AGENDA  Tuesday, January 23, 2018

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, December 12, 2017.  

(COTION)

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 A conditional use permit, U-17-12, to allow for two temporary special outdoor events, The Bay Area Night Market, to be held at 300 Newpark Mall Road (APN: 901-0111-02200) – from Deputy Community Development Director interiano.  

(RESOLUTION)

F. STAFF REPORTS

F.1 ASR-17-17, an Architectural and Site Plan Review, to demolish and replace an existing restaurant, Ray’s Sushi, with a completely new restaurant, Lazy Dog, located at 3100 Newpark Mall (APN 901-0111-017) – from Associate Planner Mangalam.  

(RESOLUTION)

G. COMMISSION MATTERS

G.1 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 7:30 p.m., Chairperson Nillo called the meeting to order. All Planning Commissioners were present except Commissioner Otterstetter (business).

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, November 28, 2017.

Commissioner Fitts moved, Commissioner Aguilar seconded, to approve the Minutes of November 28, 2017. The motion passed 4 AYES, 1 ABSENT (Otterstetter).

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

E.1 Hearing to consider U-17-16, a Conditional Use Permit to allow a fitness gym, GFY CrossFit, in an existing building located at 36601 Newark Boulevard, Suite #77. The property is zoned Community Mixed Use.

Deputy Community Development Director Interiano gave the staff report.

Answering Commissioner Fitts, DCDD Interiano stated the previous tenant at this location was a hardware store.

Answering Commissioner Aguilar, DCDD Interiano confirmed all activities including running would be conducted inside the gym.
Chairperson Nillo opened the Public Hearing.

Applicants Fred Camacho and China Cho, 2105 Becard Court, Union City, CA 94587, stated they had read and agree to the conditions listed in Resolution 1951.

Answering Commissioner Aguilar, both Applicants responded there would be no more than 15 people in each class with the ideal class size being 12.

Mr. Camacho stated he is no longer a co-owner of the CrossFit Gym located on Cedar Boulevard.

Chairperson Nillo closed the Public Hearing.

Motion made by Vice-Chairperson Bridges, seconded by Commissioner Aguilar, to approve Resolution 1951, recommending the City Council approve U-17-16, to allow a fitness gym, CrossFit, to be located at 36601 Newark Boulevard, Suite #77. Motion passed 4 AYES.

E.2 Hearing to consider Z-17-15, an ordinance to repeal and replace Title 17 (“Zoning”) and rezone properties by adopting the Official Zoning Map.

DCDD In:eriano and Consultant Martha Miller presented the staff report.

Answering Commissioner Aguilar, Assistant City Manager Grindall distinguished between Category 1 and 2 Classifications and stated a property owner could submit an application to move their nonconforming use to a Category 1.

Answering Chairperson Nillo, ACM Grindall stated the City’s position on the issues raised by Verizon Wireless in the correspondence received from Mackenzie & Albritten LLP dated December 11, 2017.

Chairperson Nillo opened the Public Hearing.

Mr. Ray Ayala, 7357 Dairy Avenue, Newark, CA 94560, expressed the need for a stop sign in his neighborhood; asked for more lead time when Notices are sent out; and stated there is an issue with non-residents parking their vehicles in his neighborhood. ACM Grindall will forward Mr. Ayala’s concerns and contact information to the Public Works Department.

Answering Mr. Ayala, ACM Grindall stated his property on Dairy Avenue is being rezoned to Medium Density Residential which will have no impact on his current use.

Chairperson Nillo closed the Public Hearing.
Motion made by Commissioner Fitts, seconded by Vice-Chairperson Bridges, to approve Resolution 1952, recommending the City Council approve Z-17-15, a repeal and replacement of Title 17 with associated Zoning Map; and to recommend City Council approve an Ordinance repealing and replacing Title 17 ("Zoning") in order to update the Newark Zoning Code, rezone districts and properties, and add a new Zoning Map. Motion passed 4 AYES.

F. STAFF REPORTS

F.1 Appeal of Community Development Director’s decision to deny application number SFDR2017-017, a single-family design review, for change of exterior building material from siding to stucco at 8215 Thornton Avenue.

Associate Planner Mangalam gave the staff report.

Answering Vice-Chairperson Bridges, AP Mangalam stated the proposed two-story home would be 6000 sq.ft. ACM Grindall added the neighboring house is 900 sq.ft. and the average-sized house in this neighborhood is between 1,200 and 1,500 sq.ft.

Appellant Keshi Kumar, 8215 Thornton Avenue, Newark, CA 94560, cited the advantages of using stucco vs. siding.

Contractor Joe Looza, Looza Construction, stated fewer clients are using siding and he believes using stucco in combination with stone would result in an aesthetically pleasing product.

Answering Commissioner Fitts, AP Mangalam confirmed the original application was approved in 2015 with wood siding.

Commissioner Fitts commented that additional window treatments would help break up the building’s mass.

Commissioner Aguilar complimented the house design, but added siding would reduce the massing of the structure.

Chairperson Nillo closed the Public Hearing.

Motion made by Commissioner Fitts, seconded by Commissioner Aguilar, to approve Resolution 1953, to uphold the decision of Community Development Director’s denial of SFDR2017-017, a single-family design review with Exhibit A, pages 1 through 13, for change of exterior building material from siding to stucco at 8215 Thornton Avenue. Motion passed 3 AYES, 1 NO (Nillo), 1 ABSENT (Otterstetter).
G. COMMISSION MATTERS

G.1 Election of Officers.

Chairperson Nillo nominated Commissioner Fitts for Planning Commission Chairperson for 2018, seconded by Vice-Chairperson Bridges. Motion passed 4 AYES.

Commissioner Fitts nominated Commissioner Aguilar for Planning Commission Vice-Chairperson for 2018, seconded by Vice-Chairperson Bridges. Motion passed 4 AYES.

G.2 Cancellation of the regularly scheduled Planning Commission Meeting of Tuesday, December 26, 2017.

Motion by Commissioner Fitts, seconded by Vice-Chairperson Bridges, to cancel the regularly scheduled Planning Commission Meeting of Tuesday, December 26, 2017. Motion passed 4 AYES.

G.3 Report on City Council actions.

None.

ACM Grindall informed the Planning Commission that a Community Meeting to discuss dog parks was held and staff will be considering the comments concerning the Birch Grove location.

ACM Grindall and all Planning Commissioners thanked Chairperson Nillo for his service as the 2017 Planning Commission Chairperson.

Commissioners’ Comments

Chairperson Nillo and all Planning Commissioners wished Happy Holidays to the viewing public.

H. ADJOURNMENT

At 8:20 p.m., Chairperson Nillo adjourned the regular Planning Commission meeting of Tuesday, December 12, 2017 to a regular Planning Commission meeting on Tuesday, January 9, 2018.

Respectfully submitted,

TERRENCE GRINDALL
Secretary
E. 1 Hearing to consider U-17-12, a Conditional Use Permit to allow two special events, the Bay Area Night Market, to be held at 300 Newpark Mall (APN 901-0111-02200). The property is zoned Regional Commercial from Deputy Community Development Director Interiano. (RESOLUTION)

Background/Discussion
Ms. Ria Albellera has submitted an application to hold two outdoor special events at the Newpark Mall. The first event on February 24, 2018 will be known as the Lunar New Year celebration and the second event on July 13 & 14, 2018 will be the Annual Bay Area Night Market.

The Lunar New Year celebration will be a one-day event having carnival games, music, food (including food trucks) and retail vendors during the hours of 2 p.m.-9 p.m. The Bay Area Night Market is a two-day event consisting of an open market concept which includes local food vendors and small retail businesses. The market celebrates the vibrant and diverse communities of the bay area through selling cultural foods, arts and crafts, and goods. There will be live music, karaoke, and arcade games. The market event will be held on July 13 & 14 between the hours of 4 p.m.-11 p.m. This will be the second year that the Bay Area Night Market will be held at this location. Both events will not be selling alcoholic beverages.

The events have the potential to bring up to 7,500 attendees per day. Therefore, staff monitors these events very closely. The event areas shall be fenced off and staff has approved of the Traffic Circulation Plan for the designated parking areas surrounding the event. The Police and Fire Department have reviewed and approved of the event layout and operations with conditions of approval as attached per the resolution. There were no major issues with the previous Annual Bay Area Night Market which occurred last year in July.

Staff believes this will be a beneficial event for the City and recommends approval of the two outdoor events with conditions of approval as attached in the Resolution.

CEQA- This project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15304, Class 4(e), minor temporary use of land having negligible or no permanent effects on the environment.

Action – It is recommended that the Planning Commission, by resolution, approve two outdoor special events to be held at 300 Newpark Mall.

Attachment

1. Resolution
2. Exhibit A, Pg.1-2
RESOLUTION NO.

RESOLUTION APPROVING U-17-12, A CONDITIONAL USE PERMIT, TO ALLOW TWO OUTDOOR SPECIAL EVENTS TO BE HELD AT 300 NEWPARK MALL. (APN: 901-0111-022200).

WHEREAS, MS. Ria Abellera has filed with the Planning Commission of the City of Newark application for U-17-12, a conditional use permit, to allow two special events to be held at 300 Newpark Mall, specifically on the parking lot of the Burlington retail store; and

PURSUANT to the Municipal Code Section 17.72.060, a public hearing notice was published in The Tri City Voice on January 9, 2018 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on January 23, 2018 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, the public hearing was scheduled for January 23, 2018; and

WHEREAS, pursuant to Chapter 17.72 (Use Permits), Section 17.72.070 (Action by Planning Commission), the Planning Commission hereby makes the following findings:

1. That the proposed location of the conditional use is in accord with the purposes of the zoning title and the purposes of the district in which the site is located.

2. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

3. That the proposed conditional use will comply with each of the applicable provisions of this Chapter 17.72 (Use Permits).

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

a. This approval shall be for the Lunar New Year celebration on February 24, 2018 from 2 p.m.-9 p.m. Also, approval for the Bay Area Night Market special event on July 13 and 14, 2018 between the hours of 4pm and 11pm, with a reasonable amount of time for set-up prior to opening and for clean-up after closing, as determined by the Community Development Director.

b. The volume levels of all sound equipment and speakers associated with this project shall not exceed levels determined to be acceptable by the Community Development Director.

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

d. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 11:00 p.m. and 7:00 a.m.

e. Garbage and recycling pick-up shall be coordinated with Republic Services, Inc. of Alameda County so that a sufficient number of dumpsters are available on-site and picked-up to ensure no refuse, garbage or recycling is stored outdoors except within the approved trash and recycling dumpsters. Prior to the event openings, the applicant shall submit written evidence of Republic Services, Inc.’s approval.

f. 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. Any vehicle or portable building brought on the site shall remain graffiti free.

g. The event staff shall direct patrons to park their vehicles in the NewPark Mall parking lot.

h. The event staff shall submit evidence of approval from the County Health Department for the proposed food and beverage sales. There shall be no alcoholic beverage sales.

i. Construction equipment, including compressors, generators and mobile equipment shall be fitted with heavy-duty mufflers designed to reduce noise impacts.

j. Within 24 hours of each event, all structures and improvements brought to the subject site associated with this event shall be removed and the NewPark Mall parking lot returned to
its original, pre-event condition, to the satisfaction of the Community Development Director. The NewPark Mall will be responsible for the clean-up after the event.

Fire Department

**General comments:**

k. Since the Lunar New Year Celebration (2/24/17) and the Summer Festival (7/13/17-7/14/17) are two different events with different dates, two separate fire special event permits (not planning permit) are required. Each special event permit will only be valid for 180 days. Please apply for the Summer Festival event permit in February 2018.

l. Crowd managers are required based on the maximum anticipated number of people. The number of crowd managers shall be 1 crowd manager per the first 1000 people and a ratio of one crowd manager for every 250 people after. Provide minimum number of crowd managers per the formula. Crowd managers need to be certified. One way to obtain such certification is to visit [https://crowdmanagers.com/training/](https://crowdmanagers.com/training/)

m. Site Plans for Fire permit:

n. Provide a north arrow.

o. Adequate fire truck turning radius shall be provided outside the fenced in area.

p. Confirm the area between the open flame cooking and the tents to be fenced off from the public.

q. Clearly show all the vehicular gates. Additional gates may be required.

r. If the vendors are providing their own tents these tents will also be California State Fire Marshal Registered Flame Resistant Product. Recommendation: event management to provide all CA State Fire Material registered tents.

s. Provide dimensions for all tents.

r. Generators shall be barricaded or fenced off from the public.

u. Provide 2A10BC rated fire extinguishers and no smoke signs for the tents.

Temporary air-supported and air-inflated membrane structure shall comply with CFC310.10. No less than 2 blowers, each of which has adequate capacity to maintain full...
inflation pressure shall be provided. CFC3103.10.3. Since there are more than 200 occupants and auxiliary inflation system is required. CFC3103.10.4.

v. Emergency lights with battery backup shall be provided.

w. Electrical wiring shall be concealed or bridged to avoid tripping hazard.

x. July event site plan: The fire access road between the Retail Vendor Tents and the 20x40 open tent appear to be less than 20 feet wide. Recommend moving the 20x40 tent toward the open dining area.

**Tent Layouts:**
February event only:
y. Two exits are required. Provide two illuminated exit signs and emergency lights at two remote ends of the open side.

z. Provide specs for the infrared heater lamps. In general infrared heater lamps within close proximity of the tent material are not allowed due to its high heat producing capacity.

aa. Show maximum load capacity, fire extinguisher(s) and no smoke signs.

**July event only:**
bb. Provide emergency lights.

cc. Show maximum load capacity, fire extinguisher(s) and no smoke signs.

**Building Department**

dd. Restrooms for event shall include facilities that are accessible to persons with disabilities. Facilities shall include a suitable hand wash station.

ee. Generators shall be placed such that cords do not interfere with the accessible path of travel.

**Engineering Department**

ff. The event staff shall implement all applicable Best Management Practices (BMPs) from the California Best Management Practice Handbook for Construction Activities to prevent the pollution or contamination of stormwater runoff from the project area. Additional BMPs may be required by the City Engineer, as necessary, to minimize the
pollution of stormwater runoff from the project area. The following notes shall be added to the final plans:

a. Any stockpiled materials with the potential to pollute stormwater runoff shall be properly contained and covered to prevent any such pollution.

b. The parking lot and drive aisles shall be cleaned daily or as required by the City Engineer to remove accumulated trash and debris generated from the project area. Migration of trash and debris into the public right-of-way is prohibited and will be strictly enforced.

c. Water-tight waste receptacles shall be placed around the site as necessary to minimize litter, to the satisfaction of the City Engineer.

d. Any liquid spills associated with the proposed project must be cleaned immediately and prevented from entering the storm drain system.

e. Temporary sanitary facilities shall be managed and maintained at all times, placed away from drainage facilities and traffic circulation, and secured to prevent overturning.

f. Tallow bins appropriately sized to collect used cooking oil from the cooking area must be provided and disposed of by a licensed grease hauler. Used cooking oil is prohibited in any storm drain, garbage container, and paved surface.

g. Food truck grey water or liquid waste shall be prohibited from being discharged to the on-site storm drain system. All grey water or liquid waste shall be off-hauled to a licensed facility that accepts the waste or discharged to the sanitary sewer system, subject to approval by Union Sanitary District.

h. All applicable Best Management Practices from the California Stormwater Quality Best Management Practices Handbook for Construction Activities shall be implemented, as necessary, to minimize stormwater pollution to the satisfaction of the City Engineer.

**General**

gg. 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 project exhibits requiring Planning Commission and/or City Council review and approval.

hh. 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.

ii. 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.

jj. In the event that any person should bring an action to attack, set aside, void or annul the City’s approval of this project, the applicant shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the applicant (which shall be the same counsel used by applicant) and reasonably approved by the City. Applicant’s obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City’s compliance with Government Code Section 66474.9.

kk. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 56020(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.

The Commission makes the findings prescribed in Newark Municipal Code Section 17.72.070, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk pursuant to Newark Municipal Code Section 17.72.080.
This Resolution was introduced at the Planning Commission’s January 23, 2018 meeting by , seconded by , and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary

WILLIAM FITTS, Chairperson
Traffic Circulation Plan:
North side lot will be closed off with a-frames and line barriers to restrict parking. Red lines indicate a barrier. Yellow arrows indicate traffic flow in direction of current drive aisles directions. Signs will be posted to assist vehicle access and exits.

- Yellow Lines= String lights
- Blue triangles- Trash cans
- = generator and fire extinguisher
Traffic Circulation Plan: North side lot will be closed off with a-frames and line barriers to restrict parking. Red lines indicate a barrier. Yellow arrows indicate traffic flow in direction of current drive aisles directions. Signs will be posted to assist vehicle access.
F.1  ASR-17-17, an Architectural and Site Plan Review, to demolish and replace an existing restaurant, Ray’s Sushi, with a completely new restaurant, Lazy Dog, located at 3100 Newpark Mall (APN 901-0111-017) – from Associate Planner Mangalam.

Background/Discussion – Lazy Dog Restaurants LLC has filed an application to demolish and replace an existing restaurant, Ray’s Sushi with a new restaurant, Lazy Dog, located at 3100 Newpark Mall.

Lazy Dog restaurant is an upscale American casual dining restaurant chain. At present it operates 26 restaurants across California, Colorado, Nevada and Texas. Lazy Dog restaurant will be a unique freestanding building with its architectural style inspired by the Rocky Mountains. As the name suggests, artwork and playful touches influenced by man’s best friend will be woven throughout the interior and exterior of the building. The restaurant will also include two dog-friendly patios with ample seating and fire-pits. Lazy Dog’s ambiance will be rustic and inviting and will have a lodge-like feeling including cozy fireplaces, a massive chandelier grafted from aspen logs, with a rustic décor.

The existing Ray’s Sushi restaurant is approximately 16,463 square foot and is located at the corner of Alpengrse Court and Mowry Avenue. The site is zoned Regional Commercial District (CR). The existing restaurant will be removed and rebuilt with a completely new structure comprising of building area of 9,792 square feet and two patios of 2,910 square feet, thus totaling to 12,702 square feet. The new restaurant will have a total capacity of 394 seats including 270 interior and 124 patio seats. It will be constructed at the same location as the existing restaurant and the existing parking area will be resurfaced and restriped. 141 parking spaces are proposed for the new restaurant which exceeds current zoning parking requirement of 114 parking spaces. The proposed restaurant will be approximately 27 feet high with the tower feature extending up to 38 feet.

There will be extensive new planting around the proposed patios and the building with the addition of 15 Birch and 15 Spruce trees. In addition, all the existing planting areas in and around the parking area will be enhanced to improve the quality of the landscaping. 18 Madrone trees will be added to the perimeter landscaping.

Proposed signage consists of five building wall signs, one unique paw logo sign and refacing of two existing monument signs.

Environmental
The proposed project is categorically exempt from the California Environmental Quality Act per Section 15302, Class 2, “replacement or reconstruction of existing structures and facilities where
the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.”

**Recommendation**
Staff believes this is an exciting project and will be beneficial to revitalization of restaurant hub in and around Newpark Mall. It complies with all zoning standards, thus, staff recommends approval of the proposed Lazy Dog restaurant at 3100 Newpark Mall.

**Action** — It is recommended that the Planning Commission, by resolution, with Exhibit A, pages 1 through 14, approve ASR-17-17, an Architectural and Site Plan Review, to demolish and replace an existing restaurant, Ray’s Sushi, with a new restaurant, Lazy Dog, located at 3100 Newpark Mall (APN 901-0111-017).

**Attachment**
1. Architectural Drawings (Exhibit A, pages 1 through 9)
2. Signage drawings (Exhibit A, pages 10 through 14)
RESOLUTION NO.

RESOLUTION APPROVING ASR-17-17, TO DEMOLISH AND REPLACE AN EXISTING RESTAURANT, RAY’S SUSHI, WITH A NEW RESTAURANT, LAZY DOG, LOCATED AT 3100 NEWPARK MALL (APN: 901-0111-017)

WHEREAS, Lazy Dog Restaurants LLC. has filed with the Planning Commission of the City of Newark an application for ASR-17-17, an Architectural and Site Plan Review, to demolish and replace an existing restaurant, Ray’s Sushi, with a new restaurant, Lazy Dog, located at 3100 Newpark Mall; and

WHEREAS, the Planning Commission considered said application at 7:30 p.m. on January 23, 2018 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approves this application and recommends the City Council approve this application as shown on Exhibit A, pages 1 through 14, subject to compliance with the following conditions:

Planning Division

a. There shall be no outdoor vending machines other than for the sale of newspapers. There shall be no outdoor storage of any materials for sale, display, inventory, or advertisement without the review and approval of the Community Development Director.

b. No refuse, garbage, or recycling shall be stored outdoors except within the approved trash and recycling enclosures.

c. The drive aisles shall not be used by delivery trucks between the hours of 11:00 p.m. and 7:00 a.m. Parking lot cleaning with sweeping or vacuum equipment shall be operated in such a way that it does not disrupt adjacent residential neighborhood.

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

e. 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.

f. 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. Any
vehicle or portable building brought on the site during construction shall remain graffiti free.

g. 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.

h. The color elevations submitted with this application have been reviewed and approved by the Planning Commission and the City Council. Prior to the issuance of a building permit, the Community Development Director shall review and approve final elevations for consistency with approved plans.

i. All trash enclosures shall provide signage that states that the dumpsters shall remain in the enclosure(s) and that the enclosure’s doors shall be closed immediately after use. The enclosure(s) shall be sited such that the enclosure’s doors, when open, do not extend into drive aisles/back-up areas.

j. Prior to the issuance of a building permit, a screening design shall be submitted to and approved by the Community Development Director. Roof equipment shall not be visible from the adjacent public street. All equipment shall be fully screened within the context of the buildings' architecture. Said screening design shall be maintained to the satisfaction of the Community Development Director. The building owner shall paint the roof equipment and the inside of its screening wall within the context of the building's color scheme and maintain the painted areas to the Community Development Director's satisfaction. Screening panels shall not exceed six feet in height unless the screens are part of the integral design elements of the building.

k. The signage as submitted with this application have been reviewed and approved by the Planning Commission and the City Council. Prior to the issuance of a building permit, the Community Development Director shall review and approve signage for consistency with approved plans.

l. Prior to the issuance of a Certificate of Occupancy, all on-site parking facilities shown on the approved plans shall be installed and striped. This shall include, but not be limited to, identifying compact parking spaces and providing directional arrows as required by the Community Development Director.

m. Prior to their 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 units with permanent, easily legible lettering.

Engineering Division

n. The project must be designed to minimize the pollution or contamination of stormwater runoff from the site. Examples of control measures include, but are not limited to: ro
uncovered trash enclosures or storage of products and materials; minimization of impervious surfaces; separation of all car wash activities from the storm drain system; routing of pavement and roof runoff through vegetated swales or landscaped areas in-lieu of direct connections to the storm drain system; treatment controls for runoff from paved areas used for vehicle parking, repair and/or storage such as storm drain inlet filters, interceptors, separators or other acceptable treatment devices; installation of vegetated or turfed areas around storm water inlets, and other Best Management Practices to address the requirements of the NPDES permit issued to the City of Newark by the Regional Water Quality Control Board. The use of structural treatment controls for runoff quality requires the submittal of a maintenance agreement prior to the issuance of a Certificate of Occupancy.

q. Prior to the issuance of a building permit for this project, the applicant shall submit a Storm Water Quality Plan 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 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 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 wording "No Dumping - Drains to Bay," and other applicable practices.

p. 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 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 source control and site design requirements include, but are not limited to: properly designed trash storage areas, trash compactors, minimization of impervious surfaces, and treatment of all runoff with Low Impact Development (LID) treatment measures. The stormwater treatment design shall be completed by a licensed civil engineer with sufficient experience in stormwater quality analysis and design. The design is subject to review by the Regional Water Quality Control Board. The applicant shall modify the site design to satisfy all elements of Provision C.3 of the MRP. The use of treatment controls for runoff requires the submittal of a Stormwater Treatment Measures Maintenance Agreement prior to the issuance of any Certificates of Occupancy.

q. All stormwater treatment measures are subject to review and approval by the Alameda County Mosquito Abatement District. The applicant shall modify the grading and drainage and stormwater treatment design as necessary to satisfy any imposed requirements from the District.
r. The entire site shall be equipped with full trash capture devices approved by the Regional Water Quality Control Board – San Francisco Bay Region, for 100% trash capture at all on-site and adjoining off-site storm drain inlets. All on-site trash capture devices shall be permanently maintained by the property owner.

s. The applicant shall submit a grading and drainage plan for review and approval by the City Engineer and the Alameda County Flood Control and Water Conservation District. This plan must be based upon a City benchmark and needs to include pad and finish floor elevations of each proposed structure, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing drainage patterns. All on-site pavement shall drain at a minimum of one percent. The applicant 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 applicant's responsibility.

t. Hydrology and hydraulic calculations shall be submitted for review and approval by the City Engineer prior to approval of the final map. The calculations shall show that the City freeboard requirements will be satisfied (0.75 feet to grate or 1.25 feet to the top of curb under a 10-year storm duration).

u. Where a grade differential of more than a 1-foot is created along the boundary parcel lines between the proposed development and adjacent property, the applicant 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.

v. Prior to issuance of a building permit, the applicant 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.

w. Prior to the issuance of a building permit, the construction drawings shall show a 2-inch grind and overlay or pavement reconstruction within the entire parking lot within the project boundaries. The applicant shall contact the adjoining properties to the south and southwest to determine if they want to repair and replace their existing damaged asphalt as part of this project.

x. The applicant shall upgrade the existing curb ramp at the southwest corner of the Mowry Avenue and Newpark Mall Rd intersection in accordance with Curb Ramp Detail No. A88A from the Caltrans Standard Plans, dated July 2015.

y. Prior to the issuance of a building permit, the applicant shall evaluate the entire on-site storm drain system. The existing storm drain system shall be video inspected and the project civil engineer shall determine whether any improvements to the system need to be made. The project civil engineer shall submit to the City Engineer a list of any required
repairs to the existing storm drain system based on the video inspection and analysis of the storm drain system. Any repairs or changes to the existing storm drain system shall be incorporated into the required grading and drainage plan.

z. The applicant shall replace any damaged street improvements along the Mowry Avenue frontage, including but not limited to, raised sidewalk, curb and gutter, concrete, tree well, etc. Any work within the public right-of-way and adjacent easement area will require the issuance of a City of Newark Encroachment Permit.

aa. Prior to the issuance of a Certificate of Occupancy, the applicant must hydroflush and vacuum the entire storm drain system.

bb. Any new utilities including, but not limited to, electric, telephone and cable television services shall be provided underground.

c. 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 across Mowry Avenue.

dd. The applicant shall repair and/or replace any public and private improvements damaged as a result of construction activity to the satisfaction of the City Engineer and adjoining property owners.

e. The applicant shall trim or remove landscaping (trees, shrubs, groundcover, etc.) at the southeast corner of the site to improve visibility for pedestrians and motorists. The applicant shall coordinate with the adjoining property owner any required landscape trimming/removals or walkway repairs/replacement within the McDonald’s property.

ff. The applicant 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.

Landscape Division

gg. Prior to the issuance of a building permit, the property owner shall dedicate a minimum 10-foot wide landscape easement along the Mowry Avenue frontage of the property, directly adjacent to the right-of-way limit. The easement shall be extended to cover all contiguous landscaped areas along Mowry Avenue project frontage.

hh. The applicant shall retain a licensed landscape architect to prepare working drawings for on-site landscape plans in accordance with City of Newark requirements, the approved Conceptual Landscape Plan, and the State of California Model Water Efficient Landscape Ordinance. The landscape plans shall be included with construction plan set. The associated Landscape Documentation Package must be approved by the City Engineer prior to the issuance of a building permit.
ii. The applicant 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 applicant shall provide sufficient information to detail the environmentally-conscious landscape practices to be used on the project.

jj. The plant species identified for any proposed biotreatment measures are subject to final approval of the City Engineer.

kk. All maintenance associated with the landscape-based stormwater treatment measures shall be the responsibility of the property owner. The applicant shall enter into a Landscape Maintenance Agreement prior to the issuance of a building permit. This agreement shall run with the land and be binding to the homeowners association as successors. Landscape maintenance of these areas by the City under the terms of the Agreement would occur only in the event that City Council deems the homeowners association's maintenance to be inadequate. Any project perimeter walls and adjoining landscape areas shall be included in a dedicated landscape easement to guarantee adequate maintenance of the walls. Any work other than routine maintenance, including but not necessarily limited to, tree removal, tree pruning, or changes to the approved planting palette shall be approved in advance by the City Engineer. All tree pruning shall be performed by or under the direction of a certified arborist.

ll. Prior to installation by the applicant, 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 applicant shall guarantee all trees for a period of 6 months and all other plantings and landscape for 60 days after completion thereof. The applicant 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.

Building Division

oo. Construction for this project, including site work and all structures, can occur only between the hours of 7:00 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.
pp. The new building shall be equipped with a fully automatic fire sprinkler system.

qq. The removal of the existing building will require a demolition permit issued by the City Building Inspection Division. Prior to the issuance of a demolition permit the applicant will need to provide written clearances from the Bay Area Air Quality Control Board, PG&E, Alameda County Water District, and Union Sanitary District.

Fire Division

rr. The installer of the exterior fire pit shall comply with CMC933.0. For unlisted equipment it shall be installed in accordance with the manufacturer’s installation instructions and with clearances to combustible material of not less than 36” from the sides. In no case shall the appliance be located under overhead combustible construction.

ss. Provide the Alameda County Water District hydrant flow data from the nearest fire hydrant.

Police Division

tt. The development shall comply with Chapter 15.06, Security Code, of the Newark Municipal Code and Section 5.10 of the California Fire Code for radio reception.

uu. Prior to building being occupied security cameras should be installed for both interior and exterior of the building.

General

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

ww. 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 project exhibits requiring Planning Commission and/or City Council review and approval.

xx. If any condition of this Architectural and Site Plan Review be declared invalid or unenforceable by a court of competent jurisdiction, this Architectural and Site Plan Review shall terminate and be of no force and effect, at the election of the City Council on motion

yy. This Architectural and Site Plan Review shall be presented to the City Council for the Council’s review and approval.

Resolution No. 7 (Pres171?)
zz. 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.

aaa. In the event that any person should bring an action to attack, set aside, void or annul the City’s approval of this project, the applicant shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the developer (which shall be the same counsel used by developer) and reasonably approved by the City. Developer’s obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City’s compliance with Government Code Section 66474.9.

bbb. 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 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.

This Resolution was introduced at the Planning Commission’s January 23, 2018 meeting by Vice-Chairperson , seconded by Commissioner , and passed as follows:

AYES:

NOES:

ABSENT:

TERRENCE GRINDALL, Secretary WILLIAM FITTS, Chairperson

Resolution No. 8 (Pres1717)
SOUTH ELEVATION

WEST ELEVATION
EXISTING ELEVATION

PROPOSED ELEVATION

- REMOVE & DISPOSE OF EXISTING FACES.