CITY OF OAKLAND
AGENDA REPORT

TO: Office of the City/Agency Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: June 24, 2008

RE: City Council Public Hearing On The Macarthur Transit Village Project (Located At The MacArthur BART Station Between 40th Street, Telegraph Avenue, West Macarthur Boulevard And Highway 24), Including Adopting:

1) **City Resolution Affirming And Sustaining The Planning Commission Decision To Approve The Development Permits (Planned Unit Development Permit, Design Review, Conditional Use Permit) For The Project; And**
2) **City Ordinance (A) Rezoning The Project Site From The C-28 Commercial Shopping, R-70 Residential High Density And The S-18 Design Review Combining Zone To The S-15 Transit Oriented Development Zone And (B) Adopting A Text Amendment To Modify Required Open Space In The S-15 Zone.**

SUMMARY

The project applicant, MacArthur Transit Community Partners (MTCP) proposes 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. The transit village includes five new buildings that would accommodate 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. The project requires certification of the MacArthur Transit Village Final EIR and approval of rezoning, text amendment to the S-15 Zone, a planned unit development (PUD) permit, a major conditional use permit, and design review. The certifications and approvals requested are consistent with the approvals granted by the Planning Commission on June 4, 2008.

On June 4, 2008, the Planning Commission held a public hearing on the proposed project and took the following actions: 1) Certified the MacArthur Transit Village Final Environmental Impact Report and adopted associated CEQA Findings in accordance with the requirements of the California Environmental Quality Act (CEQA) and Oakland Environmental Review Regulations; 2) Recommended approval of the development permits for the project to the City Council; 3) Recommended approval of the text amendment to the S-15 zoning regulation related to minimum open space to the City Council; and 4) Recommended approval of the proposed rezoning to the City Council. The Planning Commission recommendation included minor

changes related to the Transportation Demand Management Program and associated condition of approval. These changes are outlined below. The Planning Commission also deferred action on the design guidelines to the Design Review Committee. The Design Review Committee will hold a special hearing on June 18, 2008 and forward a recommendation to the CED Committee and City Council.

The Commission recommended the following changes to Condition of Approval No. 22:

22. **Traffic Demand Management (TDM) and Parking Program**
Prior to approval of Final Development Plan for Stage 1 FDP and ongoing ~~***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. **The final TDM Plan shall be approved by the City of Oakland Planning Division prior to approval of the Final Development Plan for Stage 1.**

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 condition 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.

The Commission recommended the following changes to page 9 of the draft TDM Plan (the draft TDM Plan is included as Exhibit C-2 of the June 4, 2008, Planning Commission staff report):

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 **at least** 100~~–150~~ permanent parking spaces through the combination of 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.

Staff recommends that the City Council take the necessary actions to affirm the Planning Commission's recommendations/decisions and approve the project.

FISCAL IMPACT

The actions currently under consideration by the City Council concerning the land use approvals for the project will not result in any immediate fiscal impacts to the City of Oakland. Staff costs related to the review of the project and the amendments, as well as future planning entitlements for the project area, are cost covered. These entitlements are subject to the applicable fees established in the Master Fee Schedule.

Mixed-use in-fill developments, such as the proposed project, have fiscal impacts to the City's budget that are difficult to quantify with precision. The project would increase demand for City services (e.g., fire and police protection services, park and recreation services, libraries). The cost of City services is off-set by the project's generation of new revenue for the City through property taxes, retail sales taxes, sales and use taxes, motor vehicle in-lieu fees, utility consumption taxes, real estate transfer taxes, fines and penalties. Despite the revenue generated by the project, a preliminary fiscal analysis concludes that the project would result in a negative net fiscal impact to the General Fund. However, two key assumptions of the analysis are that 1) all the project's residents will be new to Oakland, and 2) the project will therefore result directly in an increase in the number of police officers and fire fighters proportional to the increase in Oakland's population caused by the project. Both 1) and 2) are unlikely to be true.

Even under the assumptions stated above, the total revenue generated by the project exceeds costs if the tax increment revenue accruing to the Redevelopment Agency is included. However, the Redevelopment Agency is in the process of negotiating their financial participation in this project through an Owner Participation Agreement, which may result in the tax increment generated by this project being used as a subsidy for the project.

The preliminary fiscal analysis did not include an analysis of the off-site indirect economic impacts of this project, including the catalytic effect the project will have on revitalizing the

surrounding neighborhood, which will result in increased property values in the surrounding area and an increase in the viability of existing retail establishments.

BACKGROUND

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

The MacArthur BART Citizen's Planning Committee (CPC) was created to assist the City and BART in the development of the MacArthur BART station. The CPC is made up of community members that live in the neighborhood surrounding the BART Station. Since being chosen in April 2004, MacArthur Transit Community Partners (MTCP) has met regularly with the MacArthur BART CPC to discuss and receive comments on the development.

In early February 2006, MTCP submitted a development application to construct a mixed-use transit village including residential and commercial development with the majority of residential units located within two 20-to 22-story towers. Upon review of the application, it was determined that an Environmental Impact Report (EIR) was required. The City issued a Notice of Preparation (NOP) on February 16, 2006, for preparation of an EIR for the project including the tower development. As a result of community input, changes in market conditions and construction feasibility, MTCP re-submitted their development application in 2007 showing removal of the towers within the project. Upon review of the revised application materials, the City issued a revised NOP on June 13, 2007. Following is a partial list of both public meetings and community meetings since MTCP was selected by the Redevelopment Agency in 2004.

- November 15, 2004, MacArthur BART Citizen's Planning Committee
- May 18, 2005, MacArthur BART Citizen's Planning Committee
- November 9, 2005, MacArthur BART Citizen's Planning Committee
- February 16, 2006, Mosswood Park Neighbors
- February 22, 2006, MacArthur BART Citizen's Planning Committee
- March 15, 2006, Planning Commission EIR Scoping Meeting
- September 26, 2006, 38th Street Neighbors
- October 5, 2006, MacArthur BART Citizen's Planning Committee
- September 11, 2007, Mosswood Park Neighbors
- September 12, 2007, Beebe Memorial Church Members
- November 1, 2007, MacArthur/Broadway/San Pablo Redevelopment Project Area Committee
- November 5, 2007, 38th Street Neighbors
- November 12, 2007, West Street Watch
- December 12, 2007: Design Review Committee (review and comment on PDP)
- February 7, 2008, MacArthur BART Citizen's Planning Committee
- March 5, 2008, Planning Commission Meeting to take comments on Draft EIR
- April 17, 2008, Bicycle and Pedestrian Advisory Committee
- April 30, 2008, Planning Commission Workshop on community concerns

Property Description

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

Table 1: Project Site Parcels

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

Address	Assessor Parcel Number	Current Use	Acreage (Acres)
544 W. MacArthur Boulevard	012-0967-010-00	Hotel	0.17
39th Street, between Telegraph Ave. and Frontage Rd.	--	BART Parking	0.62
Apgar Street, between Telegraph Ave. and Frontage Rd.	--	BART Parking	0.60
		Total Acres	**7.38**

Project Description

The proposed project would involve demolition of the existing structures and the construction of five buildings (Table 2) on the project site, including three mixed-use buildings with ground floor retail spaces and residential units on upper floors, one entirely residential building and one parking garage. The proposed project also includes construction of two new streets (Village Drive, a new public street and Internal Street, a new private street) and maintenance of the Frontage Road within the project area. Village Drive and Internal Street would provide access to new structures within the project, and increased access to the BART station. Project drawings are included in this report as Attachment B.

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

Table 2: Summary of Proposed Development – Buildings and Uses

Building	Residential Units/Affordable Units	Live/Work Units	Retail SF[b]	Community SF	Building Height (Feet)	Number of Stories	Parking Spaces
A	213/7	3	23,500	--	50-85	4/6	242
B	132/5	2	5,000	--	55-80	6	134
C	189/6	3	9,000	5,000	55-70	5/6	189
D	90/90	--	--	--	45-65	5	91
E	--	--	5,000	--	68	6	324
Total	**624/108**	**8**	**42,500[1]**	**5,000**	--	--	**980[2]**

[1] Retail area shown in table includes square footage of live/work units.
[2] Parking shown in table does not include the proposed on-street parking spaces.

KEY ISSUES AND IMPACTS

Environmental Analysis

The project is subject to the environmental review requirements of the California Environmental Quality Act (CEQA) and Oakland Environmental Review Regulations. An Environmental Impact Report (EIR) has been prepared for the project. The Final Environmental Impact Report, which consists of the Draft EIR and the Response to Comments Document, has been distributed to the City Council under separate cover and is also available on the City's website[1] and at the offices of the Community and Economic Development Agency (250 Frank H. Ogawa Plaza, Suite 3315).

The EIR concluded that all but two potentially significant environmental impacts (related to transportation) would be reduced to less than significant levels with incorporation of the City's standard conditions of approval and the mitigation measures. On June 4, 2008, the Planning Commission certified the EIR, and adopted CEQA-related Findings, and a Statement of Overriding Considerations.

General Plan Analysis

The site is located in the Neighborhood Center Mixed Use land use designation of the Oakland General Plan (see Attachment C). According to the General Plan, the intent and desired character of the NCMU designation is the following:

> **Intent**: The Neighborhood Center Mixed Use classification is intended to identify, create, maintain and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural or entertainment uses.
>
> **Desired Character and Uses**: Future development within this classification should be commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor commercial.

The site is also designated as a "Transit-Oriented Development District" in the General Plan.

> ***Transit Oriented Districts (TODs)*** are designated to take advantage of the opportunities presented by Oakland's eight region-serving BART stations and one location – Eastmont Town Center – served by multiple AC Transit lines. Many of these station locations, and the areas surrounding them, offer significant

[1] http://www.oaklandnet.com/government/ceda/revised/planningzoning/MajorProjectsSection/macarthur.html

> opportunities for compact, mixed-use types of development that include housing, business and other services. This strategy supports city and regional goals to foster sustainable development linking transit with higher density housing types downtown stations, for example, offer expansion opportunities for office, business, and housing development. Because each location offers unique possibilities, the TODs are discussed individually in the Transportation and Transit-Oriented Development section of the Policy Framework. Easy pedestrian, bicycle, and transit access, as well as a strong identity created through careful design and a mix of activity will be part of each transit-oriented district.

The Transportation and Transit-Oriented Development section includes the following description of the MacArthur BART Transit-Oriented District:

> "MacArthur BART is uniquely situated as the central hub and transfer point of the BART system, with trains arriving and departing to destinations around the Bay Area. Four major arterials that support local traffic and commerce are adjacent to the station – Telegraph Avenue, MacArthur Boulevard, 40th Street, and Martin Luther King Junior Way. As the central hub, MacArthur BART has been proposed as a Maximum Access Station, a designation that must complement the type and density of uses in the surrounding development area, now characterized by mixed housing types and neighborhood-serving retail uses. Proposals to open up the Station entrance on the Martin Luther King Jr. Way side of the site are also being explored by BART and citizens concerned about providing safe and convenient access for Martin Luther King Jr. Way businesses and residents. New development around the station should capitalize on its maximum access potential to create business and residential revitalization, enhance the safety of the neighborhood, provide secure parking, improve station access, and encourage pedestrian activity and the use of public transportation."

The project is consistent with the density provisions of the NCMU General Plan land use designation. The maximum residential density allowed under this designation is 125 units per gross acre.[2] At a total acreage of 7.38 acres (not including the BART plaza), the General Plan would allow a maximum of 923 residential units on the site. The proposal includes 624 residential units (85 du/gross acre). Staff has also reviewed the project for consistency with relevant policies in the Land Use and Transportation Element of the General Plan. Staff believes that the proposed project is consistent with the applicable policies of the General Plan. A General Plan Amendment is not required. Please refer to Table IV.B-1 of MacArthur Transit Village Draft EIR (pages 108 to 122) for a discussion about the proposed project, which will transform the existing BART surface parking lot into a mixed-use transit village neighborhood, and its relationship with these key policies. The DEIR discussion is incorporated herein by reference.

[2] The General Plan specifies residential density as "principal units per gross acre." Gross acreage includes all land in the neighborhood, including streets and parks.

Redevelopment Plan Analysis

The project site is located within the Broadway/MacArthur/San Pablo Redevelopment Project Area. The land use designations in the Broadway/MacArthur/San Pablo Redevelopment Plan correspond to the land use designations contained in the General Plan. The project is consistent with the General Plan designation, and is therefore consistent with the Redevelopment Plan designation. The proposed project will further the Redevelopment Agency's achievement of the following goals and objectives of the Broadway/MacArthur/ San Pablo Redevelopment Plan and its Five Year Implementation Plan:

- The MacArthur Transit Village Project will increase the stock of ownership housing and will provide affordable rental housing units in the Broadway/MacArthur/San Pablo Redevelopment Project Area;
- Development on the BART surface parking lot at the MacArthur BART Station will contribute to the Agency's goal of concentrating infill development on underutilized properties within the Broadway/MacArthur/San Pablo Redevelopment Project Area;
- The public improvements that will be included as part of the MacArthur Transit Village Project will improve access to BART and to the other public transportation providers that serve the BART station from the surrounding community; and
- The MacArthur Transit Village Project, once developed, will enhance residential and commercial property values adjacent to the MacArthur BART Station, and will encourage efforts to alleviate economic and physical blight conditions in the area, including high business vacancy rates, vacant lots, and abandoned buildings, by enhancing the development potential and overall economic viability of neighboring properties.

The Redevelopment Agency is in the process of negotiating an Owner Participation Agreement (OPA) with MTCP that will outline the terms of potential Agency financial contribution to this project. Agency staff anticipates taking the draft OPA forward to the City Council/Agency for review and consideration in the Fall 2008.

Zoning Analysis

The site is located in two different base zoning districts with one overlay zone covering the entire site (see Attachment C). The BART parking lot parcels are located in the R-70 High Density Residential Zone and parcels fronting on Telegraph Avenue and West MacArthur Boulevard are located in the C-28 Commercial Shopping Zone. The entire site is located in the S-18 Mediated Design Review Combining Zone. The proposed density and mix of commercial and residential uses within the transit village is not consistent with the existing R-70 and C-28 Zones. The applicant proposes to rezone the entire site to the S-15 "Transit Oriented Development Zone." The S-15 Zone

is consistent with the General Plan designation (Neighborhood Center Mixed Use). A map depicting existing and proposed zoning is included in this report as Exhibit E of Attachment D.

The intent of the S-15 zone is the following:

> [T]o create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial and mixed-use developments to encourage a balance of pedestrian-oriented activities, transit opportunities, and concentrated development; and encourage a safe and pleasant pedestrian environment near transit stations by allowing a mixture of residential, civic, commercial, and light industrial activities, allowing for amenities such as benches, kiosks, lighting, and outdoor cafes; and by limiting conflicts between vehicles and pedestrians, and is typically appropriate around transit centers such as Bay Area Rapid Transit District (BART) stations, AC Transit Centers and other transportation nodes. (OPC Sec. 17.100.010)

Staff believes the proposed rezoning best serves the public interest by meeting the following objectives of the zoning regulations:

A. **To promote the achievement of the proposals of the Oakland Comprehensive Plan (Section 17.07.030A).** The proposed rezoning will facilitate implementation of the proposal for a mixed use transit-oriented development which furthers the objectives of the General Plan (formerly the Comprehensive Plan). The proposed project is a transit-oriented development adjacent to a BART station. The current zoning designations are designed for more traditional commercial and residential developments; therefore, the City finds the rezoning of the project site to S-15, Transit Oriented Development Zone, would best serve the public interest for redevelopment of the project site because the S-15 zone provides development regulations specific to creation and implementation of TOD projects.

   The S-15 zone is consistent with the Neighborhood Center Mixed Use General Plan land use designation.

B. **To provide for desirable, appropriately located living areas in a variety of dwelling types and at a wide range of population densities, with adequate provision for sunlight, fresh air, and usable open space (Section 17.07.030D).** The proposed rezoning provides for residential and commercial mixed use development immediately adjacent to the existing MacArthur BART Station. The project includes both for-sale and for-rent affordable housing with a variety of unit types including studio units, 1-bedroom, 2-bedroom and 3-bedroom units to augment the city's supply of multi-family affordable housing. The project is designed to maintain adequate provision of sunlight and air, and usable open space consistent with urban development standards. It provides open space areas consistent with the proposed S-15 open space requirements, which are consistent with the S-17 open space requirements. Open space within the project will

include open air courtyards and the plaza adjacent to Building A. Additionally, a setback of 5 feet is proposed between the upper floors of the new and existing building at the corner of Telegraph Avenue and 40th Street.

C. **To achieve excellence and originality of design in all future developments and to preserve the natural beauty of Oakland's setting (Section 17.07.030G).** The proposal exhibits design excellence and originality through the efficient use of space, variety in architecture styles (to be further defined with Final Development Plans) and commitment to sustainable design through participation the LEED ND (Neighborhood Development) Pilot Program.

Staff also believes that the proposed text amendment to reduce open space standards in the S-15 zone best serves the public interest. The reduction in required open space would further the goals of TOD by increasing design flexibility for open space by removing the separate group and open space standard, and encourage increased density. The amendment would make the S-15 open space requirements consistent with the open space requirement currently applied to residential projects in the City's Downtown Open Space Combining (S-17) Zone. The amendment would apply to all properties in the City zoned S-15, and the two other areas of the City zoned S-15: parcels around Fruitvale BART Station and parcels around West Oakland BART station. The proposed project, and other properties zoned S-15, are located in walking distance to parks in the neighborhood. Additionally, surveys of other cities' standards for open space in TOD and mixed-use zones demonstrated that other agencies have similar standards. For these reasons, the text amendment to reduce open space requirements in the S-15, to be consistent with the S-17 zone, would promote the objectives of the General Plan to encourage TOD development near transit stations and therefore best serve the public interest.

Parking and TDM Program

The proposed project includes a parking reduction from 600 to 300 BART patron parking spaces. Members of the community have voiced concern with regard to the parking reduction and the amount of parking proposed for residents, visitors and commercial patrons of the project. The majority of comments that staff has received on this project relate to concerns about the reduction of BART parking. Residents of the area have observed that under existing conditions (600 spaces) BART patron parking spills over into neighborhood streets and the amount of parking proposed will not be adequate to meet the parking demand of BART patrons.

Staff understands the concerns and has worked with the project sponsor to create a parking program for the proposed project that is both sensitive to the surrounding neighborhood and BART riders, as well as progressive and forward thinking for a transit village development. Key elements of the program are described below.

RPP Program With regard to overflow of BART patrons parking within the surrounding neighborhood, the project sponsor has committed to fund $150,000 towards initiating a

Residential Permit Parking (RPP) Program for an area ¼ mile around the station. If approved, the RPP Program would limit street parking to two hours for non-residents of the RPP Program area. However, it is difficult to ensure implementation of an RPP Program because the program requires a petition signed by 51 percent of the resident population in the proposed RPP area and is subject to City Council approval. Should the RPP Program be the desire of the resident population and the City Council, the project applicant has committed to funding the initial costs of an RPP Program (up to $150,000) as part of the Conditions of Approval (see Condition No. 21).

TDM Program The project sponsor is required to prepare and maintain a Traffic Demand Management (TDM) Program. The TDM Program will serve two purposes: 1) fulfill CEQA mitigation measure requirements by providing implementation strategies to reduce vehicle trips from the project and 2) address planning concerns related to displaced BART parkers. The draft TDM Program, dated May 27, 2008, is included in this report as Exhibit C-2 of Attachment D and a summary of the recommended strategies are provided below.

There are currently 600 parking spaces within the surface parking lot at the BART station. The project sponsor originally planned to replace 300 of the 600 spaces. After receiving input from the community and City Staff and completing a draft Transportation Demand Management Plan, the project sponsor has agreed to provide 510 spaces. The additional 210 parking space (beyond the 300 parking spaces originally planned) would be provided by adding another level of parking to the BART garage (this additional level would be below grade), providing a parking attendant at the BART garage and/or securing 50 parking spaces within off-site parking lots within ¼ mile of the project site, or other alternative mechanisms as detailed in the TDM Program. The TDM plan requires measures to assist residents and BART patrons to switch from driving alone to the BART station. Staff believes that the gap of 90 spaces (600 spaces existing – 510 spaces proposed) would not affect the ridership at the station because some people would switch from driving alone to other modes of transit.

The TDM Program also includes the following measures to reduce vehicle trips from the project, which would in turn reduce the demand for parking at the site:

- Unbundle[3] 10% of the parking for all market-rate residential units within project
- Unbundle parking for the affordable housing component, if feasible
- Offer lease back parking options for the project residents; the program will be managed by the HOA or entity approved by the HOA and will offer available parking to BART patrons, other than project residents, and commercial tenants
- Provide car share spaces in BART garage and within the proposed project

[3] The term unbundle means to sell the parking space separate from the dwelling unit, thereby making the parking space an option for residents.

- Provide a marketing coordinator to distribute materials about transit programs to residents as part of the "move-in" packets
- Fund a one-time marketing campaign to educate neighborhood residents about alternative modes of transportation currently available to access the BART station
- Facilitate discussions with BART, AC Transit and Emery-Go-Round to explore the potential for an additional shuttle stop or other transit service along 40th Street between the Emeryville Border and Telegraph Avenue
- Offer discounted transit passes to project residents
- Provide secure bike parking and bike repair area for residents
- Phase construction of parking within the project

The TDM Program also requires the project sponsor to submit a TDM monitoring plan at the beginning of each construction phase. The monitoring plan will gauge the effectiveness of the strategies and recommend modifications to improve the effectiveness of the program, including the option to increase the percentage of unbundled parking and/or reduce on-site parking in future project phases if the demand for parking is decreased by the nature and location of the project as a transit village. Additionally, Condition No. 35 will ensure that the project sponsor coordinates with BART on the construction of the BART parking.

Design Guidelines

The Preliminary Development Plan (PDP) does not include approval of architectural plans or elevations for future buildings. The PDP sets the stage for the project's overall site planning, building bulk, mass and height. Detailed building elevations will be reviewed and approved by the Design Review Committee and Planning Commission as part of the Final Development Plans (FDPs). To ensure that the FDPs are consistent with the vision for the project, staff has worked with the project sponsor to prepare the MacArthur Transit Village Design Guidelines (see Exhibit C-3 of Attachment D.

The MacArthur Transit Village Design Guidelines include design principles and design guidelines. The design guidelines are divided into five sections: Site Planning, Architectural Design (including sub sections for Height, Bulk and Scale and Architectural Treatments), Public Space Improvements, Transit Plaza Design, and Sustainable Design.

The Design Guidelines are incorporated into the project through the Conditions of Approval as a design review requirement for future approvals (see Condition No. 25). Prior to approval of any Final Development Plans for the project, the Planning Commission will need to make findings to determine that the FDP is consistent with the S-15 Zoning District, approved Preliminary Development Plan, and MacArthur Transit Village Design Guidelines.

The Design Guidelines emphasize architectural variability, encourage building form and style based on adjoining street frontages and uses, address street walls and their relationship to the pedestrian environment, support a variety of building heights in the project, promote sustainable design and specify the use of high quality materials. The Design Guidelines are intended to allow future architects the ability to apply different building technologies and materials and provide for a wide variety of architectural treatments within the 15 year development time frame.

FDP Staging and Project Phasing

Development of the proposed project is anticipated in five phases over the course of a 15 year time frame. As per the regulations of a Planned Unit Development Permit (PUD), the Commission has the authority to approve staging of Final Development Plans (FDP). Staff has worked with the project applicant to development an FDP Staging Plan and Project Construction Phasing Plan for purposes of the PUD. However, it should be noted that staff and the project sponsor are currently negotiating terms and conditions for a Development Agreement (DA) and an OPA. The DA and Owner Participation Agreement (OPA) agreements may modify the project phasing plan. It is anticipated that the DA negotiations will be completed in the early summer, and the DA will be brought to the Planning Commission for consideration and recommendation to the Council in late summer. The DA would then be considered by the City Council together with the Redevelopment Agency's consideration of the OPA. The FDP Staging and Project Phasing Plan, shown in Table 3, is incorporated into the project as Condition of Approval No. 2; however, the DA and OPA phasing plan will eventually supersede this condition.

Table 3: Summary of Proposed Development

FDP Stage	Description	FDP Submittal Date	Commence Construction Date
1	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.	**2009** (within 1 year from the date of this approval)	**2011** (2 years from date of Stage 1 FDP approval)
2	Construction of Building D, consisting of a minimum of 90 below market rate rental units.	**2011** (within 3 years from the date of this approval)	**2013** (2 years from date of Stage 2 FDP approval)
3	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.	**2012** (within 4 years from the date of this approval)	**2014** (2 years from date of Stage 3 FDP approval)
4	Construction of Building B, consisting of up to 150 ownership residential	**2016**	

FDP Stage	Description	FDP Submittal Date	Commence Construction Date
	units and 5,500 square feet of commercial space.	(within 8 years from the date of this approval)	**2018** (2 years from date of Stage 4 FDP approval)
5	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.	**2018** (within 10 years from the date of this approval)	**2020** (2 years from date of Stage 5 FDP approval)

Notes:
1) 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.
2) 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.

Increased Density

At the April 30th Planning Commission workshop, there was some discussion of increasing the density of the project. With 624 units, the proposed project density is 85 per gross acre the project is under the maximum density prescribed by the Neighborhood Center Mixed Use General Plan land use designation of 125 per gross acre.

Staff has considered the concept of allowing the project to increase density as future phases of the project are developed and market conditions change, and has determined that the appropriate mechanism would be to modify the Preliminary Development Plan (PDP) should the project sponsor wish to increase density of the project. The project sponsor feels the proposed PDP (624 units) is the best and most realistic option under current market conditions. The EIR for the project analyzed the development to include up to 675 units. To facilitate opportunities to increase density in the future, staff has included a Condition of Approval to allow the FDPs to include up to 675 units (vs. 624 proposed in the PDP) without modifying the PDP.

It should also be noted that the EIR did consider "planning project alternatives" within the Alternatives Chapter, which included options for development of a tower within the project and increased commercial development. The analysis of the planning project alternatives was included to provide the City and the project applicant with an analysis of the project impacts that may result through implementation of these alternative project designs. The detailed analysis of the Tower Alternative and the Increased Commercial Alternative would facilitate modifying the PDP, if requested, which, in turn, would require public noticing and a hearing before the Planning Commission.

Any additional dwelling units beyond 675 would require a modification to the PDP (see Condition No. 1). This is not to say that staff would not support increased density at the site, but there is concern that a major increase would warrant public review and community input and a modification to the PDP would be an appropriate mechanism to ensure that staff, the Commission and the community have input on modifications requested by the project sponsor.

Parcel Acquisition

The project sponsor does not currently own or have site control of the all parcels within the project. The project sponsor is currently in the process of negotiating acquisition of the privately owned parcels with the assistance of the Redevelopment Agency. It is not currently anticipated that the use of eminent domain will be required to achieve site control. However, if site control is not achievable through willing seller negotiations, the Agency may consider the use of eminent domain for this project or alternatively, the project area may be decreased and Final Development Plans would be submitted showing the modified site area.

The project area also includes existing right-of-way of portions of 39th Street and Apgar Street, which are developed as part of the BART surface parking lot (see Attachment A, Vicinity Map). Though the right-of-way is not currently utilized, staff cannot find evidence that the right-of-way has been officially abandoned. This right-of-way will be abandoned as part of the subdivision map process for the proposed project.

Grant Applications

The development team applied to the State Department of Housing and Community Development (HCD) for Proposition 1C Housing TOD and Infill program funds to assist with the infrastructure and affordable housing financing of the project. The project received the highest point score of all of the TOD program applications in the entire Bay Area and also scored well under the Infill program. As a result, the project has qualified for consideration of funding under both programs and will be notified by the State in June regarding potential funding awards.

Development Agreement

As previously mentioned, within the discussion on FDP Staging and Project Phasing, the project sponsor and staff continue to negotiate on a Development Agreement for this project. Staff anticipates that the DA will be brought to the Commission for consideration and recommendation to the Council after the annual summer recess. The DA would then be considered by the City Council together with the Redevelopment Agency's consideration of an Owner Participation Agreement (OPA) between the Redevelopment Agency and the project sponsor in late Fall 2008.

Community benefits proposed by the project sponsor as part of the DA include: underpass improvements at West MacArthur and Highway 24 including lighting, street furniture and

sidewalk improvements in an effort to improve pedestrian connections from Martin Luther King Jr. Way to the BART station; and greenscape improvements on West MacArthur between the project boundary and Telegraph Avenue. As part of the project term sheet previously negotiated with the Redevelopment Agency, the project includes the following benefits: development of affordable housing (17% of the total unit count); compliance with the Agency's Small/Local Business Enterprise, Local Employment, Apprenticeship, Prevailing Wage, First Source Hiring and Living Wage Programs; execution of a Project Labor Agreement; and payment of initial costs for implementation of a Residential Permit Parking (RPP) Program.

SUSTAINABLE OPPORTUNITIES

Approval of the project would provide the following economic, environmental, and social equity benefits to the city:

Economic: The project would encourage economic revitalization of nearby commercial and residential districts in North Oakland by increasing the residential and commercial population in the immediate area thereby expanding the home ownership and consumer base for neighborhood businesses. The project would also create new permanent employment opportunities, as well as, temporary construction-related work in the short-term which would create both immediate and secondary benefits for the local economy and workforce.

Environmental: The project involves the remediation of on-site soil contaminants, and is participating in the LEED ND Pilot Program. Also, the project is a compact, infill development in an already urbanized area thereby reducing the need for development in environmentally sensitive areas located at the edge of the city.

Social Equity: The project would provide additional housing opportunities for low- and moderate-income households.

DISABILITY AND SENIOR CITIZEN ACCESS

The proposed development would be required to comply with all applicable regulations concerning accessibility.

RECOMMENDATION AND RATIONALE

Staff recommends that the City Council affirm the Planning Commission's decision and take the necessary actions to approve the project for the following reasons:

A. **Advancing Goals of Oakland General Plan.** The project advances and conforms with the Oakland General Plan's goals, policies, and objectives. The proposed project furthers the goals of the Land Use and Transportation Element and Housing Element by facilitating new housing and commercial construction on a Transit-Oriented Development infill site. The project would result in the creation of 624 new residential

units including 90 for-rent affordable units and 18 for-sale affordable units thereby increasing home ownership in the city for a range of incomes as encouraged by the General Plan.

B. **Remediation and Redevelopment of Underutilized Parcel.** The project would redevelop an underutilized and partially contaminated site with a development that is well-designed and attractive.

C. **Neighborhood Improvement.** The project would improve the quality of life of the residents of the existing residential neighborhood located around the site by replacing 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. The project would also provide new residents and commercial activity in the area that would enhance safety in the neighborhood by providing additional supervision of public spaces.

D. **Economic Benefits.** The project would encourage economic revitalization of nearby commercial and residential districts in North Oakland by increasing the residential and commercial population in the immediate area thereby expanding the home ownership and consumer base for neighborhood businesses. The project would also create new permanent employment opportunities, as well as, temporary construction-related work in the short-term which would create both immediate and secondary benefits for the local economy and workforce.

E. **Advancing State and Regional Policy of Providing In-fill Housing.** Pursuant to California Government Code Section 65589.5(c), this development is consistent with the State Legislature's policy of discouraging the premature and unnecessary conversion of prime agricultural lands to urban uses and by in-filling existing urban areas with residential development. The proposed infill development is located within an urbanized area of Oakland where existing public utilities, public transit, and other necessary services are available to meet the needs of the project. Thus, this project fulfills State, regional, and City goals of reducing urban sprawl and promoting clean air policies by approving residential projects which are located near public transit.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council take the following actions to approve the project:

1) Adopt a City Resolution affirming and sustaining the Planning Commission recommendation/decision to certify the EIR, adopt the CEQA-related findings, and

approve the development permits (planned unit development permit, design review, conditional use permit) for the project; and

2) Adopt a City Ordinance (a) rezoning the project site from the C-28 Commercial Shopping, R-70 Residential High Density and the S-18 Design Review Combining Zone to the S-15 Transit Oriented Development Zone and (b) adopting a text amendment to modify required open space in the S-15 Zone.

Respectfully submitted,

Dan Lindheim
Director
Community and Economic Development Agency

Reviewed by:
Gary Patton
Deputy Director of Planning and Zoning
Planning & Zoning Division

Prepared by:
Charity Wagner
Contract Planner
Planning & Zoning Division

APPROVED AND FORWARDED TO
THE COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE:

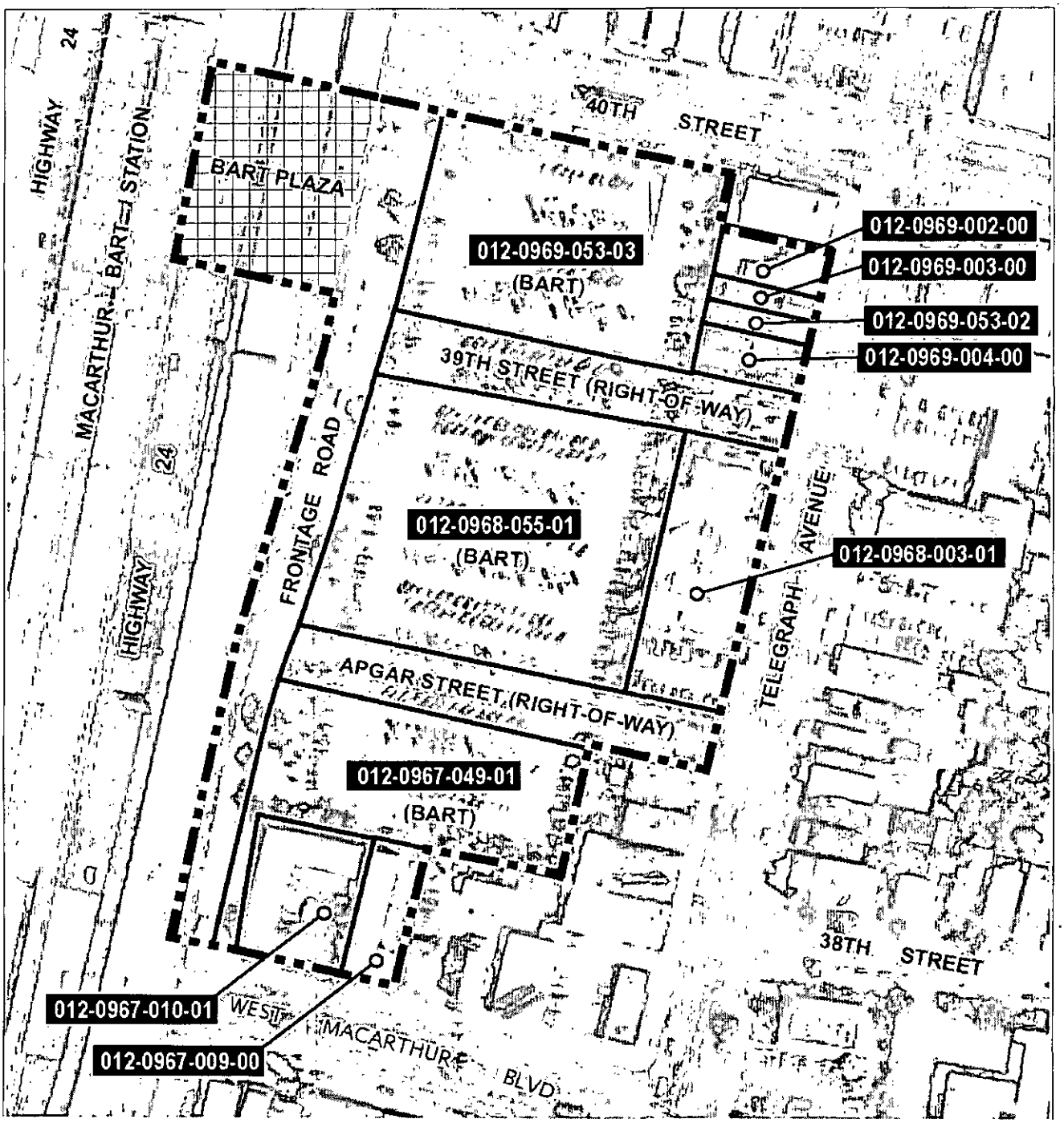
Office of the City/Agency Administrator

ATTACHMENTS

A. Vicinity Map
B. Project Drawings
C. General Plan and Zoning Map
D. June 4, 2008, Planning Commission Report with Exhibits and Attachment D (Attachments A-C and E are not included)

ATTACHMENT A
VICINITY MAP

Community and Economic Development Committee
June 4, 2008



Mac Arthur Transit Village

MacArthur BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission

Development Information

Description	Existing	New
Total Lot Area (acres)	7.76	7.76
Net Total Lot Area without Streets (sf)	NA	5.66
Net Total Lot Area with BART Plaza (sf)	NA	8.2
Total Building Footprint Area (sf)	32,500	220,800
Total Floor Area Living Space (sf)	NA	750,000
Total Floor Area Resid. Parking (sf)	NA	330,000
Total Floor Area BART Parking (sf)	NA	170,000
Building Height	25' (2 stories)	50'-85' (up to 6 stories)*
Number of Dwelling Units	NA	624
Number of Live-Work Units	NA	8
Density (units per gross acre)	NA	80
Density (units per net acre)	NA	110
Number of Parking Spaces	600	1024 **
Total Building Open Space (sf)	NA	54,000 (87sf /unit)
Total Site Open Space (sf)		72,978
Total Commercial/ Retail (sf)	NA	35,500
Total Live/Work Space (sf)	NA	7,000
Grading - Proposed Cut (cy)	NA	31,500
Grading - Proposed Fill (cy)	NA	11,170
Grading - Net Export (cy)	NA	20,330

* Height not to exceed 6 stories and not to exceed an average of 75' for the entire development. Where appropriate height to reach as high as 85'.

** including on-street parking 44 stalls

Development Detail

Building A	Unit Count	Area (sf)	Parking	Net Site Area***
Residential	213 units		213	
Live Work Units		3,000 (3 units)	3	
Retail		20,500	26	
TOTAL	213 units	23,500	242	1.79 ac.

Building B	Unit Count	Area (sf)	Parking	Net Site Area***
Residential	132 units		132	
Live Work Units		1,500 (2 units)	2	
Retail		3,500		
TOTAL	132 units	5,000	134	1.03 ac.

Building C	Unit Count	Area (sf)	Parking	Net Site Area***
Residential	189 units		189	
Community/Child Care		5,000		
Live/Work Space		2,500 (3 units)		
Retail		6,500		
TOTAL	189 units	14,000	189	1.35 ac.

Building D	Unit Count	Area (sf)	Parking	Net Site Area***
Residential	90 units	NA		
TOTAL	90 units		91	0.91 ac

Building E	Unit Count	Area (sf)	Parking	Net Site Area***
BART Parking				
Commercial/Retail		5,000		
TOTAL		5,000	324	0.58 ac.

*** Area of building pad excluding streets

Developer:
MacArthur Transit Community Partners, LLC
Contact: Joe McCarthy, (510) 273-2009

Architect:
Mc Larand Vasquez Emsiek & Partners, Inc.
350 Frank Ogawa Plaza, Suite 100
Oakland, CA 94612
Contact: Chek F.Tang, (510) 267 3188

Architect for Affordable Component:
Van Meter Williams Pollack, LLP
18 De Boom Street
San Francisco, CA 94107
Contact: Fred Pollack, (415)974 5352

Landscape Architect:
PGA Design, Inc
444 17th Street
Oakland, CA 94612
Contact: Chris Kent, (510) 465 1284

Urban Landscape and Site Architecture
Hood Design
3016 Filbert Street, Studio 2
Oakland, CA 94608
Contact: Walter Hood, (510) 595-0688

Civil Engineer:
Sandis
1721 Broadway, Suite 201
Oakland, CA 94612
Contact: Michael A. Kuykendall, (510) 873-8866

Traffic Consultant:
Dowling Associates, Inc.
180 Grand Avenue, Suite 250
Oakland, CA 94612
Contact: Mark Bowman (510) 839-1742

T-01 Title Page

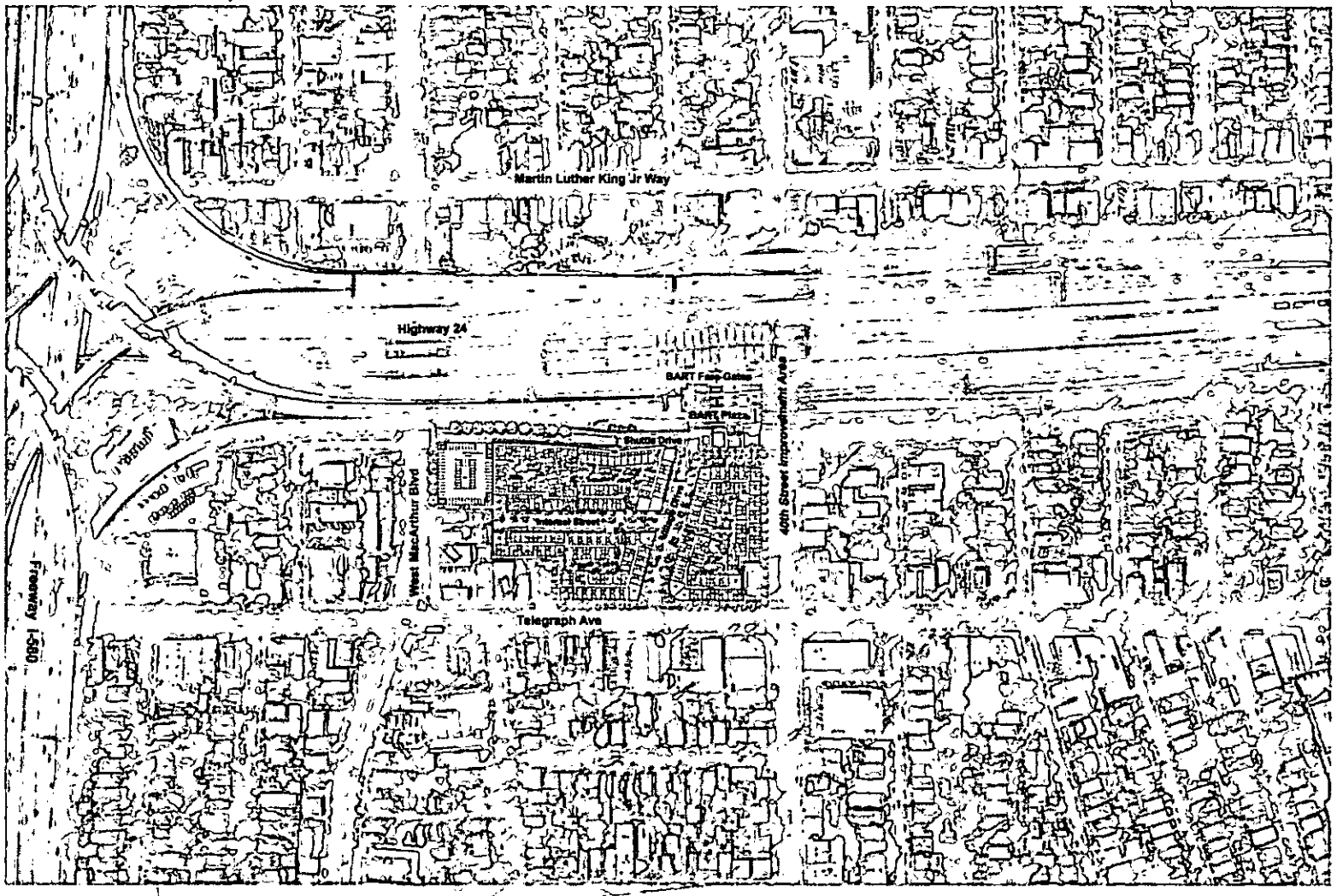
M&E PARTNERS

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission

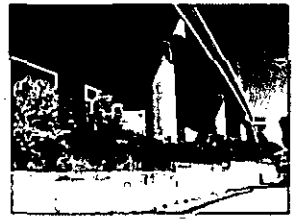


T- 02
Neighborhood Plan

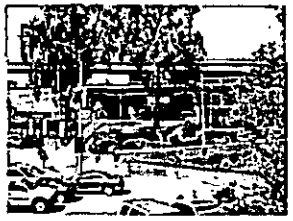
M&L PARTNERS

MacArthur Transit Community Partners, LLC

0 100 200 300 400



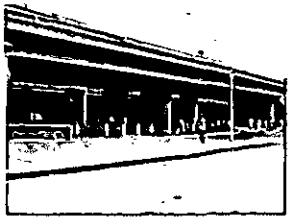
Frontage Rd. near MacArthur Blv.,looking North.



Northwest corner of BART Parking lot, with BART Plaza in background.

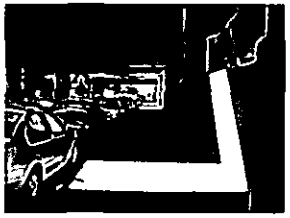
Frontage Rd. with Shuttle Stop.

Frontage Rd. near BART Plaza.

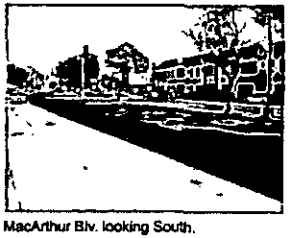


BART Plaza with Fare Gates

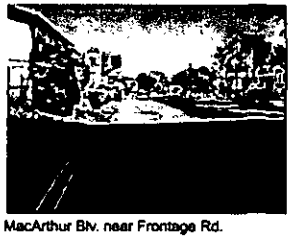
MacArthur Blv. near Frontage Rd., looking East.



Underpass of Hwy 24 on MacArthur Blv.



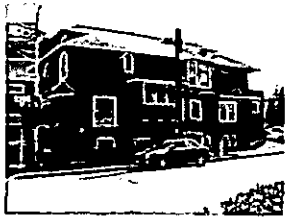
MacArthur Blv. looking South.



MacArthur Blv. near Frontage Rd. with Motel.

Telegraph Ave. corner with 40th St.

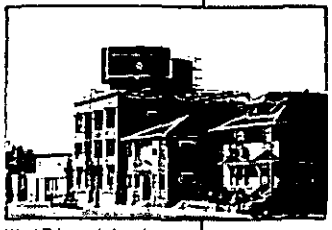
Telegraph Ave. looking North.



Apgar St. at Telegraph Ave.

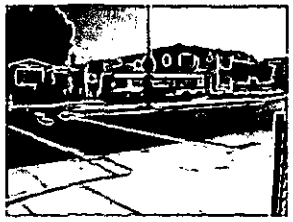
Redwood trees on Telegraph Ave.

Beebe Memorial Cathedral on Telegraph Ave.



West Telegraph Ave. between Apgar St. and MacArthur Blv.

40th St. looking East.



40th St. crosswalk near BART Plaza, looking North.

40th St. looking West from Telegraph Ave.

40th St. underpass/BART Plaza.

40th St. looking West.

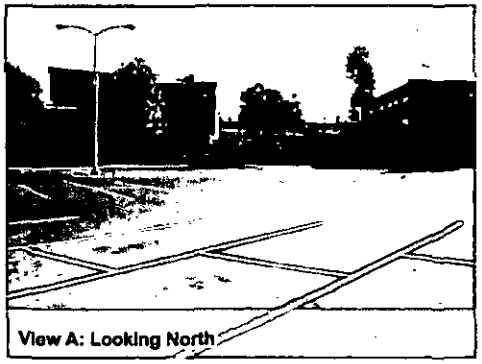
BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

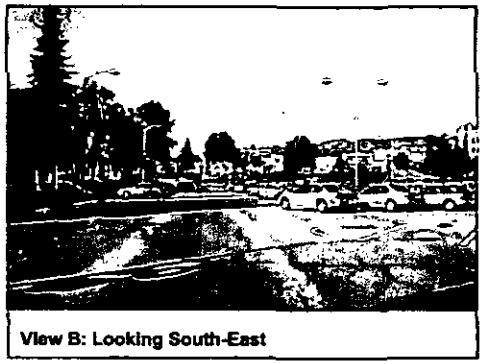
Preliminary Development Plan/ Planning Commission

T -03 Photographs

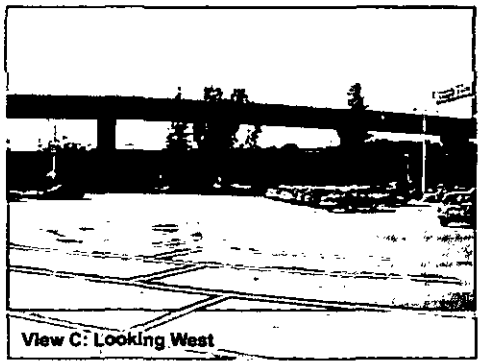
ML& PARTNERS



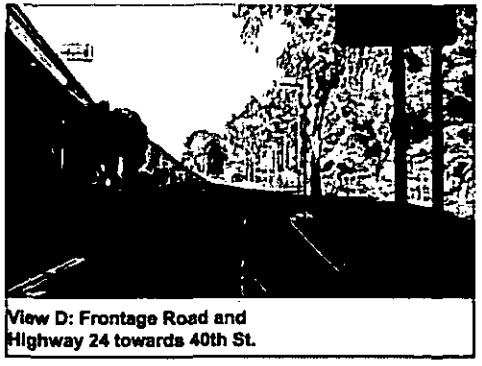
View A: Looking North



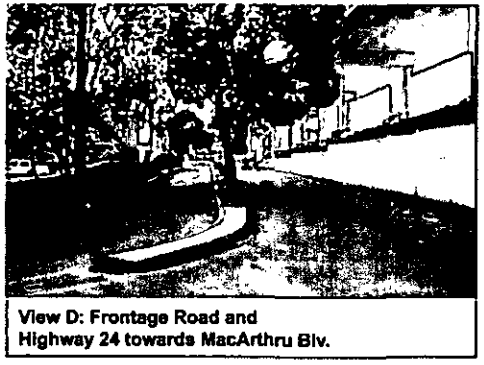
View B: Looking South-East



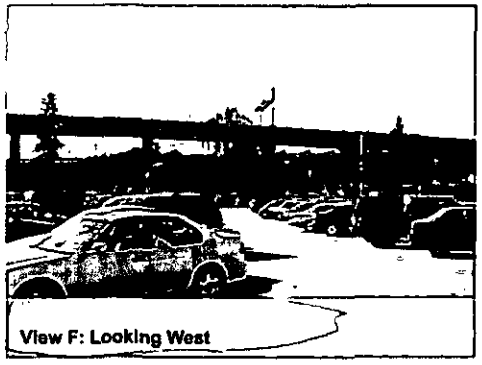
View C: Looking West



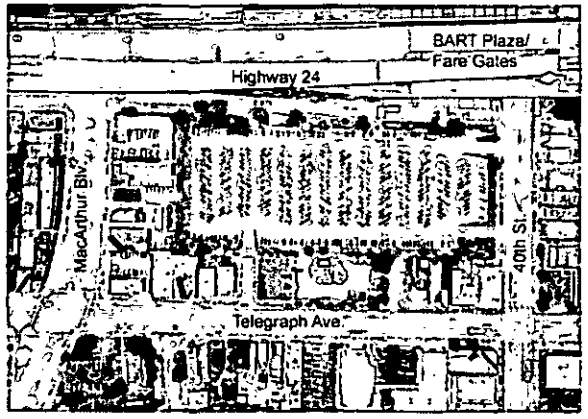
View D: Frontage Road and Highway 24 towards 40th St.



View D: Frontage Road and Highway 24 towards MacArthru Blv.



View F: Looking West



View G: Corner of Frontage Rd. and 40th St. by Highway 24 underpass.

BART Transit Village
OAKLAND, CALIFORNIA

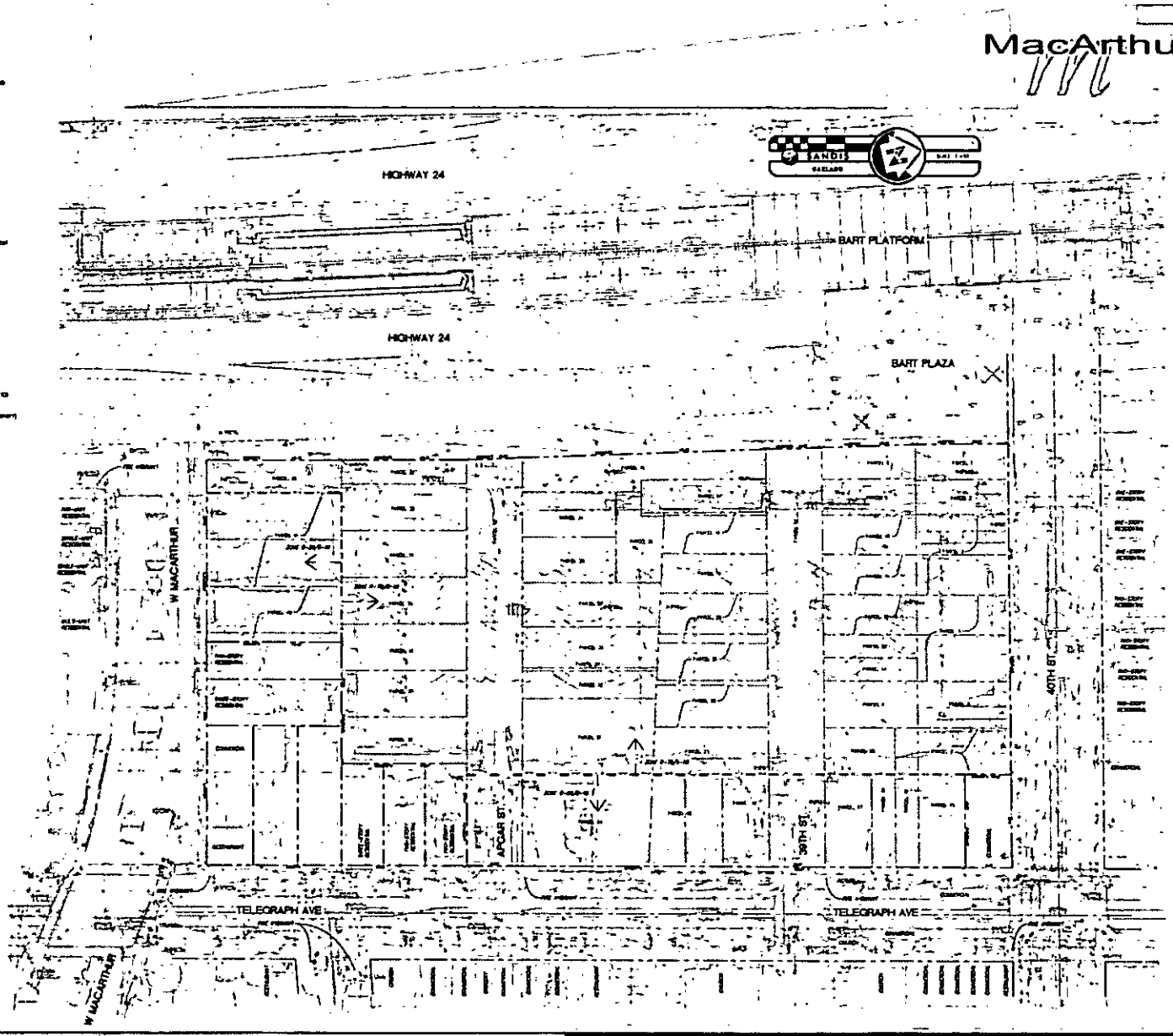
June 4, 2008

Preliminary Development Plan/ Planning Commission

T -04
Site Photographs

ML & PARTNERS

LEGEND



MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

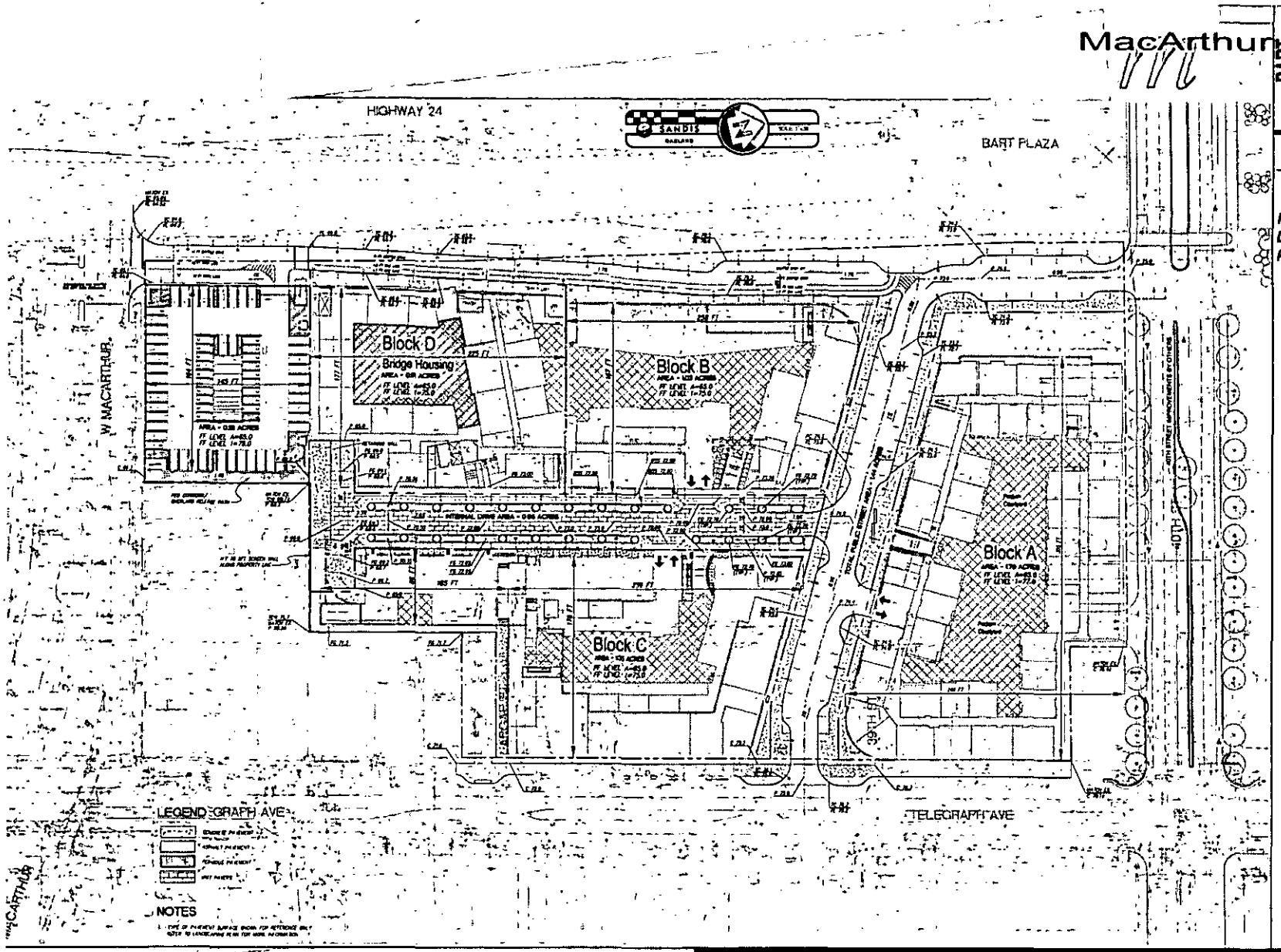
June 4, 2008

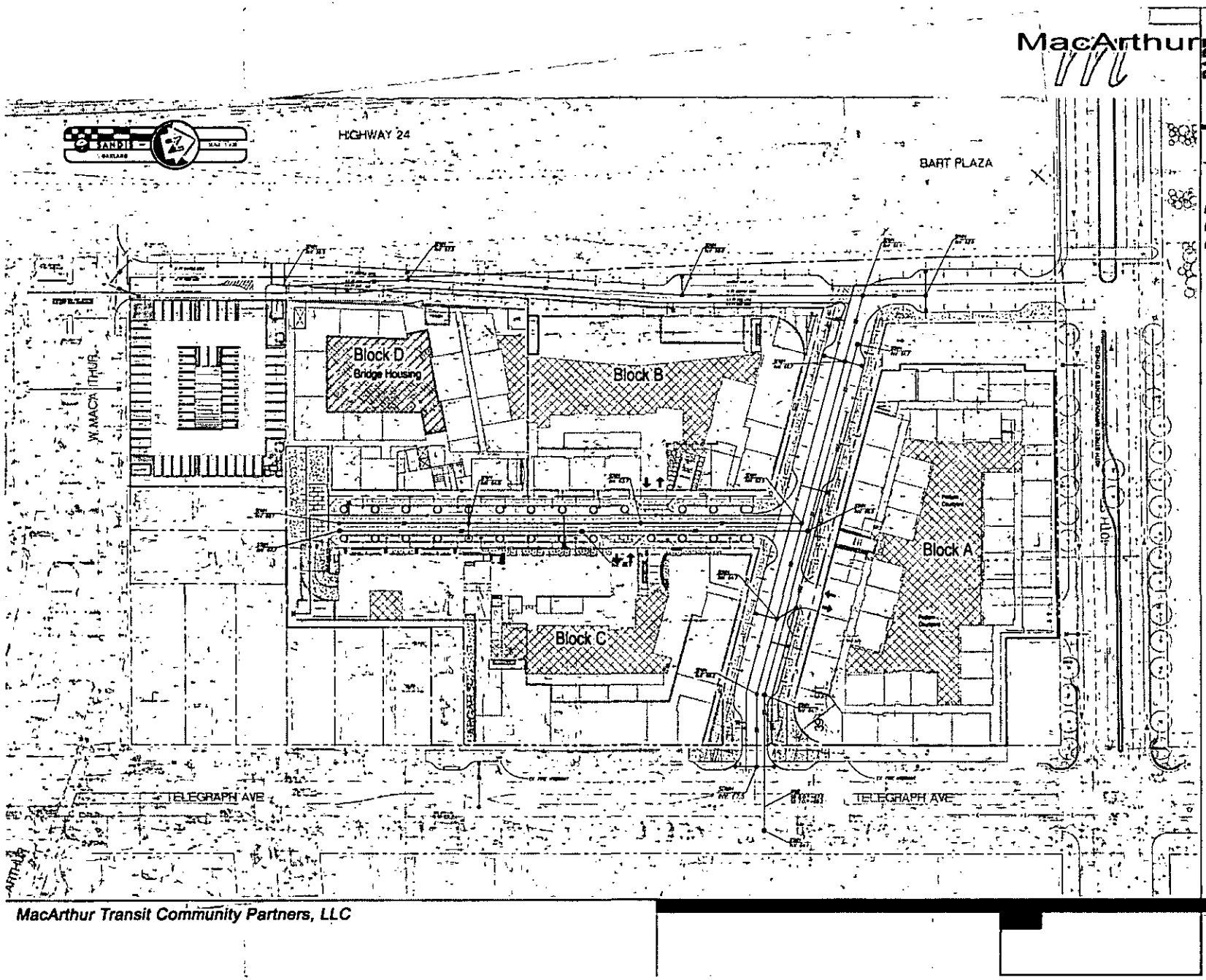
Preliminary Development Plan/ Planning Commission

C-00 Existing Conditions Plan

M&L PARTNERS

MacArthur Transit Community Partners, LLC


MacArthur
BART Transit Village
OAKLAND, CALIFORNIA
June 4, 2008
Preliminary
Development Plan/
Planning Commission
HIGHWAY 24
BART PLAZA
Block D
Bridge Housing
Block B
Block A
Block C
W MACARTHUR
TELEGRAPH AVE
LEGEND
NOTES
C-01 Preliminary
Grading Plan
ML PARTNERS
MacArthur Transit Community Partners, LLC



MacArthur BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission

C-02 Preliminary Utility Plan

ML & PARTNERS

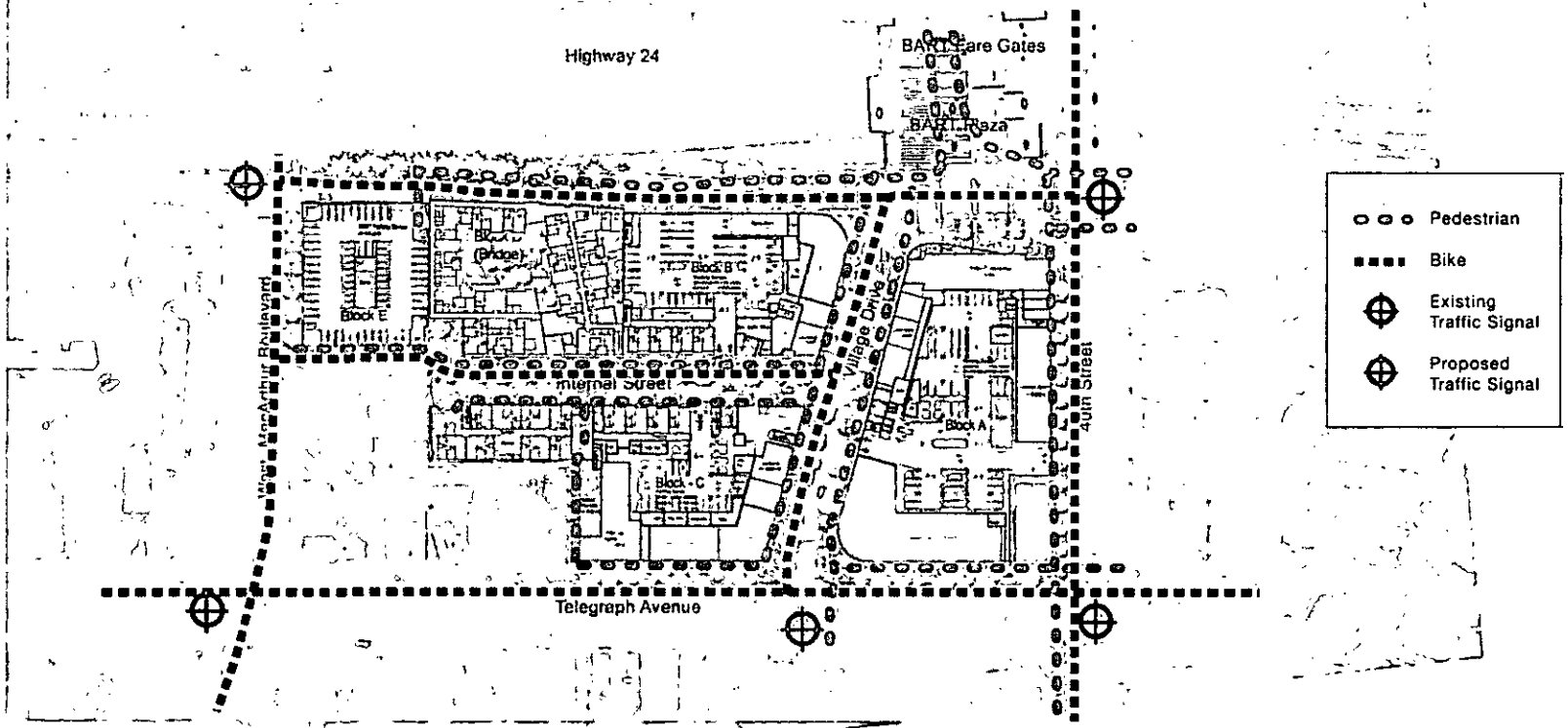
MacArthur Transit Community Partners, LLC

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

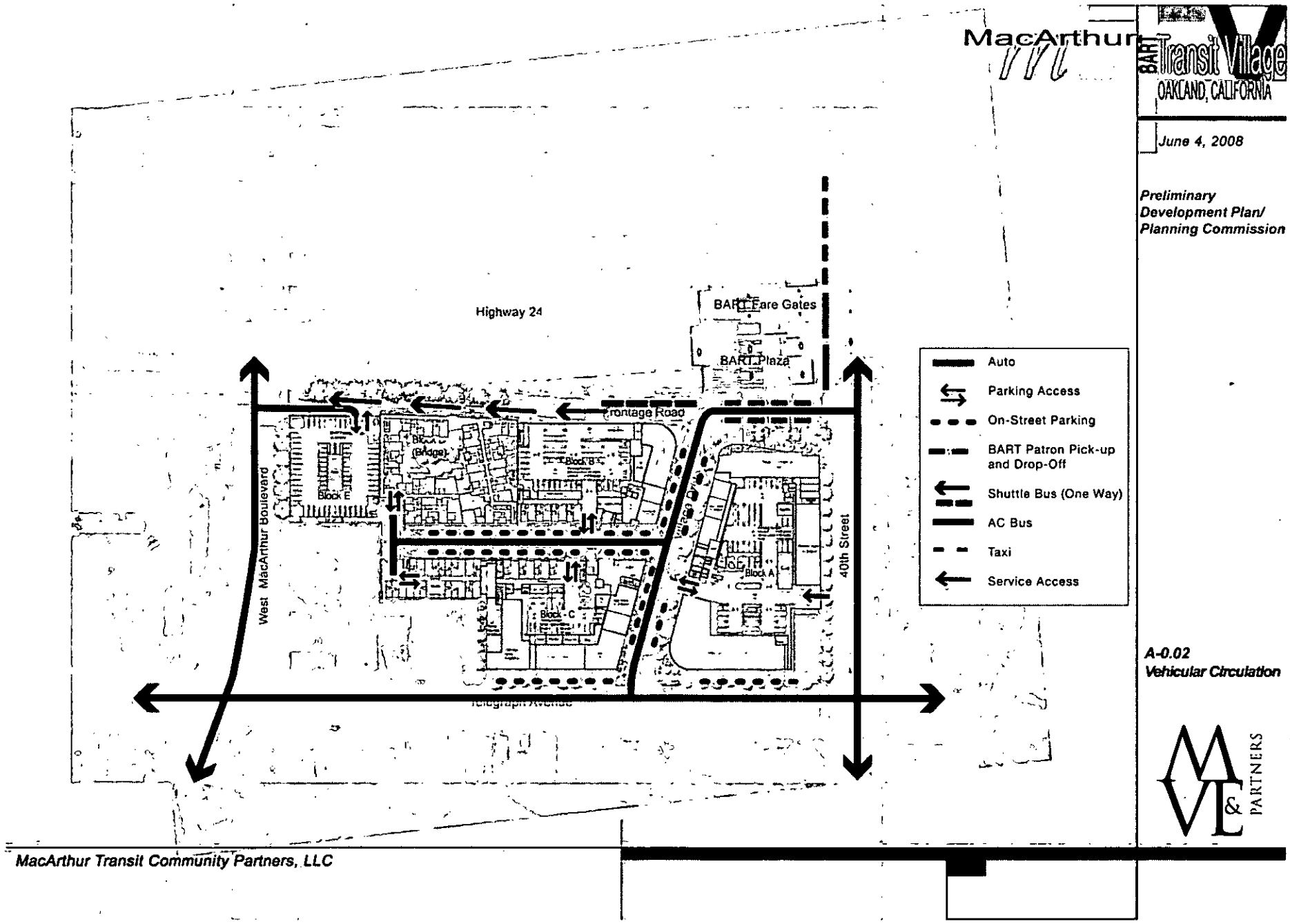
Preliminary
Development Plan/
Planning Commission

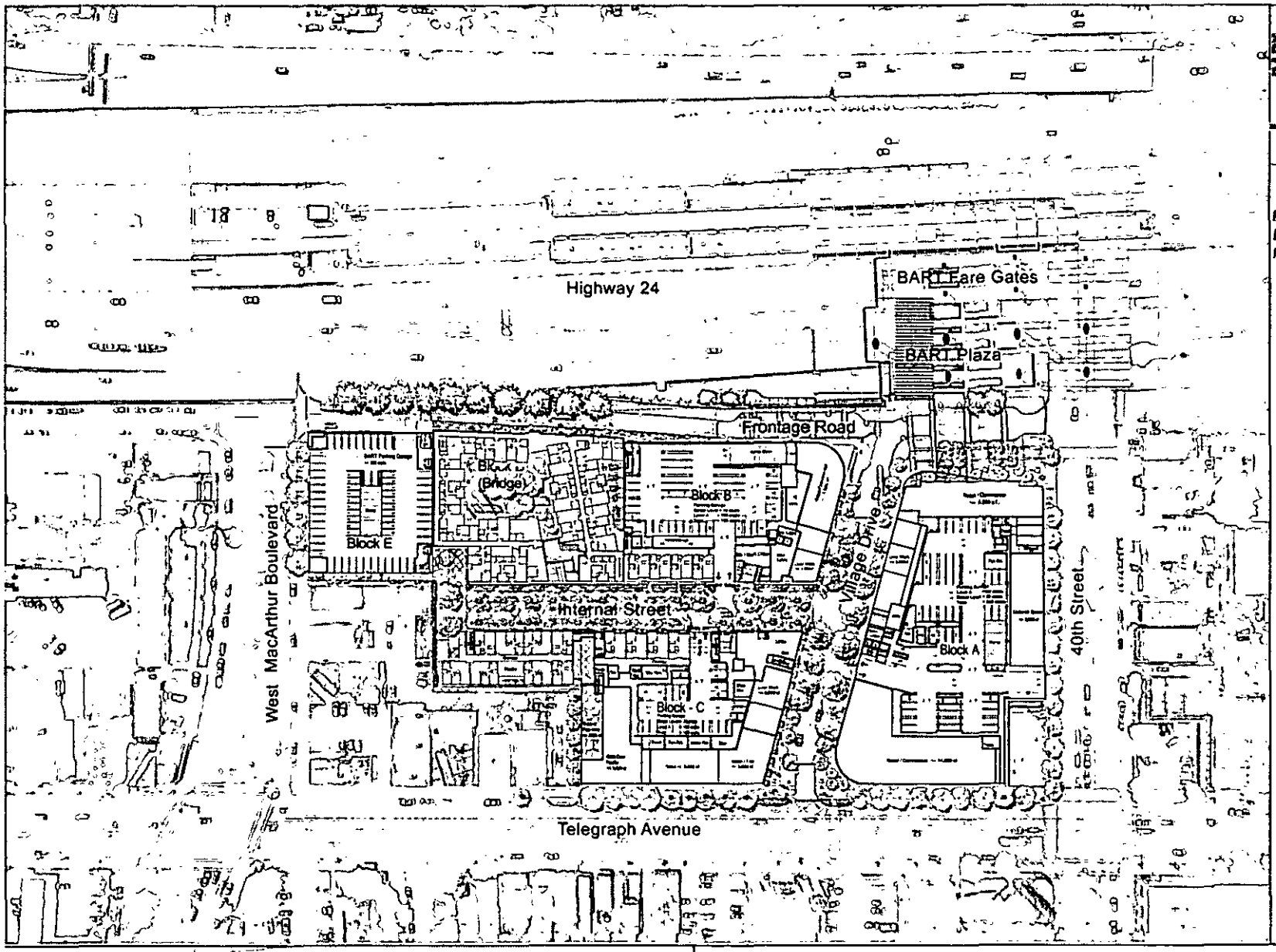


A-0.01
Pedestrian & Bike Circulation

ME & PARTNERS

MacArthur Transit Community Partners, LLC


MacArthur
BART Transit Village
OAKLAND, CALIFORNIA
June 4, 2008
Preliminary
Development Plan/
Planning Commission
Highway 24
BART Fare Gates
BART Plaza
Frontage Road
West MacArthur Boulevard
40th Street
Block E
Block B
Block A
Block C
Auto
Parking Access
On-Street Parking
BART Patron Pick-up and Drop-Off
Shuttle Bus (One Way)
AC Bus
Taxi
Service Access
A-0.02
Vehicular Circulation
M&L PARTNERS
MacArthur Transit Community Partners, LLC



BART Transit Village
OAKLAND, CALIFORNIA

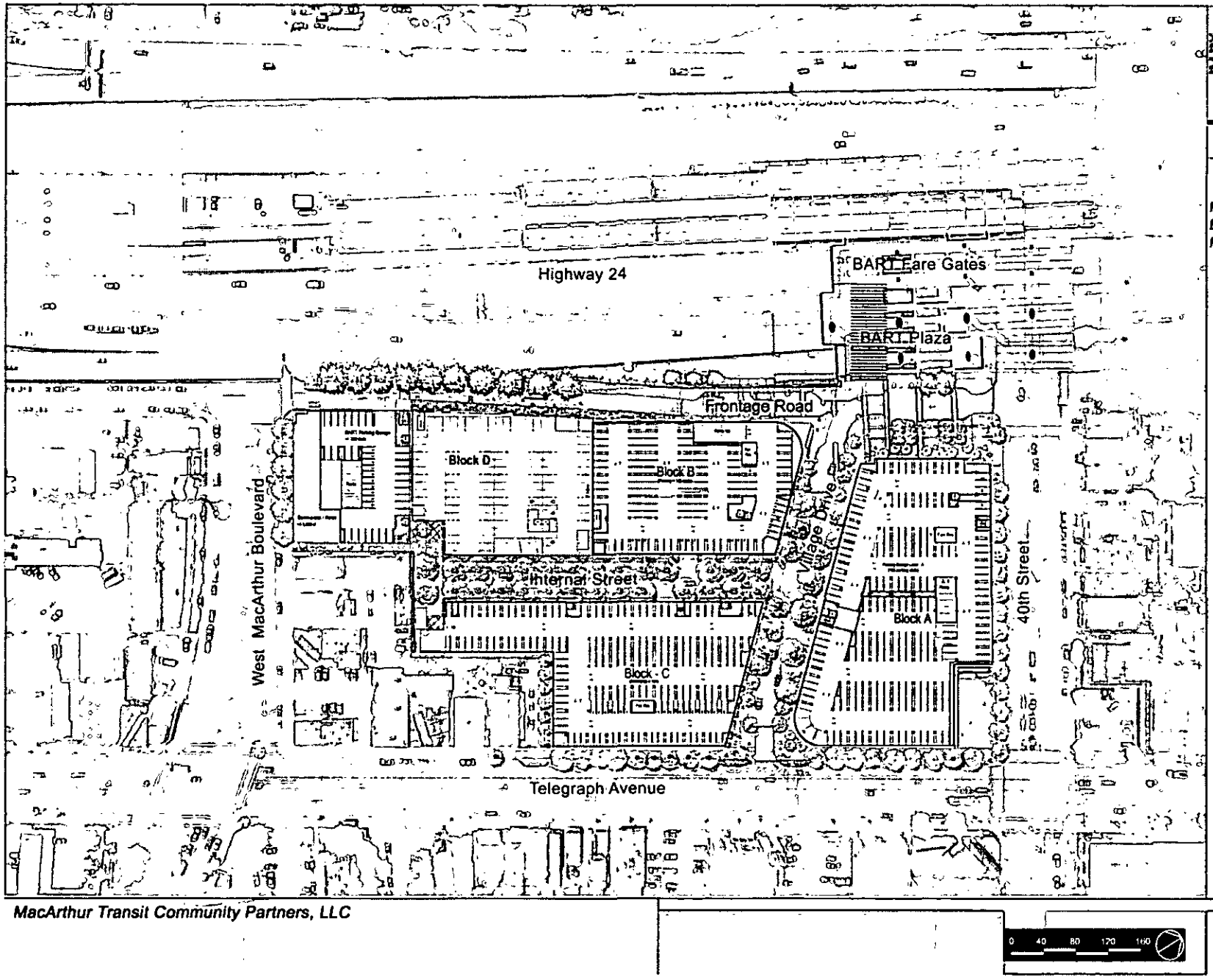
June 4, 2008

Preliminary Development Plan/ Planning Commission

A-1.01 Street Level

M & L PARTNERS

MacArthur Transit Community Partners, LLC



BART Transit Village
OAKLAND, CALIFORNIA

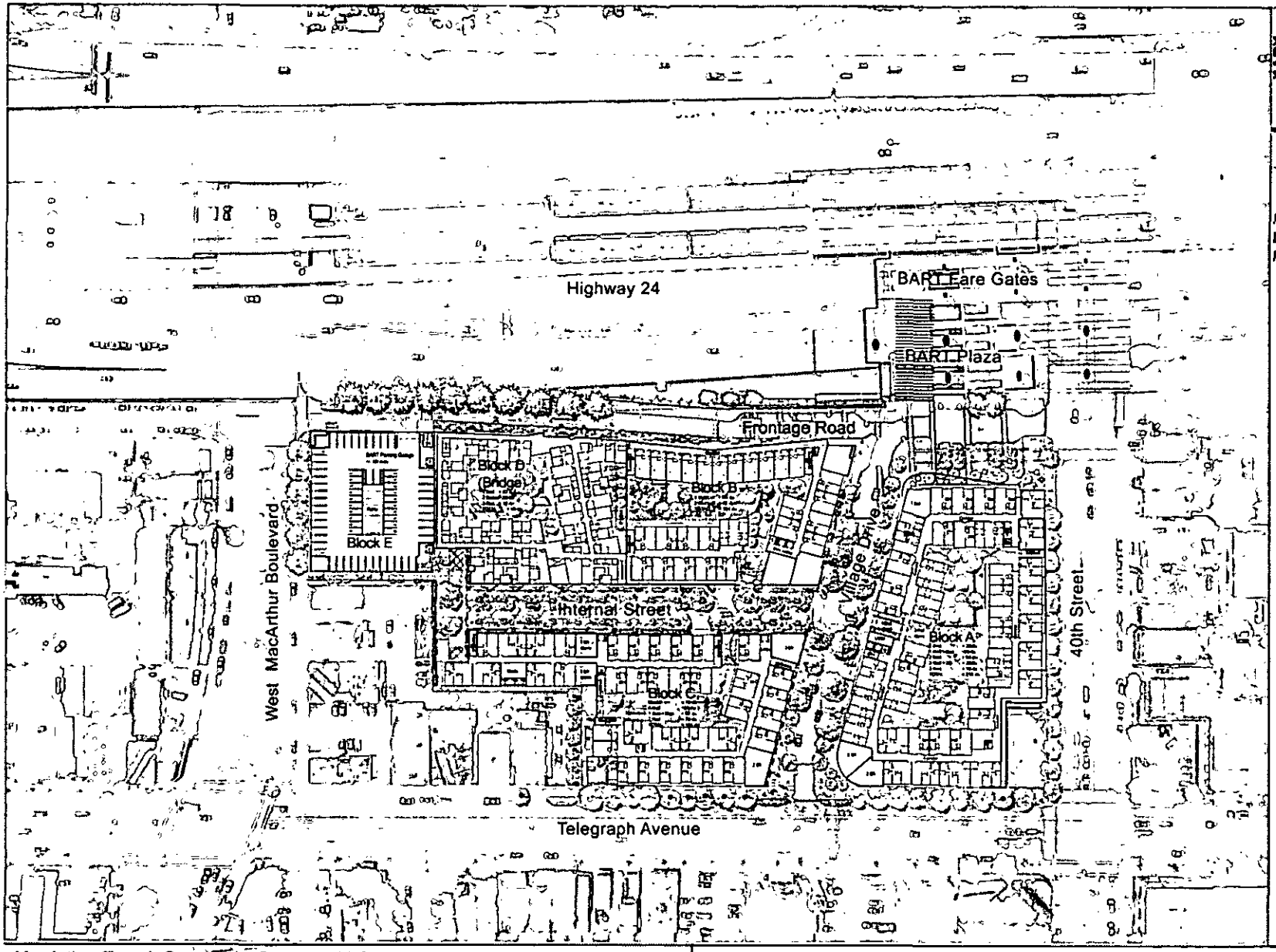
June 4, 2008

Preliminary Development Plan/ Planning Commission

A-1.0A
Garage Level Plan

M & E PARTNERS

MacArthur Transit Community Partners, LLC



BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission

A-1.02 Typical
Upper Level Plan

M L & PARTNERS

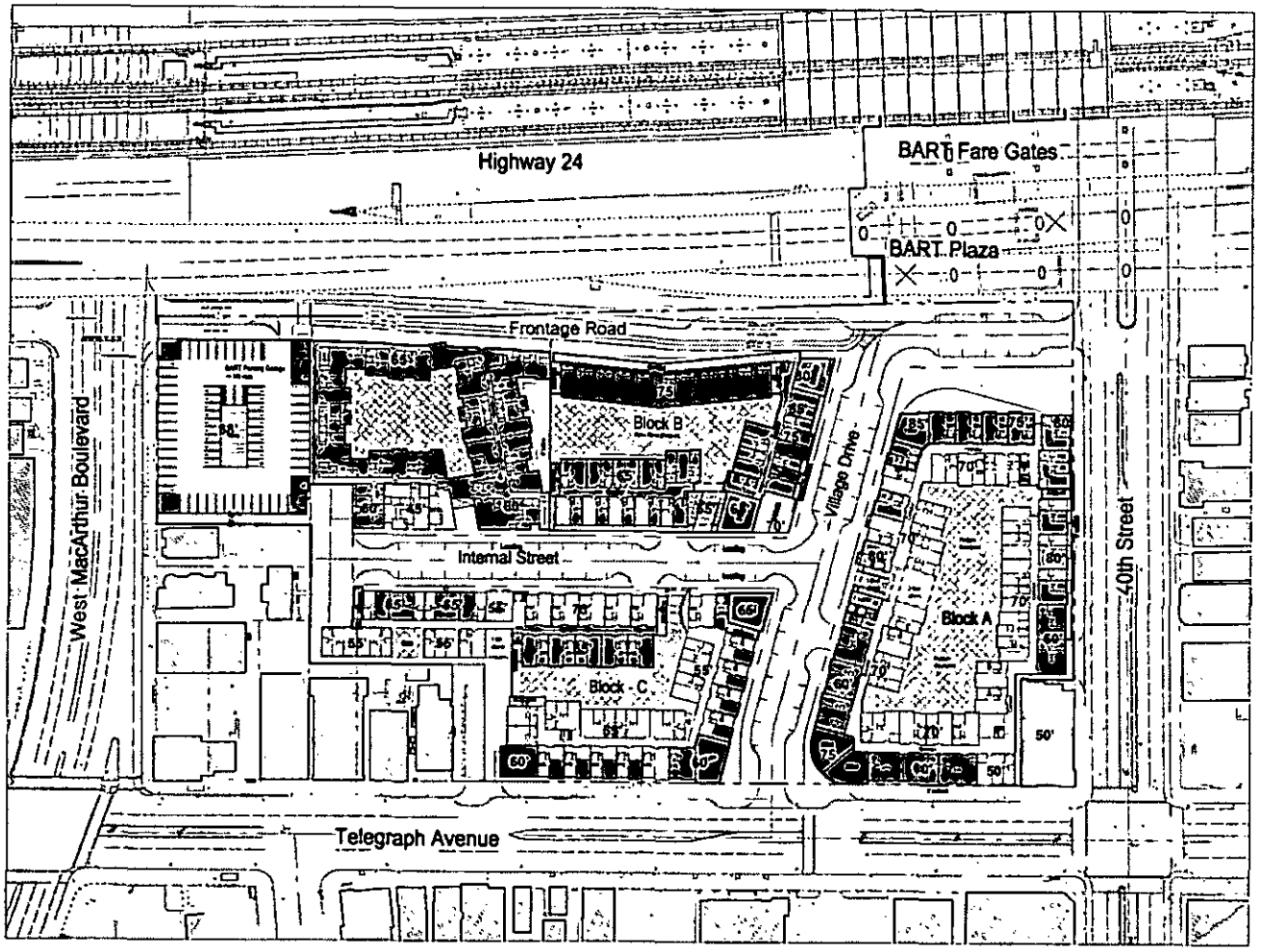
MacArthur Transit Community Partners, LLC

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission



A-1.0H Building Height Diagram

Scale: 1"= 40'

0 40 80 120 160

MacArthur Transit Community Partners, LLC

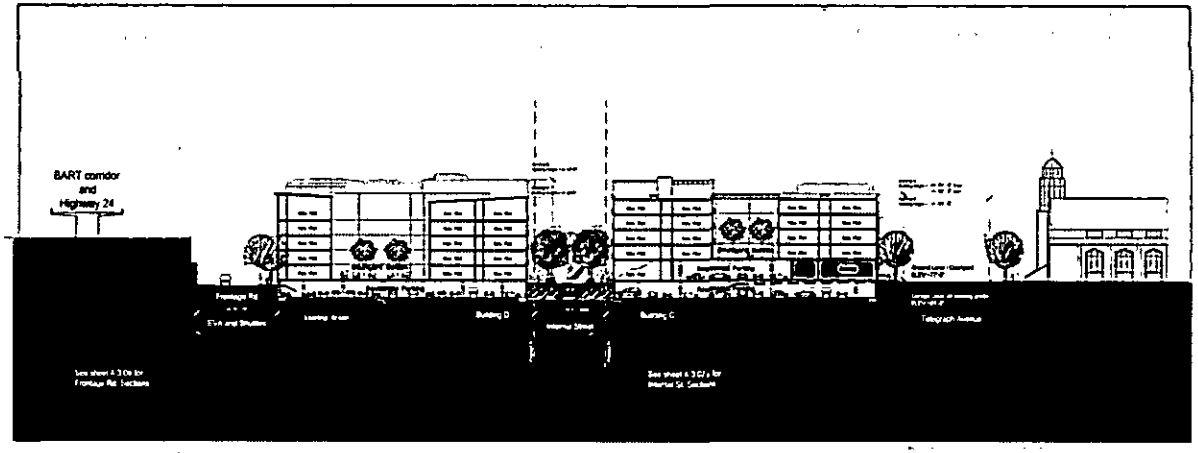
M&P PARTNERS

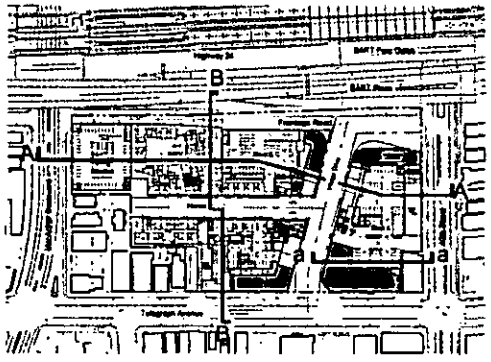
MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission





Key Plan

A-3.01a
Building Sections

M L & PARTNERS

MacArthur Transit Community Partners, LLC

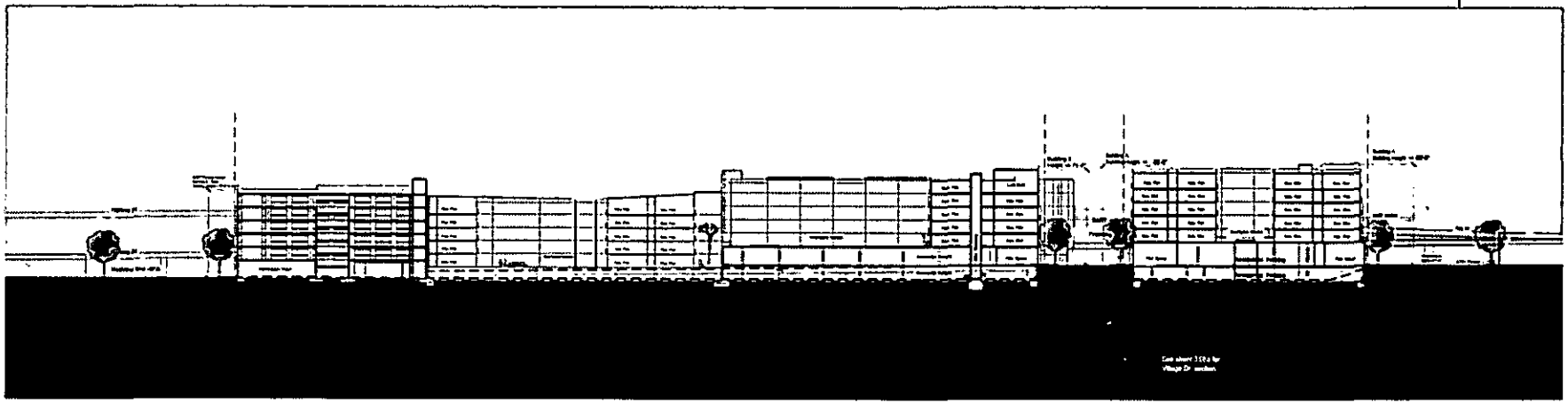
0 30 60 90 120

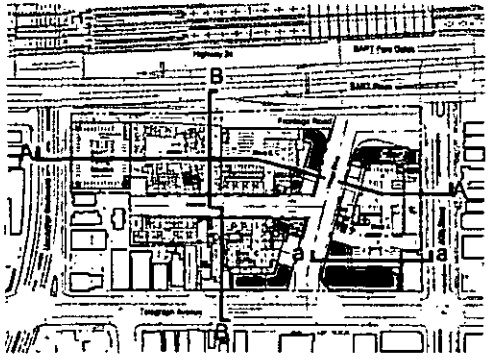
MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission





Key Plan

A-3.01b
Building Sections

M & PARTNERS

MacArthur Transit Community Partners, LLC

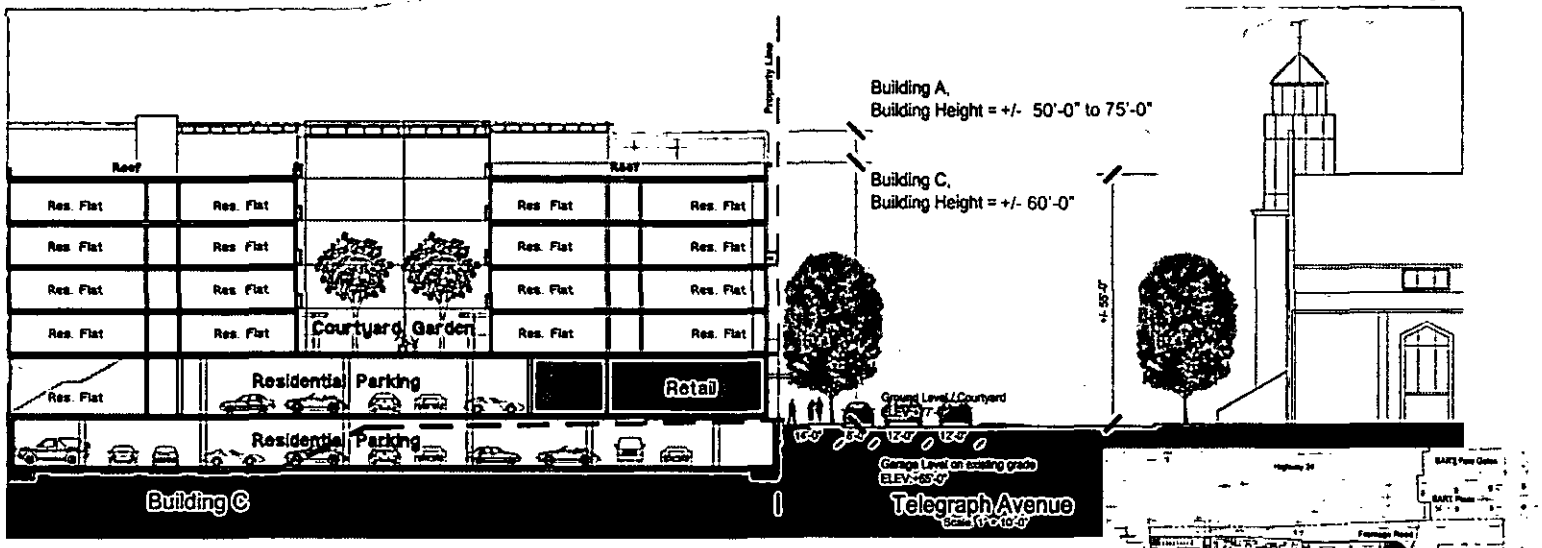
0 30 60 90 120

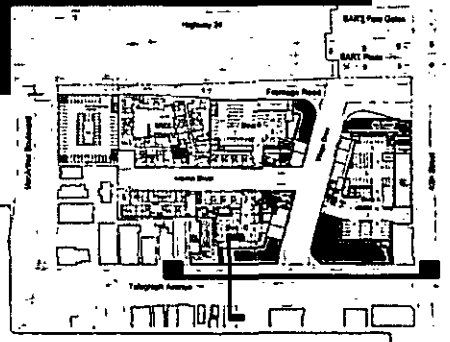
MacArthur

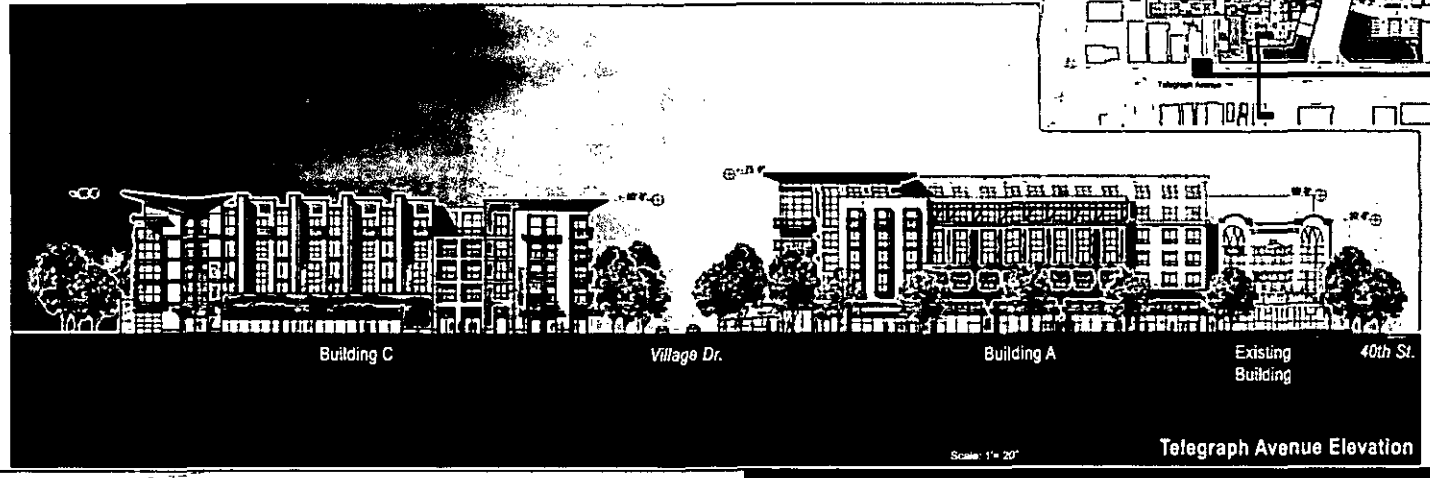
BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission







A-3.02
Edges: Telegraph Ave.

M&E PARTNERS

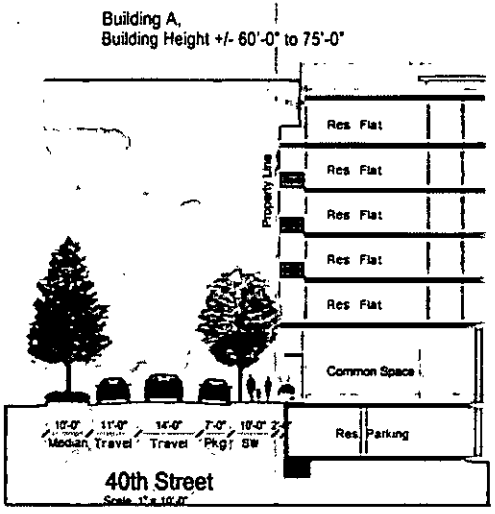
MacArthur Transit Community Partners, LLC

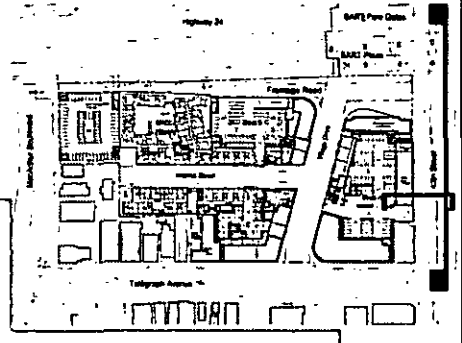
MacArthur

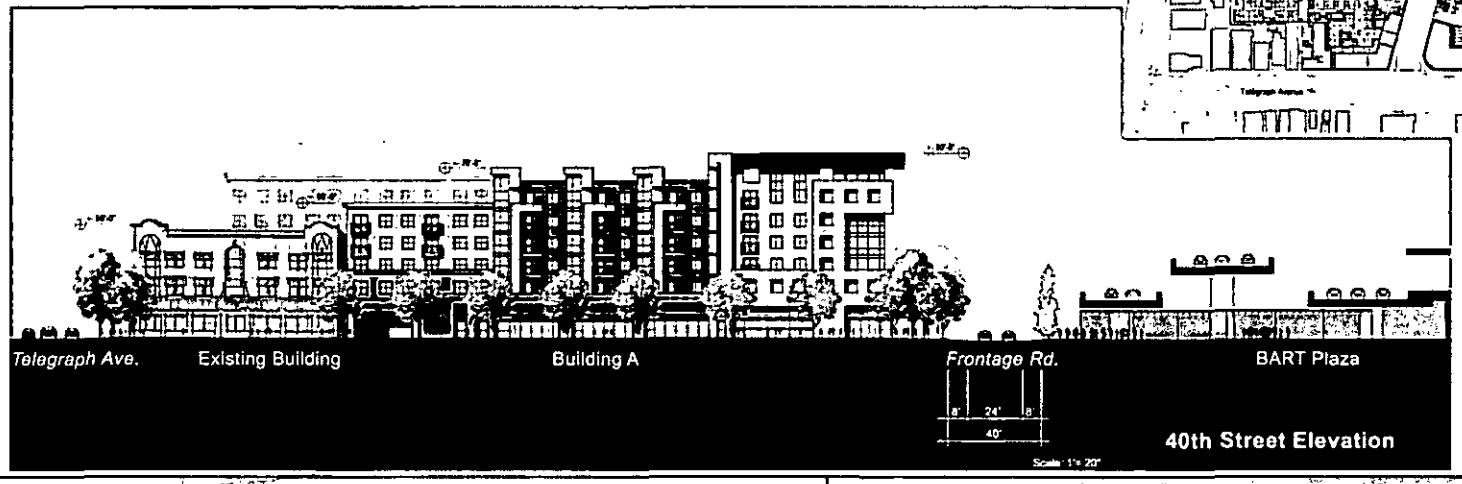
BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission







A-3.03
Edges: 40th St.

M&L PARTNERS

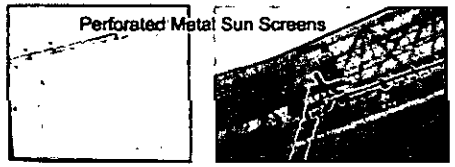
MacArthur Transit Community Partners, LLC

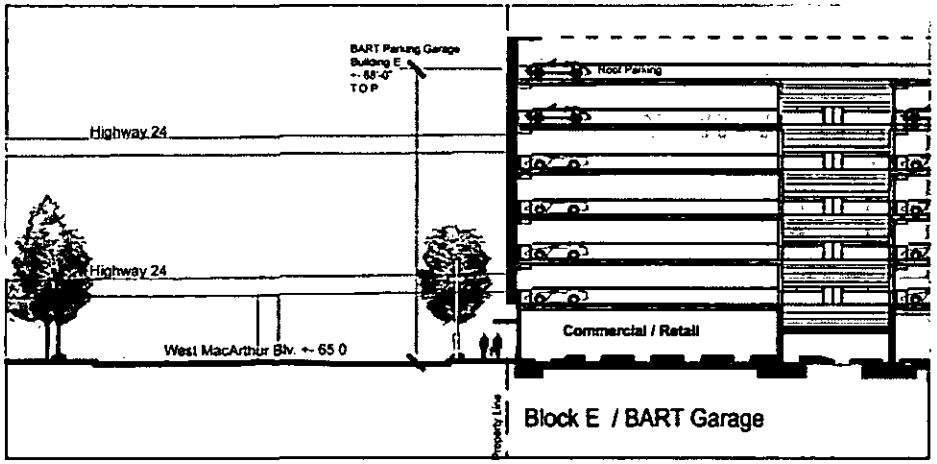
MacArthur

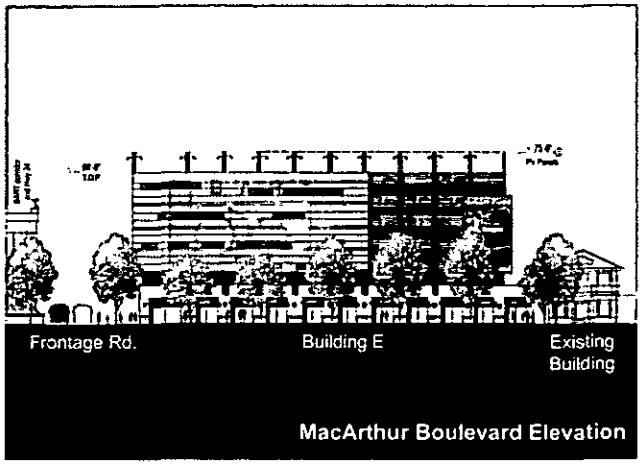
BART Transit Village
OAKLAND, CALIFORNIA

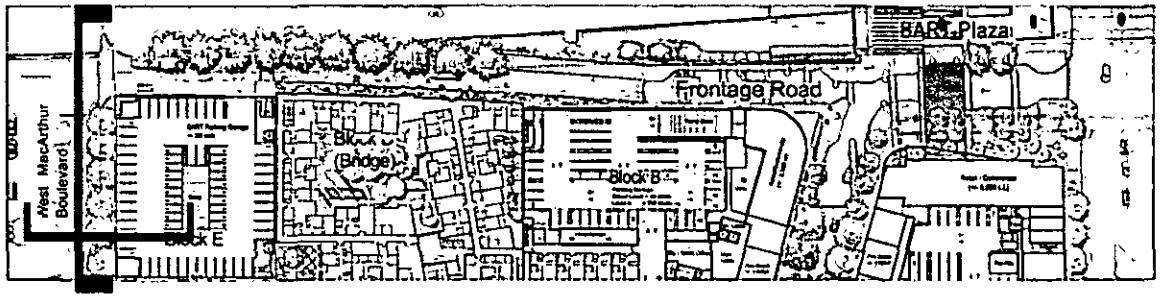
June 4, 2008

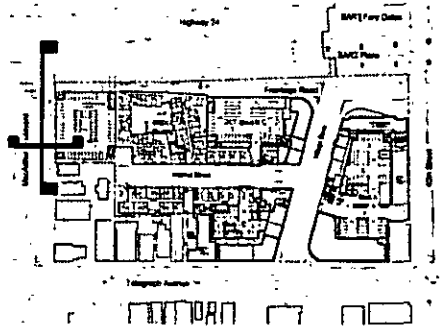
Preliminary Development Plan/ Planning Commission











A-3.04
Edges: West MacArthur Blvd

M & L PARTNERS

MacArthur Transit Community Partners, LLC

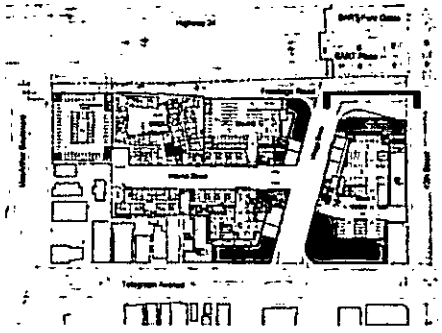
0 20 40 80 120

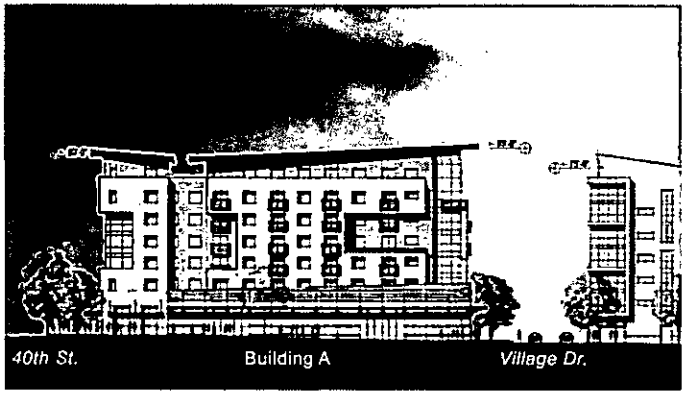
MacArthur

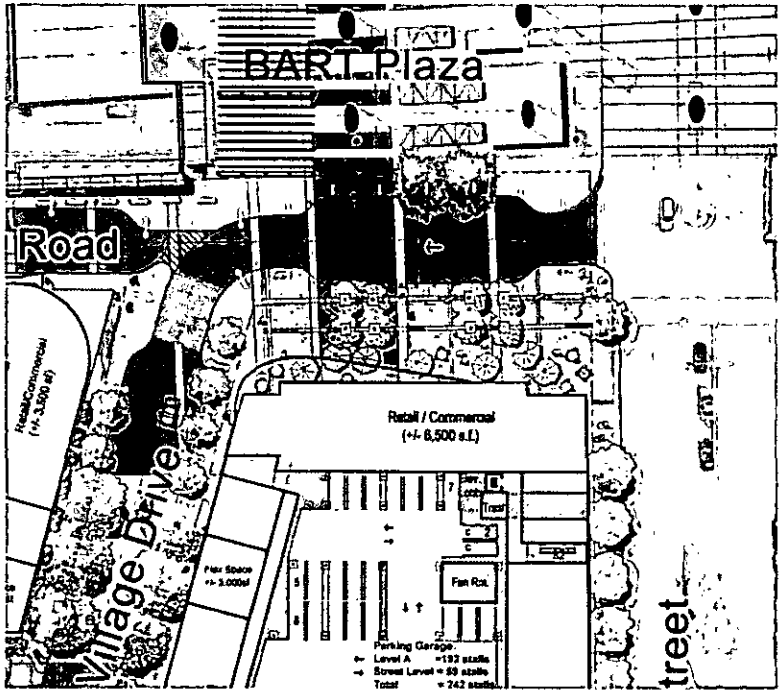
BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission







A-3.05
Edges: BART Plaza

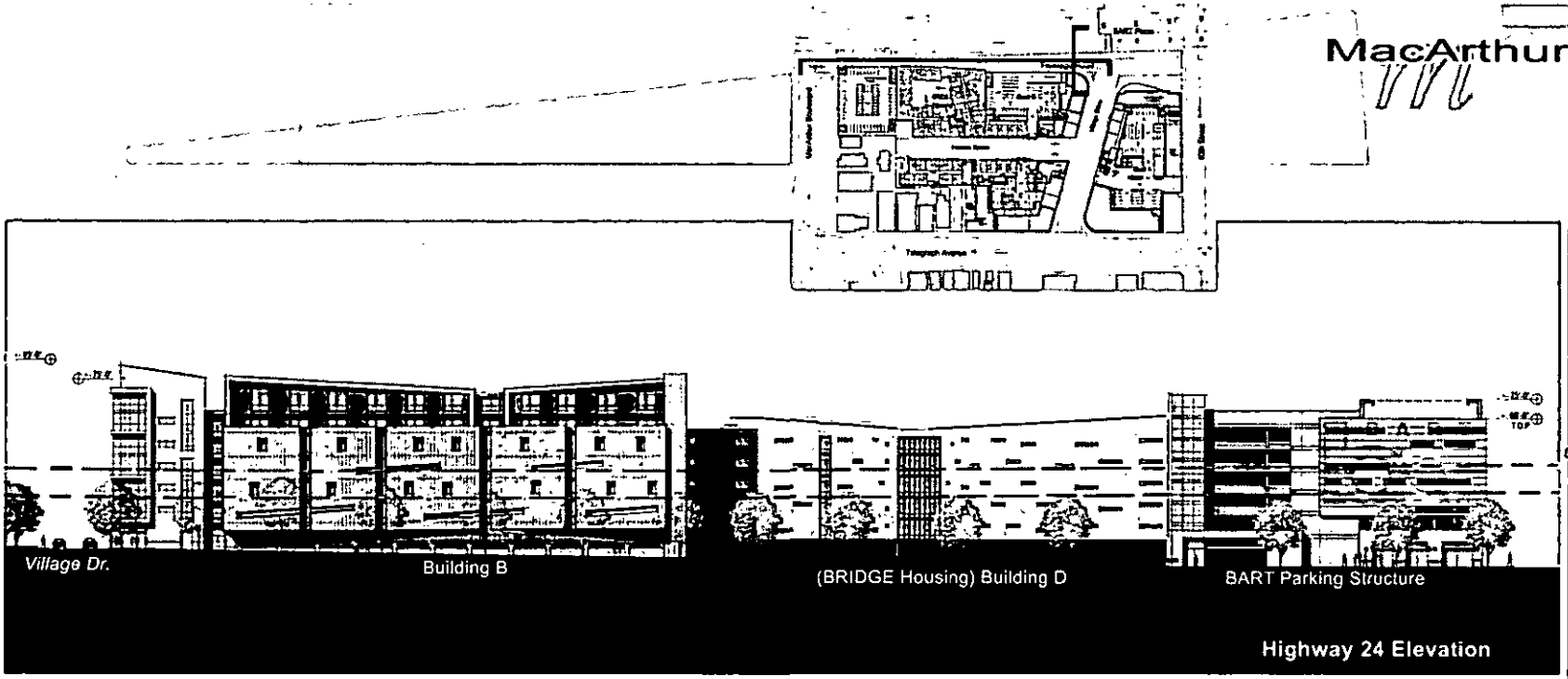
M L & PARTNERS

MacArthur Transit Community Partners, LLC

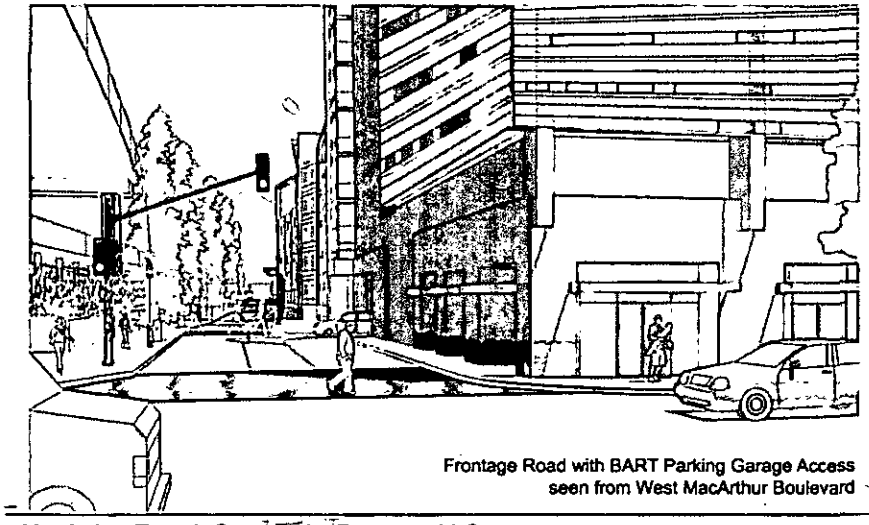
MacArthur BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

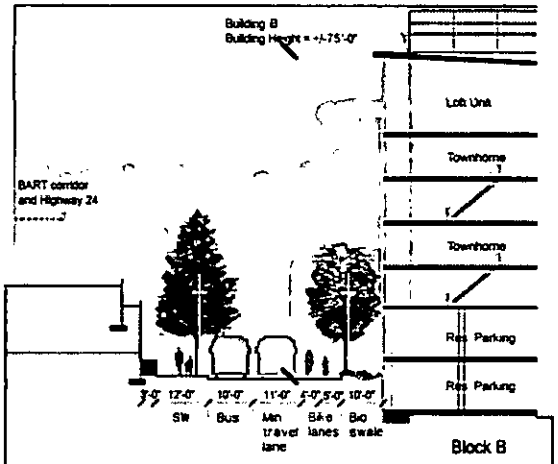
Preliminary
Development Plan/
Planning Commission



Highway 24 Elevation



Frontage Road with BART Parking Garage Access
seen from West MacArthur Boulevard



Shuttle Stop / Frontage Road

A-3.06
Edges: Frontage
Road / Hwy 24

MacArthur Transit Community Partners, LLC

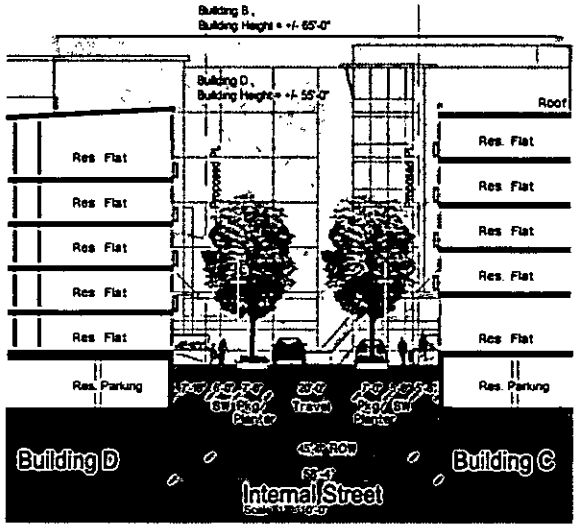
M & E PARTNERS

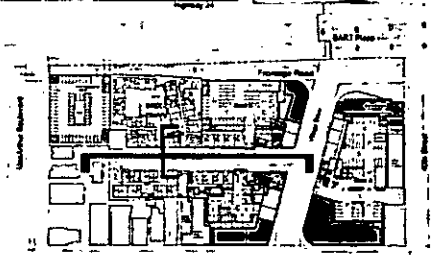
MacArthur

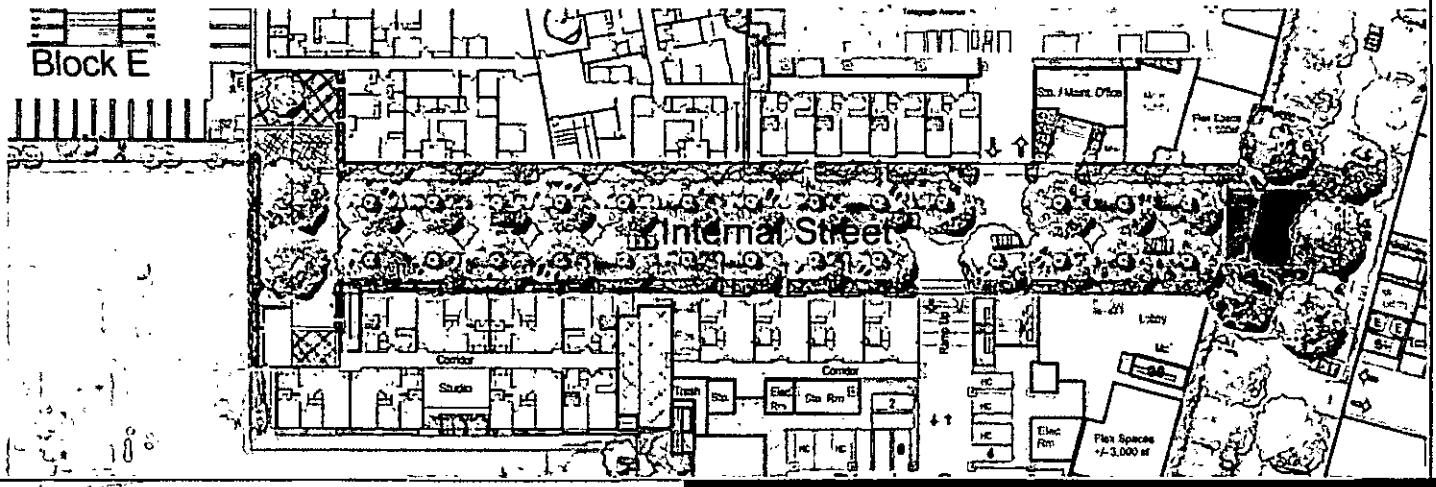
BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission







A-3.07a
Internal Street

M & L PARTNERS

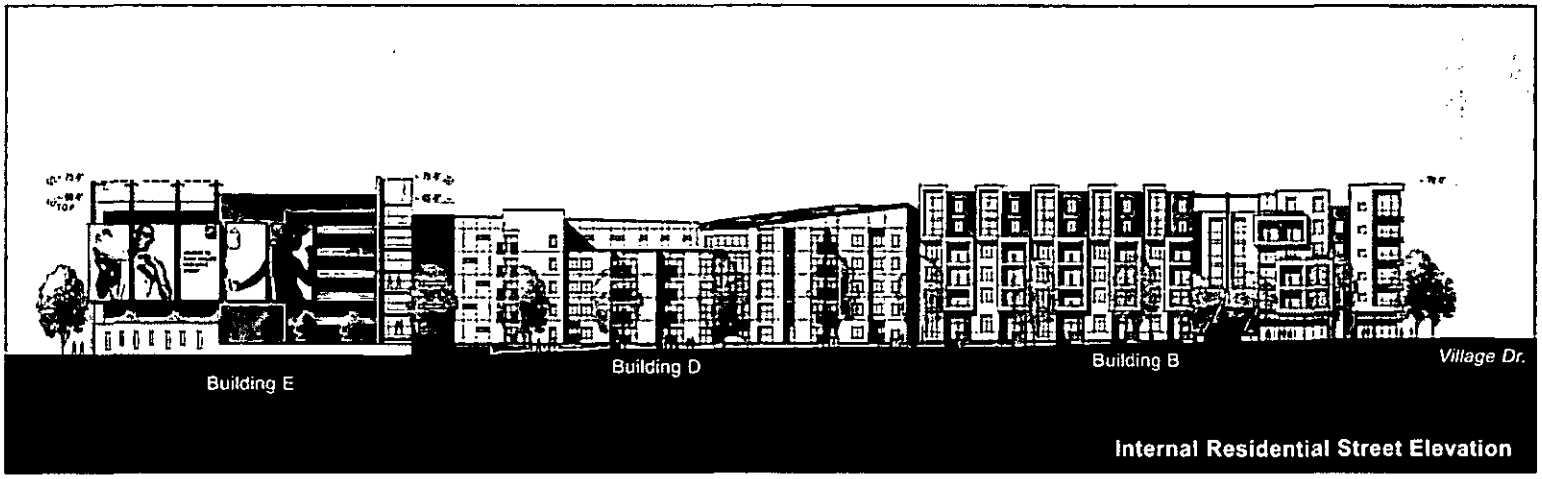
MacArthur Transit Community Partners, LLC

MacArthur

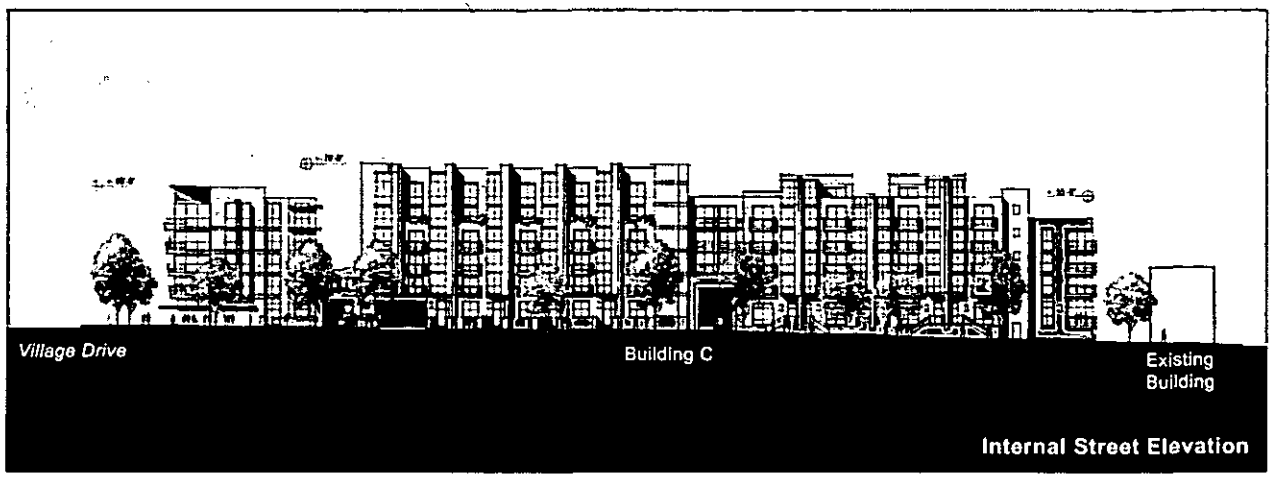
BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission



Internal Residential Street Elevation



Internal Street Elevation

A-3.07b
Internal Street

M&E PARTNERS

MacArthur Transit Community Partners, LLC

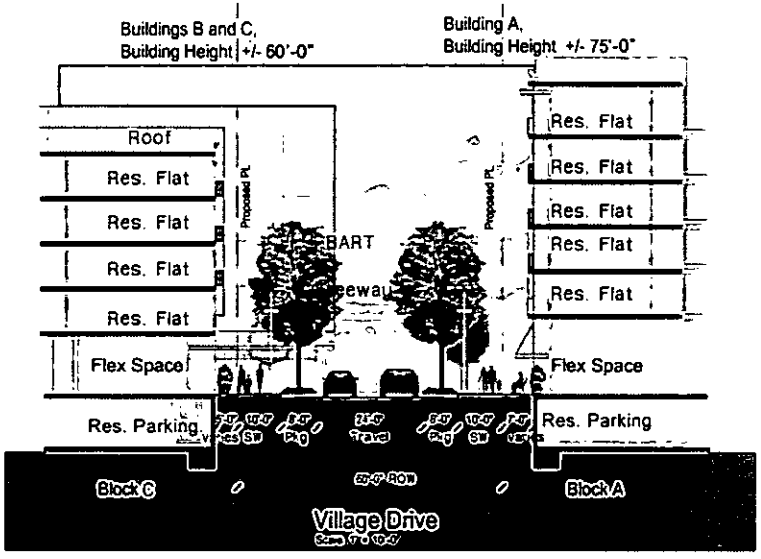
0 20 40 80 100

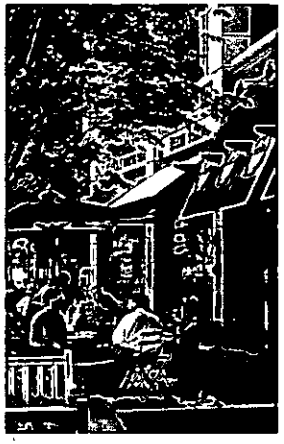
MacArthur

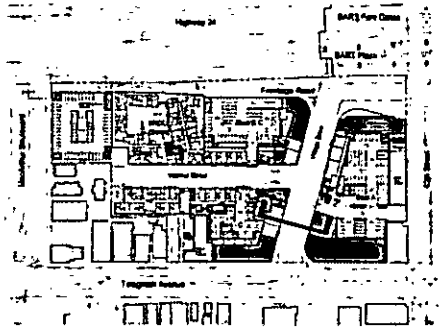
BART Transit Village
OAKLAND, CALIFORNIA

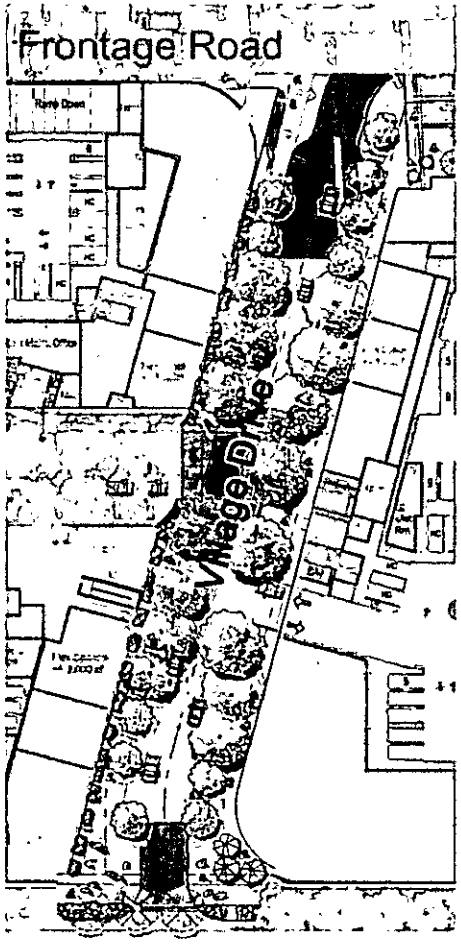
June 4, 2008

Preliminary Development Plan/ Planning Commission









A-3.08a
Village Drive

M&P PARTNERS

MacArthur Transit Community Partners, LLC

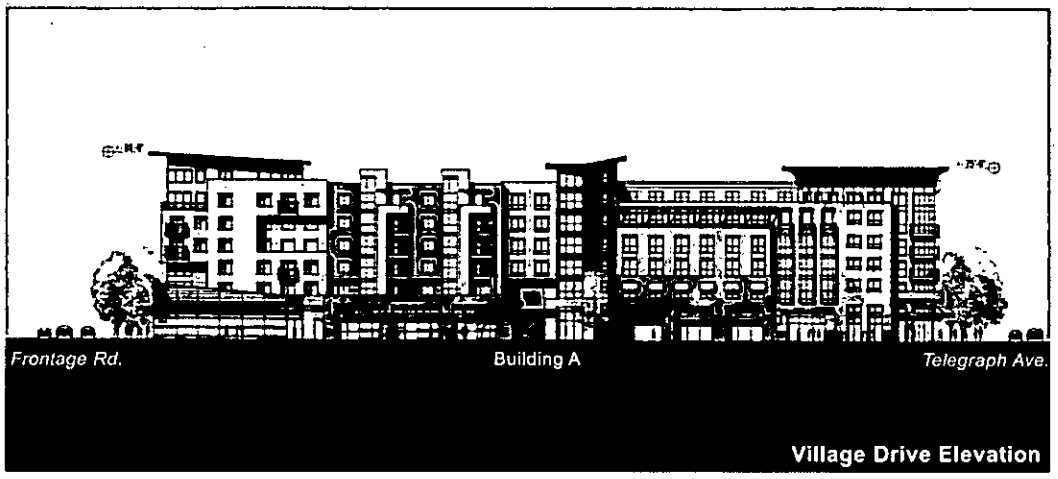
0 20 40 80 100

MacArthur

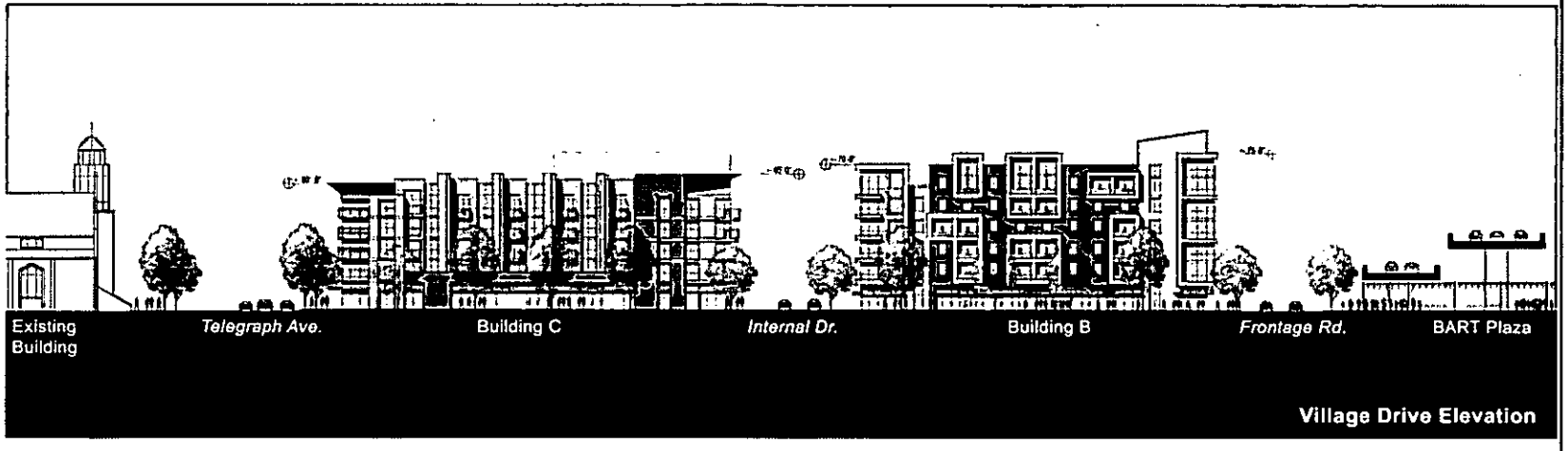
BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission



Village Drive Elevation



Village Drive Elevation

A-3.08b
Village Drive

ME & PARTNERS

MacArthur Transit Community Partners, LLC

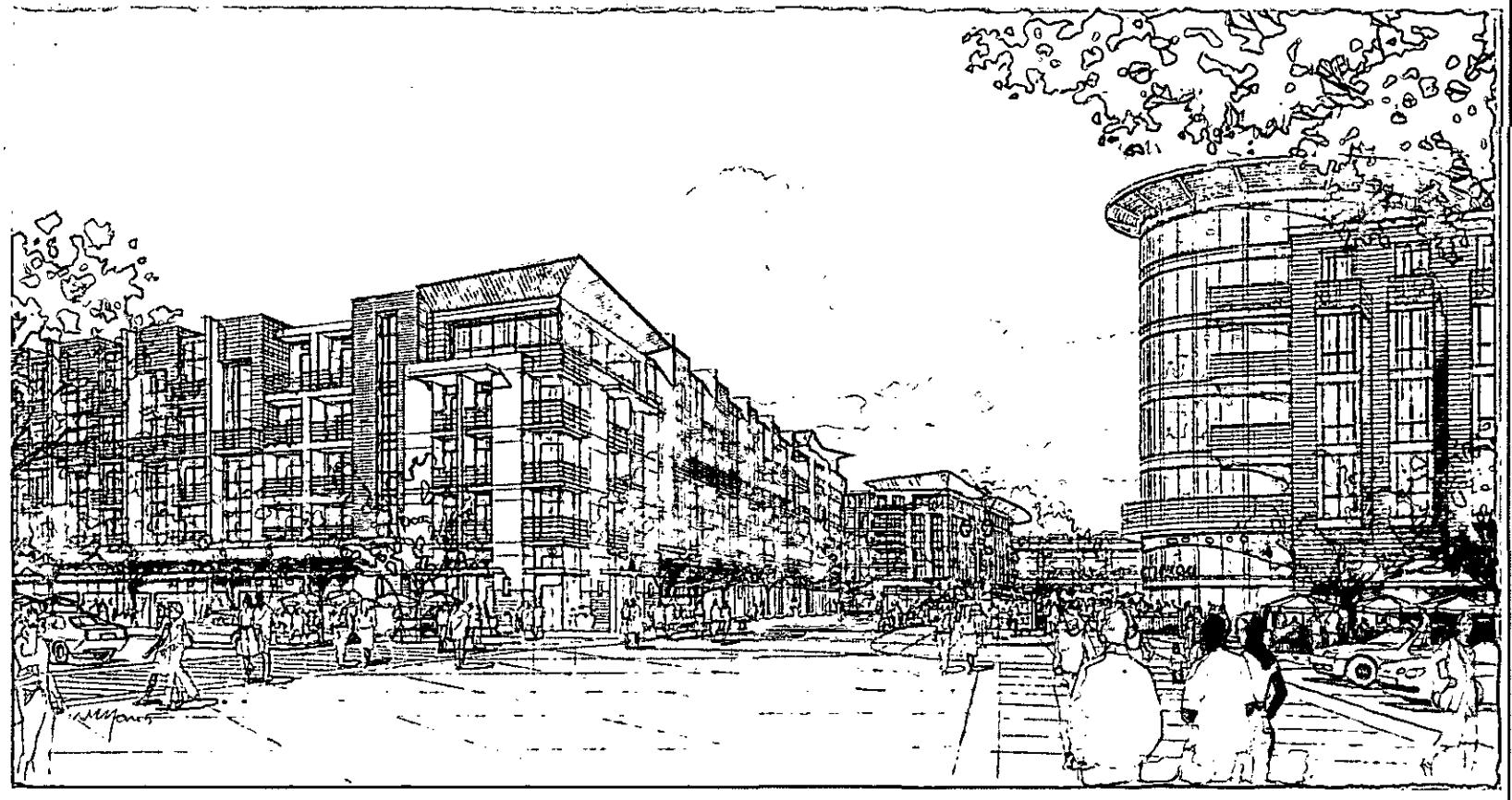
0 20 40 80 100

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission



Village Drive viewed from Telegraph Avenue

A-6.01 Perspective/
Village Drive

ML & PARTNERS

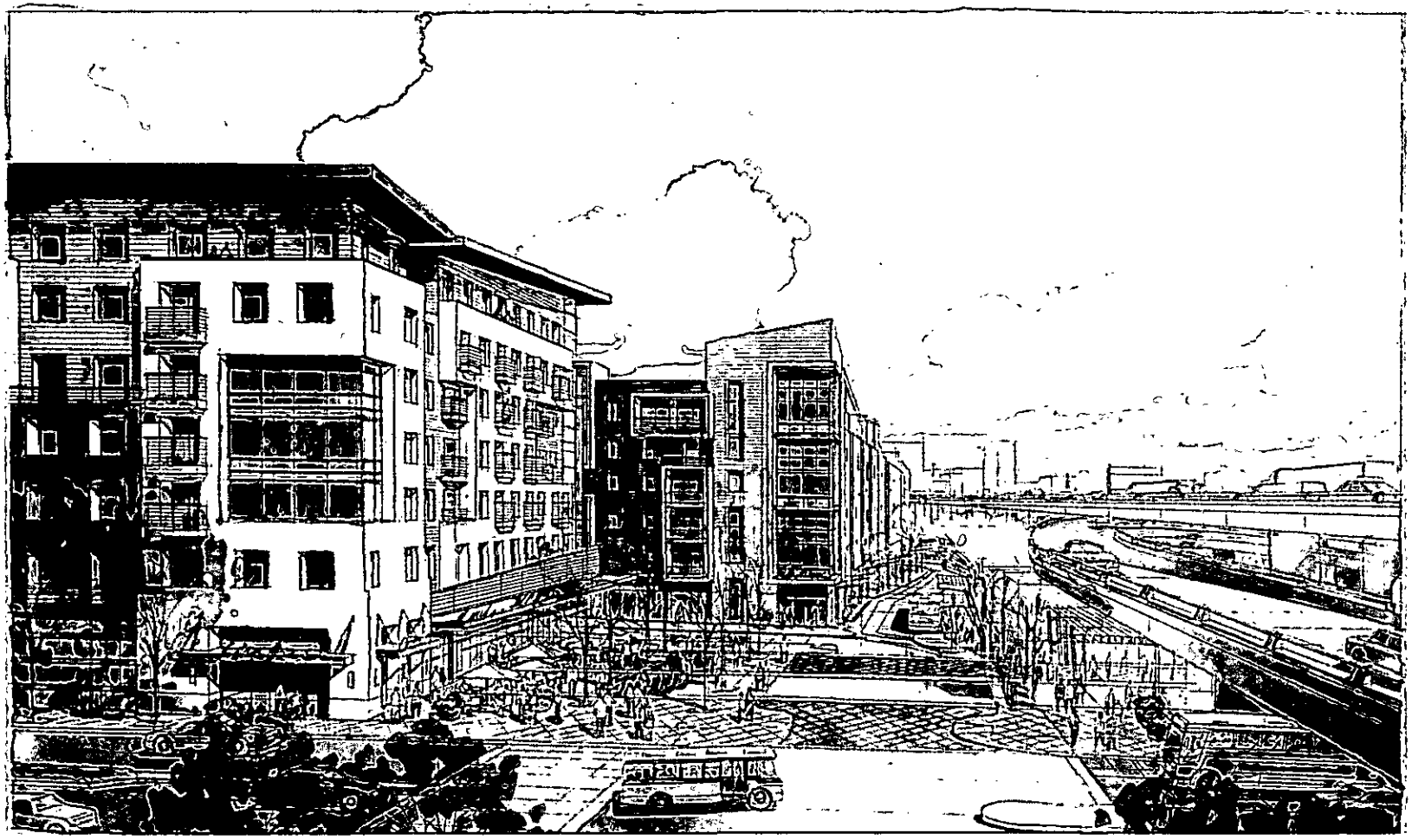
MacArthur Transit Community Partners, LLC

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission workshop



View of BART Plaza

A-6.02 Perspective/ BART Plaza

M & L PARTNERS

MacArthur Transit Community Partners, LLC

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission

View of Frontage Road from MacArthur Boulevard

A-6.03 Perspective/ Frontage Road

M L & PARTNERS

MacArthur Transit Community Partners, LLC

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission

View of Internal Street Looking North

A-6.04 Perspective/
Internal Street

M & PARTNERS

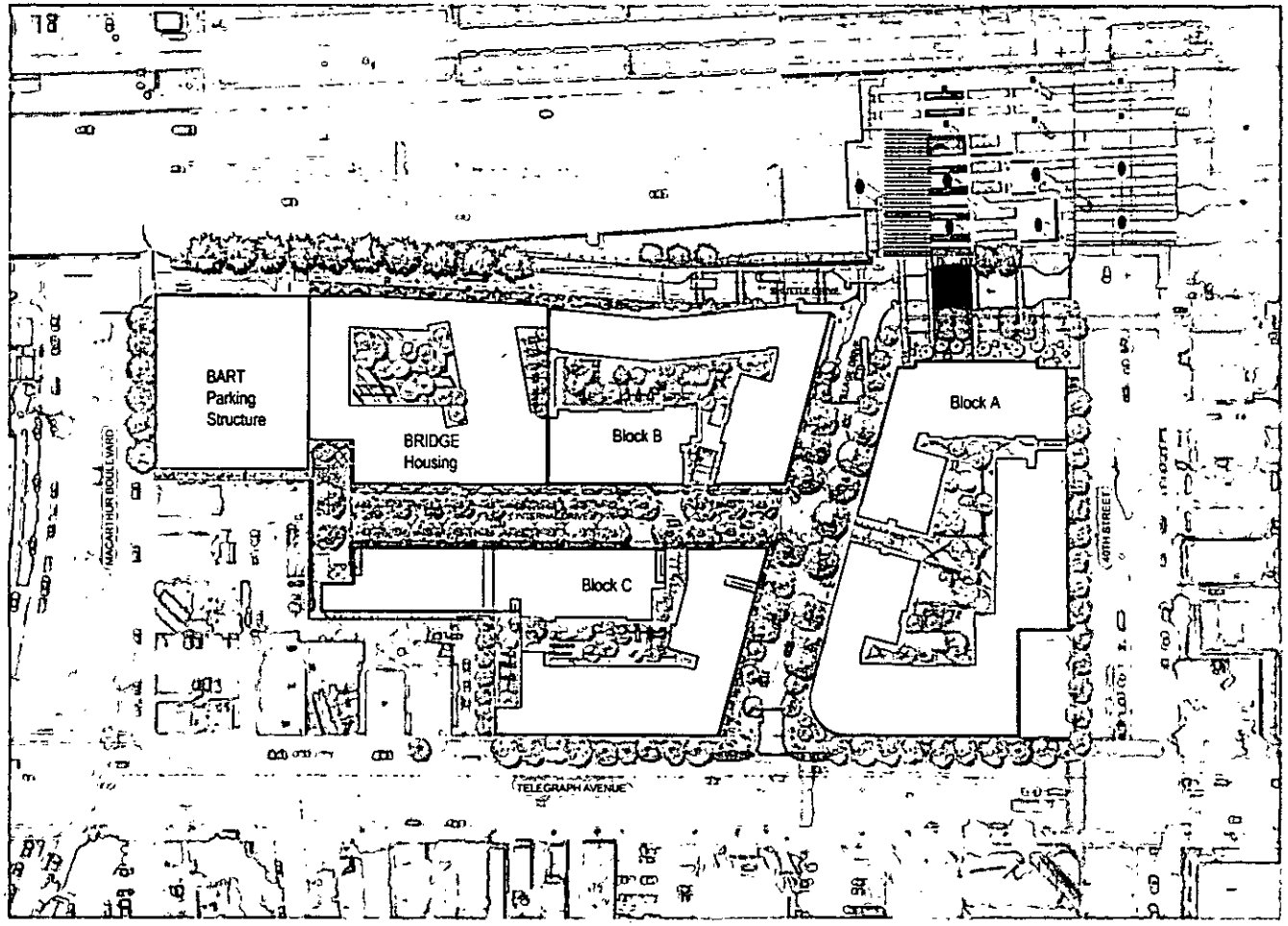
MacArthur Transit Community Partners, LLC

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission



L-01
Landscape
Master Plan

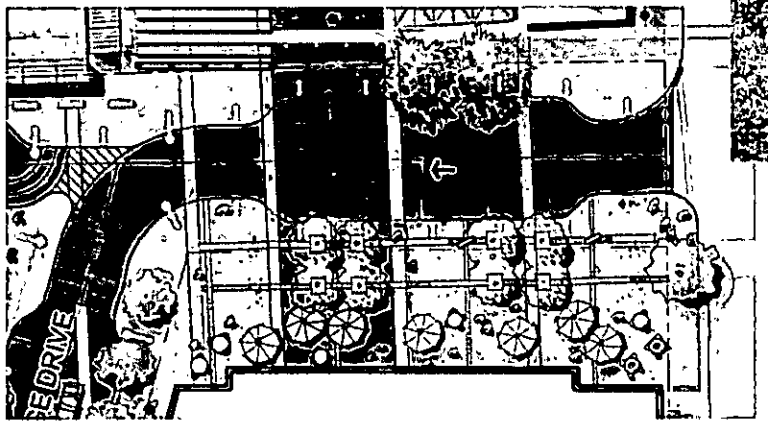
ML & PARTNERS

MacArthur Transit Community Partners, LLC

0 40 80 120 160

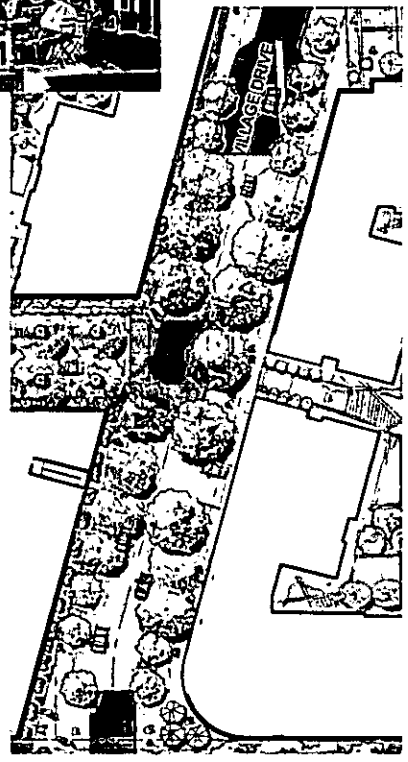
PGA design

BART PLAZA FACING EAST



Transit Plaza
urban
welcoming
safe
inviting planting

Village Drive
urban
commercial
tree-line
pedestrian friendly
engaging



MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

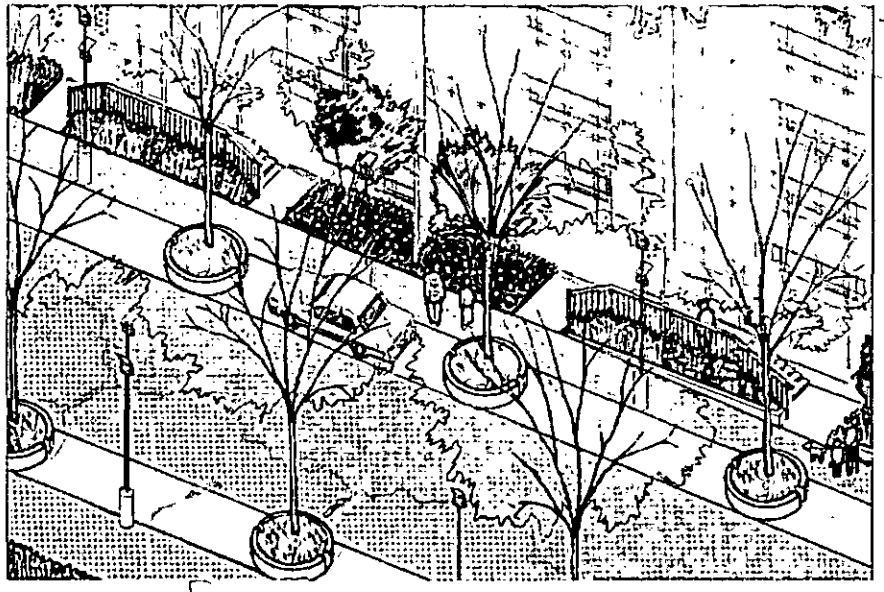
Preliminary Development Plan/ Planning Commission

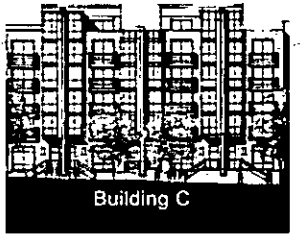
L-02 Landscape Concept BART Plaza/ Village Dr.

ML&P PARTNERS

PGA design

MacArthur Transit Community Partners, LLC

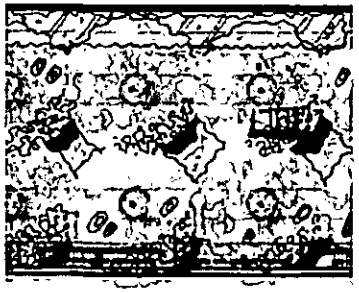




INTERNAL STREET
FACING EAST

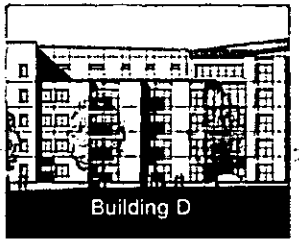
Internal Street

pedestrian scale
friendly/ welcoming
warm, residential



INTERNAL STREET PLAN VIEW

INTERNAL STREET
FACING WEST



SCALE: 1" = 20'-0"

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary
Development Plan/
Planning Commission

L-03
Landscape
Concepts
Internal Street

MLA PARTNERS

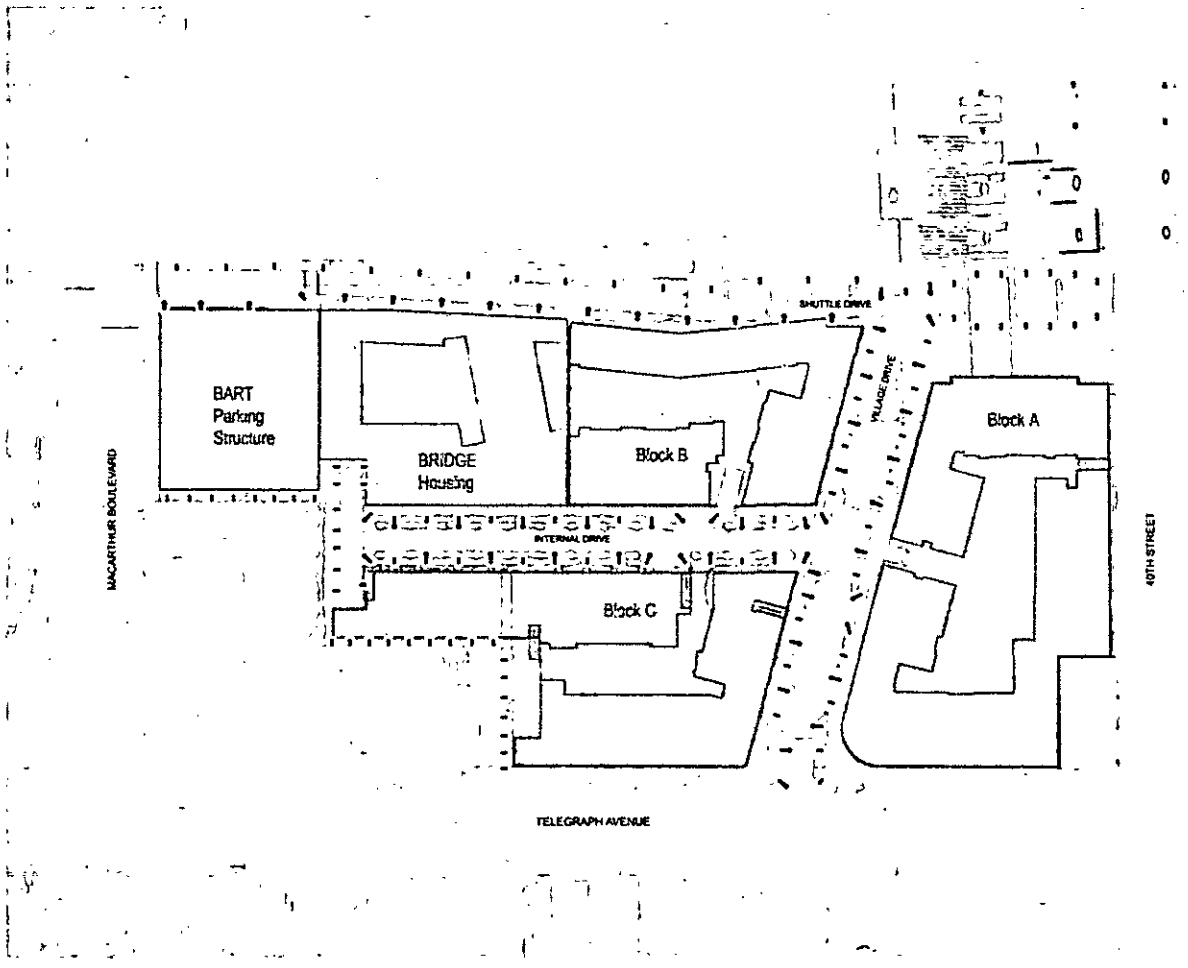
MacArthur Transit Community Partners, LLC

PGA design

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission



Legend

L-04 Street Lighting Concept

MacArthur Transit Community Partners, LLC

M&E PARTNERS

PGA design

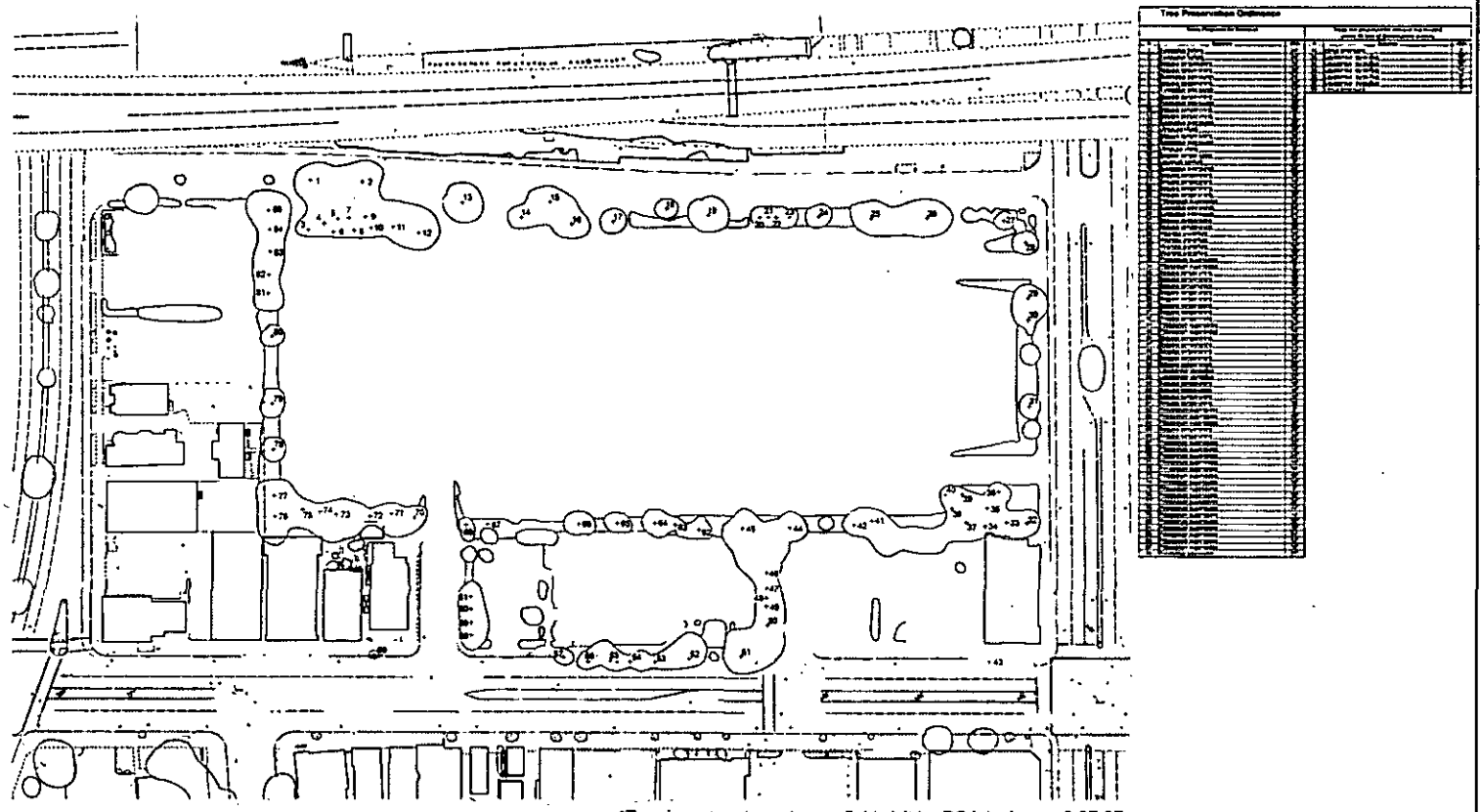
LANDSCAPE ARCHITECTS

0 40 80 120 160

MacArthur BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission



*Tree inventory based upon field visit by PGAdesign on 9.27.07.

L-05
Existing Tree Inventory

MacArthur Transit Community Partners, LLC

0 40 80 120 160

PGA design

Preliminary Plant List

Latin Name	Common Name
PERENNIALS	
Agapanthus orientalis	Lily-of-the-Nile
Dietes vegeta	Fortnight Lily
Hemerocallis spp	Daylilies
Iris douglasiana	Douglas Iris
Limonium perezii	Sea Lavender
Liriope muscari	Lily Turf
GROUNDCOVER	
Cerastium tomentosum	Snow-in-Summer
Euonymus fortunei	Euonymus
Helianthemum nummularium	Sunrose
Polystichum munitum	Sword Fern
Teucrium chamaedrys	Germander
SHRUBS	
Berberis darwinii	Darwin Barberry
Buddleia davidii	Butterfly Bush
Ceanothus griseus	Wild Lilac
Cistus salvifolius	Sageleaf Rockrose
Hebe 'Autumn Glory'	Hebe
Myrtus communis	True Myrtle
Phormium Tenax	New Zealand Flax
Pittosporum crassifolium 'Nana'	Pittosporum
Rosmar offic 'Collingwood Ingram'	Rosemary
Salvia leucantha	Mexican Bush Sage
TREES	
Cercis occidentalis	Western Rebud
Fraxinus oxycarpa 'Raywood'	Raywood Ash
Platanus racemosa	California Sycamore
Prunus cerasifera spp	Purpleleaf Plum
Pyrus calleryana 'Chanticleer'	Ornamental Pear
Sequoia sempervirens	Coast Redwood
Ulmus parvifolia	Chinese Elm
VINES	
Cissus antarctica	Kangaroo Ivy
Clytostoma callistegioides	Lavender Trumpet Vine
Jasminum polyanthum	Pink Jasmine
GRASS	
Miscanthus sinensis 'Purpurascens'	Flame Grass
Muhlenbergia rigens	Deer Grass
Pennisetum orientale	Fountain Grass

Lighting Goals

- Emphasize the pedestrian nature of the Transit Center through the use of lighting fixtures that are human-scaled, and of high quality.
- Ensure that there is adequate light levels to provide a safe environment for pedestrian, bicycle, and automobile traffic.
- Ensure a consistent streetscape character through the use of a unified family of light fixture elements.

Lighting Guidelines

- Place lighting standards near the street curb in order to provide pedestrians with a sense of security and comfort, as well as a physical barrier from cars.
- Arrange and locate light fixtures to ensure safe and consistent levels of illumination along pedestrian walkways. Provide extra lighting at intersections and transit stops.
- Use accent lighting to highlight specimen vegetation, fountains, public art, central gathering areas, and important building features.
- Shield or direct all lighting to minimize glare around residential areas.

Trees / Shrubs

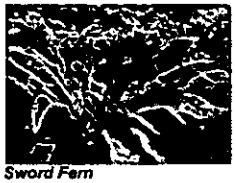
Coast Redwood

California Sycamore

Wild Lilac

Ornamental / Groundcover

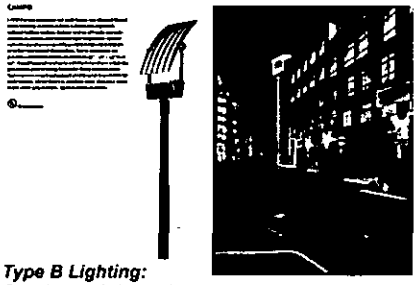
Deer Grass



Sword Fern

Douglas Iris

Type A lighting:
Roadway Light and
Secondary Pedestrian Light



Type B Lighting:
Roadway Light and
Secondary Pedestrian Lighting

MacArthur

BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

Preliminary Development Plan/ Planning Commission

L-06
Planting and Lighting Concept

ML & PARTNERS

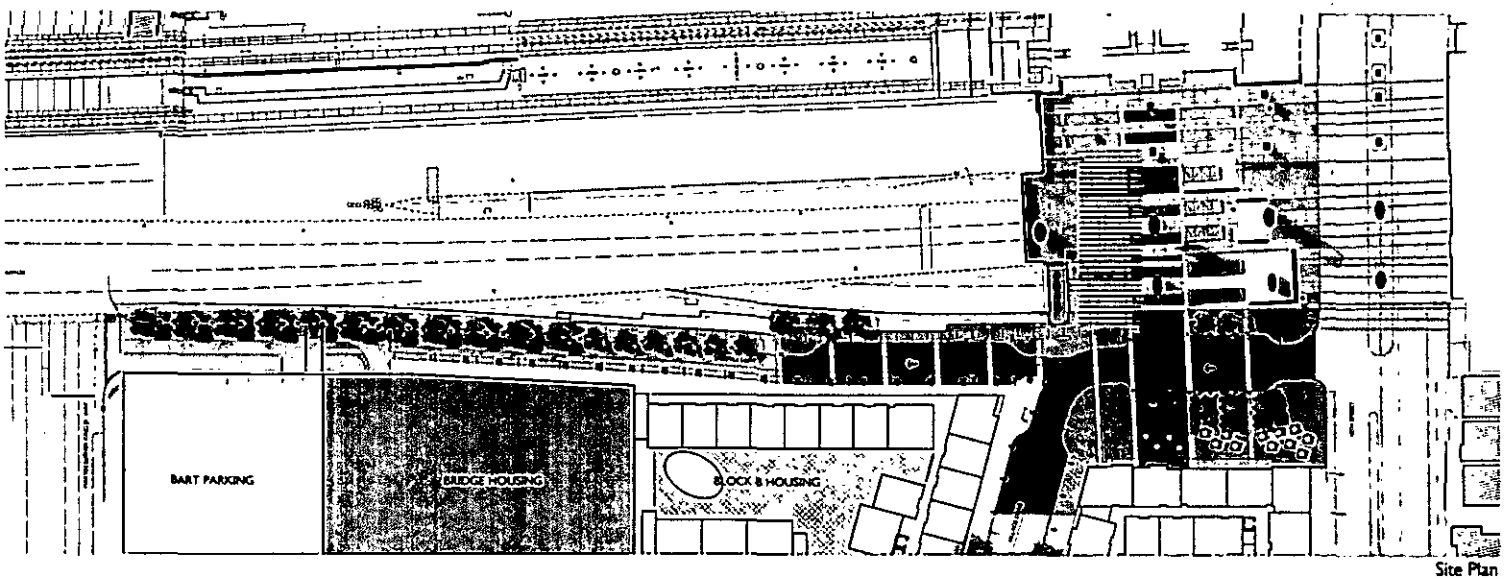
PGA design

MacArthur

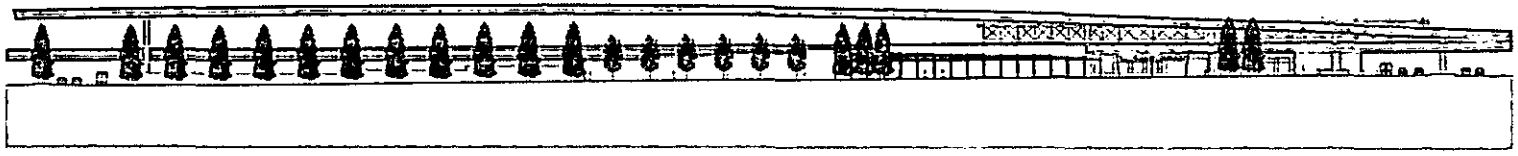
BART Transit Village
OAKLAND, CALIFORNIA

June 4, 2008

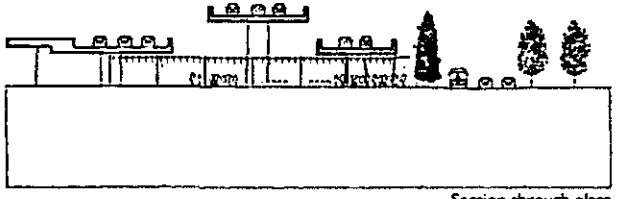
Preliminary Development Plan/ Planning Commission



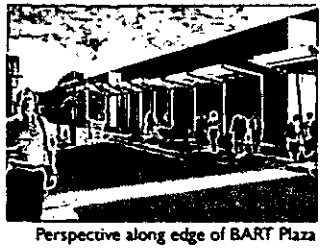
Site Plan
Scale: 1" = 64'



Elevation of BART Plaza
Scale: 1"=64'



Section through plaza
Scale: 1"=64'



Perspective along edge of BART Plaza

Perspective looking out of BART Plaza

Conceptual BART Plaza Design

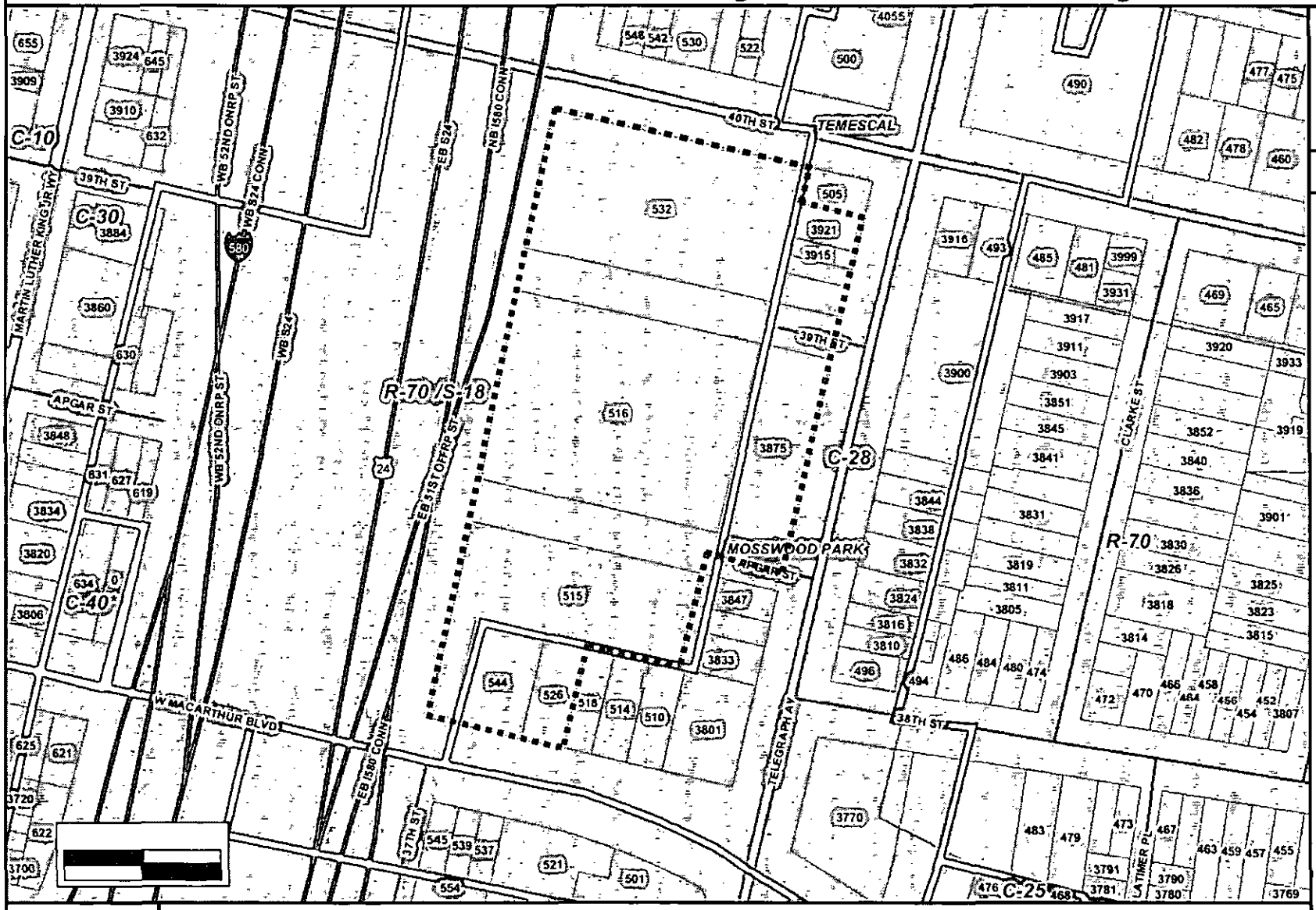
HOOD DESIGN
URBAN LANDSCAPE AND SITE ARCHITECTURE

Conceptual BART Plaza Design is included for informational purpose only and not for City review.

MacArthur Transit Community Partners, LLC

MacArthur Transit Village

Attachment C - Zoning and General Plan Designations



Legend

- City Limits
- Zoning
- Parcels
- Freeways
- MajorSts
- Streets
- Water

General Plan

- Business Mix
- Central Business District
- Community Commercial
- Detached Unit Residential
- Estuary Plan Area
- General Industrial/Transp
- Hillside Residential
- Housing and Business Mix
- Institutional
- Mixed Housing Type
- Neighborhood Center
- Regional Commercial
- Resource Conservation
- Urban Open Space
- Urban Residential
- Land

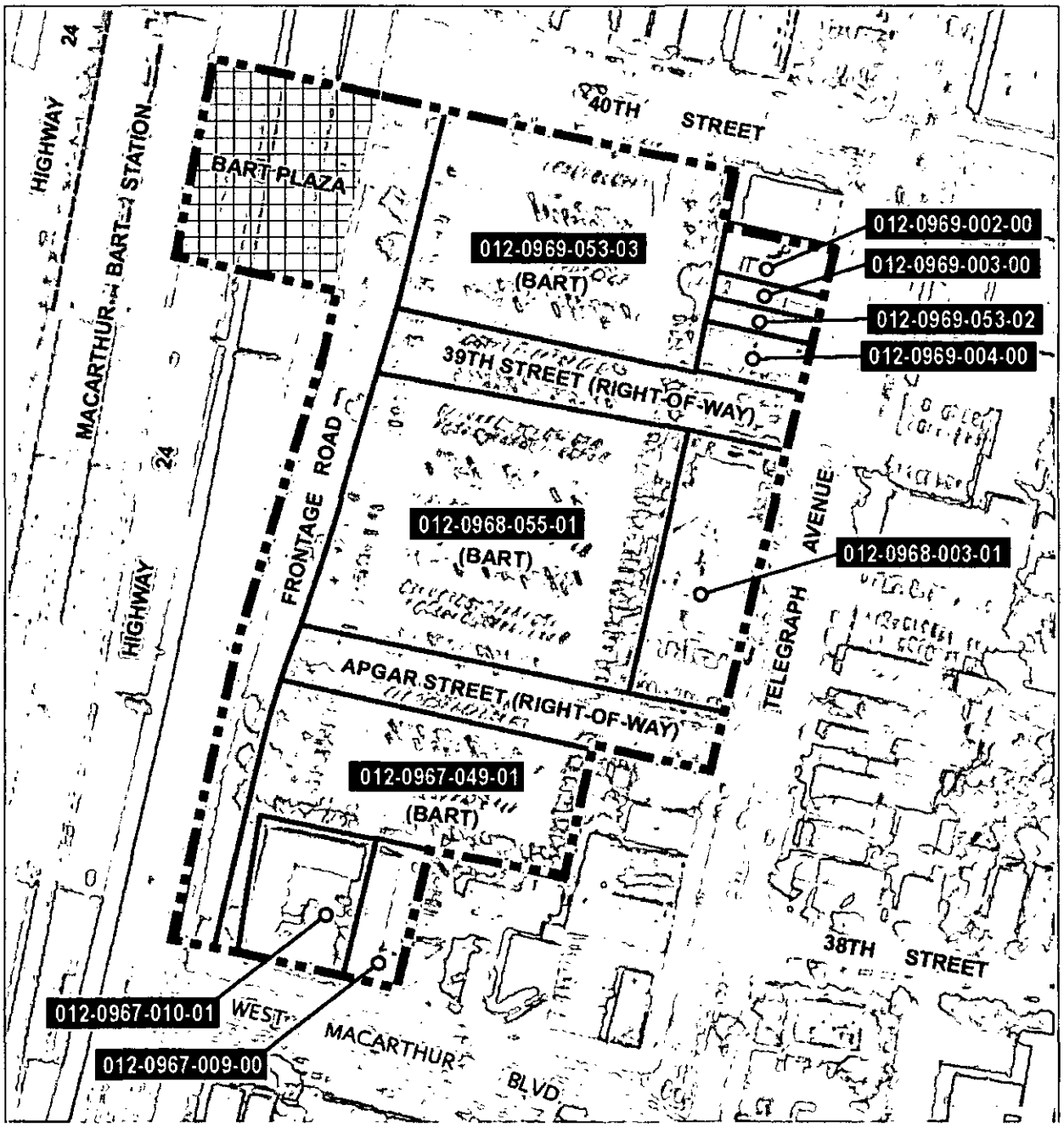
ATTACHMENT D
June 4, 2008 Planning Commission Report

Community and Economic Development Committee
June 4, 2008

Oakland City Planning Commission STAFF REPORT

Case File Number: ER06-0004, RZ06-0059, PUD06-0058 **June 4, 2008**

Location:	**Multiple parcels immediately adjacent to the MacArthur BART Station; on the west side of Telegraph Avenue Street between 40th Street and West MacArthur Boulevard (see map on reverse and Table 2 below)**
Assessors Parcel Numbers:	012-0969-053-03, 012-0968-055-01, 012-0967-049-01, 012-0969-002-00, 012-0969-003-00, 012-0969-053-02, 012-0969-004-00, 012-0968-003-01, 012-0967-009-00 & 012-0967-010-00
Proposal:	Demolition of existing structures and construction of the MacArthur Transit Village project: 5 new buildings containing 624 residential units, 42,500 square feet of commercial space (including 7,000 square feet of live/work and flex space), 5,000 square feet of child care/community space, a 300-space replacement parking garage for BART patrons, and approximately 680 parking spaces for the residential and commercial units (residential parking provided at a 1:1 ratio, 26 commercial spaces in building A parking garage and on-street parking spaces).
Applicant:	MacArthur Transit Community Partners (MTCP)
Contact Person	Joseph McCarthy (510) 273-2009
Owner:	Multiple property owners
Planning Permits Required:	Rezone (from C-28, Commercial Shopping Zone and R-70, High Density Residential Zone to S-15, Transit-Oriented Development Zone), Zoning Text Amendment relating to S-15 Open Space Requirements, Planned Unit Development (PUD) Permit, Design Review, Conditional Use Permit (CUP) to exceed parking requirements for residential uses and to allow off-street parking to serve non-residential land uses, and Tree Removal Permits for removal of 67 protected trees.
General Plan:	Neighborhood Center Mixed Use
Zoning:	C-28 (parcels on Telegraph Avenue and West MacArthur Boulevard), R-70 (BART parking lot parcels) and S-18 Mediated Design Review Combining Zone (entire site)
Environmental Determination:	A Draft Environmental Impact Report (EIR) was published on January 31, 2008; Final EIR published on May 23, 2008
Historic Status:	No CEQA historic resources are affected by the project; none of the existing buildings on-site are considered CEQA historic resources and none of the buildings on the project site are within, or are contributors to, a historic district.
Service Delivery District:	Service District 2
City Council District:	1
Date Filed:	October 5, 2007 (revised submittal; original submittal February 5, 2006)
Status:	Pending.
Action to be Taken:	Take public testimony and issue decisions/recommendations.
Staff Recommendation:	Approval subject to attached findings and conditions of approval
Finality of Decision:	Favorable (for approval) decisions/recommendations are automatically forwarded to the City Council for hearing and action. Unfavorable (for denial) decisions may be appealed to the City Council within ten (10) days.
For Further Information:	Contact the case planner, **Charity Wagner**, at **(415) 730-6718** or by e-mail at **clwagner@rrmdesign.com**


HIGHWAY 24
MACARTHUR BART STATION
BART PLAZA
40TH STREET
012-0969-053-03
(BART)
012-0969-002-00
012-0969-003-00
012-0969-053-02
012-0969-004-00
39TH STREET (RIGHT-OF-WAY)
FRONTAGE ROAD
012-0968-055-01
(BART)
012-0968-003-01
TELEGRAPH AVENUE
HIGHWAY 24
APGAR STREET (RIGHT-OF-WAY)
012-0967-049-01
(BART)
38TH STREET
012-0967-010-01
012-0967-009-00
WEST MACARTHUR BLVD

SUMMARY

The project applicant, MacArthur Transit Community Partners (MTCP) proposes 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. The transit village includes five new buildings that would accommodate 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. The project requires certification of the MacArthur Transit Village Final EIR and approval of rezoning, text amendment to the S-15 Zone, a planned unit development (PUD) permit, a major conditional use permit, and design review.

The purpose of this meeting is to consider the application submitted by MTCP to the City in October 5, 2007 for the project summarized above. Based on public comments, the results of numerous public meetings with the community, the Design Review Committee and the Planning Commission hearings, staff has now prepared recommended actions for the Planning Commission to review and consider. These actions are listed below:

(1) Certification of the Final Environmental Report including the adoption of required findings under the California Environmental Quality Act and the approval of the Mitigation Monitoring and Reporting Program.

(2) Amendment to the S-15, Transit Oriented Development Zone. This is a staff-initiated Zoning Text Amendment to modify the minimum open space requirement in the S-15 Zone.

(3) Rezoning of the project site from Commercial Shopping (C-28), High Density Residential (R-70) and Mediated Design Review Overlay (S-18) to Transit Oriented Development (S-15).

(4) Approval of the Planned Unit Development Permit to allow development of more than 100,000 sq.ft. at a BART station. The PUD Permit also includes approval of the Preliminary Development Plan dated May 28, 2008, and the MacArthur Transit Village Design Guidelines.

(5) Approval of a Major Conditional Use Permit to allow the proposed project to exceed the S-15 parking requirements for residential land uses and to provide off-street parking for non-residential land uses.

(6) Approval of Preliminary Design Review of the Preliminary Development Plan.

Staff recommends approval of the project subject to the attached findings and conditions. The Commission's approval of these items is considered to be a recommendation to the City Council; if approved, the decisions/recommendations of the Planning Commission would be automatically forwarded to the City Council and Redevelopment Agency for hearing and action. These actions are currently scheduled for review by the CED Committee on June 24, 2008 and it is expected that the City Council will hold public hearings to consider the items on July 1, 2008 (first reading of ordinance) and July 15, 2008 (second reading of ordinance).

BACKGROUND

Since 1993, the City has been working with BART and the MacArthur BART Citizens Planning Committee ("CPC"), comprised of community residents and representatives of neighborhood organizations, in a planning process for the development of the MacArthur Transit Village. After the previously selected project developer, Creative Housing Associates, failed to perform under their Exclusive Negotiating Agreement ("ENA") with the Agency in 2003, the Agency and BART selected a new development team for this project in April 2004 through a competitive Request for Proposals

process. This development team, MacArthur Transit Community Partners, LLC (MTCP), is a limited liability company that consists of a partnership between McGrath Properties (formerly known as Aegis Equity Partners) and BUILD (BRIDGE Urban Infill Land Development, LLC).

The MacArthur BART Citizen's Planning Committee (CPC) was created to assist the City and BART in the development of the MacArthur BART station. The CPC is made up of community members that live in the neighborhood surrounding the BART Station. Since being chosen in April 2004, MacArthur Transit Community Partners (MTCP) has met regularly with the MacArthur BART CPC to discuss and receive comments on the development.

In early February 2006, MTCP submitted a development application to construct a mixed-use transit village including residential and commercial development with the majority of residential units located within two 20-to 22-story towers. Upon review of the application, it was determined that an Environmental Impact Report (EIR) was required. The City issued a Notice of Preparation (NOP) on February 16, 2006, for preparation of an EIR for the project including the tower development. As a result of community input, changes in market conditions and construction feasibility, MTCP re-submitted their development application in 2007 showing removal of the towers within the project. Upon review of the revised application materials, the City issued a revised NOP on June 13, 2007. Following is a partial list of both public meetings and community meetings since MTCP was selected by the Redevelopment Agency in 2004.

- November 15, 2004, MacArthur BART Citizen's Planning Committee
- May 18, 2005, MacArthur BART Citizen's Planning Committee
- November 9, 2005, MacArthur BART Citizen's Planning Committee
- February 16, 2006, Mosswood Park Neighbors
- February 22, 2006, MacArthur BART Citizen's Planning Committee
- March 15, 2006, Planning Commission EIR Scoping Meeting
- September 26, 2006, 38th Street Neighbors
- October 5, 2006, MacArthur BART Citizen's Planning Committee
- September 11, 2007, Mosswood Park Neighbors
- September 12, 2007, Beebe Memorial Church Members
- November 1, 2007, MacArthur/Broadway/San Pablo Redevelopment Project Area Committee
- November 5, 2007, 38th Street Neighbors
- November 12, 2007, West Street Watch
- December 12, 2007: Design Review Committee (review and comment on PDP)
- February 7, 2008, MacArthur BART Citizen's Planning Committee
- March 5, 2008, Planning Commission Meeting to take comments on Draft EIR
- April 17, 2008, Bicycle and Pedestrian Advisory Committee
- April 30, 2008, Planning Commission Workshop on community concerns

At the Planning Commission work shop on April 30, 2008, staff provided a brief overview of the requested project approval key community concerns (see Attachment B for the April 30, 2008 workshop staff report); the project sponsor gave a detailed overview of the project and walked the Commission through the project plans and vision for the project; and following presentations from staff and the project sponsor, six individuals provided public testimony. The majority of the public speakers were in favor of the proposed project, but several speakers expressed concerns with regard to proposed reduction in BART parking. In addition to parking, which was the most discussed topic at the workshop, the Commission and public speakers raised the following discussion topics:

- Support for increased density of residential development
- Support for increased bike access and bike parking
- Support for project expressed on behalf of Greenbelt Alliance
- Support for a strategy to encourage occupancy of ground floor commercial space at the existing building of 40th and Telegraph
- Appreciation of height adjacent to existing building at 40th and Telegraph and overall height of retail spaces
- Support for increased accessibility beyond bikes and pedestrians (i.e., increased Emery-Go-Round services)
- Concern regarding congestion of vehicles and bike safety at the intersection of West MacArthur, Frontage Road and BART Garage
- Concern for adequate parking to support proposed commercial uses, and existing commercial uses
- Concern of perceived success for transit villages

PROPERTY DESCRIPTION

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

Table 1: Project Site Parcels

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

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

PROJECT DESCRIPTION

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

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

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

Table 2: Summary of Proposed Development

Building	Residential Units/Affordable Units	Live/Work Units	Retail SF[b]	Community SF	Building Height (Feet)	Number of Stories	Parking Spaces
A	213/7	3	23,500	--	50-85	4/6	242
B	132/5	2	5,000	--	55-80	6	134
C	189/6	3	9,000	5,000	55-70	5/6	189
D	90/90	--	--	--	45-65	5	91
E	--	--	5,000	--	68	6	324
Total	**624/108**	**8**	**42,500[1]**	**5,000**	--	--	**980[2]**

[1] Retail area shown in table includes square footage of live/work units.
[2] Parking shown in table does not include the proposed on-street parking spaces.

Building A. Building A ranges in height from a four- to six-story building and is located in the northeast corner of the project site with frontage on 40th Street, Telegraph Avenue, and Village Drive. Building A is a mixed-use building with 23,500 square feet of commercial space located on the ground floor and 213 for-sale market-rate condominiums, and 7 for-sale below-market rate condominiums on the upper floors. Of the 23,500 square feet of commercial space, 3,000 square feet, would be "flex spaces" on Village Drive and 3,000 square feet of "flex space" on 40th Street. Flex spaces may be occupied by live/work

units, retail uses and/or community space for residents (i.e., gym or recreation room) in the buildings in which the flex space is located. Parking for Building A is provided in a two-level parking garage. The lower level of the parking garage in entirely below grade and the second level is above grade at the street level. The parking at the street level is wrapped by commercial area so the parking is not visible from the street. Access to the condominium units is provided by internal courtyards and vehicular access to the parking garage under Building A is provided by a driveway on Village Drive.

Building B. Building B is a six-story building located along the western edge of project site, south of Village Drive and adjacent to the shuttle access road with building frontage on Village Drive, Entry Drive and the proposed north/south internal street. Building B is a mixed-use building with 3,500 square feet of commercial space and 1,500 square feet of "flex space" on the ground floor, 132 for-sale market-rate condominiums and 5 below-market rate for-sale condominium units located throughout on all floors. Residential condominium units would be located on the upper floors of Building B and on the ground floor adjacent to the internal street. Parking for Building B is provided in a two-level parking garage. The lower level of the parking garage is entirely below grade and the second level is above grade at the street level. The parking provided at street level is wrapped by commercial area and residential units so the parking is not visible from Village Drive or Internal Street. The street level parking area is visible from Frontage Road, but will be screened by landscaping. Access to the condominium units is provided by internal courtyards and individual unit entrances that front onto the internal street. Front entrances with stoops and small porches are envisioned along the internal street frontage of Building B. Vehicular access to the parking garage under Building B is provided by a driveway on the internal street.

Building C. Building C is a five- and six-story building located along the eastern edge of the project site at the southwest corner of Telegraph Avenue and Village Drive. Building C is a mixed-use building with 6,500 square feet of commercial space and 2,500 square feet of "flex space" on the ground floor, 189 market rate condominiums and 5 below-market rate residential condominium units on the upper floors. Building C also includes 5,000 square feet of community-serving space located on the ground floor. The 5,000 square feet of community space is accompanied by a 2,000 square foot outdoor play area as the applicant is currently considering that a private childcare provider may occupy the community space. Residential condominium units would be located on the upper floors of Building C and on the ground floor adjacent to the internal street. Access to the condominium units is provided by internal courtyards and individual unit entrances that front onto the internal street. Parking for Building C is provided in a two-level parking garage. The lower level of the parking garage in entirely below grade and the second level is above grade at the street level. The parking provided at street level is wrapped by commercial area and residential units so the parking is not visible from the street. Vehicular access to the parking garage under Building C is provided by two driveways on the internal street.

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

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

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

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

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

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

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

APPLICABLE POLICY DOCUMENT ANALYSIS

General Plan Analysis

The site is located in the Neighborhood Center Mixed Use land use designation of the Oakland General Plan. According to the General Plan, the intent and desired character of the NCMU designation is the following:

> **Intent**: The Neighborhood Center Mixed Use classification is intended to identify, create, maintain and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural or entertainment uses.
>
> **Desired Character and Uses**: Future development within this classification should be commercial or mixed uses that are pedestrian-oriented and serve nearby neighborhoods, or urban residential with ground floor commercial.

The site is also designated as a "Transit-Oriented Development District" in the General Plan. Below is a description of the Transit-Oriented District designation:

> Transit Oriented Districts (TODs) are designated to take advantage of the opportunities presented by Oakland's eight region-serving BART stations and one location – Eastmont Town Center – served by multiple AC Transit lines. Many of these station locations, and the areas surrounding them, offer significant opportunities for compact, mixed-use types of development that include housing, business and other services. This strategy supports city and regional goals to foster sustainable development linking transit with higher density housing types downtown stations, for example, offer expansion opportunities for office, business, and housing development. Because each location offers unique possibilities, the TODs are discussed individually in the Transportation and Transit-Oriented Development section of the Policy Framework. Easy pedestrian, bicycle, and transit access, as well as a strong identity created through careful design and a mix of activity will be part of each transit-oriented district.

The Transportation and Transit-Oriented Development section includes the following description of the MacArthur BART Transit-Oriented District:

> MacArthur BART is uniquely situated as the central hub and transfer point of the BART system, with trains arriving and departing to destinations around the Bay Area. Four major arterials that support local traffic and commerce are adjacent to the station – Telegraph Avenue, MacArthur Boulevard, 40th Street, and Martin Luther King Junior Way. As the central hub, MacArthur BART has been proposed as a Maximum Access Station, a designation that must complement the type and density of uses in the surrounding development area, now characterized by mixed housing types and neighborhood-serving retail uses. Proposals to open up the Station entrance on the Martin Luther King Jr. Way side of the site are also being explored by BART and citizens concerned about providing safe and convenient access for Martin Luther King Jr. Way businesses and residents. New development around the station should capitalize on its maximum access potential to create business and residential revitalization, enhance the safety of the neighborhood, provide secure parking, improve station access, and encourage pedestrian activity and the use of public transportation.

The project is consistent with the density provisions of the NCMU General Plan land use designation. The maximum residential density allowed under this designation is 125 units per gross acre.[1] At a total acreage of 7.38 acres (not including the BART plaza), the General Plan would allow a maximum of 923 residential units on the site. The proposal includes 624 residential units (85 du/gross acre). Staff has also reviewed the project for consistency with relevant policies in the Land Use and Transportation Element of the General Plan. Staff believes that the proposed project is consistent with the applicable policies of the General Plan. A General Plan Amendment is not required. Please refer to Table IV.B-1 of MacArthur Transit Village Draft EIR (pages 108 to 122) for a discussion about the proposed project, which will transform the existing BART surface parking lot into a mixed-use transit village neighborhood, and its relationship with these key policies. The DEIR discussion is incorporated herein by reference.

Zoning Analysis

The site is located in two different base zoning districts with one overlay zone covering the entire site. The BART parking lot parcels are located in the R-70 High Density Residential Zone and parcels fronting on Telegraph Avenue and West MacArthur Boulevard are located in the C-28 Commercial Shopping Zone. The entire site is located in the S-18 Mediated Design Review Combining Zone. The proposed density and mix of commercial and residential uses within the transit village is not consistent with the existing R-70 and C-28 Zones. The applicant proposes to rezone the entire site to the S-15 Transit Oriented Development Zone. The S-15 Zone is consistent with the General Plan designation (Neighborhood Center Mixed Use). A map depicting existing and proposed zoning is included in this report as Exhibit E.

The intent of the S-15 zone is the following:

> [T]o create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial and mixed-use developments to encourage a balance of pedestrian-oriented activities, transit opportunities, and concentrated development; and encourage a safe and pleasant pedestrian environment near transit stations by allowing a mixture of residential, civic, commercial, and light industrial activities, allowing for amenities such as benches, kiosks, lighting, and outdoor cafes; and by limiting conflicts between vehicles and pedestrians, and is typically appropriate around transit centers such as Bay Area Rapid Transit District (BART) stations, AC Transit Centers and other transportation nodes. (OPC Sec. 17.100.010)

Staff believes the proposed rezoning best serves the public interest by meeting the following objectives of the zoning regulations:

A. **To promote the achievement of the proposals of the Oakland Comprehensive Plan (Section 17.07.030A).** The proposed rezoning will facilitate implementation of the proposal for a mixed use transit-oriented development which furthers the objectives of the General Plan (formerly the Comprehensive Plan). The proposed project is a transit-oriented development adjacent to a BART station. The current zoning designations are designed for more traditional commercial and residential developments; therefore, the City finds the rezoning of the project site to S-15, Transit Oriented Development zone would best serve the public interest for redevelopment of the project site because the S-15 zone provides development regulations specific to creation and implementation of TOD projects.

[1] The General Plan specifies residential density as "principal units per gross acre." Gross acreage includes all land in the neighborhood, including streets and parks.

The S-15 zone is consistent with the Neighborhood Center Mixed Use General Plan land use designation.

B. **To provide for desirable, appropriately located living areas in a variety of dwelling types and at a wide range of population densities, with adequate provision for sunlight, fresh air, and usable open space (Section 17.07.030D).** The proposed rezoning provides for residential and commercial mixed use development immediately adjacent to the existing MacArthur BART Station. The project includes both for-sale and for-rent affordable housing with a variety of unit types including studio units, 1-bedroom, 2-bedroom and 3-bedroom units to augment the city's supply of multi-family affordable housing. The project is designed to maintain adequate provision sunlight and air, and usable open space consistent with urban development standards by providing open space areas consistent with the proposed S-15 open space requirements which are consistent with the S-17 open space requirements. Open space within the project will include open air courtyards and the plaza adjacent to Building A. Additionally, a setback of 5 feet is proposed between the upper floors of the new and existing building at the corner of Telegraph Avenue and 40th Street.

C. **To achieve excellence and originality of design in all future developments and to preserve the natural beauty of Oakland's setting (Section 17.07.030G).** The proposal exhibits design excellence and originality through the efficient use of space, variety in architecture styles (to be further defined with Final Development Plans) and commitment to sustainable design through participation the LEED ND Pilot Program.

Staff also believes that the proposed text amendment to reduce open space standards in the S-15 zone best serves the public interest. The reduction in required open space would further the goals of TOD by increasing design flexibility for open space by removing the separate group and open space standard, and encourage increased density. The amendment would make the S-15 open space requirements consistent with the open space requirement currently applied to residential projects in the City's Downtown Open Space Combining (S-17) Zone. The amendment would apply to all properties in the City zoned S-15, and there two other areas of the City zoned S-15: parcels around Fruitvale BART Station and parcels around West Oakland BART station. The proposed project, and other properties zoned S-15, are located in walking distance to parks in the neighborhood. Additionally, surveys of other cities standards for open space in TOD, and mixed-use zones demonstrated that other agencies have similar standards. For these reasons, the text amendment to reduce open space requirements in the S-15 to be consistent with the S-17 zone, would promote the objectives of the General Plan to encourage TOD development near transit stations and therefore best serve the public interest.

Redevelopment Plan Analysis

The project site is located within the Broadway/MacArthur/San Pablo Redevelopment Project Area. The land use designations in the Broadway/MacArthur/San Pablo Redevelopment Plan correspond to the land use designations contained in the General Plan. The project is consistent with the General Plan designation, and is therefore consistent with the Redevelopment Plan designation. The proposed project will further the Redevelopment Agency's achievement of the following goals and objectives of the Broadway/MacArthur/ San Pablo Redevelopment Plan and its Five Year Implementation Plan:

- The MacArthur Transit Village Project will increase the stock of ownership housing and will provide affordable rental housing units in the Broadway/MacArthur/San Pablo Redevelopment Project Area;
- Development on the BART surface parking lot at the MacArthur BART Station will contribute to the Agency's goals to concentrate infill development on underutilized properties within the Broadway/MacArthur/San Pablo Redevelopment Project Area;

- The public improvements that will be included as part of the MacArthur Transit Village Project will improve access to BART and to the other public transportation providers that serve the BART station from the surrounding community; and
- The MacArthur Transit Village Project, once developed, will enhance residential and commercial property values adjacent to the MacArthur BART Station, and will encourage efforts to alleviate economic and physical blight conditions in the area, including high business vacancy rates, vacant lots, and abandoned buildings, by enhancing the development potential and overall economic viability of neighboring properties.

ENVIRONMENTAL DETERMINATION

An Environmental Impact Report has been prepared for this project, and prior to action on the requested approvals, action must be taken to certify the Final EIR as an adequate environmental analysis of the project. The Draft EIR was published on January 31, 2008 and the 45-day public comment period ended on March 17, 2008. A total of 24 comment letters were received during the comment period: six were from governmental agencies, one was from a community organization, and 17 were from individuals. Oral and written comments on the Draft EIR were also received at the Planning Commission public hearing on March 5, 2008. The Response to Comments Document (which together with the Draft EIR make up the Final EIR) was published on May 23, 2008 includes written responses to all comments received. A summary of the analysis included and the impacts identified in the Draft EIR was previously provided to the Planning Commission in the report for the Draft EIR hearing on March 5, 2008 (see Attachment A). Detailed CEQA-related findings are contained in Exhibit A.

KEY ISSUES

The Planning Commission conducted a public hearing/workshop to discuss the proposed project on April 30, 2008. Six individuals presented public testimony on the merits of the proposal and the Commission provided direction to staff and the applicant on the key areas of community concern. The focus of the following key issues discussion is based on outstanding items that were not addressed or resolved at the April 30th meeting and items for which the Planning Commission requested additional information. The Commission may wish to review the April 30 workshop staff report (see Attachment B) for more detailed discussion of the community concerns.

Parking & TDM Program

The proposed project includes a parking reduction from 600 to 300 BART patron parking spaces. Members of the community have voiced concern with regard to the parking reduction and the amount of parking proposed for residents, visitors and commercial patrons of the project. The majority of comments that staff has received relate to concerns about the reduction of BART parking. Residents of the area haven observed that under existing conditions (600 spaces) BART patron parking spills over into neighborhood streets and the amount of parking proposed will not be adequate to meet the parking demand of BART patrons.

At the Planning Commission workshop on April 30th, a few members of the Commission also expressed concern with respect the proposed parking arrangements for the project. Staff understands the concerns expressed from both the community and the Planning Commission, and has worked with the project sponsor to create a parking program for the proposed project that is both sensitive to the surrounding neighborhood and BART riders, as well as progressive and forward thinking for a transit village development. Key elements of the program are described below.

RPP Program
With regard to overflow of BART patrons parking within the surrounding neighborhood, the project sponsor has committed to fund $150,000 towards initiating a Residential Permit Parking Program for an area ¼ mile around the station. If approved, the RPP Program would limit street parking to two hours for non-residents of the RPP Program area. However, it is difficult to ensure implementation of an RPP Program because the program requires a petition signed by 51 percent of the resident population in the proposed RPP area and is subject to City Council approval. Should the RPP Program be the desire of the resident population and the City Council, the project applicant has committed to funding the initial costs of an RPP Program (up to $150,000) as part of the Conditions of Approval (see Condition No. 21).

TDM Program
The project sponsor is required to prepare and maintain a Traffic Demand Management (TDM) Program. The TDM Program is intended to serves two purposes: 1) fulfill CEQA mitigation measure requirements by providing implementation strategies to reduce vehicle trips from the project and 2) address planning concerns related to displaced BART parkers. The draft TDM Program, dated May 27, 2008, is included in this report as Exhibit C-2 and a summary of the recommended strategies are provided below.

There are currently 600 parking spaces within the surface parking lot at the BART station. In addition to these 600 parking spaces, recent surveys confirmed that approximately 200 BART patrons currently park in the neighborhood within ¼ mile radius around the station. As such, it is estimated that the parking space demand for the BART station is 800 spaces. The proposed project provides 300 BART parking spaces within the BART garage, and previous analysis indicates that approximately 51% who currently drive to BART would switch to another mode of transit rather than drive to another BART station or drive directly to their end destination. With a demand of 800 parking spaces, and an anticipated 50% of drivers that would switch to an alternate mode of transportation, there is a net demand of about 400 parking spaces and the proposed BART replacement garage will provide 300 spaces. To make-up for a potential shortfall of 100 spaces, the TDM Program recommends that the project provide an additional 210 parking spaces to make up for the gap of riders that would not switch travel modes. The 210 parking spaces would be provided by adding another level of parking to the BART garage (this additional level would be below grade), providing a parking attendant at the BART garage and/or securing 50 parking spaces within off-site parking lots within ¼ mile of the project site, or other alternative mechanisms as detailed in the TDM Program.

The TDM Program also includes the following measures to reduce vehicle trips from the project, which would in turn reduce the demand for parking at the site:

- Unbundle 10% of the parking for all market-rate residential units within project (for all phases, not just Building A)
- Unbundle parking for the affordable housing component, if feasible
- Offer lease back parking options for the project residents; the program will be managed by the HOA or entity approved by the HOA and will offer available parking to BART patrons, other than project residents, and commercial tenants
- Provide car share spaces in BART garage and within the proposed project
- Provide a marketing coordinator to distribute materials about transit programs to residents as part of the "move-in" packets
- Fund a one-time marketing campaign to educate neighborhood residents about alternative modes of transportation currently available to access BART station

- Facilitate discussions with BART, AC Transit and Emery-Go-Round to explore the potential for an additional shuttle stop or other transit service along 40th Street between the Emeryville Border and Telegraph Avenue
- Offer discounted transit passes to project residents
- Provide secure bike parking and bike repair area for residents
- Phase construction of parking within the project

The TDM Program also requires the project sponsor to submit a TDM monitoring plan at the beginning of each construction phase. The monitoring plan will gauge the effectiveness of the strategies and recommend modifications to improve the effectiveness of the program, including the option to increase the percentage of un-bundled parking and/or reduce on-site parking in future project phases if the demand for parking is decreased by the nature and location of the project as a transit village. Additionally, Condition No. 35 will ensure that the project sponsor coordinates with BART on the construction of the BART parking.

Design Guidelines
As mentioned at previous meetings with the Planning Commission and the Design Review Committee, the Preliminary Development Plan (PDP) does not include approval of architectural plans or elevations for future buildings. The PDP sets the stage for the project's overall site planning, building bulk, mass and height. Detailed building elevations will be reviewed and approved by the Design Review Committee and Planning Commission as part of the Final Development Plans (FDPs). To ensure that the FDPs are consistent with the vision for the project, staff has worked with the project sponsor to prepare the MacArthur Transit Village Design Guidelines (see Exhibit C-3).

The MacArthur Transit Village Design Guidelines include design principles and design guidelines. The design guidelines are divided into five sections: Site Planning; Architectural Design including sub sections for Height, Bulk and Scale and Architectural Treatments; Public Space Improvements; Transit Plaza Design; and Sustainable Design.

The Design Guidelines are incorporated into the project through the Conditions of Approval as a design review requirement for future approvals (see Condition No. 25). Prior to approval of any Final Development Plans for the project, the Commission will need to make findings to determine that the FDP is consistent with the S-15 Zoning District, approved Preliminary Development Plan, and MacArthur Transit Village Design Guidelines.

The Design Guidelines emphasize architectural variability, encourage building form and style based on adjoining street frontages and uses, address street walls and their relationship to the pedestrian environment, support a variety of building heights in the project, promote sustainable design and specify the use of high quality materials. The Design Guidelines are intended to allow future architects to be able to apply different building technology and materials and provide for a wide variety of architectural treatments within the 15 year development time frame.

FDP Staging and Project Phasing
Development of the proposed project is anticipated in five phases over the course of 15 year time frame. As per the regulations of a Planned Unit Development Permit (PUD), the Commission has the authority to approve staging of Final Development Plans. Staff has worked with the project applicant to development an FDP Staging Plan and Project Construction Phasing Plan for purposes of the PUD. However, it should be noted that staff and the project sponsor are currently negotiating terms and conditions for a Development Agreement (DA) and the DA may modify the project phasing plan. It is anticipated that the

DA negotiations will be completed in the early summer, and the DA will be brought to the Commission for consideration and recommendation to the Council in late summer. The DA would then be considered by the City Council together with the Redevelopment Agency's consideration of the Owner Participation Agreement between the Redevelopment Agency and the project sponsor. The FDP Staging and Project Phasing Plan shown in Table 3 below, and is incorporated into the project as Condition of Approval No. 2; however, the DA phasing plan will eventually supersede this condition.

Table 3: Summary of Proposed Development

FDP Stage	Description	FDP Submittal Date	Commence Construction Date
1	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.	Within 1 year from the date of this approval	2 years from date of Stage 1 FDP approval
2	Construction of Building D, consisting of a minimum of 90 below market rate rental units.	Within 3 years from the date of this approval	2 years from date of Stage 2 FDP approval
3	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.	Within 4 years from the date of this approval	2 years from date of Stage 3 FDP approval
4	Construction of Building B, consisting of up to 150 ownership residential units and 5,500 square feet of commercial space.	Within 8 years from the date of this approval	2 years from date of Stage 4 FDP approval
5	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.	Within 10 years from the date of this approval	2 years from date of Stage 5 FDP approval

Notes:
1) 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.
2) 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.

Increased Density

At the April 30th Planning Commission workshop, there was some discussion of increasing the density of the project. With 624 units, the proposed project density is 85 per gross acre the project is under the maximum density prescribed by the Neighborhood Center Mixed Use General Plan land use designation of 125 per gross acre.

Staff has considered the concept of allowing the project to increase density as future phases of the project are developed and market conditions change, and has determined that the appropriate mechanism would be to modify the PDP should the project sponsor wish to increase density of the project. The project sponsor feels the proposed Preliminary Development Plan (624 units) is the best and most realistic option under current market conditions. The EIR for the project analyzed the development to include up to 675 units. To facilitate opportunities to increase density in the future, staff has included a Condition of Approval to allow the FDPs to include up to 675 units (vs. 624 proposed in the PDP) without modifying the PDP.

It should also be noted that the EIR did consider "planning project alternatives" within the Alternatives Chapter, which included options for development of a tower within the project and increased commercial development. The analysis of the planning project alternatives was included to provide the City and the project applicant with an analysis of the project impacts that may result through implementation of these alternative project designs. The detailed analysis of the Tower Alternative and the Increased Commercial Alternative would facilitate modifying the PDP, if requested, which, in turn, would require public noticing and a hearing before the Planning Commission.

Any additional dwelling units beyond 675 would require a modification to the PDP (see Condition No. 1). This is not to say that staff would not support increased density at the site, but there is concern that a major increase would warrant public review and community input and a modification to the PDP would be an appropriate mechanism to assure that staff, the Commission and the community have input on modifications requested by the project sponsor.

Parcel Acquisition

The project sponsor does not currently own or have site control of the all parcels within the project. The project sponsor is currently in the process of negotiating acquisition of the privately owned parcels with the assistance of the Redevelopment Agency. It is not currently anticipated that the use of eminent domain will be required to achieve site control. If the project sponsor and Agency are not successful in acquiring all parcels with the project, the project area may be decreased and Final Development Plans would be submitted showing the modified site area.

The project area also includes existing right-of-way of a portions of 39th Street and Apgar Street, which are developed as part of the BART surface parking lot (see map on page 2 of this report). Though the right-of-way is not currently utilized, staff cannot find evidence that the right-of-way has been officially abandoned. This right-of-way will be abandoned as part of the subdivision map processing for the proposed project.

LEED ND and Sustainable Design

The MacArthur Transit Village has been chosen to participate in the LEED ND Pilot Program. The LEED ND Pilot Program was created by the U.S. Green Building Council (USGBC), the Congress for New Urbanism, and the National Resources Defense Council to test national standards for sustainable neighborhood developments. Unlike other U.S. Green Building Council (USGBC) LEED programs, LEED ND places significant emphasis on the design elements that bring buildings together into a neighborhood focusing on pedestrian experience and encouraging social interaction. LEED ND credits are broken up into four categories: (1) Smart Location and Linkage (SLL), (2) Neighborhood Pattern and Design (NPD), (3) Green Construction and Technology, and (4) Innovation and Design Process. LEED certification provides independent, third-party verification that a development's location and design meet accepted high standards for environmentally responsible, sustainable, development. LEED provides four levels of LEED ND certification dependent on the total credits awarded to project: LEED-ND Certified: 40–49 points, LEED-ND Silver: 50–59 points, LEED-ND Gold: 60–79 points, and LEED-ND Platinum: 80–106 points.

The project sponsor has indicated that their preliminary evaluation rating, based on the credits they assume will be received, would score 78 points on the LEED ND rating scale and be recognized as a LEED ND-Gold project. Staff applauds the project sponsor for participating in the LEED ND Pilot Program, and as part of the MacArthur Transit Village Design Guidelines, the project is encouraged to pursue the accreditation for Platinum certification.

Grant Applications
The development team applied to the State Department of Housing and Community Development (HCD) for Proposition 1C Housing TOD and Infill program funds to assist with the infrastructure and affordable housing financing of the project. The project received the highest point score of all of the TOD program applications in the entire Bay Area and also scored well under the Infill program. As a result, the project has qualified for consideration of funding under both programs and will be notified by the State in June regarding potential funding awards.

Development Agreement
As previously mentioned within the discussion on FDP Staging and Project Phasing, the project sponsor and staff are continuing negotiations on a Development Agreement for this project. Staff anticipates that the DA will be brought to the Commission for consideration and recommendation to the Council in late summer. The DA would then be considered by the City Council together with the Redevelopment Agency's consideration of the Owner Participation Agreement between the Redevelopment Agency and the project sponsor.

Community benefits proposed by the project sponsor as part of the DA include: underpass improvements at West MacArthur and Highway 24 including lighting, street furniture and sidewalk improvements in effort to improve pedestrian connections from Martin Luther King Jr. Way to the BART station; and greenscape improvements on West MacArthur between the project boundary and Telegraph Avenue. It should also be noted that as part of the project term sheet previously negotiated with the Redevelopment Agency, the project includes the following benefits: development of affordable housing (17% of the total unit count); compliance with the Agency's Small/Local Business Enterprise, Local Employment, Apprenticeship, Prevailing Wage, First Source Hiring and Living Wage Programs; execution of a Project Labor Agreement; and payment of initial costs for implementation of a Residential Permit Parking (RPP) Program.

Project Sponsor Review of Proposed Conditions of Approval
City staff has discussed the proposed Conditions of Approval with the project applicant and the applicant generally agrees with all the conditions except one, Condition No. 40, Roof Top Gardens/Green Roofs. The text of this condition is included below for easy reference.

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.

The project sponsor has indicated that they do not want to incorporate green roofs or rooftop gardens as they are concerned about increased liability, associated costs, and the ability to obtain insurance for the condominiums. They are particularly concerned about elements that would introduce water to the roof and result in leaking. As a result, the project sponsor requests that this condition be deleted.

Staff has included this condition as we believe it is appropriate to further the City's commitment to green and sustainable building practices particularly given the amount of City and State money that is anticipated to subsidize the project. If it is determined feasible, the implementation of this condition also has the potential to increase open space areas available to project residents. Staff appreciates and understands the project sponsor's concerns, but also anticipates that the market conditions/expectations and the technology associated with the installation of green roofs and rooftop gardens is likely to advance over the next several years. Considering these factors together with the project build-out schedule of 15 years with the first residential building be anticipated in three to four years, staff believes that it is appropriate to request the project sponsor to study the feasibility of incorporating green roofs or rooftop gardens into the project as part of each FDP that will be considered in the future. Recognizing that there are challenges associated with the installation of green roofs or rooftop gardens, the proposed condition only requires the project sponsor to provide green roofs and/or roof top gardens if they are determined to be feasible at the time that subsequent FDPs are being considered (excluding Stage 1 which is the BART Parking Garage). Staff recommends the condition be maintained for these reasons: 1) If feasible, activating roof tops within the project would potentially increase the sustainability and open space amenities of the project; and 2) The FDP Staging Plan extends the life of the PDP for 15 years, and technology related to green roofs and roof top gardens is expected to evolve during this period.

REQUESTED APPROVALS

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

Certification of the MacArthur Transit Village EIR

The Planning Commission is asked to certify the EIR for the MacArthur Transit Village Project. Certification does not imply endorsement of the proposed project, nor that the permit application(s) for the project will be approved. Rather, in certifying the EIR, the Commission must generally find that:

- The discussion in the EIR represents a good faith effort to disclose all the City reasonably can regarding the physical impacts which may result from the project;
- There is an adequate consideration and evaluation of measures and changes to the project that would eliminate or lessen the potentially significant physical impacts associated with the project;
- The process for considering the EIR complied with all applicable provisions of CEQA and the Municipal Code; and
- The significant environmental issues raised in the comments received about the Draft EIR were adequately responded to in the Final EIR.

Specific findings required by CEQA to certify the EIR and to apply it to approval of the project are found in Exhibit A. Included in these findings are specific statements pertaining to the completeness of analysis and procedure under CEQA Guideline Section 15090, a rejection alternatives to the project due to infeasibility and statements of overriding consideration in compliance with CEQA Guideline Section 15093 for those significant impacts that were found to be unavoidable and could not be mitigated to a less-than-significant level. In reviewing these findings, the Planning Commission must determine that the CEQA alternatives to the project were deemed infeasible and that all significant impacts have been substantially decreased to a less-than-significant level through mitigation measures or conditions of approval. For those impacts that cannot be mitigated to a less-than-significant level (traffic), the Commission must find that other legal, social, technological and other benefits of the project outweigh these impacts.

Staff Recommendation: Staff believes that the findings that have been proposed in Exhibit A can be made and supported by substantial evidence in the record of the project. The Financial Feasibility Study included in this report as Attachment D represents a part of the evidence relied upon to make the findings.

Text Amendment to S-15, Transit Oriented Development Zone

The Planning Commission is asked to recommend approval by City Council for a text amendment to modify the minimum open space requirement in the S-15 Zone. The Zoning Text Amendment would reduce the minimum open space requirements in the S-15 Zone from 180 square feet per unit (150 sq.ft. group open space and 30 sq.ft. private open space) to 75 sq.ft. of open space, whish would make it consistent with the open space requirement for residential projects in the City's Downtown Open Space Combining (S-17) Zone. The proposed modification of the text related to open space requirements in the S-15 zone is included in this report as Exhibit D.

The text amendment is a staff-initiated action. Staff's intent with this proposal is to reduce open space is to further the goals of TOD by increasing design flexibility for open space by removing the separate group and open space standard, decreasing the overall requirement for open space to be consistent with what is required in the S-17 zone, and encourage increased density. The text amendment would apply to all properties zoned S-15. Currently, there are only two areas of the City that are zoned S-15: parcels adjacent to Fruitvale BART station and parcels adjacent to West Oakland BART station. Staff has surveyed other cities to determine how open space requirements are regulated in high density, TOD, and mixed-use zones within other agencies. The Cities of San Francisco, Berkeley and Emeryville apply a 40 to 80 square foot per unit requirement on new residential development in mixed-use, TOD and high-density zones. The proposed text amendment is intended to reduce the S-15 Zone requirements for open space to be consistent with the City's current standard for open space in downtown residential projects.

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

Staff Recommendation: Staff believes that the proposed text amendment to reduce the open space requirement for residential projects in the City's Transit Oriented Development Zone so as to be consistent with the City's standard for residential projects in the Downtown (in the S-17 Zone) is appropriate; and therefore, recommends that the Planning Commission forward a recommendation for approval of the text amendment to the City Council.

Rezone from C-28/S-18 and R-70/S-18 to S-15

The Planning Commission is asked to recommend approval by City Council for rezoning of the project area from the current zoning designations to the City's Transit Oriented Development Zone (S-15). The

parcels that are currently developed with BART surface parking are zoned R-70, Residential High Density and the other parcels in the project area (with frontage on Telegraph and West MacArthur) are currently zoned C-28, Commercial Shopping Zone. Additionally, all of the parcels in the project area are currently located in the S-18, Mediated Design Review Overlay Zone. As part of the project, all parcels would be rezoned S-15, Transit-Oriented Development (TOD) Zone.

The project includes rezoning to the S-15 Zone because the current zoning would not allow the density or mix of land uses proposed project; the S-15 Zone is a "best fit" zone for the existing General Plan Land Use Designation of Neighborhood Center Mixed Use; the proposed project is a TOD project immediately adjacent to a BART station, and proposed zoning of S-15 is intended for TOD projects. The proposed project is consistent with the development standards of the S-15 Zone, with the exception of maximum permitted height and minimum required open space. As described within this report, the project includes a text amendment to modify the open space requirements in the S-15 Zone and a PUD bonus to permit an increase in the permitted building height.

Staff Recommendation: Staff believes that the rezoning of the project area from the current zones to the S-15, Transit Oriented Development Zone is appropriate for the reasons above mentioned; and therefore, recommends that the Planning Commission forward a recommendation for approval of the rezoning to the City Council.

Planned Unit Development Permit/Preliminary Development Plan

The Planning Commission is asked to recommend approval of a Planned Unit Development Permit (PUD) for the proposed project. PUD approval is requested because provisions of the S-15 Zone (Sections 17.97.030 and 17.97.200) require approval of a PUD to allow development involving a BART station and for projects of more than 100,000 sq.ft. The purpose of the PUD is to ensure orderly development and establish a vision for development of large projects. The PUD provisions require submittal of a Preliminary Development Plan (PDP). The PDP includes the proposal for site layout and design including circulation patterns, conceptual landscape designs and proposed building bulk, mass and height. The PDP does not represent final building design and architectural details for the proposed project; the Design Review Committee and Planning Commission consider these details as part of the Final Development Plan.

The MacArthur Transit Village PDP was reviewed and discussed at the Planning Commission workshop on April 30, 2008 and is included in this report as Exhibit F. The PDP includes site plans, elevations, floor plans, and landscaping plans for the proposed project as described on pages four to seven of this report. Prior to implementation of the proposed project, the applicant would be required to return to the Commission with Final Development Plans (FDP) that are consistent with the site layout, design and bulk, mass and height shown in the PDP package. Additionally, FDPs for the proposed project would be required to be consistent with the MacArthur Transit Village Design Guidelines, which are incorporated into the Conditions of Approval.

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

Staff Recommendation: Staff believes that the findings that have been proposed in Exhibit B can be made and supported by substantial evidence in the record of the project. Therefore, staff recommends the Commission forward a positive recommendation to the City Council for approval of the PUD, subject to the attached Conditions of Approval.

Major Conditional Use Permit Related to Parking

The Planning Commission is asked to approve a Major Conditional Use Permit (CUP) related to parking within the project area. The S-15 Zone requires ½ parking space per unit and the proposed project includes 1 parking space per unit. Provisions of the parking code (Section 17.166.290 (5)) require a CUP to provide parking in excess of the S-15 Zone requirements.

Additionally, the S-15 does not require parking for commercial uses (Section 17.116.080) and the parking regulations (Section 17.166.290 (2)) requires a CUP to provide off-street parking for non-residential land uses. The proposed project includes approximately 25 off-street parking spaces within the parking garage in Building A. The proposed project requires a Major Conditional Use Permit to exceed the S-15 parking requirements for residential land uses and to provide off-street parking for non-residential land uses.

Staff Recommendation: Staff believes that the findings that have been proposed in Exhibit B can be made and supported by substantial evidence in the record of the project. 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). Additionally, the proposed project includes a TDM Program (described in detail within the key issues discussion of this report) to promote additional parking at the project site, both for BART riders and residents and visitors of the project. With the reduction in BART parking, and potential opportunity to share parking with the general public as outlined in the TDM Program, permitting an increase in parking for uses in the project is appropriate. Therefore, staff recommends the Commission forward a positive recommendation to the City Council for approval of the CUP, subject to the attached Conditions of Approval.

Preliminary Design Review

The Planning Commission is asked to approve Preliminary Design Review for the PDP package. This approval is limited to the building siting and bulk, mass and height of proposed structures. Detailed building design and architectural review would be considered with Final Development Plans. The Design Review Committee reviewed the proposed PDP package at their meeting on December 12, 2007 and they stated overall support for the preliminary development plans and felt that the conceptual project plans are moving in the right direction (the December 12, 2007 Design Review staff report is included in this report as Attachment C). As stated above, staff has worked with the project sponsor to prepare the MacArthur Transit Village Design Guidelines, which are incorporated into the Conditions of Approval, and would be a tool for staff to use to ensure that the FDP is consistent with the vision and design concepts of the PDP package.

Staff Recommendation: Staff believes that the findings that have been proposed in Exhibit B can be made and supported by substantial evidence in the record of the project. Therefore, staff recommends the Commission forward a positive recommendation to the City Council for approval of the Preliminary Design Review, subject to the attached Conditions of Approval.

CONCLUSION AND STAFF RECOMMENDATION

Staff recommends that the Planning Commission:

1) Open the public hearing, take public testimony on the proposed plan, recommended actions and other submitted information and reports; then close the hearing, deliberate on the matter and;

2) Then take the following actions:

- ***Certify*** the Environmental Impact Report and adopt the CEQA-related Findings (contained in Exhibit A).
- ***Recommend Approval*** to the City Council for the proposed amendment to the S-15 Zone related to minimum open space (contained in Exhibit D).
- ***Recommend Approval*** to the City Council for the proposed rezoning of the project area from the C-28/S-18 and R-70/S-18 Zones to the S-15 Zone (contained in Exhibit E).
- ***Recommend Approval*** to the City Council for the Planned Unit Development Permit, Major Conditional Use Permit and Preliminary Design Review, adopt the associated Findings (contained in Exhibit B), and subject the project to the Conditions of Approval and MMRP (contained in Exhibit C).

Prepared by:

Charity Wagner
Contract Planner

Approved by:

GARY PATTON
Deputy Director of Planning and Zoning

Approved for forwarding to the
Planning Commission:

Dan Lindheim
Director Community & Economic Development Agency

EXHIBITS:
Exhibit A: CEQA Findings
Exhibit B: Discretionary Permit Findings
Exhibit C: Conditions of Approval
Exhibit C-1: Mitigation Monitoring and Reporting Program (MMRP)
Exhibit C-2: MacArthur Transit Village TDM Program

Exhibit C-3: MacArthur Transit Village Design Guidelines
Exhibit C-4: Illustrative Map showing ¼ mile radius around project site for possible RPP program
Exhibit D: Language of Text Amendment Regarding Open Space in the S-15 Zone
Exhibit E: Map depicting rezoning of site to S-15 Zone
Exhibit F: Preliminary Development Plan, dated received 28, 2008

ATTACHMENTS:
Attachment A: March 5, 2008 Planning Commission Staff Report for hearing on Draft EIR
Attachment B: April 30, 2008 Planning Commission Staff Report for Workshop on Project
Attachment C: December 12, 2007 Design Review Committee Staff Report
Attachment D: MacArthur Transit Village Financial Feasibility Study
Attachment E: Project Correspondence received since April 30th Workshop

NOTE: The Final EIR (includes Draft EIR and Response to Comments Document) was previously provided to the Commission under separate cover.

Attachments (A-C and E) are not repeated in the June 24, CED Committee Staff Report.

The Project Plans are included as Attachment D in the June 24, 2008, CED Committee Staff Report, and are not repeated as Exhibit F herein.

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 deign 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 (se 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 auidable 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					
No significant land use impacts would occur.					
B. PUBLIC POLICY					
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..					
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					
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: • 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
• 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. 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.					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
Mitigation Measure TRANS-1: 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.	Submit plan prior to the issuance of first building permit; Implement signal optimization measures according to timing outlined in approved plan	City of Oakland , CEDA, Transportation Services Division	• 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
Mitigation Measure TRANS-2: 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.	Submit plan prior to the issuance of first building permit; Implement signal optimization measures according to timing outlined in approved plan	City of Oakland , CEDA, Transportation Services Division	• 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
Mitigation Measure TRANS-3: Implement the following measures: • 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. To implement these measures, the project sponsor shall submit the following to City of Oakland Transportation Services Division for review and approval: • Signing plans to prohibit left-turns from northbound Telegraph Avenue into westbound 52nd Street. • Signal timing plans for the signals in the coordination group. The project sponsor shall fund the cost of preparing and implementing these plans.	Submit plans prior to the issuance of first building permit; Implement measures according to timing outlined in approved plan	City of Oakland , CEDA, Transportation Services Division	• 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
Mitigation Measure TRANS-4: Implement the following measures: • 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.	Submit plan prior to the issuance of first building permit; Implement signal optimization measures according to timing outlined in approved plan	• City of Oakland , CEDA, Transportation Services Division	• 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
• 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. 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.	Submit TDM Plan prior to the issuance of first building permit; Implement measures according to timeframes outlined in approved plan	• City of Oakland Transportation Services Division	• 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
Mitigation Measure TRANS-5: 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.	Submit plan prior to the issuance of first building permit; Implement signal optimization measures according to timing outlined in approved plan	City of Oakland , CEDA, Transportation Services Division	• 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
Mitigation Measure TRANS-6: Implement the following measures: • 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. To implement these measures, the project sponsor shall submit the following to City of Oakland Transportation Services Division for review and approval: • 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. The project sponsor shall fund the cost of preparing and implementing these plans.	Prior to the issuance of first building permit; Modify intersection and signal timing in accordance with approved plan	City of Oakland , CEDA, Transportation Services Division	• 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
Mitigation Measure TRANS-7: The impact shall be mitigated by the following: • 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. To implement these measures, the project sponsor shall submit the following to City of Oakland Transportation Services Division for review and approval: • 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. The project sponsor shall fund the cost of preparing and implementing these plans.	Submit plans prior to the issuance of first building permit; Implement measures according to timeframes outlined in approved plan	City of Oakland , CEDA, Transportation Services Division	• 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
Mitigation Measure TRANS-8: Implement the following measures: • 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. To implement this measure, the project sponsor shall submit the following to City of Oakland Transportation Services Division for review and approval: • 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. The project sponsor shall fund the cost of preparing and implementing the plan.	Submit plans prior to the issuance of first building permit; Implement measures according to timeframes outlined in approved plan	City of Oakland , CEDA, Transportation Services Division	• 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
Mitigation Measure TRANS-9: Implement the following measures: • 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. 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.	*See Mitigation Measure TRANS-4*				

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
D. AIR QUALITY					
COA AIR-1: Dust Control. *Prior to issuance of a demolition, grading, or building permit.* 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: **BASIC (Applies to ALL construction sites)** 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. 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). 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. d) Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites. 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. f) Limit the amount of the disturbed area at any one time, where feasible.	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division	• 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
COA AIR-2: Construction Emissions. *Prior to issuance of a demolition, grading, or building permit.* To minimize construction equipment emissions during construction, the project applicant shall require the construction contractor to: 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. 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.	Prior to issuance of a demolition, grading, or building permit; and ongoing throughout construction	City of Oakland, CEDA, Building Services Division	Verify that all construction equipment meets mitigation measures.		
E. NOISE AND VIBRATION					
COA NOISE-1: Days/Hours of Construction Operation. *Ongoing throughout demolition, grading, and/or construction.* The project applicant shall require construction contractors to limit standard construction activities as follows: 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.	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division	Make regular visits to the construction site to ensure that construction activities are restricted the hours designated in COA NOISE-1.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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.					
c) Construction activity shall not occur on Saturdays, with the following possible exceptions: • 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.					
d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.					

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.					
COA NOISE-2: Noise Control. *Ongoing throughout demolition, grading, and/or construction.* 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: 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). 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.	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division	• 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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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 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.					
COA NOISE-3: Noise Complaint Procedures. *Ongoing throughout demolition, grading, and/or construction.* 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: 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); 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); c) The designation of an on-site construction complaint and enforcement manager for the project;	Submit list prior to the issuance of a building permit; Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division	Verify the implementation of the list of measures to respond to and track complaints pertaining to construction noise.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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 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.					
COA NOISE-4: Interior Noise. *Prior to issuance of a building permit.* 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:	Submit noise recommend-ations prior to the issuance of a building permit for each phase of construction containing residential units	City of Oakland, CEDA, Building Services Division	Verify that appropriate sound-rated assemblies to reduce noise levels have been incorporated into the project building design.		
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 widows can remain closed for prolonged periods of time to meet the interior noise standard and Uniform Building Code Requirements.	Implement recommend ations according to timeframes outlined in plan				

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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. *Ongoing throughout demolition, grading, and/or construction.* 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	• 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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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: 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.					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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. f)	Prior to the issuance of a demolition, grading, or building permit for building A	City of Oakland, CEDA, Building Services Division	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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
F. HYDROLOGY AND WATER QUALITY					
COA HYDRO-1 (same as COA GEO-1): Erosion and Sedimentation Control Plan. *Prior to any grading activities.* 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.	Prior to any grading activities	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division	• 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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
Ongoing throughout grading and construction activities. 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.	Ongoing throughout grading and construction activities.	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division	• 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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA HYDRO-2: Stormwater Pollution Prevention Plan (SWPPP). *Prior to and ongoing throughout demolition, grading, and/or construction activities.* 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 though the completion of the project. After construction is completed, the project applicant shall submit a notice of termination to the SWRCB.	Submit SWPP to SWRCB prior to applying for first building permit; Submit copy of approved SWPP prior to issuance of first building permit; Comply with measures in SWPP: ongoing throughout demolition, grading, and/or construction activities	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division	• Verify the preparation and approval of the SWPPP. • Conduct regular site visits to ensure compliance with the SWPPP throughout the completion of the project.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA HYDRO-3: Post-Construction Stormwater Pollution Management Plan. *Prior to issuance of building permit (or other construction-related permit).* 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. a) The post-construction stormwater pollution management plan shall include and identify the following: • 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. b) The following additional information shall be submitted with the post-construction stormwater pollution management plan: • Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and	Submit plan prior to issuance of building permit (or other construction-related permit)	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division	• 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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
• 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. 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. *Prior to final permit inspection.* The applicant shall implement the approved stormwater pollution management plan.					
COA HYDRO-4: Maintenance Agreement for Stormwater Treatment Measures. *Prior to final zoning inspection.* 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: • 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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
being incorporated into the project until the responsibility is legally transferred to another entity; and • 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. *Prior to any grading activities.* 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	*See COA HYDRO-1*				

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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. *Ongoing throughout grading and construction activities.* 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.	*See COA HYDRO-1*				
COA GEO-2: Soils Report. *Required as part of the submittal of a Tentative Tract or Tentative Parcel Map.* A preliminary soils report for each construction site within the project area shall be required as part if 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: *A.* Logs of borings and/or profiles of test pits and trenches: 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. b) The depth of each boring shall be sufficient to provide adequate design criteria for all proposed structures. c) All boring logs shall be included in the soils report.	Required as part of the submittal of a Tentative Tract or Tentative Parcel Map(s)	City of Oakland, CEDA, Building Services Division	Verify that a preliminary soils report has been prepared for each construction site.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
B. Test pits and trenches: 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. b) Soils profiles of all test pits and trenches shall be included in the soils report.					
C. 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.					
D. 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.					
E. Soils Report. A written report shall be submitted which shall but is not limited to the following: a. Site description. b. Local and site geology. c. Review of previous field and laboratory investigations for the site. 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.					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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. f. Conclusions and recommendations for foundations and retaining structures, resistance to lateral loading, slopes, and specifications, for fills, and pavement design as required. 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. h. All other items which a Soils Engineer deems necessary. i. The signature and registration number of the Civil Engineer preparing the report.					
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.					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA GEO-3: Geotechnical Report. *Required as part of the submittal of a tentative Tract Map or tentative Parcel Map.* a) A site-specific, design level, Landslide or Liquefaction geotechnical investigation for each construction site within the project area shall be required as part if this project. Specifically: Each investigation shall include an analysis of expected ground motions at the site from identified faults. The analyses shall be 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. The investigations shall determine final design parameters for the walls, foundations, foundation slabs, surrounding related improvements, and infrastructure (utilities, roadways, parking lots, and sidewalks). 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. 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.	Required as part of the submittal of a Tentative Tract or Tentative Parcel Map(s)	City of Oakland, CEDA, Building Services Division	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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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. 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. 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. b) Tentative Tract or Parcel Map approvals shall require, but not be limited to approval of the Geotechnical Report.					
H. PUBLIC HEALTH AND HAZARDS					
COA HAZ-1: Hazards Best Management Practices. *Prior to issuance of a demolition, grading, or building permit.* 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: a) Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction; b) Avoid overtopping construction equipment fuel gas tanks; c) During routine maintenance of construction equipment, properly contain and remove grease and oils;	Ongoing through demolition, grading and construction activities	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division	Verify that construction BMPs are implemented.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
d) Properly dispose of discarded containers of fuels and other chemicals.					
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.					
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.					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA HAZ-2: Asbestos Removal in Structures. *Prior to issuance of a demolition permit.* 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.	Make determination prior to issuance of a demolition permit; Follow applicable procedures during removal activities	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division	Verify that any asbestos removal is conducted in accordance with procedures specified by Regulation 11, Rule 2 of BAAQMD regulations		
COA HAZ-3: Phase I and/or Phase II Reports. *Prior to issuance of a demolition, grading, or building permit.* 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.	Prior to issuance of a demolition, grading, or building permit	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division	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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA HAZ-4: Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment. *Prior to issuance of a demolition, grading, or building permit.* 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.	Prior to issuance of a demolition, grading, or building permit	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division	Verify that a comprehensive assessment report detailing materials classified as hazardous waste has been submitted.		
COA HAZ-5: Environmental Site Assessment Reports Remediation. *Prior to issuance of a demolition, grading, or building permit.* If the environmental site assessment reports recommend remedial action, the project applicant shall: 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. b) Obtain and submit written evidence of approval for any remedial action if required by a local, State, or federal environmental regulatory agency.	Prior to issuance of a demolition, grading, or building permit;	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division	• 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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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. 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.					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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. *Prior to issuance of a demolition, grading, or building permit.* 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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA HAZ-7: Asbestos Remediation. *Prior to issuance of a demolition, grading, or building permit.* 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.	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 removal, encapsulation, or enclosure of any asbestos-containing materials have been submitted.		
COA HAZ-8: Other Materials Classified as Hazardous Waste. *Prior to issuance of a demolition, grading, or building permit.* 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.	Prior to issuance of a demolition, grading, or building permit	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division	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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA HAZ-9: Health and Safety Plan per Assessment. *Prior to issuance of a demolition, grading, or building permit.* 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.	Submit plan prior to issuance of a demolition, grading, or building permit; Implement measures in accordance with timeframes outlined in plan	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division	Verify that a health and safety plan to protect workers from hazardous waste has been adequately prepared.		
COA HAZ-10: Fire Safety Phasing Plan. *Prior to issuance of a demolition, grading, or building permit and concurrent with any p-job submittal permit.* 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.	Submit plan prior to issuance of a demolition, grading, or building permit and concurrent with any p-job submittal permit	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Services Division	Verify that a fire safety phasing plan has been prepared.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA HAZ-11: Fire Safety. *Prior to and ongoing throughout demolition, grading, and/or construction.* 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.	Prior to and ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Services Division	Conduct periodic site visits to ensure that all construction vehicles and equipment are fitted with spark arrestors.		
COA HAZ-12: Hazardous Materials Business Plan. *Prior to issuance of a business license.* 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: 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.	Prior to issuance of a business license for businesses handling hazardous materials	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Services Division	Verify that a hazardous materials business plan has been prepared.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
I. PUBLIC SERVICES					
COA SERV-1: Conformance with other Requirements. *Prior to issuance of a demolition, grading, P-job, or other construction related permit.* 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. 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.	Prior to issuance of a demolition, grading, P-job, or other construction related permit.	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Services Division	Ensure that the project applicant complies with all applicable laws and regulations as detailed in COA SERV-1.		
COA SERV-2: Fire Safety Phasing Plan. *Prior to issuance of a demolition, grading, and/or construction and concurrent with any p-job submittal permit,* 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.	*See COA HAZ-10*				

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA SERV-3: Site Review by the Fire Services Division. *Prior to the issuance of demolition, grading or building permit.* 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.	Prior to issuance of a demolition, grading, or building permit	City of Oakland, CEDA, Building Services Division, and Planning and Zoning Division and Fire Prevention Bureau Hazardous Materials Unit	Verify that plan has been submitted for review and approval.		
J. UTILITIES AND INFRASTRUCTURE					
COA UTIL-1: Waste Reduction and Recycling. *Prior to issuance of demolition, grading, or building permit.* 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.	Submit plan prior to issuance of demolition, grading, or building permit; Implement plan according to timeframes outlined in plan	City of Oakland, CEDA, Building Services Division	Verify that a Construction & Demolition Waste Reduction and Recycling Plan and an Operational Diversion Plan have been submitted.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
Ongoing. 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.	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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA UTIL-2: Storm Water and Sewer. *Prior to completing the final design for the project's sewer service.* 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.	Prior to completing the final design for the project's sewer service	City of Oakland, CEDA, Building Services Division	• 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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA UTIL-3: Site Design Measures for Post-Construction Stormwater Pollution Management *Prior to issuance of building permit (or other construction-related permit)* 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: 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. *Ongoing* The approved plan shall be implemented and the site design measures shown on the plan shall be permanently maintained.	Prior to issuance of building permit (or other construction -related permit); and ongoing	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division; Public Works Agency, Environmental Services Division	Confirm that any necessary stormwater and sanitary sewer infrastructure improvements required by the project are implemented.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA UTIL-4: Source Control Measures to Limit Stormwater Pollution. *Prior to issuance of building permit (or other construction-related permit)* 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. *Ongoing* 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.	Prior to issuance of building permit (or other construction -related permit); and ongoing	City of Oakland, CEDA, Building Services Division; Planning and Zoning Division; Public Works Agency, Environmental Services Division	• Confirm that any necessary structural source control measures improvements are implemented. •		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA UTIL-5: Storm Water and Sewer. *Prior to completing the final design for the project's sewer service.* Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed.	Prior to completing the final design for the project's sewer service	City of Oakland, CEDA, Building Services Division	• Confirm that any necessary stormwater and sanitary sewer infrastructure improvements required by the project. •		
K. CULTURAL AND PALEONTOLOGICAL RESOURCES					
COA CULT-1: Archaeological Resources. *Ongoing throughout demolition, grading, and/or construction* 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.	Ongoing throughout demolition, grading, and/or construction	City of Oakland, CEDA, Building Services Division and Planning and Zoning Division - Historic Preservation Staff	Ensure that all work within 50 feet of the site where any prehistoric or historic subsurface cultural resources are discovered is halted.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
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. 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.					

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA CULT-2: Human Remains. *Ongoing throughout demolition, grading, and/or construction* 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.	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.		

Mitigation Monitoring and Reporting Program

Standard COA/MM	Mitigation Monitoring			Reporting	
	Monitoring Schedule	Monitoring Responsibility	Monitoring Procedure	Comments	Date/ Initials
COA CULT-3: Paleontological Resources. *Ongoing throughout demolition, grading, and/or construction* 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.	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					
COA AES-1: Lighting Plan. *Prior to the issuance of an electrical or building permit* 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.	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.		

Nelson|Nygaard
consulting associates

785 Market Street, Suite 1300
San Francisco, CA 94103
(415) 284-1544 FAX: (415) 284-1554

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 is 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 requ est 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	*Number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.117.040.*				*Number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.117.040.*			
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 Zipcar[4] 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

Key Strategy	Sub Strategy	Phase 1 BART Garage & Infrastructure	Phase 2 Affordable Housing Component	Phase 3 Market-Rate Housing Phase 1, Parcel A	Phase 4 Market-Rate Housing, Parcel B or C	Phase 5 Market-Rate Housing, Parcel B or C	Timeframe 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

Key Strategy	Sub Strategy	Phase 1 BART Garage & Infrastructure	Phase 2 Affordable Housing Component	Phase 3 Market-Rate Housing Phase 1, Parcel A	Phase 4 Market-Rate Housing, Parcel B or C	Phase 5 Market-Rate Housing, Parcel B or C	Timeframe 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

Key Strategy	Sub Strategy	Phase 1 BART Garage & Infrastructure	Phase 2 Affordable Housing Component	Phase 3 Market-Rate Housing Phase 1, Parcel A	Phase 4 Market-Rate Housing, Parcel B or C	Phase 5 Market-Rate Housing, Parcel B or C	Timeframe 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.

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***

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,

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

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.

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

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

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 theHighway 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 groundfloor 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 groundfloor 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

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 .

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)

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

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.

Exhibit C-4

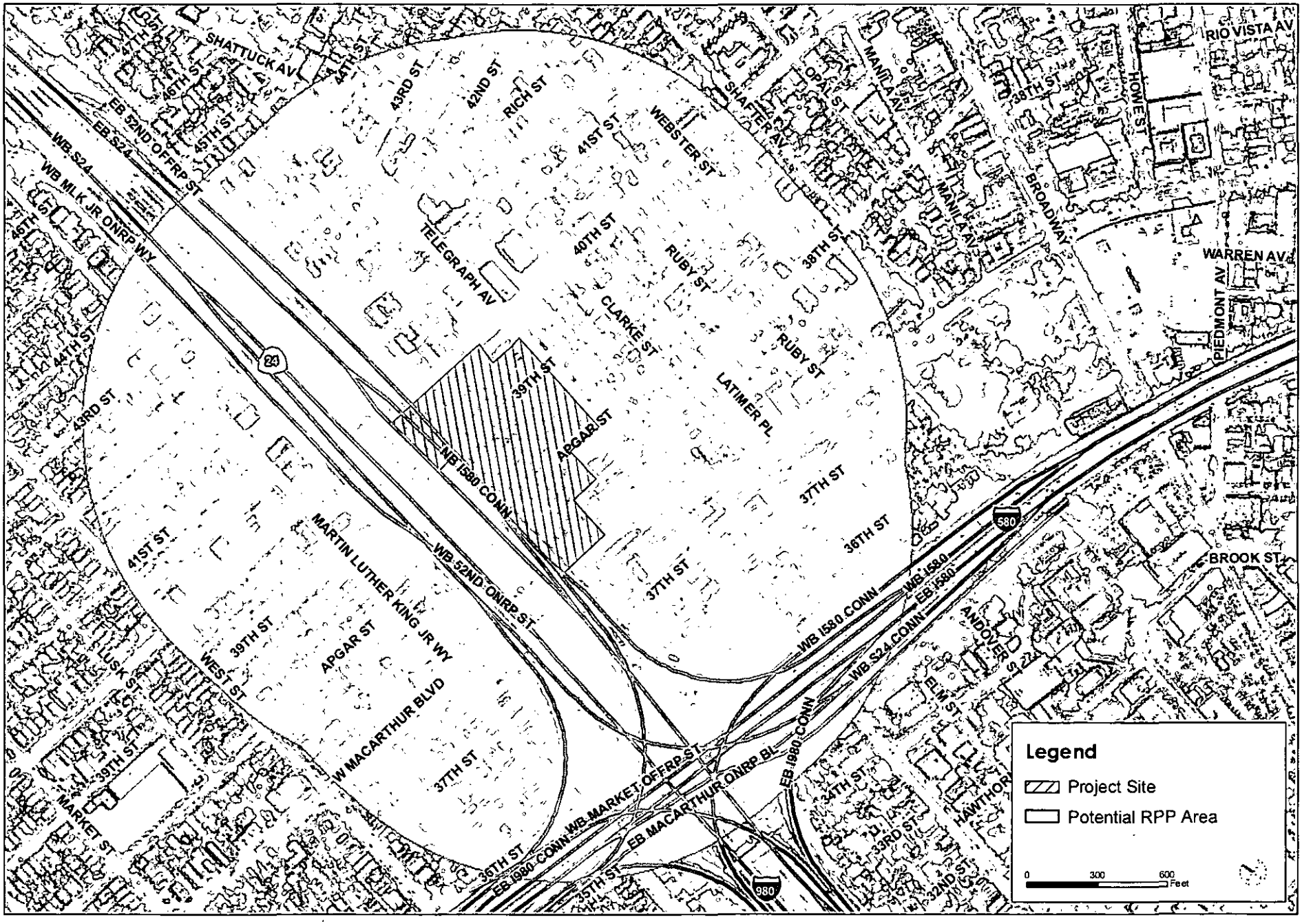

Legend
Project Site
Potential RPP Area
0
300
600
Feet
MacArthur Transit Village Development
Illustrative Map Showing Potential RPP Area (1/4 mile around Site)
Community and Economic Development Agency
Planning Commission
June 4, 2008

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.

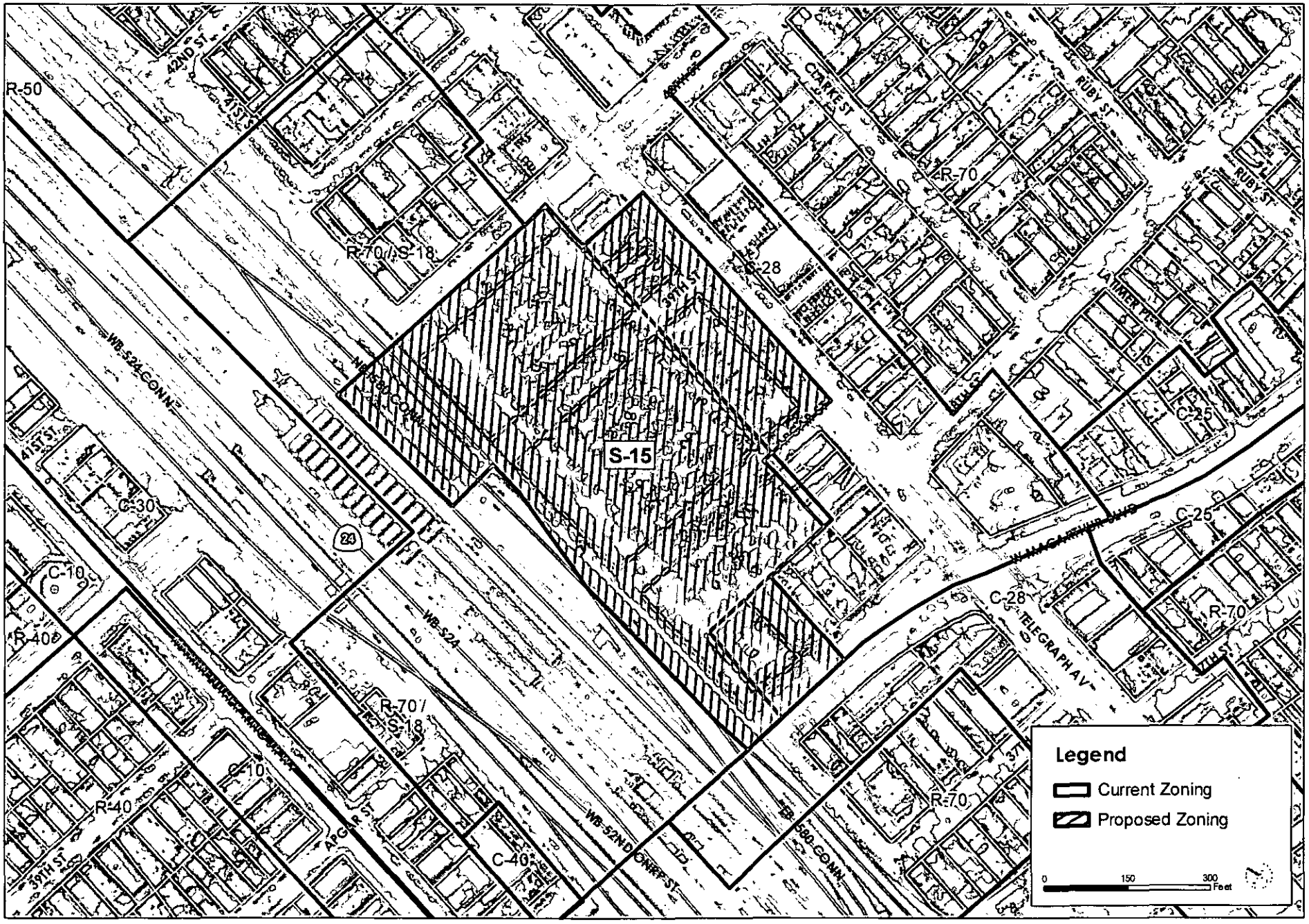
3. Location and Accessibility. Usable open space, other than private usable open space and off-site open space, may be located anywhere within the development and shall be accessible to all the living units within the development. It shall be served by any stairway or other accessway qualifying under 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.



Community and Economic Development Agency

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

Planning Commission
June 4, 2008

CBRE CONSULTING, INC.
Sedway Group

CBRE
CB RICHARD ELLIS

4 Embarcadero Center, Suite 700
San Francisco, CA 94111

T 415 781 8900
F 415 733 5530

www.cbre.com/consulting

MEMORANDUM

To: Joe McCarthy, MacArthur Transit Community Partners (MTCP)

From: Terry Margerum and Courtney Pash; CBRE Consulting Inc./Sedway Group

Date: May 27, 2008

Subject: Macarthur Transit Village Project: Assessment of Financial Feasibility of CEQA Alternatives and Full BART Replacement Parking Garage Alternative

---

CBRE Consulting Inc./Sedway Group ("CBRE Consulting") is pleased to submit this memorandum assessing the financial feasibility of three alternative project scenarios for the MacArthur Transit Village Project ("Project"). Two of the three CEQA required alternative development scenarios as described in the January 2008 Draft Environmental Impact Report (EIR) on the MacArthur Transit Village Project are analyzed as well as an alternative that assumes the Project remains as planned except for an increase in the BART parking garage from 300 spaces to 600 spaces.

The Draft EIR compares the environmental impacts of the proposed Project with three alternative development scenarios representing various levels of reduction in building size. One of the alternatives is a "no-project/no-build" alternative which is not the subject of this analysis. The purpose of Part I of this study is to identify impacts on financial feasibility of a substantial diminution in the size of the Project, which in the EIR are called CEQA Existing Zoning Alternative and Mitigated Reduced Building/Site Alternative.

Part II of this study analyzes the financial feasibility of constructing a 600-space BART parking garage instead of the proposed 300-space parking garage. It is assumed that the only alteration to the Project will be an increase in the size of the BART parking garage. All other revenues and costs associated with "horizontal" development, as described in Part I, are assumed to remain constant.

PART 1 - CEQA ALTERNATIVES ANALYSIS

INTRODUCTION

Background and Project Description

The Project as proposed by MacArthur Transit Community Partners, LLC ("MTCP") consists of 44,000 square feet of retail, 1000 parking spaces (300 for exclusive BART use), up to 675 multi-family residential units, including a 90-unit affordable rental housing component (to be developed by BRIDGE Housing). The project would be an innovative public-private partnership aimed at providing a transit-oriented, mixed-use development that includes not only a conventional 17 percent affordable residential component, but also offers moderately-priced market rate for-sale residential product at a prominent urban infill location. The project area ("Site") comprises 8.2 acres in Northern Oakland and includes the current MacArthur BART parking lot as well as a number of surrounding privately owned parcels. The entire area is bordered to the north by 40th Street, east by Telegraph Avenue, south by West MacArthur Boulevard, and west by Highway 24.

The CEQA required alternatives analyzed in the EIR include a "no-project/no build" alternative, an "Existing Zoning" alternative, and a "Mitigated Reduced Building/Site" alternative. As previously stated, the "no-project/no-build" alternative is not included in this study. The development programs of the proposed Project and two alternatives are summarized in Table 1. Additional details of the alternatives are outlined in subsequent sections of this memo.

Table 1: Project and Alternatives Summary

	Proposed Project	Existing Zoning Alternative	Mitigated Reduced Building/Site Alternative
Market Rate Dwelling Units	560	440	166
BMR Dwelling Units	115	90	34
Commercial (sf)	44,000	44,000	20,000
Non-Bart Parking Spaces	700	715	350
BART Parking	300	300	300
Land Area (acres)	7.05	7.05	5.8

Sources: Macarthur Transit Community Partners; BRIDGE Housing; Macarthur Transit Village Project Draft Environmental Impact Report, January 2008; and CBRE Consulting.

Definition of Analysis

The proposed Project's financial structure involves a "horizontal" developer responsible for the pre-development phases of construction. This includes, but is not limited to, acquisition of the privately owned parcels, securing of project entitlements, development of a parking garage for BART riders, and development of needed infrastructure and public improvements. Accordingly, the proposed Project would include substantial public sector investments in several forms, as summarized below in the Discussion of Analysis section of this memorandum and detailed in Exhibit 3. Upon completion of predevelopment activities, MTCP intends to act as the "vertical" developer of the market rate units, partnering with BRIDGE Housing as developer of the 90-unit affordable rental project. MTCP, acting as the "horizontal" developer, does however have the option to sell the fully entitled development sites to one or more "vertical" developers, who would then complete buildings comprising the Project.

The financial feasibility of the Project as currently proposed is premised on the "horizontal" developer securing approximately $20 million for the 8.2 acre development site from the prospective "vertical" developer(s) of the market rate and BRIDGE affordable projects. This land sales revenue, along with the defined Agency and State assistance for the affordable component and public improvements results in a profit margin of approximately 12 percent. As it stands, a 12 percent profit margin is at the low end of the industry-standard range for a land developer. Given the complexities of this project, with a public-private partnership and an affordable housing component tapping into multiple funding sources, most developers would likely require a higher profit margin. Arguably, the horizontal developer could accept a somewhat lower land value if the infrastructure and site costs of the smaller project alternatives were sufficiently less costly – assuming a proportionate level of public sector assistance.

Methodology and Measures of Feasibility

CBRE Consulting prepared a static residual land value analysis for each of the two alternatives, assuming sell-out of the for-sale residential units and full lease-up of the commercial space. The exhibits documenting these analyses are summarized below and appended to this memo. The residual land value, or amount the "vertical" developer(s) should be able to pay the "horizontal" developer for the site(s), is then compared to the land value required by the "horizontal" developer to render the alternative development program financially feasible.

SUMMARY OF FINDINGS

As seen in Table 2 and the appended Exhibits, neither the Existing Zoning Alternative nor the Mitigated Reduced Building/Site Alternative are financially feasible. The residual land values are substantially less than those required by the "horizontal" developer to sufficiently cover the project's entitlements and infrastructure costs.

Table 2: Vertical and Horizontal Development Summary

	Existing Zoning Alternative	Mitigated Reduced Building/Site Alternative
Vertical Development		
Value	$208,340,000	$87,881,300
Total Development Costs (1)	($206,696,699)	($100,475,590)
Residual Land Value	$1,643,300	($12,594,290)
Horizontal Development		
Land Revenue (from Vertical Development)	$1,643,300	($12,594,290)
Other Sources of Revenue	$64,299,272	$46,234,081
Entitlement and Infrastructure Costs	($73,485,957)	($54,520,213)
Developer Profit Amount	($7,543,384)	($20,880,421)
Developer Profit Margin	(10.27%)	(38.30%)

Source: Exhibits 1 – 3.
(1) Total Vertical Development Costs include direct and indirect development costs and developer profit.

The Mitigated Reduced Build Alternative is infeasible because it generates a negative residual land value. The Existing Zoning Alternative generates a slightly positive land value of approximately $1.6 million. However, when the analysis is carried to the horizontal development, the Existing Zoning 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.

DISCUSSION OF ANALYSIS

Additional Detail on Alternatives

Each of the two EIR alternatives represents a reduction in the number of total residential units and, in the case of the Mitigated Reduced Building/Site Alternative, there is a reduction in the total site area. Following is a detailed description of the two alternatives.

Existing Zoning Alternative

This alternative, using the same 8.2 acre site, would likely result in a project with two distinct components: a mixed-use market rate project with 440 condominiums and 44,000 square feet of commercial space at similar locations on the site. The second component would be 90-unit affordable project similar to the BRIDGE affordable rental component of the proposed Project. This alternative represents about 85 percent of square footage of the proposed Project. Similar to the proposed Project, there would be 300 exclusive BART parking spaces. Parking for the alternative includes 715 (rather than 700) parking spaces, with 583 spaces allocated for the residential and 132 for the commercial (3 per 1,000 square feet). Access, circulation, and BART Plaza improvements would be essentially the same as for the Project. Given these considerable similarities, the primary focus of this feasibility analysis will be on the market rate residential, where this alternative would have 80 to 90 fewer market rate units than the Project. Another potential difference is the limit on height imposed by the existing zoning requirement, which will limit the residential and commercial structures to 4 stories and Type V construction (i.e., wood frame).

Mitigated Reduced Building/Site Alternative

This alternative is limited to the 5.8 acre site comprising BART's parking and circulation areas and four of the seven privately owned parcels (excluding the two motel parcels and the medical building). This development program would most likely be constructed as a single mixed-use project consisting of 166 market rate for-sale units and 34 affordable for-sale units, with 20,000 square feet of ground floor commercial space oriented toward 40th Street. There would be 350 project parking spaces, with 275 spaces allocated for the residential and 75 for the commercial (3.75 per 1,000 square feet). The BART Plaza improvements would be essentially the same as for the Project, but access and circulation improvements would be based on the reduction in the site. Despite the dramatic reduction in density, the project would likely be 5 to 6 stories Type III construction (i.e., modified wood frame).

Vertical Development Assumptions

No detailed plans or cost estimates for the two alternatives exist. Inputs for projected revenues and construction costs are based on project data provided by MTCP, BRIDGE Housing Corporation, the City and Agency, James E. Roberts – Obayashi Corporation, and on current industry and market data available to CBRE Consulting. Given the time constraints placed on this analysis, CBRE Consulting reviewed these estimates, checked them for reasonableness, and made adjustments to the inputs as deemed appropriate. Below is a summary of the key inputs.

Projected Revenues and Value Assumptions

The sales prices for the market rate units are based on an average unit size of 867 square feet and average sales price of $460,000. The sales prices for the affordable condominiums are based on an average size of 867 square feet and sales price of $250,000. There is an implicit assumption that Bay Area real estate markets will have returned to a more stabilized conditions by the time these units come to market.

Annual projected rents for the commercial components in both alternatives are assumed to be $36 per square foot (NNN), with estimated annual vacancy of 10 percent. The neighborhood retail/commercial capitalization rate was determined based on analysis of comparable properties and anticipated capital market conditions.

Project Cost Assumptions
The construction costs for the EIR alternatives are based on the Type III and Type V construction cost estimates provided by James E. Roberts – Obayashi Corporation. These estimates include construction of both the for-sale residential and the commercial project components. The cost estimates were reviewed for reasonableness by CBRE Consulting and then adjusted downward to reflect the diminished size of the project alternatives. A majority of costs were adjusted directly proportionate to the change in project size, but in a few cases no adjustments were made as the costs are fixed. Lastly, some costs were changed by disproportionate amounts.

The indirect costs for both alternatives are between 30 and 31 percent of direct costs. The indirect costs are based on those estimated by MTCP partners and adjusted downward as appropriate to reflect smaller projects. The indirect costs also include tenant improvement costs at $30 per square foot and marketing and lease up costs of $10 per square foot.

Horizontal Development Assumptions
The "horizontal" developer is responsible for all costs not associated with development of the actual buildings. This includes entitlement costs, site acquisition, environmental remediation, replacement parking, BART plaza improvements, and all sitework. These costs will be paid for through public assistance and the land price paid by the "vertical" developer.

Project Revenue and Cost Assumptions
The agency has directed that this analysis assume similar City inclusionary requirements and policies, and proportionate public sector commitments in terms of available tax increment and grant funding. These include the following items:

- Affordable Housing Contributions
- City and Redevelopment Agency Funding
- Proposition 1C Funding
- BART Related Credits and Grants

These revenues and their horizontal development costs have been modified in the Horizontal Pro Forma for each alternative and are summarized in Exhibit 3.

Horizontal Development Analysis
Based on the assumptions outlined above, neither the Existing Zoning Alternative nor the Mitigated Reduced Building/Site Alternative yield a land value, if coupled with all other sources of public funding, that is sufficient to cover the costs associated with preparing the land for vertical development. The costs exceed the revenues in the Mitigated Reduced Build Alternative, thus yielding a negative residual land value and a negative "horizontal" developer profit. The Existing Zoning Alternative, while achieving a positive residual land value, does not provide a positive developer profit thus renders the project financially infeasible to the "horizontal" developer.

PART II – 600-SPACE GARAGE ALTERNATIVE ANALYSIS

As stated in Part I of this memorandum the proposed Project includes a 300-space BART dedicated parking garage that is part of the "horizontal" development. An increase in the size of the parking garage from 300 spaces to 600 spaces, assuming that all other revenues and costs associated with "horizontal" development remain constant, will decrease the "horizontal" developer profit to below zero, thus making the project financially infeasible.

As seen in Table 3, the costs to construct a 600-space parking garage will be approximately $32 million (fifth line under MTCP Cost Summary). This is nearly $12 million greater than the cost to construct a 300-space garage.[1] The construction costs are approximately $53,000 per parking space and include a construction cost contingency of 10 percent and an escalation cost contingency of 6 percent per year for two years. Since the parking garage is in the early conceptual design phase, including contingency items this early in the process is standard. Excluding these contingency items, the cost is approximately $43,000 per space. This estimate is consistent with current market assumptions for garage hard and soft costs. These cost estimates also assume that the number of spaces will be increased by adding floors instead of increasing the building footprint. By increasing the cost of the garage without increasing any of the revenues associated with the "horizontal" development of the Project, the developer profit decreases from approximately 12 percent down to negative 2 percent.

Table 3: 600-Space Garage Horizontal Pro Forma

HORIZONTAL PRO FORMA	
MTCP Revenue/Sources Summary	
Residential Land Revenue	$20,298,000
Affordable Housing Contributions	$15,900,000
City and Redevelopment Agency Funding	$12,000,000
Proposition 1C Funding	$31,767,000
BART related credits and grants	$1,313,000
Other sources	$6,685,939
Total Gross Revenue	**$87,963,939**
MTCP Cost Summary	
Building Construction Cost (Affordability Gap)	$20,479,000
Entitlement and Acquisition Cost	$15,020,000
Sitework, Infrastructure and Environmental Remediation	$12,858,934
Transportation Improvements (including BART Plaza)	$5,177,957
600 Space BART Parking Garage	$32,016,008
Contingency	$4,177,704
Total Costs	**$89,729,603**
Developer Profit	**($1,765,664)**
Developer Profit Margin	**-1.97%**

Sources: Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.

[1] The parking garage costs for both the 300-space option and the 600-space option were provided by Macarthur Transit Community Partners and reviewed for reasonableness by CBRE Consulting.

In both the base case (300 parking spaces) and the increased parking scenario, there is no value associated with the garage. It is implied that the garage will be dedicated to and run by BART. There is however, a possibility that the garage will be operated by a private developer. If a private developer were to own and operate the parking garage, a value should be estimated to offset the development costs. Based on operating assumptions provided by AMPCO System Parking ("AMPCO"), a local parking garage operator, annual net operating income for a 600-space parking garage is not likely to exceed $164,000 at stabilization. The potential value of the garage was determined by taking the net operating income (gross income less expenses) and dividing it by a range of appropriate capitalization rates. As a garage for BART patrons, BART is expected to have input on parking pricing charged by a private operator. For this reason, a range of cap rates, 7.0 percent and 10.0 percent, was used to reflect the potential restrictions in value created by this process. Based on these capitalization rates the garage could be valued as low as $1.6 million and as high as $2.4 million. Thus, the value of the garage will be less than 8 percent of the total construction costs, which does not justify an increased garage size. In summary, unless there is a significant outside revenue source, increasing the garage from 300 parking spaces to 600 parking spaces will render the Project financially infeasible.

ASSUMPTIONS AND GENERAL LIMITING CONDITIONS

CBRE Consulting, Inc./Sedway Group has made extensive efforts to confirm the accuracy and timeliness of the information contained in this study. Such information was compiled from a variety of sources, including interviews with government officials, review of City and County documents, and other third parties deemed to be reliable. Although CBRE Consulting, Inc./Sedway Group believes all information in this study is correct, it does not warrant the accuracy of such information and assumes no responsibility for inaccuracies in the information by third parties. We have no responsibility to update this report for events and circumstances occurring after the date of this report. Further, no guarantee is made as to the possible effect on development of present or future federal, state or local legislation, including any regarding environmental or ecological matters.

The accompanying projections and analyses are based on estimates and assumptions developed in connection with the study. In turn, these assumptions, and their relation to the projections, were developed using currently available economic data and other relevant information. It is the nature of forecasting, however, that some assumptions may not materialize, and unanticipated events and circumstances may occur. Therefore, actual results achieved during the projection period will likely vary from the projections, and some of the variations may be material to the conclusions of the analysis.

Contractual obligations do not include access to or ownership transfer of any electronic data processing files, programs or models completed directly for or as by-products of this research effort, unless explicitly so agreed as part of the contract.

This report may not be used for any purpose other than that for which it is prepared. Neither all nor any part of the contents of this study shall be disseminated to the public through publication advertising media, public relations, news media, sales media, or any other public means of communication without prior written consent and approval of CBRE Consulting, Inc./Sedway Group.

EXHIBIT 1
GENERAL ASSUMPTIONS
Existing Zoning Alternative
MacArthur Transit Village Project - CEQA Alternatives Analysis
April 2008

SITE AND BUILDING ASSUMPTIONS

Site Assumptions		**Building Assumptions**	
Site Area (Square Feet)	307,098	Number of Stories	4
Site Area (Net Acres)	7.05	Market rate units	440
		Below market units (2)	90
		Total Units	530
Parking Assumptions			
Parking Spaces	715	Average Unit Size	867
Exclusive BART Parking Spaces (1)	300	Net Living Area	459,510
Total Parking Spaces	1,015	Efficiency	78%
		Market Rate Living Area	491,333
		Affordable Living Area	100,500
		Total Living Area	591,833
		Commercial Area (3)	44,000

Notes and Assumptions:

(1) BART Parking allotment included for illustrative purposes only. BART parking costs and revenues are not a part of this analysis.

(2) The affordable component of the existing zoning alternative is identical to the for-rent affordable component of the Project, thus was excluded from this analysis.

(3) The commercial area includes a 5,000 square foot community center

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.

N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\Working Documents\Financial Feasibility Models\[Final Residual Land Value A 27-May-08

EXHIBIT 1
INCOME / EXPENSE ASSUMPTIONS
Existing Zoning Alternative
MacArthur Transit Village Project - CEQA Alternatives Analysis
April 2008

INCOME/EXPENSE ASSUMPTIONS	
Market Rate Residential Units	
Average Unit Size	867
Price Per Square Foot - Market Rate	$531
Price Per Unit - Market Rate	$460,000
Commercial Space	
Monthly Rent Per Square Foot (NNN)	$3.00
Management Expenses	3.0%
Reserves	2.0%
Stabilized Vacancy/Collection Loss	10.0%

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.
N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\Working Documents\Financial Feasibility Models\[Final Residua 27-May-08

EXHIBIT 1
DEVELOPMENT COST ASSUMPTIONS
Existing Zoning Alternative
MacArthur Transit Village Project - CEQA Alternatives Analysis
April 2008

Cost Component	Total Cost (2008 $s)	Per Unit (or sf)
Direct Development Costs		
Type V Construction Costs	$113,925,000	258,920
Retail Construction Costs	$10,867,120	247
Construction Contingency (10% of Construction Costs)	12,479,212	23,546
Total Direct Development Costs	$137,271,332	$311,980
Indirect Development Costs		
Architecture and Engineering	5,871,510	11,078
Property Taxes During Construction - Lease-up	1,532,569	2,892
Insurance	4,879,896	9,207
Warranty Reserve	2,486,939	4,692
Financing Costs	10,500,000	19,811
Permits and Development Fees	10,648,566	20,092
Legal Fees	250,000	472
DRE Fees	50,000	94
HOA Fees	125,000	236
Testing and Inspections	500,000	943
Commercial Tenant Improvements	1,320,000	30
Retail Commissions and Marketing	440,000	10
Project Contingency (10% of Indirect Construction Costs)	3,860,448	7,284
Total Indirect Development Costs	$42,464,928	$76,842
Total Development Costs (excluding land)	$179,736,260	$388,822

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.

N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\Working Documents\Financial Feasibility Models\[Final Residual Land Value Analysis Existing Zoning v7.xls]Intro 27-May-08

EXHIBIT 1

Existing Zoning Alternative

MacArthur Transit Village Project - CEQA Alternatives Analysis

83% MARKET RATE UNITS / 17% BMR UNITS

ASSUMES SELL-OUT AND STABILIZED OCCUPANCY

Stabilized Operating Statement - Market Rate (2008 $s)		
Average Market Rate Sales Prices	$460,000 per unit	$202,400,000
Less: Marketing & Commissions	4.5%	(9,108,000)
Market Rate Net Sales Proceeds		193,292,000
Total Residential Value		**$193,292,000**
Stabilized Operating Statement - Retail (2008 $s)		
Retail Gross Income		
Potential Gross Rental Income	$36 per sf/year	$1,584,000
Less Vacancy And Collection Loss	10.0% of Gross Rental Income	(158,400)
Total Effective Gross Income (EGI)		$1,425,600
Less Operating Expenses	3.0% of EGI	(42,768)
Less Reserves	2.0% per year	(28,512)
Net Operating Income		$1,354,320
Capitalization		9.0%
Indicated Value		**$15,048,000**
Total Value		**$208,340,000**
Less: Development Costs		**($179,736,260)**
Less: Developer Profit (15%)		**($26,960,439)**
Residual Land Value		**$1,643,300**
Land Value per Square Foot		**$3**

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.

N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\Working Documents\Financial Feasibility Model 27-May-08

EXHIBIT 2

GENERAL ASSUMPTIONS

Reduced Building/Site Alternative

MacArthur Transit Village Project - CEQA Alternatives Analysis

April 2008

SITE AND BUILDING ASSUMPTIONS

Site Assumptions		**Building Assumptions**	
Site Area (Square Feet)	252,648	Number of Stories	6
Site Area (Net Acres)	5.80	Market rate units	166
		Below market units	34
		Total Units	200
Parking Assumptions			
Parking Spaces	350	Average Unit Size	867
Exclusive BART Parking Spaces (1)	300	Net Living Area	173,400
Total Parking Spaces	650	Efficiency	78%
		Total Living Area	223,333
		Commercial Area	20,000

Notes and Assumptions:

(1) BART Parking allotment included for illustrative purposes only. BART parking costs and revenues are not a part of this analysis.

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.

N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\Working Documents\Financial Feasibility Models\[Final Residual Analysis Re 27-May-08

EXHIBIT 2
INCOME / EXPENSE ASSUMPTIONS
Reduced Building/Site Alternative
MacArthur Transit Village Project - CEQA Alternatives Analysis
April 2008

INCOME/EXPENSE ASSUMPTIONS	
Market Rate Residential Units	
Average Unit Size	867
Price Per Square Foot - Market Rate	$531
Price Per Unit - Market Rate	$460,000
BMR Residential Units	
Average Unit Size	867
Price Per Square Foot - BMR	$288
Price Per Unit - BMR	$250,000
Commercial Space	
Monthly Rent Per Square Foot (NNN)	$3.0
Management Expenses	3.0%
Reserves	2.0%
Stabilized Vacancy/Collection Loss	10.0%

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.
N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\Working Documents\Financial Feasibility Models\[Final Residua 27-May-08

EXHIBIT 2
DEVELOPMENT COST ASSUMPTIONS
Reduced Building/Site Alternative
MacArthur Transit Village Project - CEQA Alternatives Analysis
April 2008

Cost Component	Total Costs (2008 $s)	Per Unit (or sf)
Direct Development Costs		
Type III Construction Costs	$56,251,894	281,259
Retail Construction Costs	4,940,000	247
Construction Contingency	6,119,189	30,596
Total Direct Development Costs	$67,311,083	$336,555
Indirect Development Costs		
Architecture and Engineering	2,935,755	14,679
Property Taxes During Construction - Lease-up	551,468	2,757
Insurance	2,372,900	11,865
Warranty Reserve	1,209,300	6,047
Financing Costs	5,250,000	26,250
Permits and Development Fees	4,236,526	21,183
Legal Fees	250,000	1,250
DRE Fees	37,000	185
HOA Fees	92,500	463
Testing and Inspections	500,000	2,500
Commercial Tenant Improvements	600,000	30
Retail Commissions and Marketing	200,000	10
Project Contingency	1,823,545	9,118
Total Indirect Development Costs	20,058,995	96,335
Total Development Costs (Excluding Land)	$87,370,078	$432,890

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.
N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\ Workin 27-May-08

EXHIBIT 2
Reduced Building/Site Alternative
MacArthur Transit Village Project - CEQA Alternatives Analysis
83% MARKET RATE UNITS / 17% BMR UNITS
ASSUMES STABILIZED OCCUPANCY

Stabilized Operating Statement - Market Rate (2008 $s)		
Average Market Rate Sales Prices	$460,000 per unit	$76,360,000
Less: Marketing Expenses	4.5%	(3,436,200)
Market Rate Net Sales Proceeds		72,923,800
Average BMR Sales Prices	$250,000 per unit	$8,500,000
Less: Cost to Sell	4.5%	(382,500)
BMR Net Sales Proceeds		$8,117,500
Total Residential Value		**$81,041,300**
Stabilized Operating Statement - Retail (2008 $s)		
Retail Gross Income		
Potential Gross Rental Income	$36 per sf/year	$720,000
Less Vacancy And Collection Loss	10.0% of Gross Rental Income	(72,000)
Total Effective Gross Income (EGI)		$648,000
Less Operating Expenses	3.0% of EGI	(19,440)
Less Reserves	2.0% per year	(12,960)
Net Operating Income		$615,600
Capitalization		9.0%
Indicated Value		**$6,840,000**
Total Value		**$87,881,300**
Less: Development Costs		**($87,370,078)**
Less: Developer Profit (15% of Cost)		**($13,105,512)**
Residual Land Value		**($12,594,290)**
Land Value per Square Foot		**($52)**

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.

N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\Working Documents\Financial Feasibility Models\[Final Resi 27-May-08

EXHIBIT 3

Existing Zoning Alternative

MacArthur Transit Village Project - CEQA Alternatives Analysis

83% MARKET RATE UNITS / 17% BMR UNITS

HORIZONTAL PRO FORMA

MTCP Revenue/Sources Summary	
Residential Land Revenue (From Exhibit 1)	$1,643,300
Affordable Housing Contributions	$14,833,333
City and Redevelopment Agency Funding	*$14,300,000*
Proposition 1C Funding	$31,767,000
BART related credits and grants	$1,313,000
Other sources	$2,085,939
Total Gross Revenue	**$65,942,572**
MTCP Cost Summary	
Building Construction Cost (Affordability Gap)	$17,065,833
Entitlement and Acquisition Cost	$15,000,000
Sitework, Infrastructure and Environmental Remediation	$12,858,934
Transportation Improvements (including BART Plaza)	$5,177,957
300 Space BART Parking Garage	$20,249,954
Contingency	$3,133,278
Total Costs	**$73,485,956**
Developer Profit	**($7,543,384)**
Developer Profit Margin	**-10.27%**

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.

N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\Working Documents\Financi 27-May-08

EXHIBIT 3

Reduced Building/Site Alternative

MacArthur Transit Village Project - CEQA Alternatives Analysis

83% MARKET RATE UNITS / 17% BMR UNITS

HORIZONTAL PRO FORMA

MTCP Revenue/Sources Summary	
Residential Land Revenue (From Exhibit 1)	($12,594,290)
Affordable Housing Contributions	$5,005,556
City and Redevelopment Agency Funding	$7,105,556
Proposition 1C Funding	$31,767,000
BART related credits and grants	$1,313,000
Other sources	$1,042,970
Total Gross Revenue	**$33,639,792**
MTCP Cost Summary	
Building Construction Cost (Affordability Gap)	$10,000,000
Entitlement and Acquisition Cost	$6,320,000
Sitework, Infrastructure and Environmental Remediation	$9,639,024
Transportation Improvements (including BART Plaza)	$5,177,957
300 Space BART Parking Garage	$20,249,954
Contingency	$3,133,278
Total Costs	**$54,520,213**
Developer Profit	**($20,880,421)**
Developer Profit Margin	**-38.30%**

Sources: BART; Macarthur Transit Community Partners; BRIDGE Housing; Jame E. Roberts - Obayashi Corporation; and CBRE Consulting Group.

N:\Team-Sedway\Projects\2008\1008044 BRIDGE MacArthur Transit\Working Documents\Financi 27-May-08

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 JUN 12 PM 6:12

APPROVED AS TO FORM AND LEGALITY

DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____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"), 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; 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: The City Council, as the final decision-making body of the lead agency, independently confirms and adopts as its own findings and determinations the certification of the FEIR and adoption of the CEQA-related Findings made and adopted by the Planning Commission on June 4, 2008, prior to taking action on the Project; and be it

FURTHER 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 independently affirms and sustains the Planning Commission's decision to approve the Development Permits for the Project, subject to the findings and the conditions (including the MMRP) contained in the June 4, 2008, Planning Commission Report; and be it

FURTHER RESOLVED: That this decision is based, in part, on 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, all of 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 independently affirms and adopts as its own findings and determinations (a) 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, 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, _____, 2008

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 JUN 12 PM 6:12

APPROVED AS TO FORM AND LEGALITY

DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. _____C.M.S.

ORDINANCE REZONING THE MACARTHUR TRANSIT VILLAGE PROJECT SITE LOCATED AT THE MACARTHUR BART STATION BETWEEN 40TH STREET, TELEGRAPH AVENUE, WEST MACARTHUR BOULEVARD AND HIGHWAY 24 FROM THE C-28 COMMERCIAL SHOPPING, R-70 RESIDENTIAL HIGH DENSITY AND THE S-18 DESIGN REVIEW COMBINING ZONE TO THE S-15 TRANSIT ORIENTED DEVELOPMENT ZONE; AND ADOPTING A TEXT AMENDMENT TO MODIFY REQUIRED OPEN SPACE IN THE S-15 ZONE

WHEREAS, the approximately 8.2-acre site of the MacArthur Transit Village Project ("Project"), located At The Macarthur Bart Station Between 40th Street, Telegraph Avenue, West Macarthur Boulevard And Highway 24, is currently located in the C-28 Commercial Shopping Zone, R-70 Residential High Density Zone and S-18 Design Review Combining Zone according to the Oakland Zoning Regulations; and

WHEREAS, the intent of the C-28 Commercial Shopping Zone is to create, preserve, and enhance major boulevards of medium-scale retail establishments featuring some specified higher density nodes; and

WHEREAS, the intent of the R-70 Residential High Density Zone is to create, preserve, and enhance areas for apartment living at high densities in desirable; and

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, the application for the rezoning petitioned the City to rezone the Project site from the C-28 Commercial Shopping Zone, R-70 Residential High Density Zone and S-18Design Review Combining Zone to the S-15 Transit Oriented Development Zone; and

WHEREAS, the intent of the S-15 Zone is to create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial and mixed-use developments to encourage a balance of pedestrian-oriented activities, transit opportunities, and concentrated development; and encourage a safe and pleasant pedestrian environment near transit stations by allowing a mixture of residential, civic, commercial, and light industrial activities, allowing for amenities such as benches, kiosks, lighting, and outdoor cafes; and by limiting conflicts between vehicles and pedestrians, and is typically appropriate around transit centers such as Bay Area Rapid Transit District (BART) stations, AC Transit Centers and other transportation nodes; and

WHEREAS, the S-15 Zone would allow the proposed density and mix of land uses proposed for the transit village project; and

WHEREAS, the S-15 Zone is a "best fit" zone for the project site's General Plan land use designation of Neighborhood Center Mixed Use; and

WHEREAS, the S-15 Zone includes provisions for minimum useable open space for residential housing units: 150 square feet of group open space and 30 square feet of private open space per unit; and

WHEREAS, a reduction in the minimum useable open space requirement in the S-15 Zone to be consistent with the S-17, Downtown Residential Open Space Combining Regulations, would further the goals for Transit-Oriented Development including increased density and flexibility of design to best suit the proposed mix of land uses; and

WHEREAS, the S-17 Zone includes provisions for minimum useable open space for residential housing units: 75 square feet of open space per unit; 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"), to the City Council; and

WHEREAS, the Community and Economic Development Committee of the City Council conducted a duly noticed meeting on the Project on June 24, 2008 and recommended Project approval; and

WHEREAS, the City Council of the City of Oakland conducted a duly noticed 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, the Council of the City of Oakland does ordain as follows:

SECTION 1. The City Council, as the final decision-making body of the lead agency, independently confirms and adopts as its own findings and determinations (i) the certification of the FEIR and adoption of the CEQA-related Findings made and adopted by the Planning Commission on June 4, 2008, prior to taking action on the Project, and (ii) the Conditions of Approval and Mitigation Monitoring and Reporting Program adopted by the Planning Commission on June 4, 2008, all incorporated by reference herein.

SECTION 2. 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 amends the designation and location of zones and zone boundaries on the Zoning Map as shown on the map attached to this Ordinance as **Exhibit A** and further amends the text of the zoning regulations (Planning Code Section 17.97.170) as shown in this Ordinance as **Exhibit B,** all hereby incorporated by reference.

SECTION 3. The City Council finds that it is necessary, desirable, and in the public interest to amend the Zoning Map and Text of the S-15 Zone for the reasons set forth herein and in the June 24, 2008, Community and Economic Development Committee Agenda Report, the June 4, 2008, Planning Commission Report, and the MacArthur Transit Village Environmental Impact Report, all of which are hereby incorporated by reference as if fully set forth herein.

SECTION 4. The City Council finds and determines that this Ordinance complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

SECTION 5. 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 Environmental Impact Report 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; and

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.

SECTION 6. 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.

SECTION 7. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

SECTION 8. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

SECTION 9. The recitals contained in this Ordinance are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

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

DATE OF ATTESTATION: _____

EXHIBIT A

AMENDMENT TO ZONING MAP
MACARTHUR TRANSIT VILLAGE PROJECT SITE
(APNS 012-0969-053-03, 012-0968-055-01, 012-0967-049-01, 012-0969-002-00, 012-0969-003-00, 012-0969-053-02, 012-0969-004-00, 012-0968-003-01, 012-0967-009-00, AND 012-0967-010-00)

EXHIBIT B

TEXT AMENDMENT TO S-15 ZONE RELATED TO MINIMUM USABLE OPEN SPACE

TEXT AMENDMENT TO S-15 ZONE RELATED TO MINIMUM USABLE OPEN SPACE

~~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.

MPW

NOTICE AND DIGEST

ORDINANCE (A) REZONING THE MACARTHUR TRANSIT VILLAGE PROJECT SITE LOCATED AT THE MACARTHUR BART STATION BETWEEN 40TH STREET, TELEGRAPH AVENUE, WEST MACARTHUR BOULEVARD AND HIGHWAY 24 FROM THE C-28 COMMERCIAL SHOPPING, R-70 RESIDENTIAL HIGH DENSITY AND THE S-18 DESIGN REVIEW COMBINING ZONE TO THE S-15 TRANSIT ORIENTED DEVELOPMENT ZONE; AND (B) ADOPTING A TEXT AMENDMENT TO MODIFY REQUIRED OPEN SPACE IN THE S-15 ZONE.

This ordinance would (1) rezone the 8.2-acre property from the C-28 Commercial Shopping, R-70 Residential High Density and S-18 Mediated Design Review Overlay Zone to the S-15 Transit Oriented Development Zone; and (2) amend the text of the S-15 Zone related to minimum open space making it consistent with the S-17 Zone in order to facilitate the MacArthur Transit Village Project.