

Oakland City Planning Commission

STAFF REPORT

Case File Number PUD08186 FPUD02

November 28, 2018

Location:	0 35 th Ave
Assessor's Parcel Number(s):	033-2177-021-00
Proposal:	Fruitvale Transit Village Phase IIB Multifamily development with 181 units of affordable housing, 6000 sf of office, internal courtyard group open space and 100 parking spaces. The applicant currently seeks approval of Design Review and a Final Development Plan for the project
Applicant:	Bridge Housing and Unity Council
Contact Person/ Phone Number:	Ethan Warsh 415 495-3591
Owner:	City of Oakland
Case File Number:	PUD08186-PUDF02
Planning Permits Required:	PUD permit Design Review
General Plan:	Neighborhood Center Mixed Use
Zoning:	S-15
Environmental Determination:	An Environmental Impact Report (EIR) was certified in May 2010. Pursuant to Sections 15162-15164 of the CEQA Guidelines, no additional environmental review is necessary
Historic Status:	N/A
City Council District:	5
Finality of Decision:	Planning Commission
For Further Information:	Contact Case Planner Rebecca Lind Planner III 510-238 -3472 rlind@oaklandnet.com

SUMMARY

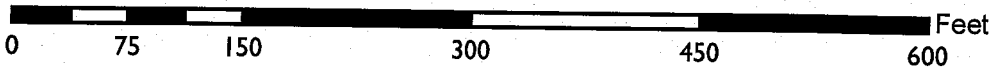
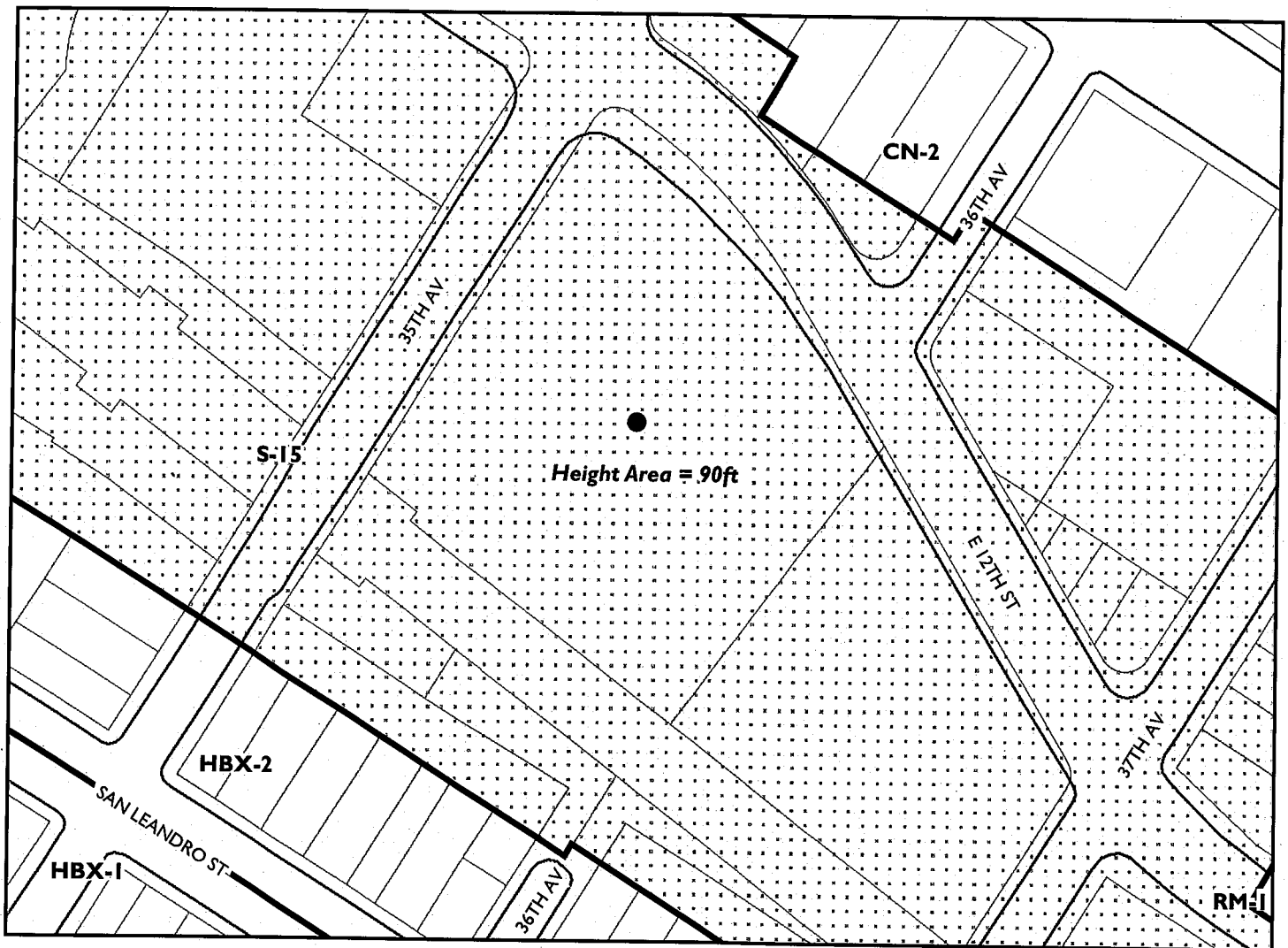
Bridge Housing and the Unity Council filed an application with the Bureau of Planning to complete the final phase of the Fruitvale Transit Village Preliminary Planned Unit Development (PPUD) originally approved in 2010. The development would provide the final 181 units of housing, structured parking and 6,000 square feet of office space on the existing surface parking lot adjacent to the Fruitvale BART Station to complete the Transit Village project. Staff recommends approval of the Final Development Permit (FDP).

BACKGROUND

The Preliminary Planned Unit Development for the Fruitvale Transit Village, PPUD08-186, allowed construction of a phased multifamily residential development consisting of 275 residential units with a parking garage on approximately 3.4 acres adjacent to the Fruitvale BART station. A Final Environmental Impact Report (FEIR) was prepared for this project and was published on April 28, 2010. Site specific Design Guidelines for the Fruitvale Village Phase II were adopted at the time of approval of the PPUD. The project included 94 affordable units in Phase IIA and 181 market rate units in Phase IIB and a shared parking garage.

#5

CITY OF OAKLAND PLANNING COMMISSION



Case File: PUD08186-PUDF02
Applicant: Bridge Housing and Unity Council
Address: 0 35th Ave (Fruitvale Transit Village Phase IIB)
Zone: S-15
Height Area: 90 ft

On Feb 13, 2015, an application was made for a Final Planned Unit Development (FPUD) which focused on Fruitvale Village Phase IIA but also addressed Phase IIB because it changed parking from a joint parking garage in the middle of the site to two separate garages integrated into each building and established an internal pedestrian walkway (Paseo) on both properties straddling the common property line. Phase IIA received a building permit in Dec. 2017 and is under construction.

Phase II B is now before the Commission for final approval. The developer's intent is to proceed with the project as approved in the 2010 PPUD/2015 FPUD with the following exceptions:

- 1) The housing in Phase IIB will be affordable rather than market rate.
- 2) The parking garage is moved from a multi-story structure on the BART side of the property to under the building as a single-story podium.
- 3) The amount of parking is reduced from 181 spaces to 100 spaces.
- 4) Greater height is proposed on all elevations than addressed in the PPUD in 2010, and the FPUD for the Phase IIA project.
- 5) 6,000 sf of ground floor office is provided on 35th Ave.
- 6) Mural art is incorporated into the design on 35th Ave.

SITE

The site is located on 35th Avenue and East 12th Street and across 35th Avenue from the Fruitvale Transit Village Phase I. The site abuts the BART tracks to the rear and the Fruitvale Transit Village Phase IIA project to the south.

SURROUNDING USES

The proposed project is infill development in a corridor defined by the existing Fruitvale Transit Village and BART station with elevated tracks bordering the site Phase IIA, under construction which will add an additional multifamily structure to the existing context. The two projects share an internal pedestrian court in the approximate location of the vacated 36th Ave. The community context includes active land uses such as Avenida De La Fuente and the Public Market.

PROJECT DESCRIPTION

The project includes demolition of the existing parking lot, construction of a residential complex containing 181 units of affordable housing, and 6,000 square feet of office space. The proposal is for a four-story facility over a parking podium. A small café space is anticipated on the 35th Ave frontage. Although preliminary approvals for the project were issued in May 2010, action on those approvals was delayed due to the larger economic downturn facing many developments of that period; the applicant subsequently applied for and was granted extensions to allow the project to move forward at later dates.

A continuous Emergency Vehicle Accessway is located between the project and the BART tracks. In addition, a new pedestrian walkway and bicycle path is located off the property on the BART right of way.

The proposed Phase IIB Project Design and original Phase II Project Design are included as Attachment D and Attachment E), respectively.

The proposal was specifically revised as follows:

- (a) Garage Configuration: The original design would have resulted in a 'super-block' development that would not have been appropriately scaled with surrounding developments. The parking garage was divided into separate structures so that Phase IIA and Phase IIB developments have separate buildings that each have their own garage.
- (b) Parking Ratio: The parking ratio has been reduced to the S-15 Transit Oriented Development Zone's requirement of 0.5 parking spaces per unit. Phase IIB has a 99-space garage with a surplus of 9 spaces.
- (c) Access to Parking: In the approved preliminary plans, the parking structure was accessed via an Emergency Vehicle Access road running along the BART tracks on the south side of the site. This road was accessed via 35th Avenue and 37th Avenues. In the proposed design, garage entries have been relocated directly off 35th and 37th Avenues, rather than from the Access Road. This change avoids bringing residents down a long service drive to enter and exit the garage. It also places garage entries on the street where they can be more readily supervised, improving security. Garage entries on both locations are intended to be 'right in and right out' only to minimize traffic conflicts.
- (d) Mid-block Paseo: As part of the re-organization of the garage, a mid-block pedestrian area was created that will serve as a shared open space between Phase IIA and Phase IIB. This pedestrian area provides a clear break in the project that corresponds approximately to the previous right of way at 36th Avenue. Under the preliminary plans, given the two phases had facades immediately adjacent to one another, one development would have had a large blank wall exposed to the neighborhood until the completion of the next phase. This issue has been eliminated in the redesign. The Phase IIB landscape plan provides an attractive approach to this amenity that will benefit and be accessible to residents of both Phase IIA and Phase IIB.
- (e) Interior courtyard open space is provided above the parking podium on the first floor. This open space will be accessible from the building interior but gated at the Paseo with emergency access only.

GENERAL PLAN ANALYSIS

The General Plan land use designation for the site is Neighborhood Center Mixed Use, which permits and encourages development "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," as stated in the Land Use and Transportation Element (LUTE). The maximum residential density provided in the Neighborhood Center Mixed Use category is 125

dwelling units per gross acre. The 3.4-acre project site could support a maximum of 425 residential units. The prior Phase IIA project of 94 units and current 181-unit Phase IIB Final Development Plan result in a total of 275 units which is under the maximum allowable density.

The following General Plan Land Use and Transportation policies apply to the proposed project:

- *Objective N3:* Encourage the construction, conservation, and enhancement of housing resources to meet the current and future needs of the Oakland community;
- *Policy N3.2: Encouraging Infill Development.* In order to facilitate the construction of needed housing units, infill construction that is consistent with the General Plan should take place throughout the City of Oakland;
- *Policy N8.1: Developing Transit Villages.* “Transit Village” areas should consist of attached multi-story development on properties near or adjacent to BART stations or other well-used or high volume transit facilities;
- *Policy T2.1 Encouraging Transit-Oriented Development.* The project is located adjacent to the Fruitvale BART station. This project would meet the goal of providing housing near transit.

Additionally, the following Housing Element policies will be implemented with the proposed project:

- *Policy 1.7: Regional Housing Needs.* The City will strive to meet its fair share of housing needed in the region.
- *Policy 2.4: Inclusion of Affordable Units in Market Rate Projects.* Seek voluntary agreements with private developers of market rate housing to include units affordable to lower-income households, especially those projects involving Redevelopment Agency support or requiring major planning approvals.
- *Policy 7.2: Energy Conservation.* Encourage the incorporation of energy conservation design features in existing and future residential development.
- *Policy 7.3: Infill Development.* Continue to direct development toward existing communities and encourage infill development at densities consistent with surrounding communities.
- *Policy 7.4: Compact Building Design.* Work with developers to construct new housing that reduces the footprint of new construction, preserves green spaces, and supports the use of public transit.

The proposal allows for development of residential units for a variety of incomes in a design that integrates well within the surrounding area, and is consistent with the intent and desired character of the NCMU land use designation, all noted General Plan objectives and policies, and the approved PUD which was found to be consistent with the General Plan. The FDP proposal is substantially consistent with the PUD approval and, as such, is consistent with the General Plan.

ZONING ANALYSIS

The proposal is located with the S-15 Transit-Oriented Development Zone that is intended to "create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial and mixed-use development". The goal of the designation is 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. The S-15 zone is mapped around transit centers such as BART stations, AC Transit centers and other transportation nodes (Planning Code Sec. 17.97). As determined in May 2010 when the PUD/PDP was approved by the City Planning Commission, the project is consistent with the S-15 Zone. The current proposal is found to be in substantial conformance with the 2010 approval and the PUD, and is therefore in compliance with the underlying zoning.

The following table summarizes the Phase IIB FDP compliance with the S-15 Zone development standards.

Fruitvale Transit Village Phase IIB Zoning Compliance Summary			
Standard	Required by S-15 Zone	Provided by Proposal	Zoning Standard Met?
Minimum lot area	4,000 sf	54,700 sf	Yes
Minimum lot width	25 ft.	275'	Yes
Minimum lot frontage	25 ft.	275'	Yes
Maximum height	90 ft.	56'-0"	Yes
Maximum density	225 sf/unit	582 sf/unit	Yes
Maximum stories	8	5 (4 over parking)	Yes
Minimum usable open space	100 sf/unit = 18,100 sf	18,882 sf	Yes
Minimum front yard setback (E. 12 th St., 35 th Ave.)	0 ft.	3 ft., 5'.	Yes
Active Streetscape	Meets goal for pedestrian oriented activity	Transparency 63% at office/storefront	Yes
Minimum interior lot line setback (Paseo)	0 ft.	15 ft.	Yes
Minimum rear yard setback (BART)	10 ft.	16'	Yes
Parking	1/2 units = 91	100	Yes
Long term bicycle parking	1/4 units = 45	124	Yes
Short term bicycle parking	1/20 units = 9	10	Yes
Off-street loading	1 berth	1 berth	Yes

ENVIRONMENTAL DETERMINATION

An Environmental Impact Report (EIR) was certified by the Planning Commission for this project on May 19, 2010. The Fruitvale Transit Village Phase 2 Final Environmental Impact Report SCH2008122089 is available to the public at the Planning Department offices and on the web at <https://www.oaklandca.gov/resources/fruitvale-transit-village-phase-2-draft-environmental-impact-review>. A CEQA Consistency Memo was prepared for Phase IIB, November 8, 2018 to evaluate whether changes in the project triggered additional environmental review (Attachment C). In accordance with CEQA, the City reviewed and analyzed the proposed project changes and other relevant information to determine whether circumstances requiring the preparation of a subsequent or supplemental EIR exist. Based upon available information, the City has determined that none of those circumstances are present. The analysis in the CEQA Consistency Memo concludes that the project still maintains the same density and other major characteristics (for example, same land use, number of units, bedrooms breakdown and other characteristics that might affect environmental conditions) as the original project. Further, there've been no major changes in the surrounding environment or to the project site (the site is a surface parking lot that has been in use for several years pending ultimate development of the site), no introduction of new or particularly sensitive uses or development activity in the area or within the project itself that would pose new impacts beyond that disclosed in original environmental findings. Because the FDP is a refinement of, and not a substantive change to, the approved project, no further environmental review is required. None of the circumstances that require a supplemental or subsequent EIR pursuant to CEQA Guidelines Section 15162 have occurred.

KEY ISSUES

Conformance with PUD

The intent of the Planned Unit Development permit is to create large types of comprehensive projects that adhere to an integrated plan on a single tract of land or on two or more tracts of lands, and that are consistent with the surrounding neighborhood development pattern. Although the current FDP proposes refinements to the PUD, these refinements conform in all major respects with the approved PUD and the applicable conditions of approval.

Design Review Committee Summary

The Design Review Committee, reviewed preliminary designs for the project on September 26, and October 24, 2018. The Committee supported the proposed affordable housing project and the revised concept for materials, color and window design. The Committee recommended approval with the conditions that the landscape plan at the at 12th Street and 35th Ave corner be modified to make the seating wall less dominant at the corner, and that the building material on the 12th Street elevation extend to grade at the stoops to de-emphasize the proposed board-form concrete. The revised plan set shown in Attachment D reflects these changes.

Conformance with the Design Guidelines

Design Guidelines were finalized for the project by the Planning Commission in May 2010. The *Vision* as stated in the Guidelines is that:

“The Fruitvale BART Housing development will create a vibrant residential neighborhood in close proximity to the Fruitvale BART station and the downtown shopping district. This development will serve to re-vitalize the neighborhood in the spirit of the adjacent Fruitvale Village by creating well-proportioned street spaces defined by quality architecture and public amenities compatible with surrounding areas. In addition, the development will improve the safety of the neighborhood by providing "eyes on the street" from the residential units. Finally, this dense residential development near a transit station will provide much-needed housing while reducing automobile trips to ease pollution and traffic congestion.”

The Guidelines include specific standards for development and other sections are broad policy and design character statements that allow interpretation and refinement as part of the FPUD review. As depicted in Attachment D, this current Phase IIB proposal is within the height, bulk and massing envelope described in the PUD/PDP and still meets the design intent consistent with the Guidelines. The *Guiding Concepts* underlying the Design Guidelines are as follows.

1. **Urban Design:** Re-vitalize the neighborhood by continuing transformation of area started with development of Fruitvale Village development. Develop a composition of well-designed building masses that enhance and relate to the streetscapes and public spaces of adjacent neighborhoods. Create buildings that respond to and engage the public realm, are well-articulated, and provide visual openings into the project site.
2. **Transit:** Support principles of transit oriented development by creating a dense and thriving community adjacent to BART station and AC transit stops. Include amenities to encourage bicycle use, carpooling, and car sharing to minimize automobile trips.
3. **Identity** - Reinforce character of neighborhood with well composed buildings that are built of quality materials, appropriately scaled details, and balanced proportions that improve the urban context. Use frontage adjacent BART tracks to create a design "statement" that conveys unique character of neighborhood to region at large.
4. **Community:** Provide a mixture of market rate and affordable housing units for a diverse mix of residents. Integrate residential units with streetscape design to allow for "eyes on the street" to promote a safe day and nighttime environment. The project is redesigned as 100% affordable serving families and individuals between 20% and 80% of Area Median Income.
5. **Sustainability:** Incorporate design and building strategies that protect the environment and contribute to the well-being of the residents and community alike.

Table I summarizes design standards relating to architectural concepts, height, bulk, modulation and design review guidance for each frontage.

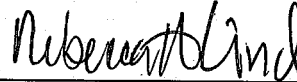
	Design Guidelines	Project
Height bulk and scale	<p><u>35th Ave</u></p> <p>4 stories with some variation in roof height</p> <p><u>12th St.</u> Vary height from 40 to 50'</p> <p><u>BART right-of way</u> 4 or more stories</p>	<p><u>35TH Ave</u></p> <p>4 -5 stories Height variation from building #2 (5 stories) facing BART</p> <p><u>12th St and BART</u></p> <p>5 stories over parking podium which is 5.5 feet above grade</p>
Setbacks	5' with 3' at patios/balconies	5' and 3' at stoops
35TH Ave	<p>Employ traditional proportions of base, body and cap lines along vertical face</p> <p>Articulate to break overall length to read as a series of adjacent elements rather than one continuous block</p> <p>Variation in depth of setback</p> <p>Changes in material and architectural treatment</p>	Addressed
12TH St.	<p>Architecturally significant elements at the corner with 35th</p> <p>Gateway features</p> <p>High quality materials particularly at the base</p> <p>Recessed windows to ensure depth, shade and shadow on the building facade</p>	Addressed
Bart side	<p>Bold to respond to the scale and use of the BART tracks.</p> <p>Convey a statement about the neighborhood to the public</p>	Addressed

CONCLUSION

The project is consistent with the General Plan, the S-15 zoning, and the Fruitvale Village Phase II Design Guidelines that were approved as part of the PUD/PDP in May 2010. The criteria for review and approval of this project includes the Planned Unit Development criteria (Final), and Design Review Findings. All applicable criteria are analyzed and appropriate findings are made in Attachment A (Project Findings) and Attachment B (Conditions of Approval), attached to this report.

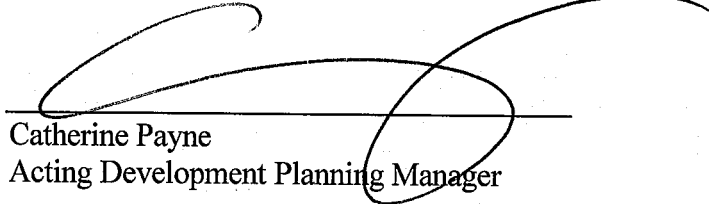
- RECOMMENDATIONS:** For approvals: 1. Affirm staff's environmental determination.
2. Approve the PUDF02 for the Fruitvale Transit Village Phase IIB subject to the attached findings and conditions.

Prepared by:



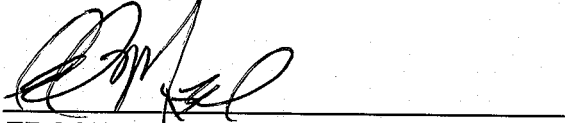
Rebecca Lind
Planner III

Reviewed by:



Catherine Payne
Acting Development Planning Manager

Approved for forwarding to the
City Planning Commission:



ED MANASSE, Interim Deputy Director,
Bureau of Planning

ATTACHMENTS:

- A. Findings for Approval
- B. Conditions of Approval
- C. CEQA Compliance Memorandum
- D. Project Plans
- E. PPUD Plans

ATTACHMENT A

FINDINGS FOR APPROVAL

This proposal meets all of the required Final Development Plan (17.140.080), and Design Review Criteria (Section 17.136.050(A) as set forth below and which are required to approve the application. Required findings are shown in **bold, italicized** type; reasons the proposal satisfies them are shown in normal type.

SECTION 17.140.060 (PLANNING COMMISSION ACTION FOR FINAL PLANNED UNIT DEVELOPMENT):

The findings below apply to the Final Development Plan (FDP) for the Phase IIA Fruitvale Transit Village Project.

The proposal conforms to all applicable criteria and standards and conforms in all substantial respects to the preliminary development plan, or, in the case of the design and arrangement of those portions of the plan shown in generalized, schematic fashion, it conforms to applicable design review criteria.

The proposed Final Development Plan for Phase IIB conforms to all applicable criteria and standards and is consistent with the Preliminary Development Plan for the PUD, as follows:

Like the initial PDP, the Final Development Plan continues to be consistent with the General Plan land use designation for the site - Neighborhood Center Mixed Use - which permits and encourages development "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." Phase I provided the non-residential elements required by the General Plan while this Phase IIB (the Project) contributes the residential requirement. The FDP continues to meet several policies and goals of the General Plan including:

- Objective N3: Encourage the construction, conservation, and enhancement of housing resources in order to meet the current and future needs of the Oakland community.
- Policy N3.2: Encouraging Infill Development. In order to facilitate the construction of needed housing units, infill construction that is consistent with the General Plan should take place throughout the City of Oakland.
- Policy N8.1: Developing Transit Villages. "Transit Village" areas should consist of attached multi-story development on properties near or adjacent to BART stations or other well-used or high volume transit facilities.

- Policy T2.1 Encouraging Transit-Oriented Development. The project is located adjacent to the Fruitvale BART station. This project would meet the goal of providing housing near transit.

SECTION 17.97.010 (TITLE, PURPOSE, AND APPLICABILITY OF THE S-15 TRANSIT ORIENTED DEVELOPMENT ZONE:

Phase IIA continues to be consistent with the S-15 Transit Oriented Development Zone District, in particular:

The S-15 Zones are intended to create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial and mixed-use development 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 BART stations, AC Transit centers and other transportation nodes.

The Phase IIB proposal meets the intent of the S-15 Zone by creating a project that is based around the Fruitvale BART Station and which also takes advantage of the nearby AC Transit lines along International Boulevard, San Leandro Street and other major transit corridors. It will be the latest component in ultimately a mixed use development and will provide a safe and pleasant pedestrian environment near transit stations and will include various amenities as well as support existing amenities in the adjacent Fruitvale Transit Village Phase I development.

The Phase IIB proposal meets the density, height, land use types, and other major provisions of the S-15 Zone. The Phase IIB proposal has been designed to create a residential project in a transit-oriented area and that can bring added additional vitality and residential activity to the Fruitvale district. The project will add 181 residential units to the core Fruitvale area and will implement one part of the original Phase II proposal which was initially designed as a single phased project. The proposal will be well-integrated with the first phase of the Transit Village.

SECTION 17.136.050(A)-REGULAR DESIGN REVIEW FINDINGS
For Residential Facilities

- 1. That 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 texture.*

The proposed Phase IIB FDP, as shown throughout the administrative record, is consistent with the adopted PUD and adopted Design Guidelines. Although the project has been redesigned as two

**ATTACHMENT A:
FINDINGS FOR APPROVAL**

sub-phases, the current FDP is consistent with the features approved in the original 2010 PUD, as demonstrated in the Conformance With Design Guidelines section of the Planning Commission report, dated May 6, 2015 and Attachment C(2): Plans of said report.

2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics.

The proposal will enhance the neighborhood setting by creating well-designed multi-story residential building as part of a multi-use transit-oriented development adjacent to the Fruitvale BART Station. The project would provide additional housing compatible with other multi-family residential uses in the Fruitvale community along International Boulevard in particular.

Further, the proposed Phase IIB FDP, as shown throughout the administrative record, is consistent with the adopted PUD and adopted Design Guidelines. The FDP is consistent with the well-composed design originally approved in the PUD in 2010, as demonstrated in the Conformance With Design Guidelines section of the Planning Commission report, dated May 6, 2015 and Attachment C(2) Plans of said report.

3. The proposed design will be sensitive to the topography and landscape.

The project site is relatively flat and occupied by the existing, surface Fruitvale BART parking lot, which has an elevation difference across the lot of one foot or less. The project will be sensitive to the surrounding topography and the site will remain relatively flat. Additionally, the proposed design includes a variety of new landscaping along the streets and within the site and will include lighting, landscaping and open space areas.

4. If situated on a hill, the design and massing of the proposed building relates to the grade of the hill.

The proposal is not located on a hill site.

5. The proposed design conforms in all significant respects with the Oakland General Plan and with any applicable district plan or development control map which has been adopted by the City Council.

As described in the body of the Planning Commission report, dated November 28, 2018, the Phase IIB proposal conforms in all respects to the Oakland General Plan and is consistent with the City's policy framework for providing development of infill sites along major corridors, facilitating housing construction, and encouraging transit-oriented development.

**ATTACHMENT A:
FINDINGS FOR APPROVAL**

ATTACHMENT B

CONDITIONS OF APPROVAL

STANDARD CONDITIONS OF APPROVAL Amended December 15, 2017 and November 28, 2018

1. Approved Use

Ongoing

a) The project shall generally conform to the application materials submitted as follows unless modified by the Conditions of Approval contained herein:

1. **Project Plan Set** (prepared by SVA Architects) issued 10/03/18; received 11/05/2018
2. **Project Plan Set** (prepared by Pyatok Architects) dated February 13, 2015.
- 3.. **Parcel Map Waiver Planning Case File PLN16279**, Approved February 7, 2017.
The Parcel Map Waiver recorded 4/28/2017 Document 2017095163 and Lot Line Adjustment recorded 4/28/2017 Document 2017095163 prepared by Moran Engineering. The **Parcel Map Waiver** replaces the prior approved **Tentative Tract Map 8038** (prepared by BKF Engineers) dated February 5, 2010 A Final Map is no longer required for this project.

4.. **Fruitvale Transit Village (Phase 2) Residential Project Design Guidelines** (prepared by HKIT Architects) dated April 23, 2010 and as amended May 19, 2010.

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.

b) This action by the City Planning Commission ("this Approval") includes the approvals set forth below. This Approval includes:

1. Approval of a **Planned Unit Development (PUD) Preliminary Development Plan**, under OMC Chapters 17.140 and 17.142.
2. Approval of a **Conditional Use Permit (CUP)**, under OMC Chapter 17.134
3. Approval of a **Tentative Tract Map** for condominium purposes under OMC Chapter 16.08 This approval is superseded by a Parcel Map Waiver approved February 7, 2017 and a Final Map is no longer applicable. Approval of a **Final Planned Unit Development (PUDF) Final Development Plan**, under OMC Chapters 17.140 and 17.142.

2. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

a) Unless a different termination date is prescribed, this Approval shall expire **two years** from the approval date, unless within such period an application for Design Review and Planned Unit Development (PUD) Final Development Plan approval has been submitted to the City of Oakland. Review and approval of Design Review and Planned Unit Development (PUD) Final Development Plan is required before any buildings may be constructed or any

of the uses commence. 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.

- b) A Planned Unit Development (PUD) Final Development Plan (FDP) submittal may be for all four phases of the project at once, or the FDP submittals may be for one or more phase at a time. If the FDP applications are submitted separately, the applications will need to be received no more than one year apart and all FDP/Final Design Review applications will need to be received within **five years** from the approval date of this application. 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.
- c) The approval of Tentative Tract Map 8038 shall expire **two years** from the approval date, the effective date of its granting, unless the applicant files a Final Map with the City Engineer. Failure to file a Final Map within this time limit shall nullify the previous approval or conditional approval of the Tentative Tract Map. The Applicant may file one or more Final Maps for the project. 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 an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

3. **Scope of This Approval; Major and Minor Changes**

Ongoing

The project is approved pursuant to the Planning Code and Subdivision Regulations only. Minor changes to approved use and/or plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved use and/or 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 with other Requirements** (Also listed as SCA PUB-1 in the SCAMMRP)

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 laws/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.

5. **Conformance to Approved Plans; Modification of Conditions or Revocation**

Ongoing

**ATTACHMENT B
CONDITIONS OF APPROVAL**

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, 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/ 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.

6. Signed Copy of the Conditions/Mitigation Measures

Ongoing

A copy of the approval letter and Conditions/ 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.

7. 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.

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8. Compliance with Conditions of Approval

Ongoing

- a) The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval and adopted mitigation measures set forth below at its sole cost and expense, and subject to the review and approval of the City of Oakland.
- 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.
- c) The project Applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. 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/or mitigation, and if one or more of such conditions and/or mitigation 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 mitigation consistent with achieving the same purpose and intent of such Approval.

10. 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 mitigation, shall be available for review at the job site at all times.

11. 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 third-party 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 review 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.

12. Required Landscape Plan for New Construction

At the time of Design Review/Final Development Plan application

Submittal and approval of a landscape plan for each stage of the project will be 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:

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- a) Landscape plans shall include a detailed planting schedule showing the proposed location, sizes, quantities, and specific common botanical names of plant species.
- b) Landscape plans for each FDP/Design Review application shall show how the remainder of the site is being landscaped until that phase is developed. For instance, if the Applicant submits an FDP/Design Review application for Phase 1 of the PDP only, the Landscape plans for Phase 1 shall show the landscaping of the Phase 1 portion of the site as well as demonstrate how the remainder of the site will be landscaped until the future phases of the project are built out.
- c) Landscape plans shall incorporate pest-resistant and drought-tolerant landscaping practices. The City Planning and Zoning Division shall maintain lists of plant materials and landscaping practices considered pest-resistant, fire-resistant, and drought-tolerant.
- d) 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.

13. 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.

14. Assurance of Landscaping Completion.

Prior to issuance of a final inspection of the building permit

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 cash bond 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.

15. 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.

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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 Engineering Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions and/or mitigation and City requirements including but not limited to 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 mitigation.
- 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. Improvements in the Public Right-of Way (Specific)

Approved prior to the issuance of a grading or building permit

Final building and public improvement plans submitted to the Building Services Division and Engineering Services Division shall include the following:

- a) Remove and replace any existing driveway that will not be used for access to the property with new concrete sidewalk, curb and gutter.
- b) Reconstruct drainage facility to current City standard as needed.
- c) Provide separation between sanitary sewer and water lines to comply with current City of Oakland and Alameda Health Department standards.
- d) Construct wheelchair ramps that comply with Americans with Disability Act requirements and current City Standards at all pedestrian access points along the portions of project

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- frontage fronting each phase of development on E. 12th Street, and 37th Street for Phase IIA, and on E 12th Street and 35th Avenue for Phase IIB.
- e) Remove and replace deficient concrete sidewalk, curb and gutter within property frontage along each phase of development on E. 12th Street, and 37th Street for Phase IIA and on E 12th Street and 35th Avenue for Phase IIB as shown *on Site Improvement Conditions of Approval Exhibit* by Pyatok Architects
 - f) Provide adequate fire department access and water supply, including, but not limited to currently adopted fire codes and standards.
 - g) For Phase IIB install a new pedestrian crosswalk across 35th Avenue at the northwest corner of the project site, connecting the project site to the BART station across 35th. The details of the crosswalk design shall be shown in the Final Development Plan submittal for Phase IIB. as shown on Site Improvement Conditions of Approval Exhibit by Pyatok Architects
 - h) Install improvements along East 12th Street between 35th and 37th Avenues on both sides of the street. Each phase of the project shall be responsible for the frontage abutting its portion of East 12th Street and for the frontage on the opposite side of the street. as shown on Site Improvement Conditions of Approval Exhibit by Pyatok Architects
 - i) Improvements shall include the installation of street trees and tree grates, repairs to the existing sidewalk, and landscape enhancements.
 - j) Install rail crossing improvements as specified in Condition no. 60
 - k) Install additional improvements as specified in Condition no. 59.

19. Payment for Public Improvements

Prior to issuance of a final inspection of the building permit.

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

20. Compliance Matrix

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 matrix 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 matrix for review and approval. The compliance matrix shall be organized per step in the plan check/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 matrix and provide it with each item submittal.

21. Construction Management 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 for review and approval a construction management plan that identifies the conditions of approval and mitigation measures related to construction impacts of the project

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and explains how the project applicant will comply with these construction-related conditions of approval and mitigation measures.

22. Parking and Transportation Demand Management (also listed in the SCAMMRP)

Prior to issuance of a final inspection of the building permit.

The applicant shall submit for review and approval by the Planning and Zoning Division a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The applicant shall implement the approved TDM plan. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use. All four modes of travel shall be considered. Strategies to consider include the following:

- a) Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement
- b) Construction of bike lanes per the Bicycle Master Plan; Priority Bikeway Projects
- c) Signage and striping onsite to encourage bike safety
- d) Installation of safety elements per the Pedestrian Master Plan (such as cross walk striping, curb ramps, count down signals, bulb outs, etc.) to encourage convenient crossing at arterials
- e) Installation of amenities such as lighting, street trees, trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan.
- f) Direct transit sales or subsidized transit passes
- g) Guaranteed ride home program
- h) Pre-tax commuter benefits (checks)
- i) On-site car-sharing program (such as City Car Share, Zip Car, etc.)
- j) On-site carpooling program
- k) Distribution of information concerning alternative transportation options
- l) Parking spaces sold/leased separately
- m) Parking management strategies; including attendant/valet parking and shared parking spaces

23. Dust Control (also listed as "SCA AIR-1" in the SCAMMRP)

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 Bay Area Air Quality Management District's (BAAQMD) basic and enhanced dust control procedures required for construction sites. These include:

- 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 two 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.

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- 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.
- 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.

24. Construction Emissions (Also listed as "SCA AIR-2" in the SCAMMRP)

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 Bay Area Air Quality Management District (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.

25. Days/Hours of Construction Operation (Also listed as "SCA NOI-1" in the SCAMMRP)

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 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm 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

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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:
 - i. 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.
 - ii. 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.
- 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.
- g) Applicant shall use temporary power poles instead of generators where feasible.

26. 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 the Planning and Zoning Division and the Building Services Division 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 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.
- 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

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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.

27. Noise Complaint Procedures (Also listed as “SCA NOI-3” in the SCAMMRP)

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 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 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;
- 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.

28. Interior Noise (Also listed as “SCA NOI-4” in the SCAMMRP)

Prior to issuance of a building permit and Certificate of Occupancy

If necessary to comply with the interior noise requirements of the City of Oakland’s 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), and/or other appropriate features/measures, shall be incorporated into project building design, based upon recommendations of a qualified acoustical engineer and submitted to the Building Services Division for review and approval prior to issuance of building permit. Final recommendations for sound-rated assemblies, and/or other appropriate features/measures, will depend on the specific building designs and layout of buildings on the site and shall be determined during the design phases. Written confirmation by the acoustical consultant, HVAC or HERS specialist, shall be submitted for City review and approval, prior to Certificate of Occupancy (or equivalent) that:

- a) Quality control was exercised during construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed; and
- b) Demonstrates compliance with interior noise standards based upon performance testing of a sample unit.

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- c) Inclusion of a Statement of Disclosure Notice in the CC&R's on the lease or title to all new tenants or owners of the units acknowledging the noise generating activity. Potential features/measures to reduce interior noise could include, but are not limited to, the following:
 - a. Installation of an alternative form of ventilation in all units identified in the acoustical analysis as not being able to meet the interior noise requirements due to adjacency to a noise generating activity, filtration of ambient make-up air in each unit and analysis of ventilation noise if ventilation is included in the recommendations by the acoustical analysis.
 - b. Prohibition of Z-duct construction.

29. Operational Noise-General

Ongoing.

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

30. Construction Traffic and Parking (also listed in the SCAMMRP)

Prior to the issuance of a demolition, grading or building permit

The project applicant and construction contractor shall meet with 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 applicant shall develop a construction management plan for review and approval by the Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. The plan shall include at least the following items and requirements:

- a) 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.
- b) Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- c) Location of construction staging areas for materials, equipment, and vehicles at an approved location.
- d) A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.
- e) Provision for accommodation of pedestrian flow.
- f) Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces on East 12th Street.

- g) Any damage to the street caused by heavy equipment, or as a result of this construction, shall be repaired, at the applicant's expense, within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to issuance of a final inspection of the building permit. All damage that is a threat to public health or safety shall be repaired immediately. The street shall be restored to its condition prior to the new construction as established by the City Building Inspector and/or photo documentation, at the applicant's expense, before the issuance of a Certificate of Occupancy.
- h) Any heavy equipment brought to the construction site shall be transported by truck, where feasible.
- i) No materials or equipment shall be stored on the traveled roadway at any time.
- j) Prior to construction, a portable toilet facility and a debris box shall be installed on the site, and properly maintained through project completion.
- k) All equipment shall be equipped with mufflers.
- l) Prior to the end of each work day during construction, the contractor or contractors shall pick up and properly dispose of all litter resulting from or related to the project, whether located on the property, within the public rights-of-way, or properties of adjacent or nearby neighbors.

31. Erosion and Sedimentation Control

Ongoing throughout demolition grading, and/or construction activities

The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. Plans demonstrating the Best Management Practices shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

32. Phase I and/or Phase II Reports

Prior to issuance of a demolition, grading, or building permit

If the project site is listed in City records as containing hazardous materials or if the site has been identified on the State Cortese List, 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. A Phase II report shall also be prepared 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.

33. Environmental Site Assessment Reports Remediation (also listed as SCA HAZ-2 in the SCAMMRP)

- a) Soil beneath the site has been impacted from past site uses that included an auto sales yard, and radiator and plastic fabrication shops. The soil contaminants include chromium, diesel and motor oil. The soil contamination is minor and does not appear to pose a significant

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risk to future site occupants. The groundwater contamination is a part of an off-site plume which is being actively remediated, and therefore is expected to decrease in the future. The magnetometer survey did not confirm the presence of suspected Underground Storage Tanks (USTs) at the site. The soil gas investigation results indicated that the fuel hydrocarbons are not present in soil gas beneath the subject site, therefore there is no risk from vapor volatilization to indoor air in future site buildings. The RAP including the soil and groundwater management plan will be submitted for the Board approval prior to site reconstruction field activities. The applicant shall notify the Regional Board prior to site reconstruction field activities and include soil and groundwater Management Plans.

- b) Prior to issuance of a demolition, grading, or building permit
- c) If the environmental site assessment reports recommend remedial action, the project applicant shall:
 1. 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.
 2. Obtain and submit written evidence of approval for any remedial action if required by a local, State, or federal environmental regulatory agency.
 3. 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.

34. Hazards Best Management Practices (also listed as SCA HAZ-1 in the SCAMMRP)

Prior to commencement of demolition, grading, or construction

The project applicant and construction contractor shall ensure that construction of Best Management Practices (BMPs) 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;
- 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.

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- 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 the City's Standard Conditions of Approval, 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.

35. Waste Reduction and Recycling (also listed as SCA UTIL-2 in the SCAMMRP)

At the time of submittal of a Final Development Plan and/or Design Review for the whole project or a portion thereof

The Applicant shall demonstrate how the project will provide recycling facilities sufficient to meet the requirements of the Oakland Municipal Code.

Prior to issuance of demolition, grading, or building permit

The Applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP). 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.

Ongoing

The Applicant will submit an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency. 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 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.

36. Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)

Ongoing

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All mitigation measures identified in the Fruitvale Transit Village (Phase 2) EIR are included in the Standard Condition of Approval and Mitigation Monitoring Program (SCAMMRP) which is included in these conditions of approval and incorporated herein by reference. The Standard Conditions of Approval identified in the Fruitvale Transit Village (Phase 2) EIR are also included in the SCAMMRP. To the extent that there is any inconsistency between the SCAMMRP and these conditions, the more restrictive conditions shall govern. The project sponsor (also referred to as the Developer or Applicant) 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 SCAMMRP 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. Adoption of the SCAMMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. Prior to the issuance of a demolition, grading, and/or construction permit, the project sponsor shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

37. Vibration (Also listed as "SCA NOI-6" in the SCAMMRP)

Prior to issuance of a building permit

A qualified acoustical consultant shall be retained by the project applicant during the design phase of the project to comment on structural design as it relates to reducing groundborne vibration at the project site. If required in order to reduce groundborne vibration to acceptable levels, the project applicant shall incorporate special building methods to reduce groundborne vibration being transmitted into project structures. The City shall review and approve the recommendations of the acoustical consultant and the plans implementing such recommendations. Applicant shall implement the approved plans. Potential methods include the following:

- a) Isolation of foundation and footings using resilient elements such as rubber bearing pads or springs, such as a "spring isolation" system that consists of resilient spring supports that can support the podium or residential foundations. The specific system shall be selected so that it can properly support the structural loads, and provide adequate filtering of groundborne vibration to the residences above.
- b) Trenching, which involves excavating soil between the railway/freeway and the project so that the vibration path is interrupted, thereby reducing the vibration levels before they enter the project's structures. Since the reduction in vibration level is based on a ratio between trench depth and vibration wavelength, additional measurements shall be conducted to determine the vibration wavelengths affecting the project. Based on the resulting measurement findings, an adequate trench depth and, if required, suitable fill shall be identified (such as foamed styrene packing pellets (i.e., Styrofoam) or low-density polyethylene).

38. Pile Driving and Other Extreme Noise Generators

Ongoing throughout demolition, grading, and/or construction

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To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90dBA, 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 Planning and Zoning Division and the Building Services Division 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 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.

39. Lighting Plan (Also listed as "SCA AES-1" in the SCAMMRP)

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. Plans shall be submitted to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency for review and approval. All lighting shall be architecturally integrated into the site.

40. Asbestos Removal in Structures (Also listed as "SCA AIR-4" in the SCAMMRP)

Prior to issuance of a demolition permit

If asbestos-containing materials (ACM) are found to be present in building materials to be removed, demolition and disposal, the project applicant shall submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified

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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.

41. Tree Removal Permit (Also listed as “SCA BIO-2” in the SCAMMRP)

Prior to issuance of a demolition, grading, or building permit

Prior to removal of any protected trees, per the Protected Tree Ordinance, located on the project site or in the public right-of-way adjacent to the project, the project applicant must secure a tree removal permit from the Tree Division of the Public Works Agency, and abide by the conditions of that permit.

42. Tree Removal During Breeding Season (Also listed as “SCA BIO-1” in the SCAMMRP)

Prior to issuance of a tree removal permit

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.

43. Tree Replacement Plantings (Also listed as “SCA BIO-3” in the SCAMMRP)

The Landscape Plan(s) submitted at the Design Review/Final Development Plan stage shall reflect the requirements below. Project landscaping that reflects the required tree replanting standards shall be installed prior to the issuance of a Certificate of Occupancy for any given phase of the project.

Replacement plantings shall be required for erosion control, groundwater replenishment, visual screening and wildlife habitat, and in order to prevent excessive loss of shade, in accordance with the following criteria:

- a) No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- b) Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California

- Buckeye) or *Umbellularia californica* (California Bay Laurel) or other tree species acceptable to the Tree Services Division.
- c) Replacement trees shall be at least of twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
 - d) Minimum planting areas must be available on site as follows:
 - i. For *Sequoia sempervirens*, three hundred fifteen square feet per tree;
 - ii. For all other species listed in #2 above, seven hundred (700) square feet per tree.
 - e) In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee as determined by the master fee schedule of the city may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
 - f) Plantings shall be installed prior to the issuance of a final inspection of the building permit, subject to seasonal constraints, and shall be maintained by the project applicant until established. The Tree Reviewer of the Tree Division of the Public Works Agency may require a landscape plan showing the replacement planting and the method of irrigation. Any replacement planting which fails to become established within one year of planting shall be replanted at the project Applicant's expense.

44. Archaeological Resources (Also listed as "SCA CUL-1" in the SCAMMRP)

Ongoing throughout demolition, grading, and/or construction

- a) 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.
- b) 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.
- c) 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

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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 shall prepare a report on the findings for submittal to the Northwest Information Center.

45. Human Remains (Also listed as “SCA CUL-3” in the SCAMMRP)

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.

46. Paleontological Resources (Also listed as “SCA CUL-2” in the SCAMMRP)

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.

47. Fire Safety Phasing Plan

At the time of submittal of a Final Development Plan and/or Design Review for the whole project or a portion thereof Prior to issuance of a demolition, grading or building 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.

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48. 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:

- a) The types of hazardous materials or chemicals stored and/or used on site, such as petroleum fuel products, lubricants, solvents, and cleaning fluids.
- b) The location of such hazardous materials.
- c) An emergency response plan including employee training information
- d) A plan that describes the manner in which these materials are handled, transported and disposed.

49. Erosion and Sedimentation Control Plan (also listed as SCA HYD-3 in the SCAMMRP)***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 for review and approval by the Building Services Division. 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.

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.

50. Stormwater Pollution Prevention Plan (SWPPP)***Prior to and ongoing throughout demolition, grading, and/or construction activities***

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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) and submit the plan for review and approval by the Building Services Division. 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 to the Building Services Division a copy of the SWPPP and evidence of submittal of the NOI to the SWRCB. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project applicant shall submit a notice of termination to the SWRCB.

51. Post-Construction Stormwater Management Plan (also listed as SCA HYD-1 in the SCAMMRP)

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 Construction-Permit-Phase Stormwater Supplemental Form to the Building Services Division. The project drawings submitted for the building permit (or other construction-related permit) shall contain a stormwater management plan, for review and approval by the City, to manage stormwater run-off and to limit the discharge of pollutants in stormwater after construction of the project to the maximum extent practicable.

- a. The post-construction stormwater management plan shall include and identify the following:
 - i. All proposed impervious surface on the site;
 - ii. Anticipated directional flows of on-site stormwater runoff; and
 - iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and
 - iv. Source control measures to limit the potential for stormwater pollution;
 - v. Stormwater treatment measures to remove pollutants from stormwater runoff; and
 - vi. Hydromodification management measures so that post-project stormwater runoff does not exceed the flow and duration of pre-project runoff, if required under the NPDES permit.
- b. The following additional information shall be submitted with the post-construction stormwater management plan:
 - i. Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and
 - ii. Pollutant removal information demonstrating that any proposed manufactured/mechanical (i.e. non-landscape-based) stormwater treatment

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measure, when not used in combination with a landscape-based treatment measure, is capable of removing the range of pollutants typically removed by landscape-based treatment measures and/or the range of pollutants expected to be generated by the project.

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 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 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 management plan.

52. Maintenance Agreement for Stormwater Treatment Measures (also listed as SCA HYD-2 in the SCAMMRP)

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:

- i. The applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
- ii. 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.

53. Stormwater and Sewer (also listed as SCA HYD-4 in the SCAMMRP)

Prior to completing the final design for the project's sewer service

- a) 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 Sewer and Stormwater Division. 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

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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.

- b) Construction over the common sewer and within the sewer easement is not permitted.
- c) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

54. Regulatory Permits and Authorizations

Prior to issuance of a demolition, grading, or building permit

Prior to construction within the floodway or floodplain, the project applicant shall obtain all necessary regulatory permits and authorizations from the Alameda County Flood Control and Water Conservation District and shall comply with all conditions issued by that agency.

55. Structures within a Floodplain

Prior to issuance of a demolition, grading, or building permit

- a) The project applicant shall retain the civil engineer of record to ensure that the project's development plans and design contain finished site grades and floor elevations that are elevated above the Base Flood Elevation (BFE) if established within a 100-year flood event.
- b) The project applicant shall submit final hydrological calculations that ensure that the structure will not interfere with the flow of water or increase flooding.

PROJECT-SPECIFIC CONDITIONS OF APPROVAL

56. Components of Final Development Plan(s).

Prior to the approval of any Final Development Plan application

In accordance with the Planning Code Chapter 17.140, each FDP shall:

- a) Conform to all major respects with the approved Preliminary Development Plan prepared by HKIT Architects, dated April 23, 2010, and included as Attachment A to the Project Staff Report dated May 19, 2010;
- b) Comply with development standards of the S-15 Zone, except as modified to allow one parking space per dwelling unit as permitted by the Conditional Use Permit approved herein;
- c) Be consistent with the Fruitvale Transit Village (Phase 2) Design Guidelines, dated April 23, 2010 and as amended May 19, 2010 and included Attachment B to the Project Staff Report dated May 19, 2010;
- d) Include all information included in the Preliminary Development Plan plus the following:
 1. The location of water, sewerage, and drainage facilities;
 2. Detailed building floor plans, elevations and landscaping plans;
 3. The character and location of signs;
 4. Plans for street improvements; and
 5. Grading or earth-moving plans.

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- e) Be sufficiently detailed to indicate fully the ultimate operation and appearance of the buildings; and
- f) Include copies of legal documents required for dedication or reservation of group or common spaces, for the creation of CC&Rs, for the establishment of a homeowners association, or for performance bonds, and they shall be submitted with each Final Development Plan.

57. Final Development Plan and Design Review

The final site design and building elevations shall:

- a) Provide adequate screening of all rooftop utilities.
- b) Show interim building and site conditions. Building elevations for each FDP/Design Review application shall show how the building and site will look if the other building(s) are not constructed at the same time. For instance, if the Applicant submits an FDP/Design Review application for Phase 2 only of the PDP, the building elevations and site plan for Phase 2 shall show what the building and site will look like in its interim condition until the adjacent building (Phase 3) is constructed.
- c) Be subject to review and recommendation by the Planning Commission's Design Review Committee and review and approval by the Planning Commission.

58. Bicycle Parking

At the time of Design Review/Final Development Plan application

The applicant shall submit for review and approval of the Planning and Zoning Division, plans that show bicycle storage and parking facilities, the design and location of bicycle racks, and secure bicycle storage areas to serve the project.

59. Provision of Parking Spaces for Fruitvale Village (Phase 1)

At the time of first Design Review/Final Development Plan application

~~A parking study conducted by Dowling Associates in November 2009 concluded that with the loss of the public parking lot on the project site, the Fruitvale Transit Village (Phase 1) development to the west would have a deficiency of 61 parking spaces. At the time of the first FDP application for the Fruitvale Transit Village (Phase 2) project, the Applicant shall accomplish one of the following:~~

- ~~a) Identify a new location for the 61 parking spaces for the dedicated use of the Fruitvale Transit Village (Phase 1) development, subject to review and approval by the Planning Director;~~
- ~~b) Conduct a new parking survey to illustrate that a lesser amount of parking spaces are needed to serve the needs of the Fruitvale Transit Village (Phase 1). Identify a new location for the number of parking spaces needed for the dedicated use of the Fruitvale Transit Village (Phase 1) development, subject to review and approval by the Planning Director; or~~
- ~~e) Apply to have the requirement to provide replacement parking waived, subject to review and approval by the Planning Commission.~~

59. Provision of Parking Spaces for Fruitvale Village (Phase I)

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Thirty (30) off site parking spaces for the dedicated use of the Fruitvale Transit Village (Phase 1) shall be negotiated by the Unity Council and La Clinica in an offsite location on 37th St as required by the Planning Commission action amending condition #59 on May 6, 2015 to approve reduction of additional required parking for the Phase I development.

60. Rail Crossing Improvements in the Project Vicinity

Prior to issuance of a demolition, grading or building permit

The Applicant shall submit Public Improvement Plans to the Transportation Services Division (TSD) committing to the installation of the following rail crossing safety improvements in the project vicinity. On behalf of the Applicant, TSD will coordinate with the Public Utilities Commission, rail authority, and others as needed to facilitate the installation of the improvements.

1. Median channelization/separation treatment on Fruitvale Avenue approaching the rail crossing. Bollard/plastic curbing discourages vehicles from driving around the automated crossing arm gate. Install the bollard along the centerline on Fruitvale Avenue approaching the rail crossing in both directions. Phase IIB shall implement this condition

2. Cross hatch pavement marking at Fruitvale and 37th Avenue rail crossings. Similar to hatch pavement marking at intersections to indicate a "keep clear" zone. Install cross hatch pavement marking between two and six feet outside the rail at both identified crossings. The Phase II A - shall install above improvements prior to the issuance of the first certificate of occupancy.

61. Required Easements

- a) Prior to a certificate of occupancy for any of the 275 residential units a 26 footwide Emergency Vehicle Access Easement shall be established along the southern portion of the site, parallel to the BART tracks and connecting 35th and 37th Avenues, pursuant to the 2008 Fire Code provisions for increased right-of-way access. This entire roadway shall be constructed prior to a certificate of occupancy for Phase IIA. This Emergency Access Easement and roadway design shall be reviewed and approved by the City Engineer.
- b) The Site Plan for Phase IIB shall show a 10 foot wide sidewalk (with 8 feet wide clear passageway) on 35th Avenue adjacent to the project site, not 8 feet as is currently shown, pursuant to the City's Pedestrian Master Plan and as warranted by the project's transit-oriented location.
- c) Prior to construction permits and no later than a certificate of occupancy, a site-specific, design level, Landslide or Liquefaction geotechnical investigation for each construction site within the project area shall be required as part of this project and submitted for review and approval by the Building Services Division.

62. Specific City Surveyor Requirements.

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- a) Standard City of Oakland monuments shall be installed as per the requirements of the City Surveyor.
- b) Any portions of the building which extends beyond the property (such as upper story balconies, eaves or fascia), shall be shown on the parcel map as an encroachment. Changes which occur after the recordation of the map but which create such encroachments shall require an amended map be filed in order to provide clear notice to third party purchasers that such a portion of the structure is not within the boundary of the property.
Any emergency vehicle access easement shall be fully described in a grant of easement with. It shall be designated as a no parking area and the City of Oakland shall be given a third party interest in the easement with the right of enforcement of parking issue.
- c) Prior to issuance of construction permits and no later than issuance of a certificate of occupancy City of Oakland Monuments shall be established or confirmed to the satisfaction of the City Engineer to accurately exist at each of the bounding intersections:
1. San Leandro/ 35th Ave
 2. San Leandro /37th Ave
 3. East 12th Street / 37th Ave
 4. East 12th Street / 36th Ave
 5. East 12th Street / 35th Ave.

These monuments will be shown with ties to adjacent monuments and to the adjacent (new/existing) boundary lines. Monuments shall be constructed to City Standards and shall become City Monuments upon acceptance by the City Engineer or City Surveyor.

All monuments shall be installed and completed prior to the occupancy of ANY lot in this subdivision, regardless of sequencing or staged development. At least two of these monuments shall have an elevation established (based upon City of Oakland Datum) upon the surface of the monument disk. All relevant information shall be provided to the City Surveyor.

63. Engineering Requirements

The following items will be required prior to issuance of construction permits and no later than issuance of a certificate of occupancy:

- a) An application for review shall be made and all fees paid prior to any other application with City of Oakland Building Services.
- b) Show location of existing and proposed drainage, sanitary sewer, water supply, and other utility facilities for each lot to the satisfaction of the City Engineer.
- c) Existing utilities and their associated easements lie within the project site. It appears that these utilities will have to be relocated from the project site and the easements vacated. Note that building structures cannot be located within any City utility easement. The City believes that the underground 12kv line has similar restrictions.
- d) The proposed storm drain system shown on the map shall be designed and constructed to City standards. The proposed project may increase storm drain sewer flows beyond the capacity of the existing storm drain sewer system. Sanitary sewer impact fees may be

ATTACHMENT B
CONDITIONS OF APPROVAL

- owed. Obtain approval from the City Public Works Agency concerning the extent of the sanitary sewer replacement and/or rehabilitation prior to the City issuing the Grading, Demolition or P-job Permit
- e) If buildings along the southern boundary of the project will be greater than 30-feet in height, the applicant shall provide a 26-foot wide emergency access easement along the entire southern boundary. If the Applicant is proposing to utilize a portion of BART property for this easement, BART shall sign the applicable documents.
 - f) Emergency vehicles utilizing the emergency access easement along the southern boundary may encroach on the clearance zone for the BART trains. The applicant shall obtain BART approval for any facilities built on BART property and for any uses of the air space within BART property.
 - g) Show location, purpose, and width of all existing and proposed easements.
 - h) There are existing bus stops within the vicinity of the project. If bus stops are proposed for relocation or otherwise to be affected by the project, please provide documentation that the project has been coordinated with AC Transit. Documentation shall include discussion and approval of bus stop locations and the need for improvements for bus stops.
 - i) Note that the property lies within a seismic hazard zone with earthquake-induced liquefaction potential. A soils report may be required. If required, submit geotechnical reports meeting the guidelines of Special Publication 117 prepared by a licensed civil engineer or a registered engineering geologist to the City for review when applying for permits. A statement acknowledging the above shall be placed on the parcel map. Add a statement to the Map that says "This real property lies within the following hazardous area: A SEISMIC HAZARD ZONE - Liquefaction Zone pursuant to Section 2696 of the Public Resources Code. These hazards may limit your ability to develop the real property, to obtain insurance, or to receive assistance after a disaster. The maps on which these disclosures are based estimate where natural hazards exist. They are not definitive indicators of whether or not a property will be affected by a natural disaster. Transferee(s) and transferor(s) may wish to obtain professional advice regarding hazards and other hazards that may affect the property."
 - j) The proposed project may increase sanitary sewer flows beyond the capacity of the existing sanitary sewer system. Sanitary sewer impact fees may be owed. Obtain approval from the City Public Works Agency concerning the extent of the sanitary sewer replacement and/or rehabilitation prior to the City issuing the Grading, Demolition or P-job Permit.
 - k) Coordinate the project with the City of Oakland Fire Department. The applicant shall obtain approval from the Fire Department prior to approval of the Final Map(s).
 - l) The existing traffic signals and stop signs in the vicinity of the project may require improvements to support the proposed traffic. Coordinate with the Traffic Engineering Department of PWA. Obtain approval for traffic signal modification/replacement from the City.
 - m) Obtain approval for driveway locations and proposed traffic movements from PWA prior to obtaining Grading, Demolition, or P-job permits.
 - n) Street, curb, gutter, sidewalk, sewer, undergrounding of overhead utilities and other improvements are required along the frontage of the project to the centerline of the public right-of-way.

ATTACHMENT B
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- o) Major and Minor Encroachment Permits shall be obtained prior to the issuance of Grading, Demolition, or P-job permits.
- p) Obstruction permits for parking meter removal shall be obtained prior to obtaining Grading, Demolition, or P-job permits. New parking meter locations and/or relocation of existing meters shall approved by the City prior to removal of any existing meters.
- q) Copies of utility agreements regarding relocation shall be provided to the City prior to issuance of any permits.
- r) Obtain approval from the City for the location of any joint trench and utility box locations.
- s) Shoring and/or tie-backs if used in construction may require Major Encroachment Permits.
- t) Utility vaults may require Major Encroachment permits.
- u) Show any proposed dedications or vacations to the satisfaction of the City Engineer.
- v) Obtain approval from the City for any installation, removal and/or relocation of street lights from the City.
- w) New sidewalks and wheelchair ramps shall conform to City of Oakland standards.
- x) Driveways openings and vehicular access shall conform to City of Oakland Standard Plans.
- y) Improvements within the public right-of-way may be a part of this project. A P-job permit and a signed Subdivision Improvement Agreement shall be completed as required by the City Engineer. Improvements shall be designed to City standards.
- z) The project lies within a FEMA designated Flood Zone. Please state the Flood Zone designation.

64. Water Conservation

Ongoing throughout demolition, grading, construction and/or operation

The Applicant shall, where feasible, use recycled/reclaimed water and promote water conservation practices, including without limitation, the use of drought tolerant landscaping practices.

APPROVED BY:

City Planning Commission: _____ (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 _____. 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 PUDF08/ER01.

Signature of Owner/Applicant: _____ (date)

**ATTACHMENT B
CONDITIONS OF APPROVAL**

Signature of Contractor

_____ (date)

ATTACHMENT B
CONDITIONS OF APPROVAL



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Technical Memorandum

date September 14, 2018

to Rebecca Lind, Planner III
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from Jill Feyk-Miney, Project Manager, ESA, jfeyk-miney@esassoc.com
Crescentia Brown, Director, ESA, cbrown@esassoc.com

subject CEQA Compliance Memorandum for Fruitvale Transit Village Phase IIB Final Planned Unit Development (FPUD)

I. Overview and Project Summary

Current Proposal

In accordance with the Standard Conditions of Approval (SCAs) for the Fruitvale Transit Village Planned Unit Development/Preliminary Development Plan (PUD/PDP), the City has received an application for a Final Planned Unit Development (FPUD) for Phase IIB of the project. For Phase IIB, the Spanish Speaking Unity Council (project sponsor) proposes to construct 181 units, approximately 6,000 sf of office space and 1,000 sf of retail/café space for a non-profit tenant, and a 91-120 space below-grade basement parking garage. This is the second of two Phases and follows the submittal of a Final Development Plan (FDP) for Phase IIA for 94 market rate and mixed-income residential units and a 47-space parking garage, which is currently under construction.

The original project was divided into the two current sub-phases (Phase IIA and Phase IIB, each with its own associated garage) to (1) allow for more efficient phasing of the development, and (2) improve the arrangement of the open space for residents. Once completed, the Fruitvale Transit Village Phase II project will comprise 275 residential units with supporting parking resources as a complement to the earlier adjacent Fruitvale Transit Village Phase I development constructed in 2004 that consists of 161,000 square feet of commercial and civic uses. In total - Phase I, the Phase IIA currently under construction, and the current Phase IIB - will result in creation of a Transit-Oriented Development (TOD) project at the Fruitvale BART Station, capitalizing on both the BART transit resource as well as the prospective AC Transit Bus Rapid Transit (BRT) International Boulevard line to be developed two blocks north of the project.

The current Phase IIB proposal is described in more detail further in this document.

Purpose of this Document

The key purpose of this Memorandum is to determine whether the environmental effects of the current Phase IIB FPUD are adequately analyzed in the 2010 certified Fruitvale Transit Village Project Environmental Impact Report (2010 EIR). As described below, development of the 181 residential units are considered in the 2010 EIR and as proposed would not result in new or more severe environmental impacts beyond those identified in the 2010 EIR. Also, the addition of ground floor office and retail space not envisioned in the preliminary project plans would not constitute a substantial project change that would require major revisions of the certified 2010 EIR because of a new significant effect or an increase in the severity of a previously identified significant effect. As a result, the City does not need to prepare a Subsequent or Supplemental EIR to satisfy the environmental review requirements of the California Environmental Quality Act (CEQA). The 2010 EIR remains adequate for the FPUD proposed for Phase IIB.

The information below provides: (1) an overview of Fruitvale Transit Village Project approvals and environmental review; (2) a summary of the relationship of the current proposed Phase IIB FPUD with the approved Fruitvale Transit Village Phase II Project PUD/PDP and the project analyzed in the 2010 EIR; and (3) findings that the Phase IIB FPUD fall within the scope of the 2010 EIR and do not require preparation of subsequent or supplemental environmental review pursuant to CEQA Guidelines Section 15162 and Section 15163.

Prior Project Approvals and Environmental Review

The City has granted several approvals for the Fruitvale Transit Village Project. The PUD/PDP, Design Guidelines, Conditional Use Permit and other associated land use permits ('Related Documents') approved in 2010 authorizes the development of up to 275 residential units and a parking garage. The PUD/PDP and Related Documents also established the approved land uses, density, bulk, massing and design guidelines for the site. Prior to approving the PUD/PDP and Related Documents, the City certified an EIR for the Fruitvale Transit Village Phase II Project (SCH No.2008122089) on May 19, 2010.

Summary

ESA has reviewed the current Phase IIB proposal and found that, although the original Fruitvale Transit Village Phase II design was updated, the current proposal is similar to the prior PUD/PDP design from a CEQA standpoint. Specifically, (1) there are no substantial project changes, (2) there are no substantial changes in the project circumstances, and (3) there is no new information of substantial importance, which could not have been known with the exercise of reasonable diligence when the 2010 EIR was certified, that would require major revisions of the certified 2010 EIR because of a new significant effect or an increase in the severity of a previously identified significant effect. Under CEQA Section 21166, CEQA Guidelines Sections 15162 and 15163 and Section 15183, and no further environmental review is required.

Substantial evidence supporting these findings, as well as a summary of the relationship of the Phase IIB FPUD to the prior Fruitvale Transit Village Project approvals and the certified 2010 EIR, is provided in the following section.

II. Relationship of Proposed Phase IIB FPUD to Previous Documents and Project Changes

Relationship to 2010 PUD/PDP

The project sponsor proposed modifications to the Original Project in 2014 through the filing of a FPUD. This planning entitlement was approved by the Oakland Planning Commission in 2015. At that time the Original Project was modified to allow development of two parking garages instead of one, and to repackage the project into two Phases: Phase IIA consisting of 94 affordable units and 47 parking spaces, and Phase IIB consisting of 181 units and 130 parking spaces.¹ The FPUD also re-configured the land area allocated to each Phase to account for changes in the parking garage and access. Phase IIA moved forward in the development process independently although the FPUD decision affected both Phases.

Relationship to 2010 Fruitvale Transit Village Phase II EIR

The Phase IIB proposal is within the scope of the Fruitvale Transit Village Phase II Project evaluated in the 2010 EIR and would not trigger any new significant or significantly greater impacts, as supported by the information in this memorandum. The Fruitvale Transit Village Phase II Project analyzed in the certified 2010 EIR consisted of a four-story, 275-unit residential development surrounding a new five-story parking garage. The proposed project was to be constructed in four phases: the parking structure would be constructed during Phase 1 and three four-story residential buildings would be constructed during Phases 2 through 4. The parking structure would be approximately 111,110 square feet and the three residential buildings would range from approximately 101,000 to 115,000 square feet. Multiple FDPs were contemplated in the 2010 EIR to implement the Preliminary PUD/PDP.

Table 1, Phase 2: Original 2011 Project Compared to the Current 2018 Phase IIB Proposal, on the following page compares major components of the Phase IIB proposal with the previously analyzed project.

Detailed Description of Proposed Phase IIB Revisions

The Phase IIB FPUD proposes 181 residential units and an associated parking garage with 91-120 parking spaces. The PUD/PDP allows and the EIR evaluated up to 275 residential units and a 277-space parking garage. Although there are architectural and site planning changes stemming from subdividing the project into separate development programs, the two key project revisions that are considered in this analysis are whether (1) the addition of office and retail space; and (2) the decrease in proposed parking spaces from 277 to the 91 required by the S-15 Transit Oriented Development Zone for 181-unit development would result in any new or substantially greater impacts. The analysis considers that the proposed refinements to the project would not result in any net changes to the approved buildout for the PUD/PDP of up to 275 units and the 277-space parking garage.

¹ 30 off-site parking spaces also provided in nearby surface parking lot.

**TABLE 1
PHASE 2: ORIGINAL 2011 PROJECT COMPARED TO THE CURRENT 2018 PROJECT IIB PROPOSAL**

Characteristic	Original Project	Revised Project (Revisions approved with 2015 Fruit FPUD)	Revised Phase IIA (2017) (Approved and Under Construction)	Change Specific to Revised Phase IIB (2018)
Site Area				
Phase II Project	3.4 acres	3.4 acres	-	-
Affordable Housing / Phase IIA Area	1.03 acres	1.25 acres	0.22 more acres	-
Construction Phasing/Program				
	Phase IB: 93 units	Phase IIB: West Garage + 181 units		New West Garage developed with 181 units in 2 building masses connected by podium
	Phase II: 88 units			
	Affordable Housing Phase: 94 units	Phase IIA: East Garage + 94 units	New East Garage developed with 94-unit Building	-
Residential Development				
Total Units	275 Units (181 MR + 94 Affordable)	275 Units (183 MR + 92 Affordable)	2 Affordable Units converted to MR	181 Units, targeting families and individuals earning between 20% and 80% of AMI
Residential Buildings	3 Buildings	3 Buildings	-	-
Building Stories	4 Stories	4 Stories	-	-
Commercial Development				
Non-profit office use	-	-	-	6,000 square feet
Non-profit retail/café use	-	-	-	1,000 square feet
Parking / Access				
Garage Buildings	One Garage	Two Garages	New East Garage	New West Garage
Maximum Garage Stories	5 stories (6 levels)	5 stories (6 levels)	-	-
Spaces/Stalls	277	207	70 fewer onsite spaces; 30 spaces to be provided off-site	10-39 fewer onsite spaces
Garage Access/Egress	Access Road from 35th and 37th Avenues; Emergency access only via EVA	Direct from 35th and 37th Avenues	Utility, trash collection, emergency, and pedestrian tenant access to the secondary garage access via EVA	-
Vacated 36th Avenue Extension / Driveway	Developed	Pedestrian Paseo / Temporary EVA	Pedestrian Paseo / Temporary EVA	Pedestrian Paseo
Open Space / Noise Exposure				
Common Area and Configuration	27,587 sf in five courtyards (Affordable Housing Phase: 10,231 sf)	29,946 sf landscaped courtyard and podium (Phase 2B: 17,356 sf)	2,359 more sf	~14,700 more sf, entry plaza, inner courtyard, and shared plaza between Phase IIA and IIB
Private Residential Balconies	Provided on Most Street-facing Units	Provided on certain E. 12th Street facing Units	Removed, except for on 5 Units facing E. 12th Street	Provided on Most Units
Residential Use / Open Space Access on South Elevation (along BART)	Yes	No	New East Garage Along BART	Yes

SOURCES: MR: Market Rate Units EVA: Emergency Vehicle Access
 Project Plans – (SVA Architects), June 21, 2018; Fruitvale Transit Village Phase 2 Project Draft EIR, January 2010; Oakland City Planning Commission Staff Report for the Fruitvale Transit Village (Phase 2) Residential Project, May 19, 2010; Fruitvale Transit Village Phase II Project EA/FONSI, February 2011

The refinements to the project described in the 2010 EIR per documents provided by the project sponsor are as follows:

- **Addition of Office and Retail Space:** The approved preliminary plans include the development of up to 275 residential units and a parking garage. The FPUD for Phase IIB of the project includes up to 6,000 sf of office space and 1,000 sf of retail/café space for a non-profit tenant. The addition of ground floor office and retail space conforms with ground floor commercial and civic uses in the adjacent Fruitvale Transit Village Phase I development across 35th Avenue. As described below, the addition of ground floor office and retail space not envisioned in the preliminary project plans would not constitute a substantial project change that would require major revisions of the certified 2010 EIR because of a new significant effect or an increase in the severity of a previously identified significant effect.
- **Garage Configuration:** The preliminary plans envisioned a five-story, single structure parking garage, with residential units wrapping around the garage. The result was a super block development that the project sponsors did not think was appropriately scaled to the neighborhood. The parking garage has since been divided into separate structures serving the two phases of the project. The division of the garage also allows Phase II to be completed without the cost burden of constructing all of the parking for the entire project at once. Phase IIB of the project includes a 91-120 space below-grade basement parking garage.
- **Number of Parking Spaces:** The preliminary plans included 277 parking spaces for a 275-unit residential project. The S-15 Zone has a parking requirement of 0.5 spaces per unit, and a Conditional Use Permit is required for projects that exceed this requirement. As part of the original Project approvals, a Conditional Use Permit was granted for up to 277 parking spaces. The Phase IIB proposal includes up to 120 parking spaces, but could include as few as 91 in accordance with the S-15 Zone. The reduction in number of parking spaces is more in keeping with the underlying zoning. The reduction is justified given the proximity to BART and other public transportation resources as part of a Transit-Oriented Development project.
- **Access to Parking:** In the approved preliminary plans, the parking structure was accessed via an Emergency Vehicle Access road running along the BART tracks on the south side of the site. This road was accessed via 35th Avenue and 37th Avenues. In the proposed Phase IIB design, the garage entry has been relocated directly off of 35th Avenue, rather than from the access road. This change avoids bringing residents down a service drive to enter and exit the garage. It also places garage entry on the street where it can be more readily supervised, improving security. Garage entry on 35th Avenue is intended to be 'right in and right out' only to minimize traffic conflicts. Given that under the preliminary plans, the parking garage was accessed from the access road that was accessed directly from 35th and 37th Avenues, the proposal does not result in any changes to traffic patterns.
- **Introduction of Mid-Block Paseo:** As part of the re-organization of the garage, a mid-block pedestrian paseo has been created that will serve as a shared open space between Phase IIA and Phase IIB of the Project. This mid-block paseo provides a clear break in the project that corresponds approximately to the previous right of way at 36th Avenue. Under the preliminary plans, given the two phases had facades immediately adjacent to one another, one development would have had a large blank wall exposed to the neighborhood until the completion of the next phase.

These refinements for Phase IIB being considered as part of the current FPUD application, would not result in net changes of residential units or parking spaces for the entire Fruitvale Transit Village Phase II Project over what was analyzed in the EIR. The COAs and the EIR support development of up to 275 units and a 277-space garage. The distribution of these uses between blocks do not constitute substantial changes to the project evaluated in the EIR that would require major revisions of the certified 2010 EIR, because of a new significant effect or an increase in the severity of a previously identified significant effect.

III. Changed Circumstances and New Information

In the eight years since certification of the 2010 EIR, there have been no major intervening events in the immediate project area with the potential to affect the 2010 EIR findings. The project site has continuously functioned as a surface parking lot serving BART patrons and the Fruitvale Transit Village Phase I commercial and civic establishments since EIR certification. A few new small sites in the Fruitvale Transit Village Project vicinity have been developed with projects, however, these are not considered to require re-evaluation of the findings of the project EIR because they are considered infill projects. In addition, Phase IIA, as previously approved in a separate FDP, is currently under construction.

This Memorandum utilized the findings and analysis in the Fruitvale Transit Village Phase II EIR, in addition to new information (including changes to City, State, and regional policies and regulations) to assess whether the Phase IIB proposal would warranted preparation of additional environmental review under CEQA, pursuant PRC Section 21166 and CEQA Guidelines Sections 15162 and 15163. It also considers the extent to which the project is consistent with the development density established by existing zoning, community plan, or General Plan policies for which an EIR was certified shall not require additional environmental review under CEQA Section 15183.

Air Quality and Greenhouse Gas Emissions

As indicated in the 2010 EIR, no significant construction-related air quality impacts were identified, and none are expected to result from the project with implementation of the City SCAs. Additionally, no significant operation-period air quality impacts were identified in the 2010 EIR. No changes in the proposed Phase IIB Project FPUD or existing conditions warrant any new analysis. The same number of residential units and overall development would be developed, and the addition of office and retail/café space would not affect the construction envelope. Therefore, the same construction activity and duration would occur, and associated emissions due to construction would not result in a significant increase in emissions compared to those identified in the 2010 EIR, which identified Mitigation Measure AIR-4 to address the exposure of persons to substantial levels of PM_{2.5} concentrations and toxic air contaminants (TACs) which may result in adverse health effects to residents.

In accordance with the transportation analysis conducted by Kittelson & Associates in **Attachment A**, the additional daily operational vehicle trips introduced due to the addition of office and retail/café space could increase the operational criteria pollutant emissions for the project; however, per the *City of Oakland's Traffic Impact Report Guidelines* (2017), since the Project is located within 0.5-mile of the Fruitvale BART Station, mode split adjustment factors can be applied. This results in a trip generation total that would be less than what was previously analyzed in the 2010 EIR. Therefore, the Phase IIB FPUD would not result in a significant increase in emissions compared to those identified in the 2010 EIR. Mitigation Measure AIR-4 would continue to address the exposure of persons to substantial levels of PM_{2.5} concentrations and toxic air contaminants (TACs) which may result in adverse health effects to residents. Overall, the Phase IIB proposal would not result in any new, different, or more substantial air quality-related impacts than those that were identified in the 2010 EIR.

With regard to greenhouse gas emissions, the 2010 EIR identified a significant and unavoidable impact related to project greenhouse gas emissions if proposed Bay Area Air Quality Management District (BAAQMD) Thresholds contained in the December 2009 BAAQMD *Draft Air Quality Guidelines* were adopted. As described above, since the trip generation total would be less than what was previously analyzed in the 2010 EIR, the Phase IIB FPUD would not result in a significant increase in emissions compared to those identified in the 2010 EIR. Mitigation Measure AIR-6, which requires a Greenhouse Gas Reduction Plan, would continue to address impacts related to greenhouse gas emissions. Overall, the Phase IIB proposal would not result in any new, different, or more substantial greenhouse gas-related impacts than those that were identified in the 2010 EIR.

Noise

The 2010 EIR found less than significant impacts related to noise, with the incorporation of City SCAs. There is no significant change to the type and duration of construction activities for the Phase IIB proposal. Therefore, construction noise levels would be consistent with those analyzed in the 2010 EIR. With regard to operational noise impacts. Some of the refinements to Phase IIB result in new open space areas, office and retail space, and a reconfiguration of residences. This includes reconfiguration of the site plan to relocate parking garage areas to the basement level, which allows for an interior open space courtyard that would be shielded from noise of BART trains by the presence of the southerly building. In addition, most of the noise generated by the project would be traffic-generated noise, and the trip generation total that would be less than what was previously analyzed in the 2010 EIR (see Attachment A).

Transportation and Traffic

The 2010 EIR analysis identified significant and unavoidable impacts relating to Transportation, Circulation, and Parking. Although there are several intersections and street sections that will be impacted by the proposed project, there is one intersection where the impact cannot be mitigated. Construction of the proposed project would cause an increase in the overall intersection average delay by more than two seconds during the AM and PM peak hours at the San Leandro Street I High Street intersection, which would operate at LOS F under 2035 Baseline conditions. The addition of project traffic also would cause an increase in the average delay during the PM peak hour by more than four seconds for the critical northbound (High Street) through movement (Impact TRANS-18). No feasible mitigation measure was identified to reduce the project impact to a Less-Than-Significant Level.

Additionally, construction of the proposed project would contribute to 2015 and 2035 changes to traffic conditions on the regional and local roadways (Impacts TRANS-21 and TRANS-22). Mitigation of the project's significant impact on eastbound San Leandro Street west of 35th Avenue or west of High Street is not feasible. An additional lane on eastbound San Leandro Street would require removal of the parking lane or widening of San Leandro Street. However, such measures are considered infeasible due to physical constraints caused by on-street parking demand and existing right-of-way. No feasible mitigation measures were identified to reduce these impacts to a Less-Than-Significant Level.

While there are minor differences in the design of the garage driveway access, this would not result in a re-distribution of project-generated trips compared to the 2010 EIR. Overall, the proposed changes to site access would not result in any new, different, or more substantial transportation-related impacts than those that were identified in the 2010 EIR.

As discussed in greater detail in the transportation analysis in Attachment A, the project as evaluated in the 2010 EIR would generate 88 vehicle trips (15 inbound, 73 outbound) during the weekday AM peak hour and 105 vehicle trips (70 inbound, 35 outbound) during the weekday PM peak hour. The combined Phase IIA and Phase IIB FPUD would generate 78 vehicle trips during the weekday AM peak hour and 77 vehicle trips during the

weekday PM peak. Based on this analysis, the Phase IIB FPUD would generate 10 fewer vehicle trips during the weekday AM peak hour and 28 fewer vehicle trips during the weekday PM peak hour.

Relative to the project evaluated in the 2010 EIR, Phase IIA and the proposed Phase IIB proposal would result in an increase in the number of vehicles traveling inbound to the project site during the weekday AM peak hour and a decrease in the number of vehicles outbound from the project site during the weekday AM peak hour. Phase IIA and Phase IIB proposal would result in a decrease in the number of inbound and outbound vehicles during the higher volume PM peak hour. This level of change would not be expected to result in major differences in the operational analysis conducted for the 2010 EIR. Given the proposed Phase IIB garage would contain up to 120 vehicle parking spaces, queues are expected to be less than those experienced under current conditions. Overall, the proposed modifications to travel demand would not result in any new, different, or more substantial transportation-related impacts than those that were identified in the 2010 EIR.

An updated transportation analysis was prepared that includes a discussion of vehicle miles traveled (VMT) to document the Phase IIB proposal's compliance with the City of Oakland's screening criteria and established VMT thresholds. As also shown in Attachment A, Phase IIB would also meet the newer City of Oakland criteria related to VMT for residential uses, but would not meet the established threshold for employment uses. Therefore, a transportation demand management (TDM) plan would be required for the proposed office and retail/café uses. The preparation of a TDM plan was included in the Mitigation, Monitoring, and Reporting Program (MMRP) for the 2010 EIR.

The development of 181 residential units, up to 6,000 sf of office space and 1,000 sf of retail space, and associated parking under Phase IIB Project FPUD albeit to a lesser degree than the original project, would continue to contribute to these significant and unavoidable impacts consistent with the findings of the 2010 EIR. There is no new information or changes in circumstances that would result in new or more severe impacts, and no new impacts or more severe impacts would result due to new information or changed circumstances. No new mitigation measures would be required.

Consistency with Community Plan, General Plan, or Zoning

CEQA mandates that projects that are consistent with the development density established by existing zoning, community plan or General Plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific impacts. The General Plan land use designation for the site is Neighborhood Center Mixed Use, which permits and encourages development "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," as stated in the Land Use and Transportation Element (LUTE). The maximum residential density provided in the Neighborhood Center Mixed Use category is 125 dwelling units per gross acre. The 3.4-acre project site could support a maximum of 425 residential units. The current 181 units (and previously approved 94-unit Phase IIA Final Development Plan) would result in a total of 275 units and is under the maximum allowable density.

Development of the Phase IIB FPUD is governed by the S-15 Transit-Oriented Development Zone that is intended to "create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial and mixed-use development 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 BART stations, AC Transit centers and other transportation nodes (Planning Code Sec. 17.97). As determined in May 2010 when the PUD/PDP was approved by the City Planning Commission, the project is consistent with the S-15 Zone. The current proposal is in substantial conformance with the 2010 approval and the PUD, and is therefore in compliance with the underlying zoning. The addition of office and retail uses will further demonstrate the uses intended for the S-15 Zone.

Additionally, the Fruitvale Transit Village Phase II project is reflected in the City's 2015-2023 Housing Element and thus has been captured in the environmental analysis completed for that effort. The Phase IIB FPUD is consistent with the City's General Plan, Zoning and Housing Element documents.

Other Topics

An Initial Study was prepared for the Fruitvale Transit Village Phase II Project in 2008 that evaluated all environmental topics identified in Appendix G of the CEQA *Guidelines* and the City of Oakland's CEQA Thresholds / Criteria of Significance document. The analysis found that, with the exception of air quality, noise, and transportation, implementation of the project would result in Less-than Significant impacts with respect to all of the other environmental topics with the application of the City of Oakland's SCAs. The development of 181 residential units, up to 6,000 sf of office space and 1,000 sf of retail space, and associated parking under Phase IIB Project FPUD is located on the same project site and remains categorized as urban infill development. Therefore, the Phase IIB revisions would not result in any new or more substantial impacts in relation to agricultural resources, biological resources, cultural resources, geology/soils, hazards and hazardous materials, hydrology and water quality, mineral resources, and utilities and service systems, than those that were identified in the 2008 Initial Study.

With regard to aesthetics, the revisions to Phase IIB do not alter the overall design character, building heights or development density previously considered. The overall design character and visual quality of the development remains a low-rise multifamily residential complex focused around internal and external pedestrian connections and common open space/landscaped area(s). The addition of ground floor office and retail space conforms with ground floor commercial and civic uses in the adjacent Fruitvale Transit Village Phase I development across 35th Avenue. The overall visual quality of the structures is not substantially different from that previously analyzed; therefore, the Phase IIB FPUD would not result in any new or more substantial aesthetics-related impacts than those identified in the 2008 Initial Study.

As described above, the Phase IIB FPUD is consistent with the City's General Plan, Zoning and Housing Element documents; therefore, the Phase IIB would not result in any new or more substantial land use/planning-related impacts than those identified in the 2008 Initial Study. With regard to population and housing, the small amount of office and retail space introduced by the Phase IIB revisions would not induce substantial population growth, and no new or more substantial population and housing-related impacts than those identified in the 2008 Initial Study would occur. A negligible increase in demand for public services and recreation would occur due to the introduction of office and retail space proposed in Phase IIB that would not result in any new or more substantial public services or recreation-related impacts than those identified in the 2008 Initial Study. In addition, the Phase IIB revisions include approximately 4,700 more square feet of open space on the project site due to the addition of an entry plaza, inner courtyard, and shared paseo between Phase IIA and IIB.

IV. Conclusion

As discussed above, the development associated with the Phase IIB FPUD was adequately considered in the 2010 EIR. The refinements incorporated into the FPUD applications do not represent changes that would result in new or more severe impacts (or require new or significantly altered mitigation measures) beyond those already identified in the 2010 EIR. The 2010 EIR is adequate for the Phase IIB FPUD and no subsequent or supplemental environmental review is warranted.

Findings

- The following summarizes the substantial evidence supporting why no supplemental or subsequent CEQA review is necessary pursuant to CEQA Guidelines Section 15162 and the City can rely on the previously certified EIR.
- Substantial Changes to the Project. The refinements incorporated into the Phase IIB FPUD would not increase the adverse impacts of the Fruitvale Transit Village Phase II Project. The addition of office and retail space, and a reduction from a 277-parking space garage to 91-120 parking space garage in Phase IIB would not result in new significant environmental impacts or a substantial increase in the severity of impacts already identified in the 2010 EIR. Therefore, the proposed changes included in the Phase IIB FPUD are considered minor refinements, not substantial changes.
- Project Circumstances. Since certification of the 2010 EIR, conditions in and around the Fruitvale Transit Village Project area have not substantially changed and thus implementation of the Phase IIB FPUD would not result in new significant environmental effects or a substantial increase in the severity of environmental effects already identified in the 2010 EIR. No substantial changes in noise levels, air quality, traffic, or other conditions have occurred within and around the Fruitvale Transit Village Project site since certification of the EIR.
- New Information. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the 2010 EIR was certified, has been identified which is expected to result in: 1) new significant environmental effects or a substantial increase in the severity of environmental effects already identified in the EIR; or 2) mitigation measures or alternatives which were previously determined to be infeasible would in fact be feasible, or which are considerably different from those recommended in the 2010 EIR, and which would substantially reduce significant effects of the project, but the project applicant declines to adopt them.

As described previously, changes to the Phase IIB FPUD would not result in significant environmental effects (including effects that would be substantially more severe than impacts identified in the 2010 EIR). Existing regulations (including City General Plan policies and ordinances in the Municipal Code) and mitigation measures included in the 2010 EIR, as well as City SCAs would be adequate to reduce the impacts resulting from the Phase IIB FPUD to Less-Than-Significant levels.

Therefore, there are no substantial project changes, no substantial changes in the project circumstances, and no new information of substantial importance that would require major revisions of the certified 2010 EIR, because of a new significant effect or an increase in the severity of a previously identified significant effect. Under CEQA section 21166 and CEQA Guidelines sections 15162 and 15163, no further environmental review is required. Thus, in considering approval of the Fruitvale Transit Village Phase IIB FPUD, the City can rely on the previously certified 2010 EIR.

Attachment A - Transportation Analysis, Kittelson & Associates

DRAFT MEMORANDUM

Date: July 20, 2018

Project #: 22102

To: Jillian Feyk-Miney and Crescentia Brown
Environmental Science Associates
550 Kearny Street, Suite 800
San Francisco, CA 94108

From: Amanda Leahy, AICP and Mike Aronson, P.E.

Project: Fruitvale Transit Village IIB EA Re-evaluation

Subject: Transportation Analysis – Draft Memorandum

PROJECT DESCRIPTION

The Fruitvale Transit Village Phase 2 project proposed the construction of 275 housing units on a site in the City of Oakland bounded by 37th Avenue, 35th Avenue, the BART right-of-way and East 12th Street. A Draft Environmental Impact Report (EIR) was published in January 2010 and the Phase 2 project was approved by the City of Oakland in 2010.

The revised Fruitvale Transit Village Phase IIB project (referred to as “Phase IIB” or “proposed project”) would revise the site plan and land use program for the portion of the Phase 2 site adjacent to 35th Avenue and East 12th Street. The proposed project would construct 181 affordable multi-family residential units (24 studio units, 70 one-bedroom units, 58 two-bedroom units, and 29 three-bedroom units). In addition to the residences, the proposed project would include approximately 6,000 square feet (SF) of office space and 1,000 sf of retail/café space for a non-profit tenant. An approximately 2,180 sf landscaped outdoor entry plaza and seating area would be included to serve café uses and an approximately 25,300 sf landscaped internal courtyard would be accessible to residents.

The proposed project is entitled to provide up to 120 vehicle parking spaces and may include as few as 91. This analysis conservatively assumes 120 vehicles parking spaces would be provided. The proposed site plan (Attachment A) shows 106 vehicle parking spaces. Vehicle parking and secure bicycle parking for approximately 132 bicycles would be provided in a below-grade basement garage. Access to the parking garage would be via a right-in/right-out intersection at 35th Avenue. An emergency vehicle access lane along the south side of the site was approved as part of the Phase IIA project.

SUMMARY

The proposed modifications to site access and land use program would not result in different or more substantial transportation-related impacts. As such, the Phase 2 EIR identifies all potential significant adverse transportation-related environmental impacts and mitigation measures and/or standard conditions of approval that would reduce these impacts to less-than-significant levels.

The proposed project would meet the newer City of Oakland criteria related to vehicle-miles of travel (VMT) for residential uses but would not meet the established threshold for employment uses. Therefore, a transportation demand management (TDM) plan must be prepared for the proposed office and café uses.

INTRODUCTION

Kittelson & Associates, Inc. (Kittelson) has prepared this memorandum to summarize the evaluation of the potential for new and/or more substantial transportation-related impacts to occur as a result of the revised site plan for the revised Fruitvale Transit Village Phase IIB project. The following analysis was conducted:

- **Site Plan Review.** This section summarizes a review of the proposed site plan and any proposed modifications in the public right-of-way for impacts on transportation safety, access, and circulation that would be different or above those identified in the Fruitvale Transit Village Phase 2 Environmental Impact Report (EIR), as approved by the City of Oakland in 2010.
- **Travel Demand Analysis.** This section summarizes a review of the trip generation estimates from the Phase 2 EIR, and evaluation of the implications of potential changes to trip distribution and assignment to reflect the new land use program and site plan.
- **Vehicle Miles Traveled Analysis.** This section includes a discussion of vehicle miles traveled (VMT) for the region and the project's specific location (transportation analysis zone) for the proposed use. This section documents compliance with the City of Oakland's screening criteria and established VMT thresholds.

SITE PLAN REVIEW

Kittelson reviewed the proposed site plan to identify changes in site access and circulation between the current proposal and the previous proposal evaluated in the approved Phase 2 EIR. Kittelson reviewed the proposed site plan and any proposed modifications in the public right-of-way for impacts on transportation safety, access, and circulation. The qualitative assessment considers the interface of the building and access points with the road network, taking into consideration vehicle parking accommodation and delivery/freight and passenger loading accessibility. The currently proposed and prior site plans are included as attachments (Attachment A and Attachment B, respectively).

Prior Site Plan

As analyzed in the Phase 2 EIR, vehicular access to and from the site would have been provided from 35th Avenue and 37th Avenue via a private two-way alley along the southern edge of the site. The alley would allow emergency vehicles access to the south side of the development. Pedestrian access would be provided along East 12th Street at 36th Avenue and at 37th Avenue, and along 35th Avenue at East 12th Street and from the private alley. The on-site parking garage would be accessible from two garage access driveways located on the private alley.

Proposed Site Plan

A 26-foot-wide emergency vehicle access lane would be constructed on the southern edge of the site, accessible from a right-in/right-out driveway on 35th Avenue. This access lane would also be used by residents accessing the below-grade garage. Access to and from the proposed garage would be provided via an entry/exit driveway and 24-foot-wide curb cut located on the access road about 60 feet east of the intersection with 35th Avenue. The proposed garage would provide parking spaces for up to 120 vehicles, including six Americans with Disabilities Act (ADA) accessible spaces, and about 132 bicycles.¹ The emergency vehicle access lane would not be intended to provide through traffic connections to 37th Avenue.

Pedestrian access to the retail/café space and a landscaped entry plaza with café seating would be provided along East 12th Street at 35th Avenue. Additional pedestrian access to the café, office space, and internal courtyard would be provided along 35th Avenue. Four residential units fronting 12th Street would have independent pedestrian entrances.

Differences in Site Access

The proposed project would construct an emergency vehicle access route on-site and does not propose any modifications to the existing roadway network or major modifications (circulation patterns or design features) to East 12th Street or 37th Avenue that would preclude or otherwise alter access by emergency vehicles.

The key differences observed in the Phase IIB site plan and the Phase 2 EIR site plan are:

- The on-site parking garage (up to 120 vehicle parking spaces) would be accessible primarily from right-in/right-out access at 35th Avenue.

¹ The proposed site plan dated 6/21/2018 (Attachment A) shows 106 vehicle parking spaces. For purposes of a more conservative analysis from a transportation perspective, the analysis assumes 120 vehicle parking spaces would be provided.

- Emergency vehicle and freight access would be provided from an easement along the eastern boundary of the Phase IIB site that ties into the East 12th Street/36th Avenue intersection and the emergency vehicle access road along the southern border of the site.

As previously noted, vehicular access to the below-grade parking garage would be provided from a right-in/right-out intersection at 35th Avenue and a 24-foot driveway ramp located about 60 feet from this intersection. While there are minor differences in the design of the garage driveway access, this would not result in a re-distribution of project-generated trips compared to the Phase 2 EIR analysis.

Overall, the site plan review did not reveal any new, different, or more substantial transportation-related impacts than those that were identified in the Phase 2 EIR.

TRAVEL DEMAND ANALYSIS

As discussed in the Project Description section, the Phase 2 EIR project proposed construction of 275 housing units. The revised Fruitvale Transit Village Phase IIB project proposes to construct 181 housing units, 6,000 square feet of office space, and a 1,000 square-foot café, in addition to the 94 housing units proposed for Phase IIA. Kittelson reviewed the travel demand (trip generation, distribution, and assignment) from the Phase 2 EIR and the revised proposed project to evaluate the potential implications of the Phase IIB land use program and site plan.

Vehicle Trip Generation

Vehicle trip generation for the proposed project (Phase IIB combined with Phase IIA) was estimated using trip generation rates published in the current Institute of Transportation Engineers (ITE) *Trip Generation Manual* (10th Edition). The average rates for Mid-Rise Apartment, General Office, and Bread/Bagel Shop land uses were used to estimate weekday a.m. peak hour, and weekday p.m. peak hour vehicle trips generated by the project. Mode share for project trips is based on the mode split adjustments provided in the City of Oakland's *Traffic Impact Report Guidelines* (2017) for a project with similar population and location characteristics. Table 1 compares the vehicle-trips generated by the revised Phase IIB plus IIA and the Phase 2 EIR. Detailed trip generation calculations are included as Attachment C.

As shown in Table 1, the Phase 2 project as evaluated in the EIR would generate 88 vehicle trips (15 inbound, 73 outbound) during the weekday AM peak hour and 105 vehicle trips (70 inbound, 35 outbound) during the weekday PM peak hour. The revised Phase IIB plus IIA project would generate 78 vehicle trips during the weekday AM peak hour and 77 vehicle trips during the weekday PM peak. Based on this analysis, the Phase IIB project would generate 10 fewer vehicle trips during the weekday AM peak hour and 28 fewer vehicle trips during the weekday PM peak hour.

Table 1: Vehicle Trip Generation Comparison

Land Use	Size	Unit	Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Phase IIA+IIB Project Trips, per ITE Trip Generation Manual									
Apartment (ITE Land Use 220)	181	DU	1,496	20	79	99	79	42	121
Office (ITE Land Use 710)	6,000	SF	58	7	0	7	1	7	8
Café (ITE Land Use 939)	1,000	SF	371	20	21	41	8	8	16
Total ITE Project Trips			1,925	47	100	147	88	57	145
Phase IIA+IIB Vehicle Trips, per City of Oakland TIS Guidelines¹									
Vehicle Trips	----	----	1,121	25	53	78	47	30	77
Phase 2 EIR Vehicle Trips									
Vehicle Trips	275	DU	n/a	15	73	88	70	35	105
Net Change in Vehicle Trips (Phase IIA+IIB – Phase 2 EIR)									
Net Change in Vehicle Trips	----	----	n/a	10	-20	-10	-23	-5	-28

Source: Kittelson & Associates, Inc. 2018; Institute of Transportation Engineers' *Trip Generation Manual, 10th Edition*; City of Oakland's *Traffic Impact Report Guidelines* (2017); Dowling Associates, Inc. 2009; ESA 2011, Fruitvale Transit Village Phase 2 Project Draft EIR Table 4.3-8.

Notes: DU = Dwelling Units; SF = Square Feet

¹ Project is located within 0.5-mile of the Fruitvale BART Station. Mode split adjustment factors (53.1% vehicle mode share) from Table 2 of the City of Oakland Transportation Impact Review Guidelines (April 14, 2017) applied to estimate project vehicle trip generation.

Site Access

As previously noted, the proposed on-site garage for Phase IIB would be accessible from a new access road with a right-turn-only intersection on 35th Avenue. Although the access road would physically connect to 37th Avenue, the access road is designated for emergency vehicle use. Therefore, 100% of the Phase IIB project-generated vehicle trips are assumed to enter/exit on 35th Avenue.

The proposed driveway would be located approximately 60 feet east of the access road intersection with 35th Avenue. There would be space for about three vehicles to queue on the access road approaching the garage entrance before spilling back onto 35th Avenue. Relative to the Phase 2 project as evaluated in the EIR, the revised project (Phase IIA+IIB) would result in an increase in the number of vehicles traveling inbound to the project site during the weekday AM peak hour and a decrease in the number of vehicles outbound from the project site during the weekday AM peak hour. The revised project (Phase IIA+IIB) would result in a decrease in the number of inbound and outbound vehicles during the higher volume PM peak hour. This level of change would not be expected to result in major differences in the operational analysis conducted for the Phase 2 EIR. Furthermore, given the proposed garage would contain up to 120 vehicle parking spaces, queues are expected to be less than those experienced under current conditions from the existing two-way driveway serving BART's 547-space surface parking lot.

Overall, the travel demand review did not reveal any new, different, or more substantial transportation-related impacts than those that were identified in the Phase 2 EIR. Therefore, the impact statements and mitigations related to vehicle traffic are expected to be the same.

VEHICLE MILES TRAVELED ANALYSIS

A VMT screening analysis was conducted to assess whether or not the project would meet established City of Oakland screening criteria for project size, vehicle miles traveled, and/or proximity to transit. The results of the VMT screening analysis are shown in Table 2 and summarized in this section. Detailed VMT calculations are included as Attachment D.

Table 2: VMT Screening Analysis

Criteria	Description	Screening Criteria Met?
Small size	Project would generate less than 100 daily vehicle trips	No
Low-VMT area	Project is located within a low-VMT area	Yes (per capita) / No (per employee)
Near transit station	Project is located within one-half mile of an existing major transit stop or existing stop along a high-quality transit corridor.	Yes

Source: Kittelson & Associates, Inc. 2017; City of Oakland *Transportation Impact Report Guidelines*, April 2017.

Small Size Criterion – Project Trip Generation Estimates

As summarized in Table 1, the Phase IIA+IIB project would generate an estimated 1,121 daily vehicle trips. Because the project would generate more than 100 daily vehicle trips, the project would not meet the established screening criteria for a small size project.

Low-VMT Area Criterion – Map-Based Screening Analysis

The Oakland Planning and Building Department has provided screening criteria and thresholds of significance to determine if land uses similar in function to residential, office, and retail would result in significant impacts as it relates to VMT. For purposes of VMT screening and analysis, the residential (per capita) and office/café (per worker) threshold was applied. The City of Oakland VMT screening map data for the proposed project’s transportation analysis zone (TAZ 926) and the region is summarized in Table 3.

As shown in Table 3, the average daily VMT per capita in TAZ 926 is 8.5 vehicle-miles. The regional average daily VMT per capita is 14.9 vehicle-miles and the regional threshold (15 percent below the regional average) is 12.66 vehicle-miles. Therefore, daily VMT per capita within TAZ 926 is 43.0 percent below the regional average and 32.9 percent below the regional threshold. The proposed project would not exceed the established per capita VMT threshold and would meet the established map-based screening criteria for a project in a low-VMT area for the residential use.

Table 3: VMT Map-Based Screening Analysis

Description	TAZ 926	Regional Average	Regional Threshold
Residential			
Daily VMT Per Capita	8.50	14.90	12.66
TAZ Percent Difference	-	-43.0%	-32.9%
Office and Café			
Daily VMT Per Employee	21.15	23.15	19.68
TAZ Percent Difference	-	-8.6%	+7.5%

Source: Kittelson & Associates, Inc. 2017; City of Oakland VMT Layers.gdb.

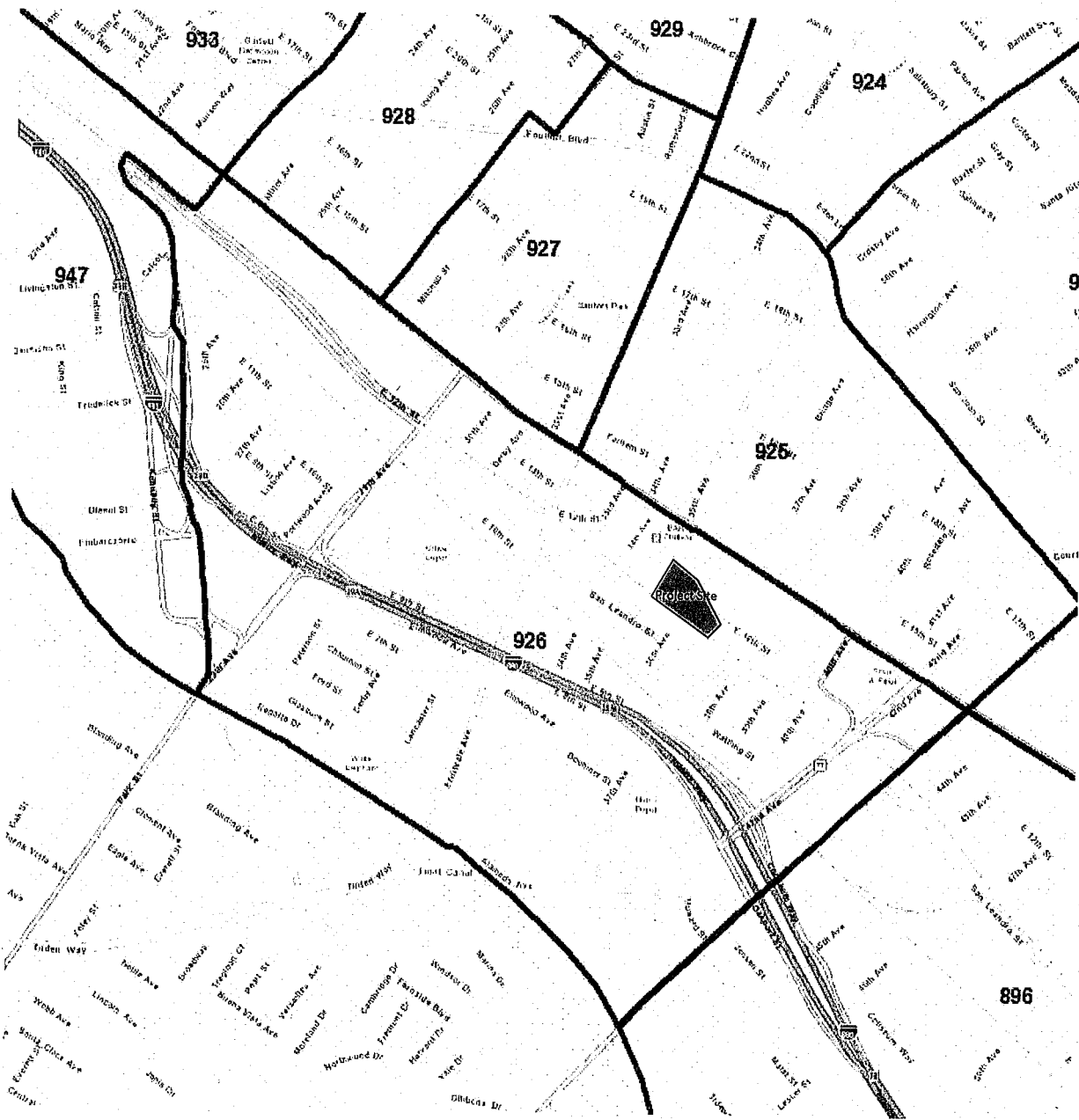
The average daily VMT per worker in TAZ 926 is 21.15 vehicle-miles. The regional average daily VMT per employee is 23.15 vehicle-miles and the regional threshold (15 percent below the regional average) is 19.68 vehicle-miles. Therefore, daily VMT per worker within TAZ 926 is 8.6 percent below the regional average but 7.5 percent above the regional threshold. Since the project would exceed the established per worker VMT threshold, the proposed project would not meet the established map-based screening criteria for a project in a low-VMT area. Therefore, the project must include a transportation and parking demand management plan for the office and café uses. Note that the average VMT per employee for TAZ 926 includes areas both adjacent to and further from the Fruitvale BART station (Figure 1). Due to the project’s proximity to major transit service, it is likely that it could provide lower VMT per employee than the average reported for TAZ 926.

Transit Proximity Criterion – Existing Transit Service Assessment

The proposed project is located adjacent to the nearest BART station (Fruitvale BART). Because the project is located within one-half mile from a BART station or high-quality transit corridor, the proposed project would meet the established screening criteria for transit proximity.

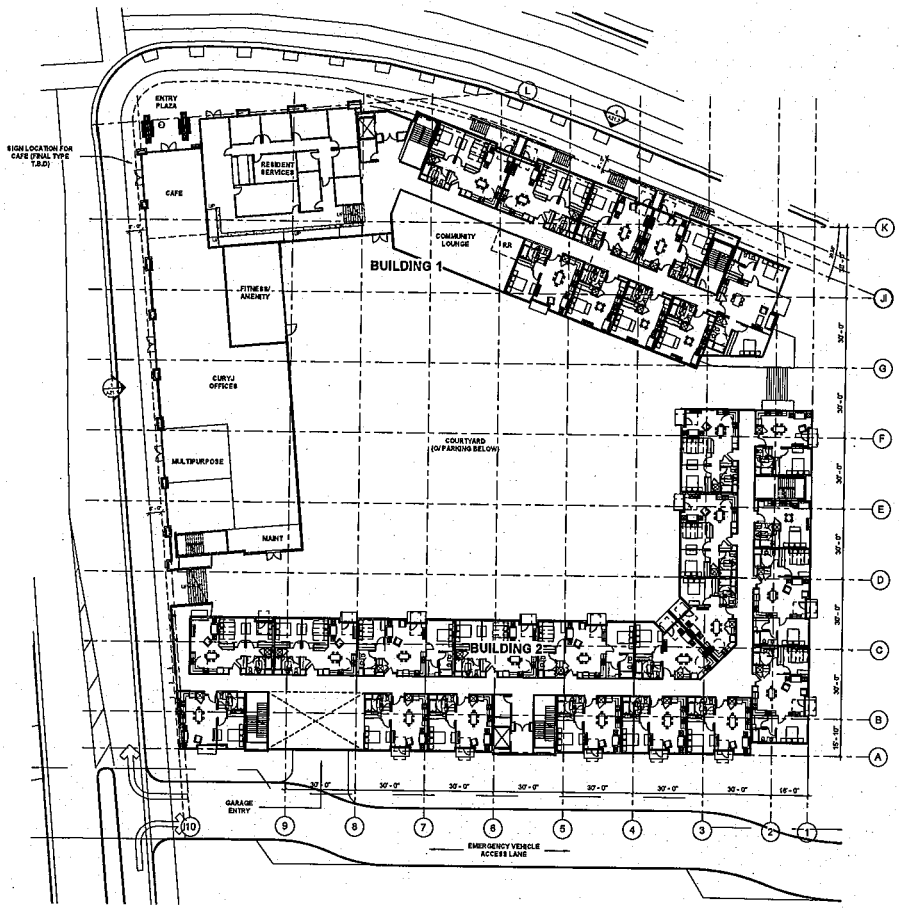
Overall, the VMT analysis revealed one new transportation-related impact that was not identified in the Phase 2 EIR. City of Oakland VMT screening criteria were not established at the time the Phase 2 EIR was prepared. As a result, VMT was not analyzed in the Phase 2 EIR.

Figure 1: Transportation Analysis Zones Used for VMT Analysis



Attachments

- Attachment A: Proposed Site Plan – Phase IIB
- Attachment B: Phase 2 EIR Site Plan
- Attachment C: Travel Demand Calculations
- Attachment D: VMT Calculations



1 LEVEL 1 COMPOSITE PLAN
1/16" = 1'-0"

TYPICAL BUFFER REQUIREMENTS:
 1. TYPE A OCCUPANCY AND TYPE B3 OCCUPANCY ARE SEPARATED BY 3'-0" FROM THE OTHER SIDE.
 2. TYPE B OCCUPANCY AND TYPE B3 OCCUPANCY ARE SEPARATED BY 3'-0" FROM THE OTHER SIDE.
 3. TYPE B OCCUPANCY AND TYPE B3 OCCUPANCY ARE SEPARATED BY 3'-0" FROM THE OTHER SIDE.
 4. TYPE B OCCUPANCY AND TYPE B3 OCCUPANCY ARE SEPARATED BY 3'-0" FROM THE OTHER SIDE.

OCCUPANCY	CONSTRUCTION	SPACING AND AREA ALLOWED
TYPE A	FULLY FINISHED	AS PER TABLE 101.10.1 (1)
TYPE B	FULLY FINISHED	AS PER TABLE 101.10.1 (1)

PERMITTED OCCUPANCY TYPES:

RESIDENTIAL	300
COMMERCIAL	300
OFFICE	300
RETAIL	300
RESTAURANT	300
BAR	300
CLUB	300
THEATER	300
CONCOURSE	300
ELEVATOR SHAFTS	300
STAIRWAYS	300
MECHANICAL	300
POSSIBLE OCCUPANCY SEPARATION	300

ALLOWABLE AREA CALCULATION

OCC. TYPE	SPACING	ALLOWABLE AREA	INCREASE PER SECTION	TOTAL
BA	BA	81	311.00	392.00

TOTAL AREA PER CODE: 392.00 SF
 TOTAL AREA AS SHOWN: 424.00 SF (+ 32.00 SF, 0.0)

BUILDING 1 (ABOVE FLOOR / ON GRADE)

OCCUPANCY	CONSTRUCTION	SPACING AND AREA ALLOWED
TYPE A	FULLY FINISHED	AS PER TABLE 101.10.1 (1)
TYPE B	FULLY FINISHED	AS PER TABLE 101.10.1 (1)

PERMITTED OCCUPANCY TYPES:

RESIDENTIAL	300
COMMERCIAL	300
OFFICE	300
RETAIL	300
RESTAURANT	300
BAR	300
CLUB	300
THEATER	300
CONCOURSE	300
ELEVATOR SHAFTS	300
STAIRWAYS	300
MECHANICAL	300
POSSIBLE OCCUPANCY SEPARATION	300

ALLOWABLE AREA CALCULATION

OCC. TYPE	SPACING	ALLOWABLE AREA	INCREASE PER SECTION	TOTAL
BA	BA	81	311.00	392.00
B	BA	81	311.00	703.00
B3	BA	81	311.00	1014.00

FRONTIER PROVISIONS: #1 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #2 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #3 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #4 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #5 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #6 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #7 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #8 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #9 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #10 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.

MIXED OCCUPANCY CALCULATIONS

FLOOR	RESIDENTIAL	COMMERCIAL	OFFICE	RETAIL	TOTAL
1	1,127 SF	1,127 SF	1,127 SF	1,127 SF	4,512 SF
2	1,127 SF	1,127 SF	1,127 SF	1,127 SF	4,512 SF
3	1,127 SF	1,127 SF	1,127 SF	1,127 SF	4,512 SF
4	1,127 SF	1,127 SF	1,127 SF	1,127 SF	4,512 SF
TOTAL					18,048 SF

BUILDING 2 (ABOVE FLOOR) WILL BE SPLIT INTO TWO DIFFERENT BUILDING AREAS

OCCUPANCY	CONSTRUCTION	SPACING AND AREA ALLOWED
TYPE A	FULLY FINISHED	AS PER TABLE 101.10.1 (1)
TYPE B	FULLY FINISHED	AS PER TABLE 101.10.1 (1)

PERMITTED OCCUPANCY TYPES:

RESIDENTIAL	300
COMMERCIAL	300
OFFICE	300
RETAIL	300
RESTAURANT	300
BAR	300
CLUB	300
THEATER	300
CONCOURSE	300
ELEVATOR SHAFTS	300
STAIRWAYS	300
MECHANICAL	300
POSSIBLE OCCUPANCY SEPARATION	300

ALLOWABLE AREA CALCULATION

OCC. TYPE	SPACING	ALLOWABLE AREA	INCREASE PER SECTION	TOTAL
BA	BA	81	311.00	392.00
B	BA	81	311.00	703.00
B3	BA	81	311.00	1014.00

FRONTIER PROVISIONS: #1 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #2 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #3 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #4 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #5 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #6 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #7 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
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 #9 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.
 #10 - 10' FROM THE FRONT OF THE BUILDING TO THE FRONT OF THE LOT.

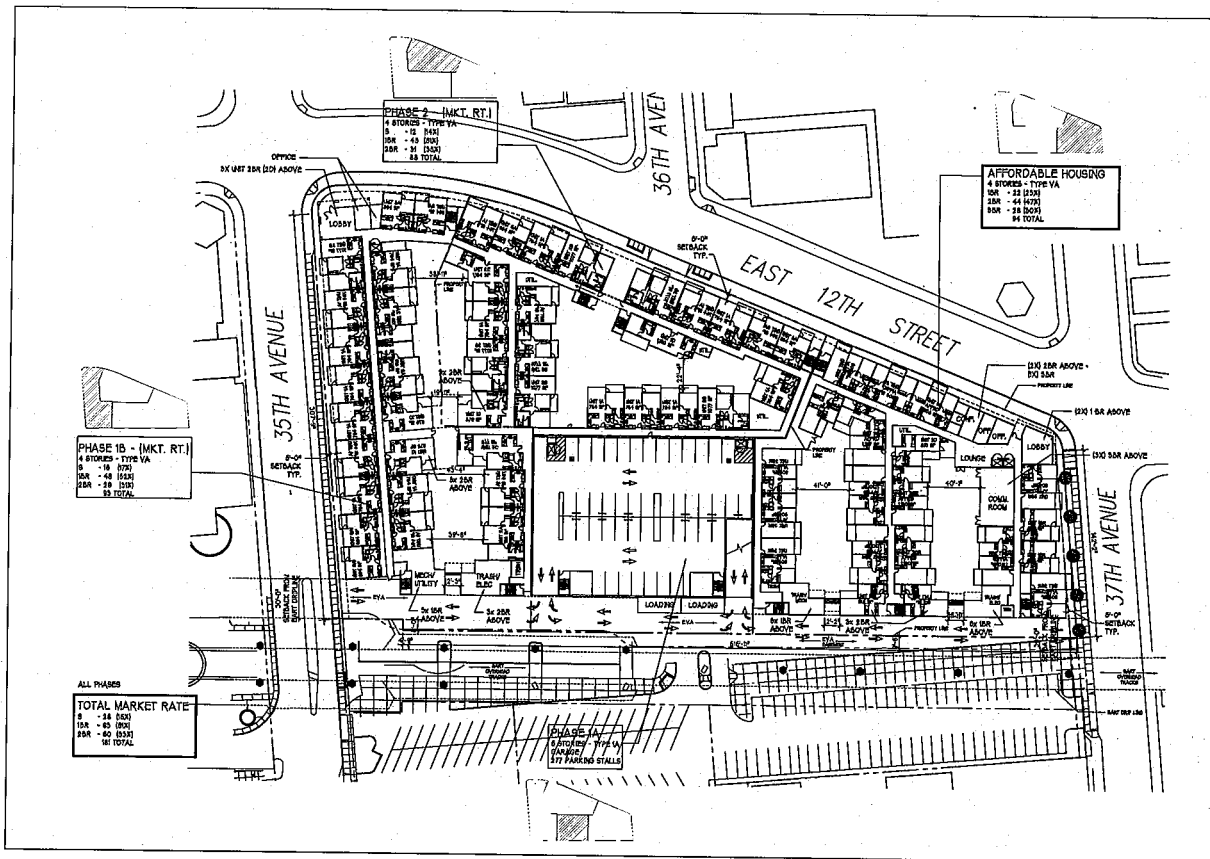
TOTAL AREA PER FLOOR: 392.00 SF
 TOTAL AREA AS SHOWN: 424.00 SF (+ 32.00 SF, 0.0)

CODE ANALYSIS

OWNER: BRIDGE HOUSING CORPORATION & UNITY COUNCIL
 PROJECT NAME: FRUITVALE PHASE IIB
 CLIENT ADDRESS: [REDACTED]

PROJECT NO: 2017-0113
 DATE PREPARED: 02/10/18
 SCALE: As Shown
 SHEET NUMBER: A11.1
 SHEET TITLE: LEVEL 1 FLOOR PLAN





SOURCE: HKIT Architects (November 13, 2009)

Fruitvale Transit Village Phase 2, 208475

Figure 3-1
Proposed Project Site Plan

Fruitvale Transit Village Phase IIA+IIB

Trip Generation Calculation

Land Use	Size	Unit	Daily				AM Peak Hour				PM Peak Hour					
			Rate	Total	Rate	In %	Out %	In	Out	Total	Rate	In %	Out %	In	Out	Total
Vehicle-Trips, per ITE Trip Generation Manual, 10th Edition																
Project Generated Trips (Phase IIA+IIB)																
Residential - Mid-Rise (ITE Land Use 221)	275	DU	5.44	1,496	0.36	20%	80%	20	79	99	0.44	65%	35%	79	42	121
Bread/Bagel Shop w/o Drive Thru (ITE Land Use 939) ²	1	KSF	370.67	371	40.21	47%	53%	20	21	41	15.96	50%	50%	8	8	16
Office (ITE Land Use 710)	6	KSF	9.74	58	1.16	86%	14%	7	0	7	1.15	16%	84%	1	7	8
Total ITE Project Vehicle Trips				1,925				47	100	147				88	57	145
Phase IIA+IIB Trips by Mode, per City of Oakland TIS Guidelines¹																
Vehicle Trips				53.1%	1,022	53.1%		25	53	78	53.1%			47	30	77
Transit Trips				29.7%	572	29.7%		14	30	44	29.7%			26	17	43
Bicycle Trips				5.1%	98	5.1%		2	5	7	5.1%			4	3	7
Walk / Other Trips				10.5%	202	10.5%		5	11	16	10.5%			9	6	15
Total Trips				98.4%	1,894	98.4%		46	99	145	98.4%			86	56	142
Phase 2 EIR Vehicle-Trips																
Vehicle Trips	275	DU						15	73	88				70	35	105
Net Change in Vehicle Trips (Phase IIA+IIB - Phase 2 EIR)					1,022			-10	-20	-10				-23	-5	-28

Sources: Kittelson & Associates, Inc. 2017; Institute of Transportation Engineers' Trip Generation Manual, 10th Edition; City of Oakland's Traffic Impact Analysis Guidelines, 2013; Metropolitan Transportation Commission, 2000 Bay Area Travel Survey, 2000., City of Oakland Transportation Impact Review Guidelines

Notes:

¹ Project is located within 0.5-mile of the Fruitvale BART Station. Mode split adjustment factors from Table 2 of the City of Oakland Transportation Impact Review Guidelines (April 14, 2017) applied to estimate project vehicle trip generation.

Fruitvale Transit Village Phase IIB

Vehicle Miles Traveled

	Vehicle Miles Traveled	
	Per Capita	Per Worker
Project TAZ (926)	8.50	21.15
Region	14.90	23.15
Threshold	12.66	19.68
Difference from Threshold	-4.17	1.47
Percent Difference from Threshold	-32.9%	7.5%
Difference from Region	-6.40	-2.00
Percent Difference from Region	-43.0%	-8.6%

Source: vmt_layers.gdb



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Technical Memorandum

date November 8, 2018

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subject CEQA Compliance Memorandum for Fruitvale Transit Village Phase IIB Final Planned Unit Development (FPUD)

I. Overview and Project Summary

Current Proposal

In accordance with the Standard Conditions of Approval (SCAs) for the Fruitvale Transit Village Planned Unit Development/Preliminary Development Plan (PUD/PDP), the City has received an application for a Final Planned Unit Development (FPUD) for Phase IIB of the project. For Phase IIB, the Spanish Speaking Unity Council (project sponsor) proposes to construct 181 units, approximately 6,000 sf of office space and 1,000 sf of retail/café space for a non-profit tenant, and a 91-120 space below-grade basement parking garage. This is the second of two Phases and follows the submittal of a Final Development Plan (FDP) for Phase IIA for 94 market rate and mixed-income residential units and a 47-space parking garage, which is currently under construction.

The original project was divided into the two current sub-phases (Phase IIA and Phase IIB, each with its own associated garage) to (1) allow for more efficient phasing of the development, and (2) improve the arrangement of the open space for residents. Once completed, the Fruitvale Transit Village Phase II project will comprise 275 residential units with supporting parking resources as a complement to the earlier adjacent Fruitvale Transit Village Phase I development constructed in 2004 that consists of 161,000 square feet of commercial and civic uses. In total - Phase I, the Phase IIA currently under construction, and the current Phase IIB - will result in creation of a Transit-Oriented Development (TOD) project at the Fruitvale BART Station, capitalizing on both the BART transit resource as well as the prospective AC Transit Bus Rapid Transit (BRT) International Boulevard line to be developed two blocks north of the project.

The current Phase IIB proposal is described in more detail further in this document.

Purpose of this Document

The key purpose of this Memorandum is to determine whether the environmental effects of the current Phase IIB FPUD are adequately analyzed in the 2010 certified Fruitvale Transit Village Project Environmental Impact

Report (2010 EIR). As described below, development of the 181 residential units are considered in the 2010 EIR and as proposed would not result in new or more severe environmental impacts beyond those identified in the 2010 EIR. Also, the addition of ground floor office and retail space not envisioned in the preliminary project plans would not constitute a substantial project change that would require major revisions of the certified 2010 EIR because of a new significant effect or an increase in the severity of a previously identified significant effect. As a result, the City does not need to prepare a Subsequent or Supplemental EIR to satisfy the environmental review requirements of the California Environmental Quality Act (CEQA). The 2010 EIR remains adequate for the FPUD proposed for Phase IIB.

The information below provides: (1) an overview of Fruitvale Transit Village Project approvals and environmental review; (2) a summary of the relationship of the current proposed Phase IIB FPUD with the approved Fruitvale Transit Village Phase II Project PUD/PDP and the project analyzed in the 2010 EIR; and (3) findings that the Phase IIB FPUD fall within the scope of the 2010 EIR and do not require preparation of subsequent or supplemental environmental review pursuant to CEQA Guidelines Section 15162 and Section 15163.

Prior Project Approvals and Environmental Review

The City has granted several approvals for the Fruitvale Transit Village Project. The PUD/PDP, Design Guidelines, Conditional Use Permit and other associated land use permits ('Related Documents') approved in 2010 authorizes the development of up to 275 residential units and a parking garage. The PUD/PDP and Related Documents also established the approved land uses, density, bulk, massing and design guidelines for the site. Prior to approving the PUD/PDP and Related Documents, the City certified an EIR for the Fruitvale Transit Village Phase II Project (SCH No.2008122089) on May 19, 2010.

Summary

ESA has reviewed the current Phase IIB proposal and found that, although the original Fruitvale Transit Village Phase II design was updated, the current proposal is similar to the prior PUD/PDP design from a CEQA standpoint. Specifically, (1) there are no substantial project changes, (2) there are no substantial changes in the project circumstances, and (3) there is no new information of substantial importance, which could not have been known with the exercise of reasonable diligence when the 2010 EIR was certified, that would require major revisions of the certified 2010 EIR because of a new significant effect or an increase in the severity of a previously identified significant effect. Under CEQA Section 21166, CEQA Guidelines Sections 15162 and 15163 and Section 15183, and no further environmental review is required.

Substantial evidence supporting these findings, as well as a summary of the relationship of the Phase IIB FPUD to the prior Fruitvale Transit Village Project approvals and the certified 2010 EIR, is provided in the following section.

II. Relationship of Proposed Phase IIB FPUD to Previous Documents and Project Changes

Relationship to 2010 PUD/PDP

The project sponsor proposed modifications to the Original Project in 2014 through the filing of a FPUD. This planning entitlement was approved by the Oakland Planning Commission in 2015. At that time the Original

Project was modified to allow development of two parking garages instead of one, and to repackage the project into two Phases: Phase IIA consisting of 94 affordable units and 47 parking spaces, and Phase IIB consisting of 181 units and 130 parking spaces.¹ The FPUD also re-configured the land area allocated to each Phase to account for changes in the parking garage and access. Phase IIA moved forward in the development process independently although the FPUD decision affected both Phases.

Relationship to 2010 Fruitvale Transit Village Phase II EIR

The Phase IIB proposal is within the scope of the Fruitvale Transit Village Phase II Project evaluated in the 2010 EIR and would not trigger any new significant or significantly greater impacts, as supported by the information in this memorandum. The Fruitvale Transit Village Phase II Project analyzed in the certified 2010 EIR consisted of a four-story, 275-unit residential development surrounding a new five-story parking garage. The proposed project was to be constructed in four phases: the parking structure would be constructed during Phase 1 and three four-story residential buildings would be constructed during Phases 2 through 4. The parking structure would be approximately 111,110 square feet and the three residential buildings would range from approximately 101,000 to 115,000 square feet. Multiple FDPs were contemplated in the 2010 EIR to implement the Preliminary PUD/PDP.

Table 1, Phase 2: Original 2011 Project Compared to the Current 2018 Phase IIB Proposal, on the following page compares major components of the Phase IIB proposal with the previously analyzed project.

Detailed Description of Proposed Phase IIB Revisions

The Phase IIB FPUD proposes 181 residential units and an associated parking garage with 91-120 parking spaces. The PUD/PDP allows and the EIR evaluated up to 275 residential units and a 277-space parking garage. Although there are architectural and site planning changes stemming from subdividing the project into separate development programs, the two key project revisions that are considered in this analysis are whether (1) the addition of office and retail space; and (2) the decrease in proposed parking spaces from 277 to the 91 required by the S-15 Transit Oriented Development Zone for 181-unit development would result in any new or substantially greater impacts. The analysis considers that the proposed refinements to the project would not result in any net changes to the approved buildout for the PUD/PDP of up to 275 units and the 277-space parking garage.

¹ 30 off-site parking spaces also provided in nearby surface parking lot.

**TABLE 1
PHASE 2: ORIGINAL 2011 PROJECT COMPARED TO THE CURRENT 2018 PROJECT IIB PROPOSAL**

Characteristic	Original Project	Revised Project (Revisions Approved with 2015 Final FPUD)	Revised Phase IIA (2017) (Approved and Under Construction)	Change Specific to Revised Phase IIB (2018)
Site Area				
Phase II Project	3.4 acres	3.4 acres	-	-
Affordable Housing / Phase IIA Area	1.03 acres	1.25 acres	0.22 more acres	-
Construction Phasing/Program				
	Phase IB: 93 units	Phase IIB: West Garage + 181 units		New West Garage developed with 181 units in 2 building masses connected by podium
	Phase II: 88 units			
	Affordable Housing Phase: 94 units	Phase IIA: East Garage + 94 units	New East Garage developed with 94-unit Building	-
Residential Development				
Total Units	275 Units (181 MR + 94 Affordable)	275 Units (183 MR + 92 Affordable)	2 Affordable Units converted to MR	181 Units, targeting families and individuals earning between 20% and 80% of AMI
Residential Buildings	3 Buildings	3 Buildings	-	-
Building Stories	4 Stories	4 Stories	-	-
Commercial Development				
Non-profit office use	-	-	-	6,000 square feet
Non-profit retail/café use	-	-	-	1,000 square feet
Parking / Access				
Garage Buildings	One Garage	Two Garages	New East Garage	New West Garage
Maximum Garage Stories	5 stories (6 levels)	5 stories (6 levels)	-	-
Spaces/Stalls	277	207	70 fewer onsite spaces; 30 spaces to be provided off-site	10-39 fewer onsite spaces
Garage Access/Egress	Access Road from 35th and 37th Avenues; Emergency access only via EVA	Direct from 35th and 37th Avenues	Utility, trash collection, emergency, and pedestrian tenant access to the secondary garage access via EVA	-
Vacated 36th Avenue Extension / Driveway	Developed	Pedestrian Paseo / Temporary EVA	Pedestrian Paseo / Temporary EVA	Pedestrian Paseo
Open Space / Noise Exposure				
Common Area and Configuration	27,587 sf in five courtyards (Affordable Housing Phase: 10,231 sf)	29,946 sf landscaped courtyard and podium (Phase 2B: 17,356 sf)	2,359 more sf	~14,700 more sf, entry plaza, inner courtyard, and shared plaza between Phase IIA and IIB
Private Residential Balconies	Provided on Most Street-facing Units	Provided on certain E. 12th Street facing Units	Removed, except for on 5 Units facing E. 12th Street	Provided on Most Units
Residential Use / Open Space Access on South Elevation (along BART)	Yes	No	New East Garage Along BART	Yes

SOURCES: Project Plans – (SVA Architects), June 21, 2018; Fruitvale Transit Village Phase 2 Project Draft EIR, January 2010; Oakland City Planning Commission Staff Report for the Fruitvale Transit Village (Phase 2) Residential Project, May 19, 2010; Fruitvale Transit Village Phase II Project EA/FONSI, February 2011
MR: Market Rate Units EVA: Emergency Vehicle Access

The refinements to the project described in the 2010 EIR per documents provided by the project sponsor are as follows:

- Addition of Office and Retail Space: The approved preliminary plans include the development of up to 275 residential units and a parking garage. The FPUD for Phase IIB of the project includes up to 6,000 sf of office space and 1,000 sf of retail/café space for a non-profit tenant. The addition of ground floor office and retail space conforms with ground floor commercial and civic uses in the adjacent Fruitvale Transit Village Phase I development across 35th Avenue. As described below, the addition of ground floor office and retail space not envisioned in the preliminary project plans would not constitute a substantial project change that would require major revisions of the certified 2010 EIR because of a new significant effect or an increase in the severity of a previously identified significant effect.
- Garage Configuration: The preliminary plans envisioned a five-story, single structure parking garage, with residential units wrapping around the garage. The result was a super block development that the project sponsors did not think was appropriately scaled to the neighborhood. The parking garage has since been divided into separate structures serving the two phases of the project. The division of the garage also allows Phase II to be completed without the cost burden of constructing all of the parking for the entire project at once. Phase IIB of the project includes a 91-120 space below-grade basement parking garage.
- Number of Parking Spaces: The preliminary plans included 277 parking spaces for a 275-unit residential project. The S-15 Zone has a parking requirement of 0.5 spaces per unit, and a Conditional Use Permit is required for projects that exceed this requirement. As part of the original Project approvals, a Conditional Use Permit was granted for up to 277 parking spaces. The Phase IIB proposal includes up to 120 parking spaces, but could include as few as 91 in accordance with the S-15 Zone. The reduction in number of parking spaces is more in keeping with the underlying zoning. The reduction is justified given the proximity to BART and other public transportation resources as part of a Transit-Oriented Development project.
- Access to Parking: In the approved preliminary plans, the parking structure was accessed via an Emergency Vehicle Access road running along the BART tracks on the south side of the site. This road was accessed via 35th Avenue and 37th Avenues. In the proposed Phase IIB design, the garage entry has been relocated directly off of 35th Avenue, rather than from the access road. This change avoids bringing residents down a service drive to enter and exit the garage. It also places garage entry on the street where it can be more readily supervised, improving security. Garage entry on 35th Avenue is intended to be 'right in and right out' only to minimize traffic conflicts. Given that under the preliminary plans, the parking garage was accessed from the access road that was accessed directly from 35th and 37th Avenues, the proposal does not result in any changes to traffic patterns.
- Introduction of Mid-Block Paseo: As part of the re-organization of the garage, a mid-block pedestrian paseo has been created that will serve as a shared open space between Phase IIA and Phase IIB of the Project. This mid-block paseo provides a clear break in the project that corresponds approximately to the previous right of way at 36th Avenue. Under the preliminary plans, given the two phases had facades immediately adjacent to one another, one development would have had a large blank wall exposed to the neighborhood until the completion of the next phase.

These refinements for Phase IIB being considered as part of the current FPUD application, would not result in net changes of residential units or parking spaces for the entire Fruitvale Transit Village Phase II Project over what was analyzed in the EIR. The COAs and the EIR support development of up to 275 units and a 277-space garage. The distribution of these uses between blocks do not constitute substantial changes to the project evaluated in the EIR that would require major revisions of the certified 2010 EIR, because of a new significant effect or an increase in the severity of a previously identified significant effect.

III. Changed Circumstances and New Information

In the eight years since certification of the 2010 EIR, there have been no major intervening events in the immediate project area with the potential to affect the 2010 EIR findings. The project site has continuously functioned as a surface parking lot serving BART patrons and the Fruitvale Transit Village Phase I commercial and civic establishments since EIR certification. A few new small sites in the Fruitvale Transit Village Project vicinity have been developed with projects, however, these are not considered to require re-evaluation of the findings of the project EIR because they are considered infill projects. In addition, Phase IIA, as previously approved in a separate FDP, is currently under construction.

This Memorandum utilized the findings and analysis in the Fruitvale Transit Village Phase II EIR, in addition to new information (including changes to City, State, and regional policies and regulations) to assess whether the Phase IIB proposal would warrant preparation of additional environmental review under CEQA, pursuant PRC Section 21166 and CEQA Guidelines Sections 15162 and 15163. It also considers the extent to which the project is consistent with the development density established by existing zoning, community plan, or General Plan policies for which an EIR was certified shall not require additional environmental review under CEQA Section 15183.

Air Quality and Greenhouse Gas Emissions

As indicated in the 2010 EIR, no significant construction-related air quality impacts were identified, and none are expected to result from the project with implementation of the City SCAs. Additionally, no significant operation-period air quality impacts were identified in the 2010 EIR. No changes in the proposed Phase IIB Project FPUD or existing conditions warrant any new analysis. The same number of residential units and overall development would be developed, and the addition of office and retail/café space would not affect the construction envelope. Therefore, the same construction activity and duration would occur, and associated emissions due to construction would not result in a significant increase in emissions compared to those identified in the 2010 EIR, which identified Mitigation Measure AIR-4 to address the exposure of persons to substantial levels of PM_{2.5} concentrations and toxic air contaminants (TACs) which may result in adverse health effects to residents.

In accordance with the transportation analysis conducted by Kittelson & Associates in **Attachment A**, the additional daily operational vehicle trips introduced due to the addition of office and retail/café space could increase the operational criteria pollutant emissions for the project; however, per the *City of Oakland's Traffic Impact Report Guidelines* (2017), since the Project is located within 0.5-mile of the Fruitvale BART Station, mode split adjustment factors can be applied. This results in a trip generation total that would be less than what was previously analyzed in the 2010 EIR. Therefore, the Phase IIB FPUD would not result in a significant increase in emissions compared to those identified in the 2010 EIR. Mitigation Measure AIR-4 would continue to address the exposure of persons to substantial levels of PM_{2.5} concentrations and toxic air contaminants (TACs) which may result in adverse health effects to residents. Overall, the Phase IIB proposal would not result in any new, different, or more substantial air quality-related impacts than those that were identified in the 2010 EIR.

With regard to greenhouse gas emissions, the 2010 EIR identified a significant and unavoidable impact related to project greenhouse gas emissions if proposed Bay Area Air Quality Management District (BAAQMD) Thresholds contained in the December 2009 BAAQMD *Draft Air Quality Guidelines* were adopted. As described above, since the trip generation total would be less than what was previously analyzed in the 2010 EIR, the Phase IIB FPUD would not result in a significant increase in emissions compared to those identified in the 2010 EIR. Mitigation Measure AIR-6, which requires a Greenhouse Gas Reduction Plan, would continue to address impacts related to greenhouse gas emissions. Overall, the Phase IIB proposal would not result in any new, different, or more substantial greenhouse gas-related impacts than those that were identified in the 2010 EIR.

Noise

The 2010 EIR found less than significant impacts related to noise, with the incorporation of City SCAs. There is no significant change to the type and duration of construction activities for the Phase IIB proposal. Therefore, construction noise levels would be consistent with those analyzed in the 2010 EIR. With regard to operational noise impacts. Some of the refinements to Phase IIB result in new open space areas, office and retail space, and a reconfiguration of residences. This includes reconfiguration of the site plan to relocate parking garage areas to the basement level, which allows for an interior open space courtyard that would be shielded from noise of BART trains by the presence of the southerly building. In addition, most of the noise generated by the project would be traffic-generated noise, and the trip generation total that would be less than what was previously analyzed in the 2010 EIR (see Attachment A).

Transportation and Traffic

The 2010 EIR analysis identified significant and unavoidable impacts relating to Transportation, Circulation, and Parking. Although there are several intersections and street sections that will be impacted by the proposed project, there is one intersection where the impact cannot be mitigated. Construction of the proposed project would cause an increase in the overall intersection average delay by more than two seconds during the AM and PM peak hours at the San Leandro Street I High Street intersection, which would operate at LOS F under 2035 Baseline conditions. The addition of project traffic also would cause an increase in the average delay during the PM peak hour by more than four seconds for the critical northbound (High Street) through movement (Impact TRANS-18). No feasible mitigation measure was identified to reduce the project impact to a Less-Than-Significant Level.

Additionally, construction of the proposed project would contribute to 2015 and 2035 changes to traffic conditions on the regional and local roadways (Impacts TRANS-21 and TRANS-22). Mitigation of the project's significant impact on eastbound San Leandro Street west of 35th Avenue or west of High Street is not feasible. An additional lane on eastbound San Leandro Street would require removal of the parking lane or widening of San Leandro Street. However, such measures are considered infeasible due to physical constraints caused by on-street parking demand and existing right-of-way. No feasible mitigation measures were identified to reduce these impacts to a Less-Than-Significant Level.

While there are minor differences in the design of the garage driveway access, this would not result in a re-distribution of project-generated trips compared to the 2010 EIR. Overall, the proposed changes to site access would not result in any new, different, or more substantial transportation-related impacts than those that were identified in the 2010 EIR.

As discussed in greater detail in the transportation analysis in Attachment A, the project as evaluated in the 2010 EIR would generate 88 vehicle trips (15 inbound, 73 outbound) during the weekday AM peak hour and 105 vehicle trips (70 inbound, 35 outbound) during the weekday PM peak hour. The combined Phase IIA and Phase IIB FPUD would generate 78 vehicle trips during the weekday AM peak hour and 77 vehicle trips during the

weekday PM peak. Based on this analysis, the Phase IIB FPUD would generate 10 fewer vehicle trips during the weekday AM peak hour and 28 fewer vehicle trips during the weekday PM peak hour.

Relative to the project evaluated in the 2010 EIR, Phase IIA and the proposed Phase IIB proposal would result in an increase in the number of vehicles traveling inbound to the project site during the weekday AM peak hour and a decrease in the number of vehicles outbound from the project site during the weekday AM peak hour. Phase IIA and Phase IIB proposal would result in a decrease in the number of inbound and outbound vehicles during the higher volume PM peak hour. This level of change would not be expected to result in major differences in the operational analysis conducted for the 2010 EIR. Given the proposed Phase IIB garage would contain up to 120 vehicle parking spaces, queues are expected to be less than those experienced under current conditions. Overall, the proposed modifications to travel demand would not result in any new, different, or more substantial transportation-related impacts than those that were identified in the 2010 EIR.

An updated transportation analysis was prepared that includes a discussion of vehicle miles traveled (VMT) to document the Phase IIB proposal's compliance with the City of Oakland's screening criteria and established VMT thresholds. As also shown in Attachment A, Phase IIB would also meet the newer City of Oakland criteria related to VMT for residential uses, but would not meet the established threshold for employment uses. Therefore, a transportation demand management (TDM) plan would be required for the proposed office and retail/café uses. The preparation of a TDM plan was included in the Mitigation, Monitoring, and Reporting Program (MMRP) for the 2010 EIR.

The development of 181 residential units, up to 6,000 sf of office space and 1,000 sf of retail space, and associated parking under Phase IIB Project FPUD albeit to a lesser degree than the original project, would continue to contribute to these significant and unavoidable impacts consistent with the findings of the 2010 EIR. There is no new information or changes in circumstances that would result in new or more severe impacts, and no new impacts or more severe impacts would result due to new information or changed circumstances. No new mitigation measures would be required.

Consistency with Community Plan, General Plan, or Zoning

CEQA mandates that projects that are consistent with the development density established by existing zoning, community plan or General Plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific impacts. The General Plan land use designation for the site is Neighborhood Center Mixed Use, which permits and encourages development "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," as stated in the Land Use and Transportation Element (LUTE). The maximum residential density provided in the Neighborhood Center Mixed Use category is 125 dwelling units per gross acre. The 3.4-acre project site could support a maximum of 425 residential units. The current 181 units (and previously approved 94-unit Phase IIA Final Development Plan) would result in a total of 275 units and is under the maximum allowable density.

Development of the Phase IIB FPUD is governed by the S-15 Transit-Oriented Development Zone that is intended to "create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial and mixed-use development 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 BART stations, AC Transit centers and other transportation nodes (Planning Code Sec. 17.97). As determined in May 2010 when the PUD/PDP was approved by the City Planning Commission, the project is consistent with the S-15 Zone. The current proposal is in substantial conformance with the 2010 approval and the PUD, and is therefore in compliance with the underlying zoning. The addition of office and retail uses will further demonstrate the uses intended for the S-15 Zone.

Additionally, the Fruitvale Transit Village Phase II project is reflected in the City's 2015-2023 Housing Element and thus has been captured in the environmental analysis completed for that effort. The Phase IIB FPUD is consistent with the City's General Plan, Zoning and Housing Element documents.

Other Topics

An Initial Study was prepared for the Fruitvale Transit Village Phase II Project in 2008 that evaluated all environmental topics identified in Appendix G of the CEQA *Guidelines* and the City of Oakland's CEQA Thresholds / Criteria of Significance document. The analysis found that, with the exception of air quality, noise, and transportation, implementation of the project would result in Less-than Significant impacts with respect to all of the other environmental topics with the application of the City of Oakland's SCAs. The development of 181 residential units, up to 6,000 sf of office space and 1,000 sf of retail space, and associated parking under Phase IIB Project FPUD is located on the same project site and remains categorized as urban infill development. Therefore, the Phase IIB revisions would not result in any new or more substantial impacts in relation to agricultural resources, biological resources, cultural resources, geology/soils, hazards and hazardous materials, hydrology and water quality, mineral resources, and utilities and service systems, than those that were identified in the 2008 Initial Study.

With regard to aesthetics, the revisions to Phase IIB do not alter the overall design character, building heights or development density previously considered. The overall design character and visual quality of the development remains a low-rise multifamily residential complex focused around internal and external pedestrian connections and common open space/landscaped area(s). The addition of ground floor office and retail space conforms with ground floor commercial and civic uses in the adjacent Fruitvale Transit Village Phase I development across 35th Avenue. The overall visual quality of the structures is not substantially different from that previously analyzed; therefore, the Phase IIB FPUD would not result in any new or more substantial aesthetics-related impacts than those identified in the 2008 Initial Study.

As described above, the Phase IIB FPUD is consistent with the City's General Plan, Zoning and Housing Element documents; therefore, the Phase IIB would not result in any new or more substantial land use/planning-related impacts than those identified in the 2008 Initial Study. With regard to population and housing, the small amount of office and retail space introduced by the Phase IIB revisions would not induce substantial population growth, and no new or more substantial population and housing-related impacts than those identified in the 2008 Initial Study would occur. A negligible increase in demand for public services and recreation would occur due to the introduction of office and retail space proposed in Phase IIB that would not result in any new or more substantial public services or recreation-related impacts than those identified in the 2008 Initial Study. In addition, the Phase IIB revisions include approximately 4,700 more square feet of open space on the project site due to the addition of an entry plaza, inner courtyard, and shared paseo between Phase IIA and IIB.

IV. Conclusion

As discussed above, the development associated with the Phase IIB FPUD was adequately considered in the 2010 EIR. The refinements incorporated into the FPUD applications do not represent changes that would result in new or more severe impacts (or require new or significantly altered mitigation measures) beyond those already identified in the 2010 EIR. The 2010 EIR is adequate for the Phase IIB FPUD and no subsequent or supplemental environmental review is warranted.

Findings

- The following summarizes the substantial evidence supporting why no supplemental or subsequent CEQA review is necessary pursuant to CEQA Guidelines Section 15162 and the City can rely on the previously certified EIR.
- Substantial Changes to the Project. The refinements incorporated into the Phase IIB FPUD would not increase the adverse impacts of the Fruitvale Transit Village Phase II Project. The addition of office and retail space, and a reduction from a 277-parking space garage to 91-120 parking space garage in Phase IIB would not result in new significant environmental impacts or a substantial increase in the severity of impacts already identified in the 2010 EIR. Therefore, the proposed changes included in the Phase IIB FPUD are considered minor refinements, not substantial changes.
- Project Circumstances. Since certification of the 2010 EIR, conditions in and around the Fruitvale Transit Village Project area have not substantially changed and thus implementation of the Phase IIB FPUD would not result in new significant environmental effects or a substantial increase in the severity of environmental effects already identified in the 2010 EIR. No substantial changes in noise levels, air quality, traffic, or other conditions have occurred within and around the Fruitvale Transit Village Project site since certification of the EIR.
- New Information. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the 2010 EIR was certified, has been identified which is expected to result in: 1) new significant environmental effects or a substantial increase in the severity of environmental effects already identified in the EIR; or 2) mitigation measures or alternatives which were previously determined to be infeasible would in fact be feasible, or which are considerably different from those recommended in the 2010 EIR, and which would substantially reduce significant effects of the project, but the project applicant declines to adopt them.

As described previously, changes to the Phase IIB FPUD would not result in significant environmental effects (including effects that would be substantially more severe than impacts identified in the 2010 EIR). Existing regulations (including City General Plan policies and ordinances in the Municipal Code) and mitigation measures included in the 2010 EIR, as well as City SCAs would be adequate to reduce the impacts resulting from the Phase IIB FPUD to Less-Than-Significant levels.

Therefore, there are no substantial project changes, no substantial changes in the project circumstances, and no new information of substantial importance that would require major revisions of the certified 2010 EIR, because of a new significant effect or an increase in the severity of a previously identified significant effect. Under CEQA section 21166 and CEQA Guidelines sections 15162 and 15163, no further environmental review is required. Thus, in considering approval of the Fruitvale Transit Village Phase IIB FPUD, the City can rely on the previously certified 2010 EIR.

Attachment A - Transportation Analysis, Kittelson & Associates

DRAFT MEMORANDUM

Date: July 20, 2018

Project #: 22102

To: Jillian Feyk-Miney and Crescentia Brown
Environmental Science Associates
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From: Amanda Leahy, AICP and Mike Aronson, P.E.
Project: Fruitvale Transit Village IIB EA Re-evaluation
Subject: Transportation Analysis – Draft Memorandum

PROJECT DESCRIPTION

The Fruitvale Transit Village Phase 2 project proposed the construction of 275 housing units on a site in the City of Oakland bounded by 37th Avenue, 35th Avenue, the BART right-of-way and East 12th Street. A Draft Environmental Impact Report (EIR) was published in January 2010 and the Phase 2 project was approved by the City of Oakland in 2010.

The revised Fruitvale Transit Village Phase IIB project (referred to as “Phase IIB” or “proposed project”) would revise the site plan and land use program for the portion of the Phase 2 site adjacent to 35th Avenue and East 12th Street. The proposed project would construct 181 affordable multi-family residential units (24 studio units, 70 one-bedroom units, 58 two-bedroom units, and 29 three-bedroom units). In addition to the residences, the proposed project would include approximately 6,000 square feet (SF) of office space and 1,000 sf of retail/café space for a non-profit tenant. An approximately 2,180 sf landscaped outdoor entry plaza and seating area would be included to serve café uses and an approximately 25,300 sf landscaped internal courtyard would be accessible to residents.

The proposed project is entitled to provide up to 120 vehicle parking spaces and may include as few as 91. This analysis conservatively assumes 120 vehicles parking spaces would be provided. The proposed site plan (Attachment A) shows 106 vehicle parking spaces. Vehicle parking and secure bicycle parking for approximately 132 bicycles would be provided in a below-grade basement garage. Access to the parking garage would be via a right-in/right-out intersection at 35th Avenue. An emergency vehicle access lane along the south side of the site was approved as part of the Phase IIA project.

SUMMARY

The proposed modifications to site access and land use program would not result in different or more substantial transportation-related impacts. As such, the Phase 2 EIR identifies all potential significant adverse transportation-related environmental impacts and mitigation measures and/or standard conditions of approval that would reduce these impacts to less-than-significant levels.

The proposed project would meet the newer City of Oakland criteria related to vehicle-miles of travel (VMT) for residential uses but would not meet the established threshold for employment uses. Therefore, a transportation demand management (TDM) plan must be prepared for the proposed office and café uses.

INTRODUCTION

Kittelson & Associates, Inc. (Kittelson) has prepared this memorandum to summarize the evaluation of the potential for new and/or more substantial transportation-related impacts to occur as a result of the revised site plan for the revised Fruitvale Transit Village Phase IIB project. The following analysis was conducted:

- **Site Plan Review.** This section summarizes a review of the proposed site plan and any proposed modifications in the public right-of-way for impacts on transportation safety, access, and circulation that would be different or above those identified in the Fruitvale Transit Village Phase 2 Environmental Impact Report (EIR), as approved by the City of Oakland in 2010.
- **Travel Demand Analysis.** This section summarizes a review of the trip generation estimates from the Phase 2 EIR, and evaluation of the implications of potential changes to trip distribution and assignment to reflect the new land use program and site plan.
- **Vehicle Miles Traveled Analysis.** This section includes a discussion of vehicle miles traveled (VMT) for the region and the project's specific location (transportation analysis zone) for the proposed use. This section documents compliance with the City of Oakland's screening criteria and established VMT thresholds.

SITE PLAN REVIEW

Kittelson reviewed the proposed site plan to identify changes in site access and circulation between the current proposal and the previous proposal evaluated in the approved Phase 2 EIR. Kittelson reviewed the proposed site plan and any proposed modifications in the public right-of-way for impacts on transportation safety, access, and circulation. The qualitative assessment considers the interface of the building and access points with the road network, taking into consideration vehicle parking accommodation and delivery/freight and passenger loading accessibility. The currently proposed and prior site plans are included as attachments (Attachment A and Attachment B, respectively).

Prior Site Plan

As analyzed in the Phase 2 EIR, vehicular access to and from the site would have been provided from 35th Avenue and 37th Avenue via a private two-way alley along the southern edge of the site. The alley would allow emergency vehicles access to the south side of the development. Pedestrian access would be provided along East 12th Street at 36th Avenue and at 37th Avenue, and along 35th Avenue at East 12th Street and from the private alley. The on-site parking garage would be accessible from two garage access driveways located on the private alley.

Proposed Site Plan

A 26-foot-wide emergency vehicle access lane would be constructed on the southern edge of the site, accessible from a right-in/right-out driveway on 35th Avenue. This access lane would also be used by residents accessing the below-grade garage. Access to and from the proposed garage would be provided via an entry/exit driveway and 24-foot-wide curb cut located on the access road about 60 feet east of the intersection with 35th Avenue. The proposed garage would provide parking spaces for up to 120 vehicles, including six Americans with Disabilities Act (ADA) accessible spaces, and about 132 bicycles.¹ The emergency vehicle access lane would not be intended to provide through traffic connections to 37th Avenue.

Pedestrian access to the retail/café space and a landscaped entry plaza with café seating would be provided along East 12th Street at 35th Avenue. Additional pedestrian access to the café, office space, and internal courtyard would be provided along 35th Avenue. Four residential units fronting 12th Street would have independent pedestrian entrances.

Differences in Site Access

The proposed project would construct an emergency vehicle access route on-site and does not propose any modifications to the existing roadway network or major modifications (circulation patterns or design features) to East 12th Street or 37th Avenue that would preclude or otherwise alter access by emergency vehicles.

The key differences observed in the Phase IIB site plan and the Phase 2 EIR site plan are:

- The on-site parking garage (up to 120 vehicle parking spaces) would be accessible primarily from right-in/right-out access at 35th Avenue.

¹ The proposed site plan dated 6/21/2018 (Attachment A) shows 106 vehicle parking spaces. For purposes of a more conservative analysis from a transportation perspective, the analysis assumes 120 vehicle parking spaces would be provided.

- Emergency vehicle and freight access would be provided from an easement along the eastern boundary of the Phase IIB site that ties into the East 12th Street/36th Avenue intersection and the emergency vehicle access road along the southern border of the site.

As previously noted, vehicular access to the below-grade parking garage would be provided from a right-in/right-out intersection at 35th Avenue and a 24-foot driveway ramp located about 60 feet from this intersection. While there are minor differences in the design of the garage driveway access, this would not result in a re-distribution of project-generated trips compared to the Phase 2 EIR analysis.

Overall, the site plan review did not reveal any new, different, or more substantial transportation-related impacts than those that were identified in the Phase 2 EIR.

TRAVEL DEMAND ANALYSIS

As discussed in the Project Description section, the Phase 2 EIR project proposed construction of 275 housing units. The revised Fruitvale Transit Village Phase IIB project proposes to construct 181 housing units, 6,000 square feet of office space, and a 1,000 square-foot café, in addition to the 94 housing units proposed for Phase IIA. Kittelson reviewed the travel demand (trip generation, distribution, and assignment) from the Phase 2 EIR and the revised proposed project to evaluate the potential implications of the Phase IIB land use program and site plan.

Vehicle Trip Generation

Vehicle trip generation for the proposed project (Phase IIB combined with Phase IIA) was estimated using trip generation rates published in the current Institute of Transportation Engineers (ITE) *Trip Generation Manual* (10th Edition). The average rates for Mid-Rise Apartment, General Office, and Bread/Bagel Shop land uses were used to estimate weekday a.m. peak hour, and weekday p.m. peak hour vehicle trips generated by the project. Mode share for project trips is based on the mode split adjustments provided in the City of Oakland's *Traffic Impact Report Guidelines* (2017) for a project with similar population and location characteristics. Table 1 compares the vehicle-trips generated by the revised Phase IIB plus IIA and the Phase 2 EIR. Detailed trip generation calculations are included as Attachment C.

As shown in Table 1, the Phase 2 project as evaluated in the EIR would generate 88 vehicle trips (15 inbound, 73 outbound) during the weekday AM peak hour and 105 vehicle trips (70 inbound, 35 outbound) during the weekday PM peak hour. The revised Phase IIB plus IIA project would generate 78 vehicle trips during the weekday AM peak hour and 77 vehicle trips during the weekday PM peak. Based on this analysis, the Phase IIB project would generate 10 fewer vehicle trips during the weekday AM peak hour and 28 fewer vehicle trips during the weekday PM peak hour.

Table 1: Vehicle Trip Generation Comparison

Land Use	Size	Unit	Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Phase IIA+IIB Project Trips, per ITE Trip Generation Manual									
Apartment (ITE Land Use 220)	181	DU	1,496	20	79	99	79	42	121
Office (ITE Land Use 710)	6,000	SF	58	7	0	7	1	7	8
Café (ITE Land Use 939)	1,000	SF	371	20	21	41	8	8	16
Total ITE Project Trips			1,925	47	100	147	88	57	145
Phase IIA+IIB Vehicle Trips, per City of Oakland TIS Guidelines¹									
Vehicle Trips	----	----	1,121	25	53	78	47	30	77
Phase 2 EIR Vehicle Trips									
Vehicle Trips	275	DU	n/a	15	73	88	70	35	105
Net Change in Vehicle Trips (Phase IIA+IIB – Phase 2 EIR)									
Net Change in Vehicle Trips	----	----	n/a	10	-20	-10	-23	-5	-28

Source: Kittelson & Associates, Inc. 2018; Institute of Transportation Engineers' *Trip Generation Manual, 10th Edition*; City of Oakland's *Traffic Impact Report Guidelines* (2017); Dowling Associates, Inc. 2009; ESA 2011, Fruitvale Transit Village Phase 2 Project Draft EIR Table 4.3-8.

Notes: DU = Dwelling Units; SF = Square Feet

¹ Project is located within 0.5-mile of the Fruitvale BART Station. Mode split adjustment factors (53.1% vehicle mode share) from Table 2 of the City of Oakland Transportation Impact Review Guidelines (April 14, 2017) applied to estimate project vehicle trip generation.

Site Access

As previously noted, the proposed on-site garage for Phase IIB would be accessible from a new access road with a right-turn-only intersection on 35th Avenue. Although the access road would physically connect to 37th Avenue, the access road is designated for emergency vehicle use. Therefore, 100% of the Phase IIB project-generated vehicle trips are assumed to enter/exit on 35th Avenue.

The proposed driveway would be located approximately 60 feet east of the access road intersection with 35th Avenue. There would be space for about three vehicles to queue on the access road approaching the garage entrance before spilling back onto 35th Avenue. Relative to the Phase 2 project as evaluated in the EIR, the revised project (Phase IIA+IIB) would result in an increase in the number of vehicles traveling inbound to the project site during the weekday AM peak hour and a decrease in the number of vehicles outbound from the project site during the weekday AM peak hour. The revised project (Phase IIA+IIB) would result in a decrease in the number of inbound and outbound vehicles during the higher volume PM peak hour. This level of change would not be expected to result in major differences in the operational analysis conducted for the Phase 2 EIR. Furthermore, given the proposed garage would contain up to 120 vehicle parking spaces, queues are expected to be less than those experienced under current conditions from the existing two-way driveway serving BART's 547-space surface parking lot.

Overall, the travel demand review did not reveal any new, different, or more substantial transportation-related impacts than those that were identified in the Phase 2 EIR. Therefore, the impact statements and mitigations related to vehicle traffic are expected to be the same.

VEHICLE MILES TRAVELED ANALYSIS

A VMT screening analysis was conducted to assess whether or not the project would meet established City of Oakland screening criteria for project size, vehicle miles traveled, and/or proximity to transit. The results of the VMT screening analysis are shown in Table 2 and summarized in this section. Detailed VMT calculations are included as Attachment D.

Table 2: VMT Screening Analysis

Criteria	Description	Screening Criteria Met?
Small size	Project would generate less than 100 daily vehicle trips	No
Low-VMT area	Project is located within a low-VMT area	Yes (per capita) / No (per employee)
Near transit station	Project is located within one-half mile of an existing major transit stop or existing stop along a high-quality transit corridor.	Yes

Source: Kittelson & Associates, Inc. 2017; City of Oakland Transportation Impact Report Guidelines, April 2017.

Small Size Criterion – Project Trip Generation Estimates

As summarized in Table 1, the Phase IIA+IIB project would generate an estimated 1,121 daily vehicle trips. Because the project would generate more than 100 daily vehicle trips, the project would not meet the established screening criteria for a small size project.

Low-VMT Area Criterion – Map-Based Screening Analysis

The Oakland Planning and Building Department has provided screening criteria and thresholds of significance to determine if land uses similar in function to residential, office, and retail would result in significant impacts as it relates to VMT. For purposes of VMT screening and analysis, the residential (per capita) and office/café (per worker) threshold was applied. The City of Oakland VMT screening map data for the proposed project’s transportation analysis zone (TAZ 926) and the region is summarized in Table 3.

As shown in Table 3, the average daily VMT per capita in TAZ 926 is 8.5 vehicle-miles. The regional average daily VMT per capita is 14.9 vehicle-miles and the regional threshold (15 percent below the regional average) is 12.66 vehicle-miles. Therefore, daily VMT per capita within TAZ 926 is 43.0 percent below the regional average and 32.9 percent below the regional threshold. The proposed project would not exceed the established per capita VMT threshold and would meet the established map-based screening criteria for a project in a low-VMT area for the residential use.

Table 3: VMT Map-Based Screening Analysis

Description	TAZ 926	Regional Average	Regional Threshold
Residential			
Daily VMT Per Capita	8.50	14.90	12.66
TAZ Percent Difference	-	-43.0%	-32.9%
Office and Café			
Daily VMT Per Employee	21.15	23.15	19.68
TAZ Percent Difference	-	-8.6%	+7.5%

Source: Kittelson & Associates, Inc. 2017; City of Oakland VMT Layers.gdb.

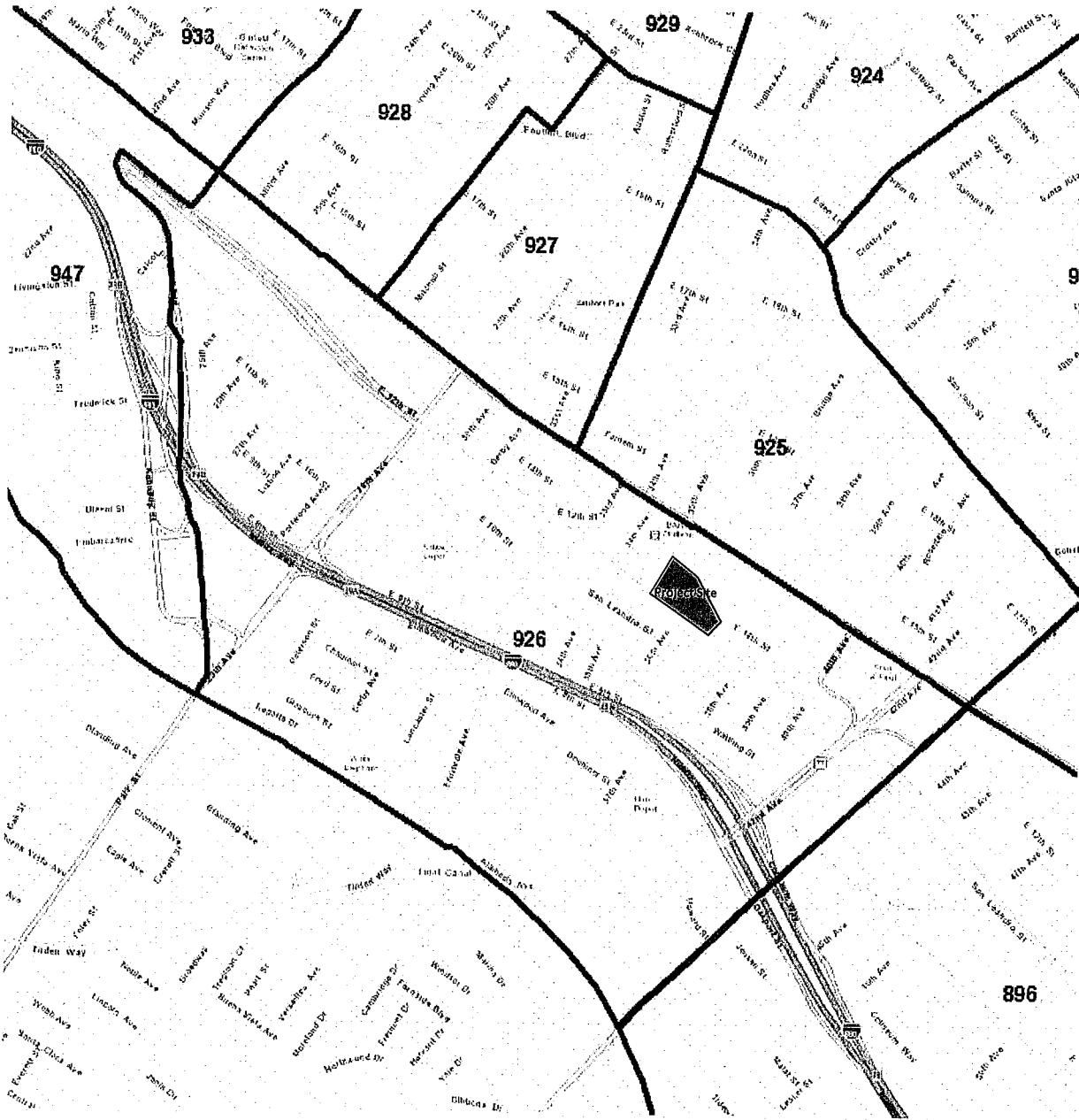
The average daily VMT per worker in TAZ 926 is 21.15 vehicle-miles. The regional average daily VMT per employee is 23.15 vehicle-miles and the regional threshold (15 percent below the regional average) is 19.68 vehicle-miles. Therefore, daily VMT per worker within TAZ 926 is 8.6 percent below the regional average but 7.5 percent above the regional threshold. Since the project would exceed the established per worker VMT threshold, the proposed project would not meet the established map-based screening criteria for a project in a low-VMT area. Therefore, the project must include a transportation and parking demand management plan for the office and café uses. Note that the average VMT per employee for TAZ 926 includes areas both adjacent to and further from the Fruitvale BART station (Figure 1). Due to the project’s proximity to major transit service, it is likely that it could provide lower VMT per employee than the average reported for TAZ 926.

Transit Proximity Criterion – Existing Transit Service Assessment

The proposed project is located adjacent to the nearest BART station (Fruitvale BART). Because the project is located within one-half mile from a BART station or high-quality transit corridor, the proposed project would meet the established screening criteria for transit proximity.

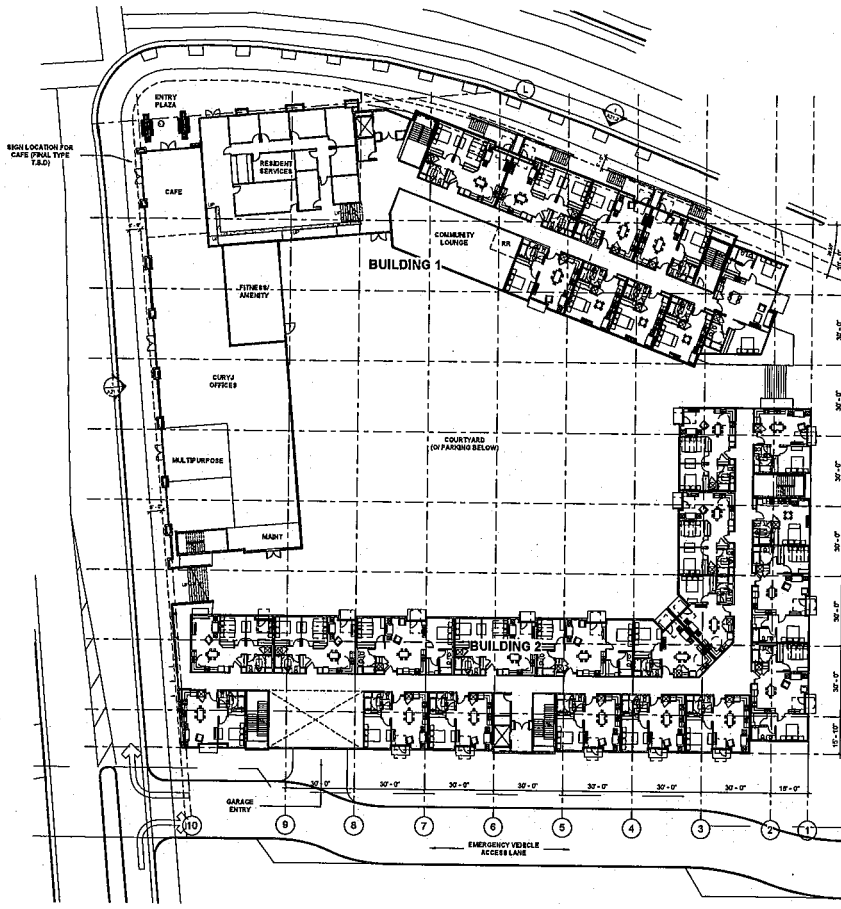
Overall, the VMT analysis revealed one new transportation-related impact that was not identified in the Phase 2 EIR. City of Oakland VMT screening criteria were not established at the time the Phase 2 EIR was prepared. As a result, VMT was not analyzed in the Phase 2 EIR.

Figure 1: Transportation Analysis Zones Used for VMT Analysis



Attachments

- Attachment A: Proposed Site Plan – Phase IIB
- Attachment B: Phase 2 EIR Site Plan
- Attachment C: Travel Demand Calculations
- Attachment D: VMT Calculations



1 LEVEL 1 COMPOSITE PLAN
1/16" = 1'-0"

TYPICAL INTER-PARTITION: 1/2" TYPE G WALLS AND TYPE A3 RESISTENTIAL AND ARE SEPARATED BY 3/4" FORM. 2. PARTITION WALLS, COMPLETE PARTITION WALLS, COMPLETELY SUPPORTED BY 2" MIN. WALLS. 3. FOR SEPARATION OF PARTITION WALLS FROM THE MAIN FLOOR, SEE SECTION 10.1 FOR OCCUPANCY GROUPS AND TYPE 1 WALLS AND FIRE WALLS.

GARAGE (BELOW FLOOR)		
OCCUPANCY	CONSTRUCTION	SPACING AND AREAS ALLOWED
RESIDENTIAL	FIVE A	SEE SECTION 10.1 FOR OCCUPANCY GROUPS AND TYPE 1 WALLS AND FIRE WALLS.
RESIDENTIAL	FIVE B	SEE SECTION 10.1 FOR OCCUPANCY GROUPS AND TYPE 1 WALLS AND FIRE WALLS.

ALLOWABLE AREA CALCULATION				
OCC.	FLOOR TYPE	ALLOWABLE AREA PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1
RES	SA	11	11	11

BUILDING 1 (ABOVE FLOOR) (ON-GRADE)		
OCCUPANCY	CONSTRUCTION	SPACING AND AREAS ALLOWED
RESIDENTIAL	FIVE A	SEE SECTION 10.1 FOR OCCUPANCY GROUPS AND TYPE 1 WALLS AND FIRE WALLS.
RESIDENTIAL	FIVE B	SEE SECTION 10.1 FOR OCCUPANCY GROUPS AND TYPE 1 WALLS AND FIRE WALLS.

ALLOWABLE AREA CALCULATION				
OCC.	FLOOR TYPE	ALLOWABLE AREA PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1
RES	SA	11	11	11

ALLOWABLE AREA CALCULATION				
OCC.	FLOOR TYPE	ALLOWABLE AREA PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1
RES	SA	11	11	11

NEEDED OCCUPANCY CALCULATIONS

FLOOR	REGISTRATION NUMBER	AREA	AREA	AREA
1	1431 SF	104 SF	250 SF	249 SF
2	2148 SF			
3	2148 SF			
4	2148 SF			
TOTAL				

BUILDING 2 (ABOVE FLOOR) (ON-GRADE)		
OCCUPANCY	CONSTRUCTION	SPACING AND AREAS ALLOWED
RESIDENTIAL	FIVE A	SEE SECTION 10.1 FOR OCCUPANCY GROUPS AND TYPE 1 WALLS AND FIRE WALLS.
RESIDENTIAL	FIVE B	SEE SECTION 10.1 FOR OCCUPANCY GROUPS AND TYPE 1 WALLS AND FIRE WALLS.

ALLOWABLE AREA CALCULATION				
OCC.	FLOOR TYPE	ALLOWABLE AREA PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1
RES	SA	11	11	11

ALLOWABLE AREA CALCULATION				
OCC.	FLOOR TYPE	ALLOWABLE AREA PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1	INCREASED PER CODE SECTION 10.1
RES	SA	11	11	11

CODE ANALYSIS

OWNER: BRIDGE HOUSING CORPORATION & UNITY COUNCIL
PROJECT NAME: FRUITVALE PHASE IIB
CLIENT ADDRESS: [REDACTED]

PROJECT NO: 2017-0113
DATE ISSUED: 02/10/18
SCALE: As Indicated
SHEET NUMBER: A11.1
SHEET TITLE: LEVEL 1 FLOOR PLAN



Fruitvale Transit Village Phase IIA+IIB

Trip Generation Calculation

Land Use	Size	Unit	Daily				AM Peak Hour				PM Peak Hour					
			Rate	Total	Rate	In %	Out %	In	Out	Total	Rate	In %	Out %	In	Out	Total
Vehicle-Trips, per ITE Trip Generation Manual, 10th Edition																
Project Generated Trips (Phase IIA+IIB)																
Residential - Mid-Rise (ITE Land Use 221)	275	DU	5.44	1,496	0.36	20%	80%	20	79	99	0.44	65%	35%	79	42	121
Bread/Bagel Shop w/o Drive Thru (ITE Land Use 939) ²	1	KSF	370.67	371	40.21	47%	53%	20	21	41	15.96	50%	50%	8	8	16
Office (ITE Land Use 710)	6	KSF	9.74	58	1.16	86%	14%	7	0	7	1.15	16%	84%	1	7	8
Total ITE Project Vehicle Trips				1,925				47	100	147				88	57	145
Phase IIA+IIB Trips by Mode, per City of Oakland TIS Guidelines³																
Vehicle Trips				53.1%	1,022	53.1%		25	53	78	53.1%			47	30	77
Transit Trips				29.7%	572	29.7%		14	30	44	29.7%			26	17	43
Bicycle Trips				5.1%	98	5.1%		2	5	7	5.1%			4	3	7
Walk / Other Trips				10.5%	202	10.5%		5	11	16	10.5%			9	6	15
Total Trips				98.4%	1,894	98.4%		46	99	145	98.4%			86	56	142
Phase 2 EIR Vehicle-Trips																
Vehicle Trips	275	DU						15	73	88				70	35	105
Net Change in Vehicle Trips (Phase IIA+IIB - Phase 2 EIR)				1,022				10	-20	-10				-23	-5	-28

Sources: Kittelson & Associates, Inc. 2017; Institute of Transportation Engineers' *Trip Generation Manual*, 10th Edition; City of Oakland's *Traffic Impact Analysis Guidelines*, 2013; Metropolitan Transportation Commission, *2000 Bay Area Travel Survey*, 2000., City of Oakland *Transportation Impact Review Guidelines*

Notes:

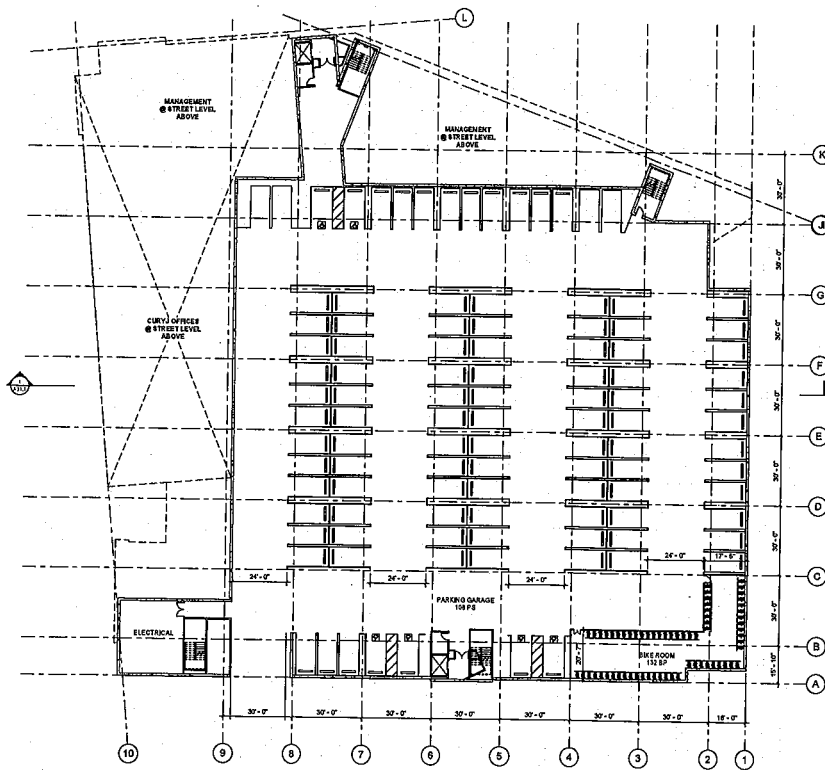
³ Project is located within 0.5-mile of the Fruitvale BART Station. Mode split adjustment factors from Table 2 of the City of Oakland Transportation Impact Review Guidelines (April 14, 2017) applied to estimate project vehicle trip generation.

Fruitvale Transit Village Phase IIB

Vehicle Miles Traveled

	Vehicle Miles Traveled	
	Per Capita	Per Worker
Project TAZ (926)	8.50	21.15
Region	14.90	23.15
Threshold	12.66	19.68
Difference from Threshold	-4.17	1.47
Percent Difference from Threshold	-32.9%	7.5%
Difference from Region	-6.40	-2.00
Percent Difference from Region	-43.0%	-8.6%

Source: vmt_layers.gdb



1 BASEMENT PARKING
1/16" = 1'-0"

OWNER: BRIDGE HOUSING CORPORATION & UNITY COUNCIL

PROJECT NAME: FRUITVALE PHASE IIB

CLIENT ADDRESS: Enter address here

OWNER: BRIDGE HOUSING CORPORATION & UNITY COUNCIL
PROJECT NAME: FRUITVALE PHASE IIB
CLIENT ADDRESS: Enter address here

PROJECT NO: 2017-01153
DATE ISSUED: 02/17/2018
SCALE: 1/16" = 1'-0"

SHEET NUMBER: A11.0
SHEET TITLE: PARKING PLAN

