

## **RESOLUTION NO. 2008-240**

Adopted by the Sacramento City Council

April 22, 2008

### **CERTIFYING THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT AND FINDINGS OF FACT FOR THE 65<sup>th</sup> STREET TRANSIT VILLAGE PLAN PROJECT (M04-091)**

#### **BACKGROUND**

- A. On August 22, 2002, the City Planning Commission conducted a public hearing on, and forwarded to the City Council a recommendation to approve with conditions the 65<sup>th</sup> Street Transit Village Plan project (M00-004).
- B. On October 29, 2002, pursuant to the Sacramento City Code Section 2.112.11 and Government Code Section 65453, the City Council conducted a public hearing, received public comments, considered evidence and approved the 65<sup>th</sup> Street Transit Village Plan project.
- C. On February 21, 2008, the City Planning Commission conducted a public hearing and recommended that the City Council approve the Supplemental Environmental Impact Report and adopt the amended mitigation measures for the 65<sup>th</sup> Street Transit Village Plan project.
- D. On April 22, 2008, pursuant to Sacramento City Code Sections 2.112.40 and 2.112.110 and Government Code Sections 65350 and 65453, the City Council conducted a public hearing, received public comments, considered evidence and adopted the amended mitigation measures for the 65<sup>th</sup> Street Transit Village Plan Project.

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

Section 1. The City Council finds as follows:

- A. On October 29, 2002, the City Council certified an environmental impact report (EIR), reviewed and considered the information contained in the EIR, adopted findings of fact and findings of overriding consideration, adopted a mitigation monitoring program, and approved the 65<sup>th</sup> Street Transit Village project (Project).
- B. The 65<sup>th</sup> Street Transit Village Modification [M04-091] (Project Modification) proposes to modify the previously approved Project as follows: modify the timing of implementation for certain traffic circulation mitigation measures, which require an amendment to the Mitigation Monitoring Plan adopted for the Project.

C. The City, as Lead Agency, determined that the proposed changes to the original Project would require the preparation of a subsequent EIR, but that only minor additions and changes were necessary to make the previously certified EIR adequate for the Project Modification. A supplement to the previously certified EIR ("SEIR") was then prepared to address the modification to the Project.

Section 1. The City Council certifies that the SEIR was prepared, published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines and the Sacramento Local Environmental Procedures, and that the Final EIR as revised by the SEIR constitutes an adequate, accurate, objective and complete Final Environmental Impact Report in full compliance with the requirements of CEQA, the State CEQA Guidelines and the Sacramento Local Environmental Procedures.

Section 2. The City Council certifies that the Final EIR as revised by the SEIR has been presented to it, that the City Council has reviewed and considered the information contained in the Final EIR as revised by the SEIR prior to acting on the proposed Project Modification, and that the EIR reflects the City Council's independent judgment and analysis.

Section 3. Pursuant to CEQA Guidelines Sections 15091 and 15093, and in support of its approval of the Project Modification, the City Council adopts the attached Findings of Fact in support of approval of the Project Modification as set forth in the attached Exhibit A of this Resolution.

Section 4. Pursuant to CEQA section 21081.6 and CEQA Guidelines section 15091, and in support of its approval of the Project Modification, the City Council adopts the Amended Mitigation Monitoring Program to change the timing of implementation of four transportation-related mitigation measures adopted as part of the 65<sup>th</sup> Street Transit Village Plan, agreements, or other measures, as set forth in the Amended Mitigation Monitoring Program as set forth in Resolution 2008 – 240.

Section 5. The City Council directs that, upon approval of the Project Modification, the City's Environmental Planning Services shall file a notice of determination with the County Clerk of Sacramento County and, if the Project Modification requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of CEQA section 21152.

Section 6. Pursuant to Guidelines section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.

**Table of Contents:**

Exhibit A - CEQA Findings of Fact and Statement of Overriding Considerations for the Supplemental Environmental Impact Report (M04-091)

Adopted by the City of Sacramento City Council on April 22, 2008 by the following vote:

Ayes: Councilmembers Cohn, Fong, McCarty, Pannell, Sheedy, Tretheway, Waters,  
and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: Councilmember Hammond.

  
\_\_\_\_\_  
Mayor Heather Fargo

Attest:

  
\_\_\_\_\_  
Shirley Concolino, City Clerk

**CEQA Findings of Fact for the Supplement to the 65<sup>th</sup> Street Transit Village Project (M04-091)**

**Description of the Project Modification**

The timing for implementation of traffic circulation Mitigation Measures 6.2-11, 6.2-13, 6.2-15, and 6.2-17 for the 65<sup>th</sup> Street Transit Village Plan EIR is revised as set for below. The City recognizes that several transportation projects adopted to mitigate the traffic impacts of the 65<sup>th</sup> Street Transit Village Plan (TVP) may conflict with the fully-realized vision and goals of the plan to enhance the pedestrian amenities and transit-oriented infrastructure of the TVP area. Postponing implementation of these mitigation measures allows staff the opportunity to review the circulation plan for the area and potentially make changes to the adopted circulation that reflects the change in the City’s policies regarding transportation planning.

<b>AMENDED TIMING OF PREVIOUSLY ADOPTED MITIGATION MEASURES</b>		
<b>Mitigation Measure</b>	<b>Adopted Timing</b>	<b>New Timing</b>
<b>6.2-11 63<sup>rd</sup> Street and Folsom Boulevard (65<sup>th</sup> Street Transit Village Plan Base Year)</b> – Install a traffic signal at the Folsom Boulevard/63 <sup>rd</sup> Street intersection and widen the eastbound and westbound approach to include an exclusive left-turn lane, an exclusive through lane, and a shared through/right-turn lane.	Measures shall be fully implemented prior to the issuance of the first Certificate of Occupancy issues south of Folsom Blvd and west of 65 <sup>th</sup> Street.	Implement by 2015, or as soon as the adjacent site (APN 008-0010-019) develops.
<b>6.2-13 63<sup>rd</sup> Street and Folsom Boulevard (65<sup>th</sup> Street Transit Village Plan Year 2020)</b> – Install a traffic signal at the Folsom Boulevard/63 <sup>rd</sup> Street intersection and widen the eastbound and westbound approach to include an exclusive left-turn lane, an exclusive through lane, and a shared through/right-turn lane.	Measures shall be implemented prior to 30% build out of the transit village plan, or by 2010, whichever is first, if not previously implemented.	Implement by 2015, or as soon as the adjacent site (APN 008-0010-019) develops.
<b>6.2-15 65<sup>th</sup> Street and Folsom Boulevard (65<sup>th</sup> Street Transit Village Plan Base Year)</b> – Widen the westbound approach to include two exclusive left-turn lanes, two through lanes, and a separate right-turn lane, and widen the eastbound approach to include an exclusive left-turn lane, two through lanes, and a separate right-turn lane.	Measure shall be fully implemented prior to the issuance of the first Certificate of Occupancy in the plan area. If measure is to be implemented by others, the Transit Village Plan area shall be responsible for fair share of costs for improvements	Implement by 2015. If measure is to be implemented by others, the Transit Village Plan area shall be responsible for fair share of costs for improvements implemented by others. The Plan shall pay for 100% of other required

<b>AMENDED TIMING OF PREVIOUSLY ADOPTED MITIGATION MEASURES</b>		
<b>Mitigation Measure</b>	<b>Adopted Timing</b>	<b>New Timing</b>
	implemented by others. The Plan shall pay for 100% of other required improvements not required to be constructed by others.	improvements not required to be constructed by others.
<b>6.2-17 65<sup>th</sup> Street and Folsom Boulevard (65<sup>th</sup> Street Transit Village Plan Year 2020)</b> – Widen the westbound approach to include two exclusive left-turn lanes, two through lanes, and a separate right-turn lane, and widen the eastbound approach to include an exclusive left-turn lane, two through lanes, and a separate right-turn lane.	Measures shall be implemented prior to 50% build out of the Transit Village Plan, or by 2015, whichever is first, if not previously implemented. If measure is to be implemented by others, the Transit Village Plan area shall be responsible for fair share of costs for improvements implemented by others. The Plan shall pay for 100% of other required improvements not required to be constructed by others.	Implement by 2015. If measure is to be implemented by others, the Transit Village Plan area shall be responsible for fair share of costs for improvements implemented by others. The Plan shall pay for 100% of other required improvements not required to be constructed by others.

**Findings Required Under CEQA**

**1. Procedural Findings**

The City Council of the City of Sacramento finds as follows:

a. A Notice of Preparation of the Draft SEIR was filed with the Office of Planning and Research and each responsible and trustee agency on October 6, 2006 and was circulated for public comments from October 6, 2006 through November 6, 2006.

b. A Notice of Completion (NOC) and copies of the Draft SEIR were distributed to the Office of Planning and Research on May 18, 2007 to those public agencies that have jurisdiction by law with respect to the Project Modification, or which exercise authority over

resources that may be affected by the Project Modification, and to other interested parties and agencies as required by law. The comments of such persons and agencies were sought.

c. An official 45-day public comment period for the Draft SEIR was established by the Office of Planning and Research. The public comment period began on May 18, 2007 and ended on July 2, 2007.

d. A Notice of Availability (NOA) of the Draft SEIR was mailed to all interested groups, organizations, and individuals who had previously requested notice in writing on May 18, 2007. The NOA stated that the City of Sacramento had completed the Draft SEIR and that copies were available at the City of Sacramento, Development Services Department, New City Hall, 915 I Street, Third Floor, Sacramento, California 95814. The letter also indicated that the official 45-day public review period for the Draft SEIR would end on July 2, 2007.

e. A public notice was placed in the Daily Recorder on May 18, 2007, which stated that the Draft SEIR was available for public review and comment.

f. A public notice was posted in the office of the Sacramento County Clerk on May 18, 2007.

g. Following closure of the public comment period, all comments received on the Draft SEIR during the comment period, the City's written responses to the significant environmental points raised in those comments, and additional information added by the City were added to the Draft SEIR to produce the Final SEIR.

## **2. Record of Proceedings**

The following information is incorporated by reference and made part of the record supporting these findings:

a. The Draft and Final SEIR and all documents relied upon or incorporated by reference;

b. The City of Sacramento General Plan, City of Sacramento, January, 1988 and all updates.

c. Environmental Impact Report City of Sacramento General Plan Update, City of Sacramento, March, 1987 and all updates.

d. Findings of Fact and Statement of Overriding Considerations for the Adoption of the Sacramento General Plan Update, City of Sacramento, 1988 and all updates.

e. Zoning Ordinance of the City of Sacramento

f. Blueprint Preferred Scenario for 2050, Sacramento Area Council of Governments, December, 2004

g. The Amended Mitigation Monitoring Program for the Project Modification.

h. All records of decision, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project and Project Modification.

### 3. Findings

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environment impacts that would otherwise occur. Mitigation measures or alternatives are not required, however, where such changes are infeasible or where the responsibility for the project lies with some other agency. (CEQA Guidelines, § 15091, sub. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, sub. (b); see also Pub. Resources Code, § 21081, sub. (b).)

In seeking to effectuate the substantive policy of CEQA to substantially lessen or avoid significant environmental effects to the extent feasible, an agency, in adopting findings, need not necessarily address the feasibility of *both* mitigation measures and environmentally superior alternatives when contemplating approval of a proposed project with significant impacts. Where a significant impact can be mitigated to an "acceptable" level solely by the adoption of feasible mitigation measures, the agency, in drafting its findings, has no obligation to consider the feasibility of any environmentally superior alternative that could also substantially lessen or avoid that same impact — even if the alternative would render the impact less severe than would the proposed project as mitigated. (*Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 730-731; and *Laurel Heights Improvement Association v. Regents of the University of California* ("Laurel Heights I") (1988) 47 Cal.3d 376, 400-403.)

In these Findings, the City first addresses the extent to which each significant environmental effect can be substantially lessened or avoided through the adoption of feasible mitigation measures.

In cases in which a project's significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if it first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the "benefits of the project outweigh the significant effects on the environment." (Public Resources Code, Section 21081, sub. (b); see also, CEQA Guidelines, Sections 15093, 15043, sub.(b).) In the Statement of Overriding Considerations found at the end of these Findings, the City identifies the specific economic, social, and other considerations that, in its judgment, outweigh the significant environmental effects that the Project Modification will cause.

The California Supreme Court has stated that “[t]he wisdom of approving ... any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II* (1990) 52 Cal.3d 553 at 576.)

In support of its approval of the Project Modification, the City Council makes the following findings for each of the significant environmental effects of the Project Modification identified in the Final EIR as revised by the SEIR pursuant to Section 21080 of CEQA and section 15091 of the CEQA Guidelines:

**A. Significant or Potentially Significant Impacts Mitigated to a Less Than Significant Level.**

The following significant and potentially significant environmental impacts of the Project Modification, including cumulative impacts, are being mitigated to a less than significant level and are set out below. Pursuant to section 21081(a)(1) of CEQA and section 15091(a)(1) of the CEQA Guidelines, as to each such impact, the City Council, based on the evidence in the record before it, finds that changes or alterations incorporated into the Project Modification by means of conditions or otherwise, mitigate, avoid or substantially lessen to a level of insignificance these significant or potentially significant environmental impacts of the Project Modification. The basis for the finding for each identified impact is set forth below.

**Traffic and Circulation**

**6.2-11 63<sup>rd</sup> Street and Folsom Boulevard (65<sup>th</sup> Street Transit Village Plan Base Year)**  
The addition of the 65<sup>th</sup> Street Transit Village Plan would degrade operations from LOS A to LOS E during the p.m. peak hour. **Without mitigation, this is a significant impact.**

**Mitigation Measure (From MMP): The following mitigation measure(s) has been adopted to address this impact:**

Install a traffic signal at the Folsom Boulevard/63<sup>rd</sup> Street intersection and widen the eastbound and westbound approach to include an exclusive left-turn lane, an exclusive through lane, and a shared through/right-turn lane. Implement by 2015, or as soon as the adjacent site (APN 008-0010-019) develops.

**Finding:**

**The change of the timing of the implementation of the mitigation measure does not result in a change in the level of significance of the impact. The mitigation measure, as adopted for the 65<sup>th</sup> Street Transit Village project is still applicable to the project. The impact in the 65<sup>th</sup> Street Transit Village Plan EIR was determined to be less than significant with the mitigation. The impact remains less than significant with the change in the timing because the installation of the traffic signal and road improvements are still required. With implementation of the mitigation measure, with the modification in the timing, this impact remains *less than significant*.**



**6.2-13 63<sup>rd</sup> Street and Folsom Boulevard (65<sup>th</sup> Street Transit Village Plan Year 2020) –** The addition of the 65<sup>th</sup> Street Transit Village Plan would degrade operations from LOS A to LOS F during the a.m. and p.m. peak hours. **Without mitigation, this is a significant impact.**

**Mitigation Measure (From MMP): The following mitigation measure(s) has been adopted to address this impact:**

Install a traffic signal at the Folsom Boulevard/63<sup>rd</sup> Street intersection and widen the eastbound and westbound approach to include an exclusive left-turn lane, an exclusive through lane, and a shared through/right-turn lane. Implement by 2015, or as soon as the adjacent site (APN 008-0010-019) develops.

**Finding:**

The change of the timing of the implementation of the mitigation measure does not result in a change in the level of significance of the impact. The mitigation measure, as adopted for the 65<sup>th</sup> Street Transit Village project is still applicable to the project. This impact in the 65<sup>th</sup> Street Transit Village Plan EIR was determined to be less than significant with the mitigation, which for this cumulative impact, was assumed to be implemented by 2020. The impact remains less than significant with the change in the timing because the installation of the traffic signal and road improvements are required by 2015, which is sooner than assumed in the analysis in the 65<sup>th</sup> Street Transit Village project. With implementation of the mitigation measure, with the modification in the timing, this impact remains *less than significant*.

**B. Significant or Potentially Significant Impacts for Which a Statement of Overriding Considerations was previously adopted.**

**6.2-15 65<sup>th</sup> Street and Folsom Boulevard (65<sup>th</sup> Street Transit Village Plan Base Year)** The addition of the 65<sup>th</sup> Street Transit Village Plan would add more than 5 seconds of delay to a.m. (LOS D) and p.m. (LOS E) operations. **Without mitigation, this is a significant impact.**

**Mitigation Measure (From MMP): The following mitigation measure(s) has been adopted to address this impact:**

Widen the westbound approach to include two exclusive left-turn lanes, two through lanes, and a separate right-turn lane, and widen the eastbound approach to include an exclusive left-turn lane, two through lanes, and a separate right-turn lane. Implement by 2015. If measure is to be implemented by others, the Transit Village Plan area shall be responsible for fair share of costs for improvements implemented by others. The Plan shall pay for 100% of other required improvements not required to be constructed by others.

**Finding:**

The change of the timing of the implementation of the mitigation measure does not result in a change in the level of significance of the impact. The mitigation measure, as adopted for the 65<sup>th</sup> Street Transit Village project is still applicable to the project.

The impact in the 65<sup>th</sup> Street Transit Village Plan EIR was determined to be significant and unavoidable even with the mitigation because with the mitigation intersection operations would not improve to an acceptable LOS during the p.m. peak hour. The City Council adopted a Statement of Overriding Considerations for this impact as part of their approval of the 65<sup>th</sup> Street Transit Village project.

**6.2-17 65<sup>th</sup> Street and Folsom Boulevard (65<sup>th</sup> Street Transit Village Plan Year 2020)** Delay at this intersection exceeded the reportable range of the traffic analysis software with and without the 65<sup>th</sup> Street Transit Village Plan during the a.m. and p.m. peak hours. Since it is inconclusive if the additional traffic would add more than 5 seconds of delay to LOS F operations, the 65<sup>th</sup> Street Transit Village Plan is projected to result in a significant impact. **Without mitigation, this is a significant impact.**

**Mitigation Measure (From MMP): The following mitigation measure(s) has been adopted to address this impact:**

Widen the westbound approach to include two exclusive left-turn lanes, two through lanes, and a separate right-turn lane, and widen the eastbound approach to include an exclusive left-turn lane, two through lanes, and a separate right-turn lane. Implement by 2015. If measure is to be implemented by others, the Transit Village Plan area shall be responsible for fair share of costs for improvements implemented by others. The Plan shall pay for 100% of other required improvements not required to be constructed by others.

**Finding:**

The change of the timing of the implementation of the mitigation measure does not result in a change in the level of significance of the impact. The mitigation measure, as adopted for the 65<sup>th</sup> Street Transit Village project is still applicable to the project. The impact in the 65<sup>th</sup> Street Transit Village Plan EIR was determined to be significant and unavoidable even with the mitigation because it was inconclusive if the implementation of the mitigation measure would result in less than a 5 second increase in delay. The City Council adopted a Statement of Overriding Considerations for this impact as part of their approval of the 65<sup>th</sup> Street Transit Village project.

**C. Findings Related to the Relationship Between Local Short-term Uses of the Environment and Maintenance and Enhancement of Long-term Productivity.**

Based on the Final EIR as revised by the SEIR and the entire record before the City Council, the City Council makes the following findings with respect to the Project Modification's balancing of local short term uses of the environment and the maintenance of long term productivity:

The changes to the timing of implementation of four mitigation measures would not result in a change in the relationship between Local Short-term uses of the environment and maintenance and Enhancement of Long-Term productivity because there would be no changes to the environment, not previously analyzed in the 65<sup>th</sup> Street Transit Village project.