicant will purchase sufficient qualifying wetland mitigation credits for this impact. The applicant will also permanently preserve 3.67 acres of wetlands on-site. Additionally, as a separate voluntary measure, the applicant has donated 6 acres that includes 5.98 acre of wetlands, to a non-profit conservation organization.

It is proposed to rezone a portion of the Dumbarton Transit Oriented Development to be consistent with the Specific Plan. RZ-14-48 is a rezoning of an approximately 41-acre area that is generally located on the west side of Willow Street. The rezoning would be 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) which is consistent with the Specific Plan.

In addition to providing amenities, the project will also provide significant impact fee revenue including: \$16,718,800 in Affordable Housing fees; \$4,393,940 in Park fees; \$1,195,641 in Public Safety fees; \$1,051,110 in Community Services/Facilities fees; and \$380,401 in Transportation

Impact fees. The project will also pay an Art in Public Places fee of \$159,030 and a \$1,472,500 Fiscal Impact fee which is envisioned to support the Central Avenue Railroad Overcrossing project. Collectively, the estimated total of impact fee revenue is \$25,371,422. The project will also pay \$4,053,000 in school fees to the Newark Unified School District.

Community Financing Agreement

The Dumbarton TOD Specific Plan contains critical elements necessary to implement the Plan. To ensure that the City's fiscal health is sustained, developers are required to contribute to the provision of public improvements and city services. As such, the applicant has agreed to enter into the attached Community Financing Agreement. Under the terms of the agreement, a contribution of \$2,500 per dwelling unit is required.

The Architectural and Site Plan Review

Gateway Station West features six different home types providing a community diverse in scale, streetscape and architectural character. Several coordinated styles such as Classic Agrarian, Contemporary Agrarian, Farmhouse and Craftsman, are proposed to provide architectural variety across the 41-acre site. The homes are designed for flexibility, with ground floor living spaces or optional dens or recreation rooms. In addition to the Bay-Side Trail, a one acre park and several smaller parks are scattered throughout the community. Landscaped pedestrian paseos between buildings and landscaped water bio-treatment and retention areas, which are available for recreation when not inundated, are linked with walkways resulting in a walkable community.

The residential home types are summarized below:

Single Family Homes 132 Traditional front-loaded single family detached homes – These three-story detached homes feature minimum lot sizes that are 35 feet wide by 50 feet in depth and offer three floor plans ranging from 2,299 square feet to 2,541 square feet. These plans offer up to 4 bedrooms and 3.5 bathrooms and will be available in all three Farmhouse, Craftsman, and Agrarian architectural styles.

119 Rear-loaded single family detached homes – These three-story detached homes feature landscaped paseos in the front and have lots that are 35 feet wide by 55 feet in depth. Three floor plans are offered, ranging from 2,491 square feet to 2,710 square feet. These plans offer up to six bedrooms and 3.5 bathrooms and will be available in the Farmhouse and Craftsman architectural styles.

70 Motor court cluster single family detached homes – These three-story detached homes offer four floor plans ranging from 1,541 square feet to 2,159 square feet. These plans offer up to 4 bedrooms and 3 bathrooms and will be available in the Farmhouse and Craftsman architectural styles.

Town Homes:

98 “Loft Split” traditional row town homes – These three-story town homes offer four distinct floor plans ranging from 1,486 square feet to 2,089 square feet within 6-plex and 7-plex building configurations. These plans offer up to 4 bedrooms and 3.5 bathrooms and will be available in the Contemporary Agrarian and Classic Agrarian architectural styles.

80 “P9 Cluster” motor court style town homes – These three-story town homes offer five distinct floor plans ranging from 1,582 square feet to 2,193 square feet and up to 4 bedrooms and 3 bathrooms designed in a Classic Agrarian style.

90 “Flats style” town homes – These three-story buildings offer four distinct floor plans ranging from 1,445 square feet to 2,193 square feet and up to 3 bedrooms and 3.5 bathrooms. This product offers all living space on a single floor or two floors. The buildings are arranged in a 6-plex designed in the Contemporary Agrarian style.

The Supplemental Environmental Impact Report (SEIR)

The SEIR prepared for this project was completed by Helix Environmental Planning. Of the issues analyzed, the only new significant impacts resulting from this project would include air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology/water quality, noise, and transportation/traffic biological impacts and hazardous material impact.

Table S-1 *Summary of Significant Effects*, notes mitigation measures that have already been accounted for in the original Dumbarton TOD EIR as well as new, project-specific mitigation measures developed for Gateway Station West. The following is a synopsis of the new mitigation measures.

Air Quality

Impact: Construction-period project emissions would exceed the Bay Area Air Quality Management District’s (BAAQMD) significance threshold for NOx. Mitigation Measure: Prior to issuance of any Grading Permit, the Public Works Director and the Building Official shall confirm that the Grading Plan, Building Plans, and specifications stipulate that all diesel-powered off-road equipment used during the grading phase shall meet Tier 4 final off-road emission standards.

Biological Resources

Impact: Potentially significant impacts may occur to habitats regulated by the California Department of Fish and Wildlife (CDFW) pursuant to Section 1600 *et seq.* of the California Fish and Game Code. Mitigation Measure: A Streambed Alteration Agreement shall be obtained for impacts to habitats regulated by CDFW pursuant to section 1600 *et seq.* of the California Fish and Game Code.

Impact: In order to adequately implement the on-site open space preserve area, a management plan must be developed to monitor the progress of the on-site wetland mitigation and associated biological values. Mitigation Measure: The open space area shall be set aside in perpetuity, either through deed restrictions or conservation easements. Because the open space area contains waters under jurisdiction of the United States Army Corps of Engineers (USACE) and Regional Water Quality Control Board (RWQCB), and potentially suitable habitat for species regulated by the CDFW, the plan shall be developed in coordination with these agencies.

Geology and Soils

Impact: Potentially significant geologic hazards associated with seismic ground shaking, liquefaction and related effects, manufactured slope instability, geologic/soil instability, shallow bedrock groundwater, and expansive soils may be associated with the project. **Mitigation Measure:** A site-specific geotechnical investigation shall be conducted by a qualified engineer or engineering geologist to verify that the final project plans and/or construction operations incorporate applicable regulatory/industry requirements, recommendations contained within the project geotechnical investigations, plan review, and field observations/testing.

Hazardous Materials

Impact: Proposed project site development could result in disturbances of soils or demolition of structures that could potentially release contaminants, as well as impacting existing groundwater monitoring wells (for an off-site remediation effort). **Mitigation Measure 1:** A qualified hazardous materials specialist shall review final project grading and development plans prior to approval to verify related conditions and assumptions in the project Phase I and Phase II Environmental Site Assessments or to identify modified and/or additional requirements. **Mitigation Measure 2:** After completion of final project grading and development plans, but prior to issuance of grading or building permits, a Hazardous Materials Remediation Plan (HMRP) shall be prepared by a qualified hazardous materials specialist. **Mitigation Measure 3:** All project dewatering operations, subsurface activities related to on-site remediation of liquefaction hazards and other pertinent activities, shall confirm with application related requirements in the ACWD Groundwater Protection Act.

Noise

Impact: Location of ground-mounted heating, ventilation and air conditioning equipment (HVAC) within 25 feet of adjacent residential property lines could result in a potentially significant direct impact. **Mitigation Measure 1:** For residences located within 25 feet of ground-mounted HVAC equipment, attenuation of exterior HVAC noise levels to 45A- weighted decibels equivalent sound levels shall be ensured prior to issuance of a Certificate of Occupancy. **Mitigation Measure 2:** Prior to the issuance of building permits, the project applicant shall coordinate with the City's Public Works Director to change the posted speed limit along Enterprise Drive (between Hickory Street and Willow Street) to 25 mph. **Mitigation Measure 3:** Prior to the approval of building permits for residences along Enterprise Drive between Hickory Street and Willow Street, a site-specific acoustic analysis shall be conducted to ensure exterior and interior sound levels are equal to or less than the applicable allowable limits.

The review period for the SEIR ended on September 16, 2015. During the review period, the City received four comment letters from public agencies and the general public. Letters were received from the California Department of Transportation, the State Public Utilities Commission, Cargill, Inc., and Ashland., Inc. These letters have been addressed in the attached Final SEIR.

Attachments

Update – At its meeting of December 8, 2015, the Planning Commission approved Resolutions 1918, 1919 and 1920 and by motion recommended that the City Council approve TM-14-47, Vesting Tentative Map 8099 and by motion approved ASR-14-51, an Architectural and Site Plan

Review.

Action – It is recommended that the City Council: (1) Adopt a resolution making certain findings and adopt a Supplemental Environmental Impact Report (E-14-46) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development Specific Plan; (2) Introduce an ordinance rezoning (RZ-14-48) an approximately 41-acre area (APN's: 537-852-9; 537-852-10; 537-852-11) 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) By resolution, approve 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) Adopt a resolution approving 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; and (6) By resolution, authorize the Mayor to sign a Community Financing Agreement with Dumbarton Area 2, LLC.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK MAKING CERTAIN FINDINGS AND ADOPTING A SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (E-14-46) TO THE ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2010042012) FOR THE DUMBARTON TRANSIT ORIENTED DEVELOPMENT SPECIFIC PLAN

WHEREAS, the City of Newark caused an Environmental Impact Report (State Clearinghouse No. 2010042012) to be prepared to assess the potential environmental impacts of the proposed Dumbarton Transit Oriented Development Specific Plan; and

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

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

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

WHEREAS, the Planning Commission held a duly noticed public hearing on December 8, 2015, and recommended that the City Council approve a Supplemental Environmental Impact Report (E-14-46) to the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report (State Clearinghouse Number 2010042012) after finding it complete and adequate pursuant to the California Environmental Quality Act, and;

WHEREAS, the Gateway Station West Project ("Project"), which is located within the Dumbarton Transit Oriented Development Specific Plan, consists of the construction of 321 single family units and 268 multi-family units on approximately 41 acres (APN No.'s 537-0852-009; 537-0852-010; and 537-0852-011) and approximately 13.5 acres of designated Open Space; and

WHEREAS, the entitlements requested include Vesting Tentative Map 8099 (TM-14-47), an amendment to Title 17 (Zoning) of the Newark Municipal Code and the Official Zoning Map (RZ-14-48), a planned development permit, conditional use permit, and an Architectural and Site Plan Review; and

WHEREAS, pursuant to the requirements of the CEQA, a Supplemental Environmental Impact Report (SEIR) has been prepared for the Project, pursuant to Sections 15163 and 15168(c)

of the State CEQA Guidelines, to analyze and mitigate the Project's potentially significant environmental impacts; and

WHEREAS, through this Report, it has been determined that the Project's potentially significant environmental impacts specifically relate to impacts associated with air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology/water quality, noise, and transportation/traffic; and

WHEREAS, these potentially significant impacts can be mitigated to less than significant as shown in Table S-1, *Summary of Significant Effects*, of the SEIR, and;

WHEREAS, a Notice of Preparation (NOP) was, along with copies of the project files, sent to local agencies concerned with the Project and then posted with the Office of the Alameda County Clerk on August 6, 2014, and a 45-day public review period for the SEIR was established beginning on August 3, 2015 and copies of the SEIR were transmitted to the State Clearinghouse (SCH# 2014-08-2022); and

WHEREAS, four comment letters from public agencies and the general public: the California Department of Transportation, the State Public Utilities Commission, Cargill, Inc. and Ashland, Inc., have been received; and

WHEREAS, on December 8, 2015, the Planning Commission of the City of Newark conducted a duly noticed public hearing to consider the SEIR for the proposed Project, considered all public testimony, written and oral, presented at the public hearing; and received and considered the written information and recommendation of the staff report for the December 8, 2015 meeting related to the proposed Project, and;

WHEREAS, the Planning Commission of the City of Newark recommended that City Council consider adopting the SEIR for Vesting Tentative Map 8099 (TM-14-47), the amendment to Title 17 (Zoning) of the Newark Municipal Code and the Official Zoning Map (RZ-14-48), and the associated planned development permit, conditional use permit, and Architectural and Site Plan Review, and;

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

1. The SEIR was released for public review and said mitigation measures contained within the same would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and;
2. There is no substantial evidence in light of the whole record before the City of Newark that the project may have a significant effect on the environment, and;
3. The City Council has read and considered the SEIR, and the comments thereon, and has determined the SEIR reflects the independent judgment of the City and was prepared in accordance with CEQA.
4. The SEIR, all documents referenced in the same, and the record of proceedings on which the City Council's decision is based are located at City Hall for the City of Newark, located at 37101 Newark Blvd, California, and is available for public review; and

NOW, THEREFORE, the City Council:

- a. Based on the evidence and oral and written testimony presented at public hearings, and based on all the information contained in the Community Development Department's files on the project, including, but not limited to, the SEIR and the Planning Commission's and City Council's staff report, certifies in accordance with State CEQA Guidelines Section 15090 that:
 1. The SEIR was prepared in compliance with CEQA and State CEQA guidelines;
 2. The City Council has reviewed and considered the information contained in the SEIR prior to approving the project;
 3. The SEIR adequately describes the project, its environmental impacts, reasonable alternatives and appropriate mitigation measures;
 4. The SEIR reflects the independent judgment and analysis of the City Council.

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK REZONING (RZ-14-48) AN APPROXIMATELY 41-ACRE AREA (APN'S 537-852-9; 537-852-10; 537-852-11) 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)

The City Council of the City of Newark does ordain as follows:

Section 1: Pursuant to Section 17.80.070 of Title 17 (Zoning) of the City of Newark Municipal Code, the City Council of the City of Newark does hereby find that the zoning change embodied in this ordinance is necessary and desirable to achieve the purposes of Title 17 (Zoning) of the Newark Municipal Code; is consistent with the policies, goals, and objectives of the General Plan; and promotes the public health, safety, morals, comfort, convenience, and general welfare of the residents of the City of Newark.

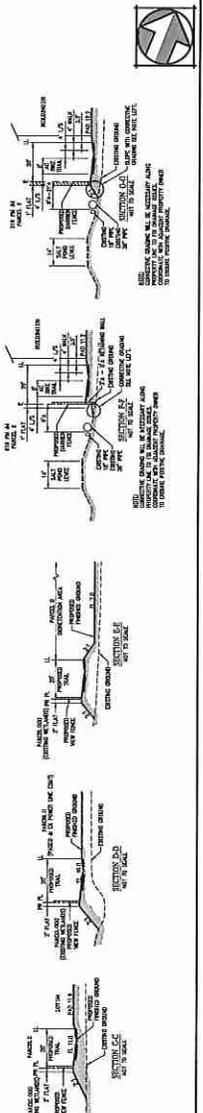
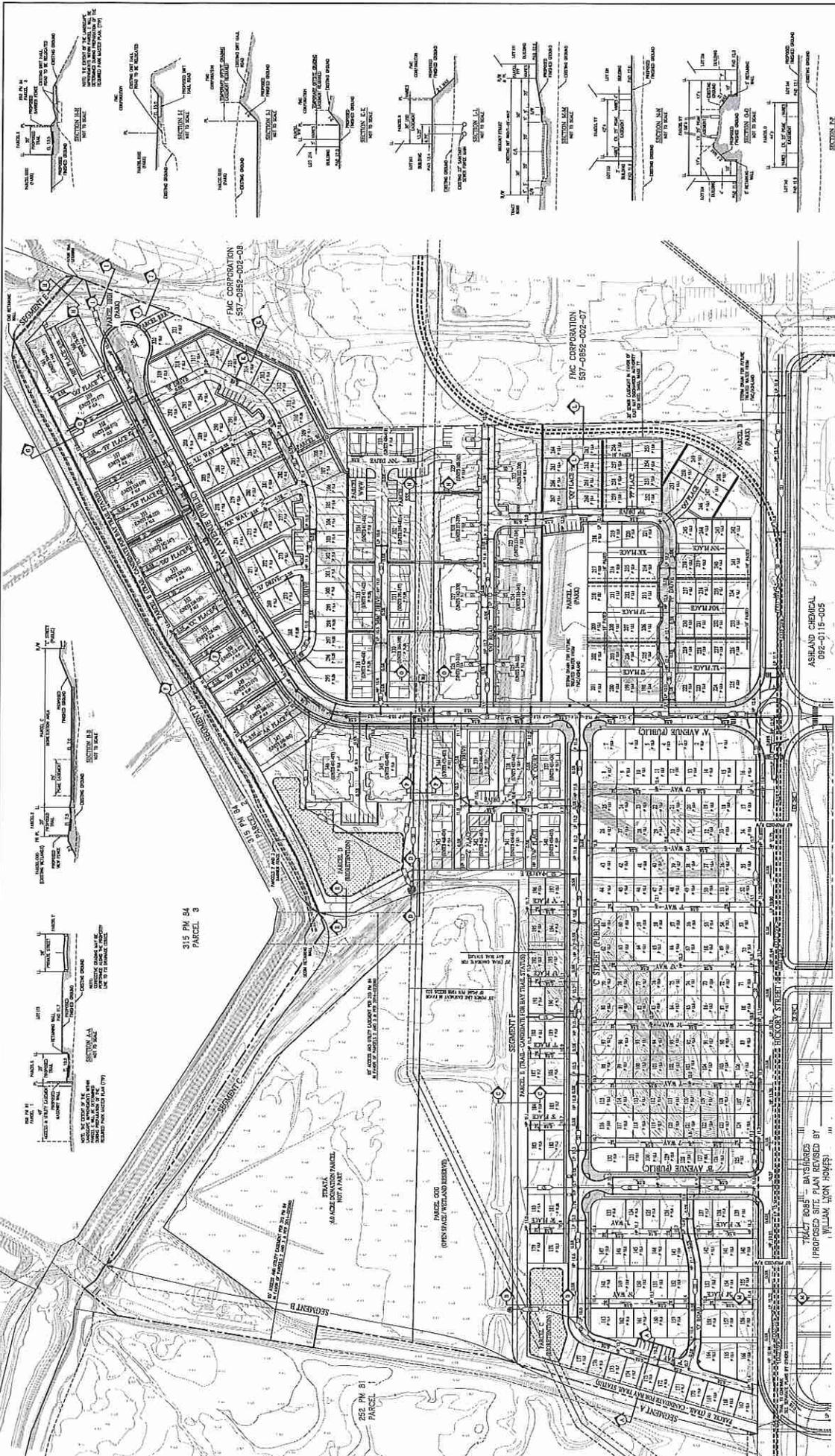
Section 2: Title 17 (Zoning) and Section 17.44.010 "Zoning Map" thereof, being the City of Newark Zoning Regulations, are hereby amended by rezoning and redistricting the territory in the City of Newark, County of Alameda, State of California, from MT-1 (High Technology Park District) to MDR-FBC (Medium Density Residential – Form Based Codes) and HDR-FBC (High Density Residential Form Based Codes), hereinafter described as follows:

All that real property designated as the project area for Vesting Tentative Map 8099 in the City of Newark, County of Alameda, State of California as shown on Exhibit A attached hereto and incorporated herein by reference

Section 3: Effective Date. This ordinance shall take effect thirty (30) days from the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance shall be published in The Argus, a newspaper of general circulation published and printed in the County of Alameda and circulated in the City of Newark.

PRELIMINARY GRADING AND DRAINAGE PLAN
 VESTING TENTATIVE MAP
 TRACT 8099
 GATEWAY STATION WEST
 ALAMODA COUNTY CALIFORNIA
 CITY OF NEWARK
 DATE: JANUARY 23, 2013

PROJECT NO. 13-000000
 SHEET NO. 13-000000-01
 SCALE: 1" = 40' (PLAN)
 SCALE: 1" = 20' (SECTION)
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 DATE: [Date]

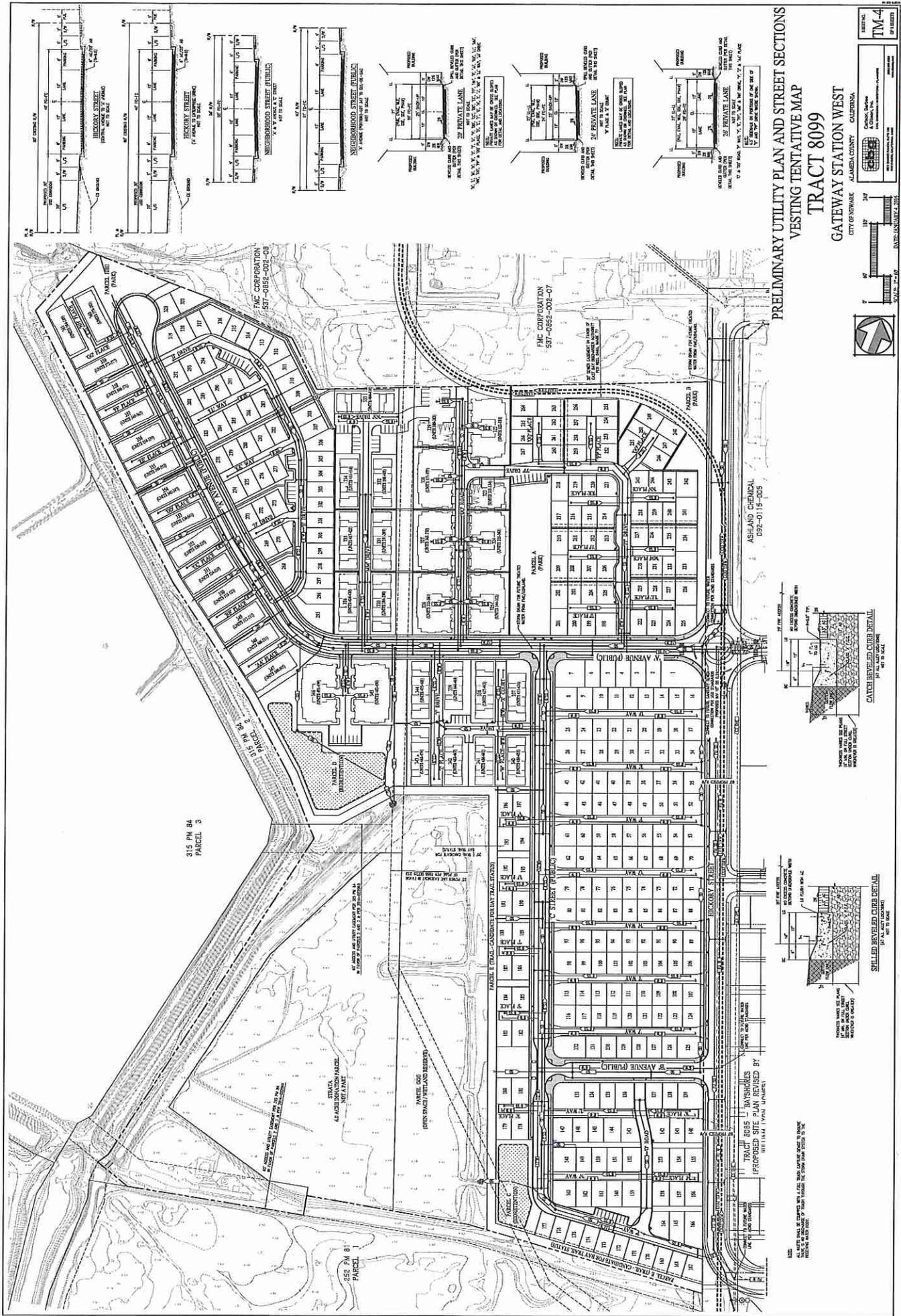


FENCE TYPE SUMMARY

SECTION	DESCRIPTION
1	4 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"
2	6 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"
3	6 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"
4	6 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"
5	6 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"
6	6 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"
7	6 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"
8	6 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"
9	6 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"
10	6 FOOT HIGH ALUMINUM OR STEEL FENCE WITH 1/2\"

TRACT 8099 - BAYSHARES
 PROPOSED SITE PLAN REVISED BY
 WILLIAM LYON HOUSE

EXHIBIT A-4



PRELIMINARY UTILITY PLAN AND STREET SECTIONS
VESTING TENTATIVE MAP
TRACT 8099
GATEWAY STATION WEST

CITY OF NEWARK, CALIFORNIA

City of Newark logo and contact information: City of Newark, California, Planning Department, 1000 Broadway, Newark, CA 94560. Includes a north arrow and a graphic scale bar.



SCALE: 1" = 100'

DATE: JANUARY 2015

PROJECT: TRACT 8099

PROJECT NO: 15-00000000000000000000



CATCH REVEALED CURB DETAIL



SEALED REVEALED CURB DETAIL

NOTE: ALL UTILITY LINES TO BE SHOWN WITH A 1/2" DIA. LINE UNLESS OTHERWISE NOTED. ALL UTILITY LINES TO BE SHOWN WITH A 1/2" DIA. LINE UNLESS OTHERWISE NOTED.

SEE SHEET 7



252 PM 81
PARCEL 1

PARCEL 100
(GRASS/PAVED/VEGETATION RESERVE)

252 PM 81
PARCEL 1

PARCEL 100
(GRASS/PAVED/VEGETATION RESERVE)

LEGEND

- ALAMEDA COUNTY FIRE TRUCK TURN TEMPLATE FOR THE CITY OF NEWARK
- PROPOSED FIRE HYDRANT
- TYPICAL FIRE HALL FROM FIRE APPARATUS ACCESS ROAD
- FIRE APPARATUS ACCESS ROAD
- PAVING DETAIL



KEY MAP

FIRE ACCESS PLAN
 VESTING TENTATIVE MAP
 TRACT 8099

GATEWAY STATION WEST
 ALAMEDA COUNTY CALIFORNIA



SCALE: 1" = 100'

DATE: JANUARY 2016

PROJECT: TRACT 8099

PREPARED BY: [Firm Name]

PROJECT NO.: TM-6

OF SHEETS: 6

EXHIBIT A

AP 6

TRACT 8095 - BAYSHORES
 (PROPOSED SITE PLAN REVISED BY WILLIAM LYON HOMES)

PARCEL 8 (TRAIL) COORDINATE FOR BAY TRAIL STATION

SEE SHEET 7

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING 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

WHEREAS, the Applicant has filed with the City of Newark an application for P-14-49, a planned unit development, and U-14-50, a conditional use permit, for a 589 residential development within the Dumbarton Transit Oriented Development Plan Area; and

WHEREAS, pursuant to Municipal Code Section 17.72.060, a public hearing notice was published in the Tri-City Voice on November 24, 2015, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on December 8, 2015 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

WHEREAS, the Planning Commission approved Resolution No. 1920 recommending that the City Council grant said application as shown on Exhibit A, pages 1 through 46, subject to those certain conditions.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Newark hereby grants said application as shown on Exhibit A, pages 1 through 46 subject to compliance with the following conditions:

Planning Division

- a. Approval of TM-14-47, Vesting Tentative Map 8099, shall be effective at such time RZ-14-48, the Rezoning of the property within the boundary of Vesting Tentative Map 8099, takes effect.
- b. The project shall be subject to the environmental mitigation measures as described in the Dumbarton Transit-Oriented Development (TOD) Specific Plan Environmental Impact Report and the Supplemental Environmental Impact Report prepared for this project.
- c. There shall be no roof-mounted equipment other than satellite dishes, other similar television or radio antennas, and solar equipment. AC units shall not be mounted on the roof.
- d. All lighting shall be directed on-site so as not to create glare off-site, to the satisfaction of the Community Development Director.

- e. Construction site trailers and buildings located on-site shall be used for office and storage purposes only, and shall not be used for living or sleeping quarters. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- f. The covenants, conditions and restrictions (CC&Rs) filed for this development shall include a provision requiring that garages shall only be used for automobile parking and dwellings with apartment suites shall not be rented or sold to any occupants.
- g. Dwellings with apartment suites shall not be rented or sold to any occupants.
- h. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 7:00 p.m. and 8:00 a.m.
- i. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up. Graffiti removal/repainting and site cleanup shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- j. All exterior utility pipes and meters shall be painted to match and/or complement the color of the adjoining building surface, as approved by the Community Development Director.
- k. The elevations as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council. The building elevations shall reflect all architectural projections such as roof eaves, bay windows, greenhouse windows, chimneys and porches. A site plan showing the building locations with respect to property lines shall also show the projections. Said elevations shall specify exterior materials.
- l. The floor plans as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council.
- m. All roof material shall consist of fire retardant shake roof, concrete tile, or a roof of similar noncombustible material. Mansard roofs with the above material may be used to screen tar and gravel roofs. All roofs shall be of Class C fire resistant construction or better. Composition shingles shall be Presidential-style or of comparable quality, subject to the review and approval of the Community Development Director.
- n. Prior to the issuance of a building permit, the location and screening design for garbage, refuse and organics recycling collection areas for the project shall be submitted for the review and approval of Republic Services and the Community Development Director, in that order. The approved garbage, refuse and organics recycling areas shall be provided prior to the issuance of a Certificate of Occupancy, as required by the Community Development Director. No refuse, garbage or organics recycling shall be stored outdoors except within the approved trash and recycling enclosures.

- o. Measures to respond to and track complaints pertaining to construction noise shall include: (1) a procedure and phone numbers for notifying the City of Newark Building Inspection Division and Newark Police Department (during regular construction hours and off-hours); and (2) a sign posted on-site pertaining to the permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours).
- p. Prior to the issuance of 50% of building permits, a dog park shall be completed on Parcel HHH.
- q. Prior to the issuance of a building permit, the developer shall demonstrate compliance with the City's Affordable Housing Program, Chapter 17.18 of the Newark Municipal Code by paying a residential housing impact fee of \$20 per square foot of floor area per dwelling unit for the first 1,000 square feet; and \$8 per square foot of floor area for all square footage over 1,000 square feet.
- r. Prior to the issuance of a building permit, the developer shall enter into an agreement with the City Council to address Community Services fiscal support of \$2,500 per unit for the Map Area specific to this project.
- s. Prior to the issuance of a building permit, the developer shall pay the following fees: public safety impact fee (\$1,989 per single-family dwelling unit and \$2,079 per multi-family dwelling unit); community service and facilities impact fee (\$1,942 per single-family dwelling unit and \$1,596 per multi-family dwelling unit); transportation impact fee (\$801 per single-family dwelling unit and \$460 per multi-family dwelling unit); park impact fee (\$7,460 per dwelling unit); and art in public places and private development fee (\$270 per dwelling unit).
- t. Prior to issuance of a building permit, wall and fence details shall be submitted to the Community Development Director for review and approval.
- u. Prior to the issuance of a building permit, details of the outdoor recreational amenities such as play structures shall be submitted to the Community Development Director for review and approval.
- v. Prior to issuance of a grading permit, the developer shall hire a qualified biologist to: (1) determine if occupied Burrowing Owl habitat(s) exist on the site, and (2) implement a plan to protect the owls and to excavate the site around any active burrows using hand tools to assure that the owls are not buried during grading in the event Burrowing Owl habitat(s) is found on the site. The occupied Burrowing Owl habitat(s), if found, shall not be disturbed during the nesting season. The Burrowing Owl study shall be conducted not more than 30 days prior to the time site grading activities will commence.
- w. During project construction, if historic, archeological or Native American materials or artifacts are identified, work within a 50-foot radius of such find shall cease and the City

shall retain the services of a qualified archeologist and/or paleontologist to assess the significance of the find. If such find is determined to be significant by the archeologist and/or paleontologist, a resource protection plan conforming to CEQA Section 15064.5 shall be prepared by the archeologist and/or paleontologist and approved by the Community Development Director. The plan may include, but would not be limited to, removal of resources or similar actions. Project work may be resumed in compliance with such plan. If human remains are encountered, the County Coroner shall be contacted immediately and the provisions of State law carried out.

- x. Prior to their installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster, in that order. The mailbox compartments of centralized mailboxes shall identify the individual dwelling units with permanent, easily legible lettering.
- y. The Bayside Trail shall be constructed with contiguous phases of development. Prior to the issuance of a Certificate of Occupancy for any non-model dwellings within a phase, the Bayside Trail segment contiguous to that phase shall be completed.
- z. Prior to the issuance of a Certificate of Occupancy, the parking areas, aisles and access drives shall be installed and striped as shown on the approved site plan.
- aa. Prior to the issuance of a Certificate of Occupancy, roll-up garage doors with automatic garage door openers shall be provided for each unit.
- bb. Prior to final inspection and utility release for each unit, the developer shall pre-wire each unit for satellite and cable television connections, as required by the Community Development Director.
- cc. Prior to the issuance of a sign permit, all signs, other than those referring to construction, sale, or future use of this site, shall be submitted for the review and approval of the Community Development Director.

Engineering Division

- dd. The project shall conform to Tentative Map – Tract 8099, Sheets 1 through 8, and all conditions of approval set forth herein. Approval of this Tentative Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Newark Municipal Code consistent with the State Subdivision Map Act. This vesting tentative map provides a preliminary design for the infrastructure improvements associated with the proposed subdivision. The developer shall be responsible for any required changes to this preliminary design as determined necessary by the City of Newark to satisfy applicable design requirements of the City or any other public agencies or utilities with jurisdictional authority.
- ee. Prior to the approval of any final maps, detailed design review applications must be processed for all proposed building and landscaping improvements within each designated final map boundary. This future design review may result in required

modifications to the infrastructure improvements shown on this vesting tentative map, including but not necessarily limited to public street layout, street widths, utility system design, and the total scope of public improvements; private street layout, widths, and scope of improvements; lot sizes, lot patterns, and the total number of lots; park improvements; stormwater drainage design and stormwater treatment improvements; solid waste management facilities; and other public improvements. The developer shall be responsible for any and all required changes to the preliminary infrastructure design.

ff. The development will require approval of final tract maps filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. Any necessary parcel maps or lot line adjustments to acquire lands beyond the current property boundary of the tentative map shall be recorded prior to the first final map or issuance of any model home permits. The final map(s) must be approved prior to the issuance of any building permits. Permission to grade on adjacent private properties shall be obtained prior to approval of the first final map. Evidence of such agreements must be furnished to the City as part of the approval. All required easement dedications as shown on the vesting tentative map and as determined necessary with future design review shall be dedicated on the appropriate final map(s).

gg. The final map(s) and complete tract improvement plans shall be submitted to the Engineering Division for review to ensure conformance with relevant codes, policies, and other requirements of the Newark Municipal Code and City of Newark street improvement standards. Prior to approval of the final map(s), the developer shall guarantee all necessary public and private street improvements and other infrastructure improvements within the subdivision and beyond the map boundary as required by the City of Newark Subdivision Ordinance and this vesting tentative map and all conditions herein, in accordance with tract improvement plans to be approved by the City Engineer. Improvement plans for on-site common areas and all private streets in the development shall be included with the tract improvement plans to ensure that the improvements are designed and constructed to City standards.

These plans must be prepared by a qualified person licensed by the State of California to do such work. Street improvements shall include, but may not be limited to all required improvements as indicated on the vesting tentative tract map on Willow Street, Hickory Street (including the Enterprise Drive intersection), Enterprise Drive, all in-tract public streets, all private streets, water, sanitary sewer, and joint trench utilities, storm drain systems and all stormwater treatment systems, street lighting systems including the replacement of all existing street lights in the plan area, all landscaping including median improvements and walls, park and other recreational area improvements, off-site traffic mitigation measures, and other improvements consistent with the Dumbarton Transit Oriented Development Specific Plan.

hh. If performance bonds are posted or work has commenced by the developers of VTM 8085 or VTM 8157, or a combination thereof, for the full scope of improvements identified, this condition shall not apply. Otherwise, the full length of Willow Street shall be improved prior to or concurrent with the first proposed phase of work within the vesting tentative map boundary. Improvements on Willow Street include, but are not

limited to the following between Central Avenue and Enterprise Drive: construction of all intersection improvements proposed in the plan area, construction of all center medians including all landscaping improvements, placement of all utility main lines and utility stub-outs for future developments (excluding stub-outs for VTM 8085 and VTM 8098), a full width pavement grind and an asphalt concrete pavement overlay of 0.25' minimum thickness or greater, or replacement structural sections, that will result in a traffic index of not less than 9.0, curb and gutter, minimum 5-foot wide sidewalk, back-up landscaping, street light system replacement, pavement restriping, bike lane placement, street signage, any required traffic calming measures, and additional improvements as necessary. Street frontage improvements to the east side of Willow Street along the and the west side of Willow Street shall exclude improvements behind the curb including dry utilities, undergrounding of overhead lines, landscaping, and sidewalk improvements. Improvements north of Enterprise Drive shall include pavement resurfacing, restriping, bicycle and pedestrian facilities and any necessary improvements over the existing railroad crossing for full connectivity to the existing street system, and landscape improvements. Applicant shall use good faith effort to obtain all rights-of-way necessary for these required improvements. Final intersection improvements and other traffic calming measures, including roundabout configuration, are subject to modifications from the preliminary design as shown on the tentative map, at the developer's expense, to satisfy code and other design requirements to the satisfaction of the City Engineer.

- ii. All traffic mitigation measures identified under existing plus project conditions in the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report that were not determined to be significant and unavoidable shall be completed or guaranteed prior to the approval of any final maps. This includes all recommended improvements at the following intersections: Willow Street and Thornton Avenue, Willow Street and Enterprise Drive, and Cherry Street and Mowry Avenue. All additional traffic mitigation measures under the future year 2035 plus project conditions not considered significant and unavoidable (this is limited to striping modifications at Gateway Boulevard and Thornton Avenue) should be completed concurrent with other off-site improvements. The full scope of recommended improvements shall be incorporated into the tract improvement plans. If either of the developers for VTM 8085 or VTM 8157 post bonds to guarantee this work, then the condition shall be deemed satisfied.
- jj. Prior to approval of any final map(s), any proposed project phasing shall be submitted for the review and approval of the City Engineer. The phasing plan provided with the vesting tentative map is subject to modification as required by the City Engineer.
- kk. All improvements must conform to the City's Sight Visibility Ordinance, Newark Municipal Code Chapter 10.36. Prior to any final map approval all building architecture and other improvements on proposed lots within a given phase of the development shall be sited as necessary to comply with this ordinance. If necessary, the proposed lot pattern shown on the tentative map shall be modified to accommodate a future desired building product.

- ll. Concurrent with approval of the final map, the developer shall effectuate the removal of all existing easements encumbering the property within the tract boundary that conflict with areas proposed for improvement. Elimination or modification of existing utility easements on the site requires the approval from the respective utility district or company and the City of Newark.
- mm. Prior to approval of the final map(s), the developer shall submit a pavement maintenance program for the drive aisles and parking areas on the project site. The maintenance program shall be signed by the property owner and the property owner shall follow the maintenance program at the City Engineer's direction.
- nn. This site is subject to the State of California National Pollutant Discharge Elimination System (NPDES) Program General Permit for Storm Water Discharges Associated with Construction Activity. Prior to issuance of a grading permit or a building permit, the developer needs to provide evidence that the proposed site development work is covered by said General Permit for Construction Activity. This will require confirmation that a Notice of Intent (NOI) and the applicable fee were received by the State Water Resources Control Board and the submittal of the required Stormwater Pollution Prevention Plan (SWPPP). In addition the grading plans need to state: "All grading work shall be done in accordance with the Storm Water Pollution Prevention Plan prepared by the developer pursuant to the Notice of Intent on file with the State Water Resources Control Board."
- oo. Prior to the issuance of the initial grading or any building permits for this project, the developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) for the review and approval of the City Engineer. The plan shall include sufficient details to show how storm water quality will be protected during both: (1) the construction phase of the project and (2) the post-construction, operational phase of the project. The SWPPP shall be prepared by a Qualified SWPPP Developer (QSD) in the State of California. The construction phase plan shall include Best Management Practices from the California Storm Water Quality Best Management Practices Handbook for Construction Activities. The specific storm water pollution prevention measures to be maintained by the contractor shall be printed on the plans. The operational phase plan shall include Best Management Practices appropriate to the uses conducted on the site to effectively prohibit the entry of pollutants into stormwater runoff from the project site including, but not limited to, low impact development stormwater treatment measures, trash and litter control, pavement sweeping, periodic storm water inlet cleaning, landscape controls for fertilizer and pesticide applications, labeling of storm water inlets with a permanent thermoplastic stencil with the wording "No Dumping - Drains to Bay," and other applicable practices.
- pp. The project must be designed to include appropriate source control, site design, and stormwater treatment measures to prevent stormwater runoff pollutant discharges and increases in runoff flows from the site in accordance with Provision C.3 of the latest version of the Municipal Regional Stormwater NPDES Permit (MRP) adopted in November 2015 by the Regional Water Quality Control Board (RWQCB), San Francisco Bay Region. Examples of source control and site design requirements include, but are not limited to: properly designed trash storage areas, sanitary sewer connections for all

non-stormwater discharges, minimization of impervious surfaces, and treatment of all runoff with Low Impact Development (LID) treatment measures. A properly engineered and maintained biotreatment system will only be allowed if it is infeasible to implement other LID measures such as harvesting and re-use, infiltration, or evapotranspiration. The stormwater treatment design shall be completed by a licensed civil engineer with sufficient experience in stormwater quality analysis and design. The Storm Water Control Plan (Sheet TM-5) on this vesting tentative map would be approved as a conceptual plan only. Final approval is subject to the developer providing the necessary plans, details, worksheets, and calculations that demonstrate the plan complies with Provision C.3 of the MRP, subject to final review by the City Engineer and the RWQCB prior to the recording of any final maps. The developer is responsible for any and all necessary modifications to the site design to comply with MRP requirements. The use of treatment controls for runoff requires the submittal of a completed Stormwater Treatment Measures Maintenance Agreement prior to the approval of any final maps.

- qq. All stormwater treatment measures are subject to review and approval by the Alameda County Mosquito Abatement District. The developer shall modify the grading and drainage design and the stormwater treatment design as necessary to satisfy any and all imposed requirements from this District.
- rr. The preliminary Grading and Drainage Plan provided on Sheet TM-3 of the vesting tentative map has not yet been supported with a detailed drainage feasibility analysis. This analysis, including initial drainage calculations, shall be completed and submitted by the developer for review by the City Engineer and the Alameda County Flood Control and Water Conservation District (ACFC&WCD) for determination of the general feasibility of the proposed design prior to development of detailed grading and drainage plans. The ACFC&WCD will not allow the design capacity of the existed flood control channel to be exceeded. The developer shall be responsible for any and all changes to the preliminary drainage design as shown on the tentative map as necessary to satisfy ACFC&WCD and City of Newark storm drain system requirements.
- ss. The developer shall submit detailed grading and drainage plans for review and approval by the City Engineer and the Alameda County Flood Control and Water Conservation District (ACFC&WCD). These plans must be based upon a City benchmark and need to include pad and finish floor elevations of each proposed structure, all rear yard drainage designs and surface treatments, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing and proposed drainage patterns. All pad elevations shall be a minimum 11.25 NGVD. All pavement shall drain at a minimum of one percent. The developer shall ensure that all upstream drainage is not blocked and that no ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility. All mitigation measures identified in the Hydrology, Drainage, and Water Quality section of the Environmental Impact Report shall be properly addressed with the detailed grading and drainage plans.

Hydrology and hydraulic calculations based on ACFC&WCD criteria shall be submitted for review and approval by the City Engineer and the ACFC&WCD prior to approval of

- any final maps. The calculations shall show that City and ACFC&WCD freeboard requirements will be satisfied (0.75 feet to grate or 1.25 feet to the top of curb under a 10-year storm event design).
- tt. Where a grade differential of more than a 1-foot is created along the boundary lot lines between the proposed development and adjacent property, the developer shall install a masonry retaining wall unless a slope easement is approved by the City Engineer. Said retaining wall shall be subject to review and approval of the City Engineer. A grading permit is required by the Building Inspection Division prior to starting site grading work.
 - uu. Permission to grade on adjacent private properties shall be obtained prior to approval of the first final map. Evidence of such agreements must be furnished to the City as part of the approval.
 - vv. The applicant shall submit a detailed soils report prepared by a qualified engineer, registered with the State of California. The report shall address in-situ and import soils in accordance with the City of Newark Grading and Excavation Ordinance, Chapter 15.50. The report shall include recommendations regarding pavement sections for all public and private streets. Grading operations shall be in accordance with recommendations contained in the soils report and shall be completed under the supervision of an engineer registered in the State of California to do such work. All documentation prepared during the inspection of grading operations shall be made available for review by the City Engineer.
 - ww. An independent Project Geotechnical Engineer shall be retained to review the final grading plans and specifications and provide construction inspection review at the developer's expense. The Project Geotechnical Engineer shall approve the grading plans prior to approval by the City of Newark for issuance of a grading permit.
 - xx. Prior to approval of any final maps, the developer shall satisfy Alameda County Water District (ACWD) requirements for the proposed development as specified in previous correspondence with ACWD during the specific plan and tentative map review process. This includes, but is not necessarily limited to the following improvements: (1) individual water services to all residential units with a new, complete looped public water system sized and installed in accordance with ACWD's Standard Specifications for Water Main Installation and integrated with the existing public water system, including consideration of any proposed phasing of the water system installation; (2) water system components beyond the tentative map boundary, but determined as necessary by ACWD to meeting requirements for the full specific plan area; (3) installation of non-potable water infrastructure for future use; (3) replacement of existing water mains as determined necessary by ACWD; and (4) recordation of necessary water service easements to ACWD. The Utility Plan provided on Sheet TM-4 of the vesting tentative map includes a preliminary water supply system layout that is subject to a complete review by ACWD at such time as formal, detailed utility plans are developed for construction. Any necessary site and utility design changes necessary to satisfy ACWD's design requirements shall be the developer's responsibility.

- yy. Prior to approval of any final maps, the developer shall demonstrate to the satisfaction of City that it has obtained approval from Union Sanitary District (USD) of the entire sanitary sewer system designed to serve the development including any existing sanitary sewer infrastructure modifications beyond the tentative map boundary as necessary to serve the development; and potential relocation, modification, or protection in place of the existing twin force mains. The Utility Plan provided on Sheet TM-4 of the vesting tentative map includes a preliminary sanitary sewer system layout that is subject to a complete review by USD at such time as formal utility plans are submitted for construction. Any necessary site and utility design changes necessary to satisfy USD's design requirement shall be the developer's responsibility.
- zz. The developer shall incorporate a Homeowner's Association consisting of all property owners of lots in the development at the time of incorporation and in the future for the purpose of owning and maintaining the association's property, including but not limited to all private streets and common drive aisles, parking areas, landscape areas, stormwater treatment areas, storm drain systems, public access areas, and for paying for security lighting, any common garbage collection services, any security patrol services, if provided, and other functions of a Homeowner's Association. All common areas within the development shall be owned and maintained by the Homeowner's Association. Each property owner shall automatically become a member of the association and shall be subject to a proportionate share of the maintenance expenses. The Homeowner's Association shall be incorporated prior to the sale of any individual lots and/or prior to acceptance of tract improvements, whichever occurs first. A centralized facility of sufficient size such as a clubhouse shall be constructed for Homeowner's Association use at a location to be approved by the Community Development Director, unless the applicant is allowed to utilize a clubhouse at an alternative location, subject to approval by the Community Development Director. The CC&Rs shall prohibit the use of private streets as alternative routes to the in-tract public street system.
- aaa. Prior to City Council approval of any final maps, the bylaws governing the property owner's association and any declaration of covenants, conditions and restrictions (CC&Rs) filed for this development shall be reviewed and approved by the City Council at its discretion after mandatory review and recommendations by the City Attorney. Said covenants, conditions and restrictions shall be prominently displayed in the project sales office at all times. Approval of the covenants, conditions and restrictions shall not make the City a party to enforcement of same. The CC&Rs shall apply equally to both owners and renters. The CC&Rs shall be written to require renters to comply with the regulations of the CC&Rs, and a copy of the CC&Rs shall be given to each renter. The CC&Rs shall be written to allow less than a majority of owners to have pavement or landscape maintenance done and the cost thereof assessed to all owners in the project. The CC&Rs shall include a pavement maintenance program for all private streets and common drive aisles.
- bbb. The Homeowner's Association CC&Rs shall prohibit the on-site parking of non-self-propelled recreational vehicles, including boats, and any self-propelled recreational vehicles not used for transportation unless separate storage facilities are provided. The

CC&Rs shall regulate the provision of any on-site parking of self-propelled recreational vehicles used for transportation.

- ccc. The CC&Rs for the project shall include a disclosure statement to all property owners indicating that the project site is located within a seismic hazard zone for liquefaction. The disclosure statement shall indicate that the buildings have been designed to current code requirements. The statement shall further indicate that the buildings, site improvements, and utilities are subject to damage during an earthquake and that the buildings may be uninhabitable after an earthquake. This CC&R disclosure statement is subject to review and approval of the City Engineer prior to final map approval.
- ddd. The developer shall also assist the Homeowner's Association by having a management consultant firm review the maintenance and operating functions of the association. The management consulting firm shall be responsible to prepare a written report with recommendations to the association for managing the association's obligations and setting initial monthly assessment costs for each lot in the development. Membership and assessment cost shall be mandatory for all property owners of property in the development and shall run with the land. The developer shall pay all costs of incorporation and initial management review and reports.
- eee. The developer shall enter into a Landscape Maintenance Agreement to ensure the perpetual maintenance of all common front yard, side yard and back-up area landscaping within the development by the Homeowner's Association. This agreement shall run with the land and be binding upon all future owners or assigns. Any and all necessary easements shall be dedicated over individual lots to allow for the perpetual access and maintenance of landscaping. The full extent of landscape maintenance shall be determined with the future landscape improvements plans and detailed in said agreement. Landscaping by the City at the expense of the Homeowner's Association in these areas will only occur in the event the City Council deems the Homeowner's Association maintenance to be inadequate. Project perimeter walls and adjoining landscaped areas shall be included in a dedicated landscape easement to guarantee adequate maintenance of the walls. A Landscape Maintenance Agreement template is enclosed for your use.

The City of Newark shall be provided with subordinate agreements to ensure that the position of the landscaping **maintenance** lien shall be superior to any liens or encumbrances other than taxes.

- fff. Prior to approval of the first final map, the developer shall petition the City Council to participate in an active Landscaping and Lighting District for the perpetual maintenance of median landscaping and lighting systems on Willow Street and Enterprise Drive, all public parks within the Dumbarton TOD Specific Plan area, and any public stormwater treatment and storm drain delivery systems including trash capture devices, all public street trees, all street lighting systems and any additional landscaping, landscape-based stormwater treatment areas and storm drain systems, or lighting improvements within the public rights-of-way and dedicated public easement areas within the limits of the development. Maintenance activities will be performed by the City of Newark or its contractors through the Landscaping and Lighting District. All property owners within

the tentative map boundary shall be assessed annually in accordance with requirements established with the Landscaping and Lighting District. The developer shall pay all associated costs in the City's Master Fee Schedule for establishment of the Landscaping and Lighting District. The developer shall record an indenture advising all prospective property owners in the project that their properties are included in a Landscaping and Lighting District for maintenance of landscaping, lighting, and related improvements installed as part of this project.

- ggg. All storm drain inlets within the entire development, located in both public and private areas, shall be equipped with full-capture trash devices approved by the Regional Water Quality Control Board that satisfy Provision C.10 requirements under the Municipal Regional Stormwater NPDES Permit. Trash capture device selection is subject to approval by the City Engineer. All trash capture device maintenance within public rights-of-way shall be completed through the Landscaping and Lighting District. All trash capture device maintenance within private areas shall be completed by the Homeowner's Association. The Homeowner's Association shall be responsible for trash and litter control and sweeping of all private streets within the development. All private storm drain systems and all associated trash capture devices shall be cleaned on a regularly scheduled basis as detailed in the required Stormwater Treatment Measures Maintenance Agreement.
- hhh. The Homeowner's Association shall be required to contract with a professional management firm to handle all necessary maintenance operations. Documentation of such contract shall be submitted to the City of Newark. All commonly owned facilities shall be properly maintained in a manner consistent with the CC&Rs and project requirements.
- iii. The Homeowner's Association shall periodically provide educational materials on stormwater pollution prevention to all residents.
- jjj. Each buyer shall sign an acknowledgment that he/she has read the constitution and bylaws of the Homeowner's Association and the CC&Rs applied to the development.
- kkk. The developer shall provide a complete set of construction plans in electronic format and reproducible paper (mylar) format to the Homeowner's Association at the time of its formation.
- lll. All existing overhead utilities within the development and along the fronting street rights-of-way to the centerline of the street shall be undergrounded to the nearest riser beyond the development's limits in accordance with the City of Newark Subdivision Standards. Undergrounding shall include all existing and proposed service drops.
- mmm. All new utilities including, but not limited to, electric and communication services shall be provided underground for all buildings in the development in accordance with the City of Newark Subdivision Standards. Electrical transformers shall be installed in underground vaults with an appropriate public utility easement or within the public right-

of-way. This undergrounding requirement excludes the south side of Enterprise Drive and the east side of Hickory Street along the Ashland Chemical and Torian frontages.

- nnn. Fire hydrants are to be located along public and private streets as determined by the Alameda County Fire Department.
- ooo. A streetlight plan and joint trench plan shall be submitted by the applicant with the second tract improvement plan check and approved prior to final map approval. All existing street lights on Enterprise Drive and Willow Street within the limits of the Dumbarton Transit Oriented Plan Area shall be replaced (unless another developer has guaranteed this work) with street lights consistent with the approved Dumbarton Transit Oriented Development Specific Plan. LED lighting shall be utilized on all public and private streets and other common areas.
- ppp. A signpost with a sign having an area of at least 15-inches by 21-inches shall be installed at or near each private street entrance. The name of each private street shall be placed on this sign in clearly legible 4-inch letters. The signs shall have painted, in at least 1-inch letters, "Private Property. Not dedicated for public use."
- qqq. On-site private streets are to be posted for "No Parking," except in those areas designed to accommodate guest parking, as shown on the vesting tentative map.
- rrr. The connection between private streets and public streets shall be by a City of Newark standard driveway.
- sss. Garbage, trash, or recycling containers shall be suitably concealed in an area dedicated within the garage of each unit, except such features may be placed at curbside on the designated garbage pick-up day.
- ttt. Public Utility Easements (PUE), Water Line Easements (WLE), Storm Drain Easements (SDE), and Sanitary Sewer Easements (SSE) shall be dedicated over all private streets in the development. The PUE, WLE, SDE and SSE dedication statements on the final map shall state that the PUE, WLE, SDE and SSE are available for, but not limited to, the installation, access and maintenance of water supply sanitary and storm sewers, and gas, electrical, and communication facilities.
- uuu. Emergency Vehicle Access Easements (EVAE) shall be dedicated over the full pavement width on all private streets in the development. The final easement geometry shall be subject to the approval of the City Engineer.
- vvv. Easements for public access shall be dedicated over those parcels intended for public uses, including the trail, and the park parcels.
- www. The developer shall request Pacific, Gas & Electric Co. to commence with the design of the underground utility improvements for the proposed development immediately following tentative map approval.

- xxx. The developer shall ensure that a water vehicle for dust control operations is kept readily available at all times during construction at the City Engineer's direction. A pick-up or vacuum type street sweeper shall be available at all times at the direction of the City Engineer to remove tracked dirt and debris from adjacent streets.
- yyy. All existing buildings within the proposed division of land shall be completely demolished prior to recording the first final map.
- zzz. Above ground architectural and building features that project over proposed property lines shall be permitted on townhouse and/or condominium units by easements recorded on the final map. Such features include, but are not limited to, eaves, bay windows, balconies, porches, landings, and stairways. The details for these easements, including dimensions and descriptions, shall be included on the final map. Foundations for townhouse units shall be contained within the individual lot.
- aaaa. Street names and an addressing scheme shall be developed during the final map and improvement plan review process in accordance with the City of Newark's Street Numbering and Naming Ordinance (Chapter 12.12). The street name theme and individual street names shall be determined at a future date. All addressing is based on the Alameda County grid pattern with streets running generally northerly and southerly having 5-digit addresses and streets running generally westerly and easterly having 4-digit addresses.
- bbbb. The developer shall repair and/or replace any public improvements (pavement, curb, gutter, etc.) damaged as a result of construction activity to the satisfaction of the City Engineer.
- cccc. Prior to issuance of a Certificate of Occupancy or release of utilities for any residential units, private streets, common vehicle accessways and parking facilities serving said units shall be paved in accordance with the recommendation of a licensed engineer based on a minimum Traffic Index of 6.0.
- dddd. Prior to issuance of a Certificate of Occupancy or release of utilities for each dwelling unit, the on-site drive aisles and uncovered parking facilities shall be installed and striped as shown on the approved site plan. All on-site uncovered parking facilities and drive aisles shall be drained at a minimum slope of 1.0% for asphalt concrete surfaces and 0.3% for Portland cement concrete surfaces.
- eeee. The developer shall be responsible for implementation of all mitigation measures identified in the Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan.
- ffff. Prior to occupancy of any buildings within the special flood hazard area or acceptance of any public improvements, the developer shall apply for and receive approval of a letter of map revision based on fill (LOMR-F) from the Federal Emergency Management Agency. The LOMR-F shall be based upon the as-built grades of the building pads and shall determine that the pads and all public and private streets are no longer within the special

flood hazard area as indicated on the current Flood Insurance Rate Map for the City of Newark, Community Panel No. 06001C 0443G, dated August 3, 2009.

gggg. Prior to the issuance of any permits, any proposed permeable pavement design shall be based on a geotechnical engineer's recommendation and reviewed by the manufacturer or the National Ready Mixed Concrete Association (NRMCA). The developer shall submit documentation to the City confirming approval by the manufacturer or NRMCA and geotechnical engineer. The developer shall also ensure that the contractor hired to install the permeable pavement be certified by the NRMCA. Documentation that confirms certification shall be submitted directly to the City Engineer for review and approval.

hhhh. The developer shall implement the following measures for the duration of all construction activity to minimize air quality impacts:

1. Watering should be used to control dust generation during demolition of structures and break-up of pavement.
2. All trucks hauling demolition debris from the site shall be covered.
3. Dust-proof chutes shall be used to load debris into trucks whenever feasible. Watering should be used to control dust generation during transport and handling of recycled materials.
4. All active construction areas shall be watered at least twice daily and more often during windy periods; active areas adjacent to the existing land uses shall be kept damp at all times or shall be treated with non-toxic stabilizers or dust palliatives.
5. All trucks hauling soil, sand, and other loose materials shall be covered or require all trucks to maintain at least 2 feet of freeboard.
6. All unpaved access roads, parking areas, and staging areas at construction sites shall be paved, watered three times daily, or treated with (non-toxic) soil stabilizers.
7. All paved access roads, parking areas, and staging areas at construction sites shall be swept daily with water sweepers; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
8. Limit traffic speeds on unpaved roads to 15 mph.
9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
10. Replant vegetation in disturbed areas as quickly as possible.
11. Minimize idling time (5 minutes maximum).
12. Maintain properly tuned equipment.

These measures shall be incorporated into the grading specifications as well as the best management practices of the storm water pollution prevention plan, and shall be implemented to the satisfaction of the City Engineer.

iiii. The developer shall provide all required paper and digital submittals of the project final map, tract improvements plans, and as-built plans as required by the City Engineer, including, but not necessarily limited to the following: (1) One full-size reproducible copy and one reduced reproducible copy of the approved tentative map; (2) Two electronic copies of the approved final map and improvement plans in a format approved by the City Engineer; (3) One full-size mylar copy and one reduced copy of the recorded

final map; (4) One reproducible set and four blue-line or photocopied sets of the approved tract improvement plans; (5) Two electronic copies and one mylar set of the as-built tract improvement plans. The City will require a digital submittal of all final maps and improvements plans. All CAD work must be prepared in a manner consistent with the Union Sanitary District's digital submittal requirements for layering conventions. This can be found on the web at: <http://www.unionsanitary.com/digitalSubmittal.htm>. Digital files submitted shall be based on accurate coordinate geometry calculations and the NAD83 State Plane Coordinate System (Zone III) and NGVD29 (USD requires NAVD88) as vertical datum. A deposit of \$5,000 shall be provided by the developer to the City to ensure submittal of all required documents.

- jjjj. The developer shall provide as-built record drawings in both electronic format and on mylar paper based on full and complete review and inspection by the developer's project civil engineer, landscape architect, and other design professionals of all public improvements and all improvements on private streets and property included in the tract improvement plan set.
- kkkk. If any condition of this vesting tentative tract map be declared invalid or unenforceable by a court of competent jurisdiction, this vesting tentative map shall terminate and be of no force and effect, at the election of the City Council on motion.
- llll. Pursuant to Government Code Section 66474.9, the subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Newark, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
- mmmm. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of s statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

Landscape-Parks Division

- nnnn. The developer shall retain a licensed landscape architect to prepare working drawings for tract improvement landscape plans in accordance to with City of Newark requirements and the State of California Model Water Efficient Landscape Ordinance as amended by the California Water Commission on July 15, 2015. The associated Landscape Documentation Package must be approved by the City Engineer prior to approval of any final maps.

- oooo. The developer shall implement Bay Friendly Landscaping Practices in accordance with Newark Municipal Code, Chapter 15.44.080. Prior to approval of any final maps, the developer shall provide sufficient information to detail the environmentally-conscious landscape practices to be used on the project.
- pppp. Prior to installation by the developer, plant species, location, container size, quality, and quantity of all landscaping plants and materials shall be reviewed and approved by the City Engineer. All street trees and park trees shall be minimum 24-inch box specimens. All plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer.
- qqqq. Prior to the release of utilities or issuance of any Certificates of Occupancy, all landscaping and irrigation systems shall be completed or guaranteed by a cash deposit deposited with the City in an amount to cover the remainder of the work.
- rrrr. Prior to issuance of Certificate of Occupancy or release of utilities, the developer shall guarantee all trees for a period of 6 months and all other plantings and landscape for 60 days after completion thereof. The developer shall insure that the landscape shall be installed properly and maintained to follow standard horticultural practices. All plant replacements shall be to an equal or better standard than originally approved subject to approval of the City Engineer.
- ssss. Landscaping adjacent to the public right-of-way must conform to the City's visibility requirements in accordance with Newark Municipal Code, Chapter 10.36.
- tttt. Prior to the issuance of any Certificates of Occupancy, the developer shall pay park-in-lieu fees in accordance with the City's current Master Fee Schedule and any updates thereto.
- uuuu. Any above ground utility structures, including backflow prevention devices, and appurtenances shall be installed within the developer's property line and a minimum of 10 feet behind street face of curbs. The backflow prevention devices shall have a green painted security cage to protect it from vandalism. These locations shall be screened with landscaping to the satisfaction of the City Engineer. The landscape screen shall not interfere with the utility companies' or City Fire Department's access.

Alameda County Fire Department

vvvv. This project shall comply with the City of Newark's adopted Fire Code including Appendix D.

Building Inspection Division

wwww. Construction for this project can occur only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday. The developer may make a written request to the Building Official for extended working hours and/or days. In granting or denying any request, the Building Official will take into consideration the nature of the construction activity which

would occur during extended hours/days, the time and duration of the request, the proximity to residential neighborhoods, and input by affected neighbors. All approvals will be done so in writing.

General

- xxxx. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval. All time extensions for this planned unit development and conditional use permit shall be approved by the Planning Commission and City Council.
- yyyy. If any condition of this planned unit development and conditional use permit be declared invalid or unenforceable by a court of competent jurisdiction, this planned unit development and conditional use permit shall terminate and be of no force and effect, at the election of the City Council on motion.
- zzzz. This planned unit development and conditional use permit shall be given a public hearing before the City Council for the Council's review and approval.
- aaaaa. Prior to the submittal for building permit review, all conditions of approval of this project, as approved by the City Council, shall be printed on the plans.
- bbbbbb. The developer hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
- ccccc. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK APPROVING TM-14-47 VESTING TENTATIVE
MAP 8099 TO CONSTRUCT APPROXIMATELY 589
RESIDENTIAL UNITS

WHEREAS, Integral Communities has submitted TM-14-47, Vesting Tentative Map 8099, to the City Council of the City of Newark with subdivision and zoning variances covered by P-14-49, a planned unit development, and U-14-50, a conditional use permit, for a 589-unit residential project located within the Dumbarton Transit Oriented Development Specific Plan area at the western edge of the City of Newark;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark does hereby approve TM-14-47, Vesting Tentative Map 8099 with said subdivision and zoning variances covered by P-14-49 and U-14-50, as shown on Exhibit A, pages 1 through 46, and made a part hereof by reference, subject to the following conditions:

- a. All applicable conditions listed in Planning Commission Resolution No. 1920, dated December 8, 2015, approving P-14-49 and U-14-50.
- b. The developer shall ensure that all upstream drainage is not blocked and that no ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility.
- c. That if any condition of this vesting tentative map be declared invalid or unenforceable by a court of competent jurisdiction, this vesting tentative map shall terminate and be of no force and effect, at the election of the City Council on motion.
- d. Approval of this tentative tract map shall become effective at such time as RZ-14-48, the rezoning of the portion of property within the boundary of Vesting Tentative Map 8099, takes effect.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AUTHORIZING THE MAYOR TO SIGN A
COMMUNITY FINANCING AGREEMENT WITH
DUMBARTON AREA 2, LLC

BE IT RESOLVED by the City Council of the City of Newark that the Mayor of the City of Newark be and is hereby authorized to sign a Community Financing Agreement with the Dumbarton Area 2, LLC, said agreement on file in the Office of the City Clerk.

**COMMUNITY FINANCING AGREEMENT
BY AND AMONG THE CITY OF NEWARK AND DUMBARTON AREA 2, LLC
REGARDING PROVISION OF CERTAIN PUBLIC FACILITIES AND SERVICES FOR
THE DUMBARTON TOD PROJECT SPECIFIC PLAN**

This Agreement dated _____, 2016, (the “**Effective Date**”) is entered into by and among the City of Newark, a California municipal corporation (hereinafter “**City**”) and Dumbarton Area 2, LLC a Delaware limited liability company (“**Developer**”). City and Developer are, from time to time, hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**.” Developer is the current owner of certain real property property known as the Gateway West Property (as defined below). This Agreement is entered into on the basis of the following facts, understandings and intentions of the Parties.

RECITALS

A. In September, 2011, the City Council adopted the Dumbarton Transit Oriented Development (“**TOD**”) Specific Plan (“**Specific Plan**”). The real property that is the subject of this Agreement is the entirety of the approximately 205-acre Specific Plan area, which is depicted on **Exhibit A** to this Agreement (“**Specific Plan Property**”), excluding certain governmental property located therein. The Gateway Parcel is owned by Developer and is depicted and legally described on **Exhibit B** to this Agreement and is referred to herein as “**Property**.” It is the intent of the City, through the Specific Plan, to provide a comprehensive, long-term plan that guides future development of the Specific Plan Property in concert with and in response to the needs of the marketplace. The Specific Plan establishes a policy and a regulatory framework to guide future development, including allowable land uses, development regulations, design guidelines, necessary infrastructure improvements, and an implementation plan to direct future development of the Specific Plan Property.

B. In accordance with the California Environmental Quality Act (Pub. Res. Code Sections 21000 *et seq.*) and its Guidelines (C.C.R., Title 14 Sections 15000, *et seq.*), as each is amended from time to time (“**CEQA**”) (defined herein), City certified as adequate and complete an Environmental Impact Report (“**EIR**”) for the Specific Plan, and the development envisioned within the Specific Plan. The various property owners may propose to plan, develop, construct, operate and maintain a mix of residential, commercial, entertainment, retail, office, recreation and related uses and structures on the Specific Plan Property, as more particularly described in the EIR (“**TOD Project**”).

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other consideration, the value, legality, and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

1.01 Agreed Upon Developer Obligations In order to implement the Specific Plan and to contribute to the provision of appropriate public improvements and services, the City and Developer hereby agree to the following contributions by Developer related to the TOD Project:

(1) Developer has agreed to contribute toward the estimated costs of the anticipated TOD Project-wide improvements, including the City's planning, design, right of way acquisition and construction of the Central Avenue Railroad Overcrossing. Developer's contribution shall be payable by Developer to the City at the time of, or prior to, the issuance of each building permit for development of new residential units on the Property, at the rate and in the fixed amount of Two Thousand Five Hundred Dollars (\$2,500.00) per dwelling unit (without adjustment).

(2) Developer hereby consents to the imposition, creation, or funding of a duly-established financing district (including but not limited to a Communities Facilities District pursuant to the Mello Act) on the Property to fund services or facilities, or shall arrange for an alternative permanent annuity to provide equivalent revenue. The maximum amount of the assessment, special tax, or annuity shall not exceed Two Hundred Twenty Dollars (\$220.00) per year per residential housing unit, which amount will be adjusted annually to reflect inflation, based on changes in the United States Bureau of Labor Statistics Cost of Living Index for the SF Bay Area.

1.02 Amendments of this Agreement.

This Agreement may be amended from time to time only upon the unanimous written consent of City and Developer.

1.03 Construction. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

1.04 Recordation. The Clerk of the City shall record, within ten (10) days after the Effective Date, a copy of this Agreement in the Official Records of the Recorder's Office of Alameda County. Developer shall be responsible for all recordation fees, if any.

1.05 Governing Law. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California.

1.06 Entire Agreement. This Agreement may be executed in multiple originals, each of which is deemed to be an original. This Agreement, including these pages and all the exhibits (set forth below) inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.

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

1.08 Successors. This Agreement is intended to run with the land and bind Developer's successors-in-interest in the Property. Upon transfer, any success-in-interest shall be deemed to have accepted the terms and conditions of this Agreement and shall be deemed the

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first hereinabove written.

"City":

CITY OF NEWARK,
a municipal corporation

By: _____
Alan L. Nagy, Mayor City of Newark

"Developer":

DUMBARTON AREA 2, LLC,
a Delaware limited liability company

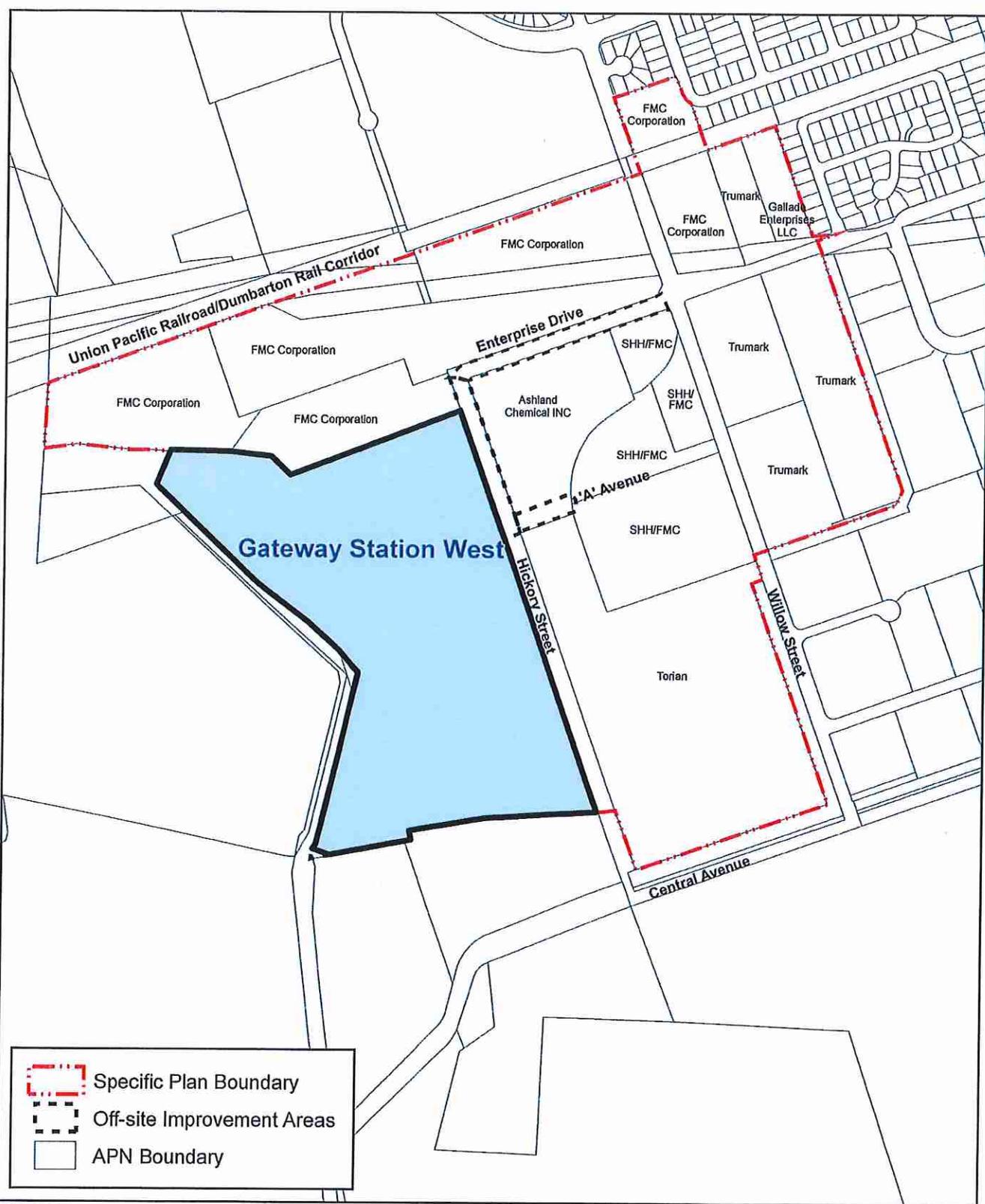
By: _____
Name: Jaime M. Chahine
Its: Authorized Representative

Exhibit A

Legal Description

205-acre Dumbarton TOD Specific Plan area

S:\PROJECTS\BUDAT-ALL\DAT-02_Gateway Station\CEQA\GIS\Map\Figure 3-2 TOD Specific Plan.aprx DAT-02 02/19/15-JII



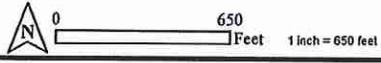
	Specific Plan Boundary
	Off-site Improvement Areas
	APN Boundary

Map Date: 06-17-2015

Dumbarton TOD Specific Plan Area

GATEWAY STATION WEST

HELIX
Environmental Planning



0 650 Feet 1 inch = 650 feet

Figure 3-2

Exhibit B

Legal Description of Gateway West Parcel

For APN/Parcel ID(s): 537-0852-009-00, 537-0852-010-00 and 537-0852-011-00

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWARK IN THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

Parcel 1, 2 and 3, Parcel Map 10391, filed November 2, 2015, Map Book 330, Page 63 and 64, Alameda County Records.

PARCEL B:

Those certain limited non-exclusive easements created, described, defined and delineated in that certain Grant Deed dated January 24, 2014, executed by Cargill, Incorporated, a Delaware corporation, successor by merger to Leslie Salt Co., a Delaware corporation to Dumbarton Area 2, LLC, a Delaware limited liability company, recorded January 27, 2014, as Instrument No. 2014022061, Official Records.

PLANNING COMMISSION ACTIONS

DRAFT

**CITY OF NEWARK
PLANNING COMMISSION**

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

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

MINUTES

Tuesday, December 8, 2015

A. ROLL CALL

At 7:32 p.m., Chairperson Fitts called the meeting to order. All Planning Commissioners were present except Vice-Chairperson Aguilar (personal).

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, November 10, 2015.

Commissioner Bridges moved, Commissioner Nillo seconded, to approve the Minutes of November 10, 2015. The motion passed 3 AYES, 1 ABSTENTION (Otterstetter).

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

-  **E.1 Hearing to consider: (1) Approving a resolution making certain findings and recommending City Council adoption of a Supplemental Environmental Impact Report (E-14-46) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development; (2) Approving a resolution recommending rezoning (RZ-14-48) an approximately 41-acre area (APNs 537-852-9, 537-852-10, and 537-852-11) 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) Approving a resolution 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, recommending that the City Council approve TM-14-47, Vesting Tentative Map 8099, to construct approximately 589 residential**

units; (5) By motion, approving ASR-14-51, an Architectural and Site Plan Review.

Assistant City Manager Grindall gave the staff report.

ACM Grindall and Mr. Mark Butler (Integral Communities) gave a joint Power Point presentation.

Architect Michael Schrock, Urban Arena, 11772 Sorrenta Valley Road, Suite 212, San Diego, CA 92121, discussed the Site Plan and various Exhibits.

Answering Chairperson Fitts and Commissioner Bridges, Mr. Schrock indicated the majority of the units were three stories but the units were built for flexibility in living space needs where the third story could become a bonus room, in-law unit or home office.

Answering Commissioner Bridges, Mr. Butler stated pricing would range from the high \$600,000 to the mid \$900,000.

Answering Commissioner Nillo, Mr. Butler and ACM Grindall, explained that the fencing for the project would be made with a see-through high quality material that would provide both security and unobstructed views of the bay.

Answering Commissioner Otterstetter, Mr. Schrock stated galvanized metals will be used.

Answering Chairperson Fitts, Mr. Buttler estimated the grading and construction of the model homes would begin in the middle or in late 2017.

ACM Grindall continued with the staff report and stated "apartment-type" units would not be permitted to be rented out.

ACM Grindall discussed Development Impact Fees and School Fees.

Environmental Consultant and Biologist Dr. Steve Neudecker discussed the Open-Space Management Plan which would be funded in perpetuity through an endowment.

Chairperson Fitts opened the Public Hearing. Since no one from the public chose to speak, Chairperson Fitts closed the Public Hearing.

Motion made by Commissioner Nillo, seconded by Commissioner Bridges to: (1) approve Resolution 1918, making certain findings and recommending City Council adoption of a Supplemental Environmental Impact Report (E-14-46) to the Environmental Impact Report (State Clearinghouse No, 2010042012) for the Dumbarton Transit Oriented Development; (2) approve Resolution 1919, recommending rezoning (RZ-14-48) an approximately 41-acre area (APNs 537-

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".

RESOLUTION NO. 1918

RESOLUTION OF THE CITY OF NEWARK PLANNING COMMISSION MAKING CERTAIN FINDINGS AND ADOPTING A SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR 589 SINGLE- AND MULTI-FAMILY RESIDENTIAL UNITS (GATEWAY STATION WEST) ON APPROXIMATELY 41 ACRES (537-0852-009; 537-0852-010; AND 537-0852-011) AND APPROXIMATELY 13.5 ACRES OF DESIGNATED OPEN SPACE WITHIN THE DUMBARTON TRANSIT ORIENTED DEVELOPMENT SPECIFIC PLAN

WHEREAS, the City of Newark caused an environmental impact report to be prepared to assess the potential environmental impacts of the proposed Dumbarton Transit Oriented Development Specific Plan; and

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

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

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

WHEREAS, the Gateway Station West Project ("Project"), which is located within the Dumbarton Transit Oriented Development Specific Plan, consists of the construction of 321 single family units and 268 multi-family units on approximately 41 acres (APN No.'s 537-0852-009; 537-0852-010; and 537-0852-011) and approximately 13.5 acres of designated Open Space; and

WHEREAS, the entitlements requested include Vesting Tentative Map 8099 (TM-14-47), an amendment to Title 17 (Zoning) of the Newark Municipal Code and the Official Zoning Map (RZ-14-48), a planned development permit, conditional use permit, and an Architectural and Site Plan Review; and

WHEREAS, pursuant to the requirements of the California Environmental Quality Act (CEQA), a Supplemental Environmental Impact Report (SEIR) has been prepared for the Project, pursuant to Section 15168(c) of the CEQA Guidelines, to analyze and mitigate the Project's potentially significant environmental impacts; and

WHEREAS, through this Report, it has been determined that the Project's potentially significant environmental impacts specifically relate to impacts associated with air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology/water quality, noise, and transportation/traffic; and

WHEREAS, these potentially significant impacts can be mitigated to less than significant as shown in Table S-1, *Summary of Significant Effects*, of the SEIR, and;

WHEREAS, a 30-day public review period for the SEIR was established beginning on August 8, 2014 and copies of the SEIR were transmitted to the State Clearinghouse (SCH#2014-08-2022), and a Notice of Preparation (NOP) was, along with copies of the project files, sent to local agencies concerned with the Project and then posted with the Office of the Alameda County Clerk on August 6, 2014; and

WHEREAS, two comment letters from: the California Department of Transportation and the State Public Utilities Commission, have been received; and

WHEREAS, on December 8, 2015, the Planning Commission of the City of Newark conducted a duly noticed public hearing to consider the SEIR for the proposed Project, considered all public testimony, written and oral, presented at the public hearing; and received and considered the written information and recommendation of the staff report for the December 8, 2015 meeting related to the proposed Project, and;

WHEREAS, the Planning Commission of the City of Newark recommended that City Council consider adopting the SEIR for Vesting Tentative Map 8099 (TM-14-47), the amendment to Title 17 (Zoning) of the Newark Municipal Code and the Official Zoning Map (RZ-14-48), and the associated planned development permit, conditional use permit, and Architectural and Site Plan Review.

NOW, THEREFORE, the Planning Commission finds and resolves the following:

1. The SEIR was released for public review and said mitigation measures contained within the same would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and;
2. There is no substantial evidence in light of the whole record before the City of Newark that the project may have a significant effect on the environment, and;
3. The Planning Commission has read and considered the SEIR, and the comments thereon, and has determined the SEIR reflects the independent judgment of the City and were prepared in accordance with CEQA; and
4. The SEIR, all documents referenced in the same, and the record of proceedings on which the Planning Commission's decision is based are located at City Hall for the City of Newark, located at 37101 Newark Blvd, California, and is available for public review.

NOW, THEREFORE, the Planning Commission:

a. Based on the evidence and oral and written testimony presented at public hearings, and based on all the information contained in the Community Development Department's files on the project, including, but not limited to, the SEIR and the Planning Commission's staff report, certifies in accordance with CEQA guidelines that:

1. The SEIR was prepared in compliance with CEQA and CEQA guidelines;
2. The Planning Commission has reviewed and considered the information contained in the SEIR prior to approving the project;
3. The SEIR adequately describes the project, its environmental impacts, reasonable alternatives and appropriate mitigation measures;
4. The SEIR reflects the independent judgment and analysis of the Planning Commission.

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

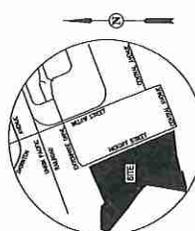
AYES: Bridges, Fitts, Nillo and Otterstetter.

NOES: None.

ABSENT: Aguilar.

s/Terrence Grindall
TERRENCE GRINDALL, Secretary

s/William Fitts
WILLIAM FITTS, Chairperson



- CENTRAL NOTES:**
1. REVISIONS
 2. SHEET INDEX
 3. SHEET NUMBER
 4. SHEET TITLE
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TITLE SHEET AND SITE PLAN
VESTING TENTATIVE MAP
TRACT 8099
GATEWAY STATION WEST
 ALAMEDA COUNTY CALIFORNIA

CITY OF NEWARK
 SCALE: 1" = 100' (AS SHOWN ON SHEET 101)

DATE: 01/15/2015
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]



MANUAL FIELDING SUMMARY

FIELD	VALUE	UNIT
AREA	100.00	SQ. FT.
PERCENTAGE	100.00	%
SCALE	1" = 100'	
DATE	01/15/2015	
DRAWN BY	[Name]	
CHECKED BY	[Name]	
APPROVED BY	[Name]	

LAND USE SUMMARY

LAND USE	AREA	PERCENTAGE
RESIDENTIAL	100.00	100.00
COMMERCIAL	0.00	0.00
INDUSTRIAL	0.00	0.00
AGRICULTURAL	0.00	0.00
OPEN SPACE	0.00	0.00
WATER	0.00	0.00
ROADS	0.00	0.00
UTILITIES	0.00	0.00
TOTAL	100.00	100.00

PARCELS SUMMARY

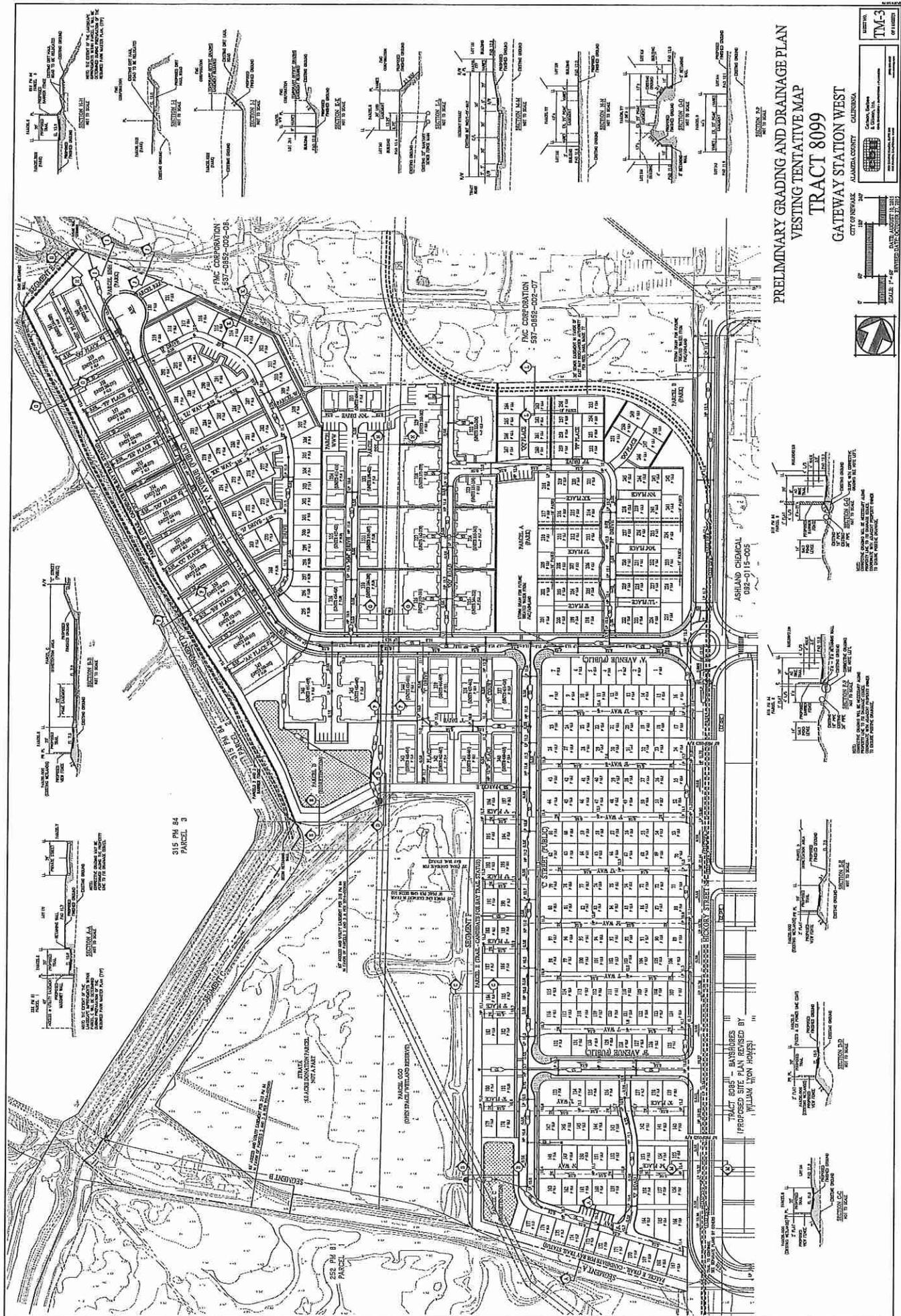
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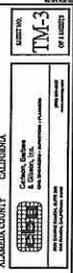
PARCELS SUMMARY

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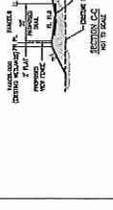
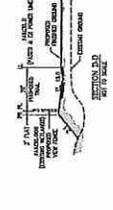
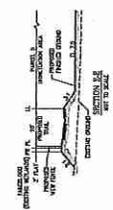
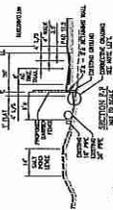
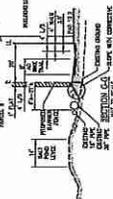


PRELIMINARY GRADING AND DRAINAGE PLAN
 VESTING TENTATIVE MAP
 TRACT 8099
 GATEWAY STATION WEST
 ALAMEDA COUNTY CALIFORNIA

CITY OF NEWARK
 SCALE: 1" = 40'
 DATE: 08/15/2011
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]



TM-3
 OF LAYERS

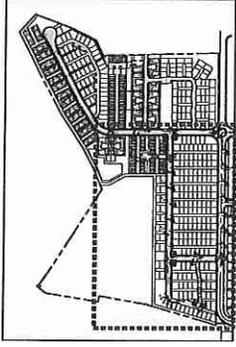
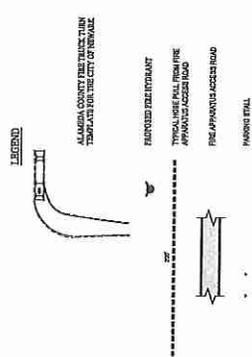
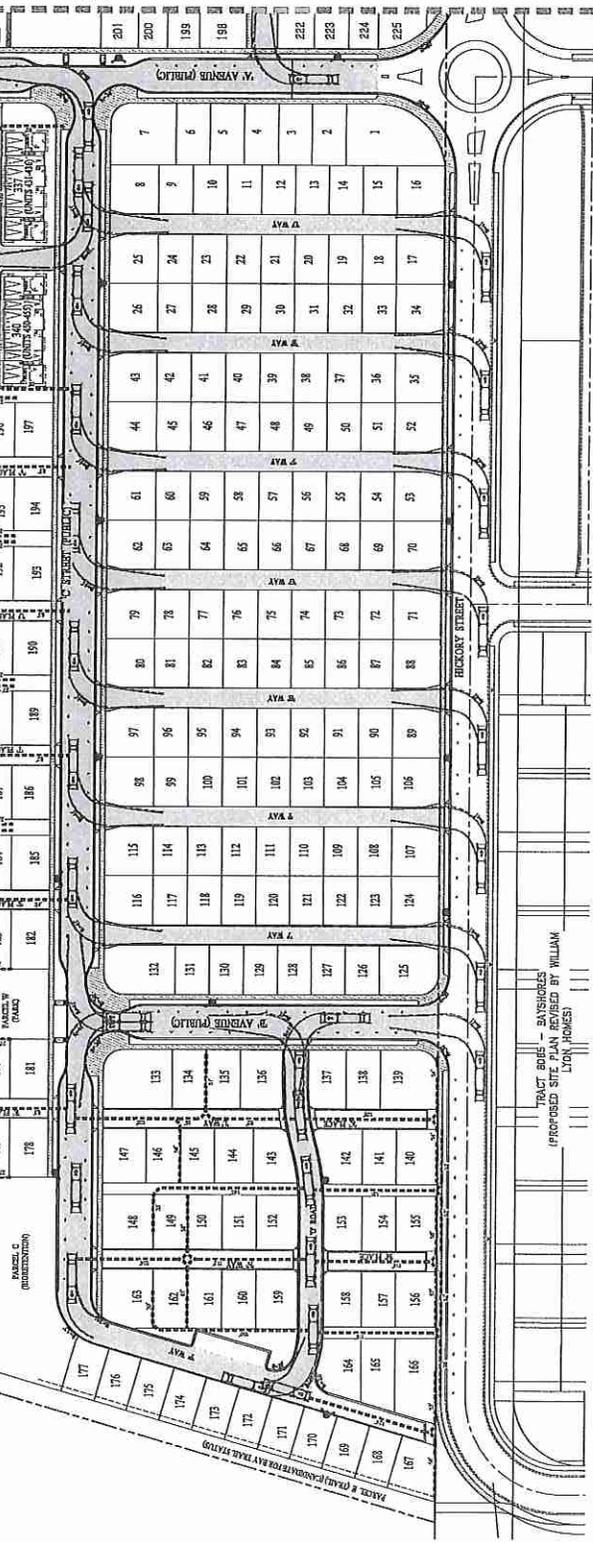


TRACT 8099 - BANBROS
 PROPOSED SITE PLAN REVISED BY
 WILLIAM LYON JOHNSON

SEE SHEET 7

252 PM 81
PARCEL 1

PARCEL 6005
(CONTRACTOR'S RESERVE)



**FIRE ACCESS PLAN
VESTING TENTATIVE MAP
TRACT 8099
GATEWAY STATION WEST**

CITY OF NEWARK
ALAMEDA COUNTY CALIFORNIA
SCALE: 1" = 40' (VERTICAL SCALE 1" = 20')

EXHIBIT
A06 of 8

RESOLUTION NO. 1919

RESOLUTION RECOMMENDING THE AMENDMENT OF
TITLE 17 OF THE NEWARK MUNICIPAL CODE BEING THE
CITY OF NEWARK ZONING ORDINANCE BY CHANGING
THE ZONING OF A SPECIFIED AREA IN THE CITY OF
NEWARK

WHEREAS, Integral Communities has made an application to the Planning Commission of the City of Newark to consider the amendment (RZ-14-48) to Title 17 (Zoning) of the Newark Municipal Code and the Official Zoning Map, by rezoning property described as follows:

"All that portion of real property shown on Vesting Tentative Map 8099 in the City of Newark, County of Alameda, State of California as shown on Exhibit A, attached hereto and incorporated herein by reference."

PURSUANT to Municipal Code Section 17.80.050, a public hearing notice was published in the Tri-City Voice on November 24, 2015, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30p.m. on December 8, 2015 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, the Planning Commission, based on the evidence and oral and written testimony presented at public hearings, and based on all the information contained in the Community Development Department's files on the project, including, but not limited to, the EIR, the Planning Commission's staff report, does resolve:

- a. That the Planning Commission recommends that the Newark City Council amend Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010 "Zoning Map" thereof, being the City of Newark Zoning Ordinance and Official Zoning Map, by rezoning portions of property shown on Vesting Tentative Tract Map 8099 from MT-1 (High Technology Park District) to MDR-FBC (Medium Density Residential-Form Based Codes) and HDR-FBC (High Density Residential-Form Based Coeds); and
- b. That the Planning Commission has reviewed said zoning and finds it consistent and compatible with the objective, policies, general land uses, and the programs of Newark's General Plan, necessary and desirable to achieve the purposes of the ordinance and proper, fair, and for the best interest of the health, safety, and general welfare of the City of Newark; and
- c. That a copy of the minutes be forwarded to the City Council as a summary of the hearing.

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

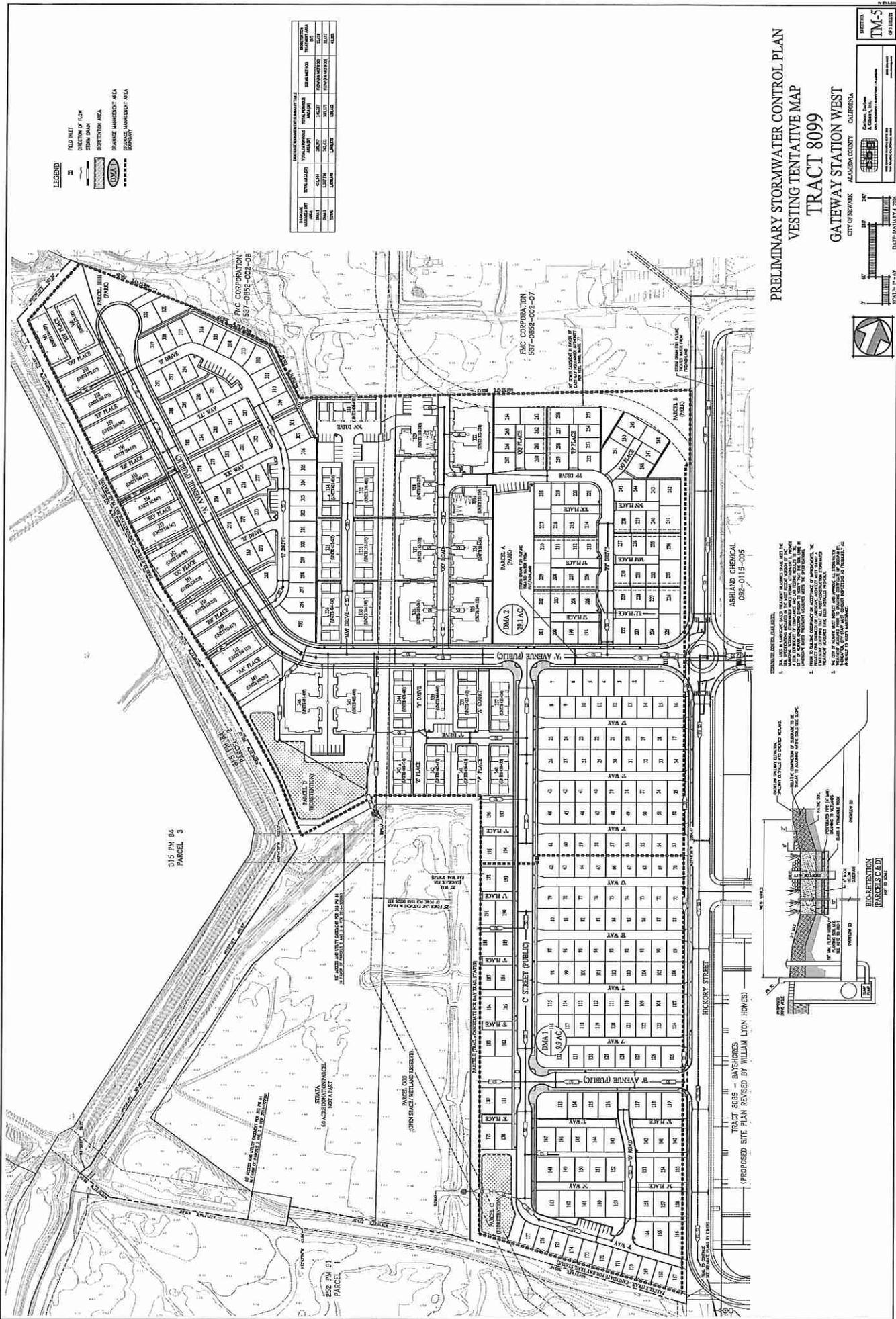
AYES: Bridges, Fitts, Nillo and Otterstetter.

NOES: None.

ABSENT: Aguilar.

s/Terrence Grindall
TERRENCE GRINDALL, Secretary

s/William Fitts
WILLIAM FITTS, Chairperson



LEGEND

- ROAD RIGHT
- SECTION OF TYP
- STORM DRAIN
- DOCKMENT AREA
- SHRUB MANAGEMENT AREA
- SPRING MANAGEMENT AREA

TOTAL DEVELOPMENT		TOTAL EXISTING		TOTAL PROPOSED	
AREA (SQ FT)	PERCENT	AREA (SQ FT)	PERCENT	AREA (SQ FT)	PERCENT
1,000,000	100%	1,000,000	100%	1,000,000	100%
1,000,000	100%	1,000,000	100%	1,000,000	100%
1,000,000	100%	1,000,000	100%	1,000,000	100%
1,000,000	100%	1,000,000	100%	1,000,000	100%

**PRELIMINARY STORMWATER CONTROL PLAN
VESTING TENTATIVE MAP
TRACT 8099
GATEWAY STATION WEST**

CITY OF PINEHURST ALABAMA COUNTY CALIFORNIA

DATE: 12-29-11

PROJECT: 12-29-11

SCALE: 1" = 100'

DATE: 12-29-11

PROJECT: 12-29-11

SCALE: 1" = 100'

DATE: 12-29-11

PROJECT: 12-29-11

SCALE: 1" = 100'

- GENERAL NOTES:**
- ALL AREAS SHOWN ON THIS MAP ARE SUBJECT TO THE CITY'S ZONING ORDINANCES AND THE CITY'S SUBDIVISION MAP ACT. THE CITY'S ZONING ORDINANCES AND THE CITY'S SUBDIVISION MAP ACT MAY BE AMENDED FROM TIME TO TIME WITHOUT NOTICE TO THE PUBLIC. THE CITY'S ZONING ORDINANCES AND THE CITY'S SUBDIVISION MAP ACT ARE SUBJECT TO THE CITY'S BOARD OF SUPERVISORS' DISCRETION.
 - THE CITY'S BOARD OF SUPERVISORS HAS REVIEWED THIS MAP AND HAS DETERMINED THAT IT IS IN THE BEST INTERESTS OF THE CITY TO APPROVE THIS MAP. THE CITY'S BOARD OF SUPERVISORS HAS REVIEWED THIS MAP AND HAS DETERMINED THAT IT IS IN THE BEST INTERESTS OF THE CITY TO APPROVE THIS MAP.
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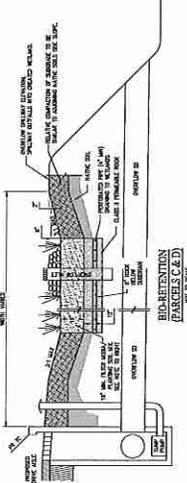
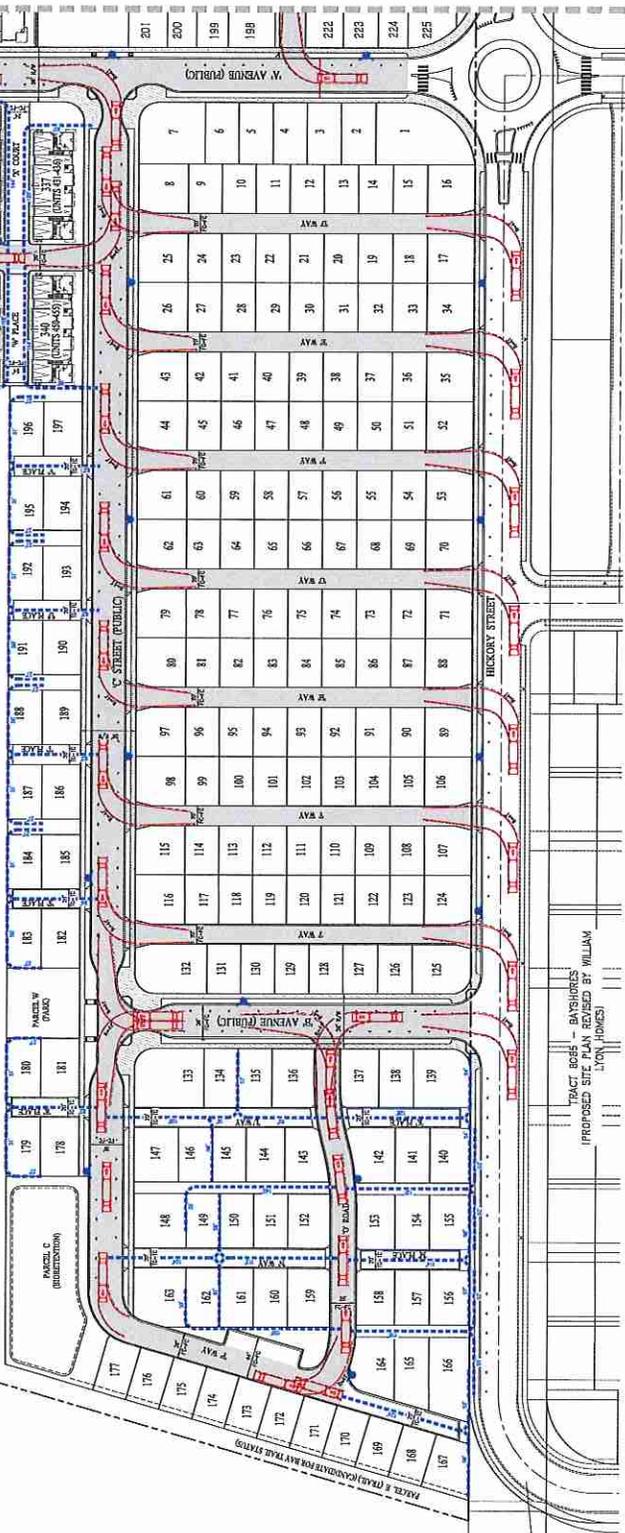


EXHIBIT A.5

SEE SHEET 7

SEE PW BT
PARCEL 1

PARCEL 502
(OPEN SPACE/WILDLAND RESERVE)



LEGEND

ALAMANDA COUNTY FIRE TRUCK TURN
TEMPERATURE FOR THE CITY OF NEWARK

PROPOSED FIRE HYDRANT

TYPICAL HOSE PULL FROM FIRE
HYDRANT TO ACCESS ROAD

FIRE HYDRANT ACCESS ROAD

FIRE HYDRANT



KEY MAP

FIRE ACCESS PLAN
VESTING TENTATIVE MAP
TRACT 8099

CITY OF NEWARK ALAMANDA COUNTY CALIFORNIA
GATEWAY STATION WEST

PROJECT NO. 157
SHEET NO. TM-6
DATE 04/15/2010

City of Newark
Alamanda County
California

PROJECT NO. 157
SHEET NO. TM-6
DATE 04/15/2010

EXHIBIT A-6

TRACT 8099 - BAYSHORES
(PROPOSED SITE PLAN REVISED BY WILLIAM
LYON JONES)

EXHIBIT A-7

CITY OF RIVERSIDE
 ALAMEDA COUNTY CALIFORNIA
 FIRE DEPARTMENT
 TRACT 8099
 GATEWAY STATION WEST
 557-0852-002-08
 TM-7
 OF 1 SHEET

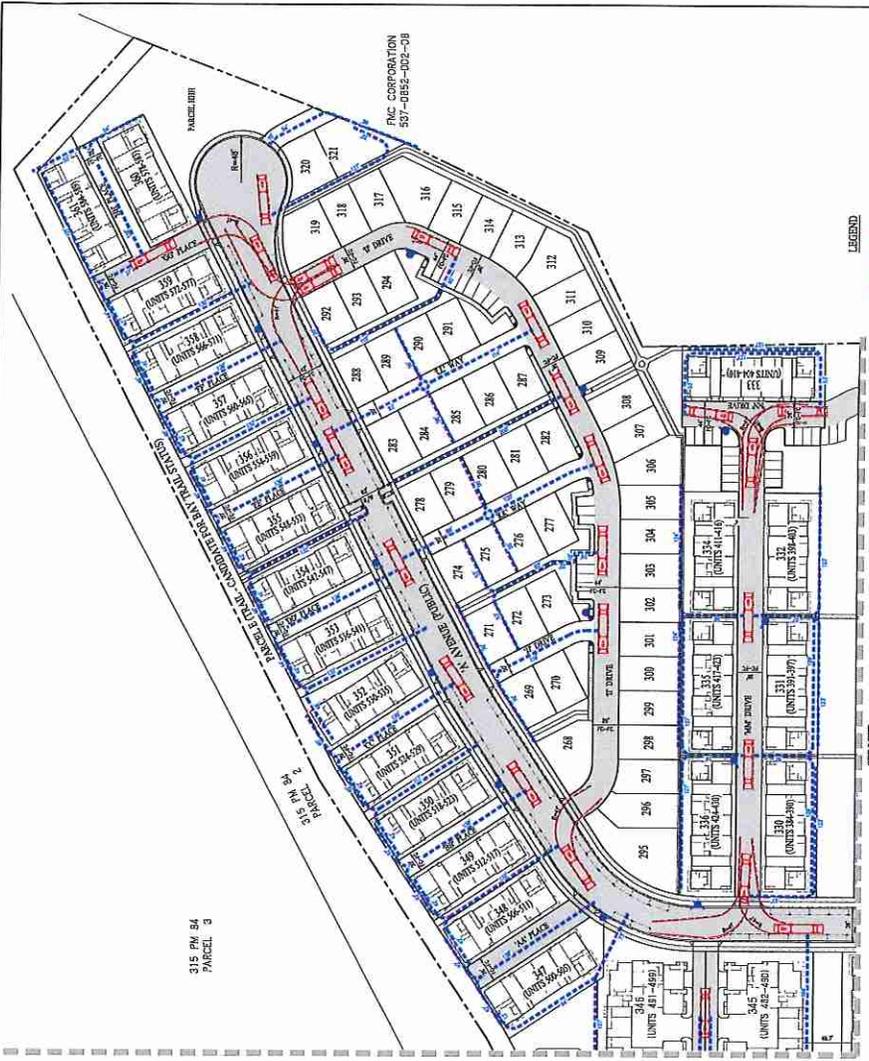
FIRE ACCESS PLAN VESTING TENTATIVE MAP TRACT 8099 GATEWAY STATION WEST

- PROPOSED FIRE TRUCK TURN TEMPLATE FOR THE CITY OF RIVERSIDE
- TYPICAL FIRE HALL FROM FIRE APPROXIMATE ACCESS ROAD
- FIRE APPROXIMATE ACCESS ROAD
- PARKING STALL

LEGEND

SEE LEFT

SEE SHEET 6



SEE SHEET 6



KEY MAP

RESOLUTION NO. 1920

RESOLUTION APPROVING P-14-49, A PLANNED UNIT DEVELOPMENT, AND U-14-50, A CONDITIONAL USE PERMIT, FOR A 589-UNIT RESIDENTIAL DEVELOPMENT PROJECT (GATEWAY STATION WEST) LOCATED WITHIN THE DUMBARTON TRANSIT ORIENTED DEVELOPMENT SPECIFIC PLAN AREA

WHEREAS, the Applicant has filed with the Planning Commission of the City of Newark an application for P-14-49, a planned unit development, and U-14-50, a conditional use permit, for a 589-unit residential development within the Dumbarton Transit Oriented Development Plan Area; and

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in the Tri-City Voice on November 24, 2015, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30p.m. on December 8, 2015 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council grant this application as shown on Exhibit A, pages I through 45, subject to compliance with the following conditions:

Planning Division

- a. Approval of TM-14-47, Vesting Tentative Map 8099, shall be effective at such time RZ-14-48, the Rezoning of the property within the boundary of Vesting Tentative Map 8099, takes effect.
- b. The project shall be subject to the environmental mitigation measures as described in the Dumbarton Transit-Oriented Development (TOD) Specific Plan Environmental Impact Report and the Supplemental Environmental Impact Report prepared for this project.
- c. There shall be no roof-mounted equipment other than satellite dishes, other similar television or radio antennas, and solar equipment. AC units shall not be mounted on the roof.
- d. All lighting shall be directed on-site so as not to create glare off-site, to the satisfaction of the Community Development Director.
- e. Construction site trailers and buildings located on-site shall be used for office and storage purposes only, and shall not be used for living or sleeping quarters. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- f. The covenants, conditions and restrictions (CC&Rs) filed for this development shall include a provision requiring that that garages shall only be used for automobile parking.

- g. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 7:00p.m. and 8:00a.m.
- h. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up. Graffiti removal/repainting and site cleanup shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site during construction shall remain graffiti free.
- i. All exterior utility pipes and meters shall be painted to match and/or complement the color of the adjoining building surface, as approved by the Community Development Director.
- j. The elevations as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council. The building elevations shall reflect all architectural projections such as roof eaves, bay windows, greenhouse windows, chimneys and porches. A site plan showing the building locations with respect to property lines shall also show the projections. Said elevations shall specify exterior materials.
- k. The floor plans as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council.
- l. All roof material shall consist of fire retardant shake roof, concrete tile, or a roof of similar noncombustible material. Mansard roofs with the above material may be used to screen tar and gravel roofs. All roofs shall be of Class C fire resistant construction or better. Composition shingles shall be Presidential-style or of comparable quality, subject to the review and approval of the Community Development Director.
- m. Prior to the issuance of a building permit, the location and screening design for garbage, refuse and organics recycling collection areas for the project shall be submitted for the review and approval of Republic Services and the Community Development Director, in that order. The approved garbage, refuse and organics recycling areas shall be provided prior to the issuance of a Certificate of Occupancy, as required by the Community Development Director. No refuse, garbage or organics recycling shall be stored outdoors except within the approved trash and recycling enclosures.
- n. Measures to respond to and track complaints pertaining to construction noise shall include: (1) a procedure and phone numbers for notifying the City of Newark Building Inspection Division and Newark Police Department (during regular construction hours and off-hours); and (2) a sign posted on-site pertaining to the permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours).

- o. Prior to the issuance of a building permit, the developer shall demonstrate compliance with the City's Affordable Housing Program, Chapter 17.18 of the Newark Municipal Code by paying a residential housing impact fee of \$20 per square foot of floor area per dwelling unit for the first 1,000 square feet; and \$8 per square foot of floor area for all square footage over 1,000 square feet.
- p. Prior to the issuance of a building permit, the developer shall enter into an agreement with the City Council to address Community Services fiscal support of \$2,500 per unit for the Map Area specific to this project.
- q. Prior to the issuance of a building permit, the developer shall pay the following fees: public safety impact fee (\$1,989 per single-family dwelling unit and \$2,079 per multi-family dwelling unit); community service and facilities impact fee (\$1,942 per single-family dwelling unit and \$1,596 per multi-family dwelling unit); transportation impact fee (\$801 per single-family dwelling unit and \$460 per multi-family dwelling unit); park impact fee (\$7,460 per dwelling unit); and art in public places and private development fee (\$270 per dwelling unit).
- r. Prior to issuance of a building permit, wall and fence details shall be submitted to the Community Development Director for review and approval.
- s. Prior to the issuance of a building permit, details of the outdoor recreational amenities such as play structures shall be submitted to the Community Development Director for review and approval.
- t. Prior to issuance of a grading permit, the developer shall hire a qualified biologist to: (1) determine if occupied Burrowing Owl habitat(s) exist on the site, and (2) implement a plan to protect the owls and to excavate the site around any active burrows using hand tools to assure that the owls are not buried during grading in the event Burrowing Owl habitat(s) is found on the site. The occupied Burrowing Owl habitat(s), if found, shall not be disturbed during the nesting season. The Burrowing Owl study shall be conducted not more than 30 days prior to the time site grading activities will commence.
- u. During project construction, if historic, archeological or Native American materials or artifacts are identified, work within a 50-foot radius of such find shall cease and the City shall retain the services of a qualified archeologist and/or paleontologist to assess the significance of the find. If such find is determined to be significant by the archeologist and/or paleontologist, a resource protection plan conforming to CEQA Section 15064.5 shall be prepared by the archeologist and/or paleontologist and approved by the Community Development Director. The plan may include, but would not be limited to, removal of resources or similar actions. Project work may be resumed in compliance with such plan. If human remains are encountered, the County Coroner shall be contacted immediately and the provisions of State law carried out.
- v. Prior to their installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster, in that order. The mailbox compartments of centralized mailboxes shall identify the individual dwelling units with permanent, easily legible lettering.

- w. Prior to the issuance of a Certificate of Occupancy, the parking areas, aisles and access drives shall be installed and striped as shown on the approved site plan.
- x. Prior to the issuance of a Certificate of Occupancy, roll-up garage doors with automatic garage door openers shall be provided for each unit.
- y. Prior to final inspection and utility release for each unit, the developer shall pre-wire each unit for satellite and cable television connections, as required by the Community Development Director.
- z. Prior to the issuance of a sign permit, all signs, other than those referring to construction, sale, or future use of this site, shall be submitted for the review and approval of the Community Development Director.

Engineering Division

- aa. The project shall conform to Tentative Map – Tract 8099, Sheets I through 8, and all conditions of approval set forth herein. Approval of this Tentative Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Newark Municipal Code consistent with the State Subdivision Map Act. This vesting tentative map provides a preliminary design for the infrastructure improvements associated with the proposed subdivision. The developer shall be responsible for any required changes to this preliminary design as determined necessary by the City of Newark to satisfy applicable design requirements of the City or any other public agencies or utilities with jurisdictional authority.
- bb. Prior to the approval of any final maps, detailed design review applications must be processed for all proposed building and landscaping improvements within each designated final map boundary. This future design review may result in required modifications to the infrastructure improvements shown on this vesting tentative map, including but not necessarily limited to public street layout, street widths, utility system design, and the total scope of public improvements; private street layout, widths, and scope of improvements; lot sizes, lot patterns, and the total number of lots; park improvements; stormwater drainage design and stormwater treatment improvements; solid waste management facilities; and other public improvements. The developer shall be responsible for any and all required changes to the preliminary infrastructure design.
- cc. The development will require approval of final tract maps filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. Any necessary parcel maps or lot line adjustments to acquire lands beyond the tentative property boundary of the tentative map shall be recorded prior to the first final map or issuance of any model home permits. The final map(s) must be approved prior to the issuance of any building permits. Permission to grade on adjacent private properties shall be obtained prior to approval of the first final map. Evidence of such agreements must be furnished to the City as part of the approval. All required easement dedications as shown

on the vesting tentative map and as determined necessary with future design review shall be dedicated on the appropriate final map(s).

- dd. The final map(s) and complete tract improvement plans shall be submitted to the Engineering Division for review to ensure conformance with relevant codes, policies, and other requirements of the Newark Municipal Code and City of Newark street improvement standards. Prior to approval of the final map(s), the developer shall guarantee all necessary public and private street improvements and other infrastructure improvements within the subdivision and beyond the map boundary as required by the City of Newark Subdivision Ordinance and this vesting tentative map and all conditions herein, in accordance with tract improvement plans to be approved by the City Engineer. Improvement plans for on-site common areas and all private streets in the development shall be included with the tract improvement plans to ensure that the improvements are designed and constructed to City standards.

These plans must be prepared by a qualified person licensed by the State of California to do such work. Street improvements shall include, but may not be limited to all required improvements as indicated on the vesting tentative tract map on Willow Street, Hickory Street (including the Enterprise Drive intersection), Enterprise Drive, all in-tract public streets, all private streets, water, sanitary sewer, and joint trench utilities, storm drain systems and all stormwater treatment systems, street lighting systems including the replacement of all existing street lights in the plan area, all landscaping including median improvements and walls, park and other recreational area improvements, off-site traffic mitigation measures, and other improvements consistent with the Dumbarton Transit Oriented Development Specific Plan.

- ee. If performance bonds are posted or work has commenced by the developers of VTM 8085 or VTM 8157, or a combination thereof, for the full scope of improvements identified, this condition shall not apply. Otherwise, the full length of Willow Street shall be improved prior to or concurrent with the first proposed phase of work within the vesting tentative map boundary. Improvements on Willow Street include, but are not limited to the following between Central Avenue and Enterprise Drive: construction of all intersection improvements proposed in the plan area, construction of all center medians including all landscaping improvements, placement of all utility main lines and utility stub-outs for future developments (excluding stub-outs for VTM 8085 and VTM 8098), a full width pavement grind and an asphalt concrete pavement overlay of 0.25' minimum thickness or greater, or replacement structural sections, that will result in a traffic index of not less than 9.0, curb and gutter, minimum 5-foot wide sidewalk, back-up landscaping, street light system replacement, pavement restriping, bike lane placement, street signage, any required traffic calming measures, and additional improvements as necessary. Street frontage improvements to the east side of Willow Street along the and the west side of Willow Street shall exclude improvements behind the curb including dry utilities, undergrounding of overhead lines, landscaping, and sidewalk improvements. Improvements north of Enterprise Drive shall include pavement resurfacing, restriping, bicycle and pedestrian facilities and any necessary improvements over the existing railroad crossing for full connectivity to the existing street system, and landscape improvements. Applicant shall use good faith effort to obtain all rights-of-way necessary for these required improvements. Final intersection improvements and other traffic

calming measures, including roundabout configuration, are subject to modifications from the preliminary design as shown on the tentative map, at the developer's expense, to satisfy code and other design requirements to the satisfaction of the City Engineer.

- ff. All traffic mitigation measures identified under existing plus project conditions in the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report that were not determined to be significant and unavoidable shall be completed or guaranteed prior to the approval of any final maps. This includes all recommended improvements at the following intersections: Willow Street and Thornton Avenue, Willow Street and Enterprise Drive, and Cherry Street and Mowry Avenue. All additional traffic mitigation measures under the future year 2035 plus project conditions not considered significant and unavoidable (this is limited to striping modifications at Gateway Boulevard and Thornton Avenue) should be completed concurrent with other off-site improvements. The full scope of recommended improvements shall be incorporated into the tract improvement plans. If either of the developers for VTM 8085 or VTM 8157 post bonds to guarantee this work, then the condition shall be deemed satisfied.
- gg. Prior to approval of any final map(s), any proposed project phasing shall be submitted for the review and approval of the City Engineer. The phasing plan provided with the vesting tentative map is subject to modification as required by the City Engineer.
- hh. All improvements must conform to the City's Sight Visibility Ordinance, Newark Municipal Code Chapter I0.36. Prior to any final map approval all building architecture and other improvements on proposed lots within a given phase of the development shall be sited as necessary to comply with this ordinance. If necessary, the proposed lot pattern shown on the tentative map shall be modified to accommodate a future desired building product.
- ii. Concurrent with approval of the final map, the developer shall effectuate the removal of all existing easements encumbering the property within the tract boundary that conflict with areas proposed for improvement. Elimination or modification of existing utility easements on the site requires the approval from the respective utility district or company and the City of Newark.
- jj. Prior to approval of the final map(s), the developer shall submit a pavement maintenance program for the drive aisles and parking areas on the project site. The maintenance program shall be signed by the property owner and the property owner shall follow the maintenance program at the City Engineer's direction.
- kk. This site is subject to the State of California National Pollutant Discharge Elimination System (NPDES) Program General Permit for Storm Water Discharges Associated with Construction Activity. Prior to issuance of a grading permit or a building permit, the developer needs to provide evidence that the proposed site development work is covered by said General Permit for Construction Activity. This will require confirmation that a Notice of Intent (NOI) and the applicable fee were received by the State Water Resources

Control Board and the submittal of the required Stormwater Pollution Prevention Plan (SWPPP). In addition the grading plans need to state: "All grading work shall be done in accordance with the Storm Water Pollution Prevention Plan prepared by the developer pursuant to the Notice of Intent on file with the State Water Resources Control Board."

- ii. Prior to the issuance of the initial grading or any building permits for this project, the developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) for the review and approval of the City Engineer. The plan shall include sufficient details to show how storm water quality will be protected during both: (1) the construction phase of the project and (2) the post-construction, operational phase of the project. The SWPPP shall be prepared by a Qualified SWPPP Developer (QSD) in the State of California. The construction phase plan shall include Best Management Practices from the California Storm Water Quality Best Management Practices Handbook for Construction Activities. The specific storm water pollution prevention measures to be maintained by the contractor shall be printed on the plans. The operational phase plan shall include Best Management Practices appropriate to the uses conducted on the site to effectively prohibit the entry of pollutants into stormwater runoff from the project site including, but not limited to, low impact development stormwater treatment measures, trash and litter control, pavement sweeping, periodic storm water inlet cleaning, landscape controls for fertilizer and pesticide applications, labeling of storm water inlets with a permanent thermoplastic stencil with the wording "No Dumping - Drains to Bay," and other applicable practices.
- mm. The project must be designed to include appropriate source control, site design, and stormwater treatment measures to prevent stormwater runoff pollutant discharges and increases in runoff flows from the site in accordance with Provision C.3 of the latest version of the Municipal Regional Stormwater NPDES Permit (MRP) adopted in November 2015 by the Regional Water Quality Control Board (RWQCB), San Francisco Bay Region. Examples of source control and site design requirements include, but are not limited to: properly designed trash storage areas, sanitary sewer connections for all non-stormwater discharges, minimization of impervious surfaces, and treatment of all runoff with Low Impact Development (LID) treatment measures. A properly engineered and maintained biotreatment system will only be allowed if it is infeasible to implement other LID measures such as harvesting and re-use, infiltration, or evapotranspiration. The stormwater treatment design shall be completed by a licensed civil engineer with sufficient experience in stormwater quality analysis and design. The Storm Water Control Plan (Sheet TM-5) on this vesting tentative map would be approved as a conceptual plan only. Final approval is subject to the developer providing the necessary plans, details, worksheets, and calculations that demonstrate the plan complies with Provision C.3 of the MRP, subject to final review by the City Engineer and the RWQCB prior to the recording of any final maps. The developer is responsible for any and all necessary modifications to the site design to comply with MRP requirements. The use of treatment controls for runoff requires the submittal of a completed Stormwater Treatment Measures Maintenance Agreement prior to the approval of any final maps.

- nn. All stormwater treatment measures are subject to review and approval by the Alameda County Mosquito Abatement District. The developer shall modify the grading and drainage design and the stormwater treatment design as necessary to satisfy any and all imposed requirements from this District.
- oo. The preliminary Grading and Drainage Plan provided on Sheet TM-3 of the vesting tentative map has not yet been supported with a detailed drainage feasibility analysis. This analysis, including initial drainage calculations, shall be completed and submitted by the developer for review by the City Engineer and the Alameda County Flood Control and Water Conservation District (ACFC&WCD) for determination of the general feasibility of the proposed design prior to development of detailed grading and drainage plans. The ACFC&WCD will not allow the design capacity of the existed flood control channel to be exceeded. The developer shall be responsible for any and all changes to the preliminary drainage design as shown on the tentative map as necessary to satisfy ACFC&WCD and City of Newark storm drain system requirements.
- pp. The developer shall submit detailed grading and drainage plans for review and approval by the City Engineer and the Alameda County Flood Control and Water Conservation District (ACFC&WCD). These plans must be based upon a City benchmark and need to include pad and finish floor elevations of each proposed structure, all rear yard drainage designs and surface treatments, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing and proposed drainage patterns. All pad elevations shall be a minimum 11.25 NGVD. All pavement shall drain at a minimum of one percent. The developer shall ensure that all upstream drainage is not blocked and that no ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility. All mitigation measures identified in the Hydrology, Drainage, and Water Quality section of the Environmental Impact Report shall be properly addressed with the detailed grading and drainage plans.

Hydrology and hydraulic calculations based on ACFC&WCD criteria shall be submitted for review and approval by the City Engineer and the ACFC&WCD prior to approval of any final maps. The calculations shall show that City and ACFC&WCD freeboard requirements will be satisfied (0.75 feet to grate or 1.25 feet to the top of curb under a 10-year storm event design).
- qq. Where a grade differential of more than a 1-foot is created along the boundary lot lines between the proposed development and adjacent property, the developer shall install a masonry retaining wall unless a slope easement is approved by the City Engineer. Said retaining wall shall be subject to review and approval of the City Engineer. A grading permit is required by the Building Inspection Division prior to starting site grading work.
- tt. Permission to grade on adjacent private properties shall be obtained prior to approval of the first final map. Evidence of such agreements must be furnished to the City as part of the approval.

- ss. The applicant shall submit a detailed soils report prepared by a qualified engineer, registered with the State of California. The report shall address in-situ and import soils in accordance with the City of Newark Grading and Excavation Ordinance, Chapter 15.50.

The report shall include recommendations regarding pavement sections for all public and private streets. Grading operations shall be in accordance with recommendations contained in the soils report and shall be completed under the supervision of an engineer registered in the State of California to do such work. All documentation prepared during the inspection of grading operations shall be made available for review by the City Engineer.

- tt. An independent Project Geotechnical Engineer shall be retained to review the final grading plans and specifications and provide construction inspection review at the developer's expense. The Project Geotechnical Engineer shall approve the grading plans prior to approval by the City of Newark for issuance of a grading permit.

- uu. Prior to approval of any final maps, the developer shall satisfy Alameda County Water District (ACWD) requirements for the proposed development as specified in previous correspondence with ACWD during the specific plan and tentative map review process. This includes, but is not necessarily limited to the following improvements: (1) individual water services to all residential units with a new, complete looped public water system sized and installed in accordance with ACWD's Standard Specifications for Water Main Installation and integrated with the existing public water system, including consideration of any proposed phasing of the water system installation; (2) water system components beyond the tentative map boundary, but determined as necessary by ACWD to meeting requirements for the full specific plan area; (3) installation of non-potable water infrastructure for future use; (3) replacement of existing water mains as determined necessary by ACWD; and (4) recordation of necessary water service easements to ACWD. The Utility Plan provided on Sheet TM-4 of the vesting tentative map includes a preliminary water supply system layout that is subject to a complete review by ACWD at such time as formal, detailed utility plans are developed for construction. Any necessary site and utility design changes necessary to satisfy ACWD's design requirements shall be the developer's responsibility.

- vv. Prior to approval of any final maps, the developer shall satisfy Union Sanitary District (USD) requirements for the proposed development. This includes, but is not necessarily limited to: (1) the entire sanitary sewer system designed to serve the development and future development surrounding the tentative map boundary; (2) any existing sanitary sewer infrastructure modifications beyond the tentative map boundary determined by USD as necessary to serve the development; and (3) potential relocation, modification, or protection in place of the existing twin force mains. The Utility Plan provided on Sheet TM-4 of the vesting tentative map includes a preliminary sanitary sewer system layout that is subject to a complete review by USD at such time as formal utility plans are developed for construction. Any necessary site and utility design changes necessary to satisfy USD's design requirements shall be the developer's responsibility.

- ww. The developer shall incorporate a Homeowner's Association consisting of all property owners of lots in the development at the time of incorporation and in the future for the

- purpose of owning and maintaining the association's property, including but not limited to all private streets and common drive aisles, parking areas, landscape areas, stormwater treatment areas, storm drain systems, public access areas, and for paying for security lighting, any common garbage collection services, any security patrol services, if provided, and other functions of a Homeowner's Association. All common areas within the development shall be owned and maintained by the Homeowner's Association. Each property owner shall automatically become a member of the association and shall be subject to a proportionate share of the maintenance expenses. The Homeowner's Association shall be incorporated prior to the sale of any individual lots and/or prior to acceptance of tract improvements, whichever occurs first. A centralized facility of sufficient size such as a clubhouse shall be constructed for Homeowner's Association use at a location to be approved by the Community Development Director, unless the applicant is allowed to utilize a clubhouse at an alternative location, subject to approval by the Community Development Director. The CC&Rs shall prohibit the use of private streets as alternative routes to the in-tract public street system.
- xx. Prior to City Council approval of any final maps, the bylaws governing the property owner's association and any declaration of covenants, conditions and restrictions (CC&Rs) filed for this development shall be reviewed and approved by the City Council at its discretion after mandatory review and recommendations by the City Attorney. Said covenants, conditions and restrictions shall be prominently displayed in the project sales office at all times. Approval of the covenants, conditions and restrictions shall not make the City a party to enforcement of same. The CC&Rs shall apply equally to both owners and renters. The CC&Rs shall be written to require renters to comply with the regulations of the CC&Rs, and a copy of the CC&Rs shall be given to each renter. The CC&Rs shall be written to allow less than a majority of owners to have pavement or landscape maintenance done and the cost thereof assessed to all owners in the project. The CC&Rs shall include a pavement maintenance program for all private streets and common drive aisles.
- yy. The Homeowner's Association CC&Rs shall prohibit the on-site parking of non-self-propelled recreational vehicles, including boats, and any self-propelled recreational vehicles not used for transportation unless separate storage facilities are provided. The CC&Rs shall regulate the provision of any on-site parking of self-propelled recreational vehicles used for transportation.
- zz. The CC&Rs for the project shall include a disclosure statement to all property owners indicating that the project site is located within a seismic hazard zone for liquefaction. The disclosure statement shall indicate that the buildings have been designed to current code requirements. The statement shall further indicate that the buildings, site improvements, and utilities are subject to damage during an earthquake and that the buildings may be uninhabitable after an earthquake. This CC&R disclosure statement is subject to review and approval of the City Engineer prior to final map approval.
- aaa. The developer shall also assist the Homeowner's Association by having a management consultant firm review the maintenance and operating functions of the association. The management consulting firm shall be responsible to prepare a written report with recommendations to the association for managing the association's obligations and setting

initial monthly assessment costs for each lot in the development. Membership and assessment cost shall be mandatory for all property owners of property in the development and shall run with the land. The developer shall pay all costs of incorporation and initial management review and reports.

- bbb. The developer shall enter into a Landscape Maintenance Agreement to ensure the perpetual maintenance of all common front yard, side yard and back-up area landscaping within the development by the Homeowner's Association. This agreement shall run with the land and be binding upon all future owners or assigns. Any and all necessary easements shall be dedicated over individual lots to allow for the perpetual access and maintenance of landscaping. The full extent of landscape maintenance shall be determined with the future landscape improvements plans and detailed in said agreement. Landscaping by the City at the expense of the Homeowner's Association in these areas will only occur in the event the City Council deems the Homeowner's Association maintenance to be inadequate. Project perimeter walls and adjoining landscaped areas shall be included in a dedicated landscape easement to guarantee adequate maintenance of the walls. A Landscape Maintenance Agreement template is enclosed for your use.

The City of Newark shall be provided with subordinate agreements to ensure that the position of the landscaping lien shall be superior to any liens or encumbrances other than taxes.

- ccc. Prior to approval of the first final map, the developer shall petition the City Council to participate in an active Landscaping and Lighting District for the perpetual maintenance of median landscaping and lighting systems on Willow Street and Enterprise Drive, all public parks within the Dumbarton TOD Specific Plan area, and any public stormwater treatment and storm drain delivery systems including trash capture devices, all public street trees, all street lighting systems and any additional landscaping, landscape-based stormwater treatment areas and storm drain systems, or lighting improvements within the public rights-of-way and dedicated public easement areas within the limits of the development. Maintenance activities will be performed by the City of Newark or its contractors through the Landscaping and Lighting District. All property owners within the tentative map boundary shall be assessed annually in accordance with requirements established with the Landscaping and Lighting District. The developer shall pay all associated costs in the City's Master Fee Schedule for establishment of the Landscaping and Lighting District. The developer shall record an indenture advising all prospective property owners in the project that their properties are included in a Landscaping and Lighting District for maintenance of landscaping, lighting, and related improvements installed as part of this project.
- ddd. All storm drain inlets within the entire development, located in both public and private areas, shall be equipped with full-capture trash devices approved by the Regional Water Quality Control Board that satisfy Provision C.10 requirements under the Municipal Regional Stormwater NPDES Permit. Trash capture device selection is subject to approval by the City Engineer. All trash capture device maintenance within public rights-of-way shall be completed through the Landscaping and Lighting District. All trash capture device maintenance within private areas shall be completed by the Homeowner's Association. The Homeowner's Association shall be responsible for trash and litter control

- and sweeping of all private streets within the development. All private storm drain systems and all associated trash capture devices shall be cleaned on a regularly scheduled basis as detailed in the required Stormwater Treatment Measures Maintenance Agreement.
- eee. The Homeowner's Association shall be required to contract with a professional management firm to handle all necessary maintenance operations. Documentation of such contract shall be submitted to the City of Newark. All commonly owned facilities shall be properly maintained in a manner consistent with the CC&Rs and project requirements.
 - fff. The Homeowner's Association shall periodically provide educational materials on stormwater pollution prevention to all residents.
 - ggg. Each buyer shall sign an acknowledgment that he/she has read the constitution and bylaws of the Homeowner's Association and the CC&Rs applied to the development.
 - hhh. The developer shall provide a complete set of construction plans in electronic format and reproducible paper (mylar) format to the Homeowner's Association at the time of its formation.
 - iii. All existing overhead utilities within the development and along the fronting street rights-of-way to the centerline of the street shall be undergrounded to the nearest riser beyond the development's limits in accordance with the City of Newark Subdivision Standards. Undergrounding shall include all existing and proposed service drops.
 - jjj. All new utilities including, but not limited to, electric and communication services shall be provided underground for all buildings in the development in accordance with the City of Newark Subdivision Standards. Electrical transformers shall be installed in underground vaults with an appropriate public utility easement or within the public right-of-way. This undergrounding requirement excludes the south side of Enterprise Drive and the east side of Hickory Street along the Ashland Chemical and Torian frontages.
 - kkk. Fire hydrants are to be located along public and private streets as determined by the Alameda County Fire Department.
 - lll. A streetlight plan and joint trench plan shall be submitted by the applicant with the second tract improvement plan check and approved prior to final map approval. All existing street lights on Enterprise Drive and Willow Street within the limits of the Dumbarton Transit Oriented Plan Area shall be replaced (unless another developer has guaranteed this work) with street lights consistent with the approved Dumbarton Transit Oriented Development Specific Plan. LED lighting shall be utilized on all public and private streets and other common areas.
 - mmm. A signpost with a sign having an area of at least 15-inches by 21-inches shall be installed at or near each private street entrance. The name of each private street shall be placed on this sign in clearly legible 4-inch letters. The signs shall have painted, in at least 1-inch letters, "Private Property. Not dedicated for public use."

- nnn. On-site private streets are to be posted for "No Parking," except in those areas designed to accommodate guest parking, as shown on the vesting tentative map.
- ooo. The connection between private streets and public streets shall be by a City of Newark standard driveway.
- ppp. Garbage, trash, or recycling containers shall be suitably concealed in an area dedicated within the garage of each unit, except such features may be placed at curbside on the designated garbage pick-up day.
- qqq. Public Utility Easements (PUE), Water Line Easements (WLE), Storm Drain Easements (SDE), and Sanitary Sewer Easements (SSE) shall be dedicated over all private streets in the development. The PUE, WLE, SDE and SSE dedication statements on the final map shall state that the PUE, WLE, SDE and SSE are available for, but not limited to, the installation, access and maintenance of water supply sanitary and storm sewers, and gas, electrical, and communication facilities.
- rrr. Emergency Vehicle Access Easements (EVAE) shall be dedicated over the full pavement width on all private streets in the development. The final easement geometry shall be subject to the approval of the City Engineer.
- sss. Easements for public access shall be dedicated over those parcels intended for public uses, including the trail, and the park parcels.
- ttl. The developer shall request Pacific, Gas & Electric Co. to commence with the design of the underground utility improvements for the proposed development immediately following tentative map approval.
- uuu. The developer shall ensure that a water vehicle for dust control operations is kept readily available at all times during construction at the City Engineer's direction. A pick-up or vacuum type street sweeper shall be available at all times at the direction of the City Engineer to remove tracked dirt and debris from adjacent streets.
- vvv. All existing buildings within the proposed division of land shall be completely demolished prior to recording the first final map.
- www. Above ground architectural and building features that project over proposed property lines shall be permitted on townhouse and/or condominium units by easements recorded on the final map. Such features include, but are not limited to, eaves, bay windows, balconies, porches, landings, and stairways. The details for these easements, including dimensions and descriptions, shall be included on the final map. Foundations for townhouse units shall be contained within the individual lot.
- xxx. Street names and an addressing scheme shall be developed during the final map and improvement plan review process in accordance with the City of Newark's Street Numbering and Naming Ordinance (Chapter 12.12). The street name theme and

individual street names shall be determined at a future date. All addressing is based on the Alameda County grid pattern with streets running generally northerly and southerly having 5-digit addresses and streets running generally westerly and easterly having 4- digit addresses.

- yyy. The developer shall repair and/or replace any public improvements (pavement, curb, gutter, etc.) damaged as a result of construction activity to the satisfaction of the City Engineer.
- zzz. Prior to issuance of a Certificate of Occupancy or release of utilities for any residential units, private streets, common vehicle accessways and parking facilities serving said units shall be paved in accordance with the recommendation of a licensed engineer based on a minimum Traffic Index of 6.0.
- aaaa. Prior to issuance of a Certificate of Occupancy or release of utilities for each dwelling unit, the on-site drive aisles and uncovered parking facilities shall be installed and striped as shown on the approved site plan. All on-site uncovered parking facilities and drive aisles shall be drained at a minimum slope of 1.0% for asphalt concrete surfaces and 0.3% for Portland cement concrete surfaces.
- bbbb. The developer shall be responsible for implementation of all mitigation measures identified in the Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan.
- cccc. Prior to occupancy of any buildings within the special flood hazard area or acceptance of any public improvements, the developer shall apply for and receive approval of a letter of map revision based on fill (LOMR-F) from the Federal Emergency Management Agency. The LOMR-F shall be based upon the as-built grades of the building pads and shall determine that the pads and all public and private streets are no longer within the special flood hazard area as indicated on the current Flood Insurance Rate Map for the City of Newark, Community Panel No. 06001C 0443G, dated August 3, 2009.
- dddd. Prior to the issuance of any permits, any proposed permeable pavement design shall be based on a geotechnical engineer's recommendation and reviewed by the manufacturer or the National Ready Mixed Concrete Association (NRMCA). The developer shall submit documentation to the City confirming approval by the manufacturer or NRMCA and geotechnical engineer. The developer shall also ensure that the contractor hired to install the permeable pavement be certified by the NRMCA. Documentation that confirms certification shall be submitted directly to the City Engineer for review and approval.
- eeee. The developer shall implement the following measures for the duration of all construction activity to minimize air quality impacts:
 - 1. Watering should be used to control dust generation during demolition of structures and break-up of pavement.
 - 2. All trucks hauling demolition debris from the site shall be covered.

3. Dust-proof chutes shall be used to load debris into trucks whenever feasible. Watering should be used to control dust generation during transport and handling of recycled materials.
4. All active construction areas shall be watered at least twice daily and more often during windy periods; active areas adjacent to the existing land uses shall be kept damp at all times or shall be treated with non-toxic stabilizers or dust palliatives.
5. All trucks hauling soil, sand, and other loose materials shall be covered or require all trucks to maintain at least 2 feet of freeboard.
6. All unpaved access roads, parking areas, and staging areas at construction sites shall be paved, watered three times daily, or treated with (non-toxic) soil stabilizers.
7. All paved access roads, parking areas, and staging areas at construction sites shall be swept daily with water sweepers; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
8. Limit traffic speeds on unpaved roads to 15 mph.
9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
10. Replant vegetation in disturbed areas as quickly as possible.
11. Minimize idling time (5 minutes maximum).
12. Maintain properly tuned equipment.

These measures shall be incorporated into the grading specifications as well as the best management practices of the storm water pollution prevention plan, and shall be implemented to the satisfaction of the City Engineer.

ffff. The developer shall provide all required paper and digital submittals of the project final map, tract improvements plans, and as-built plans as required by the City Engineer, including, but not necessarily limited to the following: (1) One full-size reproducible copy and one reduced reproducible copy of the approved tentative map; (2) Two electronic copies of the approved final map and improvement plans in a format approved by the City Engineer; (3) One full-size mylar copy and one reduced copy of the recorded final map; (4) One reproducible set and four blue-line or photocopied sets of the approved tract improvement plans; (5) Two electronic copies and one mylar set of the as-built tract improvement plans. The City will require a digital submittal of all final maps and improvements plans. All CAD work must be prepared in a manner consistent with the Union Sanitary District's digital submittal requirements for layering conventions. This can be found on the web at: <http://www.unionsanitary.com/digitalSubmittal.htm>. Digital files submitted shall be based on accurate coordinate geometry calculations and the NAD83 State Plane Coordinate System (Zone III) and NGVD29 (USD requires NAVD88) as vertical datum. A deposit of \$5,000 shall be provided by the developer to the City to ensure submittal of all required documents.

gggg. The developer shall provide as-built record drawings in both electronic format and on mylar paper based on full and complete review and inspection by the developer's project civil engineer, landscape architect, and other design professionals of all public improvements and all improvements on plivable streets and property included in the tract improvement plan set.

- hhhh. If any condition of this vesting tentative tract map be declared invalid or unenforceable by a court of competent jurisdiction, this vesting tentative map shall terminate and be of no force and effect, at the election of the City Council on motion.
- iiii. Pursuant to Government Code Section 66474.9, the subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Newark, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
- jjjj. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of s statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

Landscape-Parks Division

- kkkk. The developer shall retain a licensed landscape architect to prepare working drawings for tract improvement landscape plans in accordance to with City of Newark requirements and the State of California Model Water Efficient Landscape Ordinance as amended by the California Water Commission on July 15, 2015. The associated Landscape Documentation Package must be approved by the City Engineer prior to approval of any final maps.
- llll. The developer shall implement Bay Friendly Landscaping Practices in accordance with Newark Municipal Code, Chapter 15.44.080. Prior to approval of any final maps, the developer shall provide sufficient information to detail the environmentally-conscious landscape practices to be used on the project.
- mmmm. Prior to installation by the developer, plant species, location, container size, quality, and quantity of all landscaping plants and materials shall be reviewed and approved by the City Engineer. All street trees and park trees shall be minimum 24-inch box specimens. All plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer.
- nnnn. Prior to the release of utilities or issuance of any Certificates of Occupancy, all landscaping and irrigation systems shall be completed or guaranteed by a cash deposit deposited with the City in an amount to cover the remainder of the work.

- oooo. Prior to issuance of Certificate of Occupancy or release of utilities, the developer shall guarantee all trees for a period of 6 months and all other plantings and landscape for 60 days after completion thereof. The developer shall insure that the landscape shall be installed properly and maintained to follow standard horticultural practices. All plant replacements shall be to an equal or better standard than originally approved subject to approval of the City Engineer.
- pppp. Landscaping adjacent to the public right-of-way must conform to the City's visibility requirements in accordance with Newark Municipal Code, Chapter 10.36.
- qqqq. Prior to the issuance of any Certificates of Occupancy, the developer shall pay park-in-lieu fees in accordance with the City's current Master Fee Schedule and any updates thereto.
- rrrr. Any above ground utility structures, including backflow prevention devices, and appurtenances shall be installed within the developer's property line and a minimum of 10 feet behind street face of curbs. The backflow prevention devices shall have a green painted security cage to protect it from vandalism. These locations shall be screened with landscaping to the satisfaction of the City Engineer. The landscape screen shall not interfere with the utility companies' or City Fire Department's access.

Building Inspection Division

- ssss. Construction for this project can occur only between the hours of 7:00a.m. and 6:00p.m. Monday through Friday. The developer may make a written request to the Building Official for extended working hours and/or days. In granting or denying any request, the Building Official will take into consideration the nature of the construction activity which would occur during extended hours/days, the time and duration of the request, the proximity to residential neighborhoods, and input by affected neighbors. All approvals will be done so in writing.

General

- tttt. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval. All time extensions for this planned unit development and conditional use permit shall be approved by the Planning Commission and City Council.
- uuuu. If any condition of this planned unit development and conditional use permit be declared invalid or unenforceable by a court of competent jurisdiction, this planned unit development and conditional use permit shall terminate and be of no force and effect, at the election of the City Council on motion.

vvvv. This planned unit development and conditional use permit shall be given a public hearing before the City Council for the Council’s review and approval.

wwww. Prior to the submittal for building permit review, all conditions of approval of this project, as approved by the City Council, shall be printed on the plans.

xxxx. The developer hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.

yyyy. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

The Commission makes the findings prescribed in Newark Municipal Code Sections 17.40.050 and 17.72.070, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk who shall present said Notice to the City Council pursuant to Newark Municipal Code Section 17.72.080.

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

**Gateway Station West Project attachments
were scanned separately.**

**Final Supplemental Environmental Impact
Report Volume 1**

**Final Supplemental Environmental Impact
Report Volume 2**

Project plans and elevations