



CITY OF NEWARK

Planning Commission

City Hall, City Council Chambers

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

MINUTES

Tuesday, August 9, 2022

A. ROLL CALL

Chair Becker called the meeting to order at 7:00pm. All members of the Planning Commission were in attendance: Commissioner Aguilar, Vice-Chair Fitts, Chair Becker, and Commissioner Bogisich.

B. MINUTES

B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, July 12, 2022

MOTION APPROVED

Commissioner Bogisich moved, Vice-Chair Fitts seconded, to approve the Minutes of the regular Planning Commission meeting on July 12, 2022. The motion passed **3 AYES - 1 ABSENTION** (Commissioner Aguilar was absent on the Planning Commission meeting of July 12, 2022).

C. WRITTEN COMMUNICATIONS

None.

D. ORAL COMMUNICATIONS

None.

E. PUBLIC HEARINGS

E.1 Public hearing to consider a resolution recommending approval of a Conditional Use Permit U-2022-001. This is for a temporary commercial entertainment use Fear Overload Haunted House, located at 2086 New Park Mall, Suite #1149, and the APN number is 901-111-25.

Associate Planner (AP) Joseph Balatbat gave a presentation including the project description, zoning code conformance, the site plan, the floor plan, the Conditional Use Permit (CUP) required findings, the California Environmental Quality Act (CEQA) Exemption, and the staff recommendation for approval.

As presented by AP Balatbat, Nathan Polanco is the applicant from Fear Overload LLC, and the project site has the Regional Commercial general plan land use classification within the New Park Place Specific Plan Overlay District. The applicant, he continued, is asking the Planning Commission to approve a Conditional Use Permit (CUP) for a short-term commercial entertainment use inside the mall. This use would be open on selected days for a total of thirty (30) days, from September 24, 2022, to November 5, 2022, with varying hours of operation. The planned project, would occupy an existing 7504 square-foot tenant space and is subject to temporary use rules in the zoning code. AP Balatbat explained that the applicant would have three security guards on slow nights and eight security guards on busy nights, depending on the days of operation. These security personnel, which would include members of New Park Mall Security and the applicant's security team, would be trained to respond in an emergency and to ensure that the haunted house attraction operates in a secure and efficient way. According to AP Balatbat, there would be adequate parking space at the mall for attendees, who may park in front of the former Sears building because it is now empty and underutilized as well as in the 24-Hour Fitness parking area. AP Balatbat also explained that the internal operation would consist of a walk-through attraction filled with Halloween related themes. The applicant is calculating an approximate attendance of 450 customers during peak nights, and about 200 customers on non-peak nights. There would be approximately 25 seasonal workers in all, and there would be about 95 people who could enter the building simultaneously between customers and employees. The project is subject to building and fire code requirements, and as part of the conditions of approval the applicant will need to show proof of compliance with the maximum occupancy allowance in the building which will be addressed at the time the building and fire permits are submitted. Per AP Balatbat, the applicant is proposing to install wood partitioned walls for the forming areas which will require a building permit, but no exterior improvements will be done. A similar use was located at the San Leandro Bayfair Center, and AP Balatbat stated that he contacted the City of San Leandro Planning Division about the use, and he was informed that the city had no issues with the event, and he received positive comments from the Planning staff from the City of San Leandro. Because the San Leandro Bayfair Center is undergoing renovations, the applicant is suggesting having the event at the New Park Mall. AP Balatbat stated that based off the staff analysis the CUP findings for this project can be made in the affirmative since it complies with the zoning district and other applicable provisions of the

new work municipal code section 17.35.060. He also added that the project is exempt from CEQA, Article 19, section 15301, and for Article 5, section 15061 B3, so no additional environmental reviews are required. AP Balatbat concluded his presentation by saying that staff recommends the Planning Commission to approve by resolution the CUP U2022-001, as requested by the applicant and based on the findings provided. He also noted that the applicant was available virtually for any questions.

Chair Becker thanked AP Balatbat and asked if anyone in the Commission had any questions.

Commissioner Aguilar commented that about a year ago, the Commission approved a project for a redevelopment where Sears is currently at. He continued by asking if there was going to be any impact with the applicant parking and the Sears redevelopment.

Deputy Community Development Director (DCDD) Art Interiano responded that the applicant is still working with utilities and obtaining some permits, which has taken longer than anticipated, and the applicant will start breaking ground near the end of the year, which would not conflict with the project in discussion.

Commissioner Fitts commented on the parking issue by stating that he went there and looked and walk at the property and noticed that there is a lot of cars parked in front of 24-Fitness, so he asked if the applicant could place signage suggesting people to park over by Sears and going through the entrance on the other side of 24-Hour Fitness, because that parking lot is almost filled all the time. Commissioner Fitts also asked if there would be a conflict with the hours of operation since this event will be there longer than the mall hours of operation.

Because that was also a concern with city staff, AP Balatbat replied that he had spoken with representatives of the mall's owner, Brookfield. He explained that the concerns could be successfully addressed because the applicant's security team and the mall's security team would collaborate to ensure that customers are escorted out properly and to prevent individuals from wandering off in the mall when this one is already closed.

In regards to the signage inquiry from Commissioner Fitts, DCDD Interiano said that they could recommend the applicant to talk to his security team that if additional parking is needed besides the one specified in the plans, to direct people to use the extra parking to the north of those parking roads instead of closer to the restaurant and the 24-Hour Fitness.

Chair Becker asked if anyone else in the Commission had any questions. No one had any more questions.

Chair Becker opened the public hearing and stated that traditionally the Commission begins with the applicant. He continued by asking if the applicant, Mr. Polanco, was available or in zoom.

CDD Steven Turner responded that Mr. Polanco was available through Zoom, and he activated his ability to speak virtually.

The applicant greeted everyone virtually.

Chair Becker asked the applicant if he had read the resolution and if he agreed to all the conditions. The applicant answered that he had read it and he agreed to all the conditions.

Chair Becker asked if anyone in the audience wished to speak on the item. No one spoke. Chair Becker then asked CDD Turner if anyone else via Zoom besides Mr. Polanco wished to speak. CDD Turner said that no speakers on Zoom were available.

Chair Becker closed the public hearing.

Chair Becker asked if the Commission had any additional questions.

Commissioner Fitts asked the applicant if there had been any police issues or occurrences there in the past that raised concerns for the neighborhood because the event had previously been held at the Bayfair Mall but is no longer there. The applicant answered that they have been at Bayfair Mall for thirteen (13) years in a row, and that they have never been involved in a lawsuit or anything similar or had never had any issues with the police.

Commissioner Bogisich pointed out that in the application it states the event is going from September to November, so she asked if that meant thirty (30) days anywhere in there or a month.

DCDD Interiano responded that the staff interpreted it as a maximum of thirty (30) days. Chair Becker commented that it is typically the definition of temporary use that goes thirty (30) days.

Chair Becker asked if there was any other question by the Commission. There were no more questions by the Commission.

Chair Becker motioned to approve by resolution the conditional use permit recommended by staff.

Staff Recommendation: Staff recommends that the Planning Commission approve, by resolution, **Conditional Use Permit U-2022-001**, as requested by the project applicant, based on the findings provided in the staff report, Attachment 3- Draft Resolution.

Commissioner Bogisich moved to approve the motion recommended by staff. Commissioner Aguilar seconded the motion.

Chair Becker requested to vote. Chair Becker announced the motion passed; **4 AYES- 1 ABSENT (Commissioner Debbie Otterstetter, retired)**.

F. Staff Reports

None.

G. COMMISSION MATTERS

G.1 Report on City Council actions.

None.


H. PLANNING COMMISSIONER COMMENTS

None.

I. ADJOURNMENT

Chair Becker adjourned the regular Planning Commission meeting at 7:27 pm.

Respectfully submitted,



STEVEN TURNER
Secretary