

2019 AUG 16 PM 2:18


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 87809 C.M.S.

INTRODUCED BY COUNCILMEMBER [IF APPLICABLE]

**A RESOLUTION DENYING THE APPEAL BY LAWRENCE ELLIS AND
THUS UPHOLDING THE PLANNING COMMISSION'S DETERMINATION
THAT THE APPROVAL OF COMMUNITY ASSEMBLY CIVIC ACTIVITIES
AT 3732 – 3746 39TH AVENUE IS EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (CEQA)**

WHEREAS, the project applicant, Wilson Riles Jr., filed an application on June 15, 2015, to establish Community Assembly Civic Activities and related facilities at 3732, 3740, and 3746 39th Avenue; and

WHEREAS, the Community Assembly Civic Activities include performing religious and spiritual services in four yurts and outdoor areas behind three existing homes in a residential neighborhood; and

WHEREAS, on December 9, 2016, the Zoning Manager issued a denial of an Application for Regular Design Review, Variance, and Conditional Use Permits; and

WHEREAS, on December 19, 2016, the applicant, Wilson Riles Jr., filed a timely appeal of the denial, stating that the Zoning Manager abused his discretion and the decision was not supported by the evidence; and

WHEREAS, on July 19, 2017 and August 1, 2018, the Planning Commission took public testimony regarding the project; and

WHEREAS, on August 1, 2018, the Planning Commission upheld the appeal by a vote of 7-0-0 with a determination that the project was exempt from CEQA according to Section 15303 of the State CEQA Guidelines (New Construction or Conversion of Small Structures); and

WHEREAS, on August 13, 2018, a timely appeal of the Planning Commission's CEQA determination was filed by Lawrence Ellis; and

WHEREAS, the project is consistent with the City's General Plan and Zoning; and

WHEREAS, the Agenda Report and attached Exhibits demonstrate that there is not substantial evidence that the proposal, including the sweat lodge or religious activities, will create an environmental impact due to an unusual circumstance; now, therefore, be it

RESOLVED: That the City Council hereby independently finds and determines that the requirements of the California Environmental Quality Act (CEQA) have been satisfied. Specifically, the project is exempt from CEQA according to Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small Structures). In addition, the project requires no more environmental review and uses the provision under CEQA Guidelines Section 15183 to tier from the program level analysis completed in the City of Oakland General Plan Land Use and Transportation Element (LUTE) and its Environmental Impact Report (EIR), which analyzed environmental impacts associated with adoption and implementation of the General Plan, and pursuant to CEQA Guideline Section 15162, which provides a separate and independent basis for CEQA compliance; and be it

FURTHER RESOLVED: That there is not substantial evidence that the proposed activities will create an environmental impact due to an unusual circumstance; 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, with the imposition of one additional condition of approval set forth in the paragraph below, the appellant has not shown, by reliance on evidence already contained in the record before the Planning Commission, that the Planning Commission's CEQA determination on August 1, 2018, was made in error, that there was no 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 1, 2018 Staff Report to the Planning Commission and the July 16, 2019 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 1, 2018 Staff Report to the Planning Commission and the July 16, 2019 City Council Agenda Report, each of which is hereby separately and independently adopted in full by the City Council; 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 being fully informed of the application, found it appropriate, with sufficient nexus existing, to impose one additional condition of approval requiring the applicant to do the following: "At least 1, up to 3, sweat events tested by a third party consultant, chosen by staff, paid by the applicant as reasonable not excluding nonprofits. Report back within 3 months." The condition requires the applicant to employ a third party consultant to conduct tests on the first 1 to 3 sweat events, with consideration given to using a nonprofit third party consultant.

FURTHER RESOLVED: That the City Council hereby directs the City Administrator or her designee to cause to be filed a Notice of Exemption (NOE) with the Office of Planning and Research (OPR) and the County of Alameda following the effective date of this Resolution.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUL 09 2019

PASSED BY THE FOLLOWING VOTE:

AYES – FORTUNATO BAS, GALLO, GIBSON MCELHANEY ~~WILLIAMS~~ TAYLOR, THAO AND
PRESIDENT KAPLAN *-6*

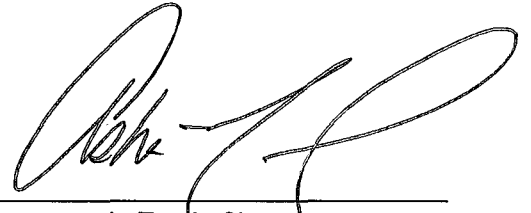
NOES – *0*

ABSENT – *0*

ABSTENTION – *1 Kalb*

Excused - 1 Reid

ATTEST:



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