

*Mark P. Wald*  
Office of the City Attorney

**FILED**  
OFFICE OF THE CITY CLERK  
OAKLAND

2015 APR 30 PM 3:19

# OAKLAND CITY COUNCIL

**RESOLUTION No. 85603 C.M.S.**

Introduced by Councilmember \_\_\_\_\_

**A RESOLUTION, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, (A) AFFIRMING THE COMMISSION'S ENVIRONMENTAL DETERMINATION THAT NO ADDITIONAL ENVIRONMENTAL REVIEW IS NEEDED PURSUANT TO CEQA GUIDELINES SECTIONS 15162-15164 AND ADOPTING RELATED CEQA FINDINGS; AND (B) ADOPTING FINAL DEVELOPMENT PLAN FOR PARCEL A/PHASE 3 AND PARCEL C-1/PHASE 4, MINOR VARIANCES, DESIGN REVIEW AND OTHER DEVELOPMENT RELATED LAND USE PERMITS FOR THE MACARTHUR STATION (MS) PROJECT, LOCATED AT 532 39<sup>TH</sup> STREET (ALSO REFERENCED AS 585 40<sup>TH</sup> STREET).**

**WHEREAS**, on June 4, 2008, the City of Oakland Planning Commission certified the MacArthur Transit Village Environmental Impact Report (EIR), adopted CEQA findings and recommended approval of the MacArthur Transit Village Planned Unit Development (PUD) to the City Council; and

**WHEREAS**, the Oakland City Council affirmed and adopted the Planning Commission's certification of the EIR, the CEQA-related findings, and approval of the MacArthur Transit Village PUD on July 1, 2008; and

**WHEREAS**, the Oakland City Council also approved a "Development Agreement by and between City of Oakland and MacArthur Transit Community Partners, LLC Regarding the Property and Project Known as 'MacArthur Transit Village'" (DA) on July 21, 2009; and

**WHEREAS**, BRIDGE Housing Corporation (applicant) in October 2014, submitted development applications for: a Final Development Plan (FDP) for Parcel A/Phase 3 and Parcel C-1/Phase 4 of the MS Project, Design Review and Minor Variances for off-street loading requirements for Parcel A/Phase 3, including an alternative development program for Parcel A as detailed below ("Project"); and

**WHEREAS**, the Project includes two phases of development on Parcels A and C-1 and in total includes a total of 383 apartment residential units; 23,489 square feet of ground-floor retail space; 35,320 square feet of open space; and 323 underground and surface garage parking spaces consisting of compact, standard, intermediate, ADA compliant and parking lifts; and

**WHEREAS**, the Project also proposes an alternate development program for Parcel A. The Parcel A Alternate Plan accommodates a grocery store in the larger of the two buildings. The

Parcel A Alternate Plan together with the Parcel C-1 Plan includes a total of 388 apartment residential units; 35,185 square feet of ground-floor retail space; 30,956 square feet of open space; and 424 parking spaces; and

**WHEREAS**, the Parcel A/Phase 3 portion of the FDP would include 287 apartment residential units and 22,287 square feet of ground-floor retail and the alternative development program for Parcel A, which would accommodate a grocery store, includes 292 residential units, 33,983 square feet of ground-floor commercial space including approximately 22,287 square feet for a grocery store; and

**WHEREAS**, the proposed Parcel C-1 portion of the FDP would include 96 apartment residential units and 1,202 square feet of ground-floor retail; and

**WHEREAS**, on November 12, 2014, the City of Oakland Planning Commission's Design Review Committee held a duly noticed meeting and recommended revisions to the Project; and

**WHEREAS**, on April 15, 2015 a duly noticed public hearing was held before the City Planning Commission to consider the CEQA-related issues and the Project; and

**WHEREAS**, on April 15, 2015, the City Planning Commission, after conducting and closing the public hearing, recommended that the City Council: (a) affirm the Environmental Determination that no additional environmental review is needed pursuant to CEQA Guidelines Sections 15162-15164; and (2) approve the Project based, in part, upon the Project Findings and Conditions of Approval contained in the April 15, 2015 City Planning Commission Report and as revised at the Planning Commission, and attachments ("Revised/Approved City Planning Commission Report"); and

**WHEREAS**, the Project was considered at a regular, duly noticed meeting of the City Council's Community and Economic Development Committee on May 12, 2015, which recommended approval of the Project; and

**WHEREAS**, the Project was considered at a regular, duly noticed, public hearing of the City Council on May 19, 2015; now, therefore be it

**RESOLVED**, that the City Council, as the final decision-making body for the Lead Agency, has independently reviewed, considered, and analyzed the Project and the CEQA findings of the City Planning Commission contained in the Revised/Approved City Planning Commission Report and the May 12, 2015 City Council's Community and Economic Development Committee's Agenda Report and attachments ("City Council Agenda Report"); and be it

**FURTHER RESOLVED**, that the City Council, as the final decision-making body for the lead agency, hereby confirms, adopts, and incorporates by reference into this Resolution (as if fully set forth herein) all the CEQA findings contained in the Revised/Approved City Planning Commission Report and the City Council Agenda Report prior to taking action in approving the Project; and be it

**FURTHER RESOLVED**, that the City Council adopts and incorporates by reference into this Resolution (as if fully set forth herein), as conditions of approval of the Project, the SCAMMRP contained in the Revised/Approved City Planning Commission Report and the City Council Agenda Report; and be it

**FURTHER RESOLVED**, that the City Council hereby adopts all of the Project's planning-related permits and approvals and conditions of approval, based in part on the Findings identified above as well as the Revised/Approved City Planning Commission Report and the City Council Agenda Report; and be it

**FURTHER RESOLVED**, that nothing in this Resolution shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law; and be it

**FURTHER RESOLVED**, that the Environmental Review Officer, or designee, 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 these actions include, without limitation, the following:

1. The October 2014 development application, as may be amended or supplemented, and all related materials, including all accompanying maps, papers and appendices;
2. All final staff reports, final decision letters, and other final documentation and information produced by or on behalf of the City, including without limitation the EIR and supporting technical studies and appendices, and all related/supporting final materials, and all final notices relating to the Project and attendant hearings including those associated with 2008 EIR certification and the PUD approval (June 4, 2008 Planning Commission Report, and the July 1, 2008 City Council Report) and the Phase/Stage 1 and Phase 2/Stage 3 Vesting Tentative Tract Map and Final Development Plan and all other associated Planning approvals;
3. All oral and written evidence received by the City Planning Commission and City Council during the public hearings on the Project as well as all written evidence received by the relevant City Staff before and during the public hearings on the Project; and
4. All matters of common knowledge and all official enactments and acts of the City, such as: (a) the General Plan; (b) Oakland Municipal 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) Department of Planning and Building – Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (B) Office of the City Clerk, One Frank H. Ogawa Plaza, 1<sup>st</sup> 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.

**MAY 19 2015**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES – BROOKS, GALLO, GUILLEN, KALB, KAPLAN, ~~REID~~, WASHINGTON, and PRESIDENT GIBSON  
MCELHANEY - 7

NOES – 0

ABSENT – 0

ABSTENTION – 0

Excused - Reid - 1

ATTEST: LaTonda Simmons for  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: 5-22-2015