

OFFICE OF THE CITY CLERK
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APPROVED AS TO FORM AND LEGALITY
Mark P. Wald
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. 80062 C.M.S.

RESOLUTION DENYING IN PART AND APPROVING IN PART THE APPEAL AND APPROVING CONSTRUCTION OF A NEW MIXED-USE DEVELOPMENT CONSISTING OF 74 RESIDENTIAL UNITS AND 4,600 SQUARE FEET OF COMMERCIAL SPACE LOCATED AT 460 GRAND AVENUE (CASE FILE NUMBER CMDV04-485), WITH ADDITIONAL CONDITIONS

WHEREAS, on December 22, 2005, California Homes, LLC, (“Applicant”) filed an application for regular design review, interim conditional use permit, minor conditional use permit, minor variances, and tentative parcel map to construct a mixed-use development containing 74 residential units and 4,600 square feet of commercial space located at 460 Grand Avenue at the intersection of Grand Avenue and Bellevue Avenue (“Project”); and

WHEREAS, the Design Review Committee of the Planning Commission conducted a duly noticed public hearing on the Project on February 22, 2006; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the Project on June 7, 2006; and

WHEREAS, on June 7, 2006, the Planning Commission independently reviewed, considered and determined that the Project is categorically exempt from the environmental review requirements of the California Environmental Quality Act (“CEQA”) pursuant to Section 15332 of the State CEQA Guidelines; and

WHEREAS, on June 7, 2006, the Planning Commission approved the application for regular design review, interim conditional use permit, minor conditional use permit, minor variances, and tentative parcel map (collectively called “Development Permits”); and

WHEREAS, an appeal of the Planning Commission’s June 7, 2006, actions were filed by Kevin Maples on June 19, 2006 (“Appellant”); and

WHEREAS, after giving due notice to the Appellant, the Applicant, all interested parties, and the public, the Appeal came before the City Council on July 18, 2006; and

WHEREAS, the Appellant and all other interested parties were given the opportunity to participate in the public hearing by submittal of oral and written comments; and

WHEREAS, the public hearing on the Appeal was closed by the City Council on July 18, 2006; now, therefore, be it

RESOLVED: That the City Council, having independently heard, considered, and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Project application, the Planning Commission's decision, and the appeal, denies in part and upholds in part the appeal and approves the Development Permits, subject to the final conditions of approval adopted by the Planning Commission, as revised by this Resolution; and be it

FURTHER RESOLVED: That the City Council adopts the following additional conditions of approval for the Project in order to make the Project more compatible in character with the scale, bulk, and mass of the neighborhood, provide solar access to adjacent properties and views from adjacent properties to the maximum extent feasible, and further reduce the already less than significant construction noise impacts on adjacent properties:

28. The height of the building shall be reduced to five (5) stories. The applicant shall submit revised plans for review and approval by the Development Director.

29. The Project shall maintain the current setbacks as approved by the Planning Commission to improve light and space between the Project and its neighboring buildings up Bellevue Avenue and Euclid Avenue.

30. The design of the building shall be improved so that the building appears less blocky and is more in keeping with the good architectural examples on Grand Avenue. The applicant shall submit revised plans for review and approval by the Development Director.

31. In addition to the other construction noise related conditions of approval, prior to the issuance of any construction-related permits, the Applicant shall be responsible for the installation of double-pane windows at 445 Bellevue Avenue, with the permission of the owner(s) of 445 Bellevue Avenue, to further reduce the already less than significant impacts of construction noise.

FURTHER RESOLVED: This decision is based, in part, on the July 18, 2006, City Council agenda report and the June 7, 2006, Planning Commission report, which are hereby incorporated by reference as if fully set forth herein. That in support of the City Council's decision to approve the Project's Development Permits, the City Council affirms and adopts, as its findings and the environmental determination, the July 18, 2006, City Council agenda report and the June 7, 2006, Planning Commission report, as revised by this Resolution; and be it

FURTHER RESOLVED: That the City Council independently finds and determines that this Resolution complies with CEQA, as the Project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15332, and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the appropriate agencies; and be it

FURTHER RESOLVED: That the record before this Council relating to this Project application and appeal includes, without limitation, the following:

1. the Project application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. all final staff reports, decision letters, and other documentation and information produced by or on behalf of the City, including without limitation technical studies and all related/supporting materials, and all notices relating to the Project application and attendant hearings;
4. all oral and written evidence received by the City staff, Planning Commission, and City Council before and during the public hearings on the application and appeal;
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations and Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA; and be it

FURTHER RESOLVED: That the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 18 2006, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID,
AND PRESIDENT DE LA FUENTE -6

NOES- 1 Chang

ABSENT- 0

ABSTENTION- 1 Reid

ATTEST:



LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

LEGAL NOTICE:

ANY PARTY SEEKING TO CHALLENGE THIS FINAL DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE DATE OF THE ANNOUNCEMENT OF THIS DECISION, PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 1094.6, UNLESS A SHORTER PERIOD APPLIES.