AGENDA  
Tuesday, February 23, 2016

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, February 2, 2016.  

(COMBINATION)

C. WRITTEN COMMUNICATIONS

D. ORAL COMMUNICATIONS (Anyone wishing to address the Commission on any planning item not on the Agenda may take the podium and state his/her name and address clearly for the recorder.)

E. PUBLIC HEARINGS

E.1 Hearing to consider: (1) P-16-4, a planned unit development and U-16-5, a conditional use permit for two corridor access lots on Sunset Avenue (APN: 92A-465-56); and (2) ASR-16-6, an Architectural and Site Plan Review for two single family homes at 7731 and 7733 Sunset Avenue – from Assistant City Manager Grindall.  

(REVIEW)(COMBINATION)

F. STAFF REPORTS

G. COMMISSION MATTERS

G.1 JS-15-8, Joint Staff Committee Review, to construct a duplex at 37070 Locust Street (APN: 92-126-13-2) – from Assistant City Manager Grindall.  

(REVIEW OPTIONAL)

G.2 Report on City Council actions.

H. ADJOURNMENT
Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the Planning Commission, will be made available for public inspection at this meeting and at the Planning Division Counter located at 37101 Newark Boulevard, 1st Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.
A. ROLL CALL

At 7:31 p.m., Chairperson Aguilar called the meeting to order. All Planning Commissioners were present except Commissioner Bridges (personal).

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, January 26, 2016.

Commissioner Nillo moved, Commissioner Otterstetter seconded, to approve the Minutes of January 26, 2016. The motion passed 2 AYES, 2 ABSTENTION (Aguilar and Fitts).

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

E.1 Hearing to consider: (1) Approving a resolution rescinding the December 8, 2015 approval of 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, including all associated resolutions and motions; (2) Approving a resolution making certain findings and recommending City Council Certify a Supplemental Environmental Impact Report (E-14-46) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development; (3) Approving a resolution recommending rezoning (RZ-14-48) an approximately 41-acre area (APNs 537-852-7) 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); (4) Approving a resolution recommending that the City Council 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; (5) By motion, recommending that the City Council approve TM-14-47, Vesting Tentative Map 8099, to construct approximately 589 residential units; and (6) By motion, recommending that the City Council approve ASR-14-51, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 46.

Assistant City Manager Grindall gave the staff report.

Answering Chairperson Aguilar, ACM Grindall stated the Housing Impact Fee replaces the Inclusionary Housing requirement and stated the City currently has approximately $3 Million in the Affordable Housing Trust Fund.

Applicant Mark Butler, Integral Communities, 500 La Gonda Way, Suite 102, Danville, CA 94526, stated he has read and is in agreement to all conditions in Resolutions 1925, 1926, 1927 and 1928.

Architect Michael Schrock, Urban Arena, 11772 Sorrenta Valley Road, Suite 212, San Diego, CA 92121, gave an overview of the project via a brief Power Point presentation.

Answering Commissioner Nillo, Mr. Schrock stated there are no public restrooms in the proposed park areas and indicated that there will be sufficient power provided to maintain electric car charging stations.

Answering Commissioner Fitts, Mr. Schrock confirmed the public will be able to have access to the linear parks; adequate parking is provided for this project; and housing pads will be built to meet or exceed all regulatory requirements.

Answering Chairperson Aguilar, Mr. Schrock indicated that the center park along with the surrounding units, would be developed first and the trails would be developed last.

Answering Chairperson Aguilar, Mr. Butler stated each linear park would be built contiguous with each development phase and estimated breaking ground early in 2017.

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

Discussion ensued on the infrastructure to the entire Dumbarton Transit-Oriented Development site.
Answering Chairperson Aguilar, ACM Grindall stated the Newark Unified School District was involved with the Dumbarton Transit-Oriented Development project from the beginning and can accommodate the anticipated school-aged children.

Motion made by Commissioner Fitts, seconded by Commissioner Nillo to: (1) Approve Resolution 1925, rescinding the December 8, 2015 approval of 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, including all associated resolutions and motions, (2) Approve Resolution 1926 making certain findings and recommending that the City Council certify a Supplemental Environmental Impact Report (E-14-46) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development; (3) Approve Resolution 1927, recommending rezoning (RZ-14-48) an approximately 41-acre area (APN 537-0852-007) 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); (4) Approve Resolution 1928 recommending that the City Council 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; (5) By Motion recommend that the City Council approve TM-14-47, Vesting Tentative Map 8099, to construct approximately 589 residential units; and (6) by Motion, recommend that the City Council approve ASR-14-51, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 46. Motion passed 4 AYES.

This item will be heard at the February 25, 2016 City Council Meeting.

F. STAFF REPORTS

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

ACM Grindall informed the Planning Commission and the Community that the City Council will be holding a Workshop on February 4, 2016 at 5:30 p.m. in the City Council Chambers to discuss the Civic Center Replacement project.

Commissioners' Comments

Answering Commissioner Fitts, ACM Grindall stated he will update the Planning Commission at a future meeting on the status of the Dumbarton Rail Project.
H. ADJOURNMENT

At 8:09 p.m., Chairperson Aguilar adjourned the regular Planning Commission meeting of Tuesday, February 2, 2016.

Respectfully submitted,

TERRENCE GRINDALL
Secretary
E.1 Hearing to consider: (1) P-16-4, a planned unit development and U-16-5, a conditional use permit for two corridor access lots on Sunset Avenue (APN: 92A-465-56); and (2) ASR-16-6, an Architectural and Site plan Review for two single family homes at 7731 and 7733 Sunset Avenue - from Assistant City Manager Grindall.

Background/Discussion – Mr. Abdul Durrani has submitted an application to create two corridor access lots upon which he proposes to construct two single-family dwelling units. Attached is Exhibit A, pages 1 through 9.

The creation of the corridor access lots (explain) requires Planning Commission and City Council approval of a planned unit development and a conditional use permit. Given the constraints of this lot, corridor access is necessary to access the rear portion of the lot. In the low density residential districts, corridor access lots shall have not less than the minimum site area required for permitted uses in its respective zoning district, exclusive of corridor area, and a corridor with a width of not less than twenty feet for its entire length, subject to securing a conditional use permit and a planned unit development permit. The corridor width requirement may be shared by more than one lot, subject to conditional use permit and planned unit development permit review.

The twenty-one foot wide corridor access leads to Parcel 1 with a 3,619 square foot, two-story home, and Parcel 2, with a 3,742 square foot, two-story home. Both homes provide large family, living, and dining rooms, along with 5-bedrooms and a loft. The design of both homes is identical, with a stucco exterior, concrete “S-style” tile roofing, and a ground-floor bay window feature off of the living room.

The applicant held a community meeting on November 9, 2015 to discuss this proposal with residents within 300 feet of the property. The meeting was well attended and no one spoke against the project. If the Planning Commission approves this project, it will be submitted, along with the Tentative Parcel Map, to the City Council for their review and approval.

The proposed project is categorically exempt from the California Environmental Quality Act per Section 15330, "New Construction or Conversion of Small Structures", Class 3. This allows for the construction and location of a single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

Attachment

Action – It is recommended that the Planning Commission: (1) by resolution approve P-16-4, a planned unit development and U-16-5, a conditional use permit for two corridor access lots on
Sunset Avenue (APN: 92A-465-56); and (2) by motion, approve ASR-16-6, an Architectural and Site plan Review for two single family homes at 7731 and 7733 Sunset Avenue, with Exhibit A, pages 1 through 9.
RESOLUTION NO.

RESOLUTION APPROVING A PLANNED UNIT DEVELOPMENT (P-16-4) AND A CONDITIONAL USE PERMIT (U-16-5) FOR TWO CORRIDOR LOTS AT 7731 AND 7733 SUNSET AVENUE (APN: 92A-463-56)

WHEREAS, Mr. Abdul Durrani, has filed with the Planning Commission of the City of Newark an application for P-16-4, a planned unit development, and U-16-5, a conditional use permit, for two corridor lots at 7731 and 7733 Sunset Avenue; and

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in The Tri-City Voice on February 9, 2016, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on February 23, 2016 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby approves this application as shown on Exhibit A, pages 1 through 9, subject to compliance with the following conditions:

Planning Division

a. There shall be no roof-mounted equipment.

b. All lighting shall be directed on-site so as not to create glare off-site.

c. Construction site trailers and buildings located on-site shall be used for office and storage purposes 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.

d. 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 cleanup. Graffiti removal/repainting and site cleanup shall occur on a continuing, as needed basis.

e. 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.

f. Prior to the issuance of a building permit, the developer shall submit color elevations of the buildings for the review and approval of the Planning Commission and City Council. The building elevations shall reflect all roof eaves, bay windows, greenhouse windows, chimneys, porches, and similar architectural features. A site plan showing the building

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locations with respect to property lines shall also show the projections. Said elevations shall specify exterior materials. Final colors shall be submitted for the review and approval of the Community Development Director.

g. Prior to the issuance of a building permit, the developer shall submit the floor plans of all dwelling units for the review and approval of the Planning Commission and City Council.

h. Prior to the issuance of a building permit, roof material shall be submitted for the review and approval of the Planning Commission and City Council. 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.

i. Prior to the issuance of a building permit, the location and screening design for garbage, refuse and recycling collection areas for the project shall be submitted for the review and approval of Republic Services of Alameda County and the Community Development Director, in that order. No refuse, garbage or recycling shall be stored outdoors except within approved trash and recycling enclosures.

j. Prior to the issuance of a building permit, any proposed fence details shall be submitted for the review and approval of the Community Development Director. Fencing shall be at least six (6) feet high from the developer’s finished lot grade between the project and the adjacent properties, except that fencing shall be a maximum of three (3) feet high within the front yard setback.

k. Prior to installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster. The mailbox compartments of centralized mailboxes shall identify the individual dwelling units with permanent, easily legible lettering.

l. 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.

m. Prior to the issuance of a Certificate of Occupancy, the developer shall install any approved fencing approved by the Community Development Director.

n. Prior to the issuance of a building permit, the developer shall pay the following fees, in the amount in effect at the time: public safety impact fee (currently $1,989 per dwelling unit); community service and facilities impact fee (currently $1,942 per dwelling unit); transportation impact fee (currently $801 per dwelling unit); park-in-lieu fee (currently $2,998 per dwelling unit); and Art in Public Places and Private Development fee (currently $270 per dwelling unit).
o. Construction equipment, including compressors, generators and mobile equipment shall be fitted with heavy-duty mufflers designed to reduce noise impacts.

p. 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).

q. 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.

r. 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.

Engineering Division

s. The project will require approval of a record parcel map filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance to subdivide Parcel 2 of Parcel Map 9897 into two separate parcels and create reciprocal access, surface drainage, and utility easements as necessary. The record parcel map must be reviewed and approved by the City Engineer prior to the issuance of any permits.

t. All remaining Area Improvement District No. 33 assessments related to properties within the exterior boundary of the parcel map shall be paid in full prior to the approval of the record map.

u. The project must be designed to minimize pollution or contamination of stormwater runoff from the site in accordance with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP), Order R2-2009-0074, revised November 28, 2011, issued to the City of Newark by the Regional Water Quality Control Board, San
Francisco Bay Region. Examples of control measures include, but are not limited to: no uncovered trash enclosures or storage of products and materials; minimization of impervious surfaces; routing of pavement and roof runoff through biotreatment areas or landscaped areas used for vehicle parking, installation of vegetated or turfed areas around storm water inlets, and other Best Management Practices to address the requirements of the NPDES Municipal Regional Stormwater Permit issued to the City of Newark by the Regional Water Quality Control Board. The stormwater treatment design shall be completed by licensed civil engineer with sufficient experience with storm water quality analysis and design. The use of treatment controls for runoff requires the submittal of a Stormwater Treatment Maintenance Agreement prior to the issuance of any Certificates of Occupancy.

v. Prior to the issuance of a building permit for this project, the developer shall submit a Stormwater Quality Plan for 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 construction phase plan shall include Best Management Practices from the California Stormwater Quality Association’s Best Management Practices Handbook for Construction. 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 use conducted on the site to effectively prohibit the entry of pollutants into storm water runoff from this site including, but not limited to, trash and litter control, pavement sweeping, periodic storm water inlet cleaning, landscape controls for fertilizer and pesticide applications, labeling of storm water inlets with the permanent thermoplastic stencil with the wording “No Dumping – Drains to Bay,” and other applicable practices.

w. The developer shall submit a grading and drainage plan for review and approval by the City Engineer. This plan must be based upon a City benchmark and needs to include pad and finish floor elevations of the proposed structure, proposed on-site property grades, proposed elevations at property lines, and sufficient elevations on all adjacent properties to show existing and proposed drainage patterns. 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.

x. 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 sub-drain system shall be installed with the retaining wall to ensure no migration of stormwater or excess landscape irrigation onto lower-lying adjoining properties. The system shall be connected to the Sunset Avenue point of discharge.

y. Prior to the issuance of any building permits for the properties within the exterior boundary of the project, fence details shall be submitted for the review and approval of

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the Community Development Director and the City Engineer. Fencing along the entire perimeter of the site shall be provided and shall be coordinated with each of the adjoining property owners prior to the design review of any proposed single family dwellings. New fencing shall be similar to or of higher quality than existing fencing and all damaged sections shall be replaced. Side and rear yard fences shall be at least 6 feet high as measured from the developer's highest finish grade. Fencing shall enclose the rear yard and a portion of the interior side yard for each parcel. The developer shall install the approved wood fences prior to the final inspection and utility release of each parcel's dwelling unit. Prior to the issuance of any construction permits, all fencing shall be coordinated with the adjoining property owners.

z. Prior to issuance of a Certificate of Occupancy or release of utilities for any building, common vehicle access ways and parking facilities serving said building shall be paved in accordance with the recommendation of a licensed engineer based on a Traffic Index of 4.0.

aa. Prior to issuance of a building permit, the developer's engineer shall submit a pavement maintenance program for the drive aisles and parking areas for the review and approval of the City Engineer. The developer shall follow the maintenance program at the City Engineer's direction.

bb. 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 surfaces and 0.3% for Portland cement concrete surfaces.

c. All utilities including, but not limited to, electric, telephone and cable television services shall be provided underground for the proposed residences in the development from the Sunset Avenue street frontage in accordance with the City of Newark Subdivision Standards.

d. Any proposed utility connections and/or underground work within structurally sound street pavement must be bored or jacked. Open street cuts will not be permitted on Sunset Avenue without approval by the City Engineer.

e. Prior to the issuance of a building permit, the developer shall obtain public utility easements over adjoining properties and obtain approvals by the respective utility agency.

f. Prior to the issuance of a Certificate of Occupancy for any proposed improvements, any and all damage to public and private improvements as a result of construction activity associated with this project shall be repaired to the satisfaction of the City Engineer.

g. As part of the grading operations, the developer shall ensure that the site is watered on a sufficiently frequent basis to control dust as directed by the City Engineer. 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 or debris from adjacent streets.

**Landscape-Parks Division**

lh. The property owner(s) shall enter into a Landscape Maintenance Agreement to ensure the perpetual maintenance of all landscaping along the property frontage and on the project site. This agreement shall run with the land and be binding upon all future owners or assigns.

ii. The property owner shall retain a licensed landscape architect to prepare working drawings for landscape plans in accordance to with City of Newark requirements and the latest version of the State of California Model Water Efficient Landscape Ordinance. The associated Landscape Documentation Package must be approved by the City Engineer prior to the issuance of a building permit.

jj. The developer shall implement Bay Friendly Landscaping Practices in accordance with Newark Municipal Code, Chapter 15.44.080. Prior to the issuance of a building permit, the developer shall provide sufficient information to detail the environmentally-conscious landscape practices to be used on the project.

kk. The plant species identified for any proposed landscape-based stormwater treatment measures are subject to final approval of the City Engineer.

ll. 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 plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer.

mm. Prior to the release of utilities or issuance of any Certificate 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.

nn. 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.

oo. 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.

**Building Division**

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pp. Construction for this project, including site work and all structures, can occur only between the hours of 8:00 A.M. and 6:00 P.M., Monday through Friday. The applicant may make a written request to the Building Official for extending 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 work hours/days, the time duration of the request, the proximity to residential neighborhoods and input by the affected neighbors. All approvals will be done so in writing.

General

qq. 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.

rr. 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.

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

tt. 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.

uu. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(j)(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

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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 February 23, 2016 meeting by Commissioner , seconded by Commissioner , and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDAL, Secretary

JEFF AGUILAR, Chairperson
NORTH ELEVATION
SOUTH ELEVATION
WEST ELEVATION
SOUTH ELEVATION
 SCALE 1/8" = 1'-0"
 SCALE 1/8" = 1'-0"
G.1 JS-15-8, a Joint Staff Committee Review, to construct a duplex at 37070 Locust Street (APN: 92-126-13-2) – from Assistant City Manager Grindall. (REVIEW OPTIONAL)

Background/Discussion – Mr. Lawrence Baca, has submitted an application to construct a duplex at 37070 Locust Street. Attached is Exhibit A, pages 1 through 7.

The site is located on the north side of Locust Street between Thornton Avenue and the railroad tracks. It is zoned R2500 (Medium Density Residential) and has a Low-Medium Density Residential General Plan Designation. A duplex is a permitted use in this zoning district, subject to obtaining Joint Staff Committee Review approval.

Each unit has 3 bedrooms. One unit has a bedroom on the first floor, while the other unit provides all three bedrooms on the second floor. The appearance of the proposed two-story building is minimized by setting the staggered the units side-by-side, with a garage at the front giving the appearance of a single unit. To the side of the garage is a covered front porch highlighted by decorative columns that are incorporated along the entire frontage of the building. Exterior materials consist of stucco and a composition shingle roof. A condition of approval requires the final exterior colors to be submitted for staff review and approval. The City’s off-street parking requirement is satisfied by the two-car garage, two uncovered parking spaces, and an uncovered guest parking space. The area between the uncovered parking spaces and the front of the lot will be landscaped and include a berm to help screen this parking area from street view.

The Joint Staff Committee has approved this application with Exhibit A, pages 1 through 7, and the conditions in the attached letter.

Environmental Review

This project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15303, Class 3, new construction of small structures.

Attachment

Action – Planning Commission review of this item is optional.
February 11, 2016

Mr. Lawrence Baca
35120 Buckingham Court
Newark, CA 94560

Dear Mr. Baca:


The Joint Staff Committee has reviewed and approved your application to construct a new duplex at 37070 Locust Street, with Exhibit A, pages 1 through 7, subject to the following conditions:

Planning Division

a. There shall be no roof-mounted equipment.

b. All lighting shall be directed on-site so as not to create glare off-site.

c. Construction site trailers and buildings located on-site shall be used for office and storage purposes 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.

d. Lot cleaning with sweeping or vacuum equipment shall not be permitted between 7:00 p.m. and 8:00 a.m.

e. 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 clean-up shall occur on a continuing as-needed basis.

f. All exterior pipes and meters shall be painted to match and/or complement the color of the

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adjoining building surface, as approved by the Community Development Director.

g. Prior to the issuance of a building permit

h. Prior to issuance of a grading permit, measures shall be put in place to respond to and track complaints pertaining to construction noise and shall include, at a minimum: (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, to be approved by the City prior to installation, shall also include a list of both the City and construction contractor’s telephone numbers (during regular construction hours and off-hours).

i. Prior to the issuance of a building permit, the location and screening design for any centralized garbage, refuse and recycling collection areas for the project shall be submitted for the review and approval of Republic Services of Alameda County and the Community Development Director, in that order. The enclosure shall be sited such that the enclosure’s doors, when open, do not extend into drive aisles/back-up areas. No refuse, garbage or recycling shall be stored outdoors except within approved trash and recycling enclosures.

j. 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.

k. 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.

l. Prior to the issuance of a Certificate of Occupancy, the developer shall install fencing approved by the Community Development Director.

m. Proposed building colors shall be submitted for the review and approval of the Community Development Director.

m. Prior to the issuance of a building permit, the developer shall pay the following fees, in the amount in effect at the time: public safety impact (currently $2,079 per unit); community service and facilities (currently $1,596 per unit); transportation impact (currently $460 per unit); Art in Public Places and Private Development fee (currently $270 per unit); Housing
Impact fee (currently $20 for the first 1,000 square feet of each unit + $8 square foot for all square footage over 1,000 square feet); and the Community Development Maintenance fee (currently 0.5% of construction valuation).

Engineering Division

n. The project must be designed to minimize pollution or contamination of stormwater runoff from the site to satisfy permit requirements under the Municipal Regional Stormwater Permit (MRP) issued to the City of Newark by the San Francisco Bay Regional Water Quality Control Board as Order No. 2015-0049, approved November 19, 2015. Provision C.3.i of this permit requires any detached single-family home projects that create and/or replace 2,500 square feet or more of impervious surface area to implement specific site design measures that may include directing stormwater runoff from impervious surfaces to vegetated areas or for re-use. All site design measures must be constructed and fully functional prior to a Certificate of Occupancy.

o. The developer shall submit a grading and drainage plan for review and approval by the City Engineer. This plan must be based upon a City benchmark and needs to include pad and finish floor elevations of the proposed structure, proposed on-site property grades, proposed elevations at property lines, and sufficient elevations on all adjacent properties to show existing drainage patterns. All pavements 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.

p. 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.

q. Prior to issuance of a Certificate of Occupancy or release of utilities for any building, common vehicle access ways and parking facilities serving said building shall be paved in accordance with the recommendation of a licensed engineer based on a Traffic Index of 5.0 and striped as shown on the approved site plan.

r. 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 surfaces and 0.3% for Portland cement concrete surfaces.

s. All utilities including, but not limited to, electric, telephone and cable television services should be provided underground for the proposed duplex building in the development in accordance with the City of Newark Subdivision Standards. Where existing services are provided overhead, the developer may provide new service drops to the building, but shall enter into an agreement with the City of Newark to pay for the cost of future undergrounding.
services along the project frontage at such time as an undergrounding project takes place on this segment of Locust Street.

t. Any proposed utility connections and/or underground work within structurally sound street pavement must be bored or jacked. Open street cuts will not be permitted on Locust Street without approval by the City Engineer.

u. Prior to the issuance of a Certificate of Occupancy for any proposed improvements, any and all damage to public improvements as a result of construction activity associated with this project shall be repaired to the satisfaction of the City Engineer.

Landscape/Parks Division

v. The developer shall retain a licensed landscape architect to prepare working drawings for landscape plans in accordance with City of Newark requirements. All landscape plans are subject to the review and approval of the City Engineer.

w. Landscape construction plans shall be developed in accordance with Newark Municipal Code Section 15.44.080 related to Bay Friendly Landscaping Practices and City of Newark standard details. All landscaping materials selected for landscape-based stormwater treatment measures shall be consistent with the recommendations in the Alameda Countywide Clean Water Program C-3 Technical Guidance Manual.

x. This project is subject to all applicable requirements of the State of California’s Model Water Efficient Landscape Ordinance, as approved on July 15, 2015. The landscape design plan package, including the design plans, shall include all applicable requirements specified in this ordinance.

y. 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 plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer.

z. Prior to the release of utilities or issuance of any Certificate 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.

aa. 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 ensure that the landscape shall be installed properly and maintained to follow standard horticultural practices. All plant replacements shall be of an equal or better standard than originally approved subject to approval of the City Engineer.

bb. 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 the street face of eurh. 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.

Fire Department

cc. Final plans shall show the location of the fire hydrant and the distance from the property to the hydrant.

Building Division

dd. Construction for this project, including site work and all structures, can occur only between the hours of 8:00 AM and 6:00 PM, Monday through Friday. The applicant 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 duration of the request, the proximity to residential neighborhoods and input by affected neighbors. All approvals will be done so in writing.

cc. Prior to the issuance of a building permit from the City of Newark and prior to the commencement of any demolition at the subject site the applicant shall obtain a demolition permit for both buildings on the site from the Bay Area Air Quality Management District (BAAQMD). The district is located at 939 Ellis Street, San Francisco, CA 94109. Their phone number is 415-928-8560. In addition to the BAAQMD permit the applicant shall obtain demolition permits for the City Building Inspection Division.

General

ff. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Joint Staff Committee Review and, if so decided, said changes shall be submitted for the Committee’s review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Joint Staff Committee review and approval.

gg. If any condition of this Joint Staff Committee Review be declared invalid or unenforceable by a court of competent jurisdiction, this Joint Staff Committee Review shall terminate and be of no force and effect, at the election of the City Council on motion.

hh. The Joint Staff Committee Review shall be transmitted to the Planning Commission and City Council. Both the Commission and Council have the option to call this item up for review, at which time they may add, delete, or modify conditions of approval.

ii. 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.

jj. The Conditions of Project Approval set forth herein may 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 approval must now be transmitted to the Planning Commission and City Council. The Commission and Council each have the option to call this item up for review, adding, modifying or deleting conditions of approval. The Planning Commission is scheduled to receive this item at its February 23, 2016 meeting and the City Council is scheduled to receive this item at its March 25, 2016 meeting. If both the Planning Commission and City Council do not elect to review this approval, your project will be considered approved per the conditions herein and your next step is to apply for a Building Permit with the Building Inspection Division. If either the Commission or Council elect to review the action of the Joint Staff Committee, you will be notified of the date of the meeting when your project will be considered.

Please contact me if you have any questions. I can be reached at (510) 578-4242 or via email at clay.colvin@newark.org.

Sincerely,

CLAY COLVIN
Planning Manager