

OAKLAND CITY COUNCIL

04 JAN 28 PM 2:46

RESOLUTION No. 78271 C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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RESOLUTION DENYING AN APPEAL OF THE PLANNING COMMISSION APPROVAL OF THE APPLICATION FOR AFFORDABLE HOUSING ASSOCIATES TO BUILD AN EIGHT STORY BUILDING TO CONTAIN GROUND FLOOR COMMERCIAL SPACE, A "SERVICE ENRICHED" HOUSING FACILITY, AND 76 AFFORDABLE HOUSING UNITS AT 160 14<sup>TH</sup> STREET.

**WHEREAS**, on or about May 22, 2003, Affordable Housing Associates ("Applicant") filed an application for major and minor conditional use permits, variance permits, and design review to build an eight story building to contain ground floor commercial space, a "service enriched" housing facility, and 76 affordable housing units at 160 14<sup>th</sup> Street (the "Project"); and

**WHEREAS**, on June 25, 2003 the Design Review Committee of the Planning Commission, after a duly and properly noticed public hearing, reviewed and considered the design of the Project; and

**WHEREAS**, on September 3, 2003 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, Minor Variance Permits, and Major and Minor 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 § 15280 (Lower-Income Housing Projects); (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 7-0; and

**WHEREAS**, on or about September 12, 2003 an appeal of the project's approval by the Planning Commission ("Appeal") was lodged with the City by the Islamic Cultural Center ("Appellant"); and

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

**WHEREAS**, the public hearing on the Appeal was closed by the City Council on November 18, 2003; and

**WHEREAS**, the City Council at their November 18, 2003 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) and § 15280 (Lower-Income Housing Projects) 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 November 18, 2003 meeting reviewed and considered the findings and conclusions of the Planning Commission in connection with its approval of the project and approved the all aspects of the project except those pertaining to design review and continued their review, pending further review of the design review aspects between the project applicant, Planning Department staff, and the Vice Mayor; and

**WHEREAS**, the City Council at their December 16, 2003 meeting reviewed and considered the project with refined design elements and conditions of approval related to design attached in the Agenda Report; and

**WHEREAS**, the City Council at their December 16, 2003 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 Permits, Variances, and Design Review and adopted the amended conditions of approval.

**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) and Section 15280 (Lower-Income Housing Projects) 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 (or evidence otherwise contained in the record) 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. The Council's decision is supported by substantial evidence in the record based on the September 3, 2003 staff report to the City Planning Commission and the November 18, 2003 and December 16, 2003 Agenda Reports 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, including the Design Review, are upheld, subject to the amended conditions of approval attached to the Agenda Report for this project prepared for the City Council meeting of December 16, 2003.

**FURTHER RESOLVED:** That, in support of the City Council's decision to approve the project, the City Council affirms and adopts the September 3, 2003 Staff Report to the Planning Commission (including the findings contained therein), the November 18, 2003 Agenda Report to the City Council, and the December 16, 2003 City Council Agenda Report to the City Council except where otherwise expressly stated in this Resolution.

**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, 1<sup>st</sup> 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.

In Council, Oakland, California, **DEC 16 2003**, 2003

**PASSED BY THE FOLLOWING VOTE:**

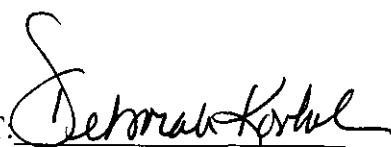
AYES- **BROOKS, BRUNNER, CHANG, NADEL, QUAN, WAN**

NOES- **0** **AND PRESIDENT DE LA FUENTE - 7**

ABSENT- **0**

ABSTENTION- **0**

EXCUSED- **REID - 1**

ATTEST.   
**JYCEDA FLOYD**  
City Clerk and Clerk of the Council  
of the City of Oakland, California