

RESOLUTION NO.

RESOLUTION RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF NEWARK APPROVE TTM-19-5, VESTING TENTATIVE TRACT MAP 8495, TO ALLOW CONSTRUCTION OF A 469-UNIT RESIDENTIAL DEVELOPMENT (SANCTUARY WEST) ON AN APPROXIMATELY 430-ACRE SITE WITHIN THE AREAS 3 AND 4 SPECIFIC PLAN AREA LOCATED AT THE SOUTH WESTERN EDGE OF THE CITY (APNs 537-801-2-6, 537-850-7-2, 537-850-9, 537-850-11-1 AND 537-850-11-4) AND MAKING CEQA FINDINGS THAT THE ENVIRONMENTAL EFFECTS OF THE PROJECT WERE SUFFICIENTLY ANALYZED UNDER THE AREAS 3 AND 4 SPECIFIC PLAN RECIRCULATED ENVIRONMENTAL IMPACT REPORT AND THAT THE PROPOSED PROJECT IS EXEMPT FROM CEQA PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65457

WHEREAS, Sobrato Organization has filed with the City of Newark an application for TTM-19-5, a Vesting Tentative Tract Map 8495, covered by U-19-6, a conditional use permit and P-19-7, a planned development plan, for a 469-unit residential project known as the Sanctuary West Residential Project (the “Project”) on an approximately 430-acre site within the Areas 3 and 4 Specific Plan area located at the south western edge of the City (APNs 537-801-2-6, 537-850-7-2, 537-850-9, 537-850-11-1 and 537-850-11-4); and

WHEREAS, pursuant to the Municipal Code Section 17.72.060, a public hearing notice was published in The Tri City Voice on October 8, 2019, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on October 22, 2019 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, in 1992, the City of Newark adopted the General Plan Update including Areas 3 and 4 that allowed future development of Area 4 consisting of, among other things, high-quality, low-density housing, an 18-hole golf course, and open space; and

WHEREAS, on June 22, 2006, the City of Newark agreed in a Memorandum of Understanding with New Technology Park Associates to prepare a Specific Plan for Areas 3 and 4 to address future land uses and to provide a framework for future development; and

WHEREAS, on June 28, 2010, the City Council of the City of Newark certified a Final Environmental Impact Report for the Newark Areas 3 and 4 Specific Plan and approved the Newark Areas 3 and 4 Specific Plan, a map amendment to the General Plan, a Development Agreement and a map amendment to Title 17 (Zoning) of the Newark Municipal Code rezoning parcels consistent with the Specific Plan; and

WHEREAS, subsequently, the Citizen's Committee to Complete the Refuge, a non-profit public benefit corporation, filed a legal challenge that resulted in a judgment ordering the City to void the resolutions and ordinances approving the project; and

WHEREAS, on February 26, 2015, the City of Newark repealed and rescinded the certification of a Final Environmental Impact Report, approval of a General Plan amendment, Zoning map amendment and Development Agreement; and

WHEREAS, on March 26, 2015, the City of Newark City Council certified a Recirculated Environmental Impact Report (REIR), State Clearinghouse Number 2007052065, that was prepared pursuant to the California Environmental Quality Act (CEQA), addressing and disclosing the environmental impacts of the Newark Areas 3 and 4 Specific Plan and approved a Mitigation Monitoring Reporting Program, the Specific Plan, the related General Plan amendments, Development Agreement, and a zoning map amendment; and

WHEREAS, pursuant to the requirements of CEQA, a Compliance Checklist/Addendum has been prepared for the Project, pursuant to Sections 15164 and 15168 of the CEQA Guidelines and Government Code section 65457, to determine whether the Project is consistent with the Specific Plan, and within the scope of the REIR and to determine whether any of the events specified in Public Resources Code Section 21166, as further addressed by CEQA Guidelines Section 15162, have occurred since the City's certification of the Recirculated Environmental Impact Report; and

WHEREAS, the evidence and analysis presented in this Compliance Checklist demonstrates, that the Project would not result in any new or substantially more significant environmental impacts from changes to the Project or changes in circumstances beyond those previously evaluated and disclosed in the Recirculated Environmental Impact Report, and that no new information of substantial environmental significance shows that the Project would have new or substantially more severe impacts beyond those previously evaluated and disclosed in the Recirculated Environmental Impact Report, as set forth in Section 21166 of CEQA, and as set forth in Section 15162 of the CEQA Guidelines and the conclusions in the REIR remain unchanged; and

WHEREAS, the Planning Commission has read and considered the Compliance Checklist and the comments thereon, and has determined the Compliance Checklist reflects the independent judgment of the City and was prepared in accordance with CEQA and CEQA Guidelines; and

WHEREAS, the Compliance Checklist, all documents referenced in the same, and the record of proceedings on which the Planning Commission decision is based is are located in the Community Development Department's files at City Hall for the City of Newark, located at 37101 Newark Blvd, California, and are available for public review; and

WHEREAS, Sanctuary West is subject to a development agreement entitled:

“Development Agreement by and Between City of Newark and Newark Partners, LLC” (the Development Agreement). Pursuant to the Development Agreement, Sanctuary West is to be considered pursuant to the City’s Zoning Ordinance as it existed in 2015; and

WHEREAS, the Planning Commission of the City of Newark does hereby make the following findings and determinations regarding TTM-19-5, Vesting Tentative Tract Map 8495 covered by U-19-6 and P-19-7 and made part hereof by reference, pursuant to California Government Code Sections 66474 et seq., as follows:

1. *The proposed map and design and improvement of the proposed subdivision is consistent with the General Plan and Areas 3 and 4 Specific Plan. Under the General Plan, the site is designated Low Density Residential. The Low Density Residential designation is intended for single-family residential developments with a density of less than 8.7 units per acre on lots on average larger than 5,000 square feet, as well as compatible uses including schools, childcare centers, parks, and religious facilities. The General Plan also designates the project area as within the Southwest Newark Residential and Recreation Focus Area, which is also known as Areas 3 and 4. Goal LU-7 states, “[d]evelop the Southwest Newark Residential and Recreational Project as one of the Silicon Valley’s premier new neighborhoods, with executive housing and high quality recreation.” Policy LU-7.1 states, “[f]acilitate the development of the 637 acres formerly known as “The Area 3 and 4 project” consistent with previously approved plans for this area. The residential holding capacity of this area shall be 1,260 units. The subject site is designated as Low Density Residential under the General Plan. The Specific Plan contemplated a range of lots sizes, including those less than 5,000 square feet. The project’s Vesting Tentative Map includes 469 residential lots ranging from 3,600 square feet to 5,000 square feet in size. The development density of the project would be 2.6 dwelling units per acre. Consistency with the City’s General Plan was evaluated in the Newark Areas 3 and 4 Specific Plan REIR. The REIR did not identify any significant impacts from a conflict with applicable land use plans, policies, or regulations. The current project proposes to construct 469 of the 1,260 residential units included in the Specific Plan and approved under the 2015 Development Agreement, and is consistent with the existing General Plan land use designation; therefore, the project would not result in significant impacts from conflicts with applicable land use plans, policies, or regulations. TTM-19-5, Vesting Tentative Map 8495 calls for the construction of a 469-unit residential project (Sanctuary West) on an approximately 430-acre site within the Areas 3 and 4 Specific Plan area located at the south western edge of the City. TTM-19-5, Vesting Tentative Map 8495 is an implementation of the City’s previously adopted policies, which call for residential development in Area 4.*

2. *That the Sanctuary West Property is physically suitable for the type and proposed density of development. The REIR was certified by the City Council on March 26, 2015. The Compliance Checklist demonstrates the REIR fully analyzes all physical impacts of TTM-19-5, Vesting Tentative Map 8495 on the Sanctuary West Property. The impacts on the property envisioned by TTM-19-5, Vesting Tentative Map 8495, which result from the uses and the density described in that map, were fully analyzed by the REIR. These*

documents conclude that the Sanctuary West Property is physically suitable for construction of a 469-unit residential development.

3. *That the design of the proposed subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The Compliance Checklist to the REIR demonstrates the REIR analyzes all the environmental impacts of TTM-19-5, Vesting Tentative Map 8495 on fish and wildlife. These documents conclude that TTM-19-5, Vesting Tentative Map 8495 is not likely to cause substantial environmental damage or impact, or to substantially and avoidably injure fish or wildlife or their habitat.*
4. *That the design of the subdivision or type of improvements is not likely to cause serious health problems. The Compliance Checklist to the REIR demonstrates that the REIR analyzes all the environmental impacts of TTM-19-5, Vesting Tentative Map 8495 on public health and safety. These documents conclude that TTM-19-5, Vesting Tentative Map 8495 is not likely to cause serious health problems.*
5. *That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. As concluded by the Compliance Checklist considered and approved by the Planning Commission on October 22, 2019, TTM-19-5, Vesting Tentative Map 8495 simply implements the Areas 3 and 4 Specific Plan, which was previously approved by the City.*

NOW, THEREFORE, BE IT RESOLVED based on the entirety of the record before it, which includes but not limited to such things as the City staff report, testimony by staff and the public, the application materials, including without limitation the Compliance Checklist, the plan set, and all other documents, and all adopted City planning documents relating to the Project including the General Plan, 2015 Municipal Code, the Specific Plan, and all associated approved and certified environmental documents, the Planning Commission of the City of Newark further finds and determines as follows:

1. The recitals set forth above are found to be true and correct and are incorporated herein by reference and the exhibits attached to this Resolution, including the Compliance Checklist (Exhibit B) are each incorporated by reference and made part of this Resolution, as if set forth fully within.
2. The Planning Commission of the City of Newark does hereby find that the environmental effects of the proposed Sanctuary West Residential Project in Area 4 are within the scope of the previously-approved 2015 Recirculated Environmental Impact Report (REIR) for the Areas 3 and 4 Specific Plan (State Clearinghouse No. 2007052065), that the REIR adequately describes the proposed Sanctuary West Residential Project in Area 4, and that there are no new substantial changes to the Project or to the circumstances surrounding the Project, nor new information of substantial environmental significance, nor other events since that REIR was certified in 2015 that require supplemental or subsequent CEQA

review.

3. The information and analysis set out in the Compliance Checklist (Exhibit B), prepared pursuant to CEQA Guidelines Sections 15164 and 15168(c)(4) and Government Code Section 65457, demonstrates: (a) that the proposed construction of up to 469 residential units in Area 4 is consistent with the Areas 3 and 4 Specific Plan; (b) that none of the events listed in Public Resources Code Section 21166 and CEQA Guidelines Section 15162 have occurred; and (c) that the proposed Project would not result in any new or substantially more significant environmental impacts from changes to the Project or changes in circumstances beyond those previously evaluated and disclosed in the REIR. The Compliance Checklist also demonstrates that there is no new information of substantial importance that could not have been known at the time the REIR was prepared that shows the Project would have new or substantially more severe environmental impacts than analyzed in the REIR.
4. The Compliance Checklist (Exhibit B) provides substantial evidence supporting the conclusions that: (a) the proposed Project is within the scope of the Newark Area 3 and 4 Specific Plan program REIR; (b) the proposed Project implements and is consistent with the Specific Plan; and (c) that none of the major changes, new information, or other environmentally-significant events specified in Public Resources Code Section 21166 and CEQA Guidelines Section 15162 have occurred since 2015.
5. A supplemental or subsequent EIR to the Newark Areas 3 and 4 Specific Plan REIR is not required or warranted, and the Project is exempt from further CEQA review pursuant Government Code Section 65457 for residential projects that are consistent with a specific plan for which an EIR was certified. In addition, pursuant to CEQA Guidelines Section 15168 (projects within the scope of a program EIR), no further detailed CEQA review of the proposed Project is justified or required.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Newark does hereby recommend that the City Council approve this TTM-19-5, Vesting Tentative Tract Map 8495 covered by U-19-6 and P-19-7, as shown on Exhibit D, pages 1 through 30, subject to compliance with the following conditions:

- a. All applicable conditions listed in Planning Commission Resolution No. _____, dated _____, 2019, recommending approval of U-19-6, a Conditional Use Permit and P-19-7, a Planned Unit Development to allow for construction of 469-unit residential project located at the south western edge of the City of Newark.
- b. The developer shall ensure that all upstream drainage is not blocked and that no ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility.
- c. That if any condition of this tentative tract map be declared invalid or unenforceable by

a court of competent jurisdiction, this tentative tract map shall terminate and be of no force and effect, at the election of the City Council on motion.