

F. Faiz

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OAKLAND

OAKLAND CITY COUNCIL
2006 FEB -8 AM 11:29

RESOLUTION NO. 79732 C.M.S.

INTRODUCED BY COUNCILMEMBER _____

**RESOLUTION DENYING THE APPEAL AND SUSTAINING THE
DECISION OF THE CITY PLANNING COMMISSION IN
APPROVING THE APPLICATION FOR A CONDITIONAL USE
PERMIT AND DESIGN REVIEW TO CONSTRUCT A 55 UNIT
RESIDENTIAL PROJECT AT 2400 FILBERT STREET, OAKLAND**

WHEREAS, the project applicant, Tom Dolan, filed an application on March 14, 2005 on behalf of the property owner, Monica Hujazi, to construct a 55 unit residential project at 2400 Filbert Street; and

WHEREAS, The City Planning Commission took testimony and considered the matter at its meeting held October 19, 2005. At the conclusion of the public hearing held for the matter, the commission deliberated the matter, and voted to continue the item to the November 16, 2005 Planning Commission Hearing, so that the project applicant could meet with concerned parties; and

WHEREAS, The applicant met with the concerned neighbors on November 10, 2005, and as a result of the meeting modified the proposed project by relocating the entry and exit points for the internal driveway from Myrtle and Filbert Streets onto 24th Street only; and

WHEREAS, The City Planning Commission took testimony and considered the revised plans at its meeting held November 16, 2005. At the conclusion of the public hearing held for the matter, the commission deliberated the matter, and voted. The project was approved, 6-0-0; and

WHEREAS on November 28, 2005, an appeal of the Planning Commission's approval and a statement setting forth the basis of the appeal was received; 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 February 21, 2006; 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 February 21, 2006;

Now, Therefore, Be It

RESOLVED: The requirements of the California Environmental Quality Act (CEQA) of 1970, as prescribed by the Secretary of Resources, and the City of Oakland's environmental review requirements, have been satisfied, and, in accordance the adoption of this resolution is exempt from CEQA under Section 15332 "In-Fill Development" of the State CEQA Guidelines; and be it

FURTHER 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 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 on November 16, 2005 was made in error, that there was an abuse of discretion by the Commission or that the Commission's decision on November 16, 2005 was not supported by substantial evidence in the record based on the October 19, 2005 Staff Report to the City Planning Commission (attached as Exhibit "A") and the February 21, 2006, City Council Agenda Report (attached as Exhibit "B") hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, the Planning Commission's CEQA findings and decision are upheld, and the Project is approved (Conditional Use Permit, and Design Review), subject to the findings and conditions of approval contained in Exhibits "B" in the Staff Report for this item prepared for the City Council meeting of February 21, 2006; and be it

FURTHER RESOLVED: That, in support of the City Council's decision on November 16, 2005 to approve the Project, the City Council affirms and adopts the October 19, 2005 Staff Report to the City Planning Commission (including without limitation the discussion, findings, conclusions and conditions of approval) all attached as Exhibit "A", as well as the February 21, 2006, City Council Agenda Report, attached hereto as Exhibit "B," (including without limitation the discussion, findings, and conclusions) except where otherwise expressly stated in this Resolution; 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 Exemption with the appropriate agencies; 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, 3rd Floor, 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, **FEB 21 2006**, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, KERNIGHAN, AND — 7

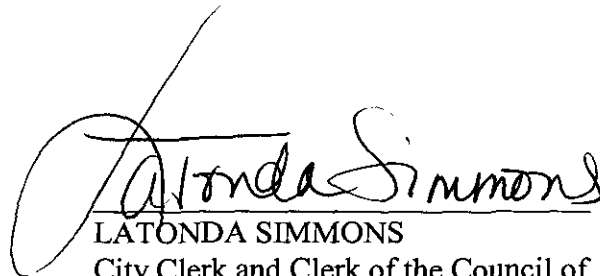
~~PRESIDENT DE LA FUENTE~~

NOES- 1 - De la Fuente

ABSENT- 0

ABSTENTION- 0

ATTEST:


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