

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.