



# CITY OF NEWARK

## Planning Commission

City Hall, City Council Chambers

37101 Newark Boulevard, Newark, CA 94560 | (510) 578-4330 | E-mail: [planning@newark.org](mailto:planning@newark.org)

### AGENDA

Tuesday, April 12, 2022

7:30 P.M.

#### HYBRID IN-PERSON/VIRTUAL MEETING

REFER TO THE END OF THE AGENDA TO REVIEW OPTIONS FOR PARTICIPATING IN THE MEETING REMOTELY OR IN-PERSON.

IF YOU ATTEND THE MEETING IN PERSON, A FACE COVERING IS RECOMMENDED BUT NOT REQUIRED. LIMITED PUBLIC SEATING WILL BE AVAILABLE IN THE CITY COUNCIL CHAMBERS CONSISTENT WITH CDC GUIDELINES.

#### A. ROLL CALL

#### B. MINUTES

- B.1 Approval of Minutes of the regular Planning Commission meeting of March 22, 2022.**

**(MOTION)**

#### C. WRITTEN COMMUNICATIONS

#### D. ORAL COMMUNICATIONS

*Members of the public are invited to address the Planning Commission on any item not listed on the agenda. Public Comments are generally limited to 5 minutes per speaker. Please note that State law prohibits the Commission from acting on non-agenda items.*

#### E. PUBLIC HEARINGS

- E.1 Hearing to consider U-21-03, a Conditional Use Permit to allow a recycling center**

facility at 6711 Central Avenue (APN 092-0074-301). The subject site is zoned General Industrial and has a General Plan Land-Use designation of General Industrial – from Contract Planner Sharma.

(RESOLUTION)

## F. STAFF REPORTS

## G. COMMISSION MATTERS

**G.1 Consideration of an amendment to the Planning Commission By-laws Article 3 (Meetings), Section 3.00 (Time) to change the regular meeting time from 7:30P.M. to 7:00P.M.**

(MOTION)

**G.2 Report on City Council actions.**

## H. PLANNING COMMISSIONER COMMENTS

## I. ADJOURNMENT

### **HYBRID IN-PERSON/VIRTUAL MEETING NOTICE**

This meeting is being conducted utilizing teleconferencing and electronic means consistent with Assembly Bill 361. Members of the public may attend the meeting in person, virtually via Zoom, or watch it via YouTube. If you attend the meeting in person, a face covering is recommended but not required. The City Council Chambers will have limited public seating consistent with CDC Guidelines.

Chair Becker, Vice Chair Fitts, and Commissioners Aguilar, Otterstetter, and Bogisich may be attending this meeting via teleconference. Teleconference locations are not open to the public. In the event that any members of the Planning Commission elect to attend this meeting via teleconference, all votes conducted during the teleconferencing session will be conducted by roll call vote.

#### **How to view the meeting remotely:**

Livestream online at YouTube: <https://www.youtube.com/channel/UC383NGSxaPwZP1IkJbo2T8A>  
Copy/paste the YouTube URL into your browser if the link does not automatically open.

This meeting will broadcast on Comcast Channel 26.

**How to participate in the meeting remotely, via Zoom Webinar:**

From a PC, Mac, iPad, iPhone or Android device: <https://us06web.zoom.us/j/82766018996>

From a telephone dial 1 669 900 6833, Webinar ID 827 6601 8996

Provide live, remote public comments when the Chairperson calls for comments. Use the raise your hand feature in Zoom to be called upon by the Secretary.

For frequently asked Zoom questions, please go to [Agendas and Minutes](#) and select the Frequently Asked Questions link.

Submission of Public Comments: Public comments received by 4:00 p.m. on the Planning Commission meeting date will be provided to the Planning Commission and considered before Planning Commission action. Comments may be submitted by email to [planning@newark.org](mailto:planning@newark.org).

No question shall be asked of a Planning Commissioner, city staff, or an audience member except through the Chairperson. No person shall use vulgar, profane, loud, or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the Chairperson for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.

**Commission Meeting Access/Materials:**

The agenda packet is available for review at [Agendas and Minutes](#). The packet is typically posted to the City website the Friday before the meeting, but no later than 72 hours before the meeting.

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 will be posted, if time allows, at [Agendas and Minutes](#). 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. For those persons who require special accommodations, please contact the Administrative Support Specialist at least two days prior to the meeting at [planning@newark.org](mailto:planning@newark.org) or 510-578-4330.

3855735.1



# CITY OF NEWARK

## Planning Commission

City Hall, City Council Chambers

37101 Newark Boulevard, Newark, CA 94560 | (510) 578-4330 | E-mail: [planning@newark.org](mailto:planning@newark.org)

### MINUTES

Tuesday, March 22, 2022

**DUE TO TECHNICAL DIFFICULTIES, THERE IS NO AUDIO RECORDING OF THIS MEETING**

#### A. ROLL CALL

Chair Becker called the meeting to order at 7:31pm. Present were Vice-chair Fitts and Commissioners Aguilar, Bogisich, and Otterstetter.

#### B. MINUTES

**B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, February 8, 2022**

**MOTION APPROVED**

Commissioner Aguilar moved, Chairman Becker seconded, to approve the Minutes of the regular Planning Commission meeting on February 8, 2022. The motion passed 5 AYES.

#### C. WRITTEN COMMUNICATIONS

None.

#### D. ORAL COMMUNICATIONS

None.

#### E. PUBLIC HEARINGS

**E.1 Hearing to consider U-21-03, a Conditional Use Permit to allow a recycling center facility**

**at 6711 Central Avenue (APN 092-0074-301). The subject site is zoned General Industrial and has a General Plan Land-Use designation of General Industrial – from Contract Planner Sharma.**

**(MOTION TO CONTINUE HEARING)**

Deputy Community Development Director (DCDD) Interiano requested that, due to outstanding review comments, the Planning Commission continue the item to the meeting on April 12, 2022.

A motion was made by Commissioner Fitts and seconded by Commissioner Otterstetter to continue the item. The motion passed 5 AYES.

**F. STAFF REPORTS**

None.

**G. COMMISSION MATTERS**

**G.1 Consideration of an amendment to the Planning Commission By-laws Article 3 (Meetings), Section 3.00 (Time) to change the regular meeting time from 7:30P.M. to 7:00P.M.**

Community Development Director (CDD) Turner presented the draft amendment to the Planning Commission. No objections were revived. Staff will provide a formal recommendation for the amendment at an upcoming regular meeting of the Planning Commission.

**G.2 Report on City Council actions.**

No City Council actions were reported.

Commissioners who attended the California League of Cities Planning Commissioner Academy on March 16-18, 2022 provided comments on the training received.

Chair Becker requested that a “Planning Commission Comments” item be added to the Planning Commission agenda, placed before “Adjournment” section.

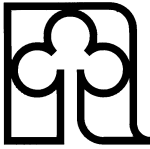
**H. ADJOURNMENT**

Chair Becker adjourned the regular Planning Commission meeting at 7:45 pm.

Respectfully submitted,

STEVEN TURNER

Secretary



- E. 1 Hearing to consider U-21-03, a Conditional Use Permit to allow a recycling center facility with outdoor storage at 6711 Central Avenue (APN 092-0074-301). The subject site is zoned General Industrial and has a General Plan Land-Use designation of General Industrial – from Contract Planner.**

**(RESOLUTION)**

**Background/Discussion**

The city has received an application for a Conditional Use Permit (CUP) to allow a recycling facility at 6711 Central Avenue. Per Newark Municipal Code (NMC) Section 17.09.020, a conditional use permit is required for a recycling facility in the General Industrial zoning district. The applicant, Clark Clovis/Foremost Recycling, is proposing to use an existing site for a recycling facility. The request would allow the property to accept, sort, store, and recycle construction related debris. The applicant requests use of the existing warehouse and site with no new construction proposed.

Project Context and Proposal

The project site has a General Plan Land-Use designation of General Industrial and is zoned GI: General Industrial. Generally, the GI district is intended to accommodate the broadest range of industrial uses. It includes industrial buildings and complexes, distribution, warehouses, manufacturing and assembly, and other uses that are often characterized by outdoor storage, noise, odors, hazardous materials handling, and heavy truck activity. Non-industrial uses such as retail stores, free-standing office buildings, and assembly uses are not allowed. This district implements the general industrial general plan land use designation.

The subject property is 1.74 acres and located on the north side of Central Avenue and is surrounded by properties that are zoned General Industrial to all sides. Although the recycling center requires a conditional use permit, this is an existing site that is currently used for storage. The existing structures onsite consist of an 11,000 square foot warehouse and a 2,500 square foot freestanding awning which will remain, no other site improvements are proposed as part of this application. The existing site is fully developed and is currently gated. The non-conforming barbed wire atop the gate will be removed as a condition of approval.

The site will accept deliveries between 7:00 am and 3:30 pm Monday through Friday, and 8:00 am to 1:00 pm on Saturday and Sunday. The applicant anticipates an average of nine truck trips on a daily basis. Materials will come from locations throughout Alameda County and will comply with County Environmental Health regulations. The materials will be sorted solely within the warehouse structure. Once materials have been baled or otherwise bounded, they will be placed in outdoor storage containers towards the rear of the lot. The facility will employ three full-time staff to run the operations. The applicant currently operates a concrete crushing facility in Redwood City.

Per NMC [Chapter 17.23, Parking and Loading](#), outdoor uses don't have a specific requirement for parking, but given that the facility will have employees on site, there will be a need to have parking spaces available.

*Table 1. Required Parking*

Use	Required (based on 11,000 sq.ft. of warehouse and 12,000 sq. ft. of outdoor storage)	Provided
General Industrial	23	30

**Requested Entitlements**

Pursuant to [NMC §17.09.020, Land-Use Regulations](#), “recycling facility” uses in the GI zoning district are subject to a CUP. The use permit review and approval process is intended to apply to uses that are generally consistent with the purposes of the zoning district where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. Therefore, per NMC [§17.35.030](#), the Planning Commission shall approve or conditionally approve the CUP request based on the findings required by NMC [§17.35.060](#):

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this title [NMC Title 17] and all other titles of the Municipal Code;*
- B. The proposed use is consistent with the general plan and any applicable specific plan;*
- C. The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements;*
- D. Tax revenue generated by the development will exceed the city's cost of the service demand as a result of the development or a compelling community benefit will be provided;*
- E. The proposed use complies with any design or development standards applicable to the zoning district or the use in question unless waived or modified pursuant to the provisions of this title [NMC Title 17];*
- F. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and*
- G. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.*

The inability to make one or more of the findings is grounds for denial of an application. Based on staff's analysis, the CUP findings for the proposed Project can be made in the affirmative and are provided in Attachment 2 of this report.

**California Environmental Quality Act (CEQA)**

A [Class 1, Existing Facilities, Categorical Exemption](#) relieves this project from the California Environmental Quality Act (CEQA) provisions. Per [CEQA §15301\(e\)\(2\)](#), environmental review is not required because:

- a. The proposed project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan; and
- b. The area in which the project is located is not environmentally sensitive.

Based on the Project description, the proposed use will not result in a physical change in the environment. The subject property is occupied by an existing industrial building which will be continued to be used as warehouse with outdoor storage and sorting of construction debris for recycling. Approval of the requested CUP does not involve the expansion of the existing building, nor does it disturb the physical environment. Any future development of the site would be subject to review under NMC Title 17 and CEQA. Therefore, no further environmental review is required.

**Action**

Staff recommends that the Planning Commission approve, by resolution, Conditional Use Permit U-21-03, as requested by the project applicant, based on the findings provided in Attachment 1, Draft Resolution.

**Attachment(s)**

1. Exhibit A (Project Plans)
2. Draft Resolution
  - a. Exhibit A – Findings of Fact
  - b. Exhibit B – Conditions of Approval

## Operation Plan Description

Owner: Foremost Recycling, LLC

Contact: Clark Colvis 650-641-3076

Foremost Recycling is submitting an EA Notification for a Small Construction and Demolition and Inert Debris Transfer/Processing facility at 6711 Central Ave, Newark, CA. The operation would be open for commercial debris box haulers and demolition contractors. The majority of the material will come from construction and demolition (C&D) debris box loads in Alameda County. C&D debris box loads average around 4 tons, incoming loads will be minimal.

Foremost Recycling will charge clients a per ton charge to process the material delivered to the facility. Foremost Recycling will not pay for material. Three employees will operate the site, one gate/scale person and two sorter operators in the building. Communication between the gate and the tipping floor will be maintained with two-way radios. Communication is key to load management and prevention of accepting prohibited material.

Incoming loads will be weighed on a surface scale located in the front of the facility, with enough room between the scale and the street to stage incoming loads off the street. Loads will be inspected for prohibited material such as hazardous waste, putrescible waste, tires, and any other non-C&D debris. Loads will be identified as to origin and weighed before being allowed to dump. Frequent customer's trucks' tare weights will be documented to minimize weigh time and scale traffic.

Loads will proceed to the tipping floor inside the building. Foremost Recycling staff will guide and observe loads being dumped. Any prohibited wastes discovered at that time will be reloaded in the truck and taken to the appropriate facility. Dumped loads will then be spread on the floor for separation. Source separated loads will be loaded directly into the bin or box of that material. Mixed loads will be spread on the ground. Lighter material will be pulled out by hand, to minimize contamination with other material, larger material will be separated with a small excavator and skid steer, and loaded into the appropriate bin/box.

Fines, chips, or small fragments too small to sort will be top loaded into a trailer sitting outside the building with a conveyor belt running from the inside. The trailer will be stored along the backside of operating floor. Residual material will be loaded into a bin or debris box and removed on a regular scheduled pick-up. No material should be stored on the ground or come into contact with storm water.

End of day operations will include making sure the tipping floor is clean and free of any material. Full containers will be staged and dispatched for delivery the next day. Flying debris and paper will be collected and disposed of.

Clean material will be shipped out periodically. Concrete will be taken to a crushing facility to create aggregate. Metals will be delivered to a metal recyclables. Wood will be segregated for re-use or repurpose. Rigid plastic and cardboard will be baled and go to a recycling center. Bricks will be palletized for resale. All material will be constantly reviewed for best and highest re-use, as new process are developed and market demand dictates.

Receiving hours will be M-F 7:00 am – 3:30 pm, Sat-Sun 8:00 am – 1:00 pm. Processing hours will be 8:00 am – 4:30 pm. 7 days a week. The facility will observe most major holidays. The site located at

6711 Central Ave, Newark California (APN 092-0074-003-1) is on approximately 1.74 acres with an existing 11,000 square foot building. Sorting activity will occur inside the building.

The majority of the material will be coming from commercial haulers, with average payloads of 4 tons, inbound traffic should be less than 9 loads a day, over an 8 hour period is about 1 load per hour. Loads will consist of mixed construction and demolition debris. The majority of these loads (94%) based on the last 9 months of data presented by a potential user of the facility is wood, cardboard, plastic and drywall. Other material will be metal, concrete, and other inert debris. Less than 1% is non-recyclable.

Outbound loads will be less, due to consolidation and larger payloads leaving the facility. Outbound Loads should average 2-3 a day. In the unusual circumstance multiple trucks arrived in a short period of time, the tipping floor has capacity to store a full day of operations, and there is a staging area on site if trucks are backed up.

State Minimum Standards are outlined in table 1.

The operation will use a small excavator for sorting heavy materials out of loads and a skid steer will be used to load sorted materials into debris boxes. The number of anticipated debris boxes at the site is 10. Outbound loads will be dispatched on tandem debris box loads by an outside source. A bailer will be used to bail cardboard and plastic. A forklift will be used to stack bales and load them on flatbed trailers for delivery.

Metals will be delivered directly to metal recyclers. Cardboard will be baled and brokered on the fiber market, through brokers such as Weyerhaeuser or Smurfit, baled plastic the same. Wood will be looked at for reclamation for re-use/re-purpose first, then shipped to the appropriate recycler for further processing. Concrete will be taken to a concrete grinding batch plant. Residual inert debris will be taken to other facilities for further sorting or appropriate use as fill.

Loose sorted material will be stored in 30-40 yd debris boxes. As the boxes become full, they will be dispatched out in two's, 2 of the same material. Bales will be stacked until a full load is available. A full load is 20 – 30 bales, depending on material.

Clark Colvis has been in the Solid Waste Management industry for 40 years, with extensive experience in residential, commercial and industrial collection, processing, recycling and diversion. Clark will be the contact person, with support of Ferma Greenbox, Inc and Ferma Corporation.



Storage

Existing Awning

Existing Building

Parking

Parking

Scale

360 Storage Center

U-Haul Neighborhood Dealer

Central Ave

Central Ave

200 ft

Google Earth



6.63 ft

Google Earth

© 2021 Google



Central Ave

Central Ave

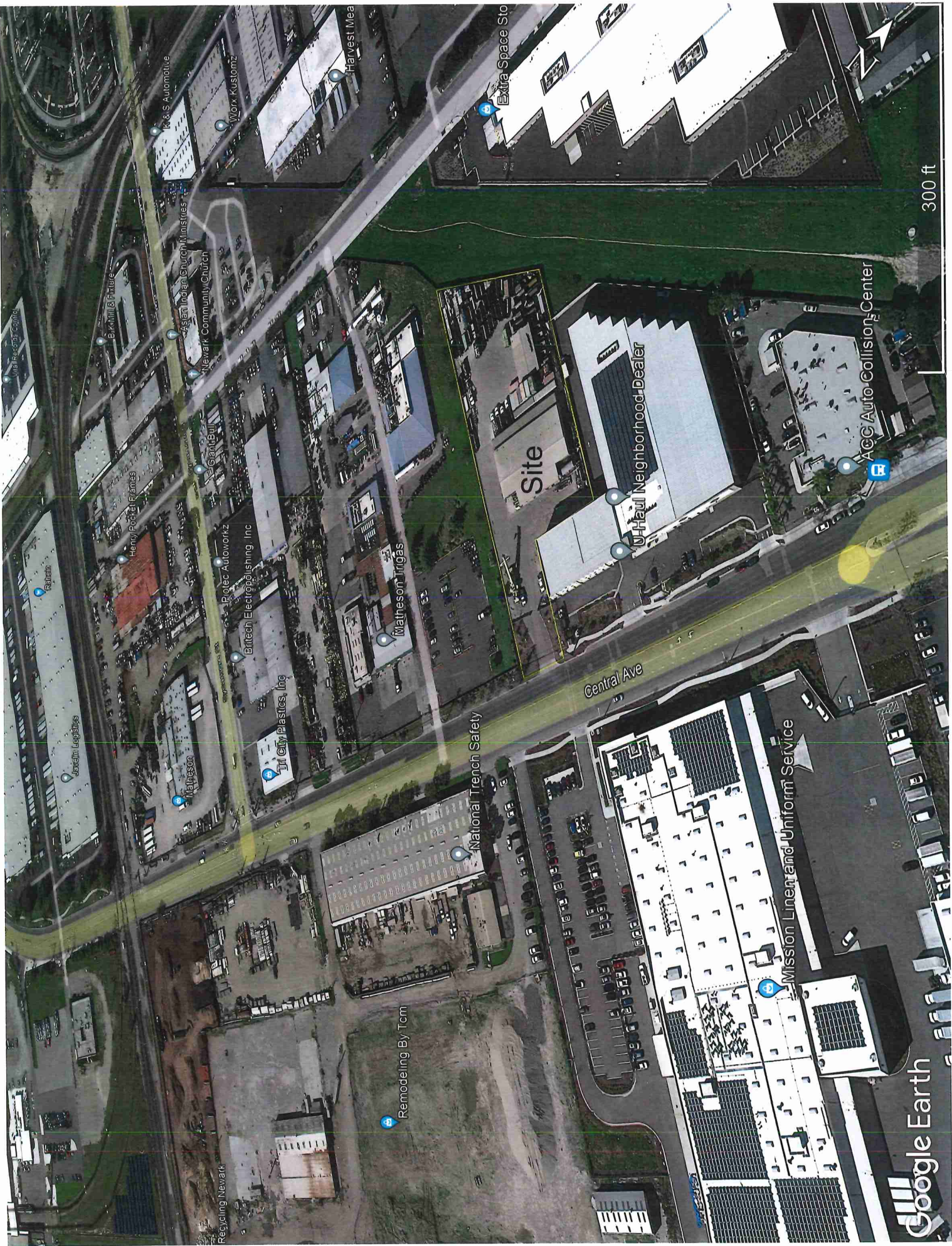
360 Storage Center  
U-Haul Neighborhood Dealer

Existing Building

Awning

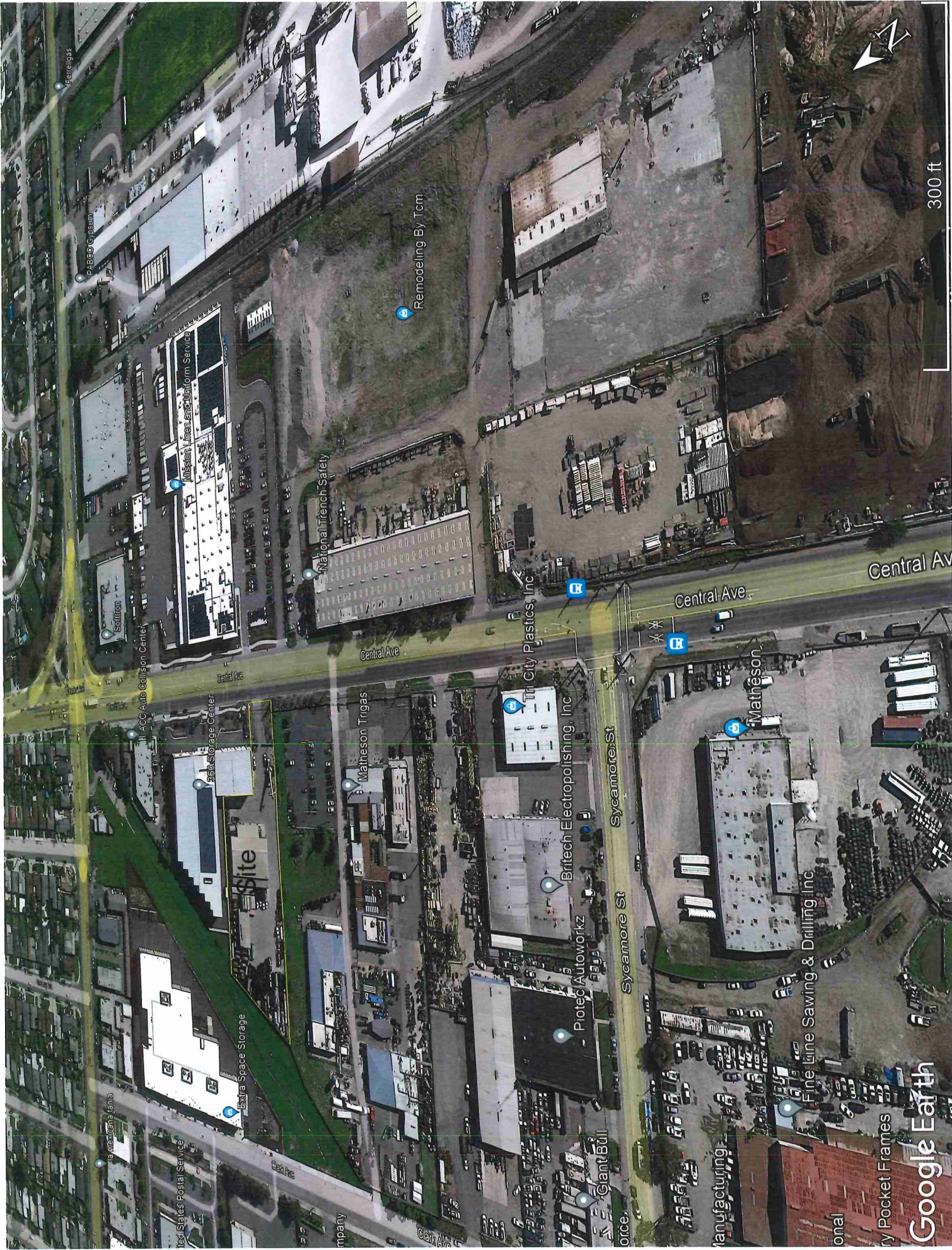
100 ft

Google Earth



300 ft

Google Earth



Ferrisgas

PAGEE Gasum

la maia lama lama

Red States Postal Service

Extra Space Storage

260 Storage Center

ACC Auto Collision Center

Solution

Mission Inter-Continental Service

National Trench Safety

Remodeling By Tcm

Tim City Plastics, Inc

Britech Electropolishing, Inc

Plotec Autoworkz

Sycamore St

Sycamore St

Central Ave

Central Ave

Matheson

Fine Line Sawing & Drilling Inc

Manufacturing

onally

ery Pocket Frames

300 ft



Google Earth

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWARK APPROVING A CONDITIONAL USE PERMIT FOR A RECYCLING FACILITY LOCATED AT 6711 CENTRAL AVENUE (APN: 092-0074-301)

WHEREAS, Clark Clovis, on behalf of Foremost Recycling (the “Applicant”), has filed with the City of Newark an application for a Conditional Use Permit (the “Application”), for a recycling facility located at 6711 Central Avenue (APN: 092-0074-301); and

WHEREAS, the property at 6711 Central Avenue (the “Project Site”) has a General Plan Land-Use designation of Limited Industrial and is currently zoned GI: General Industrial; and

WHEREAS, pursuant to Newark Municipal Code (“NMC”) §17.09.020, Recycling Facilities uses in the GI: General Industrial district are subject to a Conditional Use Permit; and

WHEREAS, the Project Site is comprised of a 1.74 acre lot consisting of an existing one-story warehouse of 11,000 square feet and a 2,500 square foot freestanding awning; and

WHEREAS, the Project does not propose any exterior modifications to the existing building. No site improvements are proposed as part of this application; and

WHEREAS, the Project is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to [CEQA Guidelines, Article 19, §15301](#) for Existing Facilities that involves minor alterations and negligible expansion of use; and

WHEREAS, pursuant to NMC [§17.31.060](#) and [§17.35.050](#), a public hearing notice was published in The Tri City Voice on March 3, 2022 and mailed as required for a public hearing and the Planning Commission held a meeting on said application at 7:30 p.m. on April 12, 2022. On March 24, 2022, the Planning Commission continued the item to April 12, 2022; and

WHEREAS, the Planning Commission fully considered the Project application and entitlements, the Applicant’s statements, staff report, findings of fact, conditions of approval, public comments, and all other testimony and evidence presented at the public hearing; and

WHEREAS, the Planning Commission finds that the staff report, Categorical Exemptions from CEQA, and standards for approval reflects the City’s independent judgement and analysis of the Project; and

WHEREAS, the Planning Commission finds that the Project satisfies the requisite findings of fact necessary for approval as further explained in the staff report and the findings of fact associated with this Resolution, as identified in “Exhibit A” attached to this Resolution; and

WHEREAS, the City’s General Plan and the Zoning Code are incorporated herein by reference and are available for review at City Hall during normal business hours and on the City’s website.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Newark as follows:

Section 1. That the forgoing recitals are true and correct and made part of this Resolution.

Section 2. That the Planning Commission hereby makes the necessary findings and determinations required by NMC [§17.35.060](#) to approve the requested Conditional Use Permit for a Recycling Facility at 6711 Central Avenue, as further explained in the staff report and findings of fact for approval as set forth in “Exhibit A” attached hereto and incorporated herein by this reference.

Section 3. Based on the findings and determinations, the Planning Commission hereby approves Conditional Use Permit for U-21-03, allowing for a Recycling Facility use at 6711 Central Avenue, subject to the Conditions of Approval, as further set forth in “Exhibit B” attached hereto and incorporated herein by this reference.

This Resolution was introduced at the City of Newark Planning Commission’s April 12, 2022 regular meeting by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and passed as follows:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
STEVEN TURNER, Secretary

\_\_\_\_\_  
JEFF AGUILAR, Chairperson

**Exhibit A**

**FINDINGS OF FACT**

**U-21-03**

**6711 Central Avenue**

**Alameda County Assessor's Parcel Number: 092-0074-301**

**Conditional Use Permit (Newark Municipal Code [NMC] Chapter 17.35)**

- A. The proposed use is conditionally allowed within the applicable zoning district and complies with all other applicable provisions of this title [NMC Title 17] and all other titles of the Municipal Code.

*The Project Site is zoned LI: Limited Industrial. Pursuant to NMC §17.09.020, Land-Use Regulations, Recycling Facility use in the GI zoning district are subject to a Conditional Use Permit (CUP). Therefore, the proposed use is allowed through the issuance of a CUP in order to be consistent with the existing zoning. The proposed use has been evaluated and found to be consistent with the NMC Title 17, Zoning, and other titles of the NMC. This finding can be made in the affirmative.*

- B. The proposed use is consistent with the general plan and any applicable specific plan.

*The Project Site has a General Plan Land-Use designation of General Industrial. This designation is intended to accommodate the broadest range of industrial uses. It includes industrial buildings and complexes, distribution, warehouses, manufacturing and assembly, and other uses that are often characterized by outdoor storage, noise, odors, hazardous materials handling, and heavy truck activity. Non-industrial uses such as retail stores, free-standing office buildings, and assembly uses are not allowed. This district implements the general industrial general plan land use designation.*

*The proposed use is consistent with the type of uses recommended for this type of zoning district. The proposed use is not part of a specific plan area. This finding can be made in the affirmative.*

- C. The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements.

*The proposed use will occupy the existing warehouse located at 6711 Central Avenue. Historically, the building has been occupied by a lumber yard, auto repair, and as outdoor storage, therefore the proposed use is similar. The proposed use involves no tenant improvements and no material changes to the exterior of the existing building and no site improvements. As such, the use, as conditioned, will not generate additional glare, radiation, heat, odor, safety hazards, or air and water pollution nor will the proposed use have an adverse effect on the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements. This finding can be made in the*

## Exhibit A: Findings of Fact

*affirmative.*

- D. Tax revenue generated by the development will exceed the City's cost of the service demand as a result of the development or a compelling community benefit will be provided.

*The proposed business, in addition to property taxes, will not create any new demand for services as a result of its operations. This finding can be made in the affirmative.*

- E. The proposed use complies with any design or development standards applicable to the zoning district or the use in question unless waived or modified pursuant to the provisions of this title [NMC Title 17].

*The proposed recycling facility use will have limited impacts to the vehicular parking and circulation of the parking lot and meets current development standards and provides for sufficient parking spaces. This finding can be made in the affirmative.*

- F. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity.

*The subject site is in the GI: General Industrial zoning district, which is intended to meet the needs of a variety of industrial uses. The proposed use does not interfere with operations/businesses in the GI zoning district and will not impact any residential uses. The operations shall mainly include collection, sorting, and storage of construction debris within an existing site of a developed industrial area. There are currently no zoning changes or specific plans recommendations existing for this area. Therefore, the design, location, size, and operating characteristics of the proposed use are compatible with the existing and foreseeable future land uses in the vicinity.*

- G. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

*The proposed business will occupy an existing site and all utilities and on-site improvements are in place. There are no improvements proposed and the use is not expected to be out of character with other uses in the area and what is typically allowed by the GI zoning district. The proposed use does not involve an expansion of the existing building, nor does it propose a high-intensity use. The City's requirements would be satisfied, and the site is physically suitable for the proposed use type. Therefore, this finding can be made in the affirmative.*

### **California Environmental Quality Act Categorical Exemption Findings**

The Project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15301, as it is an Existing Facility that involves minor alterations and negligible expansion of use; is in an area where all public services and facilities are available to allow for maximum development; and is not located in an environmentally sensitive area.

**Exhibit B**

**CONDITIONS OF APPROVAL**

**U-21-03  
6711 Central Avenue  
Alameda County Assessor's Parcel Number**

**Planning Division**

- a. Approval of this use permit shall supersede and revoke any previous approval at this location.
- b. All project conditions of approval shall be printed in on the building-permit plans, as applicable.
- c. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission review and, if so decided, said changes shall be submitted for the Commission's review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission review and approval.
- d. Prior to commencing business activity, the operator of the subject facility shall obtain a [Business License](#) with the City of Newark.
- e. Prior to commencing business activity, the operator of the subject facility shall obtain any and all necessary federal, state, or county approvals. Failure to obtain the necessary approvals shall make the subject use permit null and void.
- f. If any complaint regarding parking and/or noise is received, a parking/noise study shall be prepared at the discretion of the Community Development Director and at the cost of the applicant. The applicant shall mitigate any problems identified by the study(s).
- g. Prior to the installation of any signage for the proposed facility, the property owner/applicant shall obtain a Sign Permit and any necessary building permits through the City of Newark.
- h. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.
- i. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up.
- j. Outdoor storage will be limited to the area depicted on the site plan and must be within an appropriate storage container. The materials must be adequately baled to ensure no impacts to surrounding properties.
- k. All trucks hauling demolition debris from the site shall be covered.

## Exhibit B: Conditions of Approval

- l. Dust-proof chutes shall be used to load debris into trucks whenever feasible. Watering should be used to control dust generation during transport and handling of recycled materials.
- m. The applicant and/or 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.
- n. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to [Government Code §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 §66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of §66020, the developer will be legally barred from later challenging such exactions.

### **Building Inspection Division**

- o. Tenant improvement plans shall be submitted during building permit review.

### **Fire Department**

- p. The applicant shall maintain a clear fire lane at all times.
- q. The applicant shall maintain certified fire extinguishers to be kept on-site.
- r. The applicant shall install a certified fire sprinkler system. Fire sprinkler system shall be designed and installed in accordance with the hazard identified with NFPA 13. This requirement must be fulfilled prior to issuance of certificate of occupancy.
- s. The applicant shall certify the existing on-site fire hydrant prior to issuance of certificate of occupancy. The fire hydrant shall be kept clear of obstructions.
- t. The applicant shall provide Knox box at front entry prior to issuance of a certificate of occupancy.



**G.1 Amending the Planning Commission By-laws Article 3 (Meetings), Section 3.00 (Time) to change the regular meeting time from 7:30P.M. to 7:00P.M. – from Community Development Director Turner. (MOTION)**

**Background/Discussion** – On February 8, 2022, the Planning Commission expressed an interest to amend the Planning Commission by-laws that would allow Planning Commission meetings to begin at 7:00P.M. Planning Commission meeting dates and start time are provided in by-laws Article 3, Section 3.00. Per this section, meetings are to begin at 7:30P.M. At the February 8, 2022 meeting, staff indicated that the proposed change to Article 3 would be presented at an upcoming regular Planning Commission meeting.

At the Planning Commission’s March 22, 2022 regular meeting, staff presented a proposal to amend Article 3 (Meetings) to change the regular meeting time from 7:30P.M. No objection to the proposal were received from the Planning Commission. Staff stated that the proposed amendment would be considered by the Planning Commission at an upcoming regular meeting.

Attachment A includes the Planning Commission by-laws with the proposed amendment to Article 3, Section 3.00 that changes the meeting start time from 7:30P.M. to 7:00PM. This change would result in a Planning Commission meeting start time that is consistent with the City Council’s meeting start time. A consistent 7:00P.M. time would reduce potential community confusion for these public meetings.

As provided in the by-laws Article 12, Section 12.00 (Amendments), the by-laws may be amended, revised, or repealed by the affirmative vote of a majority of the Commission. If the Planning Commissions amends the By-laws, the revisions become effective at the next meeting.

The proposed amendments in Attachment A are submitted for the Planning Commission’s consideration. If there are no objections, at the next regular meeting, staff will submit a recommendation accept the proposed amendments.

**Action-** It is recommended that the Planning Commission, by motion, amend the Planning Commission By-laws Article 3 (Meetings), Section 3.00 (Time), as shown on the attached Exhibit A, to change the regular meeting from 7:30P.M to 7:00P.M.

Attachment A: Planning Commission By-Laws with Proposed Amendment

BY-LAWS OF THE PLANNING COMMISSION  
OF THE CITY OF NEWARK

ARTICLE I NAME

SECTION 1.00 NAME

The name of this Commission shall be the Planning Commission of the City of Newark hereinafter referred to as "Commission", as fixed by Ordinance No. 39 of the CITY OF NEWARK creating this Commission until changed by the City Council of the CITY OF NEWARK by ordinance or resolution.

ARTICLE 2 DUTIES

SECTION 2.0 DUTIES

This Commission shall perform any duties imposed upon it by ordinance, resolution, or special request, of the City Council of the CITY OF NEWARK in addition to all duties imposed by applicable state and federal law.

ARTICLE 3 MEETINGS

SECTION 3.00 TIME

The regular meetings of the Commission shall be held on the second and fourth Tuesdays of each month. However, when the day fixed for any regular meeting of the Commission falls on a day designated by law as a legal or national holiday or Christmas Eve, such meeting shall be automatically adjourned to the next day unless the conflicting meeting date is rescheduled to an alternate date by a consensus of the Commission. Time of said meetings shall be 7:~~00~~<sup>30</sup> P.M. (Amended, March 27, 2012, April 24, 2007 and June 7, 1988)

SECTION 3.01 PLACE

All regular meetings of the Commission shall be held in the Council Chambers, 37101 Newark Boulevard, Newark, unless otherwise noticed. (Amended, November 22, 1966) (Amended, March 24, 2015)

SECTION 3.02 ADJOURNED MEETINGS

The Commission may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the Secretary may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided in Section 3.03 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order of notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of adjournment. When a regular or adjourned regular meeting is adjourned as provided in this Section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by the by-laws or other rule. (Amended, July 8, 1980)

#### SECTION 3.03 SPECIAL MEETINGS

A special meeting may be called at any time by the Chairperson of the Commission, or by a majority of the members of the Commission, by delivering personally or by mail written notice to each member of the Commission and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the Commission. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes has filed with the Secretary of the Commission a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. (Amended, July 8, 1980)

#### SECTION 3.04 CANCELTION OF MEETINGS

In the absence of items under Hearings and Staff Reports as provided in Section 7.00, the Secretary may cancel any regular meeting. Notice of the canceled meeting shall be provided in the same manner as notice of a regular meeting.

(Added, March 27, 2012)

ARTICLE 4 OFFICERS

SECTION 4.00 OFFICERS

The officers of the Commission shall consist of a Chairperson, a Vice Chairperson and a Secretary. (Amended, July 8, 1980)

#### SECTION 4.01 ELECTION

The offices of Chairperson and Vice Chairperson shall be elective and the persons so elected shall serve for a term of one year or until their successor is elected. Elections shall be held annually at the first regular meeting after the City Council has made all appointments to any terms expiring in December. (Amended, July 8, 1980)

#### SECTION 4.02 SECRETARY

The Secretary shall be a department head of the staff of the City of Newark assigned to assisting the Commission and shall not be a member of the Commission entitled to vote. It shall be the duty of the Secretary to keep a record of all meetings of the Commission, to accept in the name of the Commission documents and correspondence addressed to it and to present all such correspondence to the Commission.

#### SECTION 4.03 CHAIRPERSON

It shall be the duty of the Chairperson to preside over all meetings of the Commission and the Chairperson shall have the right to vote on all questions. The Chairperson shall see that the laws of the City pertaining to activities of the Commission, and the rulings of the Commission are faithfully executed. The Chairperson shall sign all documents on behalf of the Commission after the same have been approved by the Commission and shall perform such other duties as may be imposed upon the Chairperson by the Commission. (Amended, July 8, 1980)

#### SECTION 4.04 VICE CHAIRPERSON

It shall be the duty of the Vice Chairperson to perform all the duties of the Chairperson in the absence of the Chairperson, with the same force and effect as if performed by the Chairperson. (Amended, July 8, 1980)

#### SECTION 4.05 CHAIRPERSON PRO TEM

If both the Chairperson and Vice Chairperson are absent, the Commission shall elect a Chairperson Pro Tem, who shall perform all the duties of the Chairperson. (Amended, July 8, 1980)

#### SECTION 4.06 SECRETARY PRO TEM

In the absence of the Secretary, the Commission may elect a Secretary Pro Tem.

### ARTICLE 5 QUORUMS

#### SECTION 5.0 QUORUM

A majority of the Commission shall constitute a quorum for the purpose of conducting business. (Amended, March 24, 2015)

#### SECTION 5.01 ABSENCE OF QUORUM

In the absence of a quorum the members present shall adjourn to an agreed upon time and place or adjourn to the next regular meeting.

### ARTICLE 6 AGENDA

#### SECTION 6.00 AGENDA

All reports, communications, documents or other matters to be submitted to the Commission shall be delivered to the Secretary as far in advance of each Commission meeting as time for preparation shall permit. The Secretary shall arrange a list of the matters to be brought before the Commission according to the order of business and furnish each member of the Commission with a copy of the agenda 24 hours in advance of the meeting. No matter may be considered by the Commission other than those matters on the agenda, without the consent of a majority of the Commission present at the meeting.

### ARTICLE 7 ORDER OF BUSINESS

#### SECTION 7.00 ORDER OF BUSINESS

All meetings of the Commission shall be open to the public and all persons shall be permitted to attend any meeting of the Commission. Promptly at the hour set by law on the day of each regular meeting, the members of the Commission and the Secretary shall take their regular places in the Council chambers and the business of the Commission shall be taken up for consideration and disposition in the following order:

1. Roll Call
2. Minutes
3. Written Communications
4. Oral Communications
5. Hearings
6. Staff Reports
7. Commission Matters
8. Adjournment

The regular order of business may be suspended by a majority of the members present.

#### ARTICLE 8 RULES OF DEBATE

##### SECTION 8.00 PRESIDING OFFICER MAY DEBATE AND VOTE, ETC.

The Chairperson may move, second and debate from the Chair, subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a Commissioner by reason of acting as the presiding officer. (Amended, July 8, 1980)

##### SECTION 8.01 GETTING THE FLOOR; IMPROPER REFERENCES TO BE AVOIDED

Every member desiring to speak shall address the Chair, and, upon recognition by the presiding officer, the member shall be confined to the question under debate, avoiding all personalities and indecorous language. (Amended, July 8, 1980)

##### SECTION 8.02 INTERRUPTIONS

A member, once recognized, shall not be interrupted when speaking unless it be to call that member to order, or as herein otherwise provided. If a member, while

speaking, be called to order, the member shall cease speaking until the question of order be determined, and, if in order, the member shall be permitted to proceed. (Amended, July 8, 1980)

SECTION 8.03      PRIVILEGE OF CLOSING DEBATE

The Commissioner moving the adoption of an action shall have the privilege of closing the debate.

#### SECTION 8.04 MOTION TO RECONSIDER

A motion to reconsider any action taken by the Commission may be made either during the same meeting or at a recessed or adjourned special meeting, or at a subsequent meeting, excepting that actions requiring public hearing notice or the consent of parties regarding conditions and requirements, may not be reconsidered in violation of known law, legal procedures, or the legal or civil rights of applicants or the general public. If made at the same meeting or at a recessed or adjourned special meeting, such motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time thereof and have precedence over all other motions, or while a member has the floor it shall be debatable. If made at a subsequent meeting other than a recessed or adjourned special meeting, such motion may be made by any member. (Amended, July 8, 1980)

#### SECTION 8.05 REMARKS OF COMMISSIONERS WHEN ENTERED IN MINUTES

A member of the Commission may request, through the presiding officer, the privilege of having an abstract of the member's statement on any subject under consideration by the Commission entered in the minutes. If the Commission consents thereto, such statement shall be entered in the minutes. (Amended, July 8, 1980)

#### SECTION 8.06 SYNOPSIS OF DEBATE WHEN ENTERED IN MINUTES

The Secretary may be directed by the presiding officer, with consent of the Commission, to enter in the minutes a synopsis of the discussion on any question coming regularly before the Commission.

### ARTICLE 9 ADDRESSING THE COMMISSION

#### SECTION 9.00 PERMISSION OF COMMISSION

Any person desiring to address the Commission may do so at the time designated by the presiding officer. Any person desiring to address the Commission at a time other than that designated as "Hearings" and "Oral Communications" may do so only after first securing permission of a majority vote of the Commission present.



## SECTION 9.01 ADDRESSING THE COMMISSION AFTER MOTION MADE

After a motion is made by the Commission, no person shall address the Commission without first securing the permission of a majority of the Commission present to do so.

## SECTION 9.02 MANNER OF ADDRESSING COMMISSION; TIME LIMIT

Each person addressing the Commission shall step up before the Commission, shall give his or her name and address in an audible tone of voice for the records, and unless further time is granted by a majority of Commission present, shall limit his or her address to the time limit currently in effect to address the City Council. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than a Commissioner and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Commission, without the permission of the presiding officer. No question shall be asked a Commissioner except through the presiding officer. (Amended, July 8, 1980) (Amended, March 24, 2015)

## ARTICLE 10 VOTING

### SECTION 10.00 SILENCE CONSTITUTES AFFIRMATIVE VOTE

Unless a member of the Commission states that he or she is not voting, the member's silence shall be recorded as an affirmative vote. (Amended, July 8, 1980)

## ARTICLE 11 DECORUM

### SECTION 11.00 BY COMMISSION MEMBERS

While the Commission is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay nor interrupt the proceedings or the peace of the Commission nor disturb any member while speaking, or refuse to obey the orders of the Commission or its presiding officer, except as otherwise herein provided.

### SECTION 11.01 PERSONS

Any person making personal, impertinent, or slanderous remarks, or who shall become boisterous while addressing the Commission or otherwise shall be forthwith, by the presiding officer, barred from further audience before the Commission unless permission to continue be granted by a majority vote of the Commission.

## ARTICLE 12 AMENDMENTS

### SECTION 12.00 AMENDMENTS

These by-laws may be amended, revised, or repealed by the affirmative vote of a majority of the Commission. Proposed amendments, revisions, or repeal must be submitted at a regular meeting of the Commission and may not then be voted upon until the next regular meeting. (Amended, March 24, 2015)