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OAKLAND

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APPROVED AS TO FORM AND LEGALITY

H Lee
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. 81816 C.M.S.

RESOLUTION AFFIRMING AND SUSTAINING THE PLANNING COMMISSION DECISION TO APPROVE THE DEVELOPMENT PERMITS (DESIGN REVIEW, CONDITIONAL USE PERMIT, AND VARIANCES) FOR THE LION CREEK CROSSING PHASE IV PROJECT LOCATED ON SNELL STREET BETWEEN 69TH AND 70TH AVENUES

WHEREAS, the Oakland Housing Authority and their developers ("Applicant") filed applications for a general plan amendment, redevelopment plan amendment, rezoning, design review, conditional use permit, and variances ("Applications") to construct a 72-unit residential development on Snell Street between 69th and 70th Avenues ("Project") on September 4, 2008; and

WHEREAS, at the duly noticed June 4, 2003 Planning Commission meeting, the Commission independently reviewed and considered a Mitigated Negative Declaration/Finding of No Significant Impact (MND/FONSI) for the Coliseum Gardens project, together with comments received on the MND/FONSI and (1) determined that there was no substantial evidence that the project, as mitigated by adopted mitigation measures, would have a significant effect on the environment; (2) adopted the MND/FONSI; and (3) adopted a Mitigation and Monitoring Reporting Program in accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines; and

WHEREAS, at the duly noticed February 3, 2004 City Council meeting, the City Council independently reviewed and considered the MND/FONSI, together with comments received on the MND/FONSI, and found on the basis of substantial evidence in the record as a whole that (1) there is no substantial evidence that the project, together with adopted mitigation measures, will have a significant effect on the environment; and (2) the MND/FONSI reflects the City's independent judgment and analysis; and

WHEREAS, at the duly noticed February 4, 2009, Planning Commission meeting, the Commission independently reviewed, considered accepted an addendum to the MND/FONSI and found that, in accordance with CEQA Section 15162, no further environmental review is required, as set forth by CEQA. Neither the project, nor the circumstances surrounding the project, would result in any new or more severe significant impacts, there is no new information of substantial importance, and there are no substantial changes in the project; and

WHEREAS, the City Council independently reviewed and considered the addendum to the MND/FONSI, together with comments received on the MND/FONSI, and finds on the basis of substantial evidence in the record as a whole that, in accordance with CEQA Section 15162, no further environmental review is required, as set forth by CEQA. Neither the project, nor the circumstances surrounding the project, would result in any new or more severe significant impacts, there is no new information of substantial importance, and there are no substantial changes in the project; and

WHEREAS, at the February 4, 2009, hearing, the Planning Commission accepted, and made appropriate findings for, the MND, approved the Applications for 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, and blighted 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 February 24, 2009 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 March 3, 2009; 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 March 3, 2009; and

WHEREAS, the City Council independently reviewed and considered the findings made by the Planning Commission for approval of the Design Review, Conditional Use Permit, Variances, General Plan Amendment, Redevelopment Plan Amendment and Rezone, incorporated into the record by reference and included as Attachment D to the staff report, and hereby affirms said findings; and

WHEREAS, The City Council, acting as the Lead Agency, has independently reviewed, analyzed, and considered the Coliseum Gardens HOPE VI Revitalization MND/FONSI, and Addenda prior to acting on the approvals. Based upon such independent review, analysis, and consideration, and exercising its independent judgment, the City Council hereby finds the criteria of CEQA Guidelines Section 15162 requiring additional environmental review have not been

met. Specifically, and without limitation, the City Council finds and determines that the project would not result in any new or more severe significant impacts, there is no new information of substantial importance that would result in any new or more severe significant impacts, there are no substantial changes in circumstances that would result in any new or more severe significant impacts, and there is no feasible mitigation measure or alternative that is considerably different from others previously analyzed that has not been adopted, based upon the accompanying City Council Agenda Report, and elsewhere in the record for this project; 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 acceptance of the addendum to the MND/FONSI 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 February 4, 2009, Planning Commission Report; and be it

FURTHER RESOLVED: That this decision is based, in part, on the February 24, 2009, Community and Economic Development Committee Agenda Report (which was forwarded to the City Council for its March 3, 2009, public hearing), the February 4, 2009, Planning Commission Report, and the addended MND/FONSI 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 February 24, 2009, Community and Economic Development Committee Agenda Report, and (b) the February 4, 2009 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 their representatives;
3. all staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation the MND 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, MAR 3 2009, 2009

PASSED BY THE FOLLOWING VOTE:

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

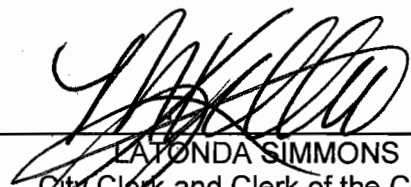
NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused - Reid - 1

ATTEST: _____


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