

2008 JUN 17 10:03

APPROVED AS TO FORM AND LEGALITY
Mark P. Wald
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. 81229 C.M.S.

RESOLUTION AFFIRMING AND SUSTAINING THE PLANNING COMMISSION DECISION TO APPROVE THE DEVELOPMENT PERMITS (PLANNED UNIT DEVELOPMENT PERMIT, VESTING TENTATIVE TRACT MAP, DESIGN REVIEW, CONDITIONAL USE PERMIT, AND VARIANCES) FOR THE HABITAT FOR HUMANITY EDES "B" RESIDENTIAL PROJECT LOCATED AT 10800 EDES AVENUE NEAR THE INTERSECTION OF EDES AVENUE AND 105TH AVENUE

WHEREAS, Habitat for Humanity East Bay ("Applicant") filed applications for a general plan amendment, redevelopment plan amendment, rezoning, planned unit development permit, vesting tentative tract map, design review, conditional use permit, and variances ("Applications") to construct a 28-unit residential development at 10800 Edes Avenue ("Project") on May 7, 2007; and

WHEREAS, in accordance with the California Environmental Quality Act ("CEQA"), the City issued a Notice of Intent to Adopt a Negative Declaration for the Project on January 24, 2008; and

WHEREAS, the City received a total of two comments on the proposed Negative Declaration, primarily relating to at-grade rail crossings and water service, and the City believes the issues raised in the comment letters have been adequately addressed and do not change the conclusions of the Negative Declaration; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the Negative Declaration and the Project Applications on March 19, 2008; and

WHEREAS, at the March 19, 2008, hearing, the Planning Commission adopted, and made appropriate findings for, the Negative Declaration, approved the Applications for planned unit development permit, vesting tentative tract map, design review, conditional use permit, and variances (collectively called "Development Permits"), recommended approval of the general plan amendment to the City Council, recommended approval of the redevelopment plan amendment to the City Council and Redevelopment Agency, and recommended approval of the rezoning to the City Council; and

WHEREAS, the Planning Commission found, in part, that the proposed Project is consistent with the overall goals, objectives, and policies of the General Plan in that the Project is a well-designed development on a vacant, underutilized, blighted and contaminated infill site located in an urbanized area of the City near public transportation that will provide needed affordable housing and economic revitalization; and

WHEREAS, the Community and Economic Development Committee of the City Council conducted a duly noticed meeting on the Project Applications on April 8, 2008 and recommended Project approval; and

WHEREAS, the City Council and Redevelopment Agency of the City of Oakland conducted a duly noticed joint public hearing on the Project Applications on April 15, 2008; and

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

WHEREAS, the public hearing was closed by the City Council and Redevelopment Agency on April 15, 2008; now, therefore, be it

RESOLVED: That the City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Applications and the Planning Commission's decision on the Project, hereby affirms and sustains the Planning Commission's adoption of the Negative Declaration and affirms and sustains the Planning Commission's decision to approve the Development Permits for the Project subject to the findings and the conditions contained in the March 19, 2008, Planning Commission Report; and be it

FURTHER RESOLVED: That this decision is based, in part, on the April 8, 2008, Community and Economic Development Committee Agenda Report (which was forwarded to the City Council for its April 15, 2008, public hearing), the March 19, 2008, Planning Commission Report, and the Initial Study/Negative Declaration which are hereby incorporated by reference as if fully set forth herein; and be it

FURTHER RESOLVED: 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 determinations (a) the April 8, 2008, Community and Economic Development Committee Agenda Report, and (b) the March 19, 2008, Planning Commission Report, including, without limitation, the discussion, findings, conclusions, and conditions of approval (each of which is hereby separately and independently adopted by this Council in full); and be it

FURTHER RESOLVED: That the City Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies; and be it

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

1. the Project Applications, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. all staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation the Initial Study/Negative Declaration and supporting technical studies, all related and/or supporting materials, and all notices relating to the Project Applications and attendant hearings;
4. all oral and written evidence received by the City staff, the Planning Commission, and the City Council before and during the public hearings on the Project Applications;
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (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, California; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, California; 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, APR 15 2008, 2008

PASSED BY THE FOLLOWING VOTE:

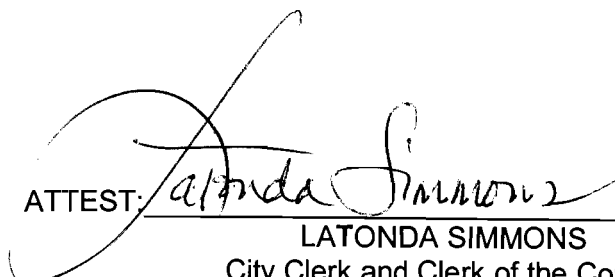
AYES- BROOKS, BRUNNER, CHANG, ~~KERNIGHAN~~, NADEL, QUAN, REID,
AND PRESIDENT DE LA FUENTE - 7

NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused- Kernighan- 1

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