

# MISSING ORIGINAL LEGISLATION

Resolution / Ordinance Number: 80364  
City Council Meeting Date 1-16-07  
Agenda Item No. 14.2  
Recorded Vote 8 ayes

## Reason for Missing Legislation:

- Draft submitted in the agenda packet, original not received.  
 Resolution was amended on the floor at the Council meeting.

## Responsible Contact Information:

Department Councilmember Nadel  
Contact Person/Ext. Marissa Aronna x 7031

## Notes:

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2007 JAN -14 PM 7:12

OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_ *Mark P. Wall*

**RESOLUTION DENYING THE APPEAL AND SUSTAINING THE  
DECISION OF THE PLANNING COMMISSION APPROVING THE  
ESTABLISHMENT OF A SERVICE-ENRICHED PERMANENT HOUSING  
RESIDENTIAL ACTIVITY FOR 8 ADULTS WITHIN AN EXISTING  
STRUCTURE LOCATED AT 2815 WEST STREET**

**WHEREAS**, on May 19, 2006, Carolyn Robinson, representing East Bay Transitional Housing (Applicant), filed for a Major Conditional Use Permit to conduct a Service-Enriched Permanent Housing Residential Activity for 16 adults within an existing structure located at 2815 West Street; and

**WHEREAS**, pursuant to Oakland Planning Code section 17.134.020, the matter was referred to the Oakland City Planning Commission for review and action; and

**WHEREAS**, on October 4, 2006 the Planning Commission conducted a duly noticed public hearing on the matter, which was continued in order to allow the Applicant to meet with community representatives; and

**WHEREAS**, on October 18, 2006 the Planning Commission again conducted a duly noticed hearing, which was also continued in order to allow the Applicant to again meet with community representatives; and

**WHEREAS**, on November 1, 2006 the Planning Commission again conducted a duly noticed hearing, closed the hearing and then voted to approve the Conditional Use Permit, with revised conditions of approval, including a reduction in the number of residents from 16 to 8; and

**WHEREAS**, on November 13, 2006, the Beat Six Advocates (Appellant) filed an appeal of the City Planning Commission decision, specifying four grounds for the appeal; and

**WHEREAS**, after giving due notice to the Appellant, the Applicant, all interested parties and the public, the Appeal came before the City Council for a public hearing on January 16, 2007; and

**WHEREAS**, the Appellant, the Applicant, supporters of the application, those opposed to the application and interested neutral parties were given ample opportunity to participate in the public hearing by submittal of oral and/or written comments; and

**WHEREAS**, the public hearing on the Appeal was closed by the City Council on January 16, 2007; 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 Application, the City Planning Commission's decision, and the Appeal, finds that the Appellant has **not** shown, by reliance on evidence already contained in the record before the City Planning Commission, that the City Planning Commission's decision was made in error, that there was an abuse of discretion by the Commission or that the Commission's decision was not supported by substantial evidence in the record. Accordingly, the Appeal is denied, the Planning Commission's CEQA findings and decision (and revised conditions) are upheld, and the Project is approved (the Major Conditional Use Permit); and be it

**FURTHER RESOLVED:** That, in support of the City Council's decision to uphold the Oakland Planning Commission approval of the Project, the City Council affirms and adopts the January 16, 2007, City Council Agenda Report and the October 4, 2006 City Planning Commission Report (with revised conditions), hereby incorporated by reference as if fully set for the herein; and be it

**FURTHER RESOLVED:** That, the City Council finds and determines that this Resolution complies with CEQA, as the project is exempt from CEQA under Section 15301 "Change in use to existing facility" of the State CEQA Guidelines; and be it

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

1. the application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. the notice of appeal and all accompanying statements and materials;
4. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation and all related/supporting final materials, and all final notices relating to the application and attendant hearings;
5. all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the application and appeal; and all written

evidence received by relevant City Staff before and during the public hearings on the application and appeal;

6. all matters of common knowledge and all official enactments and acts of the City, including, without limitation (a) the General Plan; (b) Oakland Municipal Code (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations; 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, 2nd Floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1<sup>st</sup> 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, \_\_\_\_\_, 2007

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

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.**