

Introduced by Council Member \_\_\_\_\_  
OAKLAND

REVISED @ City Council  
Approved as to Form and Legality

*Mark P. Wald*  
Office of the City Attorney

17 MAR 20 PM 1:09

OAKLAND CITY COUNCIL

RESOLUTION NO. 86630 C.M.S.

**A RESOLUTION, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, (A) REVISING THE MACARTHUR BART PLANNED UNIT DEVELOPMENT; (B) ADOPTING A FINAL DEVELOPMENT PERMIT, VESTING TENTATIVE PARCEL MAP 10561, AND DESIGN REVIEW; AND (C) RELYING ON THE 2008 MACARTHUR STATION PROJECT ENVIRONMENTAL IMPACT REPORT AND ADDENDA, AND OTHER DOCUMENTS, FINDING THAT NO ADDITIONAL ENVIRONMENTAL REVIEW IS NEEDED PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTIONS 15162-15164, 15168, 15180, 15183, and 15183.3 AND ADOPTING RELATED CEQA FINDINGS, FOR PARCEL B, LOCATED AT 532-39<sup>TH</sup> STREET, OAKLAND, CA (ASSESSOR PARCEL NUMBERS 012 102501100 AND 012 102501200)**

**WHEREAS**, on June 4, 2008, the City of Oakland Planning Commission certified the MacArthur Transit Village Environmental Impact Report (EIR), adopted California Environmental Quality Act (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**, Boston Properties in July 2016, submitted development applications relating to Parcel B/Phase 5 for: A Final Development Plan (FDP), a revision to the preliminary PUD, Vesting Tentative Tract Map (VTTM 10561), and Design Review (Project); and

**WHEREAS**, Boston Properties in December 2016, submitted a related application to amend the Development Agreement to allow for increased height on Parcel B up to 260 feet and providing for community benefits, which will be adopted via a separate ordinance; and

**WHEREAS**, the Project includes a total of 402 residential units (45 affordable units); up to 13,000 square feet of ground-floor commercial space; and 262 on-site parking spaces, in a single, 24-story, 260-foot tall building; and

**WHEREAS**, on August 10 and October 19, 2016, the City of Oakland Planning Commission's Design Review Committee held duly noticed meetings and recommended forwarding the Project to the full Planning Commission; and

**WHEREAS**, on February 1, 2017, the Planning Commission, after conducting and closing a duly noticed 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 15168 and 15180, 15183, and 15183.3; and (2) approve the Project based, in part, upon the Project Findings and Conditions of Approval contained in the February 1, 2017 City Planning Commission Report and attachments; and

**WHEREAS**, the Project was considered at a regular, duly noticed meeting of the City Council's Community and Economic Development Committee on February 28, 2017, which recommended approval of the Project, with further and revised conditions of approval and Development Agreement community benefits; and

**WHEREAS**, the Project was considered at a regular, duly noticed, public hearing of the City Council on March 7, 2017; now, therefore, be it

**RESOLVED:** The City Council, based upon its own independent review, consideration, and exercise of its independent judgment, hereby finds and determines, on the basis of substantial evidence in the entire record before the City, that none of the circumstances necessitating further CEQA review are present for the reasons stated in the February 1, 2017 Planning Commission Report and Attachments (Planning Commission Report), the February 28, 2017 Community and Economic Development Committee Agenda Report and Attachments, and the March 7, 2017 Supplemental City Council Agenda Report (City Council Reports), hereby incorporated by reference as if fully set forth herein. The City Council also adopts the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program contained in the Planning Commission Report and City Council Reports, hereby incorporated by reference as if fully set forth herein; and be it

**FURTHER RESOLVED:** That the City Council finds and determines that this action complies with CEQA, adopts the CEQA findings contained in the Planning Commission Report and City Council Reports (hereby incorporated by reference as if fully set forth herein), and directs the Environmental Review Officer to cause to be filed a Notice of Determination and Notice of Exemption with the appropriate agencies; 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 and conditions of approval identified in the Planning Commission Report, as revised by the City Council Reports (hereby incorporated by reference as if fully set forth herein), and as further revised with an additional condition of approval relating to all-electric cooking appliances; and be it

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

1. the application, including all accompanying maps and papers;
2. all relevant plans and maps;

3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City, including all CEQA-related materials;

4. all oral and written evidence received by the City staff, Planning Commission, and City Council before and during the public hearings on the application; and

5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) the Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, 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's decision is based are respectively: (a) the Planning and Building Department, Planning Bureau, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland; and (b) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland; and be it

**FURTHER RESOLVED:** This Resolution shall only be effective if the Development Agreement Amendment Ordinance is adopted, and, if such Ordinance is adopted, this Resolution shall become effective upon the effective date of the Development Agreement Amendment Ordinance; 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, MAR 07 2017

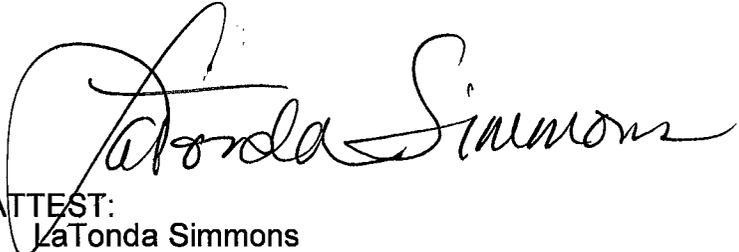
**PASSED BY THE FOLLOWING VOTE:**

AYES – BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND PRESIDENT REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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

**LEGAL NOTICE: THIS DECISION OF THE CITY COUNCIL IS FINAL AND IS NOT ADMINISTRATIVELY APPEALABLE. HOWEVER, THE DECISION WILL ONLY BE EFFECTIVE IF THE DEVELOPMENT AGREEMENT AMENDMENT ORDINANCE IS ADOPTED, AND, IF SUCH ORDINANCE IS ADOPTED, THIS RESOLUTION SHALL BECOME EFFECTIVE UPON THE ADOPTION DATE OF THE DEVELOPMENT AGREEMENT AMENDMENT ORDINANCE. ANY PARTY SEEKING TO CHALLENGE THIS DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE EFFECTIVE DATE OF THIS DECISION, UNLESS A DIFFERENT DATE APPLIES.**