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CONCORDIA
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OAKLAND CITY COUNCIL

RESOLUTION No. 79154 C.M.S.

INTRODUCED BY COUNCILMEMBER _____

Al M. Rios

A RESOLUTION DENYING THE APPEAL AND UPHOLDING THE DECISION OF CITY PLANNING COMMISSION APPROVING A MAJOR CONDITIONAL USE PERMIT AND DESIGN REVIEW FOR THE CONSTRUCTION OF 2 PORTABLE BUILDINGS, A CONCRETE PATIO, 2 ARBORS, LANDSCAPING, AND THE ADDITION OF AFTER SCHOOL PROGRAMMING IN CONCORDIA PARK (3000 62ND AVENUE) BY GIRLS INCORPORATED OF ALAMEDA COUNTY.

WHEREAS, on or about May 27, 2004, Girls Incorporated of Alameda County ("Applicant") filed an application for major conditional use permit and design review to construct to portable buildings, a concrete patio, 2 arbors, landscaping and provide after school programs for girls at 3000 62nd Avenue in Concordia Park ("Project"); and

WHEREAS, on June 9, 2004 the Parks and Recreation Advisory Committee, after a duly and properly noticed public hearing, reviewed and considered the design of the Project; and

WHEREAS, on June 16, 2004 the Planning Commission, after a duly and properly noticed public hearing, reviewed and considered the design of the Project and directed staff to work with the community to resolve outstanding issues regarding the Project; and

WHEREAS, on September 8, 2004 the Special Projects Committee of the Planning Commission, after a duly and properly noticed public hearing, reviewed and considered the design of the Project; and

WHEREAS, on February 16, 2005 the Planning Commission, after a duly and properly noticed public hearing, independently reviewed and considered staff's proposed environmental determination, and the proposed Design Review and Conditional Use Permit Applications for the Project. At the conclusion of the public hearing held for the matter, the Commission (1) determined that the Project was exempt from CEQA pursuant to CEQA Guidelines § 15332 (Infill Development) and § 15301 (Minor Alterations to Existing Facilities); (2) determined that none of the exceptions to any such exemption applied and that the Project would not have significant environmental effects; and (3) reviewed and considered the proposed Project, made certain findings, and based thereon, voted to approve the Project by a vote of 6-0, with 1 Commissioner absent; and

WHEREAS, on or about February 28, 2005 an appeal of the Project's approval by the Planning Commission ("Appeal") was lodged with the Nancy Sidebotham representing the Burbank Millsbrae Neighborhood Crime Prevention Council and other unspecified groups ("Appellant"); and

WHEREAS, the public hearing on the appeal was duly and properly noticed for April 19, 2005; and

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

WHEREAS, the public hearing on the Appeal was closed by the City Council on April 19, 2005; and

WHEREAS, the City Council at their April 19, 2005 meeting, independently reviewed the proposed environmental determination for the project and determined that the project was exempt from CEQA pursuant to CEQA Guidelines § 15332 (Infill Development), § 15301 (Minor Alterations to Existing Facilities) and § 15303 (New Construction of Small Structures and that none of the exceptions to any such exemption applied and that the project would not have significant environmental effects; and

WHEREAS, the City Council at their April 19, 2005 meeting passed this resolution *formally denying the appeal of the Project and adopted the findings and conclusions of the Planning Commission pertaining to the Conditional Use Permit and Design Review*; and

WHEREAS, Girls Inc is providing in-kind services to the City of Oakland in excess of the fair market rental rate and therefore the City will enter into a one-year license agreement with 9, *one-year options with Girls Inc for the property rent-free pursuant to Ordinance No. 11722 C.M.S.* Girls Inc will be responsible for any and all costs to complete the necessary renovations and modifications to the recreation center and for the payment of all utilities, security costs, and maintenance costs.

Now, Therefore, Be It:

RESOLVED: The requirements of the California Environmental Quality Act (CEQA) of 1970, the CEQA Guidelines and the City of Oakland's environmental review requirements, have been satisfied, and, in accordance the adoption of this resolution and City actions approving this project are exempt from CEQA under Section 15332 (Infill Development), Section 15301 (Minor Alterations to Existing Facilities) and Section 15303 (New Construction of Small Structures) of the State CEQA Guidelines.

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 in the record before the City Planning Commission that the City Planning Commission's decision to approve the application for the project was made in error or that there was an abuse of discretion by the Commission, or that the Commission's decision was not supported by substantial evidence. Both the Planning Commission's and Council's decision is supported by substantial evidence in the record based, in part, on the February 16, 2005 staff report to the City Planning Commission and the April 19, 2005 Agenda Report to the City Council, hereby incorporated by reference as if fully set forth herein. Accordingly, the appeal is denied, the Planning Commission's CEQA findings are upheld, and the Planning Commission's approval of the Project are upheld, subject to the conditions of approval attached to the February 16, 2005 Planning Commission Staff Report, as amended by this Resolution.

FURTHER RESOLVED: That, in support of the City Council's decision to approve the Project, the City Council affirms and adopts the February 16, 2005 Staff Report to the Planning Commission (including the findings contained therein) and the April 19, 2005 Agenda Report to the City Council, except where otherwise expressly stated in this Resolution.

FURTHER RESOLVED: That, the City Council amends the Conditions of Approval for the project as follows:

Amend Condition of Approval 2. Effective Date, Expiration, and Extensions to add the following sentence:

[t]he land use and zoning approvals are conditioned upon the execution of a license agreement between Girls Inc. and the City of Oakland. Any approvals and permits shall not become effective until that license agreement is executed.

Add a new Condition of Approval 21. Restoring Areas Upon Termination of License Agreement that states:

[u]pon termination of the license agreement between Girls Inc. and the City of Oakland, the City may require at its sole discretion that Girls Inc. remove the portable buildings and restore the underlying and surrounding unimproved area to its previous condition."

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, such as (a) the General Plan; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, 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.

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, 1st floor, Oakland, CA.

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

FURTHER RESOLVED: That, a Notice of Exemption shall be prepared and cause to be filed with the County.

APR 19 2005

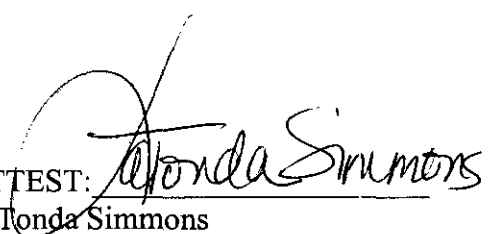
In Council, Oakland, California,

, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- 7
NOES- 0
ABSENT- 0
ABSTENTION- 0

**BROOKS, BRUNNER, CHANG,
NADEL, REID, QUAN, ~~WAX~~
AND PRESIDENT DE LA FUENTE - 7**

ATTEST: 
LaTonda Simmons
Interim City Clerk and Clerk of the
Council of the City of Oakland,
California