

Hue

City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. 86503 C.M.S.

Introduced by Councilmember _____

OFFICE OF THE CITY CLERK
OAKLAND

2016 DEC - 1 PM 2:21

A RESOLUTION DENYING THE APPEAL OF OAKLAND RESIDENTS FOR RESPONSIBLE DEVELOPMENT, AND THUS UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF A PROPOSAL TO CONSTRUCT 416 DWELLING UNITS OVER APPROXIMATELY 26,200 SQUARE FEET OF RETAIL LOCATED AT 285 AND 301 12TH STREET, OAKLAND CA (PROJECT CASE NO. PLN16133), INCLUDING ADOPTING CEQA EXEMPTIONS (15183 & 15183.3) AND AN ADDENDUM (RELYING ON THE PREVIOUSLY CERTIFIED 2014 LAKE MERRITT STATION AREA PLAN EIR)

WHEREAS, the project applicant, W12 LLC, filed an application on May 5, 2015, to construct a 262 unit residential building over approximately 26,000 square feet of ground floor commercial at 285 and 301 12th Street, Oakland Ca. (Project); and

WHEREAS, the Design Review Committee of the Planning Commission considered the design review aspects of the Project at a duly noticed public meeting on June 22, 2016; and

WHEREAS, the City Planning Commission took testimony and considered the project at its duly noticed public meeting of August 3, 2016. At the conclusion of the public hearing, the Commission deliberated the matter and voted to continue the item to a date certain on August 17, 2016; and

WHEREAS, the City Planning Commission took testimony and considered the project at its public meeting of August 17, 2016. At the conclusion of the public hearing, the Commission deliberated the matter and voted (3-2-0) to approve the Project; and

WHEREAS on August 26, 2016, an appeal of the Planning Commission's approval and a statement setting forth the basis of the appeal was filed by Laura Horton on behalf of Oakland Residents for Responsible Development;

WHEREAS on August 29, 2016, an appeal of the Planning Commission's approval and a statement setting forth the basis of the appeal was filed by Alvina Wong on behalf of the W12 Benefits Coalition, which appeal was withdrawn by the W12 Benefits Coalition prior to the City Council hearing on the appeal, at which numerous members the W12 Benefits Coalition spoke out in support of the Project;

WHEREAS, after giving due notice to the Appellant, the Applicant, all interested parties and the public, the Appeal came before the City Council at a duly noticed public hearing on November 29, 2016; 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 November 29, 2016; now, therefore be it

RESOLVED: That, the City Council hereby independently finds and determines that 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, the adoption of this resolution is exempt from CEQA pursuant to CEQA Guidelines Section 15183 and/or Section 15183.3; and furthermore none of the factors requiring further CEQA review are met and the City can rely on an Addendum to the previously Certified 2014 Lake Merritt Station Area Plan EIR, pursuant to CEQA Guidelines section 15162-15164, each of the foregoing provides a separate and independent basis for CEQA compliance; 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 Planning Commission's decision, and the Appeals, finds that the Appellants have **not** shown, by reliance on evidence already contained in the record before the City Planning Commission that the Commission's decision on August 17, 2016 was made in error, that there was an abuse of discretion by the Planning Commission or that the Commission's decision was not supported by substantial evidence in the record, based on the August 3, 2016 Staff Report to the City Planning Commission and the November 29, 2016, City Council Agenda Report hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, the Planning Commission's CEQA Determination is upheld, based upon the August 3, 2016 Staff Report to the City Planning Commission and the November 29, 2016, City Council Agenda Report, each of which is hereby separately and independently adopted by this Council in full; and be it

FURTHER RESOLVED: That, in support of the Planning Commission's decision to approve the Project, the City Council affirms and adopts the August 3, 2016 Staff Report to the City Planning Commission (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), as well as the November 29, 2016, City Council Agenda 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), 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 and Notice of Determination 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 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) Department of Planning & Building, Bureau of Planning, 250 Frank H. Ogawa Plaza, 2114, 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.

NOV 29 2016

IN COUNCIL, OAKLAND, CALIFORNIA, _____

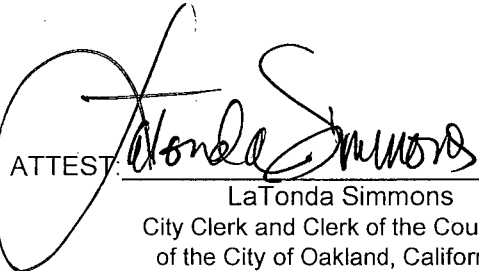
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND PRESIDENT GIBSON MCELHANEY - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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