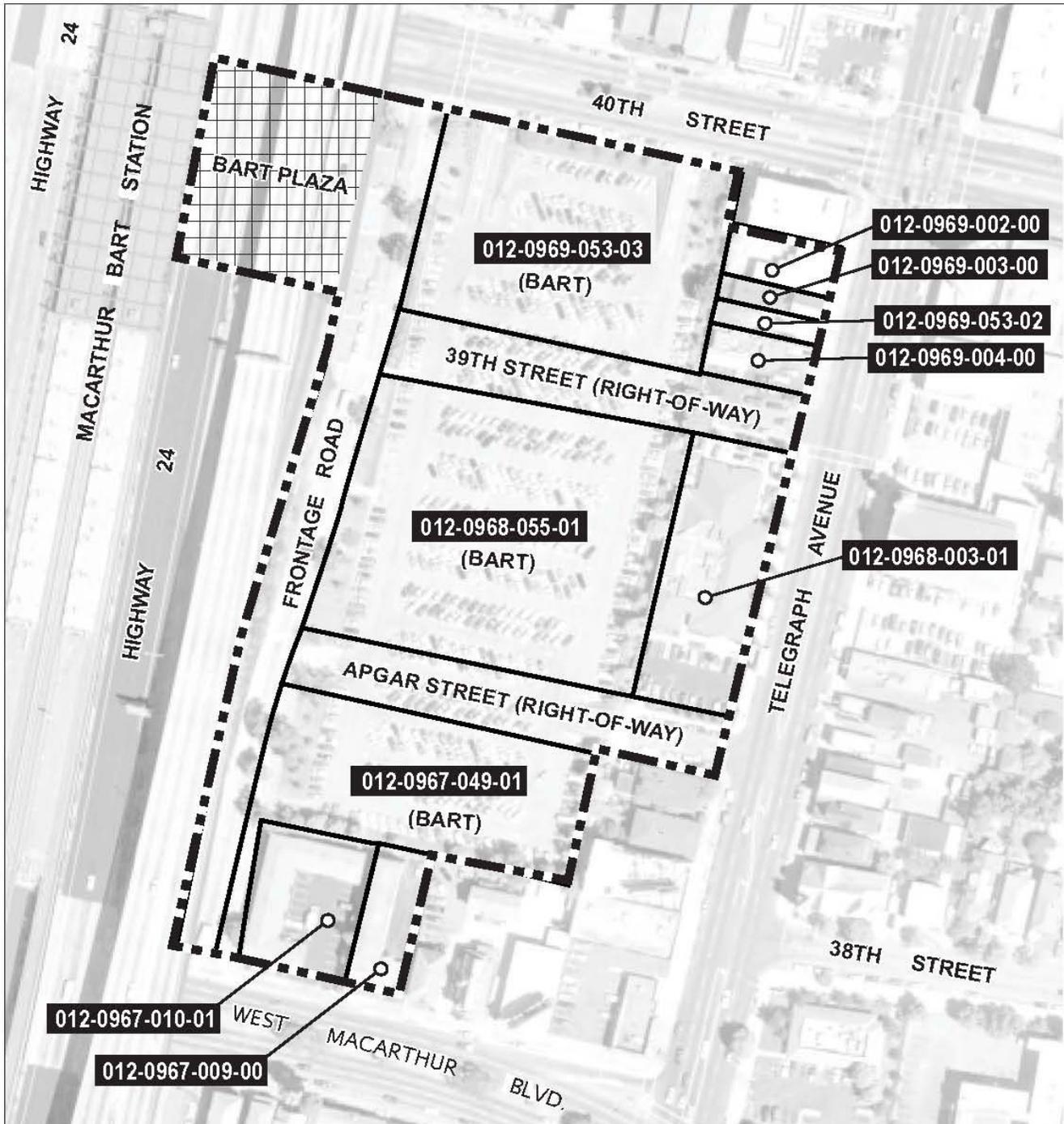


Location:	Multiple parcels immediately adjacent to the MacArthur BART Station; on the west side of Telegraph Avenue Street between 40th Street and West MacArthur Boulevard (see map on reverse and Table 2 below)
Assessors Parcel Numbers:	012-0969-053-03, 012-0968-055-01, 012-0967-049-01, 012-0969-002-00, 012-0969-003-00, 012-0969-053-02, 012-0969-004-00, 012-0968-003-01, 012-0967-009-00 & 012-0967-010-00
Proposal:	Construct the MacArthur Transit Village project: 5 new buildings containing 624 residential units, 42,500 square feet of commercial space (including live/work and flex space), a 300-space parking garage for BART patrons, and approximately 680 parking spaces for the residential and commercial units (residential parking provided at a 1:1 ratio).
Applicant:	MacArthur Transit Community Partners (MTCP)
Contact Person	Joseph McCarthy (510) 273-2009
Owner:	Multiple property owners
Planning Permits Required:	Rezone (from C-28, Commercial Shopping Zone and R-70, High Density Residential Zone to S-15, Transit-Oriented Development Zone), Zoning Text Amendment relating to S-15 Open Space Requirements, Development Agreement; Planned Unit Development (PUD) Permit, Design Review, Conditional Use Permit (CUP) to exceed parking requirements for residential uses and to allow off-street parking to serve non-residential land uses, and Tree Removal Permits for removal of 67 protected trees.
General Plan:	Neighborhood Center Mixed Use
Zoning:	C-28 (parcels on Telegraph Avenue and West MacArthur Boulevard), R-70 (BART parking lot parcels) and S-18 Mediated Design Review Combining Zone (entire site)
Environmental Determination:	A Draft Environmental Impact Report (EIR) was published on January 31, 2008; Final EIR is being prepared.
Historic Status:	No CEQA historic resources are affected by the project; none of the existing buildings on-site are considered CEQA historic resources and none of the buildings on the project site are within, or are contributors to, a historic district.
Service Delivery District:	Service District 2
City Council District:	1
Date Filed:	October 5, 2007 (revised submittal; original submittal February 5, 2006)
Status:	Workshop on Preliminary Development Plan; the project, along with certification of the EIR, will be considered by the Planning Commission at a future public hearing.
Action to be Taken:	No formal action; Receive public and Commission comments about the design and merits of the proposed project.
Staff Recommendation:	Take public testimony concerning the design and merits of the proposal and provide direction to staff and the applicant.
Finality of Decision:	No decision will be made on the project at this time.
For Further Information:	Contact the case planner, Charity Wagner , at (415) 730-6718 or by e-mail at clwagner@rrmdesign.com



SUMMARY

The purpose of this report is to provide an outline of the project components and key issues to facilitate preliminary comments on the proposed MacArthur Transit Village project. The project involves demolition of the existing BART surface parking lots and all existing buildings on the project site to allow for the construction of a new mixed-use, transit village development project. The transit village includes five new buildings that would accommodate 624 residential units, 35,500 square feet of neighborhood-serving retail and commercial uses, 8 live/work units, a 5,000 square feet community center use and 300-space parking garage for BART patrons. Parking for residential units (at a 1:1 ratio) would be provided within each individual building, and approximately 30 commercial parking spaces would be provided in Building A. The transit village also includes creation of two new streets: Village Drive would provide an east/west connection in between Telegraph Avenue and the BART Plaza and 40th Street; and Internal Street would provide north/south connection from Village Drive to the southern edge of the project. Additionally, the Frontage Road would be reconfigured to allow continued access by shuttle operators and BART patrons.

Staff determined that an Environmental Impact Report (EIR) was needed for this project. The MacArthur Transit Village Draft EIR was published on January 31, 2008 and the public comment period closed on March 17, 2008. The Response to Comments Document (RTC), which together with the Draft EIR will become the Final EIR, is currently being prepared. The Draft EIR and RTC Document will be considered by the Planning Commission at the same meeting it considers the proposed project.

BACKGROUND

Since 1993, the City has been working with BART and the MacArthur BART Citizens Planning Committee (“CPC”), comprised of community residents and representatives of neighborhood organizations, in a planning process for the development of the MacArthur Transit Village. After the previously selected project developer, Creative Housing Associates, failed to perform under their Exclusive Negotiating Agreement (“ENA”) with the Agency in 2003, the Agency and BART selected a new development team for this project in April 2004 through a competitive Request for Proposals process. This development team, MacArthur Transit Community Partners, LLC (MTCP), is a limited liability company that consists of a partnership between McGrath Properties (formerly known as Aegis Equity Partners) and BUILD (BRIDGE Urban Infill Land Development, LLC).

The MacArthur BART Citizen's Planning Committee (CPC) was created to assist the City and BART in the development of the MacArthur BART station. The CPC is made up of community members that live in the neighborhood surrounding the BART Station. Since being chosen in April 2004, MacArthur Transit Community Partners (MTCP) has met regularly with the MacArthur BART CPC to discuss and receive comments on the development. A partial list of project meeting activity over the past four years is provided below:

- November 15, 2004, MacArthur BART Citizen's Planning Committee
- May 18, 2005, MacArthur BART Citizen's Planning Committee
- November 9, 2005, MacArthur BART Citizen's Planning Committee
- February 16, 2006, Mosswood Park Neighbors
- February 22, 2006, MacArthur BART Citizen's Planning Committee
- March 15, 2006, Planning Commission EIR Scoping Meeting
- September 26, 2006, 38th Street Neighbors
- October 5, 2006, MacArthur BART Citizen's Planning Committee
- September 11, 2007, Mosswood Park Neighbors
- September 12, 2007, Beebe Memorial Church Members
- November 1, 2007, MacArthur/Broadway/San Pablo Redevelopment Project Area Committee
- November 5, 2007, 38th Street Neighbors
- November 12, 2007, West Street Watch
- December 12, 2007: Design Review Committee (review and comment on PDP)
- February 7, 2008, MacArthur BART Citizen's Planning Committee
- March 5, 2008, Planning Commission Meeting to take comments on Draft EIR
- April 17, 2008, Bicycle and Pedestrian Advisory Committee

PURPOSE OF THE MEETING

The purpose of today's meeting is to hear comments from the public and the Planning Commission concerning the design and merits of the proposal. No action will be taken at today's hearing. The decision of project entitlements will occur at a future hearing in front of the Planning Commission. Staff requests that Planning Commission review and comment on the permits required, overall project design and project merits. Additionally staff requests that the Planning Commission take comments from the public on these same items and then provide direction to staff and the applicant regarding any additional information/analysis that the Commission would like to see prior to the meeting to take action on the proposed project. Staff anticipates the following meeting dates for this project:

- May 21, 2008, Planning Commission Meeting to take action on the proposed project;
- June 10, 2008, City Council CED Committee Meeting;
- June 17, 2008, City Council/Redevelopment Agency Hearing; and
- July 15, 2008, City Council/Redevelopment Agency Meeting (second reading of ordinances).

Implementation of the project is heavily reliant on State Grant Funds (Prop 1C and TOD applications), which require timely action on the Preliminary Development Plan and related actions. Staff would like to use this workshop to open up the dialogue with the Commission and the public regarding the project merits and entitlements requested, so that the Commission has increased knowledge of the project and is better prepared to act on the project when it returns to the Commission in May.

PROPERTY DESCRIPTION

The project site is located in North Oakland, within the area bounded by 40th Street, Telegraph Avenue, West MacArthur Boulevard, and State Route 24. The project site includes the BART parking lot, the BART plaza, Frontage Road between West MacArthur Boulevard and 40th Street, and seven privately owned parcels. The project area includes the majority of the block on Telegraph Avenue between West MacArthur Boulevard and 40th Street; however, several parcels within this block are not included within the project site (see map on page 2). Table 1 shows the parcels within the project site.

Table 1: Project Site Parcels

Address	Assessor Parcel Number	Current Use	Acreage (Acres)
532 39 th Street	012-0969-053-03	BART Parking	1.61
516 Apgar Street	012-0968-055-01	BART Parking	2.07
515 Apgar Street	012-0967-049-01	BART Parking	1.12
3921 Telegraph Avenue	012-0969-002-00	Braids By Betty	0.15
3915 Telegraph Avenue	012-0969-003-00	Chef Yu Restaurant	0.06
3911 Telegraph Avenue	012-0969-053-02	Abyssinia Market	0.06
3901 Telegraph Avenue	012-0969-004-00	Lee's Auto	0.11
3875 Telegraph Avenue	012-0968-003-01	Medical Offices	0.61
526 W. MacArthur Boulevard	012-0967-009-00	Hotel	0.20
544 W. MacArthur Boulevard	012-0967-010-00	Hotel	0.17
39 th Street, between Telegraph Ave. and Frontage Rd.	--	BART Parking	0.62
Apgar Street, between Telegraph Ave. and Frontage Rd.	--	BART Parking	0.60
Total Acres			7.38

There are a variety of land uses surrounding the site. Beebee Memorial Cathedral, commercial, and residential uses are located to the east across Telegraph Avenue from the project site. To the north of the project site, across 40th Street, are residential and commercial uses. Residential and commercial uses also extend further north of the project site along Telegraph Avenue. State Route 24, and the BART tracks, are located immediately west of the project site. A residential neighborhood that includes a mix of densities is located further west. The State Route 24/Interstate 580 interchange is located southwest of the project site. Commercial uses are located to the south of the project site, across West MacArthur Boulevard.

PROJECT DESCRIPTION

The proposed project would involve demolition of the existing structures and the construction of five buildings (labeled A-E on the project drawings) on the project site, including three mixed-use buildings with ground floor retail spaces and residential units on upper floors, one entirely residential building and one parking garage. The proposed project also includes construction of two new streets (Village Drive and Internal Street) and maintenance of the Frontage Road within the project area. Village Drive and Internal Street would provide access to new structures within the project, and increased access to the BART station.

Increased and enhanced access to the BART station is a key component of the proposed project. Village Drive, the main pedestrian and vehicular access to the project, is envisioned as a lively pedestrian street with shops and service uses that include outdoor displays and seating areas. The project also includes a new public plaza immediately east of the BART plaza and fare gates. The transit village plaza would include outdoor seating, landscaping, and other activity to provide a sense of arrival to the project, especially for BART patrons as they enter and exit the station. Internal Street, which provides access to a majority of the residential units, is envisioned as a neighborhood street. Residential units would front onto Internal Street with stoops and front porches.

Table 2 and the text below provide a summary of the proposed buildings and uses within the project. The project drawings for the proposal are attached to this report (see Attachment A).

Table 2: Summary of Proposed Development

Building	Residential Units/Affordable Units	Live/Work Units	Retail SF ^b	Community SF	Building Height (Feet)	Number of Stories	Parking Spaces
A	213/7	3	23,500	--	50-85	4/6	242
B	132/5	2	5,000	--	55-80	6	134
C	189/6	3	9,000	5,000	55-70	5/6	189
D	90/90	--	--	--	45-65	5	91
E	--	--	5,000	--	68	6	324
Total	624/108	8	42,500¹	5,000	--	--	980²

¹ Retail area shown in table includes square footage of live/work units.

² Parking shown in table does not include the proposed 44 on-street parking spaces.

Building A. Building A ranges in height from a four- to six-story building and is located in the northeast corner of the project site with frontage on 40th Street, Telegraph Avenue, Village Drive. Building A is a mixed-use building with 23,500 square feet of commercial space located on the ground floor and 213 for-sale market-rate condominiums, and seven for-sale below-market rate condominiums on the upper floors. Of the 23,500 square feet of commercial space, 3,000 square feet, would be “flex spaces” on Village Drive and 3,000 square feet of “flex space” on 40th Street. Flex spaces may be occupied by live/work units, retail uses and/or community space for residents (i.e., gym or recreation room) in the buildings in which the flex space is located. Parking for Building A is provided in two-level parking garage. The lower level of the parking garage is entirely below grade and the second level is above grade at the street level. The parking at the street level is wrapped by commercial area so the parking is not visible from the street. Access to the condominium units is provided by internal courtyards and vehicular access to the parking garage under Building A is provided by a driveway on Village Drive.

Building B. Building B is a six-story building located along the western edge of project site, south of Village Drive and adjacent to the shuttle access road with building frontage on Village Drive, Entry Drive and the proposed north/south internal street. Building B is a mixed-use building with 3,500 square feet of commercial space and 1,500 square feet of “flex space” on the ground floor, 132 for-sale market-rate condominiums and five below-market rate for-sale condominium units located throughout on all floors. Residential condominium units would be located on the upper floors of Building B and on the ground floor adjacent to the internal street. Parking for Building B is provided in two-level parking garage. The lower level of the parking garage is entirely below grade and the second level is above grade at the street level. The parking provided at street level is wrapped by commercial area and residential units so the parking is not visible from the street from Village Drive or Internal Street. The street level parking area is visible from Frontage Road. Access to the condominium units is provided by internal courtyards and individual unit entrances that front onto the internal street. Front entrances with stoops and small porches are envisioned along the internal street frontage of Building B. Vehicular access to the parking garage under Building B is provided by a driveway on the internal street.

Building C. Building C is a five- and six-story building located along the eastern edge of the project site at the southwest corner of Telegraph Avenue and Village Drive. Building C is a mixed-use building with 6,500 square feet of commercial space and 2,500 square feet of “flex space” on the ground floor, 189 market rate condominiums and five below-market rate residential condominium units on the upper floors. Building C also includes 5,000 square feet of community-serving space located on the ground floor. The 5,000 square feet of community space is accompanied by a 2,000 square foot outdoor play area as the

applicant is currently considering that a private childcare provider may occupy the community space. Residential condominium units would be located on the upper floors of Building C and on the ground floor adjacent to the internal street. Access to the condominium units is provided by internal courtyards and individual unit entrances that front onto the internal street. Parking for Building C is provided in two-level parking garage. The lower level of the parking garage is entirely below grade and the second level is above grade at the street level. The parking provided at street level is wrapped by commercial area and residential units so the parking is not visible from the street. Vehicular access to the parking garage under Building C is provided by two driveways on the internal street.

Building D. Building D is a five-story building (with a below-podium parking garage) located along the western edge of the project site (directly south of Building B) with building frontage on the internal street and the Frontage Road. Building D is an entirely residential building with 90 for-rent, below-market-rate (affordable) apartment units. Building D would include a community room with a kitchen and shared laundry facilities for use by apartment tenants. Parking for Building D is provided in single-level, below grade parking garage. Access to the apartment units would be provided via internal courtyards and vehicular access to the parking garage under Building D is provided by a driveway on the internal street.

Building E. Building E is a six-story parking garage located at the southwest corner of the project site with frontage on West MacArthur Boulevard and Entry Drive. The garage would accommodate 300 parking spaces for BART patrons and the ground floor would include 5,000 square feet of commercial space. The commercial space would front onto West MacArthur Boulevard. Pedestrian access to Building E would be located on West MacArthur Boulevard, Entry Drive and the internal street. Vehicular access to the Building E would be provided by a two-way driveway on Entry Road which vehicles would access via West MacArthur Boulevard.

Site Access and Circulation. Several circulation improvements are proposed for the project site. Three internal roadways would be constructed as part of the proposed project: Frontage Road, Village Drive, and an internal north/south street off of Village Drive. New sidewalks, bicycle paths, and streetscape improvements would be constructed.

Frontage Road. The existing Frontage Road would be replaced, but remain in the same location as the existing Frontage Road, which is parallel to State Route 24, it extends from 40th Street to West MacArthur Boulevard. Frontage Road is a two-way road for the segments between 40th Street and Village Drive and between West MacArthur Boulevard and the Parking Garage driveway. South of the Frontage Road/Village Drive intersection, and before the Parking Garage, vehicular access would be limited to emergency vehicle access, southbound shuttle operators, and building services. The majority of traffic at this section of Frontage Road would be shuttles traveling southbound between 40th Street and West MacArthur Boulevard. Additionally, the intersection of Frontage Road and West MacArthur Boulevard provides access to and from the Parking Garage (Building E) and vehicles can also access Frontage Road at the Village Drive intersection to exit onto 40th Street. Sidewalks would be provided along the west side of Frontage Road and bicycle lanes would be included on Frontage Road.

Village Drive. Village Drive would be a two-way, two-lane road between Telegraph Avenue and the Frontage Road. It is anticipated that Village Drive would be open to vehicular traffic and pedestrian, as well as patrons who use kiss-and-ride. On-street parking and kiss-and-ride loading and unloading areas would be provided on Village Drive. Village Drive also includes large sidewalks because it is envisioned as the main pedestrian connection through the project site. Ground floor commercial and live-work units in Buildings A, B and C would be oriented to face Village Drive with pedestrian scale retail uses with outdoor seating areas and retail displays at the transit village plaza (across from the BART plaza) and on Telegraph Avenue.

Internal Street. An internal two-way street is proposed south of Village Drive. The internal street would provide vehicular access to Buildings B, C, and D. The internal street is not a through street; a turn-around area is provided at the terminus of the street. On-street parking and sidewalks are proposed for both sides of the internal street at the southern edge of the project site. The internal street is envisioned as a residential street (no commercial space would front onto the internal street). Residential unit entrances (including stoops and small porches) would face onto the internal street. The primary pedestrian access to the internal street would be from Village Drive, but a pedestrian pathway located along the east elevation of the parking garage (Building E) would allow also pedestrians and bicyclists to access the internal street from West MacArthur Boulevard.

Parking. Parking for residential units would be provided at a 1 space per 1 unit ratio within each of the mixed-use and residential buildings. The S-15 zone requires only ½ space per unit. Approximately 30 parking spaces for commercial uses would be provided within the parking garage in Building A. The S-15 zone does not include specific parking ratios for commercial uses. Parking would be permitted on Village Drive and Internal Street. Approximately 45 on-street parking would be available on the project site. Parking for BART patrons would be provided in the BART parking garage (Building E).

REQUESTED APPROVALS

This project, like many major projects in Oakland, will be processed through two phases of project approvals. This first phase of approvals includes the EIR, Rezone to S-15, Text Amendment relating to S-15 Open Space Requirement, Development Agreement, Planned Unit Development (PUD) with Preliminary Development Plan (PDP), Conditional Use Permit (CUP) to exceed residential parking requirements and to allow off-street parking for non-residential land uses, Design Review and Tree Removals. The second phase of approvals would include the Final Development Plans and Vesting Tract Maps. The following discussion describes each of the permits requested.

EIR

The proposed project includes certification of the MacArthur Transit Village EIR. The Draft EIR was published on January 31, 2008 and the 45-day public comment period ended on March 17, 2008. A total of 22 comment letters were received during the comment period. Staff is currently preparing the Response to Comments Document, which together with the Draft EIR, will be the Final EIR that the Commission must consider before the requested project approvals. The Draft EIR was discussed at the March 5, 2008, Planning Commission meeting (the staff report for the March 5th meeting is included in this report as Attachment B).

Rezone

The proposed project includes rezoning of all parcels in the project area. The parcels that are currently developed with BART surface parking are zoned R-70, Residential High Density and the other parcels in the project area (with frontage on Telegraph and West MacArthur) are currently zoned C-28, Commercial Shopping Zone. Additionally, all of the parcels in the project area are currently located in the S-18, Mediated Design Review Overlay Zone. As part of the project, all parcels would be rezoned S-15, Transit-Oriented Development (TOD) Zone. The project includes rezoning to the S-15 Zone because the current zoning would not allow the proposed project; the S-15 Zone is a “best fit” zone for the existing General Plan Land Use Designation of Neighborhood Center Mixed Use; the proposed project is a TOD project immediately adjacent to a BART station, and proposed zoning of S-15 is intended for TOD projects. The proposed project is consistent with the development standards of the S-15 Zone, with the exception of maximum permitted height and minimum required open space. As described below, the project includes a text amendment to modify the open space requirements in the S-15 Zone and a PUD bonus to permit an increase in the permitted building height.

Text Amendment

The proposed project includes a staff-initiated Zoning Text Amendment to modify the minimum open space requirement in the S-15 Zone. The Zoning Text Amendment would reduce the minimum open space requirements in the S-15 Zone from 180 square feet per unit (150 sq.ft. group open space and 30 sq.ft. private open space) to 75 sq.ft. of open space, which is consistent with the open space requirement for residential projects in the City’s Downtown Open Space Combining (S-17) Zone. The text amendment to reduce open space is intended to further the goals of TOD by increasing design flexibility for open space by removing the separate group and open space standards and encourage increased density. The text amendment would apply to all properties zoned S-15. Currently, there are only two areas of the City that are zoned S-15: parcels adjacent to Fruitvale BART station and parcels adjacent to West Oakland BART station. Staff has surveyed other cities to determine how open space requirements are regulated in high density, TOD, and mixed-use zones within other agencies. The Cities of San Francisco, Berkeley and Emeryville apply a 40 to 80 square foot per unit requirement on new residential development in mixed-use, TOD and high-density zones. The proposed text amendment is intended to reduce the S-15 Zone requirements for open space to be consistent with the City’s current standard for open space in downtown residential projects.

The Preliminary Development Plans show that the project would provide approximately 60,000 square feet of group open space (approximately 95 sq.ft. per unit) within court yards and the open space plaza. The project’s open space would increase as the plans are more defined with the size and location of balconies.

Development Agreement

The proposed project includes a Development Agreement (DA) between the City and the project applicant. The project applicant requests adoption of a DA to provide vesting rights for the proposed project. The project approvals requested at this phase, would not vest the approval of the project for any extended period of time. The applicant requests a DA to allow the life of the requested approval to be extended to 15 years. In exchange for the extended vested rights, the applicant proposes community benefits including:

- Underpass improvements at West MacArthur and Highway 24 including lighting, street furniture and sidewalk improvements in effort to improve pedestrian connections from Martin Luther King Jr. Way to the BART station.
- Greenscape improvements on West MacArthur between the project boundary and Telegraph Avenue.

It should also be noted that as part of the project term sheet previously negotiated with the Redevelopment Agency, the project includes the following benefits:

- Development of affordable housing (17% of the total unit count);
- Compliance with the Agency’s Small/Local Business Enterprise, Local Employment, Apprenticeship, Prevailing Wage, First Source Hiring and Living Wage Programs;
- Execution of a Project Labor Agreement; and
- Payment of initial costs for implementation of a Residential Permit Parking (RPP) Program.

Staff and the project applicant are currently negotiating terms and conditions for the DA. It is anticipated that the negotiations will be completed prior to the Commission meeting to consider project approvals.

Planned Unit Development/Preliminary Development Plan

The proposed project includes approval of Planned Unit Development Permit (PUD). Provisions of the S-15 Zone (Sections 17.97.030 and 17.97.200) require approval of a PUD to allow development involving a BART station and for projects of more than 100,000 sq.ft. The purpose of the PUD is to ensure orderly

development and establish a vision for development of large projects. The PUD provisions require submittal of a Preliminary Development Plan (PDP). The PDP includes the proposal for site layout and design including circulation patterns, conceptual landscape designs and proposed building bulk, mass and height. The PDP does not represent final building design and architectural details for the proposed project; the Design Review Committee and Planning Commission consider these details as part of the Final Development Plan.

The project applicant has submitted a PDP package (see attachment A). The PDP includes site plans, elevations, floor plans, and landscaping plans for the proposed project as described on pages four to seven of this report. Prior to implementation of the proposed project, the applicant would be required to return to the Commission with Final Development Plans (FDP) that are consistent with the site layout, design and bulk, mass and height shown in the PDP package. Additionally, staff is working on design guidelines which would be imposed as a condition of approval for the project. These design guidelines will include design parameters as a tool for staff to use to ensure that the FDP is consistent with the vision and design concepts of the PDP package.

As previously mentioned, the proposed project complies with the development standards of the S-15 Zone, except for standards related to building height and minimum open space (see above for discussion of text amendment related to open space). The maximum building height in the S-15 Zone is 45 feet, or 55 feet provided one-foot of setback is provided for each one foot in height over 45 feet. As a bonus of establishing a PUD, the PUD provisions (Section 17.122.100 G) allow large projects to waive or modify the maximum building height to encourage integrated site design. Buildings within the proposed project range in height from 50 to 85 feet (see sheet A-1.0H of Attachment A for a building height diagram) and are consistent with the bonus provisions of the PUD regulations.

Design Review

The proposed project includes preliminary design review approval of the PDP package. This approval is limited to the building siting and bulk, mass and height of proposed structures. Detailed building design and architectural review would be considered with Final Development Plans. The Design Review Committee reviewed the proposed PDP package at their meeting on December 12, 2007 and they stated overall support for the preliminary development plans and felt that the conceptual project plans are moving in the right direction. As stated above, staff is working on design guidelines which would be imposed as a condition of approval for the project, which would be a tool for staff to use to ensure that the FDP is consistent with the vision and design concepts of the PDP package.

Major Conditional Use Permit

The proposed project includes a Major Conditional Use Permit (CUP) related to parking within the project area. The S-15 Zone requires ½ parking space per unit and the proposed project includes 1 parking space per unit. Provisions of the parking code (Section 17.166.290 (5)) require a CUP to provide parking in excess of the S-15 Zone requirements. Additionally, the S-15 does not require parking for commercial uses (Section 17.116.080) and the parking code (Section 17.166.290 (2)) requires a CUP to provide off-street parking for non-residential land uses. The proposed project includes approximately 25 off-street parking spaces within the parking garage in Building A. The proposed project requires a Major Conditional Use Permit to exceed the S-15 parking requirements for residential land uses and to provide off-street parking for non-residential land uses.

COMMUNITY CONCERNS

Staff has heard several items of concern from members of the community regarding this project. The following discussion includes key items of community concern that have been raised at community meetings and communications to staff. In addition to the concerns listed below, staff has also received

correspondence from members of the community in support of the proposed project. Written correspondence received by staff regarding the merits of this project (not including Draft EIR comment letters) is included in this report as Attachment C.

Parking

The proposed project includes a parking reduction from 600 to 300 BART patron parking spaces. Members of the community have voiced concern with regard to the parking reduction and the amount of parking proposed for residents, visitors and commercial patrons of the project. The majority of comments that staff has received relate to reduction of parking being a bad idea because the parking lot is currently over capacity, BART patron parking spills over into neighborhood streets, and the amount of parking proposed won't suit the needs of the residents, guests and commercial users of the project.

The proposed project would address the parking concerns in two ways: 1) the project would include the potential for a Residential Permit Parking Program that would extend ¼ mile radius around the project site; and 2) the project would require a Transportation Demand Management Program (TDM) Plan as part of the mitigation measures of the EIR.

The RPP Program would limit street parking to two hours for non-residents of the RPP Program area. However, it is difficult to ensure implementation of an RPP Program because the program requires a petition signed by 51 percent of the resident population in the proposed RPP area and is subject to City Council approval. Should the RPP Program be the desire of the resident population and the City Council, the project applicant has committed to funding the initial costs of an RPP Program as part of the project term sheet agreement with the Redevelopment Agency.

The project would also include a TDM Plan, as required per Mitigation Measures of the EIR. The TDM Plan will include measures to increase parking capacity (i.e., use of off-site lots, shared parking within the project area, valet parking in the BART garage, etc), measures to increase non-auto access to the BART Station by existing BART patrons, and measures to increase the overall use of the public transit. A draft TDM plan will be provided to the Commission at the meeting to consider project approvals.

Safety/Security

Members of the community have raised concern regarding safety and security of project residents and BART patrons. Some community members would like to see security cameras installed within the project. Staff has met with the Police Department and OPD has reviewed the PDP package. Both planning staff and OPD are concerned increased safety and security at and around the project site. The proposed project would include increased street lighting and would increase activity in the area and additional "eyes on the street" by adding commercial and residential space on the project street frontages. However, safe paths of travel to and from the project site are also a concern. Staff will continue to coordinate with the Police Department and anticipates that the PDP will include conditions of approval to promote safety and security at and around the project site.

Construction Noise

Some area residents have expressed concerns for construction noise and requested that noise barriers be constructed to help limit the noise during construction. The proposed project would be subject to the City's permitted construction hours, which are 7:00 a.m. to 7:00 p.m. Monday to Friday, except for extreme noise generating activity (i.e., pile driving) which is limited to 8:00 a.m. to 4:00 p.m. Monday to Friday. Some limited construction activity is permitted on Saturday and require authorization of the Building Services Division. No construction is permitted on Sunday or Federal holidays. Additionally, the project is required to prepare a set of site specific noise attenuation measures for review and approval by the City to further reduce extreme noise generating activity prior to any construction, demolition or grading activity.

Relocation/Removal of Existing Businesses

The project would require demolition of all structures on the project site; therefore, the existing businesses would have to move to a new location or be relocated within a portion of the project area. Some of the businesses that are currently operating on the project site have expressed concern about relocation or removal of their businesses as a result of the proposed project. This is a Redevelopment Agency sponsored project and as part of the acquiring the parcels within the project, the Agency is required to assist in the relocation of existing businesses. Additionally, the applicant has met with owner of the Lee's Auto Detailing and the owner of the 3-unit commercial building on Telegraph and is discussing the possibility of relocating these existing commercial tenants within project.

Furthering Division of Neighborhood on West Side of BART Station/Freeway

There is some concern among the community that the proposed project would further divide the community because the project area does not extend to the west side of freeway. The project area does not include property on the west side of the freeway and proposed improvements are limited to the east side of the freeway, with the exception of the proposed West MacArthur improvements as part of the DA (see discussion above). The City and BART have been working with the MacArthur BART CPC since 1993, and questions about options for improving pedestrian connections between the BART station and the west side of the freeway have long since been raised. In response to these concerns, the City and BART hired a consulting team to work with the MacArthur BART CPC to prepare a design plan to study improving the pedestrian and bicycle connection to the station and also the feasibility of building a second entrance to the station from the West Side in 2004. The resulting plan, the MacArthur BART Station West Side Pedestrian Enhancement Project, was sponsored by a Caltrans Environmental Justice Grant. The plan developed a list of potential streetscape improvements for 40th Street that were prioritized by the MacArthur BART CPC. The results of the second entrance study showed that it was not financially feasible, nor feasible from a security perspective, to have a second entrance to the station from the west due to the extended length of the tunnel that would be required to traverse the freeway underpasses. After completing the plan, the City applied for and received capital grant funding to implement the streetscape improvements on 40th Street, which are currently under construction. The streetscape improvements include enhanced pedestrian lighting both inside and outside of the underpass area, a bicycle lane, a traffic signal and new crosswalk that directly access the BART plaza on the west-side of the 40th Street and BART Frontage Road intersection, and artistic colored lighting and surface treatment improvements in the underpass.

Bike Access and Parking

Members of the community have expressed the desire to increase bike access to the station and to include a bike storage/parking facility within the project. The proposed project includes bike access on new roadways within the project, including 2-way bike access on the Frontage Road and bike parking would be provided within the project. Additionally, new bike racks and bike lockers will be added to the BART plaza as part of the BART Plaza improvements. The project applicant presented the project to the City's Bike and Pedestrian Advisory Committee (BPAC) at their meeting on April 17, 2008. The BPAC appreciated the fluidness of the plan's circulation, and requested that the project applicant keep in mind that safety and effectiveness of bike and pedestrian access at and around the project site.

Tree Removal

Members of the community have expressed concern with the removal of mature trees. All trees on-site, with the exception of the existing trees along Telegraph Avenue, would be removed as part of the proposed project (see plan sheet L-05 of Attachment A). Of the trees to be removed, 67 are classified as

protected trees and require approval of a tree removal permit.¹ As part of the tree removal permit, the project would be required to plant replacement trees. The PDP package includes a conceptual landscape master plan that includes new tree plantings within and around the project site. The conceptual landscape plan shows approximately 200 new trees to be planted as part of the project including trees along the west side of Telegraph, the south side of 40th Street, along Village Drive, along Internal Street, along Frontage Road, along West MacArthur Boulevard, adjacent to the BART plaza, within the transit village plaza and within the building courtyards. The conceptual landscape plans also include a preliminary plant list (see plan sheet L-06 of Attachment A). The plant list includes seven different tree species, and a variety of perennials, ground cover, shrubs vines and grasses.

Building Height & Proximity to Existing Building at Telegraph and 40th

The proposed project would include construction of two new buildings along Telegraph Avenue and one new building on 40th Street. The buildings on Telegraph Avenue (Buildings A and C) would be 55 to 75 feet in height with the tallest portion being the corner of Telegraph Avenue at Village Drive. The building on 40th Street (Building A) would be 60 to 80 feet in height. Some community members have expressed concern about building height on Telegraph Avenue and 40th Street. With regard to concerns about building height and proximity to existing buildings, staff has heard mostly from the building owner and tenants of the 3-story of the building at 505 40th Street, located at the southwest corner of Telegraph Avenue and 40th Street. 505 40th Street is approximately 50 feet tall, includes ground floor retail (currently vacant), dwelling units on the second and third floors and is immediately adjacent to the proposed project. The building owner and tenants at 505 40th Street have expressed concern about the height and building setback of Building A, which would be located just south and west of their building. Building A would range in height from 50 to 80 feet on the south side of 505 40th Street and 60 to 70 feet on the west side of 505 40th Street and be setback of 5 to 8 feet from the property line. The existing building at Telegraph and 40th is built to the property line, so there is concern that the proposed setback is not enough and that it should be increased so that the dwelling units will not be shadowed, or lose natural light and existing views. Neither the existing or proposed zoning requires a side setback, but staff appreciates the concern with respect to potential loss of natural light and air into the existing dwelling units. The project applicant has met with the building owner of 505 40th Street, and staff will continue to work with the project applicant to minimize the impacts related to natural light and air into the existing units at 505 40th Street. Additionally, it appears that the first floor of 505 40th Street and the existing commercial building to the south may be structurally attached. The City has a standard condition of approval that requires a demolition plan to be approved prior to any demolition activity on-site. Staff will expand this standard condition to include specific parameters for demo of existing 1-story commercial building so as not to harm the structural integrity of the existing building to remain at 505 40th Street.

CONCLUSION

Staff recommends that the Planning Commission take public testimony on the merits of the proposal and provide direction to staff and the applicant on any key areas of community concern, as well as, any additional information/analysis that the Commission would like to see when this item returns to the Commission for formal action in May.

¹ Section 12.36.020 of the Oakland Municipal Code defines Protected Trees as follows: On any property California or Coast Live Oak measuring four inches dbh or larger; and any other tree measuring nine inches dbh or larger except Eucalyptus and Monterey Pine. Additionally, all Monterey Pines are protected trees when on City property and in development-related situations where more than five Monterey Pine trees per acre are proposed to be remove.

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ATTACHMENTS:

Attachment A: Project Drawings

Attachment B: March 5, 2008 Planning Commission Staff Report for hearing on Draft EIR

Attachment C: Project Merit Correspondence (does not include comment letters on Draft EIR)