

RESOLUTION NO. 7-06

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND,
CALIFORNIA, DENYING IN PART AND GRANTING IN PART THE APPEAL OF ROD
SATRE AND BONNIE SATRE-DALEY OF THE PLANNING COMMISSION'S
CONDITIONAL APPROVAL OF V/DR 1102129 FOR VARIANCES TO CONSTRUCT
A SINGLE-FAMILY DWELLING AND GARAGE AT 301 PACIFIC AVENUE**

WHEREAS, the property owner of 301 Pacific Avenue ("Applicant") applied for Planning Commission approval to construct an approximately three thousand four hundred and eighty four square feet (3,484 s.f.) single-family dwelling with an attached garage (the "Project") at 301 Pacific Avenue ("Project Site");

WHEREAS, the Project Site is a steeply sloped vacant rectangular lot of approximately seven thousand eight hundred sixty square feet (7,860 s.f.) within the Tiscornia Estates Specific Plan ("TESP") area;

WHEREAS, the Project Site is designated a developable lot within the TESP;

WHEREAS, the Project Site is one of seven (7) lots within the TESP subject to Special Yard Requirements imposing ten feet (10') side yard setbacks instead of the five feet (5') side yard setback imposed on all other developable lots within the TESP;

WHEREAS, as proposed, the Project would have a five feet (5') side yard setback on its northern side;

WHEREAS, the Project Site abuts a designated open space area on its northern side;

WHEREAS, the TESP Design Guidelines discourage retaining walls greater than three and one half feet (3.5') in height;

WHEREAS, as proposed, the Project would have a retaining wall of varying height, from five to nine feet (5' -9');

WHEREAS, the Richmond Municipal Code ("RMC") at Section 15.04.830.060.B.11 permits decks on sloping parcels provided the deck is within one foot (1') of grade on at least one end or side and no greater than three feet above grade at the abutting neighbor's side lot line;

WHEREAS, as proposed, the Project would include a deck that is approximately two feet (2') within grade at its lowest end or side and approximately eight feet (8') above grade at its southeast edge, which is approximately four feet (4') from an abutting neighbor's side lot line;

WHEREAS, through Application V/DR 1102129 the Applicant requested approval from the Planning Commission for four variances in connection with the Project: (1) side yard variance; (2) retaining wall height variance; (3) maximum height of deck variance; and (4) height of deck at abutting neighbor's side lot line variance;

WHEREAS, on December 1, 2005, the Planning Commission conducted a duly noticed public hearing on Application V/DR 1102129;

WHEREAS, at the public hearing before the Planning Commission, Rod Satre and Bonnie Satre-Daley ("Appellants"), who live at 530 Santa Fe Avenue, spoke in opposition to the proposed Project based on concerns about its potential impact on views;

WHEREAS, following the public hearing, the Planning Commission found that all criteria for the granting of a variance had been satisfied and conditionally approved V/DR 1102129;

WHEREAS, the Appellants filed an appeal of the Planning Commission decision,

pursuant to the procedures set forth in the Richmond Municipal Code;

WHEREAS, notice of the time and place of the City Council public hearing to consider the appeal was given pursuant to state law and local ordinances by publication in the *West County Times* and by mailing to all residents and businesses within a three-hundred feet radius of the proposed project;

WHEREAS, the City Council of the City of Richmond opened the duly noticed public hearing regarding the appeal on January 10, 2006;

WHEREAS, at the hearing before the Council, the Appellants spoke in opposition to the Planning Commission's grant of variances for the Project based on concerns about potential impacts on views;

WHEREAS, no expert testimony was provided at the hearing in opposition to the Project, and expert testimony in the form of the staff report and testimony of City of Richmond staff was provided at the hearing in support of the Project; and

WHEREAS, after receiving testimony on the appeal, the City Council closed the public hearing on January 10, 2006, and postponed action on the item until its next meeting on January 17, 2006;

WHEREAS, the Mayor met with the Applicant and the Appellants on January 13, 2006, to attempt to resolve differences;

WHEREAS, the meeting on January 13, 2006 resulted in a compromise that was not fully satisfactory to the Applicant and Appellants; and

WHEREAS, at its meeting on January 17, 2006, the City Council voted to deny in part and grant in part the appeal of Rod Satre and Bonnie Satre-Daley and approve the Project, subject to the plans and applications submitted, and the findings and conditions contained herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND DOES HEREBY FIND AND RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that the proposed Project is Categorically Exempt from the preparation of environmental documents, pursuant to Section 15303(a) of the Guidelines of the California Environmental Quality Act (CEQA).

SECTION 2. The City Council further finds:

- (A) The proposed Project is suitable for its purpose, is harmonious with and relates properly to the surrounding neighborhood, contiguous parcels and the site itself;
- (B) The location, size, design and characteristics of the proposed Project will be compatible with and will not be detrimental to the public health, safety, or welfare of persons residing in or working in or adjacent to the proposed Project;
- (C) The overall design of the proposed Project will be of a quality that will preserve the integrity of, and upgrade, the existing neighborhood;
- (D) The design of the proposed Project is in accordance with the General Plan of the City of Richmond and all applicable provisions of the Zoning Ordinance;
- (E) That because of special circumstances or conditions applicable to the proposed Project Site, including the shape and steep slope of the site, strict application of the Tiscornia Estate Specific Plan will deprive the Project Site owner of development privileges enjoyed by property owners in the vicinity and zone of the Project Site;
- (F) That a variance permitting a five-foot (5') side yard setback adjacent to the

open space as proposed and a variance permitting a retaining wall that conforms to the height and placement agreed to by the Applicant on or about January 13, 2006 in discussion with the Mayor, Appellants and Planning Department staff will not be injurious or detrimental to property or improvements in the vicinity of the Project Site, or to the public health, safety or general welfare;

- (G) That the side yard setback variance and retaining wall variance are consistent with the purposes of the City's Zoning Ordinance and the Tiscornia Estates Specific Plan and will not grant special privileges inconsistent with the limitations on other properties in the vicinity and in the same zoning district;
- (H) That the side yard setback variance and retaining wall variance will not authorize a use or activity which is not otherwise expressly authorized by the zoning regulations governing the Project Site; and
- (I) That the facts presented to the City Council at the duly noticed public hearing concerning the appeal of Planning Commission approval of Application V/DR 1102129 support the Council's findings and determination.

SECTION 3. The City Council finds that the proposed Project does not have an adverse impact on views.

SECTION 4. The City Council finds that the proposed Project meets all of the building design criteria for the Tiscornia Estates Specific Plan in that it reflects a high standard of architectural design, conforms to the natural topography, minimizes grading, has varied and articulated elevations and rooflines, meets the building envelope height limits for downhill lots and uses fire retardant materials with muted earth tone colors.

SECTION 5. Inasmuch as the Appellant did not provide any expert evidence to contradict the expert evidence in favor of the Project and the grant of variances for the Project, the City Council finds that the setback variance and the retaining wall height variance comply with all laws.

SECTION 7. Based on the above findings, the City Council hereby denies the appeal with regard to variances for side yard setback and retaining wall height, grants the appeal with regard to variances for maximum height of deck and height of deck at abutting neighbor's side lot line, and approves the Project subject to the following conditions:

- (A) Development shall be in substantial compliance with plans submitted to the Planning Department and date stamped July 1, 2005, except insofar as those plans must be amended to conform with other conditions contained herein;
- (B) In lieu of the lower deck as proposed in the submitted plans, a six feet by nine feet (6' X 9') landing shall be constructed with steps leading down to a deck that complies with all requirements of the Richmond Municipal Code;
- (C) Before seeking any further permits or approvals regarding the Project, Applicant shall submit to the Planning Department revised plans conforming to design changes agreed upon at the City Council meeting on January 17, 2006 and to City Council approvals; and
- (D) The Applicant shall hold harmless the City of Richmond, its agents, officers and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Richmond, its agents, officers, or employees to void or annul an approval by the City of Richmond's Design Review Board or City Council.

SECTION 8. The custodian and location of the documents or other materials which constitute the record of proceedings upon which the decision in this matter is based are as follows:

City of Richmond
Planning Department
1401 Marina Way South
Richmond, CA 94804

SECTION 9. Interested parties are hereby notified that legal challenges to this action must be filed within ninety (90) days of the date of hereof (Code of Civil Procedure section 1094.6).

SECTION 10. The applicable provisions of the City Charter and Municipal Code, the minutes from the applicable Design Review Board, Planning Commission and City Council meetings, and all documents in connection with the project which were received and filed, are incorporated herein by reference.

SECTION 11. The City Clerk shall certify the passage and adoption of this resolution.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond, California at a regular meeting held on January 31, 2006, by the following vote:

AYES: Councilmembers Bates, Butt, Griffin, McLaughlin, Rogers,
Thurmond, Viramontes and Mayor Anderson

NOES: None

ABSTENTIONS: None

ABSENT: Councilmember Marquez

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

APPROVED:

IRMA L. ANDERSON

Mayor

APPROVED AS TO FORM:

JOHN EASTMAN

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. 7-06, finally passed and adopted by the Council of the City of Richmond at a regular meeting held on January 31, 2006, and published in accordance with law.