

EXHIBIT A

Certification of the EIR, CEQA Findings, and Statement of Overriding Considerations for the Approval of the MacArthur Transit Village Project

Planning Commission Hearing

June 4, 2008

I. INTRODUCTION

1. These findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the City of Oakland Planning Commission in connection with the EIR prepared for the MacArthur Transit Village Project ("the Project"), EIR SCH # 2006022075.

2. These CEQA findings are Exhibit A and attached and incorporated by reference into each and every staff report, resolution and ordinance associated with approval the Project. Exhibit C contains conditions of approval, which includes as Exhibit C- 1, the Mitigation Monitoring and Reporting Program ("MMRP"). All Exhibits are incorporated by reference into each other and into the ordinance or resolution to which the Exhibit is attached.

3. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

II. PROJECT DESCRIPTION

4. The Project, which is the subject of the EIR, is located on approximately 8.2 acres within the block bound by 40th Street, Telegraph Avenue, West MacArthur Boulevard and State Route 24. The Project studied in the EIR is a mixed use development that, among other elements, includes: a new BART parking garage; improvements to the BART Plaza; up to 675 residential units (both market-rate and affordable); up to 44,000 square feet of commercial space (including live/work units); 5,000 square feet of community center or childcare space; approximately 1,000 structured parking spaces, including the 300 space BART parking garage; approximately 30-45 on-street parking spaces, pedestrian and bicycle friendly internal streets and walkways; improvements to the Frontage Road; a new internal street, Village Drive, located between Frontage Road and Telegraph Avenue; two new traffic signals at the intersections of Village Drive/Telegraph Avenue and West MacArthur Boulevard/Frontage Road; a rezoning of the Project site to S-15, and a text amendment to the S-15 zone.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

5. Pursuant to CEQA and the CEQA Guidelines, the City determined that an EIR would be required for the Project. On February 15, 2006 and June 13, 2007, the City issued Notices of Preparation for the EIR, which were circulated to responsible agencies and interested groups and

individuals for review and comment. A copy of these Notices and the comments thereon are included in Appendix A-1 and A-2 of the Draft EIR.

6. A Draft EIR was prepared for the Project to analyze its environmental impacts. The Draft EIR was properly circulated for a 46-day public review period from January 31, 2008 to March 17, 2008, which exceeds the legally required 45-day comment period. The Planning Commission held a hearing on the Draft EIR on March 5, 2008.

7. The City received written and oral comments on the Draft EIR. The City prepared responses to comments on environmental issues and made changes to the Draft EIR. The responses to comments, changes to the Draft EIR, and additional information were published in a Final EIR on May 23, 2008. The Draft EIR, the Final EIR and all appendices thereto constitute the "EIR" referenced in these findings.

IV. THE ADMINISTRATIVE RECORD

8. The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

- a. The EIR and all documents referenced in or relied upon by the EIR.
- b. All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the EIR, the approvals, and the Project.
- c. All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and subconsultants who prepared the EIR or incorporated into reports presented to the Planning Commission.
- d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the MacArthur Transit Village Project or the EIR.
- e. All final applications, letters, testimony and presentations presented by the project sponsor and its consultants to the City in connection with the Project.
- f. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the EIR.
- g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- h. The Mitigation Monitoring and Reporting Program for the Project.
- i. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

9. The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the Development Director, Community and

Economic Development Agency, or his/her designee. Such documents and other materials are located at Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612.

V. CERTIFICATION OF THE EIR

10. In accordance with CEQA, the Planning Commission certifies that the EIR has been completed in compliance with CEQA. The Planning Commission has independently reviewed the record and the EIR prior to certifying the EIR and approving the Project. By these findings, the Planning Commission confirms, ratifies, and adopts the findings and conclusions of the EIR as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City and the Planning Commission.

11. The Planning Commission recognizes that the EIR may contain clerical errors. The Planning Commission reviewed the entirety of the EIR and bases its determination on the substance of the information it contains.

12. The Planning Commission certifies that the EIR is adequate to support all actions in connection with the approval of the Project, the rezoning of the Project site from C-28/S-18 and R-70/S-18 to S-15 Transit Oriented Development, and the text amendment to the S-15 zone and taking all other actions and recommendations as described in the staff report to which these CEQA findings are attached. The Planning Commission certifies that the EIR is adequate to support approval of the Project described in the EIR, each component and phase of the Project described in the EIR, any variant of the Project described in the EIR, any minor modifications to the Project or variants described in the EIR and the components of the Project.

VI. ABSENCE OF SIGNIFICANT NEW INFORMATION

13. The Planning Commission recognizes that the Final EIR incorporates information obtained and produced after the Draft EIR was completed, and that the EIR contains additions, clarifications, and modifications. The Planning Commission has reviewed and considered the Final EIR and all of this information. The Final EIR does not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA. The new information added to the EIR does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the Draft EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR. Thus, recirculation of the EIR is not required.

14. The Planning Commission finds that the changes and modifications made to the EIR after the Draft EIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

VII. MITIGATION MEASURES, CONDITIONS OF APPROVAL, AND MITIGATION MONITORING AND REPORTING PROGRAM

15. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and

revisions to the Project identified in the EIR are implemented. The Mitigation Monitoring and Reporting Program ("MMRP") is attached and incorporated by reference into the June 4, 2008 staff report prepared for the approval of the Project, is included in the conditions of approval for the Project, and is adopted by the Planning Commission. The MMRP satisfies the requirements of CEQA.

16. The mitigation measures set forth in the MMRP are specific and enforceable and are capable of being fully implemented by the efforts of the City of Oakland, the applicant, and/or other identified public agencies of responsibility. As appropriate, some mitigation measures define performance standards to ensure no significant environmental impacts will result. The MMRP adequately describes implementation procedures, monitoring responsibility, reporting actions, compliance schedule, non-compliance sanctions, and verification of compliance in order to ensure that the Project complies with the adopted mitigation measures.

17. The Planning Commission will adopt and impose the feasible mitigation measures as set forth in the MMRP as enforceable conditions of approval. The City has adopted measures to substantially lessen or eliminate all significant effects where feasible.

18. The mitigation measures incorporated into and imposed upon the Project approval will not have new significant environmental impacts that were not analyzed in the EIR. In the event a mitigation measure recommended in the EIR has been inadvertently omitted from the conditions of approval or the MMRP, that mitigation measure is adopted and incorporated from the EIR into the MMRP by reference and adopted as a condition of approval.

VIII. FINDINGS REGARDING IMPACTS

19. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the Planning Commission adopts the findings and conclusions regarding impacts and mitigation measures that are set forth in the EIR and summarized in the MMRP. These findings do not repeat the full discussions of environmental impacts, mitigation measures, standard conditions of approval, and related explanations contained in the EIR. The Planning Commission ratifies, adopts, and incorporates, as though fully set forth, the analysis, explanation, findings, responses to comments and conclusions of the EIR. The Planning Commission adopts the reasoning of the EIR, staff reports, and presentations provided by the staff and the project sponsor as may be modified by these findings.

20. The Planning Commission recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The Planning Commission acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The Planning Commission has, through review of the evidence and analysis presented in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the Planning Commission to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the EIR and in the record, as well as other relevant information in the record of the proceedings for the Project.

21. As a separate and independent basis from the other CEQA findings, pursuant to CEQA section 21083.3 and Guidelines section 15183, the Planning Commission finds: (a) the project is

consistent with Land Use and Transportation Element (LUTE) of the General Plan, for which an EIR was certified in March 1998; (b) feasible mitigation measures identified in the LUTE EIR were adopted and have been, or will be, undertaken; (c) this EIR evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts; (d) uniformly applied development policies and/or standards (hereafter called "Standard Conditions of Approval") have previously been adopted and found to, that when applied to future projects, substantially mitigate impacts, and to the extent that no such findings were previously made, the City Planning Commission hereby finds and determines that the Standard Conditions of Approval substantially mitigate environmental impacts (as detailed below); and (e) no substantial new information exists to show that the Standard Conditions of Approval will not substantially mitigate the project and cumulative impacts.

SIGNIFICANT BUT MITIGATABLE IMPACTS

22. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b), and to the extent reflected in the EIR, the MMRP, and the City's Standard Conditions of Approval, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the components of the Project that mitigate or avoid potentially significant effects on the environment. The following potentially significant impacts will be reduced to a less than significant level through the implementation of Project mitigation measures, or where indicated through the implementation of Standard Conditions of Approval (which are treated as mitigation measures and are an integral part of the MMRP):

a. TRANS-1: Impact TRANS-1 finds that traffic generated by the Project under the Cumulative Year 2015 Baseline Plus Project conditions would have a significant impact at the Telegraph Avenue/51st Street intersection by contributing to LOS E operations during the PM peak hour and increasing critical movement average delay by more than 6 seconds.. This impact will be mitigated through the implementation of Mitigation Measure TRANS-1, which requires optimization of the signal timing at this intersection and coordination of signal phasing and timing with the adjacent Telegraph Avenue/52nd Street and Claremont Avenue intersection and other intersections in the same coordination group. To implement this measure, the project sponsor must fund the cost of preparing and implementing a signal optimization plan consisting of signal timing parameters for the signals in the coordination group, which must be reviewed and approved by the City of Oakland Transportation Services Division. As shown in EIR Table IV.C-15, this mitigation measure will reduce the average delay for critical movements to less than the 6-second threshold of significance.

b. TRANS-2: Impact TRANS-2 finds that the addition of project traffic would have a significant impact at the Market Street/MacArthur Boulevard intersection under Cumulative Year 2015 Baseline Plus Project conditions by degrading intersection operations from LOS D to LOS E during the PM peak hour. This impact will be mitigated through implementation of Mitigation Measure TRANS-2, which requires changing the signal cycle length to 90 seconds and optimizing signal timing at the Market Street/MacArthur Boulevard intersection. To implement this measure, the project sponsor must fund the cost of preparing and implementing a signal optimization plan consisting of signal timing parameters for this intersection, which must be reviewed and approved by City's Transportation Services Division. As shown in EIR Table IV.C-15, after implementation of this mitigation measure the intersection will operate at level of service C during the PM peak hours.

c. TRANS-3: Impact TRANS-3 finds that the addition of Project traffic would cause a significant impact at the Telegraph Avenue/52nd Street and Claremont Avenue intersection under Cumulative 2030 Baseline Plus Project conditions. The Project would contribute to LOS F

operations and increase intersection average delay by more than 2 seconds during the AM peak hour and would contribute to LOS E operations and increase critical movement average delay by more than 6 seconds during the PM peak hour. This impact will be mitigated through implementation of Mitigation Measure TRANS-3, which requires the project sponsor to fund the cost of preparing and implementing a signing plan to prohibit left-turns from northbound Telegraph Avenue into westbound 52nd street during peak commute times and a signal timing plan to change the signal cycle length to 120 seconds, optimize signal timing at the Telegraph Avenue/52nd Street and Claremont Avenue intersection, and coordinate signal timing and phasing with the adjacent Telegraph Avenue/51st Street intersection and other intersections in the same coordination group, which must be reviewed and approved by the City's Transportation Division. As shown in EIR Table IV.C-17, after implementation of this mitigation measure the increase in intersection delay during the AM peak hour would be reduced to less than the 2-second threshold of significance and the intersection would operate at LOS C during the PM peak hours.

d. TRANS-5: Impact TRANS-5 finds that the addition of Project traffic would cause a significant impact at the West Street/40th Street intersection under Cumulative Year 2030 Baseline Plus Project conditions. The Project would degrade intersection operations from LOS D to LOS E in the PM peak hour. This impact will be mitigated through implementation of Mitigation Measure TRANS-5, which requires the project sponsor to fund the cost of preparing and implementing a plan to optimize signal timing at the West Street/40th Street intersection, which must be reviewed and approved by the City's Transportation Division. As shown in EIR Table IV.C-17, after implementation of this mitigation measure the intersection would operate at LOS A during the PM peak hour.

e. TRANS-6: Impact TRANS-6 finds that the addition of Project traffic would cause a significant impact at the Telegraph Avenue/40th Street intersection under Cumulative Year 2030 Baseline Plus Project conditions. The Project would degrade the intersection operations from LOS E to LOS F in the AM peak hour and would increase critical movement average delay by more than 4 seconds during the PM peak hours. This impact will be mitigated through implementation of Mitigation Measure TRANS-6, which requires the project sponsor to fund the cost of preparing and implementing plans to provide protected/permitted left turn phasing on eastbound and westbound 40th Street approaches and to change signal cycle length to 120 seconds during the AM peak hours and 105 seconds during the PM peak hours and optimize signal timing at the Telegraph Avenue/40th Street intersection and to coordinate with other intersections in the same coordination group. These plans must be reviewed and approved by the City's Transportation Division. As shown in EIR Table IV.C-17, after implementation of this mitigation measure, the intersection would operate at LOS D during both AM and PM peak hours.

f. TRANS-7: Impact TRANS-7 finds that the addition of Project traffic would cause a significant impact at the Market Street/MacArthur Boulevard intersection under Cumulative Year 2030 Baseline Plus Project conditions. The Project would contribute to LOS F operations and would increase intersection average delay by more than 2 seconds during both AM and PM peak hours. This impact will be mitigated through implementation of Mitigation Measure TRANS-7, which requires the project sponsor to fund the cost of preparing and implementing plans to stripe a left-turn lane on northbound Market Street at MacArthur Boulevard, change cycle lengths to 110 seconds during the AM peak hour and 90 seconds during the PM peak hour, and optimize signal timing at the Market Street/MacArthur Boulevard intersection. These plans must be reviewed and approved by the City's Transportation Division. As shown in EIR Table IV.C-17, after implementation of this mitigation measure, the intersection would operate at LOS C during both AM and PM peak hours.

g. TRANS-8: Impact TRANS-8 finds that the addition of Project traffic would cause a significant impact at the Telegraph Avenue/MacArthur Boulevard intersection under

Cumulative Year 2030 Baseline Plus Project conditions. The Project would degrade intersection operations from LOS D to LOS E in the AM peak hour. This impact will be mitigated through implementation of Mitigation Measure TRANS-8, which requires the project sponsor to fund the cost of preparing and implementing a plan to provide protected/permitted left-turn phasing on northbound and southbound Telegraph Avenue approaches, to change signal cycle length to 120 seconds and optimize signal timing at the Telegraph Avenue/MacArthur Boulevard intersection and to coordinate signal phasing and timing with other intersections in the same coordination group. This plan must be reviewed and approved by the City's Transportation Division. As shown in EIR Table IV-C-17, after implementation of this mitigation measure, the intersection would operate at LOS D during the AM peak hour and LOS E during the PM peak hour.

h. Other Potentially Significant Impacts: The following impacts will be less than significant because of the requirements contained in the City's Standard Conditions of Approval (which are treated as mitigation measures and included with the EIR mitigation measures in the MMRP). Some Standard Conditions of Approval are not CEQA-related but are nevertheless included here for convenience and additional information provided to the decision-makers:

(1) Public Policy/Tree Removal: The Project will remove the existing trees on the project site. Any potential impact to nesting raptors or other birds will be reduced to a less than significant level through implementation of Standard Condition COA POLICY-1, which limits tree removal during breeding season and, for tree removal during breeding season, requires a survey by a qualified biologist and appropriate buffers in which no work will be allowed until the young have successfully fledged.

(2) Transportation, Circulation, and Parking/Construction Activities: The Project construction activities would temporarily and intermittently affect traffic flow and circulation and parking availability. This impact will be reduced to a less than significant level through the implementation of Standard Condition COA-TRANS-1, which imposes specific requirements for the preparation, City, BART and AC Transit review, and City approval of a construction management plan prior to the issuance of each building permit. The plan must include the following elements: comprehensive traffic control measures, notification procedures for adjacent property owners and public safety personnel, location of staging areas on the project site, identification of haul routes to minimize impacts and provisions for monitoring and correcting any damage or debris from haul trucks, temporary construction fences to contain debris and materials and secure the site, trash removal provisions, complaint procedures, and a construction worker TDM plan to reduce trips from construction workers.

(3) Air Quality/Construction Activities: Activities associated with Project construction would generate short-term emissions of ozone and particulate matter emissions. This impact will be reduced to a less than significant level through the implementation of Standard Conditions COA AIR-1 and COA AIR-2. Standard Condition COA-1, Dust Control imposes BAAQMD's basic dust control procedures for all construction sites and enhanced dust control procedures for sites larger than four acres. Standard Condition COA-2, Construction Emissions imposes requirements to minimize construction equipment emissions during construction, including demonstration of compliance with BAAQMD Regulation 1, Rule 2 regarding emissions from portable equipment and reduced NOx emissions from diesel-powered equipment.

(4) Noise/Construction Activities: The Project construction activities would intermittently and temporarily generate noise levels above existing ambient levels in the project vicinity. This impact will be reduced to a less than significant level through the implementation of

Standard Conditions COA Noise-1, Noise-2, Noise-3, and Noise-5, which impose requirements for construction hours and days, equipment and truck requirements, a site-specific noise reduction program requiring City review and approval, procedures for responding to and tracking construction noise complaints, and a site specific noise attenuation measures plan for pile driving and other extreme noise generators, which must be completed under the supervision of a qualified acoustical consultant, must be reviewed and approved by the City, must achieve maximum feasible noise attenuation, and must include, among other measures, certain identified measures as applicable to the site and the construction activity

(5) Noise/Interior Noise: Given the exterior noise levels in the vicinity of the project site, the interior noise levels for rooms in the Project buildings that would be directly exposed to and located within 240 feet of the centerline of SR-24 could exceed DNL 45 dBA. This impact will be reduced to a less than significant level through the implementation of Standard Condition COA Noise-4, which requires noise reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, and walls) to be incorporated into Project building design based on the recommendations of a qualified acoustical engineer. An alternative form of ventilation shall be provided for all units located within 659 feet of the centerline of SR-24 or within 153 feet of the centerline of 40th Street or within 166 feet of the centerline of MacArthur Boulevard to ensure that windows can remain closed to meet the interior noise standards and Uniform Building Code requirements. All residential building facades directly exposed to and within 240 feet of the centerline of SR-24 must be constructed to meet the interior DNL 45 dB requirements, which can be achieved through several methods and quality control measures to ensure all air gaps and penetrations of the building shell are controlled and sealed.

(6) Noise/Historic Structures: Project demolition and construction activities could affect adjacent structures. This impact will be reduced to a less than significant level through the implementation of Standard Condition COA NOISE-6, which requires the project sponsor to retain a structural engineer or other qualified professional to determine threshold levels of vibration and cracking that could damage adjacent buildings and design construction means and methods that will not exceed these thresholds. Additionally, the project applicant shall submit a demolition plan for review and approval so as not to unduly impact neighboring property improvements, particularly 505 40th Street. Methods of protection for any improvements within 5 feet of the project site boundary shall be specifically addressed in the demolition plan. This plan shall be reviewed and approved by the City CEDA Building Services.

(7) Hydrology and Water Quality/Construction Erosion and Geology/Erosion and Sedimentation: Project demolition, clearing and grading and construction would involve activities (excavation, soil stockpiling, pier drilling, grading, and dredging, etc.) that would result in erosion that could be carried to stormwater drains or off site to streets and sidewalks or adjacent properties. This impact will be reduced to a less than significant level through the implementation of Standard Condition COA HYDRO-1 and COA GEO-1, which requires compliance with the grading permit requirements of Oakland Municipal Code Section 15.04.780, including, among other requirements, implementation of an erosion and sedimentation control plan that must include measures to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials to adjacent lands, public street or creeks.

(8) Hydrology and Water Quality/Construction Water Quality: Project construction activities, if not managed properly could result in erosion and increased sedimentation and pollutants in stormwater runoff. This impact will be reduced to a less than significant level through implementation of Standard Condition COA HYDRO-2, which requires compliance with the General Construction Activity Stormwater Permit administered by the State Water Resources Board

and preparation and compliance with a stormwater pollution prevention plan (SWPPP) that must incorporate construction period Best Management Practices and Post-Construction Stormwater Management methods including site planning controls, non-stormwater management, and maintenance, inspection, and repair of structural controls in perpetuity.

(9) Hydrology and Water Quality/Project Operation: Project operation activities would increase urban pollutants in runoff from the Project site. The potential water quality impact will be reduced to a less than significant level through implementation of Standard Conditions COA HYDRO-3 and COA HYDRO-4. COA HYDRO-3 Post-Construction Stormwater Pollution Management Plan requires compliance with Provision C.3 of the NPDES permit issued to the Alameda Countywide Clean Water Program, and preparation and compliance with a stormwater pollution management plan to limit the discharge of pollutants in stormwater after Project construction to the maximum extent practicable. COA HYDRO-4 Maintenance Agreement for Stormwater Treatment Measures requires a maintenance agreement related to the stormwater treatment measures to ensure on-going responsibility for on-site treatment measures and access to the on-site treatment measures

(10) Geology, Soils, and Seismicity/Seismic Ground Shaking, Ground Failure and Liquefaction: In the event of a major earthquake in the region, seismic ground shaking could potentially injure people and cause collapse or structural damage to the Project structures. This impact will be reduced to a less than significant level through implementation of Standard Condition COA GEO-2 and COA GEO-3, which impose specific requirements for the preparation, review, approval and implementation of a site-specific soils report that must include, among other information, corrective actions for any land stability problems and site-specific, design level geotechnical investigation that must include, among other information, final design parameters for walls, foundations, foundation slabs, surrounding related improvements and infrastructure for each construction site within the project area.

(11) Public Health and Hazards/Hazardous Materials in Building Materials Demolition or renovation of existing structures that contain hazardous building materials, such as lead-based paint, asbestos, and PCBs could expose workers, the public, or the environment to these hazardous materials and would generate hazardous waste. This impact will be reduced to a less than significant through compliance with local, state, and federal regulatory requirements and implementation of Standard Conditions HAZ-2, HAZ-4, HAZ-6, HAZ-7, HAZ-8, and HAZ-9, which impose requirements for a pre-demolition assessment for the presence of lead-based paint, asbestos, or PCB-containing equipment, or any other building materials or stored materials classified as hazardous waste, abatement in accordance with all regulatory requirements of any identified lead-based paint, asbestos, PCB or other hazardous materials, and development and implementation of a worker health and safety plan.

(12) Public Health and Hazards/Soil and Groundwater: Implementation of the Project would disturb soil and groundwater impacted by historic hazardous material use, which could expose construction workers, the public, or future workers and residents to hazardous materials in soil, groundwater, and soil gases. This impact will be reduced to a less than significant level through implementation of Standard Conditions COA HAZ-1, COA HAZ 3, COA HAZ-5 as modified to include site specific requirements from completed studies. COA HAZ-1 imposes requirements for implementation of construction best management practices, assessment and remediation related to soil and groundwater, preparation of a Soil Management Plan, proper handling and disposal of any impacted soil, onsite containment of groundwater pumped from the subsurface prior to treatment and disposal to ensure resolution of environmental and health issues pursuant to oversight agencies, and utilization of engineering controls. COA HAZ-3 requires the project applicant to prepare and submit to

the City a Phase I report and, if warranted, a Phase II report for the project site. These reports should recommend any necessary remedial action. COA HAZ-5 imposes requirements should the environmental site assessment reports require remedial action, including consulting with the appropriate regulatory agencies, approval of any remedial action by the regulatory agencies, preparation of a Construction-Phase Risk Management Plan that must include any necessary health and safety measures to protect the health of construction workers and the nearby public during construction, and approval of a remedial action plan including measures to reduce any potential health risks to future site users based on a site specific HHRA and the requirements of regulatory agencies.

(13) Public Health and Hazards/Fire Safety: The potential for the Project to increase the potential for fire safety impacts will be reduced to a less than significant level through implementation of Standard Conditions COA-10 and COA-11. COA-10 requires the project applicant to submit a fire safety phasing plan to the City for review and approval which must include all fire safety features incorporated into the Project and the schedule for implementation. COA-11 requires that all construction vehicles and equipment be fitted with spark arrestors to minimize accidental ignition of dry construction debris or dry vegetation.

(14) Public Health and Hazards/Hazardous Materials Business Plan: The potential for the Project to cause a public health or hazard impact will be reduced to a less than significant level through implementation of Standard Condition COA HAZ -12, which requires the project sponsor to submit a Hazardous Materials Business Plan for review and approval by the Fire Prevention Bureau, Hazardous Materials Unit. The Plan shall identify any hazardous materials or chemical stored or used on site, the location of such hazardous materials, an emergency response plan, and a plan that describes how these materials are handled, transported and disposed.

(15) Public Services/Conformance with other Requirements: The potential for the Project to cause a public service impact will be reduced to a less than significant level through implementation of Standard Conditions COA SERV-1, SERV-2, and SERV-3. COA SERV-1 requires that the Project comply with all applicable federal, state, regional, and local codes, requirements, regulations, and guidelines and approval by the Fire Services Division of building plans for project-specific needs related to fire protection. COA SERV-2 requires the project applicant to submit for approval a fire safety phasing plan including all of the fire safety features incorporated into the project and the schedule for implementation of these features. COA SERV-3 requires the project applicant to submit plans for site review and approval to the Fire Prevention Bureau Hazardous Materials Unit.

(16) Utilities and Infrastructure/Wastewater Treatment and Collection: The Project will generate wastewater. This impact will be reduced to a less than significant level through implementation of Standard Condition COA-UTIL-2, which ensures that the project sponsor must pay for any necessary stormwater or wastewater infrastructure improvements and must pay necessary additional fees to control or minimize increase in infiltration/inflow increases associated with the project.

(17) Utilities and Infrastructure/Storm Drainage: The Project may require new or reconfigured storm drainage facilities to direct stormwater to the City-maintained storm drain located beneath Telegraph Avenue. This impact of constructing these facilities will be reduced to a less than significant level through the implementation of Standard Condition COA UTIL-2, which requires confirmation of the capacity and state of repair of the surrounding stormwater and sanitary sewer system, project applicant responsibility for all improvements necessary to serve the proposed project, including any improvements to control or minimize infiltration/inflow increases from the proposed

project, implementation of Best Management Practices to reduce peak stormwater runoff from the project site, and responsibility for installation or hook up fees.

(18) Utilities and Infrastructure/Solid Waste: Demolition activities on the Project site would generate solid waste. This impact will be reduced to a less than significant level through the implementation of Standard Condition COA UTIL-1, which requires a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) and compliance with Chapter 15.34 of the Oakland Municipal Code, which contains requirements for reducing waste and optimizing construction and demolition recycling. The WRRP must specify methods by which the development will divert construction and demolition debris waste. Additionally, the ODP must identify how the Project will comply with the Recycling Space Allocation Ordinance for the life of the Project.

(19) Utilities and Infrastructure/Stormwater Pollution Management: Project construction will generate stormwater runoff that could adversely affect water quality. This impact will be reduced to a less than significant level through implementation of Standard Conditions COA UTIL-3 and COA UTIL-4. COA UTIL-3 requires the final site plan to incorporate appropriate site design measures to manage stormwater runoff and minimize impacts to water quality after the construction of the project, including, among others, minimizing impervious surfaces, using permeable paving, clustering buildings, open space, and vegetated buffer areas. The approved site design measures must be permanently maintained. COA UTIL-4 requires the implementation and maintenance of all structural source control measures imposed by the Chief of Building Services to limit the generation, discharge, and runoff of stormwater.

(20) Utilities and Infrastructure/ Stormwater and Sewer: The Project may require new or reconfigured stormwater and sewer facilities. This impact will be reduced to a less than significant level through implementation of Standard Condition COA UTIL-5, which requires confirmation of the capacity of the stormwater and sewer system and the state of repair prior to completing the final design for the project's sewer service.

(21) Cultural Resources/Prehistoric Resources: Project ground-disturbing activities could cause adverse changes to the significance of currently unknown prehistoric archaeological resources on the site. This impact will be reduced to a less than significant level through the implementation of Standard Condition COA CULT-1, which imposes requirements for specified procedures to be followed, including certain halting of construction activities and consultation with a cultural resources professional and implementation of appropriate mitigation, should an archaeological artifact be discovered on-site during construction.

(22) Cultural Resources/Archeological: Project ground-disturbing activities could cause adverse changes to the significance of archaeological resources associated with previous uses on the site. This impact will be reduced to a less than significant level through the implementation of Standard Condition COA CULT-1, which imposes requirements for specified procedures to be followed, including certain halting of construction activities and consultation with a cultural resources professional and implementation of appropriate mitigation, should an archaeological artifact be discovered on-site during construction.

(23) Cultural Resources/Paleontological: Excavation activities associated with Project construction could adversely affect unidentified paleontological resources at the site. This impact will be reduced to a less than significant level through the implementation of Standard

Condition COA CULT-3, which calls for examination by a qualified paleontologist of unanticipated discoveries, evaluation and assessment of any finds, and halting or diverting of certain construction activities for certain discoveries followed by implementation of certain procedures and, if necessary, an excavation plan.

(24) Cultural Resources/Human Remains: Excavation activities associated with Project construction could adversely affect human remains. This impact will be reduced to a less than significant level through implementation of Standard Condition CULT-2, which calls for halting construction activities, notification of the coroner, and implementation of certain procedures and protocols should any remains be uncovered during construction.

(25) Aesthetic Resources/Glare: The Project could result in glare adversely affecting pedestrians and motorists. This impact will be reduced to a less than significant level through the implementation of Standard Condition AES-1, which calls for lighting fixtures to adequately shield lights to prevent unnecessary glare.

SIGNIFICANT AND UNAVOIDABLE IMPACTS

23. Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the EIR and the MMRP, the Planning Commission finds that the following impacts of the Project remain significant and unavoidable, notwithstanding the imposition of all feasible mitigation measures, as set forth below. The Planning Commission also finds that any alternative discussed in the EIR that may reduce the significance of these impacts is rejected as infeasible for the reasons given below.

24. Impact TRANS-4 finds that the addition of Project traffic would cause a significant impact at the Telegraph Avenue/51st Street intersection under Cumulative Year 2030 Baseline Plus Project conditions. The Project-generated traffic increases critical movement average delay by more than 4 seconds during the AM peak hour and would increase intersection average delay by more than 2 seconds during the PM peak hour. Mitigation Measure TRANS-4 requires the project sponsor to fund the cost of preparing and implementing a plan to change signal cycle length to 120 seconds, optimize signal timing at the Telegraph Avenue/51st Street intersection, and coordinate signal phasing and timing with the adjacent Telegraph Avenue/52nd Street and Claremont Avenue intersection and other intersection in the same coordination group. This measure would reduce the impact, but is not sufficient to reduce the impact to a less than significant level. Additionally, a Transportation Demand Management (“TDM”) program, which must be reviewed and approved by the City, must be implemented to encourage Project residents and employees to shift from driving alone to other modes. The TDM program is included in the MMRP and the conditions of approval. The TDM program would reduce the impact, but not to a less than significant level. Other measures to reduce the impact could include providing a second left-turn lane or a third through lane on southbound Telegraph Avenue. These improvements are not feasible because they would require elimination of a great number of heavily used metered on-street parking spaces that serve the local commercial uses or require additional right of way that is not available because of existing development along Telegraph Avenue. An alternative that would reduce the impact was considered in the EIR and is rejected as set forth in findings below. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

25. Impact TRANS-9 finds that the addition of Project traffic would cause a significant impact at the Broadway/MacArthur Boulevard intersection under Cumulative Year 2030 Baseline Plus Project conditions. The Project would contribute to LOS F operations and would increase

intersection average delay by more than 2 seconds during the AM peak hour. Mitigation measure TRANS-9 requires that a Transportation Demand Management (“TDM”) program, which must be reviewed and approved by the City, must be implemented to encourage Project residents and employees to shift from driving alone to other modes. The TDM program would reduce the impact, but not to a less than significant level. Other measures considered to reduce the impact could include providing a second southbound left-turn lane on Broadway in the median area. This measure would not be effective in reducing this impact because the lane could be only 75 feet long, would accommodate few vehicles, and would often be blocked by traffic in the first left-turn lane. The second left turn lane also would prohibit U-turns on the southbound Broadway approach. Consequently, this measure would not be effective in reducing congestion and improving intersection level of service. Additionally, a measure to convert the exclusive southbound right-turn lane into a shared through/right turn lane, requiring a third receiving lane on southbound Broadway south of MacArthur Boulevard, was considered. This measure would not be effective in reducing this impact because the necessary additional lane would result in the loss of bicycle lanes, turn lanes, or parking and because the three southbound lanes would have to merge to two lanes, thereby reducing the effectiveness of the additional through lanes. An alternative that would reduce the impact was considered in the EIR (Reduced Build/Site Alternative) and is rejected as set forth in findings below. This potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations.

IX. FINDINGS REGARDING ALTERNATIVES

26. The Planning Commission finds that specific economic, social, environmental, technological, legal or other considerations make infeasible the alternatives to the Project as described in the EIR despite remaining impacts, as more fully set forth in the Statement of Overriding Considerations below. The only remaining significant unavoidable impacts of the Project that cannot be fully mitigated through the mitigation measures and standard conditions described in the EIR are certain 2030 cumulative impacts to transportation, circulation and parking.

27. The EIR evaluated a reasonable range of alternatives to the original project that was described in the Draft EIR. The DEIR identified six alternatives and one sub-alternative (which could be combined with any of the alternatives) to the proposed project. The Planning Commission adopts the EIR's analysis and conclusions eliminating an alternative site from further consideration.

28. The three potentially feasible alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Project. These alternatives include: (1) No Project/No Build Alternative; (2) Existing Zoning Alternative; and (3) Reduced Building/Site Alternative. Additionally, the EIR analyzed three planning alternatives that address planning and design concerns, but may not meet the CEQA requirement for reducing one or more significant impacts of the Project. These alternatives include: (4) Proposed Project with Full BART Replacement Parking; (5) Tower Alternative; and (6) Increased Commercial Alternative. As presented in the EIR, the alternatives were described and compared with each other and with the proposed project. The No Project Alternative was identified as the environmentally superior alternative. Under CEQA Guidelines section 15126.6(e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. The Mitigated Reduced Building/Site Alternative is the second environmentally superior alternative.

29. The Planning Commission certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the Planning Commission's independent judgment as to alternatives. The Planning Commission finds that the Project provides the best balance between the project sponsor's objectives, the City's goals and objectives, the Project's benefits as described below in the Statement of Overriding Considerations, and mitigation of environmental impacts to the extent feasible. The three CEQA alternatives proposed and evaluated in the EIR are rejected for the following reasons. Each individual reason presented below constitutes a separate and independent basis to reject the project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.

30. The City has reviewed the memorandum prepared by CBRE Consulting Group, Inc. Sedway Group dated May 27, 2008 and entitled "MacArthur Transit Village Project: Assessment of Financial Feasibility of CEQA Alternatives and Full BART Replacement Parking Garage Alternative" (hereafter CBRE Report). After reviewing this memorandum and supporting documentation, the City has determined that the memorandum constitutes credible, expert data, analysis and evidence regarding the economic feasibility of the Project alternatives. The City has relied on the information analysis and conclusions in this memorandum in its findings regarding the Project alternatives as more specifically set forth below.

31. No Project/No Build Alternative: Under the No Project/No Build Alternative, the Project would not be undertaken and the site would remain in its current condition with the existing BART parking lot, two motels, and the commercial and residential buildings. This alternative would avoid all of the Project's potentially significant and mitigatable impacts and the significant and unavoidable Cumulative Year 2030 Baseline Plus Project transportation impacts identified in Impact TRANS-4 and Impact TRANS-9. This alternative is rejected as infeasible because (a) it would not achieve any of the Project sponsor's objectives for the Project; (b) it would not achieve the goals of the City's Neighborhood Center Mixed-Use and Transit-Oriented Development designations of the site as set forth in the Land Use and Transportation Element of the General Plan; (c) it would not provide in-fill development on an underutilized, blighted site consistent with the Broadway/MacArthur/San Pablo Redevelopment Plan and Redevelopment Agency goals for the site; (d) it would not improve the BART plaza or provide the improvements that will enhance vehicle, pedestrian and bike access to the BART station; (e) it would result in the loss of up to 675 new housing opportunities, including affordable housing, suitable for high density housing and identified in the Housing Element of the General Plan as an "Additional Housing Opportunity Site"; (f) it would not provide new commercial opportunities that would positively contribute to the surrounding neighborhood by offering additional goods and services and enhancing the existing nearby commercial area and by providing business and employment opportunities; (g) it would not provide new construction jobs; (h) it would not meet BART's objectives of improving the quality of access to the MacArthur BART station and increasing BART ridership; (i) it would not improve neighborhood safety by introducing a new mixed use development on the site with ground floor uses and a 24-hour population; (j) it would not implement the objectives of the City's Sustainable Community Development Initiative that promote for in-fill housing, green buildings, mixed-use development, and transit villages.

32. Existing Zoning Alternative: Under the Existing Zoning Alternative, the Project site would be developed in accordance with the development standards and uses allowed under the current R-70/S-18 (High Density Residential, Mediated Design Review) zone and the C-28/S-18 (Commercial Shopping District, Mediated Design Review) zone. This alternative would provide approximately 530 units, (145 fewer residential units than the Project), would segregate the commercial

and residential uses on the site, and would reduce building heights. This alternative would reduce Project vehicle trips by approximately 8% in the AM peak hour and 10% in the PM peak hour. Although this alternative would reduce the magnitude of the Project traffic impacts, it would not reduce the significant unavoidable impacts identified in Impact TRANS-4 and Impact TRANS-9. Two variants of this alternative were examined in the EIR. The Full BART Replacement Parking variant would not change any of the traffic or other impacts identified for the Project or the Existing Zoning Alternative, because the traffic analysis in the EIR did not reduce Project trip generation to account for reduced BART parking. The Residential Parking Permit Program variant would result in fewer vehicles driving to and from the MacArthur BART station and would reduce the magnitude of the Project intersection impacts. This alternative, including the two variants, is rejected as infeasible because: (a) it would not avoid or reduce to a less than significant level any of the Project's potentially significant or significant and unavoidable impacts; (b) it would significantly reduce the number of residential units in the Project, including affordable units, and thus would be substantially less effective than the Project in fulfilling the City's and project sponsor's goals for high-density, transit-oriented development on this site; (c) it would result in a less desirable mixed-use development on the site than would the Project because it would segregate the residential and commercial uses in accordance with the existing zoning designations; (d) it would be financially infeasible as documented in the CBRE Report, which found the alternative "generates a negative profit of approximately \$7.5 million or 10%. In other words, the entitlement and infrastructure costs exceed revenue from all sources, indicating that the developer would lose \$7.5 million on this project."

33. Mitigated Reduced Building/Site Alternative: Under the Mitigated Reduced Building/Site Alternative, the Project site would be reduced to include only the BART surface parking lot parcels and would include four mixed use buildings with approximately 200 residential units (475 fewer residential units than the Project), 20,000 square feet of commercial area and 650 parking spaces and a parking structure for 300 exclusive BART parking spaces. This alternative would avoid the significant and unavoidable traffic impacts, TRANS-4 and TRANS-9, of the Project. Two variants of this alternative were examined in the EIR. The Full BART Replacement Parking variant would not change any of the traffic or other impacts identified for the Project or the Mitigated Reduced Building/Site Alternative, because the traffic analysis in the EIR did not reduce Project trip generation to account for reduced BART parking. The Residential Parking Permit Program variant would result in fewer vehicles driving to and from the MacArthur BART station and would reduce the magnitude of the Project intersection impacts. This alternative, including the two variants, is rejected as infeasible because: (a) it would significantly reduce the number of residential units in the Project, including the affordable units, and would be substantially less effective than the Project in meeting the City's and project sponsor's goals for high-density, transit-oriented development on the site; (b) it would reduce the opportunities for new commercial development and thus would provide fewer opportunities for employment and would reduce the opportunity to provide new goods and services to the neighborhood; and (c) it would be financially infeasible as documented in the CBRE Report, which found the alternative results in the development costs exceeding the residual land value. Consequently, no developers or lenders would be willing to invest in the project.

34. Planning Project Alternatives: These three alternatives are included in the EIR to examine certain planning and community related factors. These alternatives have not been designed to avoid or lessen any of the Project impacts. Thus, these are not CEQA-mandated alternatives and need not be approved or rejected as infeasible as otherwise required by CEQA (Pub. Res. Code section 21081). Nonetheless, the City has considered these planning alternatives and makes the following findings:

(a) The Full BART Replacement Parking Alternative, which would include a 600 space garage instead of a 300 space garage is infeasible because: (1) the CBRE Report documented that the 600 space garage would render the Project financially infeasible; (2) it is inconsistent with the City's goals of reducing vehicle use and promoting alternative forms of transportation (transit, bicycle, pedestrian) that will reduce vehicle emissions, including greenhouse gas emissions, and (3) it would not reduce or avoid any of the Project's potentially significant impacts that can be mitigated through the mitigation measures, impacts that are reduced to a less than significant level through the implementation of the City's Standard Conditions of Approval, or significant and unavoidable impacts. The Project TDM plan incorporates into the Project a commitment to increase the BART replacement parking by an additional 210 spaces above the 300 spaces originally proposed, through a variety of mechanisms detailed in the TDM plan. Additionally, as discussed in the TDM plan one study has indicated that future demand for parking spaces for BART patrons may be significantly reduced based on the number of existing patrons who would shift travel modes if the number of parking spaces is reduced. This increase in replacement parking represents an appropriate balance between ensuring adequate parking for BART patrons and fulfilling City policies that promote alternative transportation options.

(b) The Tower Alternative would include a 23-story tower on the Building D lot with 868 residential units, 1,100 parking spaces, 34,000 square feet of commercial space, and 7,500 square feet of community space. This alternative would increase the magnitude of the Project impacts, but would not result in any new significant impacts. This alternative also included analysis of two variants, one with full BART replacement parking and one with a Residential Parking Permit Program. The alternative and the two variants would not reduce or avoid any of the potentially significant or significant and unavoidable impacts of the Project. At this time, this alternative is neither rejected nor approved. In the future, the project sponsor may apply to the City to incorporate the alternative into the Project and the City would consider and process this revised application in accordance with standard procedures, with appropriate public notice before the City Planning Commission.

(c) The Increased Commercial Alternative would include 172,000 square feet of commercial office space, 475 residential units, 27,000 square feet of commercial space, and 5,000 square feet of community space. This alternative would result in a new potentially significant traffic impact and require implementation of an additional mitigation measure. This alternative also included analysis of two variants, one with full BART replacement parking and one with a Residential Parking Permit Program. The alternative and the two variants would not reduce or avoid any of the potentially significant or significant and unavoidable impacts of the Project. At this time, this alternative is neither rejected nor approved. In the future, the project sponsor may apply to the City to incorporate the alternative into the Project and the City would consider and process this revised application in accordance with standard procedures, with appropriate public notice before the City Planning Commission.

X. STATEMENT OF OVERRIDING CONSIDERATIONS

35. The Planning Commission finds that each of the specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh these remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of these overriding considerations.

36. The Project will substantially enhance the MacArthur BART station by enhancing access to the BART station through renovation of the BART plaza including lighting,

improved safety, and improved access and circulation , reconfiguration and improvement of Frontage Road including a sidewalk and two-way bicycle access, construction of Village Drive including large, attractive sidewalks and a kiss and ride loading and unloading area, and installation of two new traffic signals at the intersections of Village Drive/Telegraph Avenue, West MacArthur Boulevard/Frontage Road and Frontage Road/40th Street.

37. The Project will replace a large, blighted site currently containing surface parking and several aging commercial buildings with a well-designed, transit-oriented, mixed-use development that will enhance the surrounding neighborhood.

38. The Project will provide up to 675 new residential units, including affordable units.

39. The Project will increase safety in the neighborhood and around the BART station and enhance the vitality of this area by adding a 24-hour population to the site and creating "eyes on the street" with residential stoops and ground floor commercial uses.

40. The Project will strengthen the surrounding neighborhood by adding a significant number of new residential units in a sensitively-scaled pedestrian-friendly development that will enhance and connect with the surrounding residential neighborhoods.

41. The Project will strengthen the nearby Telegraph Avenue commercial corridor by providing a new population to support nearby existing businesses and by creating opportunities for new neighborhood-serving retail and local employment.

42. The Project will provide 5,000 square feet of community space.

43. The Project will fulfill the City's General Plan, Land Use Element goals for development of the site with a high-density, mixed-use, transit-oriented project.

44. The Project will remediate any existing hazardous conditions on the site.

45. The Project will meet the U.S. Green Building Council Gold Level LEED Neighborhood Development standards.

46. The Project will provide construction jobs over the course of the build out of the Project phases.

47. The Project promotes smart growth by providing infill development at a transit-rich site and by utilizing and enhancing existing infrastructure.

48. The Project will increase ridership for BART and other public transit agencies.

49. The Project will further the City's Sustainable Community Development Initiative by providing infill housing, meeting green building guidelines, promoting mixed-sue development, and establishing a transit village.

EXHIBIT B

FINDINGS FOR APPROVAL FOR THE MACARTHUR TRANSIT VILLAGE PROJECT

The following findings can be made for approval of the proposal. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type. The project's conformance with the following findings is not limited to the discussion below, but includes all discussions in the staff report, the EIR, and elsewhere in the record.

I. Section 17.140.080 (Planned Unit Development Permit Criteria):

A. That the location, design, size, and uses are consistent with the Oakland Comprehensive Plan and with any other applicable plan, development control map, or ordinance adopted by the City Council.

The proposed project is consistent with the General Plan (formerly the Comprehensive Plan) land use designation for the site, Neighborhood Center Mixed Use. The proposed project includes a mixed-use development including residential and commercial uses that is consistent with the permitted density of the NCMU designation. The project includes both for-rent and for-sale affordable units, and market-rate units. The project's commercial component is designed to foster pedestrian-oriented uses, and provide a continuous commercial frontage and provide additional retail commercial options along Telegraph Avenue, 40th Street and West MacArthur Boulevard. The commercial spaces are located and designed to accommodate both major (anchor) retail tenants and smaller (in-line) commercial tenants.

The General Plan also designates the project site as a "Transit-Oriented Development District" which is intended for redevelopment with housing, business and other services to support city and regional goals for sustainable development linking transit with housing and businesses. The project is consistent with the overall goals, objectives, and policies of the General Plan in that it will redevelop existing underdeveloped property immediately adjacent to the MacArthur BART station with up to 675 residential units, 42,500 square feet of commercial space, and a 5,000 community center use (such as day care). The detailed discussion of the project's consistency with key policies of the general plan contained in Table IV.B-1 of MacArthur Transit Village Draft EIR (pages 108 to 122) is hereby incorporated by reference.

B. That the location, design, and size are such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development.

The development will be well integrated with the surrounding area. The street layout of the proposal maintains the current configuration of the Frontage Road and provides new

vehicular access to the BART station from Telegraph Avenue via Village Drive, and this new roadway is designed to promote connectivity to existing commercial and civic uses (Beebe Memorial Church) on Telegraph Avenue. The proposed height and building mass is designed to reflect the neighborhood pattern with shorter buildings along Telegraph Avenue and larger massing and building height adjacent to the freeway and BART platform. The project will replace the existing surface parking lot and other unattractive uses on the site with residential and neighborhood serving commercial uses that will be more consistent with the surrounding neighborhood than the existing uses on the site. All potential impacts of the proposed project, with the exception of two traffic impacts, will be adequately reduced through the application of the City's standard conditions of approval and mitigation measures, and through the design of the project. In order to reduce these traffic impacts, significant reductions in the proposed density is necessary, which would then defeat the purpose of having higher densities along transit corridors, especially at a major Transit Oriented Development at a BART station. Thus, the CEQA findings include findings of overriding consideration for these two intersections.

C. That the location, design, size, and uses are such that traffic generated by the development can be accommodated safely and without congestion on major streets and will avoid traversing other local streets.

The MacArthur Transit Village EIR analyzed impacts of traffic generated by the development, and determined that it could be accommodated safely and without congestion on major streets and avoid traversing adjacent streets; with the exception of two intersections in the cumulative year 2030 baseline plus project scenario. In order to reduce these traffic impacts, significant reductions in the proposed density is necessary, which would then defeat the purpose of having higher densities along transit corridors, especially at a major Transit Oriented Development at a BART station. Thus, the CEQA findings include findings of overriding consideration for these two intersections. Additionally, as a mitigation measure, the project sponsor is required to implement a Transportation Demand Management (TDM) Plan, which includes various strategies intended to reduce vehicle trips from the project including, among others, provision of discount transit passes, provision of bicycle facilities, unbundling of parking program, and carsharing. The conditions of approval include condition no. 37 that requires traffic monitoring on certain nearby streets in order to address any excessive traffic from the project on these streets.

D. That the location, design, size, and uses are such that the residents or establishments to be accommodated will be adequately served by existing or proposed facilities and services.

The development will be adequately served by facilities and services. Utilities including water, wastewater, electrical and gas services, and telecommunications are proximal to the site and are of sufficient capacity to adequately serve the development or, in the cases of deficiencies, shall be upgraded. Public services including police, fire, schools, libraries and parks are also proximal and sufficient to serve the development. The detailed discussion of the project's impact on public services and utilities contained in Sections IV.I and IV.J of MacArthur Transit Village Draft EIR (pages 365 to 396) are hereby incorporated by reference.

- E. That the location, design, size, and uses will result in an attractive, healthful, efficient, and stable environment for living, shopping, or working, the beneficial effects of which environment could not otherwise be achieved under the zoning regulations.**

The development will result in an attractive, healthful, efficient, and stable environment for living, shopping and working. The project is well-designed to promote healthy environment with readily available access to multiple modes of transit, sufficient areas devoted for open space, a mix of land uses including for sale housing, for-rent housing, affordable units, commercial uses and a community serving use, and the project is participating in the LEED ND Pilot Program. The project is an efficient use of land because it is compact, high-density, mixed use located immediately adjacent to transit. The efficiency of the project realized through its compact designed could not be achieved under the normal zoning regulations.

- F. That the development will be well integrated into its setting, will not require excessive earth moving or destroy desirable natural features, will not be visually obtrusive and will harmonize with surrounding areas and facilities, will not substantially harm major views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, vegetation, topographic features, or other devices.**

The development is designed to respond well to its setting. The street, block, and unit layout is designed to provide maximum benefit to the residents, visitor and patrons of the development while limiting impacts to the surrounding area. No significant natural features or views exist at the site.

Views to and from the project site would be modified; however, the project will not substantially harm major views for surrounding residents. Surrounding residents currently have views of an expansive, subterranean parking lot. The proposed project would redevelop the existing surface parking lot and other unattractive uses on the site with residential and neighborhood serving commercial uses, thereby improving the views for surrounding neighborhood residents. Existing residential units on the upper floors of the existing building at Telegraph Avenue and 40th Street currently have views of the parking lot, freeway and commercial and residential development to the west and south. The proposed project would replace these south and west views with a mixed use building containing commercial and residential land uses that would be constructed 5 feet from the west and south property lines (the existing building at Telegraph Avenue and 40th Street is built to the property line). No building setbacks are required; however the proposal includes a minimum of 5 feet for upper floors. The project would mimic the height of the existing building along Telegraph Avenue and gradually increase in height on 40th Street, and no major views for surrounding residents would be harmed.

The project would not require removal of excessive earth. The project would require removal of existing trees and the project includes planting of more trees and shrubs than currently exist on site.

II. Section 17.136.050 (Design Review Criteria):

- 1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures.**

The proposed design will create a set of buildings that well related to the surrounding area. The setting, scale, bulk, height, materials, and textures of the development are complementary to the surrounding residential and commercial development. The proposed Design Guidelines, adopted as conditions of approval, will ensure that the project achieves the vision created through years of public participation and detailed design studies including: the physical qualities of an urban environment with viable public spaces, improved access to BART and quality architecture.

- 2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics.**

The proposed design will enhance desirable neighborhood characteristics. Though only at the Preliminary Development Stage, the proposal is well designed and attractive thereby contributing positively to the visual environment of the neighborhood. The proposed Design Guidelines, adopted as conditions of approval, will ensure that the project achieves the vision created through years of public participation and detailed design studies including: the physical qualities of an urban environment with viable public spaces, improved access to BART and quality architecture.

- 3. That the proposed design will be sensitive to the topography and landscape.**

No significant topographic or landscape features exist on the site. The design responds to the surrounding landscape in that the project massing and height corresponds to the neighborhood pattern by providing the least amount of height and mass along Telegraph Avenue and increases height and massing toward the freeway and BART platform.

- 4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill.**

The project is not situated on a hill.

- 5. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

The design of the proposal conforms to the General Plan as explained above in section A of the PUD findings.

III. Section 17.134.050 (General Conditional Use Permit Criteria):

Purpose of major conditional use permit: To allow residential parking in excess of the S-15 Zone requirements (17.166.290 (5)); and to allow off-street parking for non-residential land uses (Section 17.166.290 (2)).

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposal to provide parking above and beyond the code requirements would not adversely affect the livability or appropriate development of abutting properties or the surrounding neighborhood. The proposed parking ratio of 1 space per unit is appropriate at this location given that some of the units are family units (3 bedroom) and because of the opportunity to share the parking with the general public (including BART patrons). Current Institute of Transportation Engineers (ITE) parking demand rates are about 1.4 spaces/unit, which is significantly higher than the proposed rate of 1:1. As described in the staff report and in Exhibit C-2, the Traffic Demand Management Plan includes a variety of measures to increase parking capacity at within the project. The TDM Plan also includes a mechanism to assess the amount of required parking as future phases of the project are developed. With the reduction in BART parking, and potential opportunity to share parking with the general public, permitting an increase in parking for uses in the project is appropriate for this project.

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The proposal to provide more parking than required by the City's parking code will provide for a functional living, working, shopping and civic environment. Providing parking for commercial uses is likely to increase the marketability of the commercial space to quality service uses. Providing an additional 0.5 space of parking per unit will provide more functionality for the residents of the project. Balancing the market demand for parking with good TOD planning is achieved by the multiple measures included in the TDM Plan to increase accessibility of parking within the project to the general public, and continuing to monitor the parking demand throughout the development of the project. All parking within the project would be located in parking structures that are not visible from public right-of-way, with the exception of a portion of the parking garage for Building B that is visible along Frontage Road. The project design includes landscaping to screen the parking area from view along Frontage Road.

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The proposed increase in parking beyond the parking code requirements will facilitate the successful operation of the mixed-use development, which will redevelop and revive existing underutilized parcels immediately adjacent to the BART station. With the reduction in BART

parking, and potential opportunity to share parking with the general public, permitting an increase in parking for uses in the project is appropriate for this project. Thus, the proposed development will both provide essential services to the community (better access to BART, affordable housing, neighborhood serving retail and community uses) and enhance the successful operation of the surrounding area by increasing residential and commercial activities in the neighborhood.

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050.

The proposed parking conforms to the design review criteria in Section 17.136.050, as detailed above in Section II. The parking proposed to serve the residential and commercial uses within the project is well designed and integrated within the project because it is not visible from the public right of way.

E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The design of the proposal conforms to the General Plan as explained above, in section A of the PUD findings.

EXHIBIT C

CONDITIONS OF APPROVAL FOR THE MACARTHUR TRANSIT VILLAGE PROJECT

Part 1: General Conditions of Approval

1. Approved Use

Ongoing

a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, staff report, and the plans submitted on **May 28, 2008**, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall require prior written approval from the Director of City Planning or designee. The project may however increase the number of permitted residential dwelling units up to a maximum of 675 dwelling units, as analyzed in the MacArthur Transit Village Project EIR provided that a) the ratio of affordable units (20% of market rate units) is maintained; and the resulting project design with the additional units shall conform in all major respects with the approved Preliminary Development Plan.

b) This action by the **City Planning Commission** (“this Approval”) includes the approvals set forth below. This Approval includes:

i. **Planned Unit Development (PUD), under Oakland Planning Code Chapters 17.122 and 17.140;**

ii. **Major Conditional Use Permit (CUP), under Oakland Planning Code Chapter 17.134; and**

iii. **Design Review, under Oakland Planning Code Chapter 17.136**

c) **This Approval shall not become effective unless the proposed legislative actions (rezoning and text amendment) occur as stated in Condition of Approval 20.**

2. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

Unless a different termination date is prescribed, this Approval shall expire **two years** from the approval date, unless within such period all necessary permits for construction of Stage 1 (the BART Parking Garage) have been issued. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant two one-year extensions of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired. These time periods are “tolled” due to litigation challenging this approval and thus such time shall not be counted toward expiration of this approval. The Preliminary Development Plan Approval for the Planned Unit Development Permit shall expire June 4,

2018 and all Final Development Plan phases shall be reviewed and approved by that date (see below for details on FDP Staging).

FDP Staging

Submittal of Final Development Plans (FDPs) shall be permitted in five (5) stages over a 10 year time period from the date of this approval, as detailed below.

(a) Each stage of FDP is described below:

- i. Stage 1. Stage 1 FDP for the project will include the construction of Building E, the replacement BART parking garage, site remediation, Internal Drive, the Frontage Road improvements, and the portion of Village Drive that extends from the Frontage Road to the Internal Drive. Stage 1 FDP shall be submitted to the Planning Department for review and processing and the project applicant shall make regular and consistent progress toward approval of Stage 1 FDP within 1 year from the date of this approval. If approved, construction associated with Stage 1 FDP shall commence in earnest by not later than 2 years from the date of Stage 1 FDP approval.
- ii. Stage 2. Stage 2 FDP for the project will include construction of Building D, consisting of a minimum of 90 below market rate rental units. Stage 2 FDP shall be submitted to the Planning Department for review and processing and the project applicant shall make regular and consistent progress toward approval of Stage 2 FDP within 3 years from the date of this approval. If approved, construction associated with Stage 2 FDP shall commence in earnest by not later than 2 years from the date of Stage 2 FDP approval.
- iii. Stage 3. Stage 3 FDP for the project will include construction of Building A, consisting of up to 240 ownership residential units and 26,000 square feet of commercial space. All street improvements, including the completion of Village Drive and any new traffic signals required by the project, will be completed in this phase. This phase will also include the completion of a public plaza directly across Frontage Road from the existing BART Plaza. Stage 3 FDP shall be submitted to the Planning Department for review and processing and the project applicant shall make regular and consistent progress toward approval of Stage 3 FDP within 4 years from the date of this approval. If approved, construction associated with Stage 3 FDP shall commence in earnest not later than 2 years from the date of Stage 3 FDP approval.
- iv. Stage 4. Stage 4 FDP for the project will include the construction of Building B, consisting of up to 150 ownership residential units and 5,500 square feet of commercial space. Stage 4 FDP shall be submitted to the Planning Department for review and processing and the project applicant shall make regular and consistent progress toward approval of Stage 4 FDP within 8 years from the date of this approval. If approved, construction associated with Stage 4 FDP shall commence in earnest not later than 2 years from the date of Stage 4 FDP approval.

- v. Stage 5. Stage 5 FDP for the will include the construction of Building C, consisting of up to 195 ownership residential units and 12,500 square feet of commercial space. This phase will also include the construction of a community center use on the ground floor of Building C. Stage 5 FDP shall be submitted to the Planning Department for review and processing 10 years from the date of this approval. If approved, construction associated with Stage 5 FDP shall commence in earnest not later than 2 years from the date of Stage 5 FDP approval.

- (b) For purposes of this conditions, the term “commence in earnest” shall mean to initiate activities based on a City-issued building permit and other necessary permit (s) and diligently prosecute such permit(s) in substantial reliance thereon and make regular and consistent progress toward the completion of construction and the issuance of final certificate of occupancy, including successful completion of building inspections to keep the building permit and other permits active without the benefit of extension.

- (c) Provided that Stage 1 and 2 FDPs are approved in accordance with the above time frames, the Developer shall have the discretion to change which buildings (A, B, or C) are constructed in which Stages (3, 4 or 5) provided that the FDP submittal dates for these stages remain the same. All other modifications to FDP staging shall be subject to review and approval by the Planning Commission.

- (d) FDP Stages may be combined and reviewed prior to the outlined time frames. If each stage of FDP is not submitted/completed within the time frames outlined above, the PDP shall be considered null and void.

- (e) If, subsequent to this approval, a Development Agreement for this project is adopted by the City, the phasing and construction timeframes prescribed within the Development Agreement shall supersede this condition of approval and govern construction phasing for the project.

3. Scope of This Approval; Major and Minor Changes

Ongoing

The project is approved pursuant to the Planning Code only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. Conformance to Approved Plans; Modification of Conditions or Revocation

Ongoing

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of the project sponsor obtaining site control, unless an earlier date is specified elsewhere.

- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.

- c) Violation of any term, Conditions, Mitigation Measures or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions and Mitigation Measures if it is found that there is violation of any of the Conditions, Mitigation Measures or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it limit in any manner whatsoever the ability of the City to take appropriate enforcement actions.

5. Signed Copy of the Conditions and Mitigation Measures

With submittal of a demolition, grading, and building permit

A copy of the approval letter and Conditions and Mitigation Measures shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

6. Indemnification

Ongoing

- a) The project applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees (hereafter collectively called the City) from any claim, action, or proceeding (including legal costs and attorney's fees) against the City to attack, set aside, void or annul this Approval, or any related approval by the City. The City shall promptly notify the project applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding. The project applicant shall reimburse the City for its reasonable legal costs and attorney's fees.
- b) Within ten (10) calendar days of the filing of a claim, action or proceeding to attack, set aside, void, or annul this Approval, or any related approval by the City, the project applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations and this condition of approval. This condition/obligation shall survive termination, extinguishment, or invalidation of this, or any related approval. Failure to timely execute the Letter Agreement does not relieve the project applicant of any of the obligations contained in 7(a) above, or other conditions of approval.

7. Conditions of Approval/Mitigation Monitoring Program

Ongoing

- a) All mitigation measures identified in the MacArthur Transit Village Project EIR are included in the Mitigation Monitoring and Reporting Program (MMRP) which is included in these conditions of approval and are incorporated herein by reference, as Attachment 2-A, as conditions of approval of the project. The Standard Conditions of Approval identified in the MacArthur Transit Village EIR are also included in the MMRP, and are therefore, not repeated in these conditions of approval. To the extent that there is any inconsistency between the MMRP and these conditions, the more restrictive conditions shall govern. The project sponsor (also referred to as the Developer, Applicant or MTCP) shall be responsible for compliance with the recommendation in any submitted and approved technical reports, all applicable mitigation measures adopted and with all conditions of approval set forth herein at its sole cost and expense, unless otherwise expressly provided in a specific mitigation

measure or condition of approval, and subject to the review and approval of the City of Oakland. The MMRP identifies the time frame and responsible party for implementation and monitoring for each mitigation measure. Overall monitoring and compliance with the mitigation measures will be the responsibility of the Planning and Zoning Division.

- b) For purposes of these conditions of approval, “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

8. Severability

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions and mitigations, and if any one or more of such conditions and/or mitigations is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions and/or mitigations consistent with achieving the same purpose and intent of such Approval.

9. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval and mitigations, shall be available for review at the job site at all times.

10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management

Prior to issuance of a demolition, grading, and/or construction permit

The project applicant may be required to pay for on-call special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review, or construction. The project applicant may also be required to cover the full costs of independent technical and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

11. Required Landscape Plan for New Construction and Certain Additions to Residential Facilities

Prior to issuance of a building permit

Submittal and approval of a landscape plan for each stage of the project is required. The landscape plan and the plant materials installed pursuant to the approved plan shall conform with all provisions of Chapter 17.124 of the Oakland Planning Code, including the following:

- a) Landscape plans shall include a detailed planning schedule showing the proposed location, size, quantities, and specific common botanical names of plant species.
- b) Landscape plans for projects involving grading, rear walls on downslope lots requiring conformity with the screening requirements in Section 17.124.040, or vegetation management prescriptions in the S-11 zone, shall show proposed landscape treatments for all graded areas, rear wall treatments, and vegetation management prescriptions.
- c) All landscape plans shall show proposed methods of irrigation. The methods shall ensure adequate irrigation of all plant materials for at least one growing season.

12. Landscape Requirements for Street Frontages.

Prior to issuance of a final inspection of the building permit

- a) All areas between a primary Residential Facility and abutting street lines shall be fully landscaped, plus any unpaved areas of abutting rights-of-way of improved streets or alleys, provided, however, on streets without sidewalks, an unplanted strip of land five (5) feet in width shall be provided within the right-of-way along the edge of the pavement or face of curb, whichever is applicable. Existing plant materials may be incorporated into the proposed landscaping if approved by the Director of City Planning.

- b) In addition to the general landscaping requirements set forth in Chapter 17.124, a minimum of one (1) fifteen-gallon tree, or substantially equivalent landscaping consistent with city policy and as approved by the Director of City Planning, shall be provided for every twenty-five (25) feet of street frontage. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet, the trees to be provided shall include street trees to the satisfaction of the Director of Parks and Recreation.

13. Assurance of Landscaping Completion.

Prior to Issuance of a Certificate of Occupancy

The trees, shrubs and landscape materials required by the conditions of approval attached to this project shall be planted before the certificate of occupancy will be issued; or a bond, cash, deposit, or letter of credit, acceptable to the City, shall be provided for the planting of the required landscaping. The amount of such or a bond, cash, deposit, or letter of credit shall equal the greater of two thousand five hundred dollars (\$2,500.00) or the estimated cost of the required landscaping, based on a licensed contractor's bid.

14. Landscape Maintenance.

Ongoing

All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required fences, walls and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

15. Bicycle Parking

Prior to the issuance of first certificate of occupancy

The applicant shall submit for review and approval of the Planning and Zoning Division and Transportation Services Division, a bicycle parking plan that shows bicycle storage and parking facilities to accommodate a minimum of 40 short-term bicycle parking spaces (31 for residential uses and 9 for commercial uses) onsite or on public sidewalk, and a minimum of 160 long-term bicycle parking spaces (156 for residential uses and 4 for commercial uses). The plans shall show the design and location of bicycle racks within the secure bicycle storage areas. The applicant shall pay for the cost and installation of any bicycle racks in the public right of way.

Prior to approval of Final Development Plan for Stage 1

Additionally, the project applicant shall work with the City's Transportation Services Division and BART to implement the City's goals for bicycle parking at Railroad and Bus Terminals (provide a combination of short-term and long-term bike parking equal to 5% of the maximum projected ridership for the BART station). The project applicant shall study the feasibility of providing a long-term bike parking facility within the BART plaza, commercial area of the development (i.e., café with bicycle storage or bicycle sales and repair shop and storage) or within the proposed parking garage. Said study shall consider economic and

physical feasibility and shall be reviewed by the City's Transportation Services Division, Planning and Zoning Division and BART. If the study finds that such a facility is feasible in the commercial area or parking garage: the project applicant shall use its best efforts during the initial marketing of the commercial space to market a portion of the commercial space to potential bike parking facility operators for a market-rate commercial operation, or include a market-rate, long-term bike facility within the parking garage. If the study finds that options for bike parking within the commercial area or parking garage are not feasible, then the project sponsor shall have no further commitment with respect to the long-term bicycle parking for BART.

PART 2: Additional Conditions of Approval for Major Projects

16. Underground Utilities

Prior to issuance of a building permit

The project applicant shall submit plans for review and approval by the Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground. The new facilities shall be placed underground along the project applicant's street frontage and from the project applicant's structures to the point of service. The plans shall show all electric, telephone, water service, fire water service, cable, and fire alarm facilities installed in accordance with standard specifications of the serving utilities.

17. Improvements in the Public Right-of-Way (General)

Approved prior to the issuance of a P-job or building permit

- a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions and/or mitigations and City requirements including but not limited to proposed project traffic signals (MacArthur Boulevard/Frontage Road and Telegraph Avenue/40th Street), curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications and locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this Approval. Encroachment permits shall be obtained as necessary for any applicable improvements- located within the public ROW.
- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition and/or mitigations.
- c) The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of the final building permit.
- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

18. Payment for Public Improvements

Prior to issuance of a final inspection of the final building permit.

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

19. Compliance Plan

Prior to issuance of a demolition, grading, or building permit

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division a Conditions/ Mitigation Measures compliance plan that lists each condition of approval and/or mitigation measure, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions and/or mitigations. The applicant will sign the Conditions of Approval attached to the approval letter and submit that with the compliance plan for review and approval. The compliance plan shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance plan and provide it with each item submittal.

PART 3: Project-Specific Conditions of Approval

20. Rezoning and Zoning Text Amendment

Required prior to this approval becoming effective

This Approval shall not become effective unless the Zoning Map Amendment and S-15 Text Amendment related to open space standards are adopted by the City Council. The City Council has the authority to consider and revise as appropriate (accept, reject, or modify) the adjudicatory land use decisions of the Planning Commission (including planned unit development permit, design review, and the conditional use permit), regardless of whether an appeal to the City Council is filed challenging such adjudicatory land use decisions.

21. Residential Parking Permits.

Required prior to the demolition of the BART surface parking lot; or prior to elimination of half of the existing BART parking spaces

The project sponsor shall work with the City of Oakland to implement a Residential Parking Permit (RPP), in accordance with all legal requirements, within one quarter mile radius around the station in the residential neighborhoods west of Highway 24 and the BART station, north of 40th Street, east of Telegraph Avenue and south of West MacArthur Boulevard. The street segments to be included in the RPP program are generally shown in Exhibit C-4. The RPP would restrict on-street parking by non-residents to less than two hours during the weekdays. The project sponsor shall fund this effort up to a maximum of \$150,000. If approved, the RPP program should be implemented prior to elimination of more than 50% of the existing BART parking spaces. To the extent possible, the City will explore using any surplus/excess revenues from enforcement of the RPP program to reimburse the project applicant for costs incurred by project sponsor in connection with the RPP program pursuant to this Section 21. If the City does not approve this RPP program within two years from the date of the completion of the new BART parking garage, the project sponsor shall have no further obligation to pursue or fund any RPP program and the City shall reimburse the project sponsor for any unused funds provided by the project sponsor to the City pursuant to this condition.

22. Traffic Demand Management (TDM) and Parking Program

Prior to and ongoing throughout demolition, grading, construction activities and operation of the project

The project is conditioned on the implementation of a TDM program by MTCP and effectively monitored by the City, as required in MMRP Mitigation Measures Trans-4 and Trans-9. A draft TDM Plan prepared by Nelson Nygaard dated May 27, 2008, and is

included herein as Exhibit C-2. The final TDM Plan, as stipulated in the MMRP, is subject to review by BART, AC Transit and the review and approval by the City of Oakland.

Funding for monitoring, reporting and review of the TDM program shall be provided by the project sponsor.

In addition to the CEQA requirements for a TDM program, the TDM program described in MMRP Mitigation Measures Trans-4 and Trans-9 is also designed to promote the City's Transit First Policy of the general plan, reduce parking demand and lessen parking impacts on adjacent neighborhoods and to promote good urban design by reducing the number and size of parking facilities. Therefore MMRP Mitigation Measures Trans-4 and Trans-9 are also imposed as a separate non-CEQA conditions of approval and the TDM program shall be incorporated into the project, for the duration of the project, to maximize parking capacity and help ensure that these goals are met.

23. Minimum Right-of-Way for Fire Emergency Vehicle Access.

Prior to approval of Each Stage of Final Development Plan or Vesting Tentative Map and Ongoing

The project shall accommodate the intent of the 2008 fire code provisions for increased right-of-way access as follows:

- (a) Village Drive will be maintain an unobstructed right-of-way distance of 26 feet.
- (b) Internal Street will include two (2) 26-foot wide staging areas and the remaining right-of-way will remain 20 feet wide.
 - i. The staging areas will be a minimum of 30 feet in length.
 - ii. No parking or landscaping will be permitted in the staging areas.
 - iii. The location of the staging areas will be based on a ladder study to be completed by MTCP in consultation with the Fire Department.
 - iv. Fire hydrants will be staggered outside of the staging areas.
- (c) Frontage Road will include one (1) 26-foot wide staging area and the remaining right-of-way will remain the same.
 - i. The staging area for the frontage road will be located approximately 30 feet north of the crosswalk on the north side of the parking garage.
 - ii. The staging area will be a minimum of 30 feet in length.
 - iii. No parking or landscaping will be permitted in the staging areas.
- (d) In addition to incorporating staging areas and setting a minimum unobstructed street width of 26 feet for Village Drive and 20 feet for Internal Street, as described above, the project sponsor will include Alternate Materials and Methods Requests (AMMRs) into the project to the satisfaction of the Fire Chief. The appropriate AMMRs will be determined by the Fire Chief's review of Final Development Plans or Vesting Tentative Maps, and may include the following measures:
 - i. Increased sprinkler density (provide sprinklers in bathrooms and closets)
 - ii. Install 8-head instead of 4-head sprinklers
 - iii. Design fire hydrants with a minimum 200 foot separation
 - iv. Provide dual water connections and water sources per building
 - v. Provide Fire Department Connections (FDCs) on each street (minimum of 2 per building)

24. Air Filtration/Ventilation System.

Prior to issuance of a building permit

Although the studies conducted for the EIR demonstrate that the project site was found to be below the significance criteria for health risk based on the assessment prepared in accordance with the California Air Resources Board and the Office of Environmental Health and Hazard Assessment for exposure to vehicular exhaust from roadways, the project sponsor has agreed to incorporate into the project a mechanical ventilation system that meets the efficiency standard of the MERV 13 for those units with windows fronting the freeway or Frontage Road. The ventilations shall be subject to review and approval by the City's Building Services Division. Appropriate maintenance, operation and repair materials will be furnished to project residents.

25. Components of Final Development Plans.

Prior to approval of Any Final Development Plans

In accordance with the Planning Code Chapter 17.140, each stage of FDP shall:

(a) Conform to all major respects with the approved Preliminary Development Plan received by the Planning Division on May 28, 2008, and included as Exhibit F;

(b) Comply with development standards of the S-15 Zone, except and modified for building height as bonus for the Planned Unit Development and shown in the Preliminary Development Plan;

(c) Be consistent with the MacArthur Transit Village Design Guidelines included in these conditions as Exhibit C-3;

(d) Include all information included in the preliminary development plan plus the following:

- i. the location of water, sewerage, and drainage facilities;
- ii. detailed building floor plans, elevations and landscaping plans;
- iii. the character and location of signs;
- iv. plans for street improvements; and
- v. grading or earth-moving plans.

(e) Be sufficiently detailed to indicate fully the ultimate operation and appearance of the development stage; and

(f) Include copies of legal documents required for dedication or reservation of group or common spaces, for the creation of nonprofit homes' association, or for performance bonds, shall be submitted with each Final Development Plan.

26. Subdivision Maps

Prior to final approval of Each Final Development Plan

Final Development Plans shall be accompanied by subdivision maps as required to subdivide the property. The subdivision maps shall be reviewed and processed in accordance with Title 17, Subdivisions, of the City of Oakland Municipal Code and the Subdivision Map Act.

27. Final Development Review and Approval by City Council.

Prior to final approval of Any Final Development Plan

All Final Development Plan(s) shall be subject to review and recommendation by the Planning Commission's Design Review Committee and Planning Commission, with final approval by the City Council.

28. Minimum Setback to Buildings Adjacent to Project Site.

Prior to issuance of a building permit

All buildings within the project shall maintain a minimum 5 foot setback, except at the ground level, to existing buildings adjacent to the project site. The applicant shall show all proposed building setbacks on the plans submitted for a building permit.

29. Safety Plan.

Prior to issuance of a building permit

The project sponsor shall work with the Oakland Police Department and the Planning and Zoning Division to prepare a safety plan for the portion of the project area along Frontage Road between the BART Garage and the BART Plaza. Without limiting the foregoing, the safety plan shall assess the efficacy and feasibility of installing video security cameras along Frontage Road. The project sponsor shall implement the approved recommendations/conclusions of the safety study including, if determined necessary and feasible by the City, the implementation of video cameras.

30. Special Project Driveway Design Improvements.

Prior to approval of Each Final Development Plan Stage or Vesting Tentative Map and Ongoing

To limit conflicts between pedestrians, bicycles and vehicles entering and exiting the BART parking garage and residential parking garages within the project, the project driveways shall incorporate the following design measures, subject to review and approval of the City's Transportation Services Division (TSD):

- (a) Install a high-visibility crosswalk across Frontage Road connecting the BART garage to the western sidewalk. Note that currently, the City of Oakland does not install high visibility crosswalks at signalized intersections unless there are problems with sight distance.
- (b) For driveways along Internal Street, provide adequate sight distance at all residential garage exits. End the ramp before the sidewalk so that the sidewalk remains level and vehicles do not encroach on the sidewalk. Landscaping should be maintained so that adequate sight distance is provided. Consider installing pedestrian warning lights to alert pedestrians to exiting vehicles at driveways with high pedestrian volumes and limited sight distance. Installation of loud audible warning devices is not recommended.
- (c) For the driveway along Village Drive, provide adequate sight distance the garage exit. End the ramp before the sidewalk so that the sidewalk remains level and vehicles do not encroach on the sidewalk. Landscaping should be maintained so that adequate sight distance is provided. Consider installing pedestrian warning lights to alert pedestrians to exiting vehicles at driveways with high pedestrian volumes and limited sight distance. Installation of loud audible warning devices is not recommended.

31. Pedestrian Access Paths.

Prior to approval of the Final Development Plan for Stages 1 and 5 or Vesting Tentative Map and Ongoing

Design the paths between Internal Street and West MacArthur Boulevard, and Internal Street and Telegraph Avenue for pedestrian use only.

The two 10-foot wide paths shown on the Preliminary Development Plan between the southern end of Internal Street and West MacArthur Boulevard, and between Internal Street and Telegraph Avenue, along the southern edge of Block C shall be restricted to pedestrian use and signage shall be provided to mark the paths for pedestrian use only.

32. Internal Street.

Prior to approval of the Final Development Plan for Stages 1 or Vesting Tentative Map and Ongoing

The developer shall reserve “Internal Street” on the owner’s statement of the Final Map for private street purposes and clearly indicate who will benefit and maintain the private street. The private street maintenance language shall be included in the subdivision CC&R and reviewed and approved by Planning Director and City attorney. The developer shall provide proof on how the private street shall be maintained. Unless otherwise approved by the Engineering Division, the private street shall be constructed to the City’s standard details for public street construction.

33. Specific Project Intersection Improvements.

Prior to approval of Final Development Plan for Stage 3 or Vesting Tentative Map and Ongoing

In order to enhance pedestrian activity and safety to and from the project site, the following measures shall be implemented, subject to review and approval by the City’s Transportation Services Division (TSD):

- (a) For the intersection of 40th Street and the Frontage Road:
 - i. Prohibit right turns on red and provide a leading pedestrian interval.
 - ii. Increase the initial walk interval (this allows more time for clusters of pedestrians to leave the sidewalk when crossing)
 - iii. Install high visibility cross walks (i.e., ladder striping or colored pavement)
 - iv. Install audible pedestrian countdown signals
 - v. Provide separate curb ramps for each cross walk

- (b) For the intersection of Telegraph Avenue and Village Drive
 - i. Increase the initial walk interval (this allows more time for clusters of pedestrians to leave the sidewalk when crossing)
 - ii. Install high visibility cross walks (i.e., ladder striping or colored pavement)
 - iii. Install audible pedestrian countdown signals
 - iv. Provide separate curb ramps for each cross walk

- (c) For the intersection of Frontage Road and Village Drive
 - i. Install high visibility cross walks (i.e., ladder striping or colored pavement)
 - ii. Provide a raised intersection with high visibility striping to connect pedestrians from the BART plaza to Village Drive
 - iii. Install signage (i.e., “Left Turn Only, Except Shuttles and Bicycles”) and striping at this intersection to prohibit south bound traffic except shuttles and bicycles from continuing south to West MacArthur Boulevard.

- (d) For the intersection of West MacArthur Boulevard and Frontage Road
 - i. Increase the initial walk interval (this allows more time for clusters of pedestrians to leave the sidewalk when crossing)
 - ii. Install high visibility cross walks (i.e., ladder striping or colored pavement)
 - iii. Install audible pedestrian countdown signals
 - iv. Provide separate curb ramps for each cross walk

- v. Install bulb-outs at corners
- (e) For the intersection of the BART Garage and Frontage Road
 - i. Construct curbs and provide striping to prohibit vehicles exiting the BART garage from turning right; and to prohibit northbound vehicle from traveling further north beyond the driveway into the BART garage.
 - ii. Provisions should be made to allow through access for emergency vehicles, such as City and BART Police, Fire and Ambulance vehicles.

34. Coordination of BART Parking and Plaza Improvements

Prior to approval of Final Development Plan for Stage 1

- (a) The BART parking structure shall include a minimum of 300 parking spaces.
- (b) The project applicant shall coordinate with BART to facilitate construction of the BART parking structure and BART Plaza improvements as shown in the Preliminary Development Plan.

35. Bicycle Access and Bicycle Paths

Prior to approval of Final Development Plan for Stage 1 or Vesting Tentative Map and Ongoing

In order to enhance bicycle safety to and from the project site, the following measures shall be implemented, subject to review and approval by the City's Transportation Services Division:

- (c) Provide two-way bike lanes on Frontage Road. Locate the northbound bike lane west of the northbound (right-turn only) vehicle lane. Southbound bicyclists could use the southbound shuttle lane.
- (d) Install STOP signs for vehicles exiting the BART garage and for southbound shuttles approaching the BART garage.
- (e) Provide adequate sight distance at the garage exit. Landscaping should be maintained so that adequate sight distance is provided.
- (f) Provide signage at the West MacArthur Boulevard/Frontage Road intersection directing bicyclists to the bicycle path or lanes on Frontage Road.
- (g) Install bicycle detection for all actuated through movements or left turns at the new signal at 40th Street and Frontage Road; the new signal at Telegraph Avenue and Village Drive; and West MacArthur Boulevard and Frontage Road.
- (h) Install signage (i.e., "Left Turn Only, Except Shuttles and Bicycles" and "Left Turn Only, Except Shuttles and Bicycles") and striping at the Frontage Road/Village Drive intersection to prohibit southbound and westbound vehicles, except shuttle buses and bicycles, from continuing southbound to West MacArthur Boulevard. (Also see Condition 34 (c) iii).
- (i) Study the feasibility of providing a "bicycle box" at the southbound approach to the West MacArthur Boulevard/Frontage Road/37th Street intersection and at the northbound approach to the Frontage Road/40th Street intersection. Project applicant

shall submit said feasibility to the City's Transportation Services Department for review and approval. If said improvement is determined to be feasible, the project applicant shall implement this measure.

- (j) Study the feasibility of using colored pavement or other visual treatments on the bike path or lanes to increase their visibility and use by bicyclists. Project applicant shall submit said feasibility to the City's Transportation Services Department for review and approval. If said improvement is determined to be feasible, the project applicant shall implement this measure.

36. Area Right of Way Improvements.

Prior to approval of Final Development Plan for Stage 3 or Vesting Tentative Map and Ongoing

Project applicant shall perform feasibility and other studies of the following measures for review and approval by the City Planning Division and Transportation Services Division (TSD). The Project applicant shall implement items determined feasible by the City.

- (a) Removal of the slip right-turns on northbound and southbound Telegraph Avenue at West MacArthur Boulevard.
- (b) Providing street furniture and widening sidewalks where feasible for street frontages immediately adjacent to the project site.

37. Traffic Monitoring.

Prior to project construction, and after completion of project

Project sponsor shall pay to monitor traffic volumes and speeds on the following roadways in accordance with the schedule below. In consultation with local residents, and in accordance with all legal requirements, appropriate traffic calming measures, such as speed humps, or roadway closures, should be considered if and when excessive traffic volumes or speeding are observed. These potential improvements should be funded by the project applicant, if approved by the City's Transportation Services Division (TSD):

- (a) 37th Street between West MacArthur Boulevard and Telegraph Avenue; Monitoring shall be undertaken before construction, and one year after a certificate of occupancy issued for the BART garage.
- (b) 38th Street between Telegraph Avenue and Webster Street; Monitoring should be undertaken before construction, and about one year after a certificate of occupancy issued for FDP Stage 3, or when eighty (80) percent occupancy is achieved, whichever occurs earlier.
- (c) Clarke Street and Ruby Street between 38th Street and 40th Street; Monitoring should be undertaken before construction, and about one year after a certificate of occupancy issued for FDP Stage 3, or when eighty (80) percent occupancy is achieved, whichever occurs earlier.

38. Outdoor Active Areas.

Prior to approval of Final Development Plan for each stage

To the maximum extent practicable, exterior active use areas, including playgrounds, patios, and decks, shall either be shielded by buildings or otherwise buffered to further reduce exterior noise for project residents.

39. BART Garage Elevations

Prior to approval of Final Development Plan for Stage 1 and Ongoing

Final Development Plans for the BART Garage shall include detailed architectural plans demonstrating how the design and building details break up the massing of the parking garage. Signage and advertising on the BART garage shall be subject to the guidelines and standards in the City of Oakland Uniform Sign Code, including Code Section 17.104.060 that prohibits advertising signs, except as permitted via a Franchise Agreement or Relocation Agreement is authorized by the City Council.

40. Green Roofs/Roof Top Gardens.

Prior to approval of Final Development Plan for Stages 2 through 5

As part of the submittal for each FDP application for each phase of FDP, except Stage 1 (BART parking garage), the project sponsor shall study the feasibility of methods to further reduce heat island effect and/or provide additional open space for resident use. Potential methods include but are not limited to green roofs, roof gardens, roof decks, open or partially enclosed private or common balconies. For purposes of this condition of approval, feasibility as defined above includes the consideration of proximity to the highway or streets, location above livable space, construction type, insurability, long term maintenance, HOA costs, and the use of space for other purposes. The feasibility study for implementing additional methods to further reduce heat island effect and/or provide additional open space for resident use shall be provided to Planning Staff as part of each FDP application. The intent of this condition is to further the sustainable elements of the project design and potentially provide more open space area for the project residents.

APPROVED BY:

City Planning Commission: _____ (date) _____ (vote)

City Council: _____ (date) _____ (vote)

Applicant and/or Contractor Statement

I have read and accept responsibility for the Conditions of Approval, as approved by Planning Commission action on June 4, 2008. I agree to abide by and conform to these conditions, as well as to all provisions of the Oakland Zoning Code and Municipal Code pertaining to the project.

Signature of Owner/Applicant: _____ (date)

Signature of Contractor _____ (date)

EXHIBIT C-1

MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) was formulated based on the findings of the Environmental Impact Report (EIR) prepared for the MacArthur Transit Village project in the City of Oakland. This MMRP is in compliance with Section 15097 of the *CEQA Guidelines*, which requires that the Lead Agency “adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects.” The MMRP lists mitigation measures recommended in the EIR and identifies mitigation monitoring requirements.

Table 1 presents the mitigation measures identified in the MacArthur Transit Village EIR necessary to mitigate potentially significant impacts. Each mitigation measure is numbered according to the topical section to which it pertains in the EIR. As an example, Mitigation Measure TRANS-1 is the first mitigation measure identified in the EIR for the MacArthur Transit Village. The City’s Standard Conditions of Approval identified in the EIR as measures that would minimize potential adverse effects that could result from implementation of the project are also included in this MMRP to ensure the conditions are implemented and monitored. The Standard Conditions are identified with a COA prefix (e.g., COA TRANS-1).

The first column of Table 5-1 identifies the Standard Condition of Approval or Mitigation Measure. The second column identifies the monitoring schedule or timing, while the third column names the party responsible for monitoring the required action. The fourth column, “Monitoring Procedure,” outlines the steps for monitoring the action identified in the mitigation measure. The fifth and sixth columns deal with reporting and provide spaces for comments and dates and initials. These last columns will be used by the City to ensure that individual mitigation measures have been monitored.

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
A. LAND USE					
<i>No significant land use impacts would occur.</i>					
B. PUBLIC POLICY					
<i>No significant public policy impacts were identified and no mitigation measures were identified in the EIR. The following SCOA is included to ensure no significant impacts occur..</i>					
COA POLICY-1: To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of raptors shall not occur during the breeding season of March 15 and August 15. If tree removal must occur during the breeding season, all sites shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to start of work from March 15 through May 31, and within 30 days prior to the start of work from June 1 through August 15. The pre-removal surveys shall be submitted to the Planning and Zoning Division and the Tree Services Division of the Public Works Agency. If the survey indicates the potential presences of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the CDFG, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.	Prior to the issuance of a tree removal permit	City of Oakland Planning and Zoning Division	Verify that tree removal will not occur during the breeding season of March 15 and August 15. If tree removal must occur during the breeding season, verify that the required pre-removal surveys have been conducted, provided to the Planning and Zoning Division, and if necessary an adequate nest buffer is implemented.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
C. TRANSPORTATION, CIRCULATION AND PARKING					
<p>COA TRANS-1: Prior to the issuance of each building permit, the project sponsor and construction contractor shall meet with the Transportation Services Division and other appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project sponsor shall develop a construction management plan for review and approval by the City Transportation Services Division. The plan shall also be submitted to BART and AC Transit for review and comment. The plan shall include at least the following items and requirements:</p> <ul style="list-style-type: none"> • A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. • Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur. • Location of construction staging areas for materials, equipment, and vehicles (must be located on the project site). 	Prior to commencing each phase of construction	City of Oakland , CEDA, Transportation Services Division	Verify that the Construction Management Plan has been prepared and that it meets the standards listed in the mitigation measure.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<ul style="list-style-type: none"> • Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular and pedestrian traffic, circulation and safety; and provision for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project applicant. • Temporary construction fences to contain debris and material and to secure the site. • Provisions for removal of trash generated by project construction activity. • A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an on-site complaint manager. • Subject to City review and approval, prior to start of construction, a construction worker transportation demand management (TDM) program shall be implemented to encourage construction workers to carpool or use alternative transportation modes in order to reduce the overall number of vehicle trips associated with construction workers. • Identification and maintenance of vehicular, bicycle, pedestrian and transit access to and from the BART Station. <p>It is anticipated that this Construction Traffic Management Plan would be developed in the context of a larger Construction Management Plan, which would address other issues such as hours of construction on-site, limitations on noise and dust emissions, and other applicable items.</p>					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p><u>Mitigation Measure TRANS-1</u>: Optimize signal timing (i.e., adjust the allocation of green time for each intersection approach) at the Telegraph Avenue/51st Street intersection and coordinate signal phasing and timing with the adjacent Telegraph Avenue/52nd Street and Claremont Avenue intersection and other intersections in the same coordination group. To implement this measure, the project sponsor shall submit a signal optimization plan to City of Oakland Transportation Services Division for review and approval. The plan shall consist of signal timing parameters for the signals in the coordination group. The project sponsor shall fund the cost of preparing and implementing the plan.</p>	<p>Submit plan prior to the issuance of first building permit;</p> <p>Implement signal optimization measures according to timing outlined in approved plan</p>	<p>City of Oakland , CEDA, Transportation Services Division</p>	<ul style="list-style-type: none"> • Verify that the Signal Optimization Plan has been prepared and that it meets the standards listed in the mitigation measure. • Verify that the project sponsor funds the cost of preparing and implementing the Signal Optimization Plan. • Ensure plan measures are being implemented. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p><u>Mitigation Measure TRANS-2</u>: Change the signal cycle length to 90 seconds and optimize signal timing (i.e., adjust the allocation of green time for each intersection approach) at the Market Street/MacArthur Boulevard intersection. To implement this measure, the project sponsor shall submit a signal optimization plan to City of Oakland Transportation Services Division for review and approval. The plan shall consist of signal timing parameters for the Market Street/MacArthur Boulevard intersection. The project sponsor shall fund the cost of preparing and implementing the plan.</p>	<p>Submit plan prior to the issuance of first building permit;</p> <p>Implement signal optimization measures according to timing outlined in approved plan</p>	<p>City of Oakland , CEDA, Transportation Services Division</p>	<ul style="list-style-type: none"> • Verify that the Signal Optimization Plan has been prepared and that it meets the standards listed in the mitigation measure. • Verify that the project sponsor funds the cost of preparing and implementing the Signal Optimization Plan. • Ensure plan measures are being implemented. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p><u>Mitigation Measure TRANS-3</u>: Implement the following measures:</p> <ul style="list-style-type: none"> Prohibit left-turns from northbound Telegraph Avenue into westbound 52nd Street during the peak commute times (i.e., 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). Currently, a small volume of traffic uses this movement (about 10 peak hour vehicles), which can be diverted to 51st Street. Thus, the peak hour prohibition on left-turns would not result in excessive and circuitous diversions. Change signal cycle length to 120 seconds and optimizing signal timing (i.e., adjust the allocation of green time for each intersection approach) at the Telegraph Avenue/52nd Street and Claremont Avenue intersection; coordinate signal timing and phasing with the adjacent Telegraph Avenue/51st Street intersection and other intersections in the same coordination group. <p>To implement these measures, the project sponsor shall submit the following to City of Oakland Transportation Services Division for review and approval:</p> <ul style="list-style-type: none"> Signing plans to prohibit left-turns from northbound Telegraph Avenue into westbound 52nd Street. Signal timing plans for the signals in the coordination group. <p>The project sponsor shall fund the cost of preparing and implementing these plans.</p>	<p>Submit plans prior to the issuance of first building permit;</p> <p>Implement measures according to timing outlined in approved plan</p>	<p>City of Oakland , CEDA, Transportation Services Division</p>	<ul style="list-style-type: none"> Verify that the signing plans to prohibit left-turns from northbound Telegraph Avenue into westbound 52nd Street have been adequately prepared. Verify that the signal timing plans for the signals in the coordination group have been adequately prepared. Ensure plan measures are being implemented. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p><u>Mitigation Measure TRANS-4</u>: Implement the following measures:</p> <ul style="list-style-type: none"> Change signal cycle length to 120 seconds and optimize signal timing (i.e., adjust the allocation of green time for each intersection approach) at the Telegraph Avenue/51st Street intersection and coordinate signal phasing and timing with the adjacent Telegraph Avenue/52nd Street and Claremont Avenue intersection and other intersections in the same coordination group. To implement this measure, the project sponsor shall submit a signal optimization plan to City of Oakland Transportation Services Division for review and approval. The plan shall consist of signal timing parameters for the signals in the coordination group. The project sponsor shall fund the cost of preparing and implementing the plan. 	<p>Submit plan prior to the issuance of first building permit;</p> <p>Implement signal optimization measures according to timing outlined in approved plan</p>	<ul style="list-style-type: none"> City of Oakland , CEDA, Transportation Services Division 	<ul style="list-style-type: none"> Verify that the Signal Optimization Plan has been prepared and that it meets the standards listed in the mitigation measure. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<ul style="list-style-type: none"> To help further minimize impacts at this intersection, a Transportation Demand Management (TDM) program shall be implemented at the project site to encourage more residents and employees to shift from driving alone to other modes of travel. Potential TDM measures may include, but are not limited to, transit ticket subsidies, awareness programs, direct transit sales, providing a guaranteed ride home program, and parking management strategies. The effectiveness of the TDM program shall be regularly monitored, and if necessary adjusted to meet its goals. The project applicant shall submit the TDM program to the City for its review and approval. The plan shall also be submitted to BART for review and comment. The project applicant shall also be responsible for funding and implementing the TDM program. <p>The components of the proposed TDM program have not been finalized. Additionally, it is difficult to accurately predict a TDM program's effectiveness and to quantify the effects on reducing project trip generation. To present a conservative analysis, this study assumes that the intersection would continue to operate at LOS F with the implementation of this mitigation measure. Thus, these measures will partially mitigate the impact, but are not sufficient to mitigate the impact to a less-than-significant level.</p>	<p>Submit TDM Plan prior to the issuance of first building permit;</p> <p>Implement measures according to timeframes outlined in approved plan</p>	<ul style="list-style-type: none"> City of Oakland Transportation Services Division 	<ul style="list-style-type: none"> Review Transportation Demand Management Program for adequacy and review regular monitoring reports regarding program effectiveness. Ensure plan and program measures are being implemented. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p><u>Mitigation Measure TRANS-5</u>: Optimize signal timing (i.e., adjust the allocation of green time for each intersection approach) at the West Street/40th Street intersection. To implement this measure, the project sponsor shall submit a signal optimization plan to City of Oakland Transportation Services Division for review and approval. The plan shall consist of signal timing parameters for the West Street/40th Street intersection. The project sponsor shall fund the cost of preparing and implementing the plan.</p>	<p>Submit plan prior to the issuance of first building permit;</p> <p>Implement signal optimization measures according to timing outlined in approved plan</p>	<p>City of Oakland , CEDA, Transportation Services Division</p>	<ul style="list-style-type: none"> • Verify that the Signal Optimization Plan has been prepared and that it meets the standards listed in the mitigation measure. • Ensure plan and program measures are being implemented. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>Mitigation Measure TRANS-6: Implement the following measures:</p> <ul style="list-style-type: none"> • Provide protected/permitted left-turn phasing on eastbound and westbound 40th Street approaches. • Change signal cycle length to 120 seconds in the AM peak and 105 seconds during the PM peak hour, and optimize signal timing (i.e., adjust the allocation of green time for each intersection approach) at the Telegraph Avenue/40th Street intersection. The change in signal cycle length may also require coordination with other intersections in the same coordination group. <p>To implement these measures, the project sponsor shall submit the following to City of Oakland Transportation Services Division for review and approval:</p> <ul style="list-style-type: none"> • Plans, Specifications, and Estimates (PS&E) to modify intersection to provide left-turn phasing on eastbound and westbound 40th Street approaches. • Signal timing plans for the signals in the coordination group. <p>The project sponsor shall fund the cost of preparing and implementing these plans.</p>	<p>Prior to the issuance of first building permit;</p> <p>Modify intersection and signal timing in accordance with approved plan</p>	<p>City of Oakland , CEDA, Transportation Services Division</p>	<ul style="list-style-type: none"> • Verify that the Plans, Specifications, and Estimates (PS&E) to modify intersection to provide left-turn phasing on eastbound and westbound 40th Street approaches have been adequately prepared. • Verify that signal timing plans for the signals in the coordination group have been adequately prepared. • Ensure plan measures are being implemented. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p><u>Mitigation Measure TRANS-Z</u>: The impact shall be mitigated by the following:</p> <ul style="list-style-type: none"> • Stripe a left-turn lane on northbound Market Street at MacArthur Boulevard. The left-turn lane can be accommodated within the existing right-of-way, but may result in loss of a few on-street parking and relocation of an AC Transit bus stop on northbound Market Street. • Change signal cycle length to 110 seconds during the AM peak hour and 90 seconds during the PM peak hour, and optimize signal timing (i.e., adjust the allocation of green time for each intersection approach) at the Market Street/MacArthur Boulevard intersection. <p>To implement these measures, the project sponsor shall submit the following to City of Oakland Transportation Services Division for review and approval:</p> <ul style="list-style-type: none"> • Plans, Specifications, and Estimates (PS&E) to stripe a left-turn lane on northbound Market Street at MacArthur Boulevard. • Signal timing plans for the Market Street/MacArthur Boulevard intersection. <p>The project sponsor shall fund the cost of preparing and implementing these plans.</p>	<p>Submit plans prior to the issuance of first building permit;</p> <p>Implement measures according to timeframes outlined in approved plan</p>	<p>City of Oakland , CEDA, Transportation Services Division</p>	<ul style="list-style-type: none"> • Verify that the Plans, Specifications, and Estimates (PS&E) to stripe a left-turn lane on northbound Market Street at MacArthur Boulevard have been adequately prepared. • Verify that the signal timing plans for the Market Street/MacArthur Boulevard intersection have been adequately prepared. • Ensure plan measures are being implemented. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p><u>Mitigation Measure TRANS-8:</u> Implement the following measures:</p> <ul style="list-style-type: none"> • Provide protected/permitted left-turn phasing on northbound and southbound Telegraph Avenue approaches. • Change signal cycle length to 120 seconds and optimize signal timing (i.e., adjust the allocation of green time for each intersection approach) at the Telegraph Avenue/MacArthur Boulevard intersection. Signal phasing and timing shall also be coordinated with other intersections in the same coordination group. <p>To implement this measure, the project sponsor shall submit the following to City of Oakland Transportation Services Division for review and approval:</p> <ul style="list-style-type: none"> • Plans, Specifications, and Estimates (PS&E) to modify intersection to provide left-turn phasing on northbound and southbound Telegraph Avenue approaches. • Signal timing parameters for the signals in the coordination group. <p>The project sponsor shall fund the cost of preparing and implementing the plan.</p>	<p>Submit plans prior to the issuance of first building permit;</p> <p>Implement measures according to timeframes outlined in approved plan</p>	<p>City of Oakland , CEDA, Transportation Services Division</p>	<ul style="list-style-type: none"> • Verify that the Plans, Specifications, and Estimates (PS&E) to modify intersection to provide left-turn phasing on northbound and southbound Telegraph Avenue approaches have been adequately prepared. • Verify that the signal timing parameters for the signals in the coordination group have been adequately prepared. • Ensure plan measures are being implemented. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p><u>Mitigation Measure TRANS-9</u>: Implement the following measures:</p> <ul style="list-style-type: none"> To help further minimize impacts at this intersection, a Transportation Demand Management (TDM) program shall be implemented at the project site to encourage more residents and employees to shift from driving alone to other modes of travel. Potential TDM measures may include, but are not limited to, transit ticket subsidies, awareness programs, direct transit sales, providing a guaranteed ride home program, and parking management strategies. The effectiveness of the TDM program shall be regularly monitored, and if necessary adjusted to meet its goal. The project applicant shall submit the TDM program to the City for its review and approval. The plan shall also be submitted to BART for review and comment. The project applicant shall also be responsible for funding and implementing the TDM program. <p>The components of the proposed TDM program have not been finalized. Additionally, it is difficult to accurately predict a TDM program's effectiveness and to quantify the effects on reducing project trip generation.</p>	<p><i>See Mitigation Measure TRANS-4</i></p>				

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
D. AIR QUALITY					
<p>COA AIR-1: Dust Control. <i>Prior to issuance of a demolition, grading, or building permit.</i> During construction, the project applicant shall require the construction contractor to implement the following measures required as part of BAAQMD basic and enhanced dust control procedures required for construction sites. These include:</p> <p>BASIC (Applies to ALL construction sites)</p> <p>a) Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.</p> <p>b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).</p> <p>c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.</p> <p>d) Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites.</p> <p>e) Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.</p> <p>f) Limit the amount of the disturbed area at any one time, where feasible.</p>	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division	<ul style="list-style-type: none"> • Make regular visits to the project site to ensure that all dust-control mitigation measures are being implemented. • Verify that a designated dust control coordinator is on-call during construction periods. 		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
g) Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph. h) Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used. i) Replant vegetation in disturbed areas as quickly as feasible. j) Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.). k) Limit traffic speeds on unpaved roads to 15 miles per hour. l) Clean off the tires or tracks of all trucks and equipment leaving any unpaved construction areas.					
ENHANCED (All "Basic" Controls listed above plus the following if the construction site is greater than 4 acres) a) All "Basic" controls listed above, plus: b) Install sandbags or other erosion control measures to prevent silt runoff to public roadways. c) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more). d) Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such person shall be provided to the BAAQMD prior to the start of construction as well as posted on-site over the duration of construction. e) Install appropriate wind breaks at the construction site to minimize wind blown dust.					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>COA AIR-2: Construction Emissions. <i>Prior to issuance of a demolition, grading, or building permit.</i> To minimize construction equipment emissions during construction, the project applicant shall require the construction contractor to:</p> <p>a) Demonstrate compliance with BAAQMD Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1, provides the issuance of authorities to construct and permits to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA" Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.</p> <p>b) Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) shall be performed for such equipment used continuously during the construction period.</p>	<p>Prior to issuance of a demolition, grading, or building permit; and ongoing throughout construction</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that all construction equipment meets mitigation measures.</p>		
E. NOISE AND VIBRATION					
<p>COA NOISE-1: Days/Hours of Construction Operation. <i>Ongoing throughout demolition, grading, and/or construction.</i> The project applicant shall require construction contractors to limit standard construction activities as follows:</p> <p>a) Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.</p>	<p>Ongoing throughout demolition, grading, and/or construction</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Make regular visits to the construction site to ensure that construction activities are restricted the hours designated in COA NOISE-1.</p>		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
<p>b) Any construction activity proposed to occur outside of the standard hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.</p> <p>c) Construction activity shall not occur on Saturdays, with the following possible exceptions:</p> <ul style="list-style-type: none"> • Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case-by-case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division. • After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed. <p>d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.</p>					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/Initials
e) No construction activity shall take place on Sundays or Federal holidays. f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.					
<p>COA NOISE-2: Noise Control. <i>Ongoing throughout demolition, grading, and/or construction.</i> To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to city review and approval, which includes the following measures:</p> <p>a) Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).</p> <p>b) Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.</p>	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division	<ul style="list-style-type: none"> Verify that a site-specific noise reduction program has been prepared and implemented. Make regular visits to the construction site to ensure that noise from construction activities is appropriately controlled. 		

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<p>c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction</p> <p>d) The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.</p>					
<p>COA NOISE-3: Noise Complaint Procedures. <i>Ongoing throughout demolition, grading, and/or construction.</i> Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the City Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:</p> <p>a) A procedure and phone numbers for notifying the City Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);</p> <p>b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);</p> <p>c) The designation of an on-site construction complaint and enforcement manager for the project;</p>	<p>Submit list prior to the issuance of a building permit;</p> <p>Ongoing throughout demolition, grading, and/or construction</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify the implementation of the list of measures to respond to and track complaints pertaining to construction noise.</p>		

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<p>d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and</p> <p>e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.</p>					
<p>COA NOISE-4: Interior Noise. <i>Prior to issuance of a building permit.</i> If necessary to comply with the interior noise requirements of the City of Oakland General Plan Noise Element and achieve an acceptable interior noise level, noise reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, and walls) shall be incorporated into project building design, based upon recommendations of a qualified acoustical engineer. Final recommendations for sound-rated assemblies will depend on the specific building designs and layout of buildings on the site and shall be determined during the design phase; however, the following sound-rated assembly recommendations, based on the conceptual project layout and design (described in Chapter III, Project Description) should be included in the final study and will be included in the Standard Condition of Approval:</p> <p>An alternate form of ventilation, such as air conditioning systems, shall be included in the design for all units located within 659 feet of the centerline of SR-24, or within 153 feet of the centerline of 40th Street, or within 166 feet of the centerline of MacArthur Boulevard to ensure that windows can remain closed for prolonged periods of time to meet the interior noise standard and Uniform Building Code Requirements.</p>	<p>Submit noise recommendations prior to the issuance of a building permit for each phase of construction containing residential units</p> <p>Implement recommendations according to timeframes outlined in plan</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that appropriate sound-rated assemblies to reduce noise levels have been incorporated into the project building design.</p>		

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All residential building façades directly exposed to and within 240 feet of the centerline of SR-24 must be constructed to meet the interior DNL 45 dB requirement; this likely could be achieved with an overall STC-30 rating with windows having a minimum STC-34 rating. This could be achieved with a typical 1-inch insulated glazing assembly, possibly with one light being laminated (or other appropriate example assembly). Quality control must be exercised in construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed.					
COA NOISE-5: Pile Driving and Other Extreme Noise Generators. <i>Ongoing throughout demolition, grading, and/or construction.</i> To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90 dBA, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. The criterion for approving the plan shall be a determination that maximum feasible noise attenuation will be achieved. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official and the deposit shall be submitted by the project applicant concurrent	Submit plan prior commencing construction activities involving pile driving or other extreme noise generators; Implement measures according to timeframes outlined in the plan	City of Oakland, CEDA, Building Services Division	<ul style="list-style-type: none"> Verify that a plan for reducing extreme noise generating construction impacts has been prepared. Verify that the plan will achieve the maximum feasible noise attenuation. Verify that a special inspection deposit has been submitted. 		

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<p>with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity:</p> <ul style="list-style-type: none"> a) Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings; b) Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions; c) Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site; d) Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example, and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and e) Monitor the effectiveness of noise attenuation measures by taking noise measurements. 					

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<p>COA NOISE-6: Demolition/Construction Adjacent to Historic Structures. The project applicant shall retain a structural engineer or other appropriate professional to determine threshold levels of vibration and cracking that could damage the buildings adjacent to the project site and design means and methods of construction that shall be utilized to not exceed the thresholds. Additionally, the project applicant shall submit a demolition plan for review and approval so as not to unduly impact neighboring property improvements particularly 505 40th Street. Neighboring property improvements within 10 of the project boundary shall be indicated on the demolition plan. The method of protection for any improvements within 5 feet of the project boundary shall be specifically addressed in the demolition plan. The applicant shall submit such engineering report and demolition plan and means of compliance with the engineering recommendations to the City (CEDA Building Services) for review and approval and implement the approved plan.</p> <p>f)</p>	<p>Prior to the issuance of a demolition, grading, or building permit for building A</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that a structural engineer or other appropriate professional has determined the means and methods of construction will not exceed threshold levels of vibration that may damage buildings adjacent to the project site.</p>		

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F. HYDROLOGY AND WATER QUALITY					
<p>COA HYDRO-1 (same as COA GEO-1): Erosion and Sedimentation Control Plan. <i>Prior to any grading activities.</i></p> <p>a) The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.780 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.</p>	<p>Prior to any grading activities</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division</p>	<ul style="list-style-type: none"> • Verify that an erosion and sedimentation control plan has been adequately prepared. • Verify that the applicant has obtained permissions and easements necessary for any off-site work required by the plan. 		

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<p><i>Ongoing throughout grading and construction activities.</i></p> <p>b) The project applicant shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.</p>	<p>Ongoing throughout grading and construction activities.</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division</p>	<ul style="list-style-type: none"> • Verify that the plan has been implemented. • Conduct visits to the construction site to ensure that no grading is taking place during the wet weather season unless specifically authorized by the Building Services Division. 		

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<p>COA HYDRO-2: Stormwater Pollution Prevention Plan (SWPPP). <i>Prior to and ongoing throughout demolition, grading, and/or construction activities.</i> The project applicant must obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB). The project applicant must file a notice of intent (NOI) with the SWRCB. The project applicant will be required to prepare a stormwater pollution prevention plan (SWPPP). At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; Best Management Practices (BMPs), and an inspection and monitoring program. Prior to the issuance of any construction-related permits, the project applicant shall submit a copy of the SWPPP and evidence of approval of the SWPPP by the SWRCB to the Building Services Division. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project applicant shall submit a notice of termination to the SWRCB.</p>	<p>Submit SWPP to SWRCB prior to applying for first building permit;</p> <p>Submit copy of approved SWPP prior to issuance of first building permit;</p> <p>Comply with measures in SWPP: ongoing throughout demolition, grading, and/or construction activities</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division</p>	<ul style="list-style-type: none"> Verify the preparation and approval of the SWPPP. Conduct regular site visits to ensure compliance with the SWPPP throughout the completion of the project. 		

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<p>COA HYDRO-3: Post-Construction Stormwater Pollution Management Plan. <i>Prior to issuance of building permit (or other construction-related permit).</i> The applicant shall comply with the requirements of Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Alameda Countywide Clean Water Program. The applicant shall submit with the application for a building permit (or other construction-related permit) a completed Stormwater Supplemental Form for the Building Services Division. The project drawings submitted for the building permit (or other construction-related permit) shall contain a stormwater pollution management plan, for review and approval by the City, to limit the discharge of pollutants in stormwater after construction of the project to the maximum extent practicable.</p> <p>a) The post-construction stormwater pollution management plan shall include and identify the following:</p> <ul style="list-style-type: none"> • All proposed impervious surface on the site; • Anticipated directional flows of on-site stormwater runoff; and • Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and • Source control measures to limit the potential for stormwater pollution; and • Stormwater treatment measures to remove pollutants from stormwater runoff. <p>b) The following additional information shall be submitted with the post-construction stormwater pollution management plan:</p> <ul style="list-style-type: none"> • Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and 	<p>Submit plan prior to issuance of building permit (or other construction-related permit)</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division</p>	<ul style="list-style-type: none"> • Verify that the applicant complies with the requirements of Provision C.3 of the NPDES permit issued to the Alameda Countywide Clean Water Program. • Verify that a completed Stormwater Supplemental Form and a stormwater pollution management plan have been adequately prepared. • Prior to final permit inspection, verify that the stormwater pollution management plan is implemented. 		

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<ul style="list-style-type: none"> Pollutant removal information demonstrating that any proposed manufactured/mechanical (i.e., non-landscape-based) stormwater treatment measure, when not used in combination with a landscape-based treatment measure, is capable or removing the range of pollutants typically removed by landscape-based treatment measures. <p>All proposed stormwater treatment measures shall incorporate appropriate planting materials for stormwater treatment (for landscape-based treatment measures) and shall be designed with considerations for vector/mosquito control. Proposed planting materials for all proposed landscape-based stormwater treatment measures shall be included on the landscape and irrigation plan for the project. The applicant is not required to include on-site stormwater treatment measures in the post-construction stormwater pollution management plan if he or she secures approval from Planning and Zoning of a proposal that demonstrates compliance with the requirements of the City's Alternative Compliance Program.</p> <p><i>Prior to final permit inspection.</i> The applicant shall implement the approved stormwater pollution management plan.</p>					
<p>COA HYDRO-4: Maintenance Agreement for Stormwater Treatment Measures. <i>Prior to final zoning inspection.</i> For projects incorporating stormwater treatment measures, the applicant shall enter into the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.3.e of the NPDES permit, which provides, in part, for the following:</p> <ul style="list-style-type: none"> The applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures 	Prior to final zoning inspection for each phase of development	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division	Verify that the applicant has entered into the the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.3.e of the NPDES permit.		

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being incorporated into the project until the responsibility is legally transferred to another entity; and <ul style="list-style-type: none"> Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary. The agreement shall be recorded at the County Recorder's Office at the applicant's expense. 					
G. GEOLOGY, SOILS AND SEISMICITY					
COA GEO-1 (same as COA HYDRO-1): Erosion and Sedimentation Control Plan. <i>Prior to any grading activities.</i> a) The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.780 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for	<i>See COA HYDRO-1</i>				

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<p>off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.</p> <p><i>Ongoing throughout grading and construction activities.</i></p> <p>b) The project applicant shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.</p>	<p><i>See COA HYDRO-1</i></p>				
<p>COA GEO-2: Soils Report. <i>Required as part of the submittal of a Tentative Tract or Tentative Parcel Map.</i> A preliminary soils report for each construction site within the project area shall be required as part of this project. The soils reports shall be based, at least in part, on information obtained from on-site testing. Specifically the minimum contents of the report should include:</p> <p>A. Logs of borings and/or profiles of test pits and trenches:</p> <p>a) The minimum number of borings acceptable, when not used in combination with test pits or trenches, shall be two (2), when in the opinion of the Soils Engineer such borings shall be sufficient to establish a soils profile suitable for the design of all the footings, foundations, and retaining structures.</p> <p>b) The depth of each boring shall be sufficient to provide adequate design criteria for all proposed structures.</p> <p>c) All boring logs shall be included in the soils report.</p>	<p>Required as part of the submittal of a Tentative Tract or Tentative Parcel Map(s)</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that a preliminary soils report has been prepared for each construction site.</p>		

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<p><i>B.</i> Test pits and trenches:</p> <p>a) Test pits and trenches shall be of sufficient length and depth to establish a suitable soils profile for the design of all proposed structures.</p> <p>b) Soils profiles of all test pits and trenches shall be included in the soils report.</p> <p><i>C.</i> A plat shall be included which shows the relationship of all the borings, test pits, and trenches to the exterior boundary of the site. The plat shall also show the location of all proposed site improvements. All proposed improvements shall be labeled.</p> <p><i>D.</i> Copies of all data generated by the field and/or laboratory testing to determine allowable soil bearing pressures, sheer strength, active and passive pressures, maximum allowable slopes where applicable and any other information which may be required for the proper design of foundations, retaining walls, and other structures to be erected subsequent to or concurrent with work done under the grading permit.</p> <p><i>E.</i> Soils Report. A written report shall be submitted which shall but is not limited to the following:</p> <p>a. Site description.</p> <p>b. Local and site geology.</p> <p>c. Review of previous field and laboratory investigations for the site.</p> <p>d. Review of information on or in the vicinity of the site on file at the Information Counter, City of Oakland, Office of Planning and Building.</p>					

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<p>e. Site stability shall be addressed with particular attention to existing conditions and proposed corrective attention to existing conditions and proposed corrective actions at locations where land stability problems exist.</p> <p>f. Conclusions and recommendations for foundations and retaining structures, resistance to lateral loading, slopes, and specifications, for fills, and pavement design as required.</p> <p>g. Conclusions and recommendations for temporary and permanent erosion control and drainage. If not provided in a separate report they shall be appended to the required soils report.</p> <p>h. All other items which a Soils Engineer deems necessary.</p> <p>i. The signature and registration number of the Civil Engineer preparing the report.</p> <p>F. The Director of Planning and Building may reject a report that she/he believes is not sufficient. The Director of Planning and Building may refuse to accept a soils report if the certification date of the responsible soils engineer on said document is more than three years old. In this instance , the Director may be require that the old soils report be recertified, that an addendum to the soils report be submitted, or that a new soils report be provided.</p>					

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<p>COA GEO-3: Geotechnical Report. <i>Required as part of the submittal of a tentative Tract Map or tentative Parcel Map.</i></p> <p>a) A site-specific, design level, Landslide or Liquefaction geotechnical investigation for each construction site within the project area shall be required as part of this project. Specifically:</p> <p>Each investigation shall include an analysis of expected ground motions at the site from identified faults. The analyses shall be in accordance with applicable City ordinances and polices, and consistent with the most recent version of the California Building Code, which requires structural design that can accommodate ground accelerations expected from identified faults.</p> <p>The investigations shall determine final design parameters for the walls, foundations, foundation slabs, surrounding related improvements, and infrastructure (utilities, roadways, parking lots, and sidewalks).</p> <p>The investigations shall be reviewed and approved by a registered geotechnical engineer. All recommendations by the project engineer, geotechnical engineer, will be included in the final design, as approved by the City of Oakland.</p> <p>The geotechnical report shall include a map prepared by a land surveyor or civil engineer that shows all field work and location of the "No Build" zone. The map shall include a statement that the locations and limitations of the geologic features are accurate representations of said features as they exist on the ground, were placed on this map by the surveyor, the civil engineer or under their supervision, and are accurate to the best of their knowledge.</p>	<p>Required as part of the submittal of a Tentative Tract or Tentative Parcel Map(s)</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that a site-specific, design level, Landslide or Liquefaction geotechnical investigation for each construction site has been conducted and that the recommendations are included in the final project design.</p>		

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<p>Recommendations that are applicable to foundation design, earthwork, and site preparation that were prepared prior to or during the projects design phase, shall be incorporated in the project.</p> <p>A peer review is required for the Geotechnical Report. Personnel reviewing the geologic report shall approve the report, reject it, or withhold approval pending the submission by the applicant or subdivider of further geologic and engineering studies to more adequately define active fault traces.</p> <p>Final seismic considerations for the site shall be submitted to and approved by the City of Oakland Building Services Division prior to commencement of the project.</p> <p>b) Tentative Tract or Parcel Map approvals shall require, but not be limited to approval of the Geotechnical Report.</p>					
H. PUBLIC HEALTH AND HAZARDS					
<p>COA HAZ-1: Hazards Best Management Practices. <i>Prior to issuance of a demolition, grading, or building permit.</i> The project applicant and construction contractor shall ensure that construction best management practices are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:</p> <p>a) Follow manufacture’s recommendations on use, storage, and disposal of chemical products used in construction;</p> <p>b) Avoid overtopping construction equipment fuel gas tanks;</p> <p>c) During routine maintenance of construction equipment, properly contain and remove grease and oils;</p>	<p>Ongoing through demolition, grading and construction activities</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that construction BMPs are implemented.</p>		

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<p>d) Properly dispose of discarded containers of fuels and other chemicals.</p> <p>e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all UST's, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.</p> <p>f) If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in Standard Conditions of Approval (see COA HAZ-3 and HAZ-5 below) as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.</p>					

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<p>COA HAZ-2: Asbestos Removal in Structures. <i>Prior to issuance of a demolition permit.</i> If asbestos is found to be present in building materials to be removed, demolition and disposal is required to be conducted in accordance with procedures specified by Regulation 11, Rule 2 (Asbestos Demolition, Renovation and Manufacturing) of Bay Area Air Quality Management District (BAAQMD) regulations, as may be amended.</p>	<p>Make determination prior to issuance of a demolition permit; Follow applicable procedures during removal activities</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that any asbestos removal is conducted in accordance with procedures specified by Regulation 11, Rule 2 of BAAQMD regulations</p>		
<p>COA HAZ-3: Phase I and/or Phase II Reports. <i>Prior to issuance of a demolition, grading, or building permit.</i> Prior to issuance of demolition, grading, or building permits the project applicant shall submit to the Fire Prevention Bureau, Hazardous Materials Unit, a Phase I environmental site assessment report, and a Phase II report if warranted by the Phase I report for the project site. The reports shall make recommendations for remedial action, if appropriate, and should be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer.</p>	<p>Prior to issuance of a demolition, grading, or building permit</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that a Phase I, and, if appropriate, Phase II, environmental site assessment report has been submitted to the Fire Prevention Bureau Hazardous Materials Unit. Ensure any approved recommended remediation actions are implemented.</p>		

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<p>COA HAZ-4: Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment. <i>Prior to issuance of a demolition, grading, or building permit.</i> The project applicant shall submit a comprehensive assessment report, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACM), lead-based paint, and any other building materials or stored materials classified as hazardous waste by State or federal law.</p>	<p>Prior to issuance of a demolition, grading, or building permit</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that a comprehensive assessment report detailing materials classified as hazardous waste has been submitted.</p>		
<p>COA HAZ-5: Environmental Site Assessment Reports Remediation. <i>Prior to issuance of a demolition, grading, or building permit.</i> If the environmental site assessment reports recommend remedial action, the project applicant shall:</p> <p>a) Consult with the appropriate local, State, and federal environmental regulatory agencies to ensure sufficient minimization of risk to human health and environmental resources, both during and after construction, posed by soil contamination, groundwater contamination, or other surface hazards including, but not limited to, underground storage tanks, fuel distribution lines, waste pits and sumps.</p> <p>b) Obtain and submit written evidence of approval for any remedial action if required by a local, State, or federal environmental regulatory agency.</p>	<p>Prior to issuance of a demolition, grading, or building permit;</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<ul style="list-style-type: none"> • Verify that written evidence of approval for any remedial actions required has been obtained and that Remediation Action Plan has been adequately prepared. • Verify that a Construction-Phase Risk Management Plan has adequately been prepared. 		

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<p>c) Submit a copy of all applicable documentation required by local, State, and federal environmental regulatory agencies, including but not limited to: permit applications, Phase I and II environmental site assessments, human health and ecological risk assessments, remedial action plans, risk management plans, soil management plans, and groundwater management plans.</p> <p>Prior to issuing any permits for construction at the project site, a Construction-Phase Risk Management Plan (RMP) shall be prepared for the project. The RMP shall include any health and safety measures determined necessary in the HHRA to protect the health of construction workers and nearby public during construction activities. These measures may potentially include dust control, air monitoring, and/or the use of personal protective equipment during construction activities. Action levels for contaminants of concern shall be established, with detailed descriptions of corrective actions to be taken in the event that the action levels are reached during monitoring. The RMP shall also include safety and emergency response measures included in the City's Standard Conditions HAZ-1 and HAZ-2. The RMP shall be reviewed and approved by the City of Oakland or designated regulatory oversight agency.</p>					

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d) Implementation of COA HAZ-5 would require a Remediation Action Plan (RAP). Required remedial actions shall include measures to ensure that any potential added health risks to future site users as a result of hazardous materials are reduced to a cumulative human health risk of less than 1×10^{-6} (one in one million) for carcinogens and a cumulative hazard index of 1.0 for non-carcinogens, or other site-specific goals established by regulatory oversight agencies. The potential risks to human health in excess of these goals may be reduced either by remediation of the contaminated soils or groundwater (e.g., excavation and off-site disposal of soils and treatment of groundwater) and/or implementation of institutional controls and engineering controls (IC/EC). IC/EC may include the use of hardscape (buildings and pavements), importation of clean soil in landscaped areas to eliminate exposure pathways, and deed restrictions. Specific remedies would depend on the findings of the site-specific HHRA and the requirements of the regulatory agencies					
COA HAZ-6: Lead-Based Paint Remediation. <i>Prior to issuance of a demolition, grading, or building permit.</i> If lead-based paint is present, the project applicant shall submit specifications signed by a certified Lead Supervisor, Project Monitor, or Project Designer for the stabilization and/or removal of the identified lead paint in accordance with all applicable laws and regulations, including but not necessarily limited to: Cal/OSHA's Construction Lead Standard, 8 CCR1532.1 and DHS regulation 17 CCR Sections 35001 through 36100, as may be amended.	Prior to issuance of a demolition, grading, or building permit	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division	Verify that specifications for the stabilization or removal of any lead paint have been submitted.		

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<p>COA HAZ-7: Asbestos Remediation. <i>Prior to issuance of a demolition, grading, or building permit.</i> If asbestos-containing materials (ACM) are present, the project applicant shall submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified ACM in accordance with all applicable laws and regulations, including but not necessarily limited to: California Code of Regulations, Title 8; Business and Professions Code; Division 3; California Health & Safety Code 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended.</p>	<p>Prior to issuance of a demolition, grading, or building permit</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that specifications for the removal, encapsulation, or enclosure of any asbestos-containing materials have been submitted.</p>		
<p>COA HAZ-8: Other Materials Classified as Hazardous Waste. <i>Prior to issuance of a demolition, grading, or building permit.</i> If other building materials or stored materials classified as hazardous waste by State or federal law is present, the project applicant shall submit written confirmation that all State and federal laws and regulations shall be followed when profiling, handling, treating, transporting and/or disposing of such materials.</p>	<p>Prior to issuance of a demolition, grading, or building permit</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that written confirmation has been obtained that all State and federal laws will be followed when profiling, handling, treating, transporting and/or disposing of all hazardous waste.</p>		

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<p>COA HAZ-9: Health and Safety Plan per Assessment. <i>Prior to issuance of a demolition, grading, or building permit.</i> If the required lead-based paint/coatings, asbestos, or PCB assessment finds presence of such materials, the project applicant shall create and implement a health and safety plan to protect workers from risks associated with hazardous materials during demolition, renovation of affected structures, and transport and disposal.</p>	<p>Submit plan prior to issuance of a demolition, grading, or building permit;</p> <p>Implement measures in accordance with timeframes outlined in plan</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division</p>	<p>Verify that a health and safety plan to protect workers from hazardous waste has been adequately prepared.</p>		
<p>COA HAZ-10: Fire Safety Phasing Plan. <i>Prior to issuance of a demolition, grading, or building permit and concurrent with any p-job submittal permit.</i> The project applicant shall submit a separate fire safety phasing plan to the Planning and Zoning Division and Fire Services Division for their review and approval. The fire safety plan shall include all of the fire safety features incorporated into the project and the schedule for implementation of the features. Fire Services Division may require changes to the plan or may reject the plan if it does not adequately address fire hazards associated with the project as a whole or the individual phase.</p>	<p>Submit plan prior to issuance of a demolition, grading, or building permit and concurrent with any p-job submittal permit</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Services Division</p>	<p>Verify that a fire safety phasing plan has been prepared.</p>		

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<p>COA HAZ-11: Fire Safety. <i>Prior to and ongoing throughout demolition, grading, and/or construction.</i> The project applicant and construction contractor will ensure that during project construction, all construction vehicles and equipment will be fitted with spark arrestors to minimize accidental ignition of dry construction debris and surrounding dry vegetation.</p>	<p>Prior to and ongoing throughout demolition, grading, and/or construction</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Services Division</p>	<p>Conduct periodic site visits to ensure that all construction vehicles and equipment are fitted with spark arrestors.</p>		
<p>COA HAZ-12: Hazardous Materials Business Plan. <i>Prior to issuance of a business license.</i> The project applicant shall submit a Hazardous Materials Business Plan for review and approval by Fire Prevention Bureau, Hazardous Materials Unit. Once approved this plan shall be kept on file with the City and will be updated as applicable. The purpose of the Hazardous Materials Business Plan is to ensure that employees are adequately trained to handle the materials and provides information to the Fire Services Division should emergency response be required. The Hazardous Materials Business Plan shall include the following:</p> <ol style="list-style-type: none"> 1. The types of hazardous materials or chemicals stored and/or used on site, such as petroleum fuel products, lubricants, solvents, and cleaning fluids. 2. The location of such hazardous materials. 3. An emergency response plan including employee training information 4. A plan that describes the manner in which these materials are handled, transported and disposed. 	<p>Prior to issuance of a business license for businesses handling hazardous materials</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Services Division</p>	<p>Verify that a hazardous materials business plan has been prepared.</p>		

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I. PUBLIC SERVICES					
<p>COA SERV-1: Conformance with other Requirements. <i>Prior to issuance of a demolition, grading, P-job, or other construction related permit.</i></p> <p>a) The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.</p> <p>b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.</p>	<p>Prior to issuance of a demolition, grading, P-job, or other construction related permit.</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Services Division</p>	<p>Ensure that the project applicant complies with all applicable laws and regulations as detailed in COA SERV-1.</p>		
<p>COA SERV-2: Fire Safety Phasing Plan. <i>Prior to issuance of a demolition, grading, and/or construction and concurrent with any p-job submittal permit,</i> the project applicant shall submit a separate fire safety phasing plan to the Planning and Zoning Division and Fire Services Division for their review and approval. The fire safety plan shall include all of the fire safety features incorporated into the project and the schedule for implementation of the features. Fire Services Division may require changes to the plan or may reject the plan if it does not adequately address fire hazards associated with the project as a whole or the individual phase.</p>	<p><i>See COA HAZ-10</i></p>				

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<p>COA SERV-3: Site Review by the Fire Services Division. <i>Prior to the issuance of demolition, grading or building permit.</i></p> <p>The project applicant shall submit plans for site review and approval to the Fire Prevention Bureau Hazardous Materials Unit. Property owner may be required to obtain or perform a Phase II hazard assessment.</p>	<p>Prior to issuance of a demolition, grading, or building permit</p>	<p>City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Prevention Bureau Hazardous Materials Unit</p>	<p>Verify that plan has been submitted for review and approval.</p>		
J. UTILITIES AND INFRASTRUCTURE					
<p>COA UTIL-1: Waste Reduction and Recycling. <i>Prior to issuance of demolition, grading, or building permit.</i> The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency. Chapter 15.34 of the Oakland Municipal Code outlines requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/ alterations/modifications with construction values of \$50,000 or more (except R-3), and all demolition (including soft demo).The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at www.oaklandpw.com/Page39.aspx or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.</p>	<p>Submit plan prior to issuance of demolition, grading, or building permit;</p> <p>Implement plan according to timeframes outlined in plan</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<p>Verify that a Construction & Demolition Waste Reduction and Recycling Plan and an Operational Diversion Plan have been submitted.</p>		

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<p><i>Ongoing.</i> The ODP will identify how the project complies with the Recycling Space Allocation Ordinance, (Chapter 17.118 of the Oakland Municipal Code), including capacity calculations, and specify the methods by which the development will meet the current diversion of solid waste generated by operation of the proposed project from landfill disposal in accordance with current City requirements. The proposed program shall be in implemented and maintained for the duration of the proposed activity or facility. Changes to the plan may be re-submitted to the Environmental Services Division of the Public Works Agency for review and approval. Any incentive programs shall remain fully operational as long as residents and businesses exist at the project site.</p>	Ongoing	City of Oakland, CEDA, Building Services Division	Verify that the proposed program is implemented and maintained for the duration of the proposed activity or facility.		

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<p>COA UTIL-2: Storm Water and Sewer. <i>Prior to completing the final design for the project's sewer service.</i> Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed by a qualified civil engineer with funding from the project applicant. The project applicant shall be responsible for the necessary stormwater and sanitary sewer infrastructure improvements to accommodate the proposed project. In addition, the applicant shall be required to pay additional fees to improve sanitary sewer infrastructure if required by the City. Improvements to the existing sanitary sewer collection system shall specifically include, but are not limited to, mechanisms to control or minimize increases in infiltration/inflow to offset sanitary sewer increases associated with the proposed project. To the maximum extent practicable, the applicant will be required to implement Best Management Practices to reduce the peak stormwater runoff from the project site. Additionally, the project applicant shall be responsible for payment of the required installation or hook-up fees to the affected service providers.</p>	<p>Prior to completing the final design for the project's sewer service</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<ul style="list-style-type: none"> • Confirm that any necessary stormwater and sanitary sewer infrastructure improvements required by the project are implemented. • Verify that the project applicant pays additional fees for any City improvements to the sanitary sewer system, as well as any fees to the affected service providers. • Ensure that BMPs to reduce stormwater runoff are implemented. 		

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<p>COA UTIL-3: Site Design Measures for Post-Construction Stormwater Pollution Management</p> <p><i>Prior to issuance of building permit (or other construction-related permit)</i></p> <p>The project drawings submitted for a building permit (or other construction-related permit) shall contain a final site plan to be reviewed and approved by Planning and Zoning. The final site plan shall incorporate appropriate site design measures to manage stormwater runoff and minimize impacts to water quality after the construction of the project. These measures may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> i. Minimize impervious surfaces, especially directly connected impervious surfaces; ii. Utilize permeable paving in place of impervious paving where appropriate; iii. Cluster buildings; iv. Preserve quality open space; and v. Establish vegetated buffer areas. <p><i>Ongoing</i></p> <p>The approved plan shall be implemented and the site design measures shown on the plan shall be permanently maintained.</p>	<p>Prior to issuance of building permit (or other construction-related permit); and ongoing</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division; Public Works Agency, Environmental Services Division</p>	<p>Confirm that any necessary stormwater and sanitary sewer infrastructure improvements required by the project are implemented.</p>		

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<p>COA UTIL-4: Source Control Measures to Limit Stormwater Pollution. <i>Prior to issuance of building permit (or other construction-related permit)</i></p> <p>The applicant shall implement and maintain all structural source control measures imposed by the Chief of Building Services to limit the generation, discharge, and runoff of stormwater pollution.</p> <p><i>Ongoing</i></p> <p>The applicant, or his or her successor, shall implement all operational Best Management Practices (BMPs) imposed by the Chief of Building Services to limit the generation, discharge, and runoff of stormwater pollution.</p>	<p>Prior to issuance of building permit (or other construction-related permit); and ongoing</p>	<p>City of Oakland, CEDA, Building Services Division; Planning and Zoning Division; Public Works Agency, Environmental Services Division</p>	<ul style="list-style-type: none"> • Confirm that any necessary structural source control measures improvements are implemented. • 		

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<p>COA UTIL-5: Storm Water and Sewer. <i>Prior to completing the final design for the project's sewer service.</i> Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed.</p>	<p>Prior to completing the final design for the project's sewer service</p>	<p>City of Oakland, CEDA, Building Services Division</p>	<ul style="list-style-type: none"> Confirm that any necessary stormwater and sanitary sewer infrastructure improvements required by the project. 		
<p>K. CULTURAL AND PALEONTOLOGICAL RESOURCES</p>					
<p>COA CULT-1: Archaeological Resources. <i>Ongoing throughout demolition, grading, and/or construction</i> Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.</p>	<p>Ongoing throughout demolition, grading, and/or construction</p>	<p>City of Oakland, CEDA, Building Services Division and Planning and Zoning Division – Historic Preservation Staff</p>	<p>Ensure that all work within 50 feet of the site where any prehistoric or historic subsurface cultural resources are discovered is halted.</p>		

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<p>In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project applicant shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.</p> <p>Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project applicant and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist shall recommend appropriate analysis and treatment, and would prepare a report on the findings for submittal to the Northwest Information Center.</p>					

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<p>COA CULT-2: Human Remains. <i>Ongoing throughout demolition, grading, and/or construction</i></p> <p>In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.</p>	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division and Planning and Zoning Division	Ensure that all work is halted if any human skeletal remains are uncovered at the project site and that the Alameda County Coroner is contacted.		

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<p>COA CULT-3: Paleontological Resources. <i>Ongoing throughout demolition, grading, and/or construction</i></p> <p>In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 1995,1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.</p>	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division and Planning and Zoning Division	Ensure that excavations within 50 feet of any paleontological resource discovery are halted and that a qualified paleontologist is notified.		
L. AESTHETIC RESOURCES					
<p>COA AES-1: Lighting Plan. <i>Prior to the issuance of an electrical or building permit</i></p> <p>The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. All lighting shall be architecturally integrated into the site.</p>	Prior to the issuance of an electrical or building permit	City of Oakland Community and Economic Development Agency	Ensure that proposed lighting fixtures are adequately shielded to prevent unnecessary glare onto adjacent properties.		

MEMORANDUM

To: Joe McCarthy
From: Todd Vogel, Jessica ter Schure
Date: May 27, 2008
Subject: MacArthur Transit Village – Draft Transportation Demand Management Plan

I. INTRODUCTION

A. Project Description

MacArthur Transit Community Partnership, LLC (“developer”) has proposed to develop the MacArthur Transit Village project on the parking lot of the MacArthur BART Station and seven surrounding parcels in the City of Oakland. The project will include the following key components:

- **Residential Units:** Up to 675 units total (562 market rate units; 113 affordable)
- **Retail Space:** Approximately 44,000 sq. ft.
- **Child Care facility or Community Center:** 5,000 sq. ft.
- **BART Parking:** 300 parking spaces included in a parking garage
- **Structured Parking:** Residential: Up to 675 parking spaces (1 space per unit) in 4 separate buildings; non-Residential: up to 30 spaces in parcel A.
- **On-Site Street Parking:** Approximately 40 parking spaces

A variety of high-quality transit services are currently provided and would be available to residents, employees, and guests of the MacArthur Transit Village project, including BART, AC Transit, and several shuttle providers. Free shuttle service is provided by Emery Go Round, Kaiser Hospital, Alta Bates Summit Hospital and Oakland Children’s Hospital. Caltrans also operates a bicycle shuttle during peak travel time and charges for the service.

The design of the site will provide a safe, comfortable pedestrian environment, and support the use of bicycles. Both promise to support a reduction in vehicle trips generated by the project. The provision of bicycle amenities is described in detail in this plan.

Furthermore, the mix of uses on-site will provide key amenities that will reduce the need for people to travel elsewhere for personal needs. Recommended support services include banking, childcare, a post office, a dry cleaners, and convenience goods. Studies have

consistently shown that providing these amenities can lead to a measurable reduction in vehicle trips generated by a development.

The proposed Transportation Demand Management (TDM) plan is comprised of a comprehensive set of programs and strategies, and a plan for implementation, to help achieve the following objectives:

- Reduce the number of vehicle trips to and from MacArthur Transit Village.
- Support a balance of transportation modes, including transit, carpool and vanpool, bicycling, and walking.
- Assess and manage parking demand, and provide sufficient supply to meet this demand.
- Support goals of reduced environmental impacts, sustained economic vitality, social equity, and improved quality of life.

In addition to these general objectives, the EIR has identified a need for the TDM Plan to be developed as a traffic mitigation measure and to address the needs for BART patron parking, as further described in the following sections.

B. EIR Requirements

The EIR for the project requires this TDM Plan as a mitigation measure for the project's share of cumulative impacts to two intersections. These two intersections are Telegraph Avenue / 51st Street and Broadway / MacArthur Blvd.¹ The potential impacts are defined as follows:

- **Telegraph Avenue / 51st Street:** Under cumulative Year 2030 conditions, the project would contribute to LOS F operations during both AM and PM peak hours; would increase critical movement average delay by more than 4 seconds during the AM peak hour; and would increase intersection average delay by more than 2 seconds during the PM peak hour.
- **Broadway / MacArthur Blvd:** Under cumulative Year 2030 conditions, the project would contribute to LOS F operations and would increase intersection average delay by more than 2 seconds during the AM peak hour.

For both of these intersections, the EIR states that TDM measures are expected to reduce vehicle trips, and their impact at these intersections. However, it also states:

“...it is difficult to accurately predict a TDM program's effectiveness and to quantify the effects on reducing project trip generation. To present a conservative analysis, this study assumes that the intersection would continue to operate at LOS F with the implementation of this mitigation measure. Thus, these measures will partially mitigate the impact, but are not sufficient to mitigate the impact to a less-than-significant level.”

In fulfillment of the EIR mitigation measures:

¹ MacArthur BART Transit Village EIR, Public Draft released January 2008. Prepared by Fehr & Peers Associates.

- The plan will be submitted to the City of Oakland for its review and approval, and will also be submitted to BART for its review and comment.
- The developer will be responsible for funding and implementation of the plan elements required to mitigate CEQA impacts.
- The plan shall include regular monitoring and adjustment to meet plan goals.

In addition to the TDM Plan, the following mitigation measures are required in the EIR to address these impacts:

- **Telegraph Avenue / 51st Street:** Change signal cycle length to 120 seconds and optimize signal timing (i.e., adjust the allocation of green time for each intersection approach) at the Telegraph Avenue/51st Street intersection and coordinate signal phasing and timing with the adjacent Telegraph Avenue/52nd Street and Claremont Avenue intersection and other intersections in the same coordination group.
- **Broadway / MacArthur Blvd:** No mitigation measures were deemed feasible and/or effective.

C. BART Parking Replacement

The EIR also examined certain issues not required under CEQA, including replacement parking for BART patrons. Currently, there are approximately 600 parking spaces available in the surface parking lot. In addition, it is estimated that approximately 200 BART patrons park in the surrounding neighborhood. This plan addresses the need to provide replacement parking for these BART patrons.

This plan has been informed by the analysis and strategies contained in the MacArthur BART Station Access Feasibility Study, which examines a broad range of access issues of concern to the City and BART related to the MacArthur BART Station.

II. GOALS

This TDM Plan has two primary goals:

1. To fulfill CEQA mitigation measure requirements by implementing strategies to reduce vehicle trips from the project.
2. To address planning concerns related to displaced BART parkers.

III. STRATEGIES

A. Introduction

The traffic analysis for the EIR determined that 4,886 daily vehicle trips would be generated by the MacArthur Transit Village project, with 358 of those trips occurring during the PM peak hour. The strategies included in this plan had not yet been identified when the EIR was prepared and were therefore not accounted for in the analysis. However, experience has shown that these strategies can reduce vehicle trips significantly, especially in

combination with other factors such as the mixing of uses on site, the presence of high-quality transit service, etc.

Item B of this section includes strategies directly relating to the goal of fulfilling the CEQA mitigation measure requirements by implementing strategies reduce vehicle trips from the project.

Item C of this section addresses the planning concerns related to the displacement of BART parkers. These strategies are not required under CEQA.

B. TDM Strategies

These strategies will help fulfill the EIR requirement that a TDM program be developed for the MacArthur Transit Village project to reduce vehicle trips to and from the project site and therefore help reduce the identified impacts of the project to the intersections of Telegraph Avenue / 51st Street and Broadway / MacArthur Blvd.

1. Discounted Transit Passes

Each household occupying an affordable unit at MacArthur Transit Village will have the opportunity to purchase at least one transit pass per month at a rate that is no more than half the retail cost. Both BART and AC Transit serve the property and as such discounted passes for both services will be offered.² The onsite manager of the affordable housing will be responsible for the distribution of transit passes to households that request them.

Pending further discussions with BART and AC Transit, the potential exists to provide discounted or free transit passes to a broader population at MacArthur Transit Village. This opportunity may be financially feasible if passes are made available by the transit agency at a bulk discount. The principle of this program, called Eco-pass, is similar to that of group insurance plans – transit agencies offer deep bulk discounts when selling passes to a large group, with universal enrollment, on the basis that not all those offered the pass will actually use them regularly. Free transit passes are often an extremely effective means to reduce the number of car trips in an area. By removing any cost barrier to using transit, including the need to search for spare change for each trip, people become much more inclined to take transit to work or for non-work trips. Eco-pass programs also increase equity for low-income and individuals who cannot or choose not to drive by providing an amenity comparable to free parking.

The developer will work with BART and AC Transit to explore the potential to provide an Eco-Pass program at MacArthur Transit Village. If it were to be implemented, it will be important to consider costs and benefits to the developer, transit users, and transit agencies. Experience has shown elsewhere that a carefully implemented Eco-Pass program can significantly reduce transportation costs, increase ridership and reduce vehicle trips, and provide a financial benefit as well.

Additionally, the developer will identify at least one location for the purchase of AC Transit tickets and high-value BART tickets (currently, for example, BART offers a \$48 value ticket at a cost of \$45). These transit tickets will be available at a designated on-site retailer, or the sales office for market-rate housing. The leasing office for affordable housing will make transit passes available to the building residents.

² Arranging for and providing discounted transit passes will be a key responsibility of the transportation coordinator and, perhaps, the transportation management association.

2. Secure Bicycle Storage Facilities and Bicycle Repair Station

Secure bicycle parking is a key amenity for people to perceive bicycling as a viable mode of transportation. Especially if they will leave it for an extended period of time, they want to trust that it is protected from theft, the weather or other physical damage. The City of Oakland will soon adopt an ordinance defining specific requirements for bicycle parking in new development.³ Bicycle parking will be provided at MacArthur Transit Village in accordance with this ordinance. The ordinance includes requirements for a specific quality of short- and long-term bicycle parking spaces, based on land use (residential, commercial, office, etc.). Key criteria for the location and design of bicycle racks include: visibility, access, lighting, weather protection, avoidance of conflict with pedestrians and vehicles, and security (including being able to lock both wheels, etc.).

Figure 1 summarizes the number of bicycle parking spaces required under the City of Oakland Bicycle Ordinance.

Figure 1 – Parking Spaces Required by City of Oakland

Land Use		Long Term	Short Term
Residential	675 du	1 space per 4 du 169	1 space per 20 du 34
Commercial - Retail	44,000 sq ft	1 space per 12,000 sq ft 4	1 space per 5,000 sq ft 9
Community Center	5,000 sq ft	<i>Number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.117.040.</i>	
TOTAL		172	43

Long-term parking will be provided in a storage room within the parking garage of each block. Figure 2 provides a summary of the number of bicycle parking spaces that will be provided on each block of the site. In total, 43 short-term and 172 long-term parking spaces will be supplied, as required by the bike ordinance.

Figure 2 Bicycle Parking – Spaces per Block

Block	Short-Term		Long-Term	
	Residential	Retail	Residential	Employees
A	12	5	59	2
B	8	1	38	0
C	10	3	49	1
D	5	n/a	23	n/a
TOTAL	34	9	169	3

The developer is also committing to providing a “do-it-yourself” bicycle repair room on-site, on Block A. A second facility may be provided in Blocks B and C, if it is determined that the Block A repair room is utilized by the residents.

3. Unbundling of Parking

Parking has real costs - \$30,000 or more to construct each space, in addition to ongoing operations and maintenance costs. If users do not pay directly for the cost of parking, it

³ Information about the City of Oakland bicycle ordinance (adopted on Wednesday, May 7, 2008) recommended by the Planning Commission is available at <http://www.oaklandpw.com/Page127.aspx#ordinance>.

must be included in rent or the purchase cost of homes, and in the lease costs for businesses, which are then passed on to consumers and users of their services. Charging separately, or “unbundling” parking, ties the cost of parking more directly to the user and is the single most effective strategy to encourage people to use alternatives to the single-occupant vehicle. Residents can choose whether they wish to buy or lease a parking space, customers can choose whether to pay for parking or use a different mode of transportation to reach retail and service destinations.

At the same time, provision of parking is considered an important amenity to market the units and it will also be important to provide secure semi-private parking for residents.

The following parking strategies will be employed at MacArthur Transit Village:

- 30% of the parking for the first market rate building (Parcel A) will be unbundled.
- To the extent not prohibited from a legal or financial feasibility standpoint, parking in the affordable component will be unbundled and, to the extent priority for those spaces and overall security for residents can be ensured, such parking would be shared with BART patrons.
- No residential guest parking will be provided in the structured, secured parking facilities. In parcel A, one floor will be shared between various users with the second floor being secured for residents.
- Only 26 parking spaces will be dedicated to retail use. Any unbundled parking not leased by residents will be made available to commercial tenants.
- All on-street parking will be metered and charged hourly at a market rate.
- No more than 1 parking space per residential unit.

Subsequent to the construction and occupation of Parcel A, but prior to the initiation of the next phase of development, an evaluation will be performed to determine whether residential parking demand supports a reduction in the total number of spaces and/or unbundled parking. A reduction in the residential parking supply could also increase the on-site parking supply for BART patrons. The developer will maintain security for residential parking by segmenting the garage into separate security zones.

At the same time, the developer will also explore the feasibility of a lease-back or assigning ownership of all or some of the parking spaces within the market rate buildings to the HOA, with first priority of use provided to residents, commercial tenants with any unused spaces being available to lease to the general public. The feasibility analysis will be submitted to the City for review and comment for mutual determination by the parties as to feasibility.. To the extent this approach is determined feasible, a plan will be submitted to the City for review and approval. If approved by the City, developer shall implement the approved plan.

4. Phased Parking Construction

Parking will be constructed in several phases, in the order indicated below:

1. BART Parking Garage
2. Parcel D – Affordable Housing
3. Parcel A – Housing and Retail

4. Parcels B and C – Housing and Retail

As described in the previous section, after Parcel A is constructed, prior to the construction of the next parcel, parking demand will be assessed on site to determine whether the residential parking supply can be reduced, perhaps increasing the on-site supply available to BART patrons. The potential to reduce parking supply will be determined as follows:

If occupancy of short-term parking (commercial and on-street) is more than 85% and occupancy for long-term parking (residential, employee, and BART) is more than 90% then no reduction in parking ratios will be pursued. If occupancy is less than 85% and 90% respectively and a reduction in pricing to increase occupancy is not deemed cost-effective, then parking ratios could be reduced to help achieve the adjusted occupancy.

5. Carsharing

Companies such as City CarShare and Zipcar⁴ provide car rentals by the hour, using internet and telephone-based reservation systems to allow their members to have access to a car whenever needed without the significant costs to own, maintain, and park a car. This strategy has proven successful in reducing both household vehicle ownership and the amount of driving people do, both during peak commute hours and other times of day. According to the Transportation Research Board, each car-sharing vehicle takes nearly 15 private cars off the road. A UC Berkeley study of San Francisco's City CarShare found that members drive nearly 50% less after joining.⁵

Carshare would reduce or eliminate the need for MacArthur Transit Village residents to own a vehicle, reducing their housing costs in addition to reduced transportation costs. This is especially advantageous for lower-income households.

City CarShare and Flex Car currently offer four cars at MacArthur BART Station. These four spaces will be moved to the BART garage once in operation. Four additional parking spaces will also be made available at no cost to a carshare program, such as City CarShare, Zipcar, etc., in the structured parking for Parcel A and along the street of Village Drive or Internal Street. It is expected the four spaces in Parcel A and on the street will be utilized first, and if demand warrants, the spaces in the BART garage will also be utilized.

6. 40th Street Transit Corridor

Many BART Patrons living on the 40th Street corridor from the Emeryville border to Telegraph Avenue drive and park at the MacArthur BART Station. The potential to reduce parking demand and increase BART ridership could be significantly increased through the provision of a shuttle stop or other transit service along this corridor.

The developer will work with BART, AC Transit, and Emery Go Round to explore the potential benefits, costs, and funding strategies for transit services..

7. TDM Marketing Coordination

Informational materials about the above listed programs, as well as transit and shuttle service information, will be distributed as part of a "move-in" packet for residents. One or more full time employees from the sales and/or leasing offices will be responsible for these tasks, including receiving TDM training to help residents become aware of and make use of

⁴ More information can be found at citycarshare.org, flexcar.com, and zipcar.com

⁵ TCRP (2005) *Car-Sharing: Where and How it Succeeds*, TCRP Report 108, 2005. Available online at http://www.nelsonnygaard.com/articles/tcrp_rpt_108.pdf

non-vehicular modes of transportation. Subsequent to completion of the project, a representative of the HOA and/or a staff member of the leasing office will assume this responsibility.

8. Neighborhood Marketing Coordination

In an effort to decrease the number of local residents driving to the BART station, the project applicant will undertake a one time marketing campaign targeted to neighborhoods that are convenient via other modes of transportation to the BART Station. The marketing effort will include distribution of information on alternative means of accessing BART and potentially free trial transit passes or other financial incentives to try a non-automobile alternative of getting to BART.

C. Parking Strategies not required by CEQA

These strategies are not required by CEQA, but will be important to ensure the provision of sufficient vehicle and bicycle parking supply for BART patrons, and effective signage to help orient people who are going to or passing through MacArthur Transit Village.

1. BART Parking Garage Supply and Operations

There are currently 600 parking spaces at MacArthur BART Station. 300 of these spaces will be replaced in a garage constructed on Block E in the first phase of the project. Once the parking structure is in operation, demolition of the existing parking lots will take place and construction of the affordable housing component and subsequent phases of the project will begin.

The City of Oakland is also exploring the development of a residential permit program (RPP) to ensure sufficient on-street parking for residents of the surrounding neighborhood. Previous surveys have found that up to 200 cars are parked by BART patrons on local streets each day, which currently have no parking restrictions.

Consequently, there is currently a total demand of approximately 800 parking spaces for BART parking patrons. One recent study, however, indicates that future demand for parking spaces for BART patrons may be significantly reduced by approximately 50% through mode shifts. If this level of mode shift is achieved, the future parking space demand for BART patrons would be 400 spaces.

BART and Professor Rick Willson undertook in 2005 a modeling exercise on the impacts of replacement parking and TOD on BART revenue and ridership.⁶ MacArthur BART was one of four case studies, along with Concord, Del Norte and San Leandro stations. Two primary factors influencing the nationally recognized model are the existing access mode split and the ratio between the number of parkers and boardings/alightings at the station. For MacArthur, it was determined that 51% of patrons currently parking would switch to another access mode (e.g. walk, bike and transit) rather than driving to another station or driving to the destination altogether if parking was lost. This percentage was modified to 25% in the EIR for the project, to provide a more conservative estimate. However, it is very likely that a 50% change in travel behavior can be expected at MacArthur BART due to its existing mode split and future likely neighborhood improvements. To accommodate the other 50% of the patrons that would continue to drive, at least 400 parking spaces should be made available to BART patrons at the MacArthur BART Station.

⁶ Willson, R. (2005) Replacement Parking for Joint Development: An Access Policy Methodology

Since a 300-space parking garage has been proposed, the project applicant proposes the following parking strategies to accommodate the parking gap, creating up to an additional 210 parking spaces through shared parking and new parking spaces in excess of what is shown on the plan:

1. Provide 100-150 permanent parking spaces through the combination added levels of parking and/or attendant parking in the BART garage.
2. Provide 50 temporary spaces at offsite location within ¼ mile. The lease term for the off-site location will be a maximum of 5 years,
3. Share unbundled parking spaces in the garage of Parcel A with BART Patrons. Potential to create an additional 30 spaces for BART Patrons.
4. Share unbundled parking spaces in garage of the affordable building with BART Patrons. Potential to create an additional 30 spaces for BART patrons.

2. Non-Residential Parking

All other non-residential parking at MacArthur Transit Village, both on-street and off-street, will be studied as paid parking at market-rates to be determined by the property owner, for off-street parking, and the City of Oakland, for on-street parking. Implementation plan will consider a phased program for off-street parking over time and limited free parking for retail use.

3. Wayfinding Signage

“Wayfinding” refers to how people orient themselves and navigate from place to place, and the types of information they use to do so. People, especially those less familiar with an area, orient themselves using maps, signage, and other publicized information, as well as landmarks such as prominent buildings, mountains and other natural features in the landscape. An effective wayfinding system helps people feel safe and comfortable, and find their way. It also gives them a “sense of place” – an understanding and familiarity with where they are and where they are going, and encourages them to use the same travel mode again in the future.

Residents, employees, and visitors to MacArthur Transit Village will all benefit from an effective wayfinding program, including signage and other information to help them find their way within the development, to BART from within the project area, and elsewhere in the City of Oakland and beyond. With simple and intuitive wayfinding tools, visitors quickly find their destination without the fear or stress of getting lost, arriving on time, feeling comfortable with their surroundings.

BART currently has a \$50,000 budget to provide wayfinding signs around the MacArthur BART station within the next year. Primarily, new bike route signs and several signs with key pedestrian destinations will be provided. The applicant will build on this investment when preparing a wayfinding strategy, and work with BART to develop a shared theme in the provision of wayfinding signage at MacArthur BART and MacArthur Transit Village.

The project sponsor will implement the following strategies within the project area to improve wayfinding:

- Publicly displayed maps of the neighborhood surrounding MacArthur Transit Village and MacArthur BART Station that indicate prominent landmarks and important destinations, as well as maps of the regional transportation system for the Bay Area.

- Transportation information for all modes, including maps and schedules for transit, directions to bus stops, bicycle parking, carshare pods, and automobile parking areas.
- Signage throughout the site, designed in coordination with BART, AC Transit, Emery Go Round, and other transportation services, to direct travelers to various services and key destinations. These signs will supplement the signs already being provided by BART with an emphasis on more pedestrian signs.
- There will be many opportunities to design wayfinding into structures, plazas and other elements of the site. Furthermore, the actual design of the site, not just signage, will make an important contribution to the identity and ability for people to orient themselves at MacArthur Transit Village.

4. Bicycle Parking

The project applicant shall work with the City's Transportation Services Division and BART to implement the City's goals for bicycle parking at Railroad and Bus Terminals (provide a combination of short-term and long-term bike parking equal to 5% of the maximum projected ridership for the BART station). The project applicant shall study the feasibility of providing a long-term bike parking facility within the commercial area of the development (i.e., café with bicycle storage or bicycle sales and repair shop and storage) or within the proposed parking garage. Said study shall consider economic and physical feasibility and shall be reviewed by the City's Transportation Services Division, Planning and Zoning Division and BART. If feasible, the project applicant shall either use its best efforts, during the initial marketing of the commercial space, to market a portion of the commercial space to potential bike parking facility operators for a market-rate commercial operation or include a market-rate, long-term bike facility within the parking garage. If neither of these options is feasible, then the project sponsor shall have no further commitment with respect to the long-term bicycle parking for BART.

D. Program Monitoring and Adjustment

It will be important to monitor and adjust the TDM program during construction of each phase and subsequent to completion of the project to ensure that investments in TDM strategies are most successful. The developer will therefore submit a TDM Monitoring Plan before the beginning of each construction phase that will include the following elements:

- Performance of each of the measures listed in B.1. through B.6. and C.1. through C.3. If a strategy is deemed unsuccessful or underutilized, it could be replaced by another strategy that is likely to be more successful.
- Parking supply and occupancy for peak periods, to determine feasibility of reductions in parking supply construction and/or expansion in unbundling.

Within 6 months of completion of the last phase of development a final TDM Monitoring Plan shall be completed highlighting the performance of each of the TDM strategies and recommending any final changes. In addition, the plan should include a summary of the management obligations of the HOA and or leasing office.

The developer shall fund the monitoring plan and City review up to a maximum of \$50,000 until completion of the project. The developer shall fund an escrow type account to be used exclusively for preparation of future reports and review and evaluation by the City. The specifics of the account shall be mutually agreed upon by the developer and the City,

including the ability of the City to access the funds if the developer is not complying with the TDM requirements.

E. Implementation

Figure 3 on the following page summarizes the implementation schedule for the TDM plan.

Figure 3 Implementation Schedule for MacArthur Transit Village TDM Plan

		Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Timeframe
Key Strategy	Sub Strategy	BART Garage & Infrastructure	Affordable Housing Component	Market-Rate Housing Phase 1, Parcel A	Market-Rate Housing, Parcel B or C	Market-Rate Housing, Parcel B or C	On-going or One-Time Item
B.1. Discounted Transit Passes	B.1.a. AC Transit & BART passes discounted by 50%.	N/A	To be implemented prior to Certificate of Occupancy and available to residents before occupancy.				On-going through life of project
	B.1.b Collaborate with BART and AC Transit to provide eco-passes to residents and employees	N/A	To begin prior to Certificate of Occupancy	To continue prior to Certificate of Occupancy	To continue prior to Certificate of Occupancy	To continue prior to Certificate of Occupancy	On-going through life of project
	B.1.c Provide location for sales of AC Transit and high-value BART tickets	N/A	N/A	To begin at occupancy of designated retailer	To continue by using designated retailer	To continue by using designated retailer	On-going through life of project
B.2. Secure Bicycle Storage	B.2.a Provide secure bicycle parking	N/A	To be installed prior to Certificate of Occupancy in accordance with City of Oakland Bicycle Ordinance	To be installed prior to Certificate of Occupancy in accordance with City of Oakland Bicycle Ordinance	To be installed prior to Certificate of Occupancy in accordance with City of Oakland Bicycle Ordinance	To be installed prior to Certificate of Occupancy in accordance with City of Oakland Bicycle Ordinance	To be maintained through life of project
	B.2.b Provide bicycle repair room	N/A	N/A	To be installed prior to Certificate of Occupancy	If deemed feasible, and successful in Phase 1, then to be installed prior to Certificate of Occupancy	If deemed feasible, and successful in Phases 1 and 2, then to be installed prior to Certificate of Occupancy	To be maintained through life of project

		Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Timeframe
Key Strategy	Sub Strategy	BART Garage & Infrastructure	Affordable Housing Component	Market-Rate Housing Phase 1, Parcel A	Market-Rate Housing, Parcel B or C	Market-Rate Housing, Parcel B or C	On-going or One-Time Item
B.3. Unbundling of Parking	B.3.a 30% of residential parking will be unbundled in Parcel A.	N/A	N/A	Prior to FDP approval, details of unbundling to City; to be ensured in selling the units in Parcel A	Feasibility of additional unbundled parking to be assessed as part of B.4.a below and if deemed feasible and successful, then to be ensured in the selling of the units in Phase 4	Feasibility of additional unbundled parking to be assessed as part of B.4.a below and if deemed feasible and successful, then to be ensured in the selling of the units in Phase 5	In Phases 3-5
	B.3.b Explore potential for lease back of designated parking spaces	N/A	Prior to FDP approval, determine legal and financial feasibility; if determined feasible ensure garage design will accommodate and provide the details of the mechanisms of the lease-back program for review and approval by City staff prior to Certificate of Occupancy	N/A	Feasibility of assigning ownership of all or some of the parking spaces within the market rate buildings to the HOA, with first priority of use provided to residents, commercial tenants with any unused spaces being available to lease to the general public to be assessed as part of B.4.a below; if deemed feasible to be implemented prior to Certificate	Feasibility of assigning ownership of all or some of the parking spaces within the market rate buildings to the HOA, with first priority of use provided to residents, commercial tenants with any unused spaces being available to lease to the general public to be assessed as part of B.4.a below; if deemed feasible, to be implemented prior to Certificate	If deemed feasible and successful, implement prior to Certificate of Occupancy and on-going through life of project

		Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Timeframe
Key Strategy	Sub Strategy	BART Garage & Infrastructure	Affordable Housing Component	Market-Rate Housing Phase 1, Parcel A	Market-Rate Housing, Parcel B or C	Market-Rate Housing, Parcel B or C	On-going or One-Time Item
					of Occupancy	of Occupancy	
B.4. Phased Parking Construction	B.4.a In future phases, assess whether parking supply can be reduced before construction	N/A	N/A	N/A	Prior to FDP approval, assess whether parking supply in this phase can be reduced due to lower demand than expected in Phase 3. Opportunities to increase unbundling and/or a lease back program will also be assessed as part of this sub-strategy.	Prior to FDP approval, assess whether parking supply in this phase can be reduced due to lower demand than expected in Phases 3 and 4. . Opportunities to increase unbundling and/or a lease back program will also be assessed as part of this sub-strategy.	In Phase 4 and 5
B.5. Carsharing	B.5.a Maintain and increase number of parking spaces available for car-sharing	The 4 existing carshare spaces will be moved to the BART Garage once in operation	N/A	Prior to Certificate of Occupancy, discuss with carshare operators on potentially moving 2 vehicles to Parcel A and 2 vehicles to Village Drive, with a total potential supply of 8 spaces	Prior to Certificate of Occupancy, discuss with carshare operators on the best locations for up to 8 carshare vehicles (2 on-street, 2 in Parcel A and 4 in BART garage)	Prior to Certificate of Occupancy, discuss with carshare operators on the best locations for up to 8 carshare vehicles (2 on-street, 2 in Parcel A and 4 in BART garage)	On-going discussions with carshare operators on the best locations for up to 8 carshare vehicles
B.6. TDM Marketing Coordination	B.6.a Provide TDM marketing coordination to residents and employees	N/A	Prior to Certificate of Occupancy, Staff will provide move-in packets to new tenants and on-	Once the sales office is open, part of the marketing coordination will take place in the	As long as the sales office is open, part of the marketing coordination will	As long as the sales office is open, part of the marketing coordination will	Once the sales office has closed, it will be determined whether the TDM coordination will be

		Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Timeframe
Key Strategy	Sub Strategy	BART Garage & Infrastructure	Affordable Housing Component	Market-Rate Housing Phase 1, Parcel A	Market-Rate Housing, Parcel B or C	Market-Rate Housing, Parcel B or C	On-going or One-Time Item
			going marketing materials and support for non-vehicular modes of transportation. To be located in the leasing office.	sales office in addition to the affordable housing component, providing the same services to all tenants and new residents.	take place in the sales office in addition to the affordable housing component, providing the same services to all tenants and new residents.	take place in the sales office in addition to the affordable housing component, providing the same services to all tenants and new residents.	staffed in the leasing office or partially through the HOA. The service will be provided to all tenants and residents.
C.1. BART Garage Operations	C.1.a Provide 400 long term and 50 short term parking spaces to BART patrons	Project Sponsor will use one or more of the following methods to ensure a BART patron parking supply of 450 parking spaces: - Attendant parking - Satellite parking - Construction of larger parking structure	N/A	N/A	N/A	N/A	400 spaces to be provided through the life of the project, or until it is determined that the parking is under-utilized. 50 additional spaces for at least 5 years.
C.2. Wayfinding Signage	C.2.a Improve wayfinding in and in the vicinity of the project site	On-going	On-going	On-going	On-going	On-going	On-going
C.3. Bicycle Parking for BART Patrons	C.3.a Collaborate with BART to provide high-capacity bicycle parking	Collaborate with BART	Collaborate with BART	Collaborate with BART	Collaborate with BART	Collaborate with BART	Continued discussion until suitable solution has been found

EXHIBIT C-3

DESIGN GUIDELINES FOR THE MACARTHUR TRANSIT VILLAGE PROJECT

Introduction

Transit-oriented districts (TODs) are defined as compact, high-density, pedestrian-oriented, mixed-use developments near transit hubs that provide access to housing and jobs with an alternative to the car as the primary mode of transportation. Oakland's General Plan includes policies to create TODs in Oakland in the **1998 General Plan Land Use and Transportation Element**:

*"...ensure and build upon [Oakland's] significant investment in transportation and infrastructure. The new Plan urges us to address the issues through concurrent land use and transportation planning, coordination strategies between the service providing agencies, and realization of infrastructure improvements along major routes and corridors. The plan supports the creation of "transit-oriented districts" that offer a wide range of local services, housing, and retail shops, combined with immediate access to public transit such as BART or multiple AC Transit lines."*¹

And reiterated it again in the **2004 Housing Element**:

*"Land use strategies and policies are designed to promote residential and mixed-use development in pedestrian-oriented settings so as to take advantage of opportunities presented by Oakland's region-serving BART stations and multiple AC Transit lines...Increased height, increased density and reduced parking are proposed for mixed use projects in these locations."*²

The S-15 transit-oriented development zone regulations contained in Chapter 17.97 of the Planning Code (the S-15 zone) establish the regulatory framework to implement the General Plan's vision for TODs. The S-15 zone regulations contain development standards regarding height, minimum and maximum density, floor area ratio, setbacks, and special parking requirements. The Planning Code also contains reduced parking requirements for TODs to encourage transit use and enhance pedestrian environments and S-15 zone regulations shall be subjected to the design guidelines contained herein this document.

Purpose

The Preliminary Development Plan for The MacArthur Transit Village (Transit Village) is intended to create a design and development framework that responds and fulfills the City's policies for Transit Oriented Development, as well as the basic intention of the City's Planned Unit Development Permits, which includes the promotion of a harmonious variety of uses, the economy of shared services and facilities, compatibility with surrounding areas, and the creation of attractive, healthful, efficient, and stable environments for living, shopping, or working. The Transit Village provides an exciting opportunity for Oakland to achieve regional and citywide goals of providing housing, "strengthening and expanding"³ its economic base, increasing transit ridership, reducing automobile trips, easing congestion and sprawl, and reducing air pollution.

Supported by the S-15 regulatory framework, these Design Guidelines are intended to guide the Transit Village's implementation and ensure that the project achieves the vision created through years of public participation and detailed design studies including: the physical qualities of an urban environment with viable public spaces, improved access to BART and quality architecture.

¹ Envision Oakland: City of Oakland General Plan. Land Use and Transportation Element, 1998, pg. 3.

² Ibid. Housing Element, 2006, pg. 7-7.

³ Ibid. Land Use and Transportation Element, 1998. pg. 38.

MacArthur Transit Village

Design Principles & Guidelines

May 5, 2008

Transit Village Guiding Principles

While the establishment of the MacArthur BART station and the Highway 24 created needed public transit and improved transportation access, the bifurcation of the original urban fabric within this district is evident in the existing urban conditions. The spirit and intent of the Transit Village Guiding Principles is to re-establish a vibrant transit oriented urban fabric surrounding the station area, and to enhance the multimodal transit uses at the MacArthur BART station. Most importantly, the presence of a well designed transit oriented development will be the catalyst for redevelopment for the Telegraph transit corridor and the surrounding neighborhoods.

1. Identity

- 1.1. Create a regional gateway to Downtown, North Oakland and West Oakland.
- 1.2. Revitalize a marginalized area as an economically vibrant mixed-use neighborhood.
- 1.3. Provide well designed public open spaces, plazas and retail nodes at prominent locations to promote attractive, safe and active uses.

2. Urban Design

- 2.1. Reconstruct the neighborhood scale urban fabric between 40th Street, Telegraph Avenue and West MacArthur Boulevard to seamlessly reconnect the BART area to surrounding neighborhoods.
- 2.2. Eliminate physical and perceived barriers between Martin Luther King Boulevard and Telegraph Avenue in order to improve connectivity and safety for neighbors residing in the vicinity of the Transit Village.
- 2.3. Reinforce Telegraph Avenue as a city-wide transit corridor and a neighborhood main street.
- 2.4. Create a sensitively scaled, pedestrian-friendly development that organizes massing in a way that responds to the surrounding neighborhood context.

3. Transit

- 3.1. Enhance and emphasize MacArthur BART as a major multi-modal transfer hub in the Bay Area with an identifiable, active and thriving community adjacent to the station.
- 3.2. Enhance pedestrian access by providing clear, safe and attractive access to BART from the surrounding neighborhoods and within the Transit Village.
- 3.3. Prioritize bicycle access through safe and clearly marked bike routes to and within the Transit Village. Where possible, bike access should link with existing or proposed city-wide bike routes.

4. Mixed-Use

- 4.1. Provide a diverse mix of land uses that create housing, employment and community-serving opportunities for Transit Village residents, visitors and employees.
- 4.2. Direct foot traffic through open spaces and commercial nodes within the development to enhance commercial retail viability.

5. Sense of Place

- 5.1. Reinforce urban design and character with well composed buildings that are built of quality materials, appropriately scaled details and thoughtful proportions that promote visual quality and prominence.
- 5.2. Create a series of blocks that allow for a greater diversity of architectural character and style as is inherent to an authentic urban fabric.
- 5.3. Coordinate landscape, lighting, signage and street amenities to promote a distinctive district identity and sense of place.
- 5.4. Create a signature statement at the corner of Telegraph Avenue and Village Drive that brands the identity of the Transit Village.

6. Sustainable Design

MacArthur Transit Village

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- 6.1 Incorporate site planning and building techniques that support a “green” development and include on-site water conservation and recharge; compact developments, walkable streets and transit access resulting in a reduction of automobile use.
- 6.2 Encourage the use of sustainable building materials and methods; and use of recycled construction materials.
- 6.3 Take part in the USGBC’s LEED ND Pilot Program and work towards certifying the development for a Platinum or Gold Level certification.

Design Guidelines

These guidelines provide methods to achieve the Guiding Principles for the Transit Village previously highlighted. They are not intended to restrict innovation, imagination and variety in design. Alternative methods that respond to the Guiding Principles similarly, may be considered by planning commission and City Council together with the Final Development Plan.

Development of the MacArthur Transit Village Project shall be subject to the Design Guidelines detailed below. The Design Guidelines are intended to promote successful, integrated transit-oriented development at the MacArthur BART station. These guidelines are a Condition of Approval for the Planned Unit Development Permit (PUD)/Preliminary Development Plan (PDP). Final Development Plans that are submitted for the project shall be in substantial conformance with the PDP plans (dated April 30, 2008 including 32 plan sheets) the S-15 zone regulations and the design guidelines contained herein. The Design Guidelines are organized into the following sections:

- I Site Planning
- II Architectural Design
 - a) Height, Bulk and Scale
 - b) Architectural treatments
- III Public Space Improvement
- IV Transit Plaza Design
- V Sustainable Design

I Site Planning

Traditionally streets and blocks create the physical structure or “framework” for an urban design plan. The MacArthur BART Project area’s framework of streets and blocks was disrupted years ago and has resulted in the MacArthur BART Station and parking lot being an anonymous, disconnected place that is not integrated into the surrounding neighborhood.

The Preliminary Development Plan will introduce a new pattern of public and private streets, development blocks and open spaces within the Transit Village that will reconnect to the existing street network and surrounding context, creating a coherent framework for development and improved circulation. The layout for the new streets and blocks as shown on plan sheets A-1.01, L-02 and L-03 are the backbone of this framework with the character being defined by the elements that occur within this framework. Key elements include:

- walkable, interconnected streets that provide multi-modal access;
- buildings that define the edges of and create a sense of enclosure for streets;
- sidewalks and sidewalk amenities that buildings face and that create a safe and attractive pedestrian realm; and
- open spaces that become identifiable community “living rooms”.

These elements must work together to create a successful transit-oriented development. In particular, a successful site plan integrates these elements to safely direct pedestrian traffic into nodes of activity,

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clusters several modes of transportation, and assimilates new streets and buildings into the existing neighborhood. The project shall be consistent with the following site planning design guidelines.

- Guideline S1 Integrate new streets and buildings into the surrounding neighborhood. As a regional gateway, the MacArthur Transit Village is a large transit-oriented development site that should provide visually appealing views from the surrounding neighborhoods, Highway 24, the BART train, platform, the station plaza, and other critical nodes of activity. These views should both provide visual interest and help identify the station entrance and Transit Village community nodes. (plan sheet T-02)
- Guideline S2 Site convenient pedestrian routes that minimize pedestrian conflict with vehicles. Although bus and shuttle stops should be sited for convenience to transit users, the site and circulation plan must minimize conflicts between pedestrians and transit vehicles as well as private cars. (plan sheet A-0.01)
- Guideline S3 Ensure the pedestrian circulation plan routes pedestrians through desired centers of activity in the development such as retail nodes and plazas. (plan sheet A-0.01)
- Guideline S4 Clearly designate bicycle routes and make them free of obstructions. The bike lane should be sited to avoid conflicts with motor vehicles. (plan sheet A-0.01)
- Guideline S5 Where possible, link bicycle routes to the existing or proposed bicycle network adjacent to the development. (plan sheet A-0.01)
- Guideline S6 Locate BART parking structure away from core locations to encourage pedestrian movement through the site. Multiple access points should direct people through key areas that have an active street front such as stoops, plazas and commercial storefronts. (Exhibit A-1.01)
- Guideline S7 Place commercial activities at prominent locations to create an active pedestrian realm. The pedestrian circulation plan should lead pedestrian routes through prominent locations such as plazas and intersections. This method creates a confluence of people at these key locations. Retail stores and restaurants should be sited at these critical locations to take advantage of this confluence. The development should provide ground floor “flex space” or live/work opportunities whose architecture recalls the scale and pattern of commercial frontage and that could be converted to businesses along probable pedestrian routes. (Exhibit A-1.01)
- Guideline S8 Place pedestrian plazas at areas of activity in the development to serve as a hub for pedestrian routes. Like retail nodes, plazas require pedestrian traffic to be successful public spaces and should be located where there will be a confluence of people. Plazas can also serve as a portal into the development at a station or development entrance. (Exhibits A-1.01, A-3.05, A-6.01 and 6.02, L-02)
- Guideline S9 Site building facades at or near the edge of the sidewalk or plaza, appropriate setbacks include 2-5 feet for balconies, awnings, stoops, landscaping or other sidewalk level displays at entries to create a street wall that clearly defines the edges of the public realm and creates a sense of enclosure along the street. Small plazas, inset bays for outdoor seating and dining, prominent entrances, and special corner features provide appropriate locations for interruptions of the street wall. (Exhibit A-1.01, A-1.02, A-3.02 to 3.03)

II Architectural Design

The Architectural Design Guidelines, while not intended to be prescriptive as to style and appearance, help to illustrate the design intention of the Preliminary Development Plan for the Transit Village. Buildings within the Transit Village should be diverse yet have some common elements that tie the development together to create a cohesive urban design and identity. Buildings should not have identical design elements, but they should have design elements and devices in common that create a coherent composition, rhythm, and urban design. The PDP plan establishes the basis of the urban design and architectural concepts envisioned for the MacArthur Transit Village.

Since the architectural design is closely integrated with the urban design, public spaces, street character and pedestrian experience in the Transit Village, these guidelines are organized according to the street that

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buildings face. Each street – existing or new – has or will have a distinct identity that is enforced by architectural design, use or activity, and the streetscape design.

1. Telegraph Avenue
2. West MacArthur Boulevard
3. 40th Street
4. Frontage Road
5. Village Drive
6. Internal Residential Street
7. MacArthur BART Transit Plaza

The guidelines are then organized by “Height, Bulk, and Scale” and “Architectural Treatment” to set the stage for a comfortable and interesting pedestrian experience within the Transit Village and to provide distinct place characteristics within the Transit Village that are recognizable and unique.

1. Telegraph Avenue

Telegraph Avenue is a historically significant commercial mixed-use spine stretching from downtown Oakland to the UC Berkeley campus. The Transit Village will reinforce its traditional character with new buildings that create a strong frontage with an enhanced pedestrian scale. Strong building forms here will announce the special transit-oriented district along the Telegraph corridor, and intensive sidewalk activity will create new neighborhood-wide destinations. The architectural character of this edge is illustrated in the PDP plan sheets A-1.0H, A-3.01a, A-3.02, A-6.01

Height, Bulk and Scale:

- Guideline A1.1 Proposed buildings along Telegraph Avenue shall be no more than four to six stories (approximately 50’ to 75’) with mix of building heights and rooflines and a signature gateway at Village Drive and Telegraph Avenue. (plan sheets A-1.0H, A-3.02)
- Guideline A1.2 Architecture along Telegraph Avenue should acknowledge the traditional proportions of base, middle and top datum lines, to reinforce the urban street edge. (plan sheet A-3.02)
- Guideline A1.3 Provide a retail corner plaza at the corner of Telegraph and Village Drive to enhance pedestrian activities, outdoor seating opportunities, and create a gateway feature to the Transit Village. (plan sheet A-6.01)
- Guideline A1.4 Buildings should generally respect the zero lot line building edge along Telegraph Avenue, but provide some street wall articulation for visual interest.
- Guideline A1.5 Building design should respect and acknowledge the existing building on the corner of Telegraph and 40th Street by stepping down building height to four stories and by generally aligning with the base height and articulation of the existing building façade. (plan sheet A-1.0H, A-3.02 and 3.03)

Architectural Treatments:

- Guideline A1.6 Establish iconic building corners at the intersection of Telegraph and Village Drive to frame the primary “Front Door” and the view corridor to the BART station. (plan sheets A-6.01 – 6.02)
- Guideline A1.7 Provide a well defined building base with quality materials to enhance the commercial/retail frontage and provide distinctive attractive signage and canopies for the commercial/retail tenants and building lobbies. (plan sheets A-6.01 – 6.02)
- Guideline A1.8 The commercial/retail facades should have at least 60% transparency, with 75% preferred.
- Guideline A1.9 The ground level of buildings fronting on Telegraph Ave must have predominantly commercial/retail frontage to promote an active public realm. Residential units above retail bays overlooking the street will promote safety through “eyes on the street”.
- Guideline A1.10 The height of commercial/retail space shall be a minimum of 13’ floor to floor at Block C and 18’ floor to floor at Block A with the intention of accommodating both in-line and major commercial/retail tenants.

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- Guideline A1.11 Provide a variety of architectural characters and styles along Telegraph Avenue that have an authentic urban feel and traditional neighborhood scale, without being historically stylized or sentimental.(plan sheets A 3.02 – 3.08 and A-6.01 – 6.02)
- Guideline A1.12 Use high quality durable materials, especially at the base of the buildings, to create a strong relationship of the building to the pedestrian realm and to enhance the neighborhood commercial/retail frontage..
- Guideline A1.13 Use architectural details such as decorative railings, pot shelves, canopies, and lighting that create visual complexity and interest and reinforce the human scale elements of the proposed mixed use development.
- Guideline A1.14 Strong cornice treatments should be emphasized regardless of the architectural style or character.
- Guideline A1.15 Provide a minimum window recess of 2 inches for all windows at the groundfloor and upper levels.
- Guideline A1.16 Avoid white or beige window frames. Dark colors result in a more urban character that is appropriate to this location.

2. West MacArthur Boulevard

MacArthur Boulevard is a major city thoroughfare, extending from San Leandro to San Pablo Avenue where it transitions to the MacArthur Freeway – I-580. Its physical character varies along its length, as do its traffic patterns and intensities. At the Transit Village it carries traffic that is generally headed to or from the highway. The Transit Village will create a new building frontage along this street, and its vehicular connection into the Transit Village will serve to provide scale and activity to the street by creating a new intersection at Frontage Road. The architectural character of this edge is illustrated in the PDP plan sheets A-3.04 and 3.06

Height, Bulk and Scale:

- Guideline A2.1 The ground level commercial base will activate the street and provide human scale and visual interest at the base of the parking structure.
- Guideline A2.2 The proposed multi level parking structure's height and substantial bulk will be a distinctive visual cue to commuters arriving by car both regionally and locally, as it is visible not only from West MacArthur Boulevard and Telegraph Avenue, but from Highway 24 and the BART train platform above.

Architectural Treatments:

- Guideline A2.3 Provide active, commercial or retail frontage at the ground floor to create a strong visual connection between the street and activities inside, and to enhance pedestrian activity on the street providing character and safety.
- Guideline A2.4 Provide minimum of 13' floor to floor dimension for the ground level retail or commercial space.
- Guideline A2.5 Artistic design elements or signage elements mounted on the exterior of the parking structure above the ground floor retail will provide visual interest and identity to freeway drivers and BART commuters passing by.
- Guideline A2.6 Incorporate artistic sun shading devices and PV panels or other building specifications to further support sustainable development.
- Guideline A2.7 Provide a substantial building base with quality materials and provide distinctive attractive signage and canopies along the street and at building lobbies.
- Guideline A2.8 Use high quality durable materials, to create a strong relationship of the building to the pedestrian realm and to activate West MacArthur Boulevard.

3. 40th Street

40th Street is a major west-east corridor connecting Emeryville with North Oakland. Between Martin Luther King Jr. Boulevard and Telegraph Avenue, this street provides the main pedestrian access between adjacent neighborhoods and the BART station, and acts as one of the main district gateways to the MacArthur BART station. The architectural character of this edge is illustrated in the PDP plan sheets A-1.0H, A-3.03, A-6.02

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Height, Massing and Scale:

- Guideline A3.1 The proposed architecture massing and scale must respect the transition from the existing, modest four story building on the corner of Telegraph Avenue to the grand scale of the freeway infrastructure overpass and BART station with a mix of building height and articulation. (plan sheets A-1.0H, A-3.03)
- Guideline A3.2 The proposed buildings along 40th Street transition from five stories adjacent to Existing building at Telegraph Avenue to a six story maximum adjacent to the BART station (approximately 60' to 80'). (plan sheet A-1.0H)
- Guideline A3.3 The architecture along the length of 40th Street should be modulated to create a diversity of architectural scales and characters. (plan sheet A-3.03)
- Guideline A3.4 Consistent with Telegraph Avenue, the distinctive commercial/retail floor to floor ground level height of 18' should be carried along the 40th Street elevation. (plan sheet A-3.03)
- Guideline A3.5 The placement and style of openings and windows should contribute to a coherent and appealing composition to a façade. Details such as mullions, grillwork, prominent sills and trim can also provide visual interest to openings.

Architectural Treatments:

- Guideline A3.6 The proposed buildings fronting on 40th Street must have commercial/retail storefronts at the ground level, with commercial/retail uses fronting on the BART station plaza and flex space that supports potential future commercial/retail uses along the 40th Street frontage.
- Guideline A3.8 Provide a substantial building base with quality materials to enhance the retail frontage and provide distinctive attractive signage and canopy opportunities for potential retail tenants and flex space tenants.
- Guideline A3.7 Provide an architectural character and style along 40th Street that has an authentic contemporary urban feel.. (plan sheet A 3.02 – 3.08 and A-6.01 – 6.02)
- Guideline A3.8 Creating an iconic corner at the BART Transit plaza will highlight the prominent public plaza, retail node and gateway into the BART station, both from the neighborhood and freeway/platform levels.
- Guideline A3.9 Use a variety of architectural details such as decorative railings, pot shelves, canopies, and decorative lighting to reinforce the human scale elements of the proposed mixed use development.
- Guideline A3.10 Use high quality durable materials, especially at the base of the buildings, to create a strong relationship of the building to the pedestrian realm and to enhance the neighborhood retain frontage along 40th Street.
- Guideline A3.11 Strong cornice treatment should be emphasized regardless of the architectural style or character.
- Guideline A3.12 Provide a minimum window recess of 2 inches for all windows at the groundfloor and upper levels.
- Guideline A3.13 Avoid white or beige window frames. Dark colors result in a more urban character that is appropriate to this location.

4. Frontage Road

The Frontage Road is an essential access drive for shuttle transit services, bike path and pedestrian linkage to the new BART replacement parking garage. In addition, it also serves as an emergency access and maintenance road for CalTrans. . The architectural character of this edge is illustrated in the PDP plan sheets A-1.0H, A-3.06, A-6.02, A-6.0 3and Hood Design's concept for the BART plaza design also included in the PDP submittal.

Height, Bulk and Scale:

- Guideline A4.1 Blocks B, C, and D along the frontage road should have clearly defined, well-lit and visible frontage along the street level to promote security and safety.
- Guideline A4.2 Due to visibility from the freeway and the BART platform, the architecture of each of the blocks along the frontage road (at street level and upper levels) shall be

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- designed with an architectural gesture fitting with this location through bold fenestration patterns, roof forms and façade articulation.
- Guideline A4.3 The buildings along this edge have the most flexibility in heights and variations (approximately 65' to 80') in form within the project. (plan sheet A-1.0H)

Architectural Treatments:

- Guideline A4.4 Provide artistic metal grills and pedestrian scale lighting along the garage edge to provide maximum visibility to promote security. (Exhibit A-3.06)
- Guideline A4.5 The architectural composition of the building areas visible to the freeway and BART platform should be designed as large scale, regional gateway, with a broader variations in forms and building materials to magnify the contrast in architecture.

5. Village Drive

Village Drive is the primary public street within the Transit Village. The street is angled from Telegraph Avenue to the BART Plaza to provide a strong visual connection to the station, as well as the Beebe Memorial Church, a significant historic neighbor to the Transit Village. Parallel parking on Village Drive provides necessary convenience parking that will support the retail and live/work uses along the street and provide multiple drop-off locations for BART commuters. The architectural character of this edge is illustrated in the PDP plan sheets A-3.08b, A-6.01.

Height, Bulk and Scale:

- Guideline A5.1 The scale of architecture along Village Drive should transition from the more contextual neighborhood scale along Telegraph Avenue building to the larger, more regional scale of the highway and BART station. (plan sheet A-1.0H)
- Guideline A5.2 Building height shall transition from the more contextual neighborhood scale along Telegraph Avenue to more regional scale toward the Highway 24 and the MacArthur BART Station (approximately 60' to 85'). (plan sheet A-1.0H)
- Guideline A5.3 Each of the corners of the buildings should respond architecturally to their unique position on the site.

Architectural Treatments:

- Guideline A5.4 Any ground floor uses fronting on Village Drive must have commercial/retail storefronts at the ground level. Façade transparency of the ground floor space should range from 50% to 75%.
- Guideline A5.5 Provide a minimum window recess of 2 inches for all storefront and residential windows at the ground floor and upper levels.
- Guideline A5.6 Avoid white or beige window frames. Dark colors result in a more urban character that is appropriate to this location.
- Guideline A5.7 Provide a substantial building base with quality materials to enhance the retail frontage and provide distinctive attractive signage and canopies for the retail tenants, live/work units and building lobby locations.
- Guideline A5.8 Use a variety of architectural details such as decorative railings, pot shelves, canopies, and decorative lighting to reinforce the human scale elements of the proposed mixed use development.
- Guideline A5.9 Use high quality durable materials, especially at the base of the buildings, to create a strong relationship of the building to the pedestrian realm and to enhance the neighborhood retain frontage along Village Drive.
- Guideline A5.10 The retail space must be a minimum of 13' floor to floor at Block B and C to accommodate in-line retail tenants, and minimum of 18' floor to floor at Block A to accommodate a major retail tenant.

6. Internal Residential Street

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The Dutch model of streets that are shared between active recreational, residential, public uses and vehicles – the Woonerf – provides inspiration for this street. It is a private neighborhood street that mainly provides parking access for residents with limited on-street parking for residents and guests. This street is more a plaza than a street, and should provide a semi-private gathering space for Transit Village residents that is away from the main traffic and activity of the commercial and transit areas. The architectural character of this edge is illustrated in the PDP plan sheets A-3.07b, A-6.04, L-03

Height, Bulk and Scale:

- Guideline A6.1 Consistent with and in response to smaller residential blocks, the architecture of buildings facing the internal street (Block B, C and D) should address the internal street with a variety of massing, roof line and architecture.
- Guideline A6.2 Building frontages should relate to one another through the use of residential scale elements and articulation such as bay windows, balconies, stoops, as well as narrow vertical modulations – similar to urban row houses.
- Guideline A6.3 The proposed roof form should be more varied and articulated than the mixed use building along Telegraph Avenue and 40th Street to respond to the residential nature of this street.
- Guideline A6.4 The pattern of fenestration should also designed to reflect a more residential scale.

Architectural Treatments:

- Guideline A6.5 Provide generously sized stoops and balconies at the ground level units to create a transition from the public street to the private realm of the residence and to enhance the sense of pedestrian activity on the street, support residential character and safety. These stoops can be designed uniquely to suit each architectural variation along the frontage.
- Guideline A6.6 Provide variety of color and materials to further reinforce the finer grain residential scale and articulations
- Guideline A6.7 Provide clearly defined residential lobbies, entries into residential courtyards and public uses by providing special canopies, signage, lighting and graphics. When possible, group entrances together to create a community activity node.
- Guideline A6.8 Provide quality durable material at all stoops, landscape walls and lobby entrances. Ground floor units shall have swinging front doors or French doors with some transparency rather than sliding patio doors.
- Guideline A6.9 Provide a minimum window recess of 2 inches for all windows at the groundfloor and upper levels.
- Guideline A6.10 Decorative lighting shall be incorporated seamlessly in the building design to enhance the architecture, promote pedestrian safety and support neighborhood security.

7. 40th Street Gateway at the BART Plaza

The BART plaza provides a public open space amenity to both transit patrons and the community. The currently underutilized and nearly invisible transit plaza will be redesigned to extend from the BART fare gates under the freeway and connect to the transit plaza at Building A. This location is the key regional gateway of the development and the buildings should be designed with this in mind. The architectural character of this edge is illustrated in the PDP plan sheets A-3.05, A-6.02, L-02, and Hood Design's concept for the BART fare gate plaza.

Height, Bulk and Scale:

- Guideline A7.1 The massing and height of Building A adjacent to the BART Plaza will be the most prominent within the overall hierarchy of the site.
- Guideline A7.2 The proposed architecture massing fronting the plaza should speak to its civic location with a strong façade, vibrant and transparent retail base.
- Guideline A7.3 The architectural modulation, fenestration pattern and detailing of mixed-use Block A should be significantly different than that of the residential Block B to provide a rich variety of architecture fronting onto the plaza .

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Architectural Treatments:

- Guideline A7.4 The proposed buildings fronting the plaza must have retail frontage at the ground level with reasonable lease depth (40' to 60').
- Guideline A7.5 Create an iconic corner at the transit plaza to highlight the prominent public plaza, retail node and gateway into the BART station, both from the neighborhood and to the fast moving traffic at the freeway level.
- Guideline A7.6 Provide transparent glazing at the retail level to provide maximum visibility and contemporary details to complement the civic character of the transit plaza.
- Guideline A7.7 All outdoor amenities, signage and fixtures shall be selected and designed as complementary public arts features.

III Public Space Improvements

The public space improvements of the project development include elements such as streets, sidewalks, infrastructure, and other amenities in the public realm. These elements are the glue that ties individual buildings together within the development to create a unique urban place. The architectural character of the space is illustrated in the PDP plan sheets L-01, L-06.

- Guideline PS1 Provide an integrated scheme of street improvements. The streets within the development should have a consistent design theme and relate to the proposed architectural style of the buildings. All amenities should be durable and of high visual quality. (plan sheet L-03)
- Guideline PS2 Dimension sidewalks wide enough to accommodate active pedestrian traffic activity. Sidewalks should be dimensioned to accommodate comfortable pedestrian activity and sidewalk elements such as street lights, trees, street furniture, and outdoor café seating areas. Sidewalk bulb-outs, a widening of a sidewalk at intersections and crosswalks, should be provided at major intersections along pedestrian routes. (plan sheets A-3.07a, 3.08a) Minimum sidewalk widths for new streets within the project area are as follows:
 - Village Drive: 10 feet
 - Internal Street: 7 feet on the west side and 5 feet on the east side
 - Frontage Road: minimum 7 feet with increase to 12 feet.
- Guideline PS3 For sidewalks improvements along West MacArthur Boulevard, 40th Street and Telegraph Avenue where there is an existing sidewalk system on an established street, the project should continue the existing sidewalk pattern.
- Guideline PS4 Provide as narrow street widths as possible. The width of streets within the project depends heavily on issues relating to public safety, transit requirements, and vehicular access. Given these constraints, streets should be as narrow as possible to create an intimate, enclosed environment for pedestrians. Narrow street widths along with the small building setbacks help to define a comfortable pedestrian space. (plan sheets A 3.06 to 3.08)
- Guideline PS5 Use alternative paving at strategic locations to enhance the pedestrian experience. Use of alternative paving materials such as stamped concrete, interlocking concrete pavement, and concrete with integrated colors at prominent locations to identify special locations and provide visual interest at the street level. (plan sheet L-02)
- Guideline PS6 Design an integrated public improvement scheme including street trees, street lights, traffic signals, street signs, and street landscaping. These amenities should be of high visual quality, have a consistent design theme that fit the design style of buildings within the development, and be consistently provided throughout a site to provide the development an identity and enhance the visual experience of visitors. Provide trees that create an attractive canopy for pedestrians and lights that brightly illuminate pedestrian routes for nighttime security. (plan sheets L-01 to L-06)

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IV Transit Plaza Design

The Transit Plaza is the key organizing and design feature of the MacArthur BART Transit Village Plan. Good design, activity and safety are necessary to attract people into the plaza to create an active community space. Therefore, a key to a successful plaza is to create activities that will attract people into a plaza. One method of attracting people is to have commercial opportunities within and adjacent to the plaza. Food vendors, retail storefronts, outdoor seating and public art invite people to come to and use the plaza as a community gathering space or “living room”. The architectural character of the plaza is illustrated in the PDP plan sheets L-0, L-02, L-07, A-6.02.

A plaza should be a place where people can comfortably relax and socialize and the plaza should be sized to promote such activity. One of the most important elements of encouraging these activities is to provide adequate seating. Seating can be provided in many forms: benches, steps, ledges, planters, and walls are all opportunities for seating. Further, seating should be provided in various locations such as in the sun, in the shade, near focal points, facing prominent architectural features, and near commercial areas.

- Guideline TP1 Seed activity in a plaza that provides approximately 6,200 sf of active open space.
- Guideline TP2 Entrances to storefronts should be directed to the plaza and provide easy access for pedestrians.
- Guideline TP3 Orient the plaza toward a major feature and use the plaza as a way finding feature for the community and development. The plaza should be oriented towards the BART station entrance.
- Guideline TP4 Design buildings adjacent to the plaza to provide a comfortable pedestrian scale and limit setbacks between the façade and the plaza to provide well defined edges and to enclose the public space.
- Guideline TP5 Install landscaping to soften the environment and provide shade. Ample landscaping is critical to soften the environment in a plaza. Also, trees should be used to provide shade at seating areas, block the wind, and cool areas that tend to attract heat. In general, at least 25 percent of a plaza should be covered with plant material.

V Sustainable Design

Incorporate site planning and building techniques that support a “green” development. Building at higher densities near transit is inherently energy efficient because it reduces the number of people who travel by private automobile. Green building techniques are typically most effective when they are incorporated early in the design process. Examples can include the following:

- Guideline SD1 - ***Site Planning & Design***
 - Building placement should be sensitive to site topography and should be integrated seamlessly with minimal impact.
 - Through site and building design, consider the use of building roofs, parking lots, and other horizontal surfaces to convey water to either distribute it into the ground or collect it for reuse.
 - The project site should be designed to maintain natural storm water flows by promoting infiltration. Techniques and materials such as vegetated roofs, pervious paving, and other measures to minimize impervious surfaces are encouraged.
 - Impervious paving should be minimized, increasing on-site infiltration, and reducing or eliminating pollution from storm water runoff and contaminants.
 - Constructed surfaces on the site should be shaded with landscape features and utilize high-reflectance materials and other materials to reduce heat absorption.
- Guideline SD2 - ***Building Design***
 - Identify opportunities to incorporate salvaged materials and rapidly renewable materials into building design and research potential material suppliers.
 - Design buildings to maximize interior daylighting and provide for a connection between indoor spaces and the outdoors. Strategies to consider include building

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orientation, exterior and interior permanent shading devices, and high performance glazing.

- Consider use of materials and methods that will reduce heat island effect. This may include but is not limited to green roofs, roof gardens, use of reflective surfaces and/or photovoltaics.

Guideline SD3 – *Streetscape/Landscape Design*

- Drought tolerant landscaping is encouraged. Plant selection should be based on the climate and environment of the area as well as site characteristics such as exposure, light intensity, soil analysis, site drainage, and irrigation. Proper plant selection based on site characteristics should enhance the plants' likelihood of becoming established on the site and reduce potential incidences of low vigor, excessive maintenance, disease, or death. Native species are preferred for natural landscapes.
- The site should be adequately landscaped to provide shade and protect surfaces including sidewalks, driveways, parking lots, and exterior walls. Where appropriate, plant deciduous trees on the south and west sides of buildings to provide protection from the summer sun. In the winter months, these trees lose their leaves and allow sunlight to provide passive heating and light.



MacArthur Transit Village Development
 Illustrative Map Showing Potential RPP Area (1/4 mile around Site)

Planning Commission
 June 4, 2008



EXHIBIT D

PROPOSED TEXT AMENDMENT TO OPEN SPACE IN THE S-15 ZONE

June 4, 2008

~~Strike-out text = deleted text~~

Underline text = new text

17.97.170 Minimum usable open space.

Usable Open Space for all Residential Facilities shall comply with the following open space standards (17.97.170A and 17.97.170B).

~~1A. Group Usable Open Space for Residential Facilities. On each lot containing Residential Facilities with a total of two or more living units, group usable open space shall be provided for such facilities in the minimum amount of one hundred fifty (150) square feet per regular dwelling unit plus one hundred (100) square feet per efficiency dwelling unit. All required group usable open space shall conform with the standards set forth in Chapter 17.126, except that group usable open space may be located anywhere on the lot, and may be located entirely on the roof of any building on the site.~~

~~2B. Private Usable Open Space for Residential Facilities. Private usable open space shall be provided in the minimum amount of thirty (30) square feet per regular dwelling unit and twenty (20) square feet per efficiency unit. All required space shall conform to the standards for required private usable open space in Section 17.126.040. All private usable open space may be substituted for group usable open space with a ratio prescribed in Section 17.126.020 except that actual group open space shall be provided in the minimum amount of seventy five (75) square feet per regular dwelling unit and fifty (50) square feet per efficiency unit. (Ord. 12776 § 3, Exh. A (part), 2006; Ord. 11892 § 4 (part), 1996; prior planning code § 6871)~~

A. Definitions. As used in this section, usable open space categories shall be defined as follows:

1. Private Usable Open Space. Private usable open space is accessible from a single unit and may be provided in a combination of recessed and projecting exterior spaces.

2. Public Ground-Floor Plaza. Public ground-floor plazas (plazas) are group usable open space located at street-level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving.

3. Widened Sidewalk. A widened sidewalk includes paving, landscaping and

pedestrian amenities along the building frontage and within the property boundaries, and constitutes group usable open space. A widened sidewalk shall involve either a land dedication or easement to allow public access at all times and a seamless connection to the public right-of-way.

4. Rooftop Open Space. Rooftop open space, a type of group usable open space, includes gardens, decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants.

5. Courtyard. A courtyard is a type of group usable open space that can be located anywhere within the subject property.

6. Off-site Open Space. Privately owned and maintained group usable or public open space at ground-floor or podium level within one thousand (1,000) feet of a residential development, intended to fulfill the usable open space requirement of said residential development, only. (Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12343 § 2 (part), 2001)

B. All required usable open space shall be permanently maintained and shall conform to the following standards:

1. Area. On each lot containing Residential Facilities, usable open space shall be provided for such facilities in the minimum amount of seventy-five (75) square feet per regular dwelling unit plus fifty (50) square feet per efficiency dwelling unit. Residential units developed in the S-15 zone shall provide a combination of the following usable open space categories, as defined in this section, in order to satisfy the standards established in this section:

- a. Private usable open space;
- b. Public ground-floor plaza;
- c. Widened sidewalk;
- d. Rooftop open space;
- e. Courtyard; and
- f. Off-site open space.

2. Size and Shape. An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the following dimensions:

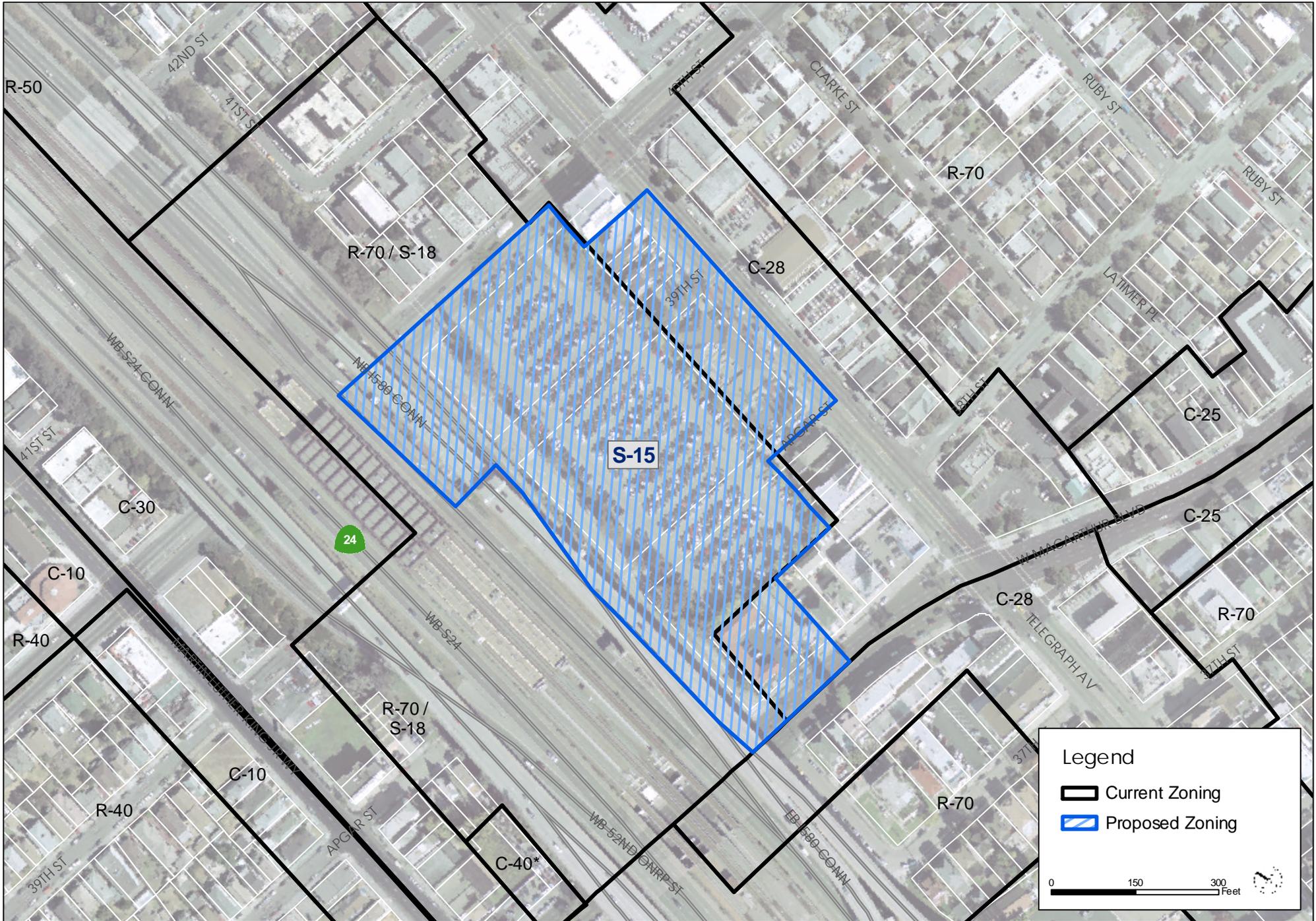
Private Usable Open Space	10' (ground floor)
Public Ground-Floor Plaza	10'
Widened Sidewalk	10'*
Rooftop	15'***
Courtyard	15'

* Measurement does not include width of existing and/or required sidewalk, and is additive to existing and required sidewalk.

** When open space is located on a roof, the area occupied by vents or other structures which do not enhance usability of the space shall not be counted toward

the above dimension.

3. Location and Accessibility. Usable open space, other than private usable open space and off-site open space, may be located anywhere within the development and shall be accessible to all the living units within the development. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
4. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dustfree surfacing. Slope shall not exceed ten percent. Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four feet high.
5. Openness. There shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty (50) percent of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight feet above its floor level.
6. Limitations. Not more than twenty (20) percent of the required area shall be provided in widened sidewalks.
7. Landscaping and Amenities. At least ten percent of usable open space area (with the exception of private usable open space) shall include landscaping enhancement as well as user amenities. Landscaping shall consist of permanent features, such as trees, shrubbery, decorative planting containers and coverings (mulch, gravel), fountains, boulders or artwork (sculptures, murals). User amenities shall include seating, decorative paving or playground structures.



MacArthur Transit Village Development
 Proposed Rezoning (From: C-28 and R-70/S-18 To: S-15)

Planning Commission
 June 4, 2008