

**RESOLUTION NO. 128-09**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND  
ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING  
PARCEL MAP MS 756-08 TO CREATE ONE LOT AT 367 WESTERN DRIVE  
(KOWALSKI, APN 558-185-003)**

---

**WHEREAS**, Stephen & Patti Kowalski (the “applicant”), filed an application with the City of Richmond for approval of proposed parcel map MS 756-08 (the “Parcel Map”) to subdivide the existing parcel (the “subdivision” or “project”) at 367 Western Drive (APN: 558-185-003) (the “project site” or “subject site”) into two standard residential parcels of 10,806 Square Feet and 6,002 Square Feet, respectively; and

**WHEREAS**, the Parcel Map is subject to the provisions of California Government Code Sections 66410-66499.58, known as the Subdivision Map Act, and Chapter 15.08 of the Richmond Municipal Code known as the Richmond Subdivision Ordinance; and

**WHEREAS**, the Parcel Map is not categorically exempt from the California Environmental Quality Act (CEQA) by way of CEQA Guidelines Section 15315, Class 15, Minor Land Divisions, due to the fact that the slope is greater than 20 percent. Therefore, staff conducted an Initial Study; determined that the project could have potentially significant impacts in the areas of Aesthetics, Geology and Soils, and Hydrology and Water Quality; and

**WHEREAS**, staff prepared a Draft Mitigated Negative Declaration which includes a Preliminary Soils Investigation and Initial Geology and Soils Analysis. Based on such investigation and analysis, staff determined that implementation of specific mitigation measures will reduce environmental impacts to less-than-significant; and

**WHEREAS** the Draft Mitigated Negative Declaration was circulated for public comment in accordance with the California Environmental Quality Act (“CEQA”) and a response to comments was prepared; and

**WHEREAS**, the Zoning District at the subject property is zoned SFR-2, Single Family Very Low Density Residential District, which permits residential dwellings on lot sizes of 6,000 SF or greater, and the General Plan designation of the site is 942, Very Low Density Residential (0 to 5 DU/Acre), which allows single family residential dwellings in areas typified by relatively large lots greater than 6,000 SF; and

**WHEREAS**, the City Council has reviewed the Parcel Map for conformance with the Subdivision Map Act, Subdivision Ordinance, Zoning Ordinance and all other applicable regulations of the Richmond Municipal Code; and

**WHEREAS**, the City Council has conducted a properly noticed public hearing pursuant to California Government Code Section 65090 and has duly considered all written and verbal testimony presented during the hearing; and

**WHEREAS**, on the basis of the application, plans, materials, and testimony submitted at or prior to the public hearing, the City Council makes the following findings with statements of fact to support the findings as required by California Government Code Section 66474 for the approval of Parcel Map:

Finding 1. The proposed Map is consistent with the applicable General and Specific Plans.

Statement in Support of Finding: *Criterion Satisfied.* The Richmond General Plan designation for the project site is 942, Very Low Residential. The subdivision meets all the applicable provisions of the Richmond General Plan by creating a buildable lot which is equal to or greater than 6,000 SF. The proposed Lot 2 would meet the development standards for the minimum lot size in the SFR-2 Zoning District, with a proposed area of 6,002 SF. The proposed Lot 2 will also meet the development standards for the minimum lot width of 60 Feet in the SFR-2 Zoning District; the proposed lot width will be 69 ft.

Finding 2. The design of lots, streets, open space, drainage, sewers, water and other improvements are consistent with the Zoning Ordinance.

Statement in Support of Finding: *Criterion Satisfied.* The subdivision will result in a lot configuration that is common in this neighborhood. The project site is adjacent to existing residential buildings, with landscaping and drainage, sewer, water and other utility improvements that are consistent with the Richmond Zoning Ordinance. If any new utilities are desired, they would be required to comply with the Richmond Zoning Ordinance and the requirements of the Public Works Department and respective utility company.

Finding 3. The site is physically suitable for the type of development.

Statement in Support of Finding: *Criterion Conditionally Satisfied.* The subdivision is for the purpose of subdividing the existing lot into two lots for an additional residential dwelling unit. The newly created Lot 1 would be physically suitable for development with the implementation of the mitigations indicated in the Mitigating Monitoring and Reporting Program (Attachment 2). New off-street parking would be required for Lot 1 as a result of this subdivision in order to meet the parking requirements of the Richmond Zoning Ordinance.

Finding 4. The site is physically suitable for the proposed density of development.

Statement in Support of Finding: *Criterion Satisfied.* The subject site is presently served by all requisite public facilities and services such as gas, water and electricity, and the lot size of 6,002 SF is larger than the minimum required lot size in the 942 General Plan designated district, and the SFR-2 Zoning District.

Finding 5. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Statement in Support of Finding: *Criterion Satisfied.* The subdivision will not cause substantial environmental damage because the existing lot is currently part of an exiting residential property. Future improvements of the lot would be typical of other improvements in this neighborhood and would have to conform to the Development Standards of the SFR-2 Zoning District.

Finding 6. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Statement in Support of Finding: *Criterion Satisfied.* The design of the subdivision is not likely to cause serious public health problems as it proposes to subdivide an exiting lot into two residential lots.

Finding 7. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Statement in Support of Finding: *Criterion Satisfied.* Tentative Subdivision Map MS 756-08 does not conflict with any known existing public easements as shown in Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED,** that the City Council of the City of Richmond, does hereby grant approval of Parcel Map 756-08 subject to the following conditions of approval:

1. Conformance to Parcel Map: The Parcel Map shall be in substantial conformance with the Parcel Map in Exhibit A, prepared by Bay Area Land Surveying Inc., submitted to and date-stamped received by the Richmond Planning and Building Services Department on April 24, 2009. Prior to finalizing the Parcel Map, it shall be submitted to the Engineering Department for review and approval

accompanied by the requisite review fee. The Parcel Map must be prepared, wet signed and sealed by a civil engineer or land surveyor, registered and licensed in the State of California.

2. Implementation of the Mitigation Monitoring and Reporting Program: The applicant shall implement Mitigation Measures I-A, VI-A, and VIII-A, as indicated in the Mitigation Monitoring and Reporting Program in the Mitigated Negative Declaration (Exhibit C).
3. Indemnification: To the fullest extent permitted by law, the subdivider shall defend, indemnify, and hold harmless the City of Richmond, its Council, Boards, Commissions, agents, officers, employees, consultants, successors and assigns from and against any and all claims, demands, obligations, proceedings, actions, causes of action, suits, losses, judgments, fines, penalties, damages, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements, and all other professional or expert fees and costs) (individually a "Claim," collectively "Claims") which may arise to attack, set aside, void, or annul the project approvals, or any project condition imposed by the City or any of its agencies, Departments, Commissions, Boards, agents, officers, employees, or Council concerning said project, which Claim, is brought in accordance with all applicable laws related thereto and within the time period provided by law, including but not limited to, any claim for private attorney general fees claimed by or awarded to any party from City. The City of Richmond shall promptly notify the subdivider of any claim, action, or proceeding and shall cooperate fully in the defense.
4. Utilities: Any new utilities are required to comply with the Zoning Ordinance, the requirements of the Public Works Department, and respective utility company.
5. Easements: All existing easements related to this property shall be carried forward onto the Final Parcel Map including those required by other agencies.
6. Off-Street Parking: The applicant shall provide proper off-street parking for Lot 1 by constructing a two-car, tandem parking strip with a one-car carport with a minimum interior dimension of 10 feet wide and 20 foot length. This carport shall be constructed prior to the recording of the Parcel Map and conform to the City's Development Standards and Building Code. Future residential development of Lot 2 will be required to include at least two covered off-street parking spaces.
7. Fencing: In the event a new fence is constructed on the property line of the newly created lot, the applicant shall construct a "good neighbor" fence.
8. San Francisco Bay Conservation Development Commission (BCDC) Permit: The applicant shall apply and receive a development permit from the San Francisco Bay Conservation Development Commission (BCDC) for the proposed Parcel Map and potential easements or view corridors. A copy of the valid permit shall be forwarded to the Planning Division and the City Engineer.
9. Windows: There shall be no 2nd story windows, other than skylights or clerestories, built within 29 feet of the street side property boundary line along the south side of any home erected on the property.
10. Deck: There shall be no roof deck built within 29 feet of the street side property boundary line on any home erected on the property.
11. Height: Within 29 feet of the street side property line, the maximum height for any home erected on the property shall be 28 feet from existing grade.

**Mitigation Measures from the Mitigation Monitoring and Reporting Program:**

12. The project applicant for future development of Lot 2 shall reduce the severity of the project's effect on aesthetics by implementing the following the following mitigation measures:

- a. The future project shall be landscaped to soften the view of the development from off-site locations.
- b. Landscaping shall be designed to be compatible with existing vegetation on site and in surrounding areas.
- c. The new building shall be designed to be visually compatible with the existing buildings.
- d. The applicant shall contact the San Francisco Bay Conservation and Development Commission (BCDC) and apply for all required permits prior to construction.

13. The project applicant for future development shall reduce the severity of project effect on Geology and Soils by following the following mitigation measures:

- a. The future project shall be designed in accordance with the 2007 California Building Code (CBC), which has been adopted by the City of Richmond.
- b. The rear setback for future development of a building shall be approximately seventeen feet (17') from the top of slope.
- c. Best Management Practices (BMPs) for sediment and erosion control shall be followed during construction.
- d. An erosion control plan shall be prepared prior to issuance of a Building Permit and implemented during construction activities.
- e. A building project shall include measures such as selective removal of expansive soils and weathered rock in foundation and concrete slab areas and replacement with non-expansive select fill to minimize the potential damage to site improvements.
- f. All preliminary design recommendations indicated in the Preliminary Soils Investigation and Initial Geology and Soils Analysis (Appendix B) shall be followed.

14. The project applicant for future development shall reduce the severity of project effect on Hydrology and Water Quality by following mitigation measures:

- a. The future project will be required to provide positive runoff.
- b. The future project will be required to incorporate pervious coverage in hardscape and landscape plans for absorption;
- c. The rear setback for future development of a building shall be approximately seventeen (17) feet from the top of slope.
- d. Best Management Practices (BMPs) for sediment and erosion control shall be followed during construction.

\*\*\*\*\*

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 November 3, 2009, by the following vote:

AYES: Councilmembers Bates, Butt, Rogers, Ritterman, Viramontes,  
Vice Mayor Lopez, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES  
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE MCLAUGHLIN  
Mayor

Approved as to form:

RANDY RIDDLE  
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. 128-09**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on November 3, 2009.