

RESOLUTION NO. 20-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND UPHOLDING THE DESIGN REVIEW BOARD'S APPROVAL OF A DESIGN REVIEW PERMIT APPLICATION (DR1103829) FOR A ±9,000 SQUARE FOOT MIXED-USE BUILDING (FIVE (5) UNITS RESIDENTIAL AND 4,700 SQUARE FEET COMMERCIAL/OFFICE/ RETAIL) AT 10879 SAN PABLO AVENUE.

WHEREAS, the applicant, Athan Magganas, requested approval from the City of Richmond (the "City") of a Design Review Permit for construction of approximately 9,000 square foot mixed-use building (commercial office and residential) which includes: (A) four (4) two-bedroom/ two-bath and one (1) one bedroom/one-bath residential units of approximately 1,000 square feet each, and (B) 4,700 square feet of commercial space, consisting of seven (7) offices and 345 square feet of ground floor retail;

WHEREAS, on July 25, 2007, the Design Review Board of the City of Richmond (the "Board") opened a public hearing to review and consider the Request for Approval of a Design Review Permit. The project was held over in order for the applicant to modify the design in accordance with Board suggestions;

WHEREAS, on August 22, 2007, following further modification of the design to meet the Board's design suggestions, after presentations and comments were made to the Board, the Board approved the revised design and voted 3 to 1 in favor of approval of the Project;

WHEREAS, pursuant to the responsibility given to the Planning and Building Services Director of the City of Richmond by City Council Resolution No. 125-03 for the general administration of the California Environmental Quality Act ("CEQA") (the City of Richmond's Guidelines and Procedures for Implementation of the CEQA), and the CEQA Guidelines (14 Cal. Code Regs. Section 15000 et seq.), and in accordance with the California Environmental Quality Act of 1970, the project is Categorically Exempt from the California Quality Act (CEQA) under Section 15332, as it is in-fill development less than 5 acres surrounded by urban uses. The project conforms to the Zoning Ordinance and General Plan, pursuant to the Guidelines for the implementation of the California Environmental Quality Act related to project exemptions.

WHEREAS, on September 4, 2007, an appeal was filed by the Richmond Annex Neighborhood Council of the Design Review Board's approval stating a wide range of issues, including the appropriateness and incompatibility of the Project's design with development on San Pablo Avenue and staff's mis-representation to the Board that the Project complies with the Zoning Regulations;

WHEREAS, on January 8, 2007, the City Council of the City of Richmond, California held a duly noticed public hearing to consider the merits of the Design Review Permit and appeal, and heard testimony in favor of, and in opposition to, the Project;

WHEREAS, the City Council has reviewed all oral and written information presented at the hearing and considered the appeal of the Design Review Permit, applicable sections of the Zoning Ordinance of the City of Richmond, standard interpretations of the Zoning ordinance, and all such other related information as was presented to the City Council; and

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF RICHMOND accordingly finds, determines, and certifies that the Design Review Board's decision is upheld with a vote of 6-1-1-1 in favor of the Project, and approves the Design Review Permit based on the following:

Design Review Permit Findings. The City Council finds and determines as follows:

- 1. The proposed design is suitable for its purpose, is harmonious with and relates properly to the surrounding neighborhood, contiguous parcels and the site itself.**

*Staff Statement: **Criterion Satisfied.** The proposed building design embraces an eclectic style and relates well to the surrounding neighborhood. The residential units and office*

spaces are well designed, having efficient floor plans with superior amenities. The project adds to the City's overall effort to revitalize the San Pablo Avenue area, a major transportation corridor between the City of Richmond and the City of El Cerrito. It represents a change that will foster a pedestrian orientation in the area by including a significant number of residential units and office space, as well as a small retail component.

- 2. 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, working in or adjacent to the proposed project.**

Staff Statement: *Criterion Satisfied. The proposed design does not create adverse visual impacts to persons living, working, or traveling through the neighborhood. Furthermore, any potential adverse impacts to the adjacent and surrounding properties associated with the project, such as views, solar exposure, and privacy are not significant.*

- 3. The overall design will be of a quality that will preserve the integrity of and upgrade the existing neighborhood.**

Staff Statement: *Criterion Satisfied. The overall design of the project enhances the quality and value of the property, and surrounding commercial corridor and represents reinvestment in the area. The development implements the goals for revitalization of an area of a mix of use types, to provide services to the residential and visitors of the community.*

- 4. 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.**

Staff Statement: *Criterion Conditionally Satisfied. The proposed project complies with all applicable development standards in the Richmond Zoning Ordinance. The C-2 General Commercial Zoning District and the 922, General Commercial designation under the General Plan for the subject property are specifically intended to enable development of mixed-use projects with a commercial retail component as proposed by the subject development.*

NOW THEREFORE BE IT FURTHER RESOLVED the Design Review Permit, DR1103829, is hereby approved, subject to the following Conditions of Approval:

1. Development is to be constructed in compliance with the Project Plans, attached as Exhibit A, submitted to and date stamped August 17, 2007, by the Planning and Building Services Department. Any modifications shall be reviewed by the Zoning Administrator who shall determine whether the modification requires additional approval.
2. Design Review approval shall expire two years from the date of final approval, unless made permanent by the issuance of building permits and the commencement of construction. If the use(s) or structure(s) approved by this action is not established within such period of time, this approval shall be terminated and shall, thereafter, be null and void, unless the applicant or owner applies for an extension of time at least 30 days prior to expiration of the Design Review approval.
3. All conditions of approval shall be written on the first page of the construction plans submitted for review and approval. All conditions of approval shall be on, at all times, all grading and construction plans, which shall be kept on the project site at all times. It is the responsibility of the building developer to ensure that the project contractor and construction crew are aware of, and abide by, all conditions of approval.
4. Any building fenestrations located on the property lines shall be fire-rated, which shall be reviewed and approved by the City Building Official.
5. During construction activities, the applicant shall reduce or prevent to the maximum extent practicable, the direct or indirect discharge of any dust or pollutant into the storm drain system utilizing best management practices contained in the California Storm Water Best Management Practices Handbook for Construction Activities. Construction activities include, but are not limited to: watering operations; roadwork and paving operations;

concrete and painting; structure construction and painting; construction material storage and handling; construction waste/debris storage and disposal; and, construction equipment/vehicle cleaning, maintenance and fueling operations. The project sponsor is also responsible for training all contractors and subcontractors on the Best Management Practices identified in the California Storm Water Best Management Practices Handbook for Construction Activities which shall be made available by the project sponsor at the pre-construction meeting for the project.

6. Prior written approval from the Planning and Building Services Department Director or his/her designee shall be received by the property owner before any changes are made to the site design, grade, building design, building colors or materials, or related exterior design elements.
7. Prior to issuance of any building permit, the applicant shall demonstrate that all exterior lighting has been designed and located so that all direct light is confined to the property and is satisfactory to the Planning and Building Services Department Director or his/her designee.
8. Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Richmond Design Review Board or other City design review authority.
9. No portion of the building shall exceed thirty-five (35) feet in height from grade to the roof line, except for the permitted architectural projections under Section 15.04.830.020 of the Zoning Ordinance, such as the tower element which may extend 5.5 feet above the main roof line, the parapet wall along the roof perimeter, and solar panels. These projections shall not exceed more than 20 percent of the top floor roof area.
10. Prior to the issuance of a building permit, the applicant shall submit for review and approval of the Planning and Building Services Department Director an Environmental Site Assessment Report (Phase I) addressing any significant soil contamination due to prior use of the site as an auto repair business.
11. Applicant must use the property for residential, retail, and office uses indicated as follows: (A) Residential Component: Four (4) units have two bedrooms and one (1) unit has one bedroom; and, (B) Commercial Component: 4,700 square feet of commercial space, consisting of seven (7) offices and 345 square feet of ground floor retail.
12. The applicant shall make aware all building tenants in their lease, or in the case the units are for sale in the deed, that if the units are converted to live/work or condominiums off-street parking spaces as per Live/Work Section 15.04.870.00 shall be provided.
13. If offices are converted to apartments or condominiums, or if more bedrooms are added, the applicant shall provide the required number of off-street parking spaces, per Parking Standards Section 15.04.850.00, and submit for review and approval of the Planning Commission, all required applications, plans and fees.
14. Final Plans shall be submitted to the Building Official in compliance with all the applicable regulations established by the 2007 Edition of the California Building Code, Title 24, part 2, and the California Disability Act (CDA), including, but not limited to, those concerning disabled parking and wheelchair access to upper floors from the garage and from the street level.
15. Prior to the issuance of a building permit, the applicant shall submit a landscape and irrigation plan incorporating street trees, with fully operable irrigation system to be maintained by the property owner, to match the properties across the street that are satisfactory to the Parks and Landscaping Division Superintendent and the Planning and Building Services Department Director or his/her designee.

I CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Richmond, California at a regular meeting held on February 19, 2008, by the following vote:

AYES: Councilmembers Bates, Butt, Lopez, Marquez, Sandhu, Thurmond, and Viramontes

NOES: Mayor McLaughlin

ABSTENTIONS: Councilmember Rogers

ABSENT: None

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND

[SEAL]

APPROVED

GAYLE McLAUGHLIN
MAYOR

Approved as to Form:

LOUISE RENNE, Interim
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. 20-08, finally passed and adopted by the Council of the City of Richmond at a meeting held on February 19, 2008.