

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2019 OCT 24 PM 4:06

Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 87914 C.M.S.

A RESOLUTION DENYING THE APPEAL BY DUNYA ALWAN, RYDER DIAZ, AND THE EAST 12TH COALITION THROUGH R. MICHAEL FLYNN (PLN19215-A01) AND UPHOLDING THE PLANNING COMMISSION'S DECISION TO APPROVE THE MAJOR CONDITIONAL USE PERMIT, MINOR VARIANCE, REGULAR DESIGN REVIEW PERMIT AND ENVIRONMENTAL DETERMINATION TO CONSTRUCT TWO RESIDENTIAL BUILDINGS WITH A GROUND FLOOR COMMERCIAL USE AT 101 EAST 12TH STREET

WHEREAS, Mr. Ronnie Turner filed an application on May 2, 2016, for a Conditional Use Permit, Variance, and Regular Design Review to construct two residential buildings with a ground floor commercial use at 101 East 12th Street, as case number PLN16128; and

WHEREAS, on June 15, 2016, the Planning Commission approved PLN16128 subject to the findings and conditions outlined in the staff report and additional conditions imposed by the Planning Commission, and also adopted the related California Environmental Quality Act (CEQA) analysis and findings in its environmental determination; and

WHEREAS, UrbanCore and EBALDC, filed an application on August 27, 2019, for a Conditional Use Permit, Minor Variance, and Regular Design Review Permit to construct two residential buildings with a ground floor commercial use at 101 East 12th Street, as case PLN19215 ("Project"); and

WHEREAS, the Project proposes to develop two residential buildings with 108 affordable units 252 market rate units on a City of Oakland ("City")-owned site created after the reconfiguration of East 12th Street adjacent to Lake Merritt; and

WHEREAS, on August 30, 2019, the Project was publicly noticed as required by the City's Planning Code; and

WHEREAS, on September 18, 2019, the Planning Commission approved the Project subject to the findings and conditions outlined in the staff report and additional conditions imposed by the Planning Commission, as well as the related CEQA analysis and findings in its environmental determination; and

WHEREAS, on October 30, 2019, a timely appeal of the Planning Commission's approval was filed by Dunya Alwan, Ryder Diaz, and The East 12th Coalition through R. Michael Flynn; and

WHEREAS, after giving due notice to the Appellant, the Applicant, and all interested parties, the Appeal came before the City Council at a duly noticed public hearing on November 5, 2019; and

WHEREAS, on a separate and independent basis, the anticipated environmental effects of the project have been adequately evaluated by the Lake Merritt Station Area Plan Final Environmental Impact Report (Final EIR) (certified November 2014); the Project is consistent with a Community Plan, General Plan or Zoning under Section 15183 of the State CEQA Guidelines: Projects consistent with a Community Plan, General Plan or Zoning and the Project complies with Section 15183.3 of the State CEQA Guidelines: Streamlining for Infill Projects; further, the Project is Categorically Exempt under Section 15332 of the State CEQA Guidelines: In-Fill Development Projects; and

WHEREAS, the City's CEQA analysis and findings for the Project were based on environmental consultant analysis of the proposal and an updated transportation analysis; and

WHEREAS, the Project will contain 108 affordable housing units and 252 market rate units, which will assist with alleviating the housing crisis in Oakland and the region; and

WHEREAS, the Project will be ideally located to minimize vehicle emissions because it is near a transportation hub, which includes a BART station, several AC Transit lines, and employment centers; 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 application, the Planning Commission's decision, and the appeal, find that the appellant has not shown that the Planning Commission's approval of the Project and Environmental Determination was made in error, that there was an abuse of discretion by the Planning Commission or that the Planning Commission's decision was not supported by substantial evidence as outlined in the September 18, 2019 Staff Report to the Planning Commission, the approval findings and environmental determination, and the Agenda Report to City Council dated October 14, 2019, all of which are incorporated by reference as if fully set forth herein; and be it

FURTHER RESOLVED: That the City Council independently determines that the required findings can be satisfied to approve the Project, and furthermore, to adopt the Resolution to deny the appeal under PLN19215-A01 and uphold Planning Commission Decision on PLN19215; and be it

FURTHER RESOLVED: On a separate and independent basis, the anticipated environmental effects of the project have been adequately evaluated by the Lake Merritt Station Area Plan Final Environmental Impact Report (Final EIR) (certified November 2014); the Project is consistent with a Community Plan, General Plan or Zoning under

Section 15183 of the State CEQA Guidelines: Projects consistent with a Community Plan, General Plan or Zoning and the Project complies with Section 15183.3 of the State CEQA Guidelines: Streamlining for Infill Projects; further, the Project is Categorically Exempt under Section 15332 of the State CEQA Guidelines: In-Fill Development Projects; and

FURTHER RESOLVED: That per standard City practice, if litigation is filed challenging this decision, or any subsequent implementing actions, then the time period for obtaining necessary permits for construction or alteration and/or commencement of authorized activities stated in Condition of Approval #2 is automatically extended for the duration of the litigation; 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,

NOV 05 2018

PASSED BY THE FOLLOWING VOTE:

AYES - ~~WILLIAMS, GIBSON, MCELHANEY, KALB, REID, TAYLOR, WILSON~~

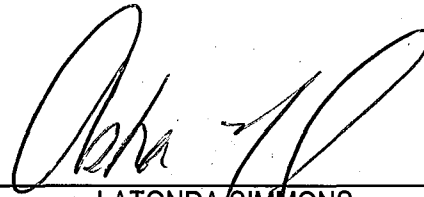
~~PRESIDENT~~ - Mayor Schaaf - 5

NOES - 4 - Gallo, Thao, Bass and Kaplan

ABSENT - 0

ABSTENTION - 0

ATTEST:



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