

REDEVELOPMENT AGENCY

OF THE CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 APR 13 PM 6:21

To: Office of the City/Agency Administrator
Attn: P. Lamont Ewell, Interim City Administrator
From: Community and Economic Development Agency
Date: April 26, 2011

Re: A Resolution Approving A Replacement Housing Plan For The MacArthur Boulevard Acquisition/Demolition Project

SUMMARY

CEDA staff recommends that the Redevelopment Agency (Agency) approve the MacArthur Boulevard Replacement Housing Plan (Plan) in connection with the acquisition and demolition of housing units located at 8280, 8290, 8296, 8300 and 9304 MacArthur Boulevard (Project). The Project requires demolition of all 20 units of housing currently located on those sites, which have become a blight on the neighborhood. Staff proposes to designate 20 of the very-low income units currently under construction at the Lion Creek Crossing (LCC) Phase IV development, located at 69th Avenue and Snell Street, as the replacement housing units. Agency approval and adoption of the Plan (*Attachment A*) is needed to comply with California redevelopment law, which requires that replacement units equal in size, number, and affordability level be provided within four years.

FISCAL IMPACT

There is no fiscal impact from approval of the Plan. Approval of the Plan does not require the Agency to provide funding for the replacement housing. The Agency has previously awarded funding to the East Bay Asian Local Development Corporation and the Related Company for development of the designated replacement housing units at the LCC Phase IV housing development.

BACKGROUND

California redevelopment law (Section 33413 and 33413.5, California Health and Safety Code) requires that redevelopment agencies provide for the replacement, within four years, of any affordable housing units that are lost because of projects an agency undertakes or assists. Replacement units must be equal in size, number, and level of affordability to those lost. The law also requires that a written replacement plan be prepared and be made available for review and comment by affected agencies and the general public.

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Replacement housing plans must include the following:

- Location of the proposed replacement units
- Proposed financing for development of the units
- Reasons why Article XXXIV of the California Constitution (approval by a public vote) does not apply
- Number of units to be developed
- Timetable for the development

KEY ISSUES AND IMPACTS

Approval of the Plan is necessary in order for the Project to proceed. The Project will eliminate a major blighting influence along the MacArthur Boulevard corridor and create the opportunity for new residential or commercial development on the project site..

DESCRIPTION OF PLAN

The Replacement Housing Plan is a specific document required by California redevelopment law. The Plan formalizes the Agency's efforts to replace affordable housing that will be demolished at the Project site.

This report and resolution relate only to the Replacement Housing Plan, not to the LCC Phase IV development as a whole. That development entails the new construction of 72 very-low income rental housing units ranging in size from one to three bedrooms.

The Replacement Housing Plan states that 20 of the three-bedroom units contained in the LCC Phase IV development will be designated as replacement units for the units currently located at the Project site. All of the replacement housing units will be affordable to very low income households for a term of at least 55 years.

SUSTAINABLE OPPORTUNITIES

Sustainable development guidelines are part of the program under which Agency funding is being provided for the LCC Phase IV development.

Economic: As with all NOFA-assisted developments, LCC Phase IV will increase the affordable housing inventory in Oakland and generate construction and professional jobs. The clearance of the Project site will also create opportunities for new economic development.

Environmental: The MacArthur Boulevard Project will remove blighting influences from the MacArthur Boulevard corridor. The replacement housing at LCC Phase IV will provide housing on an underutilized site near public transit and, as in-fill development, helps avoid urban sprawl and increased automobile use.

Social Equity: Affordable housing for low-income households is a means of achieving greater social equity.

DISABILITY AND SENIOR CITIZEN ACCESS

The LCC Phase IV project is financed in part with federal funds, and therefore is required to construct and set aside units to be occupied by persons with disabilities. The housing must meet the accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act. At least 5 percent of newly constructed units will be available to persons with disabilities. The State's Title 24 and the Americans with Disabilities Act require consideration of persons with disabilities in design and construction of housing. In addition, the developers must create an Affirmative Fair Marketing Plan to market housing units to persons with disabilities.

RECOMMENDATION AND RATIONALE

Staff recommends that the Agency adopt the Plan. The Plan provides the state-required framework for the replacement housing. In addition, the Plan must be approved before the Agency can execute loan documents.

ACTION REQUESTED OF THE REDEVELOPMENT AGENCY

Staff recommends that the Agency approve the Resolution adopting the MacArthur Boulevard Replacement Housing Plan.

Respectfully submitted,



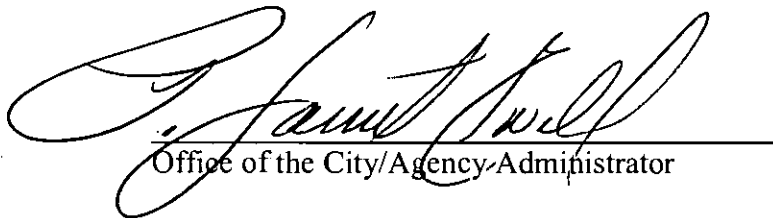
WALTER S. COHEN

Director, Community and Economic
Development Agency

Reviewed by:
Michele Byrd, Deputy Director of Housing and
Community Development

Prepared by:
Jeffrey P. Levin, Housing Policy and Programs Manager
Housing & Community Development Division

**APPROVED AND FORWARDED TO THE COMMUNITY
AND ECONOMIC DEVELOPMENT COMMITTEE:**



Office of the City/Agency Administrator

Attachment

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ATTACHMENT A

MACARTHUR BOULEVARD PROJECT

REPLACEMENT HOUSING PLAN

I. Introduction

The Redevelopment Agency of the City of Oakland (“Agency”) is proposing to assist the development of the MacArthur Boulevard Project (the “Project”), as described in Section II below. The Project is located within the Central City East Project Area (the “Project Area”), which is governed by the Central City East Redevelopment Plan adopted on July 29, 2003, as subsequently amended (the “Redevelopment Plan”).

The Project requires the acquisition and demolition of 20 low-income housing units under private ownership. The units present a danger to the health and safety of the community.

This Replacement Housing Plan for the Project (“Replacement Housing Plan”) will guide and facilitate the Agency’s efforts to rehabilitate, develop or construct, or cause to be rehabilitated, developed or constructed, replacement housing for persons or families of low or moderate income in accordance with the requirements of State law (California Health and Safety Code § 33413.5).

II. MacArthur Blvd Project

The MacArthur Boulevard Project is located in East Oakland, at 8280, 8290, 8296, 8300 and 9304 MacArthur Boulevard. The Project consists of five apartment buildings, each containing four residential units, that are currently under private ownership.

The Agency plans to acquire and demolish all the existing apartment buildings within the contiguous project site. After the properties are assembled the location will be marketed as one site for redevelopment. The specific project to be developed on the site has not yet been defined.

III. Compliance with State Law

§ 33413(a) of the California Health and Safety Code provides in part as follows:

“Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low and moderate income housing market as part of a redevelopment project which is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the destruction or removal, rehabilitate, develop or construct, or cause to be

rehabilitated, developed or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units that have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the agency.... When dwelling units are destroyed or removed on or after January 1, 2002, 100 percent of the replacement dwelling units shall be available at affordable housing cost to persons in the same or a lower income category (low, very low, or moderate), as the persons displaced from those destroyed or removed units.”

§ 33413(c)(1) through (4) of the California Health and Safety Code provides in part as follows:

“The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price-restricted pursuant to subdivision (a) or (b) remain available at affordable housing cost to, and occupied by, persons and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, but for not less than 55 years for rental units and 45 years for homeownership units, except as set forth in paragraph (2).... The requirements of this section shall be made enforceable in the same manner as provided in paragraph (2) of subdivision (f) of §33334.3...”

This Replacement Housing Plan provides that the Project shall be governed by a recorded regulatory agreement, enforceable by the Agency and the City of Oakland, requiring the replacement housing units to remain available at affordable housing cost and occupied by persons or families of very low income for a period of 55 years.

The following terms shall have the same meaning in this Replacement Housing Plan as in California Health and Safety Code § 33411.2: “affordable housing cost,” “replacement dwelling unit,” “persons and families of low and moderate income,” and “very low income households.”

IV. General Location of Replacement Housing

As referenced in Section II, this project will be marketed as one vacant site for redevelopment which has not been defined. As a result, dwelling units as defined in California Health and Safety Code § 33411.2, will be developed off-site as part of the Lion Creek Crossing IV housing project, located in the Coliseum Redevelopment Project Area, as defined in California Health and Safety Code § 33411.2, which is within the territorial jurisdiction of the Agency.

V. Means of Financing

Funding for the MacArthur Boulevard Project is from the Central City East Tax Allocation Bond/Land Acquisition Project.

The specific funding for the replacement dwelling units at Lion Creek Crossing IV includes the following sources and amount of financing:

SOURCES	
Calif. Community Reinvestment Corp	\$967,500
State of California	7,527,592
City of Oakland (HOME funds)	3,499,453
Oakland Redevelopment Agency	2,980,547
Oakland Housing Authority	7,896,096
Deferred Developer Fee	253,000
General Partner Equity Contribution	1,200,000
Limited Partner Equity Contribution	11,751,184
TOTAL	\$36,075,372

VI. Finding that the Replacement Housing Plan Does Not Require Approval Under Article XXXIV of the California Constitution

By its terms, Article XXXIV is only applicable if a “state public body” (which includes the Agency) “develops, constructs, or acquires” a “low rent housing project.” However, California Health and Safety Code § 37001(f) excludes from the definition of a “low-rent housing project” the “replacement of . . . dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower income households”.

The low-income affordable units in the Lion Creek Crossing IV project provided under this Replacement Housing Plan are replacing the comparable units being demolished, and previously occupied by lower income households. Also, in assisting the affordable housing component of the Project and monitoring construction and compliance with the conditions of such assistance, the Agency will be carrying out its routine governmental functions as a housing development agency, will be performing the conventional activities of a lender, and will be imposing conditions on the Project developer authorized under the California Community Redevelopment Law. Thus, based on the above facts it is hereby found and determined that the replacement housing component of the Project is exempt from the requirements of Article XXXIV under California Health and Safety Code §§ 37001(a) and (f) and 37001.5(e).

VII. Number of Dwelling Units Housing Persons and Families of Low or Moderate Income Planned for Construction and Rehabilitation

A. Analysis of Existing Units Housing Persons and Families of Low or Moderate Income

The following charts analyze the actual number and income characteristics of the units to be destroyed as part of the MacArthur Blvd Project:

Dwelling Units Removed

Number of Bedrooms	Number of Units	Percent of Total Units
3	20	100%
Total	20	100%

Number of Units Occupied and Income Level of Households Occupying those Units Prior to Relocation

Some of the units are vacant. The Agency does not have complete information at present regarding the income level of the households residing in the occupied units. For purposes of this Replacement Housing Plan, and based on the presumed market rental value of the units, it is assumed that all of the units are occupied by or affordable to very-low income households.

B. Analysis of Dwelling Units to be Rehabilitated, Developed or Constructed

The East Bay Asian Local Development Corporation will develop housing at Lion Creek Crossing IV, which will include rental housing units affordable to very-low income households. The units to be provided in the project consist of one-bedroom, two-bedroom, three bedroom, and four bedroom affordable apartments. Project residential units to be constructed are described in the following table, by bedroom size and affordability level:

Type of Unit	Number of Units	Affordability Level			Total Bedrooms (affordable units only)
		Extremely Low Income (30% of AMI)	Very Low Income (50% of AMI)	Tax Credit (60% of AMI)	
Number of Bedrooms					
1	16	0	16	0	16
2	28	0	27	0	54
3	28	0	28	0	84
Totals	72	0	71	0	154

The replacement dwelling units will consist of 20 of the three-bedroom apartments identified above.

The Agency will cause to be developed or constructed, for rental to persons and families of very-low income, an equal number of replacement units to those 20 units destroyed or removed subject to and in accordance with the following standards:

1. Timing: The Agency will complete the replacement dwelling units within four years of the destruction or removal of dwelling units required to be replaced under this Replacement Housing Plan.
2. Income: All of the replacement housing units will be rented at rents affordable to very-low income households and restricted in occupancy to persons and families that are very-low income.
3. Guarantee for Displaced: Those persons and families of low or moderate income who are displaced as a result of the Project shall be guaranteed priority for replacement housing.

VIII. Timetable For Development of the Replacement Housing

The projected start and completion dates for the replacement dwelling units are:

Start Construction:	October 2010
Complete Construction:	December 2011

IX. Monitoring and Reporting

Pursuant to California Health and Safety Code § 33418, the Agency will monitor on an ongoing basis, any housing affordable to persons and families of low or moderate income developed or otherwise made available pursuant to this Replacement Housing Plan.

The Agency will require the owners or managers of the Project to submit an annual report to the Agency. The annual report to the Agency must set forth the rental rate, income, and family size of the occupants of each unit (with the income information certified by each occupant). The Agency may impose fees on the owners of the monitored property to defray the cost of this monitoring system. The information obtained from this monitoring system will be included in any reports required by law to be submitted to the Department of Housing and Community Development or the Controller.

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OAKLAND

2011 APR 13 PM 6:21

Approved as to Form and Legality

DRAFT

ORA Agency Counsel

**REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND**

Resolution No. _____ C.M.S.

**A RESOLUTION APPROVING A REPLACEMENT HOUSING PLAN
FOR THE MACARTHUR BOULEVARD PROJECT**

WHEREAS, Section 33413 of the California Health and Safety Code requires that dwelling units housing households of very low, low or moderate income that are destroyed or otherwise removed from the low and moderate income housing market as part of a redevelopment project that is subject to a written agreement with a redevelopment agency or that receives financial assistance from the agency be replaced on a one-for-one basis with comparable units; and

WHEREAS, Section 33413.5 of the California Health and Safety Code requires that a redevelopment agency adopt by resolution a replacement housing plan if such dwelling units are destroyed; and

WHEREAS, the Agency intends to acquire the properties located at 8280, 8290, 8296, 8300 and 9304 MacArthur Boulevard (the Project); and

WHEREAS, the Project site now contains 20 rental housing units which will be removed because they present a danger to the health and safety of the community; and

WHEREAS, the Agency drafted a Replacement Housing Plan for the Project, attached to this Resolution as Exhibit A, providing for the replacement within four years of the housing units demolished on the Project site with comparable units affordable to very low income households earning no more than 50% of area median income; and

WHEREAS, the Replacement Housing Plan was made available to other public agencies and the general public for a reasonable time prior to the adoption of this Resolution; now, therefore, be it

RESOLVED: That the Redevelopment Agency hereby adopts the Replacement Housing Plan for the MacArthur Boulevard Project, attached to this Resolution as Exhibit A; and be it

FURTHER RESOLVED: That the Agency Administrator or her designee is hereby authorized to take action as necessary to implement the Replacement Housing Plan, and take any other action with respect to the Replacement Housing Plan consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2011

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, AND
CHAIRPERSON REID

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California

EXHIBIT A

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2. **Income:** All of the replacement housing units will be rented at rents affordable to very-low income households and restricted in occupancy to persons and families that are very-low income.
3. **Guarantee for Displacees:** Those persons and families of low or moderate income who are displaced as a result of the Project shall be guaranteed priority for replacement housing.

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