

**RESOLUTION NO. 18-25**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND DENYING THE APPEAL AND AFFIRMING THE PLANNING COMMISSION'S DENIAL OF A CONDITIONAL USE PERMIT (PLN23-360) TO ALLOW THE CONVERSION OF AN EXISTING OFFICE BUILDING TO AN EMERGENCY SHELTER**

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**WHEREAS**, on November 22, 2023, Gregory VanMechelen (the “applicant”) filed Planning Application No. PLN23-360 requesting a Conditional Use Permit (CUP) to convert an existing office building located at 207 37<sup>th</sup> Street (the “Project Site” or “premises”) in the T5MS-O (Main Street - Open) District, APN 516-210-020 to an emergency shelter (the “Project”); and

**WHEREAS**, the requested CUP for the Project is subject to the provisions of Richmond Municipal Code (RMC) Section 15.04.610.180 and Article 15.04.806 of the Richmond Zoning Ordinance and Government Code Section 65583(a)(4)(A) and (B); and

**WHEREAS**, the requested CUP for the Project is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303 – New Construction or Conversion of Small Structures and Section 15269(c) – Emergency Projects; and

**WHEREAS**, the Planning Commission conducted a properly noticed public hearing on the CUP for the Project on June 6<sup>th</sup>, 2024, after which the hearing was continued to a date uncertain; and

**WHEREAS**, the Planning Commission conducted a properly noticed public hearing on the CUP for the Project on July 18<sup>th</sup>, 2024, after which the hearing was continued to a date uncertain; and

**WHEREAS**, the Planning Commission conducted a properly noticed public hearing on the CUP for the Project on November 7, 2024, and considered all written and verbal testimony presented before or during the hearing, and closed the public hearing; after deliberation and discussion, the Commission directed planning division staff to return with a revised resolution making findings for CUP Project denial, after which the item was continued to December 19, 2024; and

**WHEREAS**, the Planning Commission resumed discussion of the item on December 19, 2024, of the CUP Project denial and, on the basis of the application, plans, materials, and testimony submitted at or before the public hearing, including the staff report, the Planning Commission denied Planning Application No. PLN23-360, based on findings with statements of facts as required by Section 15.04.806.040 of the Zoning Ordinance for denial of a CUP; and

**WHEREAS**, on January 2, 2025, an appeal was filed by Lonnie Holmes (“appellant”), objecting to the Planning Commission’s denial of the Conditional Use Permit (PLN23-360); and

**WHEREAS**, the proposed project is categorically exempt under Section 15303 of the California Environmental Quality Act (CEQA): new construction or conversion of small structures; and Section 15269(c) – emergency projects; and

**WHEREAS**, on March 4, 2025, the City Council conducted a properly noticed public hearing pursuant to California Government Code Section 65090 and has duly considered all written and verbal testimony presented before or during the hearing, including the staff report; and

**WHEREAS**, on the basis of the application, plans, materials and testimony received at or before the public hearing, the City Council makes the following findings, with supporting statements of fact, regarding the application consistency, as required by Section 15.04.805.050 of the Richmond Zoning Ordinance, for denial of the appeal and affirmation of the Project denial;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Richmond, does hereby find as follows:

**Section 1.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2.** Based on substantial evidence in the record, including all documents, oral testimony, and statements of facts, presented at the public hearing, the City Council denies the appeal of, and affirms, the Planning Commission's denial of Application No. PLN23-360 for a CUP to convert an existing office building into an emergency shelter, based on the following findings of facts and evidence:

**1. The location of the proposed conditional use is in accordance with the General Plan and any applicable specific plan and the land use designations for the Project Site;**

**Statement of Fact: Criterion Satisfied.** The Project Site has a General Plan land use designation of "Medium-Intensity, Mixed-Use" which encourages a diverse mix of uses. The Project is also consistent with the General Plan's multiple initiatives to support and reduce barriers for emergency shelters in the city, such as Housing Element Programs 4.G and 4.J, and Policy 4.6 which seeks to "actively [...] expand emergency, transitional, and supportive housing to address homelessness in Richmond."

Further, the proposed Project would put an underutilized parcel back into use after years of vacancy, would add a new local-serving service space with access to transit and bicycle facilities, and would add elements of surveillance and accountability to a currently vacant site. The proposed Project is consistent with the following General Plan policies which call for revitalization of underused parcels, development along key corridors, and accessibility to alternate transit options: ED1.1; ED4.1; ED5.1; LU1.1; ED4.3; LU1.C; ED4.A; LU1.H; LU2.3; LU3.4; LU6.A; CR1.D.

**2. The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;**

**Statement of Fact: Criterion Not Satisfied.** The proposed Project will adversely affect the livability of the neighborhood. Staff had developed conditions of approval, but the applicant sought amendments to and/or elimination of certain recommended conditions that would have mitigated such potential adverse impacts. If amendments to and/or elimination of those conditions is approved, the impacts will adversely affect the livability of the surrounding neighborhood.

The Project will retain the existing building and will remain consistent with the neighborhood in terms of size and design, and the proposed Project would meet the additional standards for function outlined in RMC section 15.04.610.180 for emergency shelters. Conditions of approval were added, to the extent feasible by law and without rendering the Project financially infeasible, including those which address the following issues of neighborhood compatibility: required safety and management personnel including a Community Liaison, required training to be responsive to the community and neighborhood, requirements for safety patrol around the property and adjacent parcels, video surveillance, adequate illumination but without unnecessary glare, abatement of graffiti and litter, exterior improvements to the building, and monitoring of on-street parking. However, based on the following, the Project will adversely affect the livability of the surrounding neighborhood.

**Parking:** Government Code Section 65583(a)(4)(B)(ii) allows the City to require sufficient parking to accommodate all staff working at an emergency shelter, provided that the standards do not require more parking there than other residential or commercial uses in the same zone. RMC Section 15.04.607.060 requires a minimum of 33% less than the estimated demand for a use (or in this case, 33% less than the number of employees). The Project proposes two (2) parking spaces on-site. The applicant stated that there would be three employees, so three parking spaces would be required, and 33% less than that is two parking spaces. However, this parking and employee count does not account

for the two additional security personnel that are required to be on-site at all times (one patrolling the exterior of the building and one patrolling the interior of the building). Therefore, there will be five employees/personnel working at the Project Site, and the required number of parking spaces is five spaces, which means more than three spaces will be required – in fact, four spaces are required (taking into consideration a reduction of 33% less than the number of employees on-site). At most, the Project Site can accommodate three on-site parking spaces, and not four. Accordingly, the parking requirement is not satisfied.

**Security:** The Project is located adjacent to a residential neighborhood and in close proximity to schools where many minors/children walk past and in close proximity to the Project Site. As indicated by the Richmond Police Department (RPD)'s review of the Project, the RPD conducted a Crime Prevention Through Environmental Design (CPTED) assessment at the Project Site. The CPTED assessment included a review of the number of calls for service at the Project Site per year, broken down by month from 2019 to 2024. in Attachment 4 of this report, that was provided to the City Council for review. Additional data from RPD was taken to compare the calls per year by month in 2023, when the Project was operating illegally without a permit in 2023, as compared to the same time period in other years between 2019 to 2024. The comparison is included in Planning Commission Agenda Report dated November 7, 2024 as Exhibit C. The data from the CPTED shows that during the year that the Project was in operation illegally in 2023, the calls for service were the highest, compared to the previous years and in 2024. Additionally, the monthly breakdown indicates that during the months the Project was in operation illegally in 2023, the calls for service were higher during May through August of 2023, compared to the same months during previous years and in 2024. This demonstrates an indisputable uptick in calls for service and potential criminal activity based on the Project operation, which necessitates a need for increased security measures to address adverse safety concerns at the site and in the surrounding neighborhood.

The conditions of approval for the Project, as proposed by the City, to address security and safety concerns include: minimum of three daytime staff and two nighttime staff, not including security personnel, employee training on preventive safety measures, graffiti removal within 24 hours of notice, operation of seven security cameras and monitoring, posted signage regarding loitering and prohibited activities on-site, and two onsite uniformed security personnel at all times. The applicant, however, has indicated that the conditions of approval with respect to the security measures would need to be modified or eliminated, such that the security personnel should not and could not contact persons on the premises or in vehicles without probable cause.

**Public Health / Safety:** The applicant also was not willing to comply with the litter management requirements to ensure that the Project Site and surrounding area are kept free of litter at all times. There had been problems with litter and the public health and safety of the Project Site due to litter, illegal dumping, and potential vermin issues during the time the Project was operating illegally without a permit. The proposed conditions address those public health and safety concerns, but the applicant took issue with those conditions.

Overall, the operating characteristics of the Project, including capacity, security protocols, and on-site management, are proposed to be imposed to address adverse safety impacts and security issues, but the applicant has requested modification or elimination of conditions that would adequately address these concerns, such that the conditions, if adopted, would exacerbate local safety and security challenges rather than alleviate them.

- 3. The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding ambient conditions;**

**Statement of Fact: Criterion Not Satisfied.** The proposed use will be subject to the provisions in the Richmond Zoning Ordinance related to Lighting and Illumination (RMC Article 15.04.604), Noise (RMC Article 15.04.605) and other Performance Standards (RMC Article 15.04.608). The proposed use will not create any of the aforementioned nuisances through regular activity, and sprinklers and emergency egress, including

windows, will be added to the existing building as required. Conditions of approval require monitoring of outdoor activity via management and security personnel, the abatement of litter on and adjacent to the site, and lighting requirements such that security lighting will illuminate the project site's required areas but not extend into adjacent residential parcels.

However, with respect to parking, litter, and safety, the Project will create such parking, litter, and safety nuisances.

**Parking:** Government Code Section 65583(a)(4)(B)(ii) allows the City to require sufficient parking to accommodate all staff working at an emergency shelter, provided that the standards do not require more parking there than other residential or commercial uses in the same zone. RMC Section 15.04.607.060 requires a minimum of 33% less than the estimated demand for a use (or in this case, 33% less than the number of employees). The Project proposes two (2) parking spaces on-site. The applicant stated that there would be three employees, so three parking spaces would be required, and 33% less than that is two parking spaces. However, this parking and employee count does not account for the two additional security personnel that are required to be on-site at all times (one patrolling the exterior of the building and one patrolling the interior of the building). Therefore, there will be five employees/personnel working at the Project Site, and the required number of parking spaces is five spaces, which means more than three spaces will be required – in fact, four spaces are required (taking into consideration a reduction of 33% less than the number of employees on-site). At most, the Project Site can accommodate three on-site parking spaces, and not four. Accordingly, the parking requirement is not satisfied.

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Overall, the operating characteristics of the Project, including capacity, security protocols, and on-site management, are proposed to be imposed to address adverse safety impacts and security issues, but the applicant has requested modification or elimination of conditions that would adequately address these concerns, such that the conditions, if adopted, would exacerbate local safety and security challenges rather than alleviate them.

**4. The proposed use complies with all applicable provisions of the Zoning Ordinance.**

**Statement of Fact: *Criterion Not Satisfied.*** Conditions of approval ensure compliance with the code for the refuse area (RMC Section 15.04.601.090), signage (RMC Section 15.04.609), Lighting and Illumination (RMC Article 15.04.604), Noise (RMC Article 15.04.605) and most Performance Standards (RMC Article 15.04.608), including those outlined in RMC 15.04.610.180 for emergency shelters.

However, the objective parking standards have not been met. Government Code Section 65583(a)(4)(B)(ii) allows the City to require sufficient parking to accommodate all staff working at an emergency shelter, provided that the standards do not require more parking there than other residential or commercial uses in the same zone. RMC Section 15.04.607.060 requires a minimum of 33% less than the estimated demand for a use (or in this case, 33% less than the number of employees). The Project proposes two (2) parking spaces on-site. The applicant stated that there would be three employees, so three parking spaces would be required, and 33% less than that is two parking spaces. However, this parking and employee count does not account for the two additional security personnel that are required to be on-site at all times (one patrolling the exterior of the building and one patrolling the interior of the building). Therefore, there will be five employees/personnel working at the Project Site, and the required number of parking spaces is five spaces, which means more than three spaces will be required – in fact, four spaces are required (taking into consideration a reduction of 33% less than the number of employees on-site). At most, the Project Site can accommodate three on-site parking spaces, and not four. Accordingly, the parking requirement is not satisfied.

**5. The site of the proposed use is adequately served by highways, streets, water, sewer, and other public facilities and services.**

**Statement of Fact: *Criterion Satisfied.*** The existing building is located one block from Macdonald Ave, less than 0.2 miles from four bus lines, and one mile from a BART station. The project site is less than one mile from a major highway, and the site would not be altered in a way that would affect the site's existing public facilities and services.

**Section 3.** The City Council finds that the underlying decision by the Planning Commission denying the Project is supported by substantial evidence and does not constitute an abuse of discretion.

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I certify that the foregoing resolution was passed and adopted by the City Council of the City of Richmond at a regular meeting thereof held on March 4, 2025, by the following vote:

AYES: Councilmembers Bana, Brown, Jimenez, Robinson,  
Wilson, Vice Mayor Zepeda, and Mayor Martinez.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

PAMELA CHRISTIAN  

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CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:

EDUARDO MARTINEZ  
Mayor

Approved as to form:

DAVE ALESHIRE  
City Attorney

State of California            }  
County of Contra Costa        }       : ss.  
City of Richmond               }

I certify that the foregoing is a true copy of **Resolution No. 18-25**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on March 4, 2025.

  

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Pamela Christian, Clerk of the City of Richmond