

# OAKLAND CITY COUNCIL

## RESOLUTION NO. \_\_\_\_\_ C.M.S.

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### **RESOLUTION DENYING THE APPEALS OF ARTHUR D. LEVY AND MARGARETTA LIN, SUSTAINING THE MARCH 16, 2005 PLANNING COMMISSION ACTIONS ON THE WOOD STREET DEVELOPMENT PROJECT AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE WOOD STREET PROJECT**

**WHEREAS**, in accordance with the California Environmental Quality Act (“CEQA”), the City issued a Notice of Preparation (“NOP”), indicating an intent to prepare an Environmental Impact Report (“EIR”) on the Wood Street Project, including a General Plan Amendment, a Zoning Code Amendment and rezoning, a Redevelopment Plan Amendment, and five Vesting Tentative Parcel Maps; and

**WHEREAS**, a Draft Environmental Impact Report (“DEIR”) on the Wood Street Project, SCH #2004012110, was released by the City and circulated for public review and comment from September 21, 2004 to November 15, 2004; and

**WHEREAS**, the Landmarks Preservation Advisory Board and the Planning Commission held public hearings on the DEIR on October 18, 2004 and October 20, 2004, respectively; and

**WHEREAS**, on January 26, 2005, the Planning Commission conducted another public hearing to discuss the major environmental and policy issues pertaining to the Project; and

**WHEREAS**, the Final Environmental Impact Report (FEIR) was published on February 7, 2005; and

**WHEREAS**, the Planning Commission conducted a public hearing on March 16, 2005 to provide the public with the opportunity to comment on the Wood Street Project FEIR and the Project approvals, including the proposed General Plan Amendment; and

**WHEREAS**, on March 16, 2005, the Planning Commission certified the EIR, adopted CEQA Findings and a Statement of Overriding Considerations, adopted a Mitigation Monitoring and Reporting Program, adopted General Findings, recommended adoption of the General Plan Amendment, approved five Vesting Tentative Parcel Maps and adopted accompanying Conditions of Approval; and

**WHEREAS**, two separate appeals of the Planning Commission's March 16, 2005 actions were filed, one on March 25, 2005 by Arthur D. Levy and one on March 28, 2005 by Margaretta Lin on behalf of the Just Cause Oakland and the Coalition for West Oakland Revitalization (collectively, the "Appeals"); and

**WHEREAS**, the Community and Economic Development Committee of the City Council considered the Wood Street Project on April 12, 2005; and

**WHEREAS**, the City Council held a public hearing on May 3, 2005 which was noticed in accordance with the legal requirements; and

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

**WHEREAS**, the public hearings on the Appeals were closed by the City Council on May 3, 2005; and

**WHEREAS**, on May 17, 2005, the City Council, at its duly noticed regular meeting, fully reviewed, considered and evaluated the EIR, staff reports, public testimony and all documents and other evidence submitted on this matter;

**NOW, THEREFORE, BE IT RESOLVED:** That neither appellant has shown, by reliance on the evidence contained in the record that the Planning Commission's decision was made in error, that there was an abuse of discretion by the Planning Commission, that the Planning Commission's decision was not supported by substantial evidence in the record, or that the Planning Commission's decision was improper. This conclusion is based, in part, on the DEIR, the FEIR, the staff reports for the Planning Commission hearings, and the staff reports prepared for the City Council staff report, each of which is hereby incorporated by reference. Accordingly, each of the Appeals is denied and the Planning Commission's March 16, 2005 actions are upheld as modified by the City Council; and be it

**FURTHER RESOLVED:** That the City Council , affirms and adopts the CEQA Findings attached to this Resolution as Exhibit A; the Mitigation, Monitoring and Reporting Program attached as Exhibit B; the VTPM Conditions of Approval attached as Exhibit C; and the General Findings attached as Exhibit D all incorporated by this reference; and be it

**FURTHER RESOLVED:** That City staff is directed to undertake the clerical task of amending Exhibits A, B, C and/or D, if necessary, to conform to this Resolution.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 17, 2005

**PASSED BY THE FOLLOWING VOTE:**

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

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