

2006 NOV 16 PM 5:32

*F. Faiz*

City Attorney

**OAKLAND CITY COUNCIL**

**RESOLUTION No. 80292 C.M.S.**

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

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**RESOLUTION AMENDING THE SUBDIVISION AGREEMENT FOR THE SKYLINE CIRCLE (AKA BAYVIEW) SUBDIVISION FOR TRACT MAP 6429 TO ELIMINATE THE PROHIBITION TO INSTALL A GATE AT THE ENTRANCE TO THE PRIVATE ROAD AND AUTHORIZING THE SKYLINE CIRCLE HOMEOWNERS TO APPLY FOR CONSTRUCTION OF THE GATE MEETING LIFE SAFETY REQUIREMENTS**

**WHEREAS**, the Skyline Circle Subdivision (aka the Bayview Subdivision and the Oak Knoll Vista Subdivision), Tract 6429 (the "Subdivision" or "Tract 6429") is a 45 unit residential development project within the City of Oakland; and

**WHEREAS**, an Environmental Impact Report (EIR) and a tentative tract map for the Subdivision was approved by the City Council on December 17, 1991; and

**WHEREAS**, the City Council previously approved this project through a Final Tract Map for the Subdivision on January 9, 1996; and

**WHEREAS**, due to failure to comply with conditions and requirements of the Subdivision, including tree permit conditions and grading conditions the City Council adopted an agreement with K & B Homes, the project developer, to cause construction of the Subdivision to comply with further requirements and conditions which are outlined in a recorded document entitled "Agreement Regarding the Bayview (Oak Knoll Vista) Subdivision Tract 6249 ("Agreement") approved by the City Council on July 9, 1997; and

**WHEREAS**, one of the physical restrictions imposed by the City Council in the Agreement is that there be no gate restrictions at the entrance to the Subdivision (Condition # 32); and

**WHEREAS**, construction of the Subdivision has ensued during the past ten years, houses have been sold and occupied and a Homeowners Association (HOA) is operating as required by the Subdivision Agreement; and

**WHEREAS**, the HOA has requested that the restriction on installation of an entry gate be eliminated so that access to the Subdivision can be restricted due to numerous instances of nuisance behaviors, car break-ins, littering, and other undesirable activities; and

**WHEREAS**, the access to the Subdivision is via a private street that is maintained and owned by the HOA; now, therefore, be it

**RESOLVED:** That the City Council, as the final decision-making body of the lead agency, finds and determines, prior to taking action on the proposal to eliminate Condition 32 b. finds the previously certified EIR for the project under the California Environmental Quality Act (“CEQA”) provides adequate and complete environmental review for the proposed action in that the physical change to the project is minor, will not result in any new significant environmental impact or result in an increase in severity of a significant impact that was previously identified, and that no significant information of substantial importance has become known that would result in the identification of new significant effects or the severity of effects already identified; and be it

**FURTHER RESOLVED:** That the City Council, having heard and considered the proposed request hereby amends the Agreement by making the following change:

“32. b. ~~No gate or restriction at the entrance.~~ A front entry gate may be permitted subject to meeting all Building Code and life safety requirements including the installation of a Knox Box, as approved by the Fire Department” and be it

**FURTHER RESOLVED:** That all other existing conditions, covenants and requirements as set forth in the Agreement shall apply to the Subdivision; and be it

**FURTHER RESOLVED:** That the City Council finds and determines that this Resolution complies with CEQA and directs the Environmental Review Officer to cause to be filed a Notice of Determination with the appropriate agencies; and be it

**FURTHER RESOLVED:** That the City Council directs staff to cause this Amendment to the Agreement to be recorded against all the lots in the Subdivision; 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, DEC 5 2006, 2006

**PASSED BY THE FOLLOWING VOTE:**

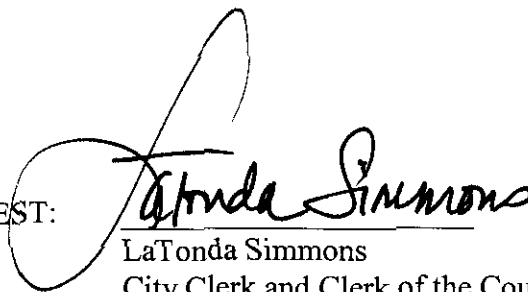
AYES- BROOKS, ~~SPINALE~~, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT DE LA FUENTE - 7

NOES- 0

ABSENT- 0

ABSTENTION- Brunner - 1

ATTEST:



LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California