

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

OFFICE OF THE CITY CLERK  
OAKLAND

Revised @ Council 11/29/16  
Approved as to Form and Legality

*Mark P. Volk*  
Office of the City Attorney

2016 DEC -1 PM 1:46

# OAKLAND CITY COUNCIL

RESOLUTION NO. 86489 C.M.S.

**A RESOLUTION, AS RECOMMENDED BY THE PLANNING COMMISSION, REVISING THE MACARTHUR BART PARCELS A AND C1 FINAL DEVELOPMENT PERMIT (CASE FILE PUDF08/ER01), RELYING ON THE 2008 MACARTHUR STATION PROJECT ENVIRONMENTAL IMPACT REPORT AND ADDENDA, FINDING THAT NO ADDITIONAL ENVIRONMENTAL REVIEW IS NEEDED PURSUANT TO CEQA GUIDELINES SECTIONS 15162-15164 AND ADOPTING RELATED CEQA FINDINGS**

**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 the 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**, on May 17, 2015, the City Council approved the MacArthur Transit Village Parcels A and C1 Final Development Permit (FDP) to allow two phases of development and in total includes 383 apartment residential units; 23,489 square feet of ground-floor retail space; 35,320 square feet of open space; and 323 on-site parking spaces; and

**WHEREAS**, on September 28, 2016, the Applicant submitted an application to revise the FDP to substitute live/work units for ground floor retail uses; decrease on-site parking; and provide project driveway on Telegraph Avenue; and

**WHEREAS**, the City of Oakland Bureau of Planning prepared a 2016 Addendum to the EIR and determined that not additional environmental review is needed pursuant to CEQA Guidelines Sections 15162-15164; and

**WHEREAS**, the FDP revision application was subject to a duly noticed public hearing before the Planning Commission on November 2, 2016; and

**WHEREAS**, on November 2, 2016, the City Planning Commission, after conducting and closing the public hearing, recommended that the City Council revise the FDP, subject to revised conditions of approval, rely on the 2008 EIR and addenda finding that no additional environmental review is needed pursuant to CEQA Guidelines Sections 15162-15164 and adopt related CEQA findings; and

**WHEREAS**, the Project was considered at a regular, duly noticed meeting of the City Council's Community and Economic Development Committee on November 15, 2016, which recommended approval of the Project, with further, revised conditions of approval;

**WHEREAS**, the Project was considered at a regular, duly noticed public hearing of the City Council on November 29, 2016, wherein further, revised conditions of approval were introduced (and adopted); 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 Planning Commission report, the November 15, 2016 City Council's Community and Economic Development Committee's Agenda Report and Supplemental Report and attachments, and the November 29, 2016 City Council Supplemental Report and Attachment (collectively "City Council Agenda Reports"); and be it

**FURTHER RESOLVED**: that the City Council hereby (a) relies on the 2008 EIR and addenda, finding that no additional environmental review is needed pursuant to CEQA Guidelines Sections 15162-15164 and adopts all related CEQA findings; and (b) adopts all of the Project's planning-related permits and approvals, findings and further, revised conditions of approval, based on the City Planning Commission Report and the City Council Agenda Reports, hereby incorporated by reference, as if fully set forth herein; 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 this Project and Appeal includes, without limitation, the following:

1. the Application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and its representatives;
3. all final staff reports, final decision letters, and other final documentation and information produced by or on behalf of the City, including without limitation all

related/supporting final materials, and all final notices relating to the Application and attendant hearings;

4. all oral and written evidence received by the Planning Commission and City Council before and during the public hearings on the Application and Appeal; and all written evidence received by relevant City Staff before and during the public hearings on the Application and Appeal; and
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (b) the Oakland Municipal Code; (c) the 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 located at (a) the Planning and Building Department, Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, and (b) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, First Floor, Oakland, California; and be it

**FURTHER RESOLVED:** That per standard City practice, if litigation is filed challenging this decision, or any subsequent implementing actions, then the time period for obtaining necessary permits for construction or alteration and/or commencement of authorized construction-related activities stated in any applicable conditions of approval or regulations is automatically extended for the duration of the litigation; 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.

NOV 29 2016

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

**PASSED BY THE FOLLOWING VOTE:**

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

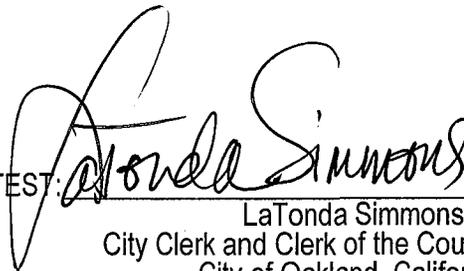
NOES - 0

ABSENT - 0

ABSTENTION - 0

ABSENT - REID

ATTEST:



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

**LEGAL NOTICE:** PURSUANT TO OAKLAND MUNICIPAL CODE SECTION 17.136.090, THIS DECISION OF THE CITY COUNCIL IS FINAL IMMEDIATELY AND IS NOT ADMINISTRATIVELY APPEALABLE. ANY PARTY SEEKING TO CHALLENGE SUCH DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE DATE OF THIS DECISION, UNLESS A DIFFERENT DATE APPLIES.