

08 JUL -9 PM 12: 22

REVISED 7/1/08

APPROVED AS TO FORM AND LEGALITY


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL
RESOLUTION NO. 81422 C.M.S.

RESOLUTION AFFIRMING AND SUSTAINING THE PLANNING COMMISSION DECISION TO APPROVE THE DEVELOPMENT PERMITS (PLANNED UNIT DEVELOPMENT PERMIT, DESIGN REVIEW, AND CONDITIONAL USE PERMIT) FOR THE MACARTHUR TRANSIT VILLAGE PROJECT LOCATED AT THE MACARTHUR BART STATION BETWEEN 40TH STREET, TELEGRAPH AVENUE, WEST MACARTHUR BOULEVARD AND HIGHWAY 24

WHEREAS, MacArthur Transit Community Partners (“Applicant”) filed an application for rezoning, planned unit development permit, design review, and conditional use permit (“Applications”) to demolish the existing BART surface parking lots and all existing buildings within the project site to allow for the construction of a new mixed-use, transit village development project (624 residential units, 42,500 square feet of neighborhood-serving retail and commercial uses (including 7,000 square feet of live/work units) a 5,000 square feet community center use and 300-space parking garage for BART patrons) on October 5, 2007; and

WHEREAS, in accordance with the California Environmental Quality Act (“CEQA”), the City issued a Notice of Availability for the MacArthur Transit Village Draft Environmental Impact Report (EIR) on January 31, 2008, and circulated the Draft EIR for 45 days; and

WHEREAS, the City received a total of twenty-four (24) comments on the Draft EIR; and

WHEREAS, the City issued a Notice of Availability for the MacArthur Transit Village Response to Comments Documents, which included responses to comments received and text revisions, on May 23, 2008; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the Final Environmental Impact Report, which is made up of the Draft EIR and Response to Comments Document on June 4, 2008; and

WHEREAS, at the June 4, 2008, hearing, the Planning Commission certified the Final EIR and adopted appropriate CEQA-related findings, recommended approval of the rezoning to the City Council, recommended approval of the text amendment to the S-15 Zone to the City Council, and recommended approval of the applications for planned unit development permit, design review, and conditional use permit (collectively called "Development Permits"), along with revisions to the conditions of approval and draft TDM plan, to the City Council; and

WHEREAS, the City Planning Commission's Design Review Committee held a duly noticed special meeting on June 18, 2008, and recommended revisions of the Design Review Guidelines to the City Council; and

WHEREAS, the Community and Economic Development Committee of the City Council conducted a duly noticed meeting on the Project Applications on June 24, 2008 and recommended Project approval, with further revisions to the conditions of approval and Design Review Guidelines; and

WHEREAS, the City Council of the City of Oakland conducted a duly noticed joint public hearing on the Project on July 1, 2008; and

WHEREAS, all interested parties were given the opportunity to participate in the public hearing by submittal of oral and written comments; and

WHEREAS, the public hearing was closed by the City Council on July 1, 2008; now, therefore, be it

RESOLVED: That the City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Applications and the Planning Commission's decision on the Project, hereby affirms and sustains the Planning Commission's certification and adoption of the EIR, adoption of all the CEQA-related findings, and further affirms and sustains the Planning Commission's decision to approve the Development Permits for the Project subject to the findings and the conditions contained in the June 4, 2008, Planning Commission Report, as modified in the July 1, 2008 City Council Supplemental Agenda Report; and be it

FURTHER RESOLVED: That this decision is based, in part, on the July 1, 2008, City Council Supplemental Agenda Report, the June 19, 2008, Supplemental Agenda Report, the June 24, 2008, Community and Economic Development Committee Agenda Report (which was forwarded to the City Council for its July 1, 2008, public hearing), the June 4, 2008, Planning Commission Report, and EIR which are hereby incorporated by reference as if fully set forth herein; and be it

FURTHER RESOLVED: That in support of the City Council's decision to approve the Project's Development Permits, the City Council affirms and adopts as its findings and determinations (a) the July 1, 2008, City Council Supplemental Agenda Report, the June 19, 2008, Supplemental Agenda Report, and the June 24, 2008, Community and Economic Development Committee Agenda Report, and (b) the June 4, 2008, Planning Commission Report, including, without limitation, the discussion, findings, conclusions, Design Review

Guidelines and conditions of approval (each of which is hereby separately and independently adopted by this Council in full); and be it

FURTHER RESOLVED: That the City Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies; and be it

FURTHER RESOLVED: That the record before this Council relating to the Project Applications includes, without limitation, the following:

1. the Project Applications, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. all staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation the EIR and supporting technical studies, all related and/or supporting materials, and all notices relating to the Project Applications and attendant hearings;
4. all oral and written evidence received by the City staff, the Planning Commission, and the City Council before and during the public hearings on the Project Applications;
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations and Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, California; and be it

FURTHER RESOLVED: That the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 1 2008, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID,
AND PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: 7/11/08