  
City Attorney

2018 NOV 15 AM 9:39

**OAKLAND CITY COUNCIL**  
**ORDINANCE NO. 18518 C.M.S.**

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**AN ORDINANCE TO REZONE THREE VACANT PARCELS LOCATED AT 601 MACARTHUR BOULEVARD FROM RM-3 MIXED HOUSING TYPE RESIDENTIAL ZONE TO RU-2 URBAN RESIDENTIAL ZONE AND TO ADOPT RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS.**

**WHEREAS**, the applicant owns three vacant parcels located at 601 MacArthur Boulevard in the City of Oakland, Alameda County with APNs: 023 042700200, 023 042700100 and 023 042700803 (the "property"); and

**WHEREAS**, the applicant proposes to rezone the property from the RM-3 Mixed Housing Type Residential Zone (RM-3 Zone) to the RU-2 Urban Residential Type Zone (RU-2 Zone); and

**WHEREAS**, prior to 2011, the property was zoned R-70 High Density Residential Zone (R-70 Zone), and Planning permits were issued for similar residential development; and

**WHEREAS**, in 2011, the Oakland City Council adopted new Zoning districts for most of the City to conform to the Land Use and Transportation Element (LUTE) of the General Plan and as part of the Zoning update effort, extensive field work was conducted as part of the mapping process resulting generally in a much finer-grained Zoning map and new Zoning text that considered what was occurring "on the ground" and the parcel-specific Zoning; and

**WHEREAS**, the property measures approximately 20,478 square feet in size, and is located at the intersection of MacArthur Boulevard and Wesley Avenue and fronts I-580 freeway; and

**WHEREAS**, the rezoning of the property would serve as a transitional medium-density zone from the high-density zone, located to the west and across Wesley Avenue and MacArthur Boulevard, and the low-density zone located to the east of the site; and

**WHEREAS**, on December 20, 2017 the City Planning Commission conducted a duly noticed public hearing to consider the rezoning and residential development and after conducting and closing the public hearing, the Planning Commission recommended that the City Council approve the rezoning and adopt the California Environmental Quality Act (CEQA) findings, subject to the requirements and findings contained in the staff report, ("City Planning Commission Report"); and

**WHEREAS**, on January 31, 2018 the Design Review Committee as a referral body of the Planning Commission, conducted a duly noticed public hearing to review the project for a 25-unit residential development in relation to the rezoning and supported the improved design plans; and

**WHEREAS**, on November 8, 2018 the Rules and Legislation Committee of the City Council held a public hearing to review and schedule the proposed rezoning to the City Council to be heard on November 27, 2018; and

**WHEREAS**, on November 27, 2018, the City Council held a duly noticed public hearing and independently reviewed and considered the project findings made by the Planning Commission for approval of the rezoning of the properties from the RM-3 Mixed Housing Type Residential Zone to the RU-2 Urban Residential Zone, and hereby affirms said findings; and

**WHEREAS**, the project proposal relies on the previously certified Final Environmental Impact Report (EIR) for the LUTE (1998), and on a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning"; and now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** The City Council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

**Section 2.** The City Council hereby adopts the proposed rezoning of the three vacant parcels, and development located at 601 MacArthur Boulevard from the RM-3 Mixed Housing Type Residential Zone to the RU-2 Urban Residential Zone, as detailed in *Exhibit A*, attached hereto and hereby incorporated by reference, based in part upon the findings contained in the approved City Planning Commission Report and the City Council Agenda Report.

**Section 3.** The City Council has reviewed the proposal and the CEQA exemptions described in the approved City Planning Commission Report and the City Council Agenda Report and independently finds and determines that this action relies on the previously certified Final Environmental Impact Report (EIR) for the LUTE and on a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning". The Environmental Review Officer or designee shall file a Notice of Exemption with the appropriate agencies.

**Section 4.** The provisions of this Ordinance are severable, and if any section, subsection, sentence, clause, phrase, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from its coverage.

**Section 5.** The record before this Council relating to this Ordinance include, without limitation, the following:

1. The July 25, 2017 Rezoning 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 all related/supporting final materials, and all final notices relating to the Project and attendant hearings;
3. All oral and written evidence received by the Oakland Planning Commission, City Administrator's Office, 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.

**Section 6.** Except as specifically set forth herein, this ordinance suspends and supersedes all conflicting resolutions, ordinances, plans, codes, maps, laws and regulations except for those involving general or specific plans.

**Section 7.** If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application of provisions to the other persons or circumstances shall not be affected thereby.

**Section 8.** Pursuant to Section 216 of the Charter of the City of Oakland, this Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the Council of the City of Oakland.

**Section 9.** 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) Planning and Building Department, Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, California; (b) City Administrator's Office, One Frank H. Ogawa Plaza, 1<sup>st</sup> Floor, Oakland, California; and (c) Office of the City Clerk, One Frank H. Ogawa Plaza, 1<sup>st</sup> Floor, Oakland, California.

**Section 10.** 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, DEC 11 2018

**PASSED BY THE FOLLOWING VOTE:**

AYES- ~~WONG~~, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND PRESIDENT REID →


NOES- 0

ABSENT- 0

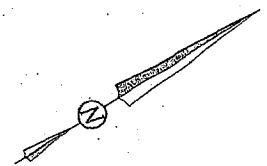
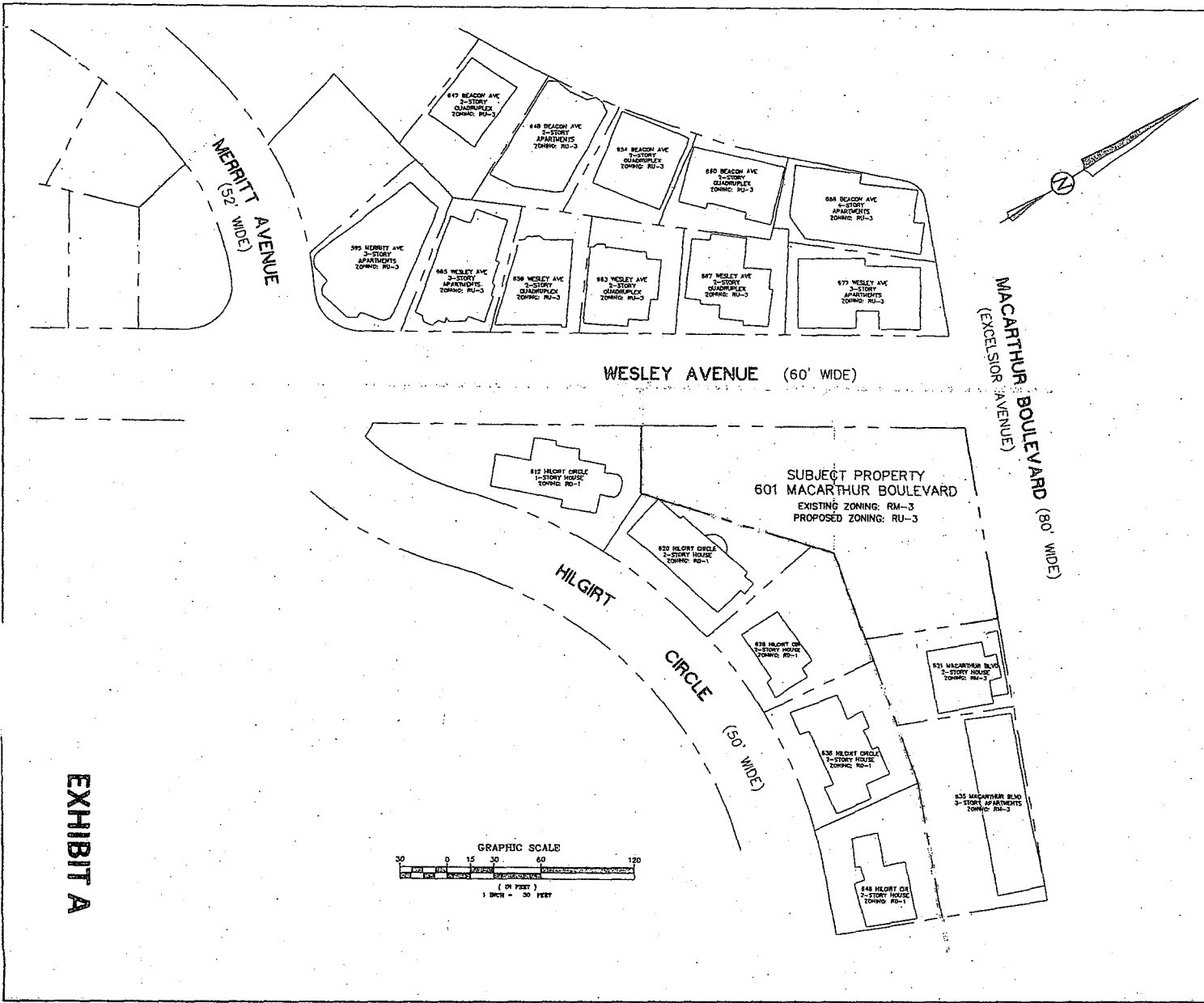
ABSTENTION- 0

Excused - 1 Brooks

Introduction Date  
NOV 27 2018

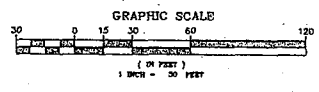
ATTEST:   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: December 17, 2018



GENERAL NOTES:  
BUILDING FOOTPRINTS SHOWN ARE APPROXIMATE AND ARE INTENDED ONLY FOR PROVIDING CONTEXT.

EXHIBIT A



### ZONING MAP

LOTS 5, 8, AND 7, BLOCK 1  
LAKEMONT (6 M 44)  
LOCATED AT 601 MACARTHUR BOULEVARD  
CITY OF OAKLAND, COUNTY OF ALAMEDA, CALIFORNIA

OCTOBER 26, 2017 SCALE: 1" = 30'

**MORAN ENGINEERING, INC.**

CIVIL ENGINEERS \ LAND SURVEYORS  
1930 SHATTUCK AVENUE, SUITE A  
BERKELEY, CALIFORNIA 94704  
(510) 848-1930



## **CITY OF OAKLAND NOTICE OF PUBLIC HEARING**

### **PROPOSED REZONING OF THREE VACANT PARCELS, LOCATED AT 601 MACARTHUR BOULEVARD, OAKLAND, CA 94610**

Notice is hereby given that **on Tuesday, November 27, 2018, at 5:30 p.m. in the City Council Chambers, City Hall, 1 Frank H. Ogawa Plaza**, the Oakland City Council will conduct a public hearing to consider adopting, as recommended by the Oakland City Planning Commission, an Ordinance for a Rezoning of three vacant parcels, located at 601 MacArthur Boulevard and at the intersection with Wesley Avenue.

The project sponsor proposes to Rezone three vacant parcels from RM-3 Mixed Housing Type Residential Zone to RU-2 Urban Residential Zone fronting two public streets. The purpose of the Rezoning is to create a density transition that would intensify the density of the site for up to 25 residential units.

Members of the public are welcome to attend the hearing, and provide either written or oral comments regarding this proposal (Planning Case: PLN17281). If you challenge the environmental determination or other actions in court, you may be limited to raising only those issues raised at the public hearing described above or in written correspondence directed to the case project Planner, Mike Rivera, at the City of Oakland, Bureau of Planning, located at 250 Frank H. Ogawa Plaza, Suite 2214, Oakland, CA 94612, or by email at [mriviera@oaklandnet.com](mailto:mriviera@oaklandnet.com)

Copies of the Staff Report and related project documents are available for distribution to interested parties at no charge at the City of Oakland Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612, Monday through Friday, 8:30 a.m. to 4:00 p. m., except Wednesday 9:30 a.m. to 4:00 p.m.

If you have any questions regarding this proposal, please contact the project case Planner, Mike Rivera at (510) 238-6417 or [mriviera@oaklandnet.com](mailto:mriviera@oaklandnet.com)

Office of the City Administrator  
November 9, 2018